



CUSTOMS ACT 1901 - PART XVB

**REPORT
NO. 546**

**INQUIRY INTO THE CONTINUATION OF
THE ANTI-DUMPING MEASURES APPLYING TO
STEEL REINFORCING BAR**

**EXPORTED TO AUSTRALIA FROM
THE REPUBLIC OF KOREA, SINGAPORE,
SPAIN (EXCEPT NERVACERO S.A.) AND
TAIWAN (EXCEPT POWER STEEL CO. LTD)**

9 October 2020

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ABBREVIATIONS	
\$	Australian dollars
ABF	Australian Border Force
ACCC	Australian Competition and Consumer Commission
ACRS	The Australasian Certification Authority for Reinforcing and Structural Steels
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
ADRP Report No. 108	ADRP Report No. 108 - Certain findings in Reports 486 and 489 Steel Reinforcing Bar
AEP	Ascertained export price
Best Bar	Best Bar Pty Ltd, Best Bar (NSW) Pty Ltd and Best Bar (VIC) Pty Ltd, collectively
CELSA	Compañía Española de Laminación, S.L.
CFR	Cost and Freight
China	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
Daehan	Daehan Steel Co., Ltd.
DCR	Dumping Commodity Register
the Direction	<i>Customs (Extensions of Time and Non-cooperation) Direction 2015</i>
DITH	DITH Australia Pty Ltd
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
EC	European Commission
EPR	electronic public record
EXW	Ex-Works
FAS	Free Alongside Ship
FOB	Free On Board
forex	foreign exchange
FY	financial year
GDP	gross domestic product
the goods	the goods the subject of the application (also referred to as the goods under consideration)

PUBLIC RECORD

IDD	Interim dumping duty
Indonesia	Republic of Indonesia
InfraBuild	InfraBuild (Newcastle) Pty Ltd (formerly Liberty OneSteel (Newcastle) Pty Ltd), InfraBuild NSW Pty Ltd and The Australian Steel Company (Operations) Pty Ltd, collectively
inquiry period	1 January 2019 to 31 December 2019
Investigation 418	Investigation 418 – Steel Reinforcing Bar exported to Australia from Greece, the Republic of Indonesia, Spain, Taiwan and the Kingdom of Thailand
Investigation 495	Investigation 495 - Alleged dumping and subsidisation of rebar exported from the Republic of Turkey
IPP model	Import Parity Pricing model
Korea	Republic of Korea
KRW	South Korean won
the Australian Standard	Australian/New Zealand Standard <i>AS/NZ 4671:2001 Steel reinforcing materials</i>
the Manual	the <i>Dumping and Subsidy Manual (November 2018)</i>
MCC	model control code
the Minister	the Minister for Industry, Science and Technology
NatSteel	NatSteel Holdings Pte Ltd
Nervacero	Nervacero S.A
NIP	non-injurious price
OCOT	ordinary course of trade
Power Steel	Power Steel Co. Ltd
R&D	Research and Development
Rebar	Steel Reinforcing Bar
REP 264	<i>Anti-Dumping Commission Report No. 254</i>
REQ	response to the exporter questionnaire
Review 566	Review of Anti-Dumping Measures No. 566 – Steel Reinforcing Bar exported from the Republic of Korea, Singapore, Spain (except Nervacero S.A) and Taiwan (Power Steel Co., Ltd)
RIQ	response to the importer questionnaire
section 232 trade remedies	the import tariffs imposed on aluminium and steel under section 232 of the <i>Trade Expansion Act of 1962 (USA)</i> in 2018
SEF	statement of essential facts
SEF 546	<i>Statement of Essential Facts No. 546</i>
SG&A	selling, general and administrative costs

PUBLIC RECORD

SGD	Singapore Dollars
Steelforce	Steelforce Holdings Pty Ltd
the subject countries	Korea, Singapore, Spain (except Nervacero S.A) and Taiwan (except Power Steel Co. Ltd)
TCO	Tariff Concession Order
Thailand	Kingdom of Thailand
TTM	Trailing 12 Months
USP	unsuppressed selling price
Wei Chih	Wei Chih Steel Industrial Co., Ltd

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This report has been prepared in response to an application by InfraBuild (Newcastle) Pty Ltd and its related entities, InfraBuild NSW Pty Ltd and The Australian Steel Company (Operations) Pty Ltd (collectively InfraBuild) seeking the continuation of the anti-dumping measures (in the form of a dumping duty notice) in respect of steel reinforcing bar (rebar, or the goods) exported to Australia from the Republic of Korea (Korea), Singapore, Spain (except Nervacero S.A) and Taiwan (except Power Steel Co. Ltd) (the subject countries).

The current measures were imposed as a result of the publication of a dumping duty notice, referred to in Anti-Dumping Notice (ADN) No. 2015/133 on 19 November 2015 (the measures).¹ The measures are due to expire on 19 November 2020.

This inquiry was initiated on 3 March 2020, following consideration by the Commissioner of the Anti-Dumping Commission (the Commissioner) of the application lodged by InfraBuild seeking the continuation of the anti-dumping measures.² The Commissioner established an inquiry period of 1 January 2019 to 31 December 2019 (inquiry period).

This report sets out the findings and conclusions on which the Commissioner has based his recommendations to the Minister for Industry, Science and Technology (the Minister). This report takes into account submissions received in response to the Statement of Essential Facts No. 546 (SEF 546) published on 20 August 2020.³

1.2 Legislative framework

Division 6A of Part XVB of the *Customs Act 1901*⁴ sets out, among other things, the procedures to be followed by the Commissioner in dealing with an application for the continuation of anti-dumping measures.

Section 269ZHE(1) requires the Commissioner to publish a statement of essential facts (SEF) on which he proposes to base his recommendations to the Minister concerning the continuation of the measures. Section 269ZHE(2) requires the Commissioner, in formulating the SEF, to have regard to the application and any submissions received within 37 days of the initiation of the inquiry. The Commissioner may also have regard to any other matters he considers relevant.

Section 269ZHF(1) requires the Commissioner, after conducting an inquiry, to give the Minister a report which recommends that the relevant notice:

- remain unaltered;
- cease to apply to a particular exporter or to a particular kind of goods;
- have effect in relation to a particular exporter or to exporters generally as if different variable factors had been ascertained; or
- expire on the specified expiry day.

¹ Available on the electronic public record (EPR) for Investigation 264 (document no. [95](#) refers), available on the Anti-Dumping Commission's [website](#)

² EPR 546, document no. [02](#), ADN No. 2020/020

³ EPR 546, document no, [24](#)

⁴ All legislative references in this report are to the *Customs Act 1901* unless otherwise specified

Pursuant to section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures, unless the Commissioner is satisfied that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent.

1.3 Summary of findings

For the reasons set out in this report the Commissioner:

- is satisfied that the expiration of the anti-dumping measures in respect of exports of rebar from Korea and Spain (except Nervacero S.A) would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measures are intended to prevent; and
- is not satisfied that the expiration of the anti-dumping measures in respect of exports of rebar from Singapore and Taiwan (except Power Steel Co., Ltd), would lead or be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measures are intended to prevent.

A summary of each chapter in this report is outlined below.

1.3.1 The goods, like goods and the Australian industry (Chapter 3)

Locally produced rebar is 'like' to the goods the subject of the application. At least one substantial process in the manufacture of rebar is carried out in Australia and therefore there is an Australian industry producing like goods. The sole member of the Australian industry is InfraBuild.

1.3.2 Australian market (Chapter 4)

The Australian rebar market is supplied by the Australian industry, imports from the subject countries, and by imports from other countries (some of which are also subject to anti-dumping measures not forming part of this inquiry).

1.3.3 Economic condition of the Australian industry (Chapter 5)

The Commissioner assessed the economic condition of the Australian industry from 1 January 2015 for the purposes of analysing trends in the market for rebar and assessing potential injury factors. The Commissioner found that the Australian industry has continued to experience injury in the forms of declining market share, price suppression and reduced profits and profitability among other factors. The Commission also found that the Australian industry has improved its position in respect of some economic indicators following the imposition of measures.

1.3.4 Variable factors (Chapter 6)

For the purposes of this continuation inquiry, variable factors have been assessed to determine whether dumping has occurred during the inquiry period, and whether dumping is likely to continue or recur if the anti-dumping measures are not continued. The Commissioner has calculated the dumping margins set out in Table 1.

Country	Exporter	Dumping Margin	Duty Method
Korea	Daehan Steel Co., Ltd.	3.9%	Combination duty
	Uncooperative and all other exporters	4.0%	Combination duty
Singapore	NatSteel Holdings Pte Ltd	0.6%	Not applicable
	Uncooperative and all other exporters	0.6%	Not applicable
Spain	Compañía Española de Laminación, S.L.	0.0%	Floor price
	Uncooperative and all other exporters	8.2%	Combination duty
Taiwan	Uncooperative and all other exporters	-0.9%	Not Applicable

Table 1: Dumping margins

1.3.5 Likelihood of dumping and material injury continuing or recurring (Chapter 7)

The Commission analysed the subject countries' export behaviour in terms of volumes and price, levels of dumping, available capacity and evidence of price undercutting. Further, the Commission reviewed the impact of measures by other countries, the substitutability and price-sensitive nature of the goods, and the influence of import prices on the Australian industry's prices as well as the expected supply of and demand for rebar in the next few years.

The impact of these factors on the likelihood that dumping and material injury will continue or recur are discussed as it relates to each of the countries subject of this inquiry.

1.3.6 Non-Injurious Price (Chapter 8)

The Commissioner has calculated a non-injurious price for the goods exported to Australia, being the minimum price necessary to prevent the injury, or a recurrence of the injury, to the Australian industry caused by the dumping of the goods exported from Korea and Spain (except Nervacero S.A).

1.3.7 Form of measures (Chapter 9)

The Commissioner proposes to recommend that, in continuing the anti-dumping measures, interim dumping duty (IDD) be calculated based on the combination of fixed and variable duty method in relation to the following exporters:

- Daehan and uncooperative and all other exporters from Korea; and
- Uncooperative and all other exporters from Spain.

The Commission proposes to recommend that in continuing anti-dumping measures, that IDD be calculated based on the floor price duty method in relation to the exporter:

- Compañía Española de Laminación, S.L. (CELSA) from Spain.

1.4 Recommendations

Based on the above findings, the Commissioner recommends, pursuant to section 269ZHF(1) that:

- the Minister take steps to secure the continuation of the anti-dumping measures, being the dumping duty notice published on 19 November 2015; but
 - the dumping duty notice have effect in relation to exporters of rebar from Korea and Spain as if different variable factors had been ascertained; and
 - the dumping duty notice cease to apply to exporters of rebar from Singapore and Taiwan from the specified expiry date, being 19 November 2020.

2 BACKGROUND

2.1 Application and initiation

On 9 December 2019, and in accordance with section 269ZHB(1), the Commissioner published a notice⁵ on the Commission's website inviting the following persons to apply for the continuation of the anti-dumping measures:

- the person whose application under section 269TB resulted in the anti-dumping measures (section 269ZHB(1)(b)(i)); or
- persons representing the whole or a portion of the Australian industry producing like goods to the goods covered by the anti-dumping measures (section 269ZHB(1)(b)(ii)).

On 6 February 2019, InfraBuild lodged an application under section 269ZHC seeking the continuation of the anti-dumping measures in respect of rebar exported to Australia from the subject countries.⁶

As set out in ADN No. 2020/020, the Commissioner was satisfied that the application complied with section 269ZHC and, in accordance with section 269ZHD(2)(b), there appeared to be reasonable grounds for asserting that the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

The Commissioner therefore decided not to reject the application and initiated the present inquiry on 3 March 2020.

2.2 Current anti-dumping measures

The anti-dumping measures were initially imposed by public notice on 19 November 2015 by the relevant Minister following the original investigation (Investigation 264). The findings of Investigation 264 are detailed in *Anti-Dumping Commission Report No. 264* (REP 264).

The then Parliamentary Secretary's decision in respect of REP 264 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 in REP 264 was the correct and preferable decision, except as it related to the Spanish exporter Nervacero S.A. (Nervacero). Consequently, rebar exported from Spain by Nervacero is not subject to the dumping duty notice that applies to rebar from Korea, Singapore, Spain and Taiwan.

On 13 April 2017, the anti-dumping measures on rebar exported by CELSA were amended following the findings of *Anti-Dumping Commission Report No. 380* (REP 380). On 31 May 2019, the anti-dumping measures on rebar exported from Korea and Taiwan (except Power Steel Co. Ltd) were amended by the Minister following consideration of *Anti-Dumping Commission Report No. 486 and 489* (REP 486/489).

⁵ [ADN No. 2019/139](#) refers

⁶ EPR 546, document no. [01](#) refers

PUBLIC RECORD

Table 2 below summarises the anti-dumping measures currently applying to exports of the goods to Australia from the subject countries.

Country	Exporter	Form of measure	Fixed component of interim dumping duty
Korea	Daehan Steel Co., Ltd Daehan Integrated Steel Co., Ltd	<i>ad valorem</i>	3.9%
	All other exporters - Korea	<i>ad valorem</i>	4.0%
Singapore	NatSteel Asia (S) PL NatSteel Holdings Pte Ltd	<i>ad valorem</i>	3.0%
	All other exporters - Singapore	<i>ad valorem</i>	3.0%
Spain	Compañía Española de Laminación, S.L.	<i>ad valorem</i>	4.5%
	Nervacero S.A. ⁷	<i>ad valorem</i>	6.3%
	All other exporters – Spain	<i>ad valorem</i>	8.2%
Taiwan	Wei Chih Steel Industrial Co., Ltd	Floor price	Confidential
	Power Steel Co. Ltd ⁸	<i>ad valorem</i>	4.4%
	All other exporters – Taiwan	Floor price	Confidential

Table 2: Current anti-dumping measures applying to rebar from the subject countries

Separate anti-dumping measures apply to rebar exported from the People's Republic of China (China), Greece, the Republic of Indonesia (Indonesia) and the Kingdom of Thailand (Thailand).⁹ These measures also cover Nervacero of Spain and Power Steel Co. Ltd (Power Steel) of Taiwan.

As a result of *Ministerial Exemption Instrument No 2 of 2019* and *Ministerial Exemption Instrument No 3 of 2019*¹⁰, certain rebar is exempt from the anti-dumping measures due to a Tariff Concession Order¹¹ granted in respect of:

Hot-rolled steel reinforcing bar with a continuous thread, commonly identified as 'threadbar' or 'threaded-bar', in straight lengths, complying with Australian/New Zealand Standard AS/NZS4671, grade 500N, with a 40 mm diameter.

and;

Fully threaded hot-rolled prestressing steel reinforcing bar, in straight lengths, with a minimum yield strength of 885 MPa or greater, with a 26.5mm, 32mm, 36mm, 40mm or 50mm diameter.

Further detail concerning these measures and the exemption from the measures can be found on the *Dumping Commodity Register* (DCR) on the Commission's website.¹²

⁷ Measures relating to Nervacero S.A. are not subject to this continuation inquiry

⁸ Measures relating to Power Steel Co. Ltd are not subject to this continuation inquiry

⁹ The EPR for these cases is available on the Commission's [website](#)

¹⁰ [ADN No. 2019/089](#) refers, following exemption inquiries EX0070, EX0071 and EX0072

¹¹ Available on the Australian Border Force [website](#)

¹² The DCR is available [here](#)

2.2.1 Other Cases

The Commission has conducted numerous cases relating to rebar. A list of selected cases is set out in Table 3 below and further details can be found on the Commission's website.

Case type and No.	ADN No.	Date of decision	Country of export	Outcome
Investigation - 264	2015/133	19/12/2015	Korea, Singapore, Spain and Taiwan	Imposition of measures subject to this inquiry
Review – 380	2017/33	13/04/2017	CELSA, Spain	Change to the variable factors
Investigation – 418	2018/10	7/3/2018	Greece, Indonesia, Spain (Nervacero S.A), Taiwan (Power Steel Co. Ltd) and Thailand	Imposition of measures
Review – 467	2018/185	20/12/2018	China	Changes to the variable factors
Review – 486/489	2019/054	31/5/2019	Korea and Taiwan	Changes to the variable factors

Table 3: Cases involving rebar, selected

2.3 Conduct of the inquiry

2.3.1 Statement of essential facts

The Commissioner must, within 110 days after the initiation of an inquiry, or such longer period as is allowed under section 269ZHI(3), place on the public record a SEF on which the Commissioner proposes to base a recommendation to the Minister in relation to the applications.¹³

The SEF was originally due to be placed on the public record by 21 June 2020. However, as advised in ADN No. 2020/54, the Commissioner approved an extension of time for the publication of the SEF.¹⁴

SEF 546 was placed on the public record on **20 August 2020**.

2.3.2 Final report

As a result of the extension of time granted by the Commissioner, his final report and recommendations in relation to this inquiry must be provided to the Minister on or before **9 October 2020**, unless a further extension of time to provide the final report is granted.

2.3.3 Australian industry

The Commissioner is satisfied that the applicant, InfraBuild, is the sole member of Australian industry producing like goods to the goods the subject of this inquiry.¹⁵

Due to restrictions imposed to control COVID-19 at the time of this inquiry, the Commission did not conduct an onsite verification visit to InfraBuild's premises. An onsite

¹³ Section 269ZHE(1); On 14 January 2017, the powers and functions of the Minister under section 269ZHI were delegated to the Commissioner. Refer to ADN No. 2017/10 for further information

¹⁴ EPR 546, document no. [11](#)

¹⁵ Chapter 3 refers

verification visit to InfraBuild's premises in respect of rebar was conducted in November 2018 as part of Investigation 495 - alleged dumping and subsidisation of rebar exported from the Republic of Turkey (Investigation 495).

In this inquiry, the Commission performed a remote verification and made additional enquiries of InfraBuild's information through electronic and other channels. The verification report is at **Non-Confidential Attachment 1** and available on the public record.¹⁶

2.3.4 Importers

The Commission identified importers from the Australian Border Force (ABF) import database that imported rebar from the subject countries during the inquiry period. The Commission forwarded questionnaires to three identified importers and placed a copy of the importer questionnaire on the Commission's website for completion by other importers who were not contacted directly.

The Commission received questionnaire responses from the following importers:

- Best Bar Pty Ltd, Best Bar (NSW) Pty Ltd and Best Bar (VIC) Pty Ltd (collectively referred to as Best Bar); and
- DITH Australia Pty Ltd (DITH).

Both importers were subject to verification. The importer verification reports are available on the EPR.¹⁷

2.3.5 Exporters

For the purpose of this inquiry, the Commission identified the largest suppliers of rebar from the subject countries during the inquiry period as reported in the ABF import database. The identified suppliers were provided with an exporter questionnaire and associated spreadsheets for completion. The identified suppliers accounted for over 99 per cent of the total shipments (by volume) from the subject countries of the goods reported in the ABF import database during the inquiry period. The Commission placed a copy of the exporter questionnaire on its website for completion by other exporters that were not contacted directly. The Commission received one additional response.

The Commission received three responses to the exporter questionnaire (REQ) from the following companies:

- CELSA;
- Daehan; and
- NatSteel Holdings Pte Ltd (NatSteel).

The non-confidential versions of the REQs¹⁸ and the verification reports¹⁹ are available on the Commission website.

¹⁶ EPR 546, document no. [19](#)

¹⁷ EPR 546, document nos. [16](#) and [17](#)

¹⁸ EPR 546, document nos. [6](#), [7](#), [8](#), [9](#) refer.

¹⁹ EPR 546, document nos. [13](#), [14](#), [12](#), refer, respectively.

2.3.6 Submissions received from interested parties

The Commission has received submissions from interested parties throughout the course of the inquiry as set out in Table 4. Non-confidential versions of all submissions received are available on the EPR.

Submission from	Date published on EPR	EPR Document No.
European Commission	8 April 2020	3
InfraBuild	14 April 2020	5
NatSteel	22 May 2020	10
InfraBuild	30 July 2020	15
InfraBuild	3 August 2020	18
InfraBuild	13 August 2020	20
InfraBuild	12 August 2020	21
InfraBuild	18 August 2020	22
NatSteel	19 August 2020	23
European Commission	10 September 2020	25
NatSteel	10 September 2020	26
InfraBuild	10 September 2020	27, 28, 29
Daehan	10 September 2020	30
CELSA	10 September 2020	31
Government of Spain	14 September 2020	32
Best Bar	15 September 2020	33
InfraBuild	23 September 2020	34 ²⁰
InfraBuild	23 September 2020	35 ²¹
CELSA	1 October 2020	36 ²²

Table 4: Submissions received

In preparing this report the Commission has had regard to all submissions received prior to **18 September 2020**. Submissions have been addressed in the relevant sections of this report. Submissions received on or after **18 September 2020** have not been considered in the preparation of this report, as to do so would, in the Commissioner's opinion, have delayed the timely preparation of this report to the Minister.²³

²⁰ This submission has not been addressed in this report as it was received after 18 September 2020.

²¹ This submission has not been addressed in this report as it was received after 18 September 2020.

²² This submission has not been addressed in this report as it was received after 18 September 2020.

²³ Section 269ZHF(4) refers.

3 THE GOODS, LIKE GOODS AND THE AUSTRALIAN INDUSTRY

3.1 Finding

The Commissioner considers that the locally manufactured rebar is a like good to the goods subject to the anti-dumping measures. The Commissioner considers that there is an Australian industry, of which InfraBuild is the sole member, producing like goods, and that the like goods are wholly produced in Australia.

3.2 Legislative framework

In order to be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or recurrence of, dumping or subsidisation, the Commissioner firstly determines whether the goods produced by the Australian industry are “like” to the imported goods. Section 269T(1) defines like goods as:

...goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

The definition of like goods is relevant in the context of this inquiry in determining the normal value of goods exported to Australia, the non-injurious price (NIP) and the Australian industry. The Commission’s framework for assessing like goods is outlined in Chapter 2 of the *Dumping and Subsidy Manual November 2018* (the Manual).²⁴

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- i. Physical likeness;
- ii. Commercial likeness;
- iii. Functional likeness; and
- iv. Production likeness.

The Commissioner must also consider whether the “like” goods are in fact produced in Australia. Section 269T(2) specifies that for goods to be regarded as being produced in Australia, they must be either wholly or partly manufactured in Australia. Under section 269T(3), in order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia. The following therefore establishes the scope of the Commission’s inquiry.

3.3 The goods

The goods subject to the anti-dumping measures 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 of the goods regardless of the particular grade or alloy content or coating.*²⁵

²⁴ Available on the Commission’s [website](#).

²⁵ As set out in [ADN No. 2020/020](#) and [REP 264](#).

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The goods subject to the anti-dumping measures do not include:

- plain round bar;
- stainless steel; and
- reinforcing mesh.

The following categories of rebar are excluded²⁶ from the goods:

- hot-rolled steel reinforcing bar with a continuous thread, commonly identified as 'threadbar' or 'threaded-bar', in straight lengths, complying with Australian/New Zealand Standard AS/NZS4671, grade 500N, with a 40 mm diameter; and
- fully threaded hot-rolled prestressing steel reinforcing bar, in straight lengths, with a minimum yield strength of 885 MPa or greater, with a 26.5mm, 32mm, 36mm, 40mm or 50mm diameter.

²⁶ [ADN No. 2019/089](#) refers, following exemption inquiries EX0070, EX0071 and EX0072.

3.3.1 Tariff classification

The goods may be classified in Schedule 3 to the *Customs Tariff Act 1995* as follows.

Tariff Subheading	Statistical Code	Description
7213		BARS AND RODS, HOT-ROLLED, IN IRREGULARLY WOUND COILS, OF IRON OR NON-ALLOY STEEL
7213.10.00	42	Containing indentations, ribs, grooves or other deformations produced during the rolling process
7214		OTHER BARS AND RODS OF IRON OR NON- ALLOY STEEL, NOT FURTHER WORKED THAN FORGED, HOT-ROLLED, HOT-DRAWN OR HOT- EXTRUDED, BUT INCLUDING THOSE TWISTED AFTER ROLLING
7214.20.00	47	Containing indentations, ribs, grooves or other deformations produced during the rolling process or twisted after rolling
7227		BARS AND RODS, HOT-ROLLED, IN IRREGULARLY WOUND COILS, OF OTHER ALLOY STEEL
7227.90		Other
7227.90.10	69	Goods, as follows: a. of high alloy steel; b. "flattened circles" and "modified rectangles" as defined in Note 1(l) to Chapter 72
7227.90.90	01	<i>Containing indentations, ribs, grooves or other deformations produced during the rolling process</i>
	02	<i>Of circular cross-section measuring less than 14 mm in diameter</i>
	04	<i>Other</i>
7228		OTHER BARS AND RODS OF OTHER ALLOY STEEL; ANGLES, SHAPES AND SECTIONS, OF OTHER ALLOY STEEL; HOLLOW DRILL BARS AND RODS, OF ALLOY OR NON-ALLOY STEEL
7228.30		Other bars and rods, not further worked than hot-rolled, hot-drawn or extruded
7228.30.10	70	Goods, as follows: a. of high alloy steel; b. "flattened circles" and "modified rectangles" as defined in Note 1(m) to Chapter 72
7228.30.90	40	<i>Containing indentations, ribs, grooves or other deformations produced during the rolling process</i>
7228.60		Other bars and rods
7228.60.10	72	Goods, as follows: a. of high alloy steel; b. "flattened circles" and "modified rectangles" as defined in Note 1(m) to Chapter 72

Table 5: General tariff classification for the goods

Interested party submission

InfraBuild made two separate submissions to the Commission concerning the tariff classifications outlined in Table 5.²⁷ In its submissions, InfraBuild noted additional tariff codes which it considered may have been assigned to imports of the goods. InfraBuild requested the Commission review the import data from the subject countries to assess whether the goods had been imported using these additional tariff codes. Following publication of the SEF, InfraBuild requested that the import data from the eight months following the inquiry period be reviewed.²⁸

The Commission analysed the ABF import database for the additional tariff codes nominated by InfraBuild from the subject countries and found that whilst a range of goods had been imported under the tariff codes there were:

- negligible quantities of what appeared to be the goods imported under those tariff codes prior to the inquiry period; and
- no apparent importations of the goods under those codes during the inquiry period or in the eight months following the inquiry period.

²⁷ EPR 546, document nos. [05](#), [18](#)

²⁸ EPR 546, document no. [27](#)

3.4 Model control code

The Commission has used a model control code (MCC) structure in order to identify key characteristics for, among other things, model matching when comparing export prices and normal values (the basis for using a MCC structure and the Commission's practice is explained in ADN No. 2019/132 available on the Commission's website). The MCC structure adopted for this inquiry is detailed in Table 6 as follows.

Item	Category	Sub-category	Identifier	Sales Data	Cost Data
1	Prime	Prime	P	Mandatory	Optional
		Non-Prime	N		
2	Minimum yield strength specified by product standard (Mega Pascals or "MPa")	Less than or equal to 300	A	Mandatory	Mandatory
		Greater than 300 but less than or equal to 480	B		
		Greater than 480 but less than 550	C		
		Equal to or greater than 550	D		
3	Finished form	Rebar in length/straight	S	Mandatory	Mandatory
		Rebar in coil	C		
4	Nominal diameter (millimetres or "mm")	Less than 12	A	Mandatory	Optional
		Greater than or equal to 12 and less than or equal to 16	B		
		Greater than 16 and less than or equal to 32	C		
		Greater than 32 and less than or equal to 50	D		
5	Length (metres or "m")	Less than or equal to 6	1	Mandatory	Optional
		Greater than 6 and less than or equal to 12	2		
		Greater than 12	3		
		Coil product	C		
6	Deformation pattern along Length	Threaded	T	Mandatory	Optional
		Non-Threaded	N		

Table 6: Model control code for rebar

Any changes to the proposed MCC structure or alterations in terms of its application in respect of each interested party have been addressed in the relevant verification reports.

In its submission of 9 April 2020, InfraBuild²⁹ expressed its support for the MCC structure adopted in this inquiry and outlined its reasons for this.

²⁹ EPR 546, document no. 05 refers

3.4.1 Other information – Australian steel standard

In order for the goods to be accepted in the Australian market, they should meet the requirements of Australian/New Zealand Standard *AS/NZ 4671:2001 Steel reinforcing materials* (the Australian Standard).³⁰ The Australian Standard specifies the manufacturing methods, and chemical, mechanical and dimensional requirements that the goods are required to achieve to meet the standard. A test certificate certifies that the relevant Australian Standard has been met. Accordingly, rebar from the subject countries or from the Australian industry if certified to the same Australian Standard, will have a similar or identical physical likeness.

3.4.2 Other information – Certification

The Australasian Certification Authority for Reinforcing and Structural Steels (ACRS) is an independent, not-for-profit production certification scheme. The ACRS 'mark' is internationally recognised as the means of showing conformity to the Australian Standard. Whilst not compulsory, ACRS certification is a generally preferred minimum market requirement for the supply of rebar into the Australian market. Steel mills with ACRS certification are subject to the manufacturing and testing processes prescribed by ACRS to meet the requirements of the Australian Standard. Imported rebar sold in the Australian market generally originates from mills that are ACRS certified. The Commission found that many of the exporters of rebar from the subject countries maintained ACRS certification.

3.5 Like goods

This section sets out the Commission's assessment of whether the locally produced goods are identical to, or closely resemble, the goods under consideration and are therefore 'like goods'. For the purposes of the findings below, the Commission has relied on information provided by InfraBuild, previous investigations, reviews of measures and information provided by exporters of the goods from the subject countries.

3.5.1 Physical likeness

The Commission finds that the goods exported to Australia from the subject countries are physically similar to the rebar produced by the Australian industry. The Commission finds that the key characteristics (as outlined in the MCC) of the rebar imported from the subject countries closely resemble or are identical to the characteristics of the rebar produced and sold by InfraBuild. Test certificates showed that the exported goods satisfied the requirements of the Australian Standard. Further, both InfraBuild and many of the exporters from the subject countries held ACRS accreditation during the inquiry period (section 3.4.2 above refers).

3.5.2 Commercial likeness

The Commission finds that the goods exported to Australia from the subject countries are commercially similar to the rebar produced by the Australian industry. The Commission finds that the goods are sold via the same channels (section 4.3.1 refers), to the same or similar customers, and compete directly for sales to those customers. In addition, customers have regard to the pricing of rebar from the subject countries (and other countries) when assessing the relative competitiveness of rebar prices from the Australian industry. The verified exporter and importer data indicates that parties in the supply chain

³⁰ [AS/NZS 4671:2001](#)

switch between purchasing rebar from import sources and the Australian industry. The Commission has observed that there is close price competition in the market suggesting that product differentiation is not recognised by the market.

3.5.3 Functional likeness

The Commission finds that the goods exported to Australia from the subject countries are functionally alike to the rebar produced by the Australian industry. The Commission finds that domestically produced goods are completely interchangeable with the imported goods, as both have similar end uses, predominantly in concrete reinforcement and pre-casting (section 4.3 refers).

Rebar can be used 'as is' or may be subject to post production processing, such as bending, welding and cutting. The use of rebar coil requires straightening and cutting machines before the coil can be used in straight lengths or be further fabricated. Rebar processors or service centres can use either rebar straights or rebar coils depending on the equipment available at their processing facility.

3.5.4 Production likeness

The Commission finds that the goods exported to Australia from the subject countries are produced in essentially the same way as the rebar produced by the Australian industry. The Commission finds that exporters from the subject countries use similar raw material feedstock (scrap steel and billet) to produce rebar, and that the key processes (rolling, forming, coiling, cutting etc.) are identical when the rebar is produced to the Australian Standard.

InfraBuild and many of the exporters from the subject countries are ACRS certified and the goods produced meet the Australian Standard, which stipulates rebar production methods and is a strong indicator of production likeness.

3.5.5 Conclusion – Like goods

The Commissioner is satisfied that the domestically produced goods are 'like goods' as defined in section 269T(1) to the goods under consideration.

3.6 Australian industry

InfraBuild asserts in its application that it is the sole producer of rebar in Australia. InfraBuild produces rebar at its facilities in Laverton North in Victoria, and Rooty Hill and Newcastle in New South Wales. The Commission is not aware of any other producer of rebar in Australia and therefore considers that the Australian industry for rebar is represented by InfraBuild.

The Commission did not undertake an onsite verification visit to InfraBuild as part of this inquiry. The Commission has conducted a number of onsite verification visits to InfraBuild's facilities in the past in respect of rebar, the last being for Investigation 495.

3.6.1 Production process

The production processes relevant to rebar were previously observed by the Commission as part of Investigation 495.³¹ The Commission is satisfied that there have been no

³¹ EPR [495](#)

substantive changes to InfraBuild's manufacturing processes in the period between the Australian industry verification in respect of Investigation 495 and this inquiry.

3.6.2 Conclusion – Australian industry

Based on the information obtained from previous verification visits, submissions and market intelligence the Commissioner is satisfied that:

- the like goods were wholly manufactured in Australia;³² and
- there is an Australian industry which produces like goods in Australia.³³

³² Section 269T(2) refers.

³³ Section 269T(4) refers.

4 AUSTRALIAN MARKET

4.1 Finding

The Commissioner has found that the Australian market for rebar is supplied by the Australian industry and imports from a number of countries, including the subject countries, countries that are currently subject to measures on separate anti-dumping notices and other countries (not currently subject to measures). The Commissioner estimates that the size of the Australian market during the inquiry period was approximately 1.2 million tonnes.

4.2 Approach to analysis

As discussed in Chapter 3, InfraBuild is the sole member of the Australian industry producing rebar. The analysis detailed in this chapter is based on verified financial information submitted by InfraBuild, data captured in the ABF import database as well as verified importer and exporter information.

The period from 1 January 2015 has been examined for the purposes of analysing trends in the Australian market for rebar and for making observations with respect to the economic condition of the Australian market.

4.3 The Australian rebar market

Rebar is used in a wide range of construction applications to reinforce concrete, precast concrete or masonry. The majority of rebar is fabricated/shaped/processed in some way, but there are instances where no cutting, bending or welding is needed before use. The end uses for rebar largely fall into four main market segments:

- engineering construction (including infrastructure, mining, oil and gas);
- non-residential commercial construction;
- residential construction; and
- swimming pools.

Non-residential commercial construction is considered to be the main driver of demand for rebar.

Largely owing to the requirements of the Australian Standard and the Building Code of Australia, there is limited substitutability of rebar with other reinforcing products such as stainless steel, glass fibre, carbon fibre or basalt. These substitutes are not widespread in Australia and rebar is a ubiquitous product in the Australian construction industry. Rebar is expected to continue to be the dominant reinforcing product for the foreseeable future.

Local production of rebar is supplemented by imports, with distributors and end-users engaging with producers from a range of countries. 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 limited ways in which suppliers can differentiate their offering beyond price and service.

4.3.1 Channels to market

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**.

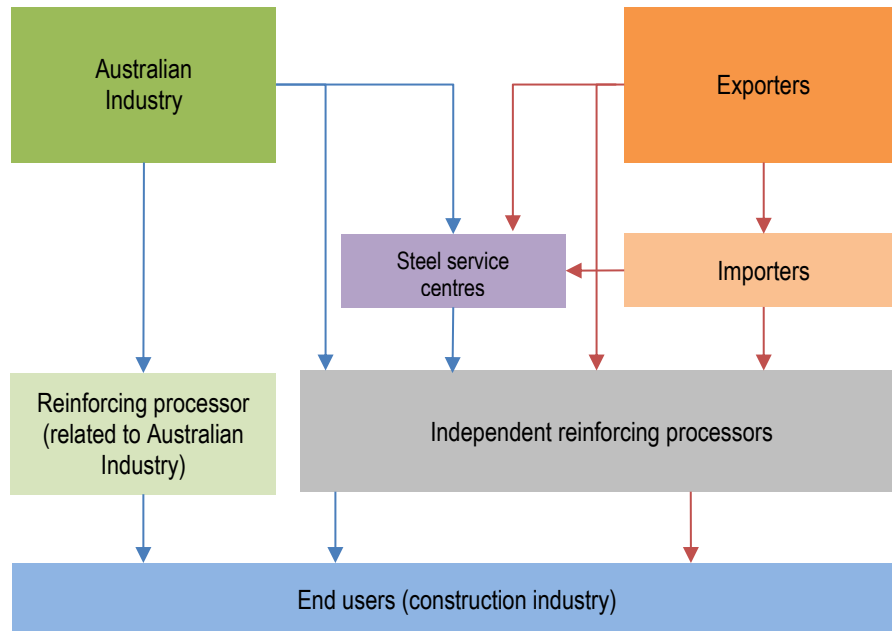


Figure 1: Channels to market

The Australian industry is able to supply rebar from stock (if available) or from scheduled production. The supply of rebar from stock can occur within 2 days. The supply of non-standard products or out-of-stock specifications will depend on the rolling schedule. In contrast, the lead time from an exporter from order confirmation through to the receipt of the goods can range from 2 to 3 months. Exporters generally supply standard products (500N grade) in either straight lengths (e.g. 6 and 12 metre lengths) or coil as demand for these products is more predictable than non-standard products.

4.3.2 Drivers of demand

The Commission understands from previous investigations concerning rebar that demand is closely aligned to the level of construction activity in Australia. Demand is therefore susceptible to changes in both government and private investment. At a macro level, drivers of demand are availability of credit to fund construction works and population growth. The degree to which demand is sensitive to these broad factors can differ between market segments, and the effect of changes in demand are not necessarily experienced consistently in different market segments. There are therefore a diverse range of specific factors at play within market segments that contribute to demand for rebar in the Australian market.

The Australian industry and importers have regard to forecasts for demand to manage their supply chains. In December 2019, BIS Oxford Economics estimated the value of total building and construction work in Australia to be approximately \$200 billion in FY19. At

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that time, it forecast that this would grow to approximately \$250 billion by FY24.³⁴ The key driver of this forecast growth was engineering and infrastructure construction and to a lesser extent non-residential construction. Residential construction was expected to experience modest growth over this period.

Noting the channels to market and the significance of distributors and fabricators (through whom the majority of sales are made to end users), these macro-level analyses provide the Commission with an understanding of broader trends that impact demand for rebar.

Figure 2 shows the total investment in residential and non-residential building work by quarter since January 2015. The current inquiry period is outlined in red. The dotted line shows the trend over the period.

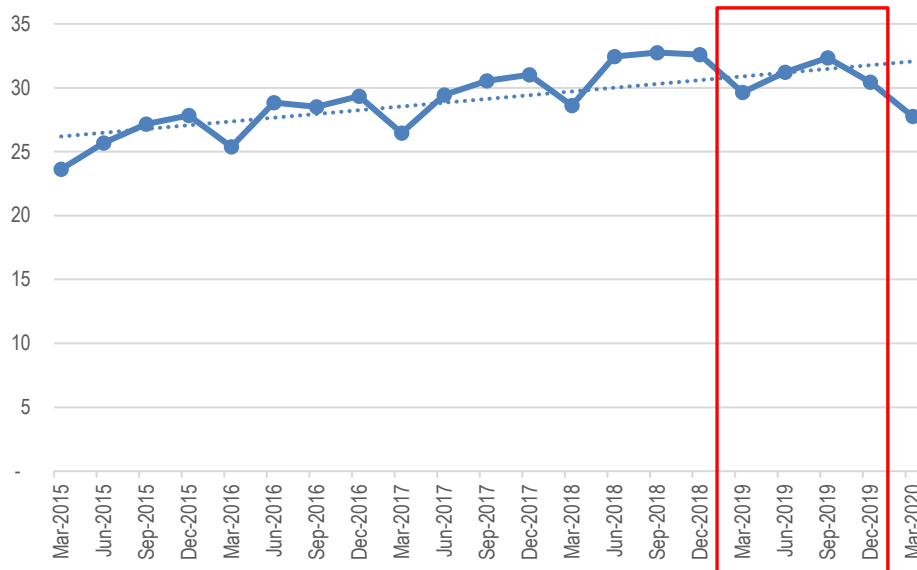


Figure 2: Building and construction sector in Australia, quarterly (\$ Billion)

Source: Australian Bureau of Statistics³⁵

Figure 2 demonstrates that whilst the historical building and construction trend has generally been upward, the two most recent quarters have continued a decline in investment which begun during the inquiry period. Notably, the two most recent quarters have experienced below trend growth which has not been seen for some years. The March quarter in any given year tends to have the lowest level of activity, reflecting industry shutdowns for the festive season. However, the most recent March quarter experienced the lowest level of activity since 2017.

³⁴ BIS Oxford Economics' latest *Building Industry Prospects* report (December 2019)

³⁵ Available from the Australian Bureau of Statistics (ABS) [website](#). Data from section 8752.0 Building Activity, Australia (Table 12).

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Figure 3 shows the total value of residential and non-residential building work since January 2015 based on trailing 12 month periods (TTM). The inquiry period is coloured red.

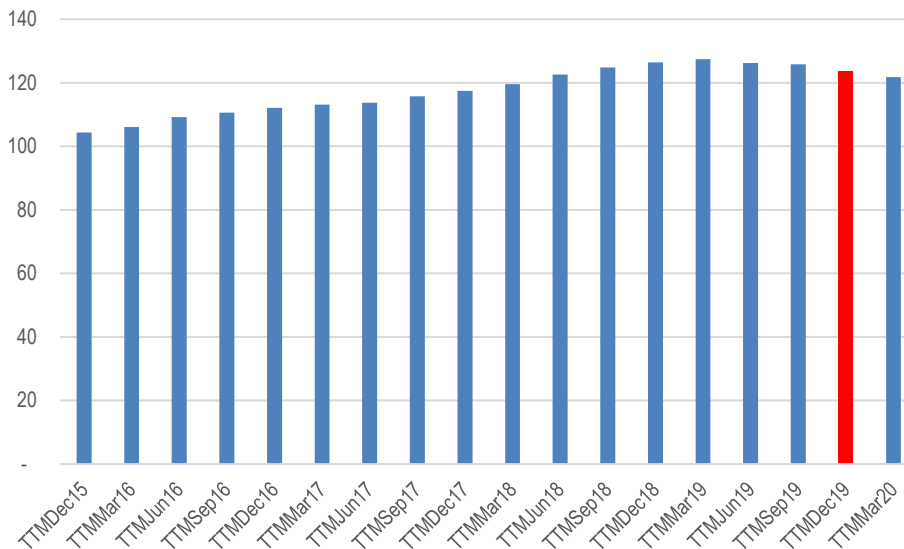


Figure 3: Building and construction sector in Australia \$Billion, TTM

Source: Australian Bureau of Statistics³⁶

Growth in the value of building peaked during the 12 months ended 31 March 2019 (\$127.5B). Since this time the level of investment has been in gradual decline. The inquiry period experienced the lowest level of activity since the TTM to June 2018.

4.3.3 Demand outlook

Due to the economic disruption caused by the COVID-19 pandemic, it has been difficult to obtain reliable forecasts for the construction sector and the Australian economy more broadly. Whilst there is a known pipeline of major projects in the engineering and infrastructure segment and to a lesser extent, non-residential construction, the outlook for the residential segment and unannounced major projects is uncertain. Various bodies have published forecasts for the construction sector that have generally predicted a weak outlook. The *Economic and Fiscal Update* in July 2020³⁷ forecast that dwelling investment will fall by 7 per cent in the June 2020 quarter and 11 per cent in the September 2020 quarter. Beyond this it has forecast that dwelling investment will decline by 16 per cent in 2020-21. The National Housing Finance and Investment Corporation has forecast a range of scenarios that all estimate underlying demand for new private dwellings will remain well below pre COVID-19 forecasts until at least 2023.³⁸ The forecasts for construction demand from a range of sources are regularly being revised and the full extent of various government stimulus measures is yet to be realised, particularly in the residential segment.

³⁶ Available from the Australian Bureau of Statistics (ABS) [website](#). Data from section 8752.0 Building Activity, Australia (Table 12).

³⁷ Australian Government, Economic and Fiscal Update, July 2020, Part 2: Economic Outlook

³⁸ National Housing Finance and Investment Corporation, [COVID-19: Australia's Population and Housing Demand](#), September 2020

Based on the forecasts noted above, it is probable that the construction sector will experience subdued activity until at least until the middle of 2021. This in turn will have a direct impact on the future demand for rebar. Furthermore, it is reasonable to assume that a continued contraction in construction activity will likely intensify competition among contractors bidding for fewer projects in turn placing price pressure on inputs such as materials, including rebar, and labour.

4.3.4 Pricing

In the original Investigation 264, the Commission found that the Australian industry set its prices by applying an Import Parity Pricing model (IPP model), whereby prices were negotiated with customers and established with reference to competing price offers in respect of imported goods.

In its application for the continuation of measures, InfraBuild asserted that it applied the IPP model in the period following the imposition of measures and throughout the inquiry period. It further claimed that pricing in the Australian market is driven by prices of imported rebar, and that under the IPP model, it only accepted the lowest credible import offer.

Australian industry is generally able to command a small price premium for low volume product specifications due to its capacity to supply from stock holdings with shorter delivery timeframes than imported sources. Importers' capacity to supply low volume product specifications from stock holdings is generally limited to smaller quantities or across a narrower range of products. Importers tend to compete mainly in the higher volume, standard product offerings of 6 metre straight lengths or coil of 500N grade. Although the pricing for standard, long-lead time products is more heavily influenced by import pricing it is also a contributory factor in the pricing of non-standard product specifications.

While InfraBuild applied the IPP model during the inquiry period, it has provided the Commission with information related to its new pricing model which commenced on 1 January 2020. The new pricing model is in place for some product specifications, while other product specifications continue to be based on IPP. Refer to section 7.4.8 for further discussion and analysis of InfraBuild's pricing structure.

4.3.5 Structural changes in the market

In September 2017 there were significant changes to InfraBuild's corporate structure. InfraBuild was formerly a part of the Arrium Group, which entered administration before being acquired by Liberty OneSteel (MDR) UK Limited. A re-organisation by the ultimate parent entity in 2019 saw operational control of InfraBuild pass to InfraBuild Pty Ltd, a member of GFG Alliance.

In March 2020 it was announced that InfraBuild Trading Pty Ltd had agreed to acquire Best Bar.³⁹ In June 2020 it was announced that the acquisition would no longer proceed.

In August 2019, InfraBuild acquired Dalian Steelforce Hi-tech Co., Ltd and its related party businesses in Australia (Steelforce Holdings Pty Ltd and subsidiaries) which was a distributor of rebar from sources not related to InfraBuild.⁴⁰

³⁹ The public register of the Australian Competition and Consumer Commission (ACCC) [website](#) refers.

⁴⁰ The relevant media release from GFG Alliance's [website](#) refers.

In March 2018, Commercial Metals Company was acquired by Macsteel International Trading Holdings B.V., and became Macsteel.

4.4 Market size

In its application InfraBuild estimated the size of the Australian rebar market with reference to the following sources:

- InfraBuild’s own domestic sales data; and
- import data obtained from an independent recognised supplier of international trade statistics via paid subscription.

To estimate the size of the Australian rebar market, the Commission has combined InfraBuild’s verified sales data, with information from the ABF import database and verified information from importers and exporters. The Commissioner considers that the ABF import database to be a reliable source of data for imported rebar and that it is relevant and suitable for estimating the size of the Australian market for rebar.

The Commissioner’s estimate of the size of the Australian rebar market is depicted in Figure 4 below. Figure 4 shows the total quantity of rebar sold in the Australian market on a TTM basis since 1 July 2014.

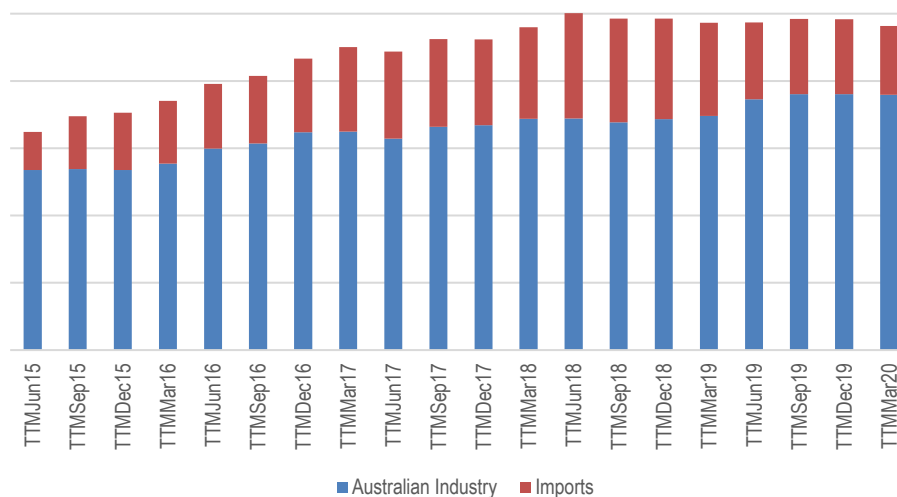


Figure 4: Australian market for rebar (tonnes), TTM

The Commission observes that the Australian rebar market grew by 54 per cent from the 12 months ended 30 June 2015 before peaking in the 12 months ended 30 June 2018. Since reaching its peak in 12 months ended 30 June 2018, the market for rebar has decreased slightly but has otherwise remained relatively stable.

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The Commission observes that the trends in the market for rebar largely correspond to the trends indicated in Figure 2 and Figure 3. Figure 5 below compares the quarterly change in the value of building and construction work and the rebar market, indexed to the September 2014 quarter.

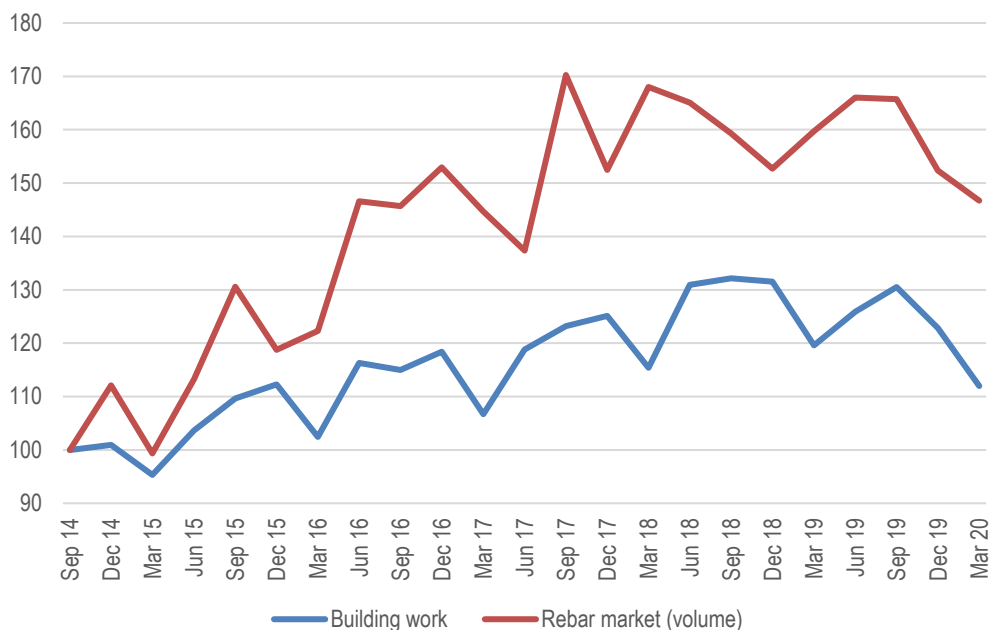


Figure 5: Value of building and construction and rebar market, quarterly change, indexed to September 2014 quarter

4.5 Importers

The Commission examined the ABF import database and identified seven importers of rebar from the subject countries during the inquiry period. The five largest importers accounted for 99 per cent of imports from the subject countries during the inquiry period. The Commission undertook a remote verification on the following importers:

- DITH; and
- Best Bar.

The verification undertaken in respect of the above mentioned companies found the data submitted to be relevant, accurate and complete. Verification reports for the above importers are on the public record available on the Commission's website.⁴¹

⁴¹ EPR 546, document nos. [16](#) and [17](#).

5 ECONOMIC CONDITION OF THE AUSTRALIAN INDUSTRY

5.1 Approach

This chapter considers the economic condition of the Australian industry since the imposition of the measures. The observations in this section are based on verified financial information submitted by InfraBuild and information captured in the ABF import database.

The period from 1 January 2015 has been used for the purposes of identifying trends in the economic condition of the Australian industry after the imposition of the measures on exports from the subject countries. The data and analysis on which the Commission has relied to assess the economic position of the Australian industry is at **Confidential Attachment 1**.

Consideration of whether it is likely, in the absence of the measures, that material injury caused by dumping will continue or recur is considered in Chapter 7.

5.2 Findings in original investigation

REP 264 found that the Australian industry had experienced injury in the forms of:

- loss of sales volumes;
- loss of market share;
- price suppression; and
- reduced profits and profitability.

5.3 Commencement of injury and analysis period

Measures currently apply to goods exported to Australia from China, Greece, Indonesia, Thailand and the subject countries.

On 19 November 2015, anti-dumping measures in the form of IDD were imposed on rebar exported from Korea, Singapore, Spain and Taiwan.⁴²

On 7 March 2018, anti-dumping measures in the form of IDD were imposed on rebar exported from Nervacero (Spain), Power Steel (Taiwan), Greece, Indonesia and Thailand.⁴³

On 31 May 2019, anti-dumping measures in the form of IDD were amended on rebar exported from Korea and Taiwan (except Power Steel).⁴⁴

In REP 264, the Commission analysed the period commencing 1 July 2010. In this continuation inquiry, the Commission has reviewed the economic condition of the Australian industry from 1 January 2015. In order to review trends in volume effects, the Commission has examined the initial injury analysis period from REP 264 as well as the period commencing 1 January 2015. There is a gap of six months between the two periods.

⁴² Refer to the Final Report [REP 264](#) and [ADN 2015/133](#).

⁴³ Refer to the Final Report [REP 418](#) and [ADN 2018/10](#).

⁴⁴ Refer to the Final Report [REP 486/489](#) and [ADN 2019/54](#).

5.4 Volume effects

5.4.1 Sales volume

The below chart shows the volume of rebar sold by InfraBuild during the financial year (FY) periods from 1 July 2010 to 30 June 2014 (being the 12 months ended 30 June) and the calendar year (CY) periods from 2015 to 2019. The vertical red line in CY2015 denotes the imposition of the measures on goods exported to Australia from the subject countries.

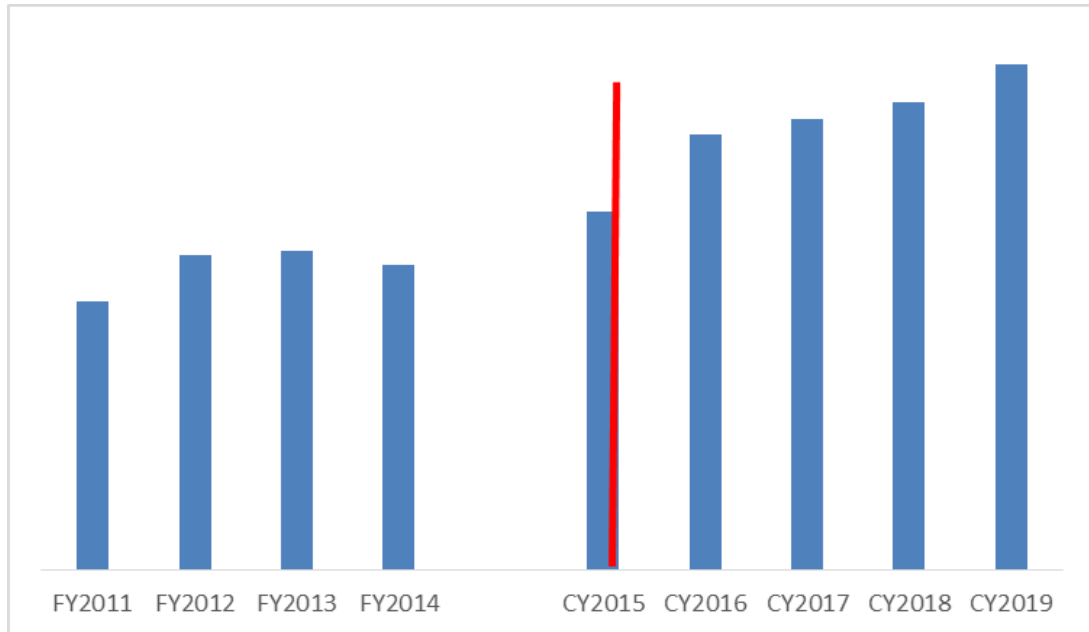


Figure 6: InfraBuild sales volume

Figure 6 demonstrates that InfraBuild experienced a recovery in its sales volumes following the imposition of the measures in CY2015.

5.4.2 Market share

Figure 7 below shows the proportion of the Australian rebar market supplied by:

- the Australian industry;
- exports from the subject countries; and
- exports from other countries, some of which are subject to other measures.

The vertical red line in CY2015 denotes the imposition of the measures on goods exported to Australia from the subject countries.

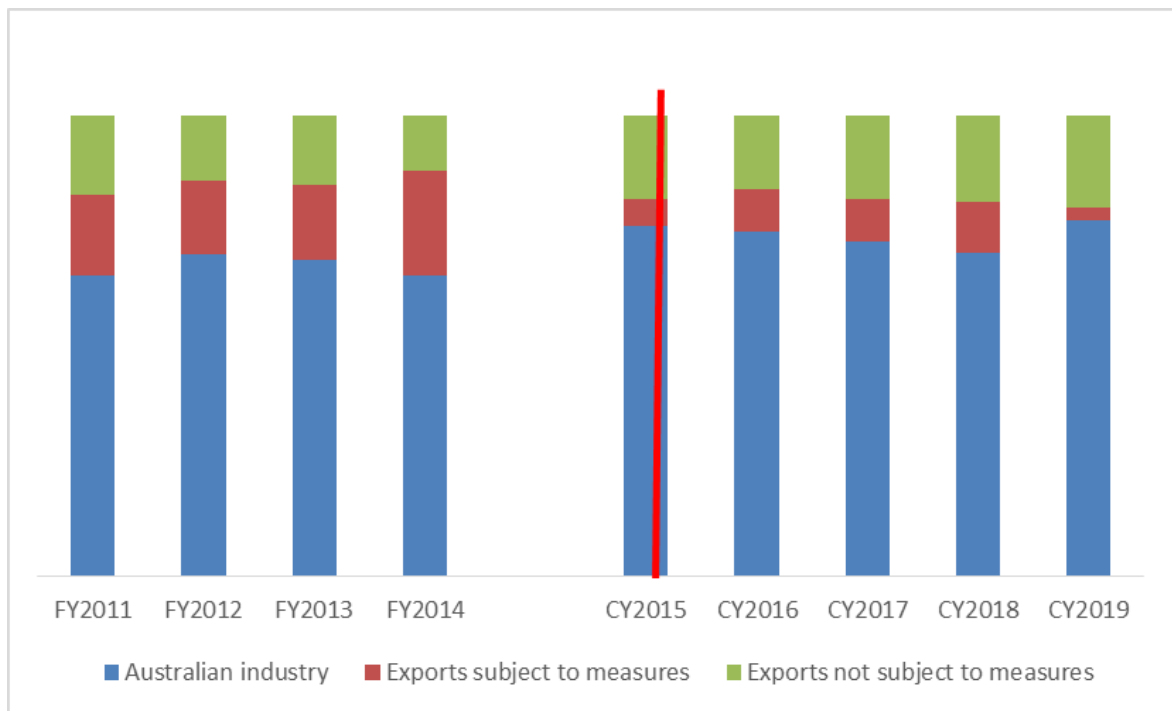


Figure 7: Australian market share

Following the imposition of measures in 2015, InfraBuild initially regained some market share. However, it has experienced a reduction in its market share for much of the period since then, with recovery observed in 2019.

After some reduction following the measures, the market share of exports subject to measures increased until 2019. The exports not subject to measures relate to exports that are not subject to the dumping duties that apply to this continuation inquiry, however, include exports that are subject to dumping duties under separate anti-dumping notices as detailed at section 5.3 above.^{45,46}

⁴⁵ InfraBuild also imported the goods for sale on the Australian market from various countries including those subject to this inquiry. Such imports are assimilated in data extracted from the ABF. Its sales of imported goods formed a small proportion of its overall sales volumes.

⁴⁶ The producer of a portion of the Spanish export volumes in each of FY2012, FY2013 and FY2014 could not be reliably identified. The Commission understands that the producer is either CELSA or Nervacero. These exports have not been removed from the Spanish volumes in "Exports subject to measures" in Figure 7.

5.5 Price effects

5.5.1 Price depression and suppression

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. The margin between prices and costs may be an indicator of price suppression. Figure 8 below summarises the Australian industry's unit selling price and unit cost to make and sell (CTMS) for rebar.

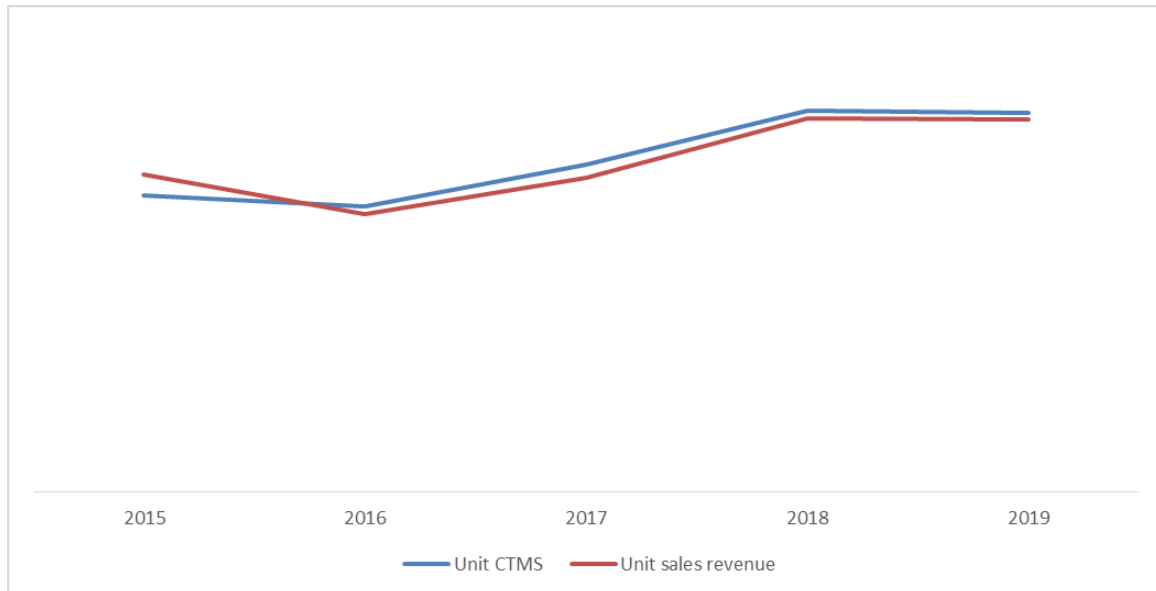


Figure 8: Australian industry unit selling price and CTMS

Since 2016, the Australian industry's unit selling price of rebar has experienced an upward trend, however, the unit CTMS has been consistently above the unit selling price. This suggests that InfraBuild has not been able to increase its selling price in order to move from a loss to a profit position on a per unit basis. The Commission notes that more recently, there has been a narrowing of the margin between unit selling prices and unit CTMS.

5.6 Profit and profitability

Figure 9 below summarises InfraBuild's profit and profitability for the period 2015 to 2019.



Figure 9: Profit and profitability

InfraBuild experienced a net loss on its sales of rebar since 2016, despite the measures, with some improvement in profitability after 2017.

5.7 Other economic factors

InfraBuild provided information on a range of other economic factors to underpin the data and claims submitted in its application to this continuation inquiry.

A summary of these economic factors and the calculation of an index for each of these factors is at **Confidential Attachment 1**.

Index of other economic factors	2015	2016	2017	2018	2019
Assets (\$)	100	101	99	95	122
Capital investment (\$)	100	89	174	181	321
R&D Expense (\$)	100	217	-	144	121
Revenue (\$)	100	106	125	154	166
Return on investment (%)	100	-44	-91	-57	-33
Capacity (MT)	100	104	103	106	108
Actual production (MT)	100	121	117	124	139
Capacity utilisation (%)	100	107	107	112	105
Employment (persons)	100	109	110	111	135
Productivity (MT per shift)	100	108	108	113	110
Stock/inventory (closing stock MT)	100	133	105	142	106
Cash flow (receivables turnover)	100	95	78	92	87
Wages (\$)	100	110	119	132	142
Average wage (\$ per person)	100	102	108	120	105

Table 7: Indices of other economic factors, CY

With the exception of research and development (R&D) expense, return on investment, stock/inventory holdings and cash flow, all of the above metrics show a general improvement since 2015, the year the anti-dumping measures were imposed. The reduced return on investment mirrors InfraBuild's profitability performance for like goods as shown at section 5.6 and the cash flow metric reflects a slower rate of turnover of its accounts receivables for like goods.

There was a significant increase in R&D expense in 2016 and InfraBuild advised that the drop off in R&D expense in 2017 was due to being placed in voluntary administration (then Arrium Limited) just prior. There has been a recovery in 2018 and 2019.

5.7.1 Finding – other economic factors

The Commission considers that InfraBuild has continued to experience injury in some economic factors. The Commission notes, however, that it has seen an improvement in many other economic factors following the imposition of measures.

6 VARIABLE FACTORS ASSESSMENT

6.1 Findings

For the purpose of assessing whether the expiration of the measures would lead, or would be likely to lead, to the continuation or recurrence of dumping, the Commission has established variable factors in respect of the inquiry period relevant to the taking of the measures.

The Commission has found that the variable factors have changed for the exporters verified as part of this continuation inquiry. Dumping margins calculated on the basis of these variable factors are summarised in Table 8 below.

Country	Exporter	Dumping Margin
Korea	Daehan	3.9%
	Uncooperative and all other exporters	4.0%
Singapore	NatSteel	0.6%
	Uncooperative and all other exporters	0.6%
Spain	CELSA	0.0%
	Uncooperative and all other exporters	8.2%
Taiwan	Uncooperative and all other exporters	- 0.9%

Table 8: Dumping margins

A summary of the dumping margins is at **Confidential Attachment 2** to this report.

6.2 Legislative framework

In accordance with section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of anti-dumping 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, dumping. The existence of dumping during the inquiry period may be an indicator of whether dumping may occur in the future.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of goods are established under sections 269TAB and 269TAC respectively. Further details of the export price and normal value calculations for each exporter are set out below.

Dumping margins are worked out under section 269TACB.

For all dumping margins calculated for the purposes of this inquiry, the Commission compared the weighted average export prices over the whole of the inquiry period with the weighted average of corresponding normal values over the whole of that period, in accordance with section 269TACB(2)(a).

6.2.1 Uncooperative exporters

Section 269T(1) provides that an exporter is an “uncooperative exporter” where the Commissioner is satisfied that an exporter of goods the subject of the inquiry did not give the Commissioner information the Commissioner considered to be relevant to the continuation inquiry within a period the Commissioner considered to be reasonable, or where the Commissioner is satisfied that an exporter significantly impeded the inquiry.

The *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Direction) states at section 8 that the Commissioner must determine an exporter to be an uncooperative exporter, on the basis that no relevant information was provided in a reasonable period, if that exporter fails to provide a response or fails to request a longer period to do so within a specified timeframe.

After having regard to the Direction, the Commissioner has determined that all exporters which did not provide a response to the exporter questionnaire, or which did not request a longer period to provide a response within the timeframe specified for submitting a response, are uncooperative exporters for the purposes of this inquiry.

6.2.1.1 Legislative framework for variable factors calculation for uncooperative exporters

Section 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. This provision specifies that for uncooperative exporters, export prices are to be worked out under section 269TAB(3) and normal values are to be calculated under section 269TAC(6).

The Commission has worked out the export price for the uncooperative exporters under section 269TAB(3), having regard to all relevant information.

The Commission has worked out the normal value for the uncooperative exporters under section 269TAC(6), having regard to all relevant information.

6.3 Variable factors – Korea

6.3.1 Daehan

The Commission conducted a remote verification of the data and information submitted in Daehan's REQ.

The Commission is satisfied that Daehan is a producer of the goods and like goods.

From the remote verification activities performed, the Commission was satisfied of the completeness, relevance and accuracy of the data submitted by Daehan as it pertained to its Australian export sales during the inquiry period.

Daehan was not able to provide relevant source documentation or respond to the Commission's queries regarding certain aspects of the data and information that it had submitted in its REQ at the conclusion of the remote verification. The Commission notes, particularly in the context of a continuation inquiry which must be completed within legislated timeframes and prior to the expiration of the measures, that it requested Daehan provide information at specified dates to facilitate the timely completion of the verification. Daehan was not able to do so, and consequently, the Commission was not satisfied of:

- the completeness, relevance and accuracy of a portion of Daehan's sales of like goods on the domestic market; and
- the completeness, relevance and accuracy of Daehan's CTMS in respect of the goods and like goods.

The verification report at **Non-Confidential Attachment 2** outlines the source documentation not provided and the inadequate responses to verification queries, resulting in the above findings. Submissions in respect of the verification of Daehan's REQ response are discussed at section 6.3.1.3 of this report.

The Commission's assessment of the variable factors is set out below.

6.3.1.1 Export price

The Commission considers Daehan to be the exporter of the goods to Australia, as Daehan:

- is the manufacturer of the goods;
- is named on the commercial invoice as the supplier;
- is named as the consignor on the bill of lading;
- arranges and pays for the inland transport to the port of export; and
- arranges and pays for the port handling charges at the port of export.

In respect of Daehan's sales of the goods to Australia during the inquiry period, the Commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

The Commission therefore considers that all export sales made by Daehan to Australia during the inquiry period were arms length transactions.

The Commission is satisfied that:

- Daehan is the exporter of the goods; and
- the goods were exported to Australia otherwise than by the importer.

The Commission has found during the inquiry period that all of Daehan's Australian export sales were made through an intermediary, Duferco Asia Pte Ltd, such that the goods were not purchased by the importer from the exporter. Consequently, an export price could not be ascertained under section 269TAB(1)(a).

Accordingly, in respect of Australian sales of the goods by Daehan, the Commission has determined an export price under section 269TAB(1)(c), based on all the circumstances of exportation. Specifically, the export price has been determined as the price between Daehan and the intermediary trader involved in the sale of the goods to Australia.

6.3.1.2 Normal value

The Commission was not able to assess the suitability of Daehan's domestic sales for the purposes of establishing the normal value under section 269TAC(1) as it was not satisfied of the completeness, relevance and accuracy of the data relating to a portion of Daehan's domestic sales and its CTMS, as outlined at section 6.3.1. The Commission disregarded information as it pertained to the determination of Daehan's normal value, as it considered such information to be unreliable, pursuant to section 269TAC(7).

The Commission has determined Daehan's normal value under section 269TAC(6), having regard to all relevant information. Specifically, the Commission considers that the most reliable and contemporaneous information is the verified normal value last determined by

the Minister in respect of Daehan in Review 486/489.⁴⁷ In *ADRP Report No. 108 - Certain findings in Reports 486 and 489 Steel Reinforcing Bar* (ADRP Report 108)⁴⁸, the ADRP determined that in Review 486/489, there was no error in the methodology applied by the Commission to ascertain Daehan's normal value and therefore, the normal value remained the same as that in the reviewable decision.

In calculating Daehan's normal value for this inquiry, an adjustment to the normal value ascertained in Review 486/489 has been made with reference to what the Commission considers to be the most reliable information available to it, namely the movement in the verified ascertained export prices specific to Daehan between the review period relevant to Review 486/489 and the current inquiry period.

6.3.1.3 Submissions received regarding Daehan variable factors

In relation to the Commission's verification of Daehan's data and determination of its variable factors, in its submission of 17 August 2020, InfraBuild:⁴⁹

- stated that Australian export sales of rebar coil are typically of nominal diameters of 12 mm, 16 mm and 20 mm. InfraBuild assumes that the MCC model P-C-C-C-N for Daehan's Australian export sales predominantly comprises 20 mm rebar;
- stated that it deduces from Daehan's verification report that there were no sales of 20 mm rebar coil domestically during the inquiry period. However, InfraBuild understands that Daehan produces rebar coil of nominal diameters between 10 mm and 25 mm. Therefore, InfraBuild requests that the Commission review Daehan's domestic sales listing to establish whether 20 mm rebar coil has been omitted or erroneously classified as 'barter sales' (where one commodity product is exchanged for another). It further sought clarification from the Commission on Daehan's domestic sales of rebar straights;
- noted that in its REQ, Daehan claimed the contract date as the date of sale for Australian export sales. InfraBuild asserts that as was the case in Investigation 264, where the invoice date was applied as the date of sale for Daehan's Australian export sales, Daehan continues to sell rebar into Australia through intermediary traders, such that there is no reason for the date of sale to depart from the invoice date; and
- sought clarification from the Commission as to whether containerisation costs had been included in expenses incurred by Daehan to transport the goods from the factory to the port of shipment.

In its submission of 9 September 2020⁵⁰ in response to SEF 546, InfraBuild stated that:

- it disagrees with the Commission's approach in SEF 546 to the calculation of Daehan's normal value, applying the normal value last ascertained in Review 486/489 and a timing adjustment with reference to export prices. The fact that Daehan's ascertained export price information for the inquiry period and in Review 486/489 has been subject to satisfactory verification does not justify its use by the Commission;

⁴⁷ [REV 489](#)

⁴⁸ [ADRP Report 108](#)

⁴⁹ EPR 546, document no. [22](#)

⁵⁰ EPR 546, document no. [27](#)

- the prevailing market conditions in the Korean and Australian rebar markets are not necessarily comparable and it considers that movements in domestic selling prices, Australian export prices and scrap costs are not commensurate with one another; and
- it would be more appropriate for the Commission to take available, published price surveys of domestic Korean rebar prices as the basis to adjust any relevant but historic normal value information. InfraBuild highlighted that it had provided domestic selling prices of Korean rebar in its application to this continuation inquiry and as part of its submission.

Commission's Response

Daehan MCCs and verification

InfraBuild sought clarification from the Commission on the MCC models sold domestically by Daehan during the inquiry period, particularly in respect of rebar coil. As detailed in Daehan's verification report, the Commission was satisfied of:

- the completeness and relevance of Daehan's domestic sales listing as it concerned sales of all coil during the inquiry period; and
- the accuracy of Daehan's domestic sales listing as it concerned commercial sales of coil during the inquiry period.

The Commission was not satisfied of the accuracy (an aspect of which is the designation of MCC codes to sales transactions) of Daehan's sale listing in respect of barter sales of coil as well as the completeness, relevance and accuracy of its domestic sales of all straight rebar (be it commercial or barter in nature) during the inquiry period.

Notwithstanding that Daehan's domestic selling prices could not be relied on for the purposes of ascertaining its normal value, the Commission's review of Daehan's domestic sales listings found that the MCC subcategory designation of nominal diameter under the MCC structure was aligned to the nominal diameter denoted by internal product codes assigned to each sales transaction. On this basis, there appears to be no domestic sales of the MCC model P-C-C-C-C-N by Daehan during the inquiry period as indicated in the verification report. The Commission notes that the domestic MCC models indicated in Daehan's verification report related to that of its commercial and barter sales.

In ascertaining Daehan's Australian export price for the inquiry period, the Commission adopted the invoice date as the date of sale. At the commencement of the verification of Daehan's REQ data, the exporter explained that it had not intended to claim the contract date as the date of sale for its Australian exports, and considered it appropriate to adopt the sales invoice date. Daehan provided relevant data in respect of the invoice date in its REQ. The Commission concurs with Daehan and InfraBuild that the invoice date best reflects the material terms of sale for Daehan's Australian exports, approximating the date of shipment and consistent with the guidance set out in the Manual.⁵¹

In verifying costs associated with the transportation of the goods from Daehan's factory to the port of shipment, the Commission validated inland transport expenses incurred to bring the goods from the factory to the port, as well as handling and all other charges associated with loading the goods onto the ship. The Commission is satisfied that all relevant costs

⁵¹ Page 66 of the Manual refers

have been included, however notes that such costs were not used for the purposes of any adjustment to Daehan's normal value.

Normal value calculation

InfraBuild has confidentially provided the Commission with a published price survey for Korean rebar.

The Commission did not use this pricing information as the basis for making a timing adjustment to historical normal values because the publisher of that information has previously stated that it does not consent to its use by the Commission.

The Commission does not have any other published pricing information relevant to the Korean domestic market for rebar. The Commission therefore considers the approach it has adopted in determining the normal value for Daehan to be the most appropriate approach, as it is based on verified data which is closely related to the Korean exporter concerned.

6.3.1.4 Dumping margin

The dumping margin in respect of the goods exported to Australia by Daehan for the inquiry period is **3.9 per cent**.

The Commission's full calculations are at **Confidential Attachment 3**.

6.3.2 Uncooperative and all other exporters

6.3.2.1 Export price

The export price for uncooperative and all other exporters from Korea was determined having regard to all relevant information under section 269TAB(3). Specifically, the Commission had regard to the ascertained export price for Daehan in this inquiry.

6.3.2.2 Normal value

The normal value for uncooperative and all other exporters from Korea was determined having regard to all relevant information under section 269TAC(6). Specifically, the Commission considers that the most reliable and contemporaneous information is the normal value last determined in respect of uncooperative and all other exporters of Korea in Review 486/489 and affirmed in ADRP Report 108.

In its calculation of normal value, an adjustment to the normal value ascertained in Review 486/489 has been made with reference to what the Commission considers to be the most reliable information available to it, namely the movement in the verified ascertained export prices specific to Daehan between the review period relevant to Review 486/489 and the current inquiry period.

6.3.2.3 Dumping margin

The dumping margin for uncooperative and all other exporters from Korea is **4.0 per cent**.

The Commission's calculations are at **Confidential Attachment 2**.

6.4 Variable factors – Singapore

6.4.1 NatSteel

The Commission conducted a remote verification of the data and information submitted in NatSteel's REQ.

The Commission is satisfied that NatSteel is a producer of the goods and like goods. The Commission is satisfied that the information and data provided by NatSteel is accurate and reliable for the purposes of ascertaining the variable factors applicable to its exports of the goods to Australia during the inquiry period.

A report detailing the verification findings is at **Non-Confidential Attachment 3** and available on the public record.⁵²

The Commission's assessment is set out below.

6.4.1.1 Export Price

The Commission considers NatSteel to be the exporter of the goods to Australia, as NatSteel:

- is the manufacturer of the goods;
- is named on the commercial invoice as the supplier;
- is named as the consignor on the bill of lading;
- arranges and pays for the inland transport to the port of export;
- arranges and pays for the port handling charges at the port of export; and
- arranges and pays for the ocean freight and marine insurance.

In respect of NatSteel's sales of the goods to its Australian customers during the inquiry period, the Commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

The Commission therefore considers that all export sales made by NatSteel to its Australian customers during the inquiry period were arms length transactions.

The Commission is satisfied that:

- NatSteel is the exporter of the goods;
- the goods were exported to Australia otherwise than by the importer; and

⁵² EPR 546, document no. [12](#)

- the goods were purchased in arms length transactions by the importer from the exporter.

Accordingly, in respect of Australian sales of the goods by NatSteel, the Commission has determined an export price under section 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

6.4.1.2 Normal value

The Commission has found in respect of NatSteel, that there were sufficient volumes of sales of like goods sold in the ordinary course of trade (OCOT) for home consumption in the country of export that were arms length transactions during the inquiry period. As such, the Commission is satisfied that there is not an absence, or low volume, of sales relevant for the purpose of determining a price under section 269TAC(1).

The Commission has ascertained normal values in respect of NatSteel under section 269TAC(1).

For one MCC exported to Australia with which there were no domestic sales of the identical model during the inquiry period, the Commission adopted the price of a surrogate domestic model. The Commission made a specification adjustment to that price to ensure fair comparison between the price of the export model and the price of the surrogate domestic model. Further details concerning the surrogate model adopted and the manner with which the specification adjustment was applied are set out in NatSteel's exporter verification report at **Non-Confidential Attachment 3** and discussed at section 6.4.1.4 of this report.

6.4.1.3 Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to section 269TAC(8) as follows:

Adjustment type	Description
Specification adjustment	For surrogate model adopted for determining normal value for one Australian export model
Domestic credit terms	Deduct domestic credit costs
Domestic factoring costs	Deduct the cost of domestic accounts receivable factoring
Domestic inland transport	Deduct the cost of domestic inland transport
Export inland transport	Add the cost of export inland transport
Export handling and other charges	Add the cost of export handling and other charges
Export service fee charges	Add the cost of service fee charges incurred for Australian export sales
Export credit terms	Add export credit costs

Table 9: Adjustments to NatSteel's normal values

6.4.1.4 Submissions received on NatSteel variable factors

In its submission of 9 September 2020⁵³ in response to SEF 546, InfraBuild:

- referenced NatSteel's verification report, which indicated that the like goods sold domestically by NatSteel during the inquiry period were either of its own production or from imported sources. InfraBuild considered that the verification report failed to clarify whether sales of imported rebar were ultimately excluded from the Commission's OCOT consideration and determination of NatSteel's normal value under section 269TAC(1);
- noted that pursuant to section 269TAC(1), the normal value is *'the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export'*. Additionally, InfraBuild pointed to section 269TAAD(4) which provides that the cost of goods is worked out in part by adding *'the amount determined by the Minister to be the cost of production or manufacture of those goods in the country of export.....'*. InfraBuild is of the view that the legislation does not provide for anything other than *'produced or manufactured'* goods from constituting like goods sold in OCOT;
- submitted that to the extent that the Commission has calculated a normal value for NatSteel with reference to domestic sales of imported *'like goods'*, that this does not amount to the correct or preferable decision;
- sought clarification from the Commission as to whether:
 - the cost of imported goods had been included in NatSteel's "cost of goods" under section 269TAAD(3);
 - sales of NatSteel's imported goods were included in the Commission's assessment of whether sales of like goods were at a price below the cost of such goods for substantial quantities during an extended period under section 269TAAD(2);
 - purchase and sales volumes of imported goods were included in NatSteel's CTMS under section 269TAAD(4); and
 - imported goods were included in the Commission's assessment of whether NatSteel's domestic sales of like goods were made in low volumes in accordance with section 269TAC(2)(a)(i);
- noted that in Investigation 264, NatSteel also purchased imported rebar and the Commission was unable to determine the cost of goods, being the cost of production or manufacture as it pertained to NatSteel's domestic sales. The Commission was not satisfied that domestic sales were sold in the OCOT such that normal values could not be determined under section 269TAC(1). In Investigation 264, NatSteel's normal value was ascertained in accordance with section 269TAC(2)(c);
- stated that in respect of the one Australian export model (P-C-S-B-2-N) with which no domestic sales of the equivalent model were made by NatSteel during the inquiry period, it did not object to the use of a surrogate model, P-C-S-B-1-N and the application of a specification adjustment under section 269TAC(8). However, InfraBuild sought clarification on the Commission's methodology for making the

⁵³ EPR 546, document no [27](#)

specification adjustment with reference to the domestic MCC models P-C-S-A-2-N and P-C-S-A-1-N. InfraBuild is of the position that adjustments under section 269TAC(8) be made on the basis of price comparability and that any adjustment amount applied to the surrogate model be based on price differences attributable to physical characteristic differences; and

- stated that it does not understand the reasons for a downwards adjustment to normal value under section 269TAC(8) in respect of both domestic credit terms and factoring costs, when it considers that the existence of a factoring arrangement is such that domestic sales are paid by the ‘factor’ on terms less than the domestic payment terms endorsed on the sales invoice and on or near cash terms.

In its submission of 9 September 2020,⁵⁴ NatSteel commented that had the Commission accepted its claim for an adjustment to the normal value to account for differences in direct selling costs incurred for domestic and export sales, a negative dumping margin would have been determined.

Commission’s Response

Calculation of normal value

In determining whether NatSteel’s sales of like goods on the domestic market were in the OCOT, the Commission included sales of imported like goods which were sold by NatSteel on the domestic market. This is a different approach to that taken in Investigation 264.

As set out in NatSteel’s verification report, during the inquiry period, NatSteel sold like goods on the domestic market which were either of its own production or from imported sources. NatSteel’s accounting system does not differentiate between manufactured and imported like goods once the goods have been entered as inventory and at the time a sale is recognised. Imported products for domestic sale are produced to meet the same standards and physical specifications as the goods that it manufactures.

In relation to NatSteel’s circumstances, the Commission considers that for the purpose of section 269TAAD(4), a cost of production for like goods in Singapore can be determined, regardless of whether the goods were actually produced in Singapore.

For the purpose of ascertaining NatSteel’s normal value:

- the Commission applied the cost of production of NatSteel’s self-produced goods for the purposes of sections 269TAAD(2), 269TAAD(3) and 269TAAD(4). Regard was not had to the cost of imported goods. In establishing an amount of selling, general and administrative costs (SG&A) associated with the sale of domestic like goods under section 269TAAD(4), the Commission applied NatSteel’s domestic sales volumes of self-produced and imported rebar to derive a unit SG&A amount relevant to each domestic MCC model;
- sales of imported goods were included in the Commission’s assessment of whether NatSteel’s domestic sales of like goods were made in low volumes in accordance with section 269TAC(2)(a)(i); and
- sales of imported goods were included in the determination of NatSteel’s normal value in accordance with section 269TAC(1).

⁵⁴ EPR 546, document no. [26](#)

Adjustments to normal value

The Commission agrees with InfraBuild's comments that any adjustment to normal value under section 269TAC(8) be made on the basis of price comparability. This is consistent with the guidance in the Manual.⁵⁵ In respect of the Commission's application of a surrogate MCC model (P-C-S-B-1-N) for the Australian export model with which there were no domestic sales of the equivalent model during the inquiry period (P-C-S-B-2-N), the Commission made a specification adjustment to ensure a fair comparison between the surrogate domestic model and Australian export model. This specification adjustment was in respect of differences in the physical characteristic of length between the two models. In quantifying an amount for the specification adjustment, the Commission referenced the differences in the quarterly domestic selling prices between the MCC models P-C-S-A-2-N and P-C-S-A-1-N. In selecting these two models, the Commission controlled for all other physical characteristic variables under its MCC structure, such that the price disparity, the basis of the specification adjustment, could be attributed to the physical characteristic difference of length.

InfraBuild contends that a downwards adjustment to normal value to account for domestic factoring costs and domestic credit terms was not merited as it considers that invoices are paid on terms less than that stipulated on a sales invoice under a factoring arrangement. The Commission understands that the verified factoring costs (bank and insurance charges) relate to expenses incurred in respect of the factoring of NatSteel's accounts receivable ledger (for domestic sales) to another party for financing purposes. The Commission does not consider that the operation of the factoring arrangement alters the payment terms between NatSteel and its customers as indicated on the sales invoice. The Commission therefore considers that the adjustment to normal value for domestic factoring costs is independent of an adjustment for domestic credit terms and each is warranted.

NatSteel submitted that a negative dumping margin would have been determined in respect of this inquiry had the Commission accepted its claims for a downward adjustment to its normal value under section 269TAC(8) for differences in direct selling costs incurred for its domestic and Australian export sales. During the course of this inquiry, the Commission was not presented with sufficient and satisfactory evidence to explain the manner by which the claimed selling cost differences influenced price comparability of its domestic and Australian export sales. Therefore, the claimed adjustment to NatSteel's normal value has not been accepted by the Commission. Further details are contained in NatSteel's verification report at **Non-Confidential Attachment 3**.

6.4.1.5 Dumping margin

The dumping margin in respect of the goods exported to Australia by NatSteel for the inquiry period is **0.6 per cent**.

The Commission's full calculations are at **Confidential Attachment 4**.

6.4.2 Uncooperative and all other exporters

6.4.2.1 Export price and Normal value

The Commission observes that exports of rebar from Singapore during the inquiry period and historically are entirely attributable to NatSteel.

⁵⁵ Page 65 of the Manual refers

For this reason, in determining an export price and normal value for uncooperative and all other exporters from Singapore under sections 269TAB(3) and 269TAC(6) respectively, the Commission has had regard to the variable factors ascertained for NatSteel in this inquiry which it considers to be the most relevant information available.

6.4.2.2 Dumping margin

The dumping margin for uncooperative and all other exporters from Singapore is **0.6 per cent**.

6.5 Variable factors – Spain

6.5.1 CELSA

The Commission conducted a remote verification of the data and information submitted in CELSA's REQ.

The Commission is satisfied that CELSA is a producer of the goods and like goods. The Commission is satisfied that the information and data provided by CELSA is accurate and reliable for the purposes of ascertaining variable factors.

A report detailing the verification findings is at **Non-Confidential Attachment 4** and available on the public record.⁵⁶

The Commission's assessment is set out below.

6.5.1.1 Export price

As CELSA did not export the goods to Australia during the inquiry period, the Commission considers that there is insufficient information to ascertain the export price under section 269TAB(1). However, the Commission notes that CELSA has been previously considered to be an exporter of rebar to Australia.⁵⁷

The Commission has therefore determined an export price in respect of CELSA under section 269TAB(3), having regard to all relevant information. Specifically, the Commission considers it appropriate to determine the export price to be the same amount as that determined to be the normal value.

6.5.1.2 Normal value

The Commission has found that in respect of CELSA, that there were sales of like goods sold in the OCOT for home consumption in the country of export that were arms length transactions. The Commission is therefore satisfied that there is not an absence, or low volume, of sales relevant for the purpose of determining a price under section 269TAC(1).

The Commission has ascertained normal values in respect of CELSA under section 269TAC(1).

⁵⁶ EPR 546, document no. [13](#)

⁵⁷ [REP 264](#) refers.

6.5.1.3 Submissions received on CELSA's variable factors

In its submission of 17 August 2020⁵⁸, InfraBuild:

- noted that of CELSA's domestic sales of like goods during the inquiry period, only one rebar coil model and no rebar straight models were designated 'B' within the MCC subcategory of minimum yield strength (greater than 300 MPa and less than or equal to 480 MPa);
- stated that CELSA's website indicates that it manufactures two grades of rebar, B400SD and B500SD, that fall within the 'B' and 'C' designation of the MCC subcategory of minimum yield strength respectively;
- requested that the Commission review CELSA's domestic sales listing to identify whether sales of grade B400SD rebar were omitted or incorrectly classified as subcategory "C" in the MCC subcategory of minimum yield strength;
- noted that in respect of Australian and third country exports, CELSA regards the proforma invoice date as the date of sale because it is the date of the binding contract that sets out all the main agreed conditions of the purchase order; and
- noted that in Investigation 264, the exporter visit report indicated CELSA and Nervacero recorded the sales invoice date as the date of sale. However, in *Investigation 418 – Steel Reinforcing Bar exported to Australia from Greece, the Republic of Indonesia, Spain, Taiwan and the Kingdom of Thailand* (Investigation 418), Nervacero had nominated the date of the proforma invoice as the date of sale. InfraBuild submitted that in the absence of evidence substantively addressing the guidance in the Manual, there should be no reason to change the date of sale from the sales invoice date to the proforma invoice/contract date.

CELSA's submission of 9 September 2020⁵⁹ argued that its weighted average normal value should be determined by reference to the kind of goods that CELSA and its affiliated company (Nervacero) are likely to sell into Australia, with which historical patterns would be an indicator. The submission claimed CELSA and Nervacero exported rebar of certain models in the original investigation of which such product mix reflects the production facility set up and the product preferences of its Australian customers. Therefore, CELSA contends that its normal value should be determined having regard only to certain models of rebar.

Commission's Response

CELSA verification and date of sale

In respect of InfraBuild's concerns as to CELSA's MCC classification of the subcategory of minimum yield strength for its domestic sales, the Commission re-examined CELSA's domestic sales listing and product code data and did not find any sales of B400SD grade rebar during the inquiry period.

In regards to InfraBuild's view on CELSA's date of sale, the Commission notes that in its REQ, CELSA did not claim any date for its Australian exports. Further, the date of sale claimed by CELSA for its third country exports was not relevant to the Commission's

⁵⁸ EPR 546, document no. [22](#)

⁵⁹ EPR 546, document no. [31](#)

determination of CELSA's variable factors in this inquiry. In respect of CELSA's domestic sales, the Commission adopted the order confirmation date as the date of sale as this most appropriately reflects when the material terms of sale were established, consistent the findings of *ADRP Report No 80- Steel Reinforcing Bar Exported to Australia from Greece, the Republic of Indonesia, Spain, Taiwan and the Kingdom of Thailand* (ADRP Report No. 80).⁶⁰

Determination of normal value

In ascertaining CELSA's normal value for the inquiry period, regard was had to all domestic sales of like goods in accordance with section 269TAC(1). As CELSA did not export the goods to Australia during the inquiry period, the Commission was unable to ascertain a normal value in respect of its Australian export models. The Commission does not consider that it should rely on CELSA or Nervacero's historical pattern of exporting primarily certain models of rebar to Australia as the basis for establishing CELSA's normal value, as this is not necessarily indicative of the models of rebar it may export to Australia in the future. The Commission observes from its review of the ABF import database that CELSA's exports of rebar to Australia in the periods preceding and subsequent to the inquiry period do not appear to be limited to the models of rebar which it submits be the basis of its normal value calculation.

6.5.1.4 Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to section 269TAC(8) as follows:

Adjustment type	Description
Domestic credit terms	Deduct an amount for domestic credit
Domestic inland transport	Deduct an amount domestic inland transport
Export inland transport	Add an amount export inland transport

Table 10: Adjustments for CELSA normal values

The Commission's full calculations are at **Confidential Attachment 5**.

6.5.1.5 Dumping margin

A dumping margin for CELSA in respect of the inquiry period is **0.0 per cent**.

6.5.2 Uncooperative and all other exporters

6.5.2.1 Export price

The Commission observes that there no exports of rebar from Spain during the inquiry period.

In determining an export price under section 269TAB(3), the Commission has had regard to the export price last ascertained in the original investigation as it considers this the most relevant information available.

In its calculation of an export price relevant to the inquiry period, an adjustment to the export price ascertained in the original investigation has been made with reference to what the Commission considers to be the most reliable information at hand, namely the

⁶⁰ [ADRP Report No. 80](#)

movement in the verified ascertained normal values for CELSA between the original investigation period, which was subject to Review of Anti-dumping Measures relating to Compañía Española de Laminación, S.L. (Review 380),⁶¹ and the current inquiry period.

6.5.2.2 Normal value

In determining a normal value for uncooperative and other exporters from Spain under section 269TAC(6), the Commission has had regard to the normal value last ascertained in the original investigation, which it considers to be the most relevant information available.

In its calculation of a normal value relevant to the inquiry period, an adjustment to the normal value ascertained in the original investigation has been made with reference to what the Commission considers to be the most reliable information at hand, namely the movement in the verified ascertained normal values for CELSA between the original investigation period, which was subject to Review 380 and the current inquiry period.

6.5.2.3 Dumping margin

The dumping margin for uncooperative and all other exporters from Spain is **8.2 per cent**. The Commission's calculations are at **Confidential Attachment 2**.

6.6 Variable factors – Taiwan

6.6.1 Uncooperative and all other exporters

The Commission did not receive cooperation from Taiwanese exporters of the goods, however, recognises that during the inquiry period, export volumes of the goods from Taiwan were not significant relative to the combined total export volumes of all applicable exporters from the subject countries.

6.6.1.1 Export price

In ascertaining the export price under section 269TAB(3), the Commission considers that the most reliable and relevant information it possesses in relation to exports of the goods from Taiwan over the inquiry period is that captured in the ABF import database. This contains detailed importation data from import declarations made by importers to the ABF. Therefore, the Commission has calculated the export price based on the weighted average Free On Board (FOB) export price declared by importers of the goods over the inquiry period from Taiwan from the ABF import database.

6.6.1.2 Normal value

In ascertaining the normal value under section 269TAC(6), the Commission considers that the most reliable and relevant information it possesses in relation to the normal value of the goods in Taiwan over the inquiry period is the normal value last ascertained in respect of uncooperative and all other exporters in ADRP Report 108.

⁶¹ In Investigation 264, the Commissioner treated CELSA and Nervacero as one entity for the purpose of determining dumping and imposing measures. The dumping margin was determined to be 3.0 per cent. ADRP Review No. 34 found that separate dumping margins should be calculated for CELSA and Nervacero. Review 380 determined the dumping margin for CELSA for the period 1 July 2013 to 30 June 2014 (the same period as Investigation 264).

ADRP Report 108 concluded that the normal value determined in respect of the Taiwanese exporter Wei Chih Steel Industrial Co., Ltd (Wei Chih) in Review 489 pursuant to 269TAC(2)(c) was not correct, and that it should be determined under section 269TAC(1). Following the findings of ADRP Report 108 in respect of Wei Chih, the normal value for 'all other exporters' was ascertained under section 269TAC(6), using the same normal value as ascertained for Wei Chih.

The Commission has calculated the normal value for the inquiry period based on the normal value of all other exporters determined in ADRP Report 108 and has made an adjustment with reference to what it considers to be the most reliable information at hand, namely the movement in the ascertained export price for 'all other exporters' from Taiwan in the Review 489 period (which relied on the verified export price of Wei Chih) and the export price calculated for the current inquiry period (from the ABF import database).

6.6.1.3 Submissions received on variable factors for Taiwanese exporters

In its submission of 9 September 2020⁶² in response to SEF 546, InfraBuild submitted that:

- it disagrees with the Commission's approach to the calculation of the normal value for uncooperative and all other exporters from Taiwan, being made with reference to the movements in ascertained export prices between the review period relevant to Review 489 and the current inquiry period. The proposed approach is not correct or preferable as there is no evidence to support that changes in sales prices in the export market are comparable, relevant or indicative of changes to Taiwanese domestic selling prices of rebar;
- the fact that ascertained export price information is 'verified' does not justify its use by the Commission; and
- it would be more appropriate for the Commission to take available, published price surveys of domestic Taiwanese rebar prices as the basis to adjust any relevant, but historic normal value information for exporters.

Commission's response

InfraBuild has confidentially provided the Commission with a published price survey for Taiwanese rebar.

The Commission did not use this pricing information as the basis for making a timing adjustment to historical normal values because the publisher of that information has previously stated that it does not consent to its use by the Commission.

The Commission does not have any other published pricing information relevant to the Taiwanese domestic market for rebar. The Commission therefore considers the approach it has adopted in determining the normal value for Taiwan to be the most appropriate approach, as it is based on verified data which is closely related to the Taiwanese exporters.

6.6.1.4 Dumping margin

The dumping margin for uncooperative and all other exporters of rebar from Taiwan is **negative 0.9 per cent**.

⁶² EPR 546, document no. [27](#)

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Details of the export price and normal value calculations for uncooperative and all other exporters from Taiwan are at **Confidential Attachment 2**.

7 LIKELIHOOD THAT DUMPING AND MATERIAL INJURY WILL CONTINUE OR RECUR

7.1 Findings

On the basis of the evidence obtained in the course of this inquiry and in accordance with section 269ZHF(2), the Commissioner is satisfied that the expiration of the measures applying to rebar exported to Australia from Korea and Spain (except Nervacero) would lead, or would be likely to lead, to a continuation of, or recurrence of dumping and the material injury that the measures are intended to prevent.

On the basis of the evidence obtained in the course of this inquiry, the Commissioner is satisfied that the expiration of the measures applying to rebar exported to Australia from Singapore and Taiwan would not be likely to lead to a continuation of, or recurrence of dumping and the material injury that the measures are intended to prevent.

7.2 Legislative framework

Section 269ZHF(2) provides that the Commissioner must not recommend that the Minister take steps to secure the continuation of anti-dumping 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.

The Commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation. This view has been supported by the ADRP, which noted that the Commission must consider what will happen in the future should a certain event, being the expiry of the measures, occur. However, the Commission's conclusions and recommendation must nevertheless be based on facts.⁶³

7.3 Australian industry claims

In its application,⁶⁴ the Australian industry made the following claims regarding the continuation or recurrence of injury of rebar exported to Australia from the subject countries:

- rebar exported from the subject countries has remained a presence in the Australian market, and has had an influence on price competition in the Australian market;
- strong demand for rebar in Australia makes it an attractive destination for exporters;
- exporters from the subject countries have maintained distribution networks in Australia;
- exporters of rebar from the subject countries have demonstrated excess production capacity of rebar and hot rolled steel products in general, and are expected to continue to seek other markets for this product including Australia; and

⁶³ ADRP Report no. [44](#) (Clear float glass) refers.

⁶⁴ EPR 546, document no. [01](#)

- Australian consumers of rebar are highly price sensitive and Australian industry's prices for rebar sold into the Australian market are mainly influenced by price competition from importers.

The Australian industry therefore claims that it is reasonable to expect that the expiration of the current measures would lead, or would be likely to lead, to a continuation of material injury that the measures were intended to prevent.

7.4 Will dumping and material injury continue or recur?

In assessing the likelihood of whether dumping and material injury will continue or recur, a number of factors are relevant, as outlined in the Manual.⁶⁵ The Commission's view is that the relevance of each factor will vary depending on the nature of the goods being examined and the market into which the goods are being sold. No one factor can necessarily provide decisive guidance.

The following analysis therefore examines a range of factors which the Commission considers relevant in its assessment of whether the continuation or recurrence of dumping is likely, and the likelihood of the continuation or recurrence of material injury in the absence of the measures.

7.4.1 Analysis of dumping margins

In Table 11 below, the Commission has summarised the history of dumping margins associated with each exporter from the subject countries.

Country	Exporter	Dumping Margin Investigation 264	Dumping margin subsequent Review / ADRP Review		Dumping Margin Inquiry 546
Korea	Daehan	9.7%	Review 486/489 ADRP Report 108	3.9%	3.9%
	Uncooperative and all other exporters	14.3%	Review 486/489 ADRP Report 108	4.0%	4.0%
Singapore	NatSteel	3.0%	-	-	0.6%
	Uncooperative and all other exporters	3.0%	-	-	0.6%
Spain	CELSA	3.0%	Review 380 ⁶⁶	4.5%	0.0%
	Uncooperative and all other exporters	8.2%	-	8.2%	8.2%
Taiwan	Wei Chih	2.8%	Review 489 ADRP Report 108	-0.9%	-0.9%
	Uncooperative and all other exporters	6.8%	Review 489 ADRP Report 108	-0.9%	-0.9%

Table 11: Dumping margins

⁶⁵ [The Manual](#), pp. 175-176 refer.

⁶⁶ In Investigation 264, the Commissioner treated CELSA and Nervacero as one entity for the purpose of imposing measures. The applicable dumping margin was determined to be 3.0 per cent. ADRP Review No. 34 determined that separate dumping margins should be calculated for CELSA and Nervacero. Review 380 determined the dumping margin for CELSA for the period 1 July 2013 to 30 June 2014 (the same period as Investigation 264).

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The Commission has determined that the:

- Korean exporter, Daehan has been found to be dumping in this inquiry;
- Singaporean exporter, NatSteel has been found to be dumping in this inquiry, albeit to a negligible degree;
- Spanish exporter, CELSA was dumping in the original investigation. CELSA did not export the goods to Australia during the inquiry period; and
- Taiwanese exporters subject to these measures were found to be dumping in the original investigation, however were not found to be dumping in a review since the imposition of measures, as well as in this inquiry.

7.4.2 Export volumes and the impact of measures

Figure 10 illustrates that exports have continued from the subject countries since measures were introduced (denoted by the vertical solid red line). The volumes in Figure 10 do not include exports from Nervacero (Spain)⁶⁷ and Power Steel (Taiwan) that are not subject to the measures being examined in this continuation inquiry. Commencing from 2018, a downward trend is apparent from the subject countries. Exports from all the subject countries have reduced in 2019.

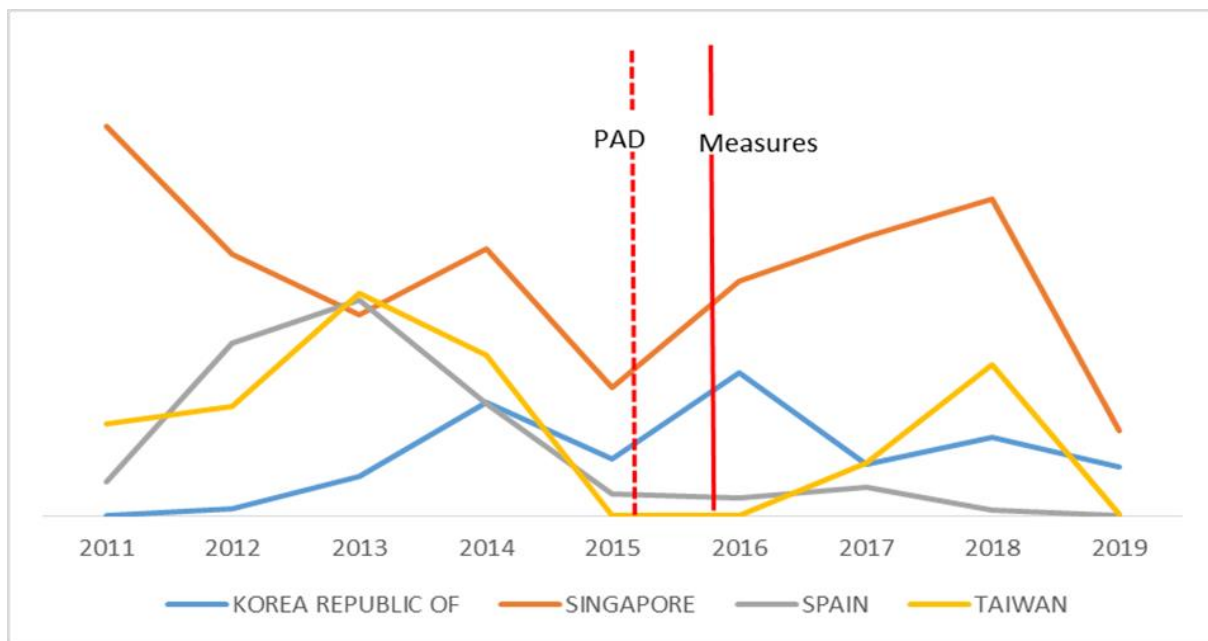


Figure 10: Export volumes from subject countries (MT)

7.4.2.1 Korea

From 2016, immediately following the imposition of measures, volumes from Korea increased to the highest point since 2011. Since then, volumes from Korea have trended downward. Korean exporters have maintained a presence in the Australian market.

⁶⁷ The producer of a portion of the Spanish export volumes in each of 2012, 2013 and 2014 could not be reliably identified. The Commission understands that the producer is either CELSA or Nervacero. These exports have not been removed from the Spanish volumes in Figure 10.

7.4.2.2 Singapore

Singapore has generally been the largest exporter of the subject countries both before and after the imposition of measures. Singapore increased exports to Australia following the imposition of measures in 2015 until 2018. Since then, there has been a reduction in volume, however, Singapore continues to be the largest exporter of the subject countries.

7.4.2.3 Spain

Exports from Spain subject to the measures reduced significantly immediately prior to the introduction of the measures. The reduction coincided with the publication of the Preliminary Affirmative Determination (PAD) for Investigation 264 (denoted by the vertical dotted red line in Figure 10). Following the imposition of measures, exports from Spain have remained relatively low.

CELSA is a member of the CELSA Group. The CELSA Group owns or controls a number of steel mills in several countries. In its application,⁶⁸ and a subsequent submission,⁶⁹ InfraBuild claimed that the CELSA Group is able to switch its supply to whichever of its mills are not subject to measures. As evidence of this, it pointed to the increase in export volumes from another company in the CELSA Group, Nervacero, to Australia following the removal of measures on it in 2016. In 2018 when measures were imposed on Nervacero, its export volumes decreased.

The Commission analysed the pattern of exports from CELSA and Nervacero to Australia and found that there has been an inverse correlation in export volumes between the two sources between 2012 and 2017. This analysis is shown in Figure 11 below.

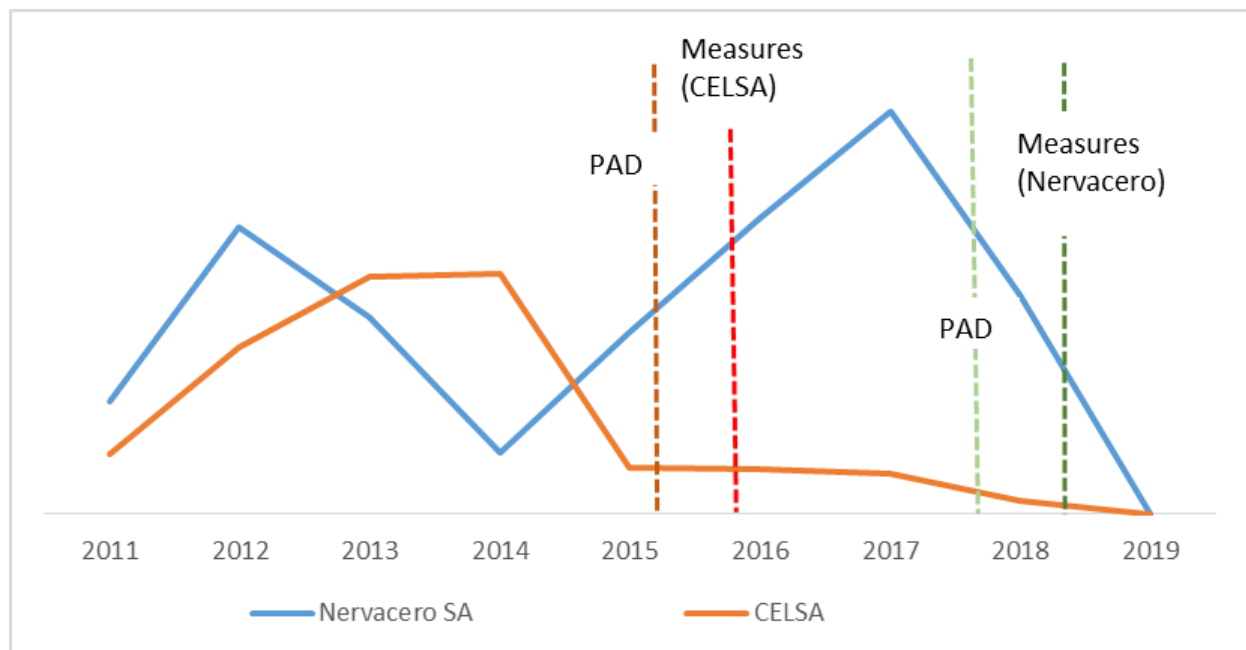


Figure 11: Exports from Spain⁷⁰ (CELSA and Nervacero) to Australia, MT

InfraBuild claims that the CELSA Group's supply capacity has expanded with the ACRS certification of the CELSA Group's mill in Poland. The Commission has analysed ABF data

⁶⁸ EPR 546, document no. [01](#), p40

⁶⁹ EPR 546, document no. [20](#)

⁷⁰ Only those export volumes that could be reliably identified as either CELSA or Nervacero have been included.

and observes that the pattern of export sources from the CELSA Group supports InfraBuild's claim. While exports of the goods to Australia from Poland are not subject to this inquiry, the Commission finds it a relevant consideration that the CELSA Group is able to switch its supply source. As both CELSA and Nervacero remain ACRS accredited mills (discussed further in section 7.4.5) that have supplied the Australian market prior to 2019, the Commission considers there to be a reasonable likelihood that volumes will again be supplied from CELSA in the absence of measures (discussed further in section 7.5.9).

7.4.2.4 Taiwan

Taiwanese exporters subject to measures ceased exporting in 2015, just prior to the imposition of measures. Those Taiwanese exporters recommenced exporting in 2017, however, at minimal volumes since 2018. Volumes from Taiwanese exporters subject to these measures following the inquiry period remains minimal.

The Commission's analysis of exporters' volumes is at **Confidential Attachment 6** of this report.

7.4.3 Export price and impact of measures

Figure 12 depicts the weighted average FOB export price for the goods as declared by importers to the ABF and the weighted average CFR price for East Asia Heavy Melt Scrap.

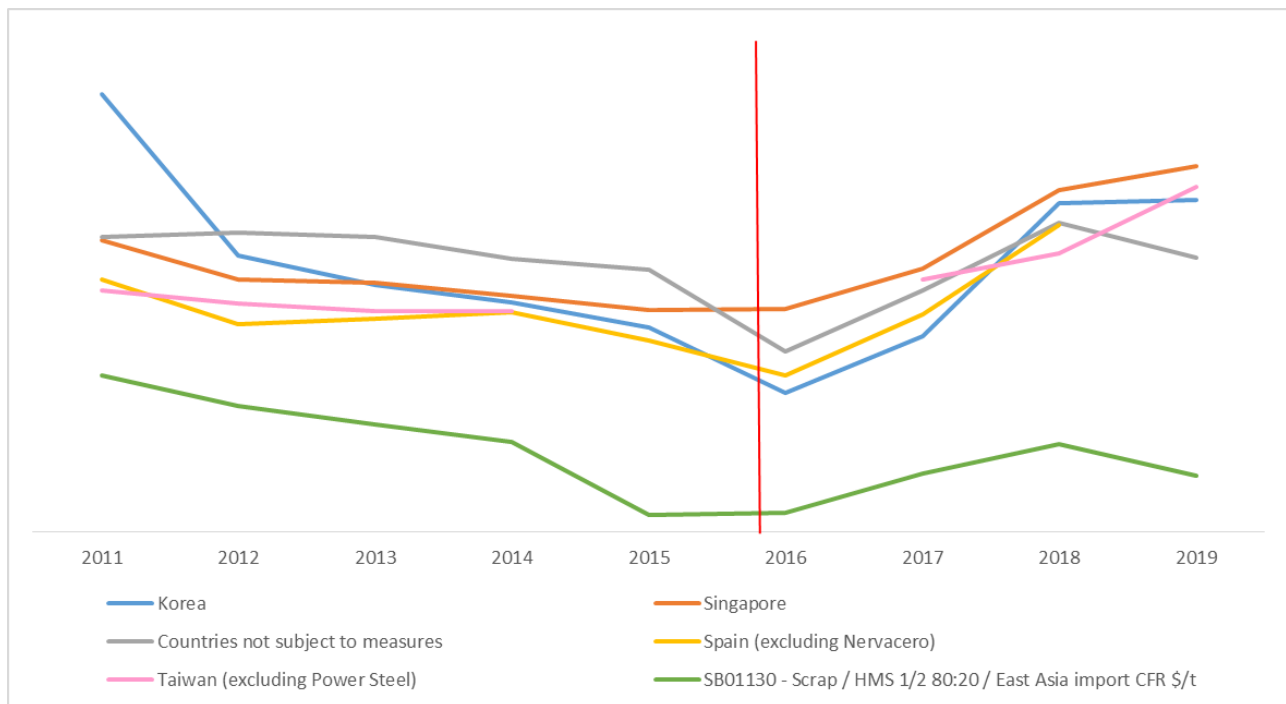


Figure 12: Weighted average FOB price of the goods (\$/MT)^{71, 72}

The Commission notes that the rise and fall of rebar prices generally correlate with the market price of scrap steel, the primary raw material used in the production of rebar (denoted in Figure 12 above).

⁷¹ The producer of a portion of the Spanish export volumes in each of 2012, 2013 and 2014 could not be reliably identified. The Commission understands the producer is either CELSA or Nervacero. These exports have not been removed from the Spanish FOB export price in Figure 12.

⁷² Subscription at <https://www.steelbb.com/steelprices/>.

Until the imposition of measures, the weighted average pricing of exports from the subject countries were generally below that of other countries that exported rebar to Australia. Measures appear to have had an impact on export prices such that the weighted average prices of the subject countries have been closer and, in some cases, even exceeded, the weighted average price of rebar from other countries not subject to measures.

7.4.3.1 Korea

Between 2012 and 2017, Korean average FOB prices have been consistently below the average of countries not subject to measures. In 2018 Korean prices rose above the average of those countries, however, remained below Singaporean average FOB prices. In the first two quarters of 2020, Korean average FOB prices were above the average of countries not subject to measures and above average Spanish prices, but remained below the Singaporean and Taiwanese average prices.

7.4.3.2 Singapore

Singaporean export prices have been the highest of the subject countries, exceeding the average prices of countries not subject to measures.

In its submission of 9 September 2020,⁷³ InfraBuild claimed that the Singaporean exporter's price premium above any other exporter subject to measures has eroded in the two quarters immediately following the inquiry period.

The Commission's analysis of average FOB export prices in the first two quarters of 2020 has found that while Singaporean average FOB prices have decreased, average FOB prices for Spain and Korea as well as all non-subject countries have also decreased. This appears to be driven by a decrease in the underlying scrap price during the same period. The only outlier appears to be Taiwanese (subject exporters) prices that have shown increased FOB prices in the first two quarters of 2020. The Commission notes that export volumes from Taiwanese exporters subject to measures in the first two quarters of 2020 continued to be minimal. If all Taiwanese exporters are included (i.e. including Power Steel), then the Taiwanese average FOB price follows the same downward trend and Singaporean prices remain above Taiwan, the other subject countries and the average prices of all other countries. In terms of the degree of the price premium between exporters in 2020, the Commission observes that there has been a decrease in the variance between the Singaporean average FOB prices with that of Korea, Spain and other countries not subject to measures compared to 2019, however, the change in this variance appears to be minimal.

Further analysis of FOB prices in the first two quarters of 2020 and the comparison of Singaporean price premiums is at **Confidential Attachment 6**.

7.4.3.3 Spain

The average price of exports from Spain was consistently below the other subject countries until the imposition of measures. While it was still below the average export price of countries not subject to measures, the margin narrowed in 2018. Spain recommenced exports to Australia in 2020 at average FOB prices that were below the other subject countries' average prices.

⁷³ EPR 546, document no. [27](#)

7.4.3.4 Taiwan

Prior to measures, Taiwanese average prices were below most of the exporting countries. After re-entering the market in 2017, Taiwanese export prices have been high with only Singaporean prices being higher in 2017. Taiwanese prices lowered in 2018, however increased in 2019 and in the first two quarters of 2020.

The Commission's analysis of the average pricing of exporters is at **Confidential Attachment 6**.

7.4.4 Maintenance of distribution links

7.4.4.1 Korea

The Commission's analysis of the ABF import database and verified data from Daehan indicates that during the inquiry period, Daehan supplied the same intermediary purchaser it had supplied prior to the imposition of measures. The Commission considers this an indicator of the exporter and importer maintaining an ongoing relationship, and that Australia remains an attractive market for Korean exports.

7.4.4.2 Singapore

The majority of the exported volumes from Singapore were from NatSteel to one importer. This relationship has been maintained since before the measures were imposed. The Commission considers that this indicates the exporter and importer have maintained an ongoing relationship, and that Australia remains an attractive market for Singaporean exports.

7.4.4.3 Spain

The Commission's analysis of the ABF import database indicated that CELSA supplied some of the same purchasers following the introduction of measures as it had supplied prior to the measures. The Commission also notes, as discussed in section 7.4.2 above, that the CELSA Group has supplied the Australian market through its other mills following the imposition of measures. The Commission considers this an indicator that CELSA has maintained an ongoing relationship with importers, and that Australia remains an attractive market for Spanish rebar exports.

7.4.4.4 Taiwan

An analysis of the ABF import database showed that one exporter subject to measures maintained a distribution link with an importer it supplied prior to the measures. Exports stopped during the period 2015 to 2017, recommenced and are ongoing at minimal volumes since 2018.

The Commission's analysis of exporters and importers is at **Confidential Attachment 6**.

7.4.5 ACRS certification

As set out in section 3.4.2, imported rebar sold in the Australian market generally originates from mills that hold ACRS certification. InfraBuild claimed in its application that exporters from the subject countries had maintained ACRS certification, despite the ongoing financial and administrative commitment from exporters that it requires. InfraBuild claims that this is evidence of exporters' intentions to remain a part of the Australian supply chain going forward.

The Commission reviewed exporters from the subject countries with ACRS certification and found that the significant exporters of rebar from Spain, NatSteel in Singapore, and several exporters in Korea and Taiwan maintain ACRS accreditation.⁷⁴ The ACRS website describes the certification process as a two stage scheme where reviews are conducted in eight areas to ensure conformity with one or more of 19 applicable standards. It further states:

“All ACRS assessment and review is undertaken by ACRS own qualified and experienced metallurgists and engineers, and all certification decisions are made by an ACRS expert committee drawn from specifiers, designers, and consumer peak bodies to deliver the most rigorous scheme available for certification of steel construction materials to Australian and New Zealand requirements.”

ACRS certification is for a 12 month period and each exporter must demonstrate to ACRS that it has maintained conformity with the standards in order to be re-certified each year. Given the requirements placed on exporters in order to maintain ACRS certification, the Commission considers that it is an indication that the exporters with ACRS certification intend to continue to supply the Australian market.

7.4.6 Production capacity and capacity utilisation

The Commission's analysis of exporters' capacity utilisation is at **Confidential Attachment 7** of this report.

7.4.6.1 Korea

Data provided by Daehan indicates that it had significant underutilised capacity during the inquiry period. This excess capacity, if diverted to the Australian market, could supply a significant portion of the Australian market.

7.4.6.2 Singapore

The Commission found from its verification of the data provided by NatSteel that during the inquiry period NatSteel had some, albeit modest, underutilised capacity available to direct to increased production of rebar.

7.4.6.3 Spain

CELSA's capacity utilisation has increased since the original investigation and in the years up to and including the inquiry period. CELSA advised the Commission during the verification that it has shifted its focus to its domestic market, which is experiencing an expansion, and this is a reason for its higher capacity utilisation. In its submission on 12 August 2020, InfraBuild⁷⁵ contradicted CELSA's comments concerning its domestic market by referencing a proceeding⁷⁶ where CELSA stated it had experienced reduced demand in its domestic market as a consequence of COVID-19. The Commission's views concerning CELSA and its potential future outlook with regard to the Australian market is discussed further in section 7.5.9.

The potential impacts of COVID-19 on steel demand and supply more broadly is discussed in section 7.4.10. The Commission observes that it is a relevant consideration to its

⁷⁴ <https://www.steelcertification.com/acrshome.html>

⁷⁵ EPR 546, document no. 20 p.5

⁷⁶ <https://www.ashurst.com/en/news-and-insights/legal-updates/the-risk-of-a-potential-knock-on-effect-of-an-interim-relief---the-celsa-case/>

production capacity that the CELSA Group is able to access production from different mills in Spain to meet demand in Australia as has been observed in Figure 11. The CELSA Group is not limited to the capacity of a specific mill but can access capacity from other mills within the group in order to supply the Australian market.

7.4.6.4 Taiwan

The Commission did not receive information concerning capacity and capacity utilisation from Taiwanese exporters of rebar during this inquiry.

7.4.7 Price undercutting

Price undercutting occurs when imported goods are sold at prices below those of Australian manufactured like goods. Where sufficient information was available, the Commission has compared the Australian industry's selling prices of rebar in the inquiry period to that of importers of rebar from the subject countries.

The analysis was based on verified sales data from InfraBuild and available information from importers. The analysis was conducted in respect of prices of sales made to Australian customers at what the Commission considered to be the processor/fabricator level and on similar delivery terms. In its submission of 9 September 2020,⁷⁷ InfraBuild stated it was unclear whether the Commission had assessed selling prices at the level of a specific customer the subject of an IPP offer. InfraBuild considers that price undercutting analysis should be undertaken at the customer specific level and not at the whole of enterprise or even MCC model level, as this would render the outcomes meaningless because InfraBuild's price offers during the inquiry period were by reference to monthly import price offers presented by specific customers.

The Commission notes that where the data was available in respect of Korean, Spanish and Taiwanese exports, it has undertaken additional price undercutting analysis at a customer specific level, where that customer was common to both InfraBuild and the importer. The results of this further analysis where applicable, are detailed in the following sections.

The data and analysis related to price undercutting is at **Confidential Attachment 8**.

7.4.7.1 Korea

The Commission compared InfraBuild's quarterly weighted average selling prices on the Australian market to the selling prices of an importer of Korean rebar (for the two MCCs imported from Korea). InfraBuild imported a small volume of rebar during the inquiry period from Korea. In its price undercutting analysis, the Commission excluded InfraBuild's purchases of imported rebar. Therefore, the comparison is with that of InfraBuild's manufactured rebar. The Commission found evidence of price undercutting in the range of 0.02 per cent to 4.0 per cent.

This analysis was replicated at the specific 'customer in common' level on a quarterly and monthly basis. For certain customers in common, evidence was provided by InfraBuild to demonstrate that its price negotiations with the customer were the subject of import price offers with reference to Korean rebar. The Commission also found evidence of price undercutting by Korean exports under this methodology.

⁷⁷ EPR 546, document no. [27](#)

7.4.7.2 Singapore

The Commission understands that Best Bar, an importer of rebar from Singapore, processes the goods before finished goods are sold in the Australian market. Best Bar was supplied by InfraBuild as well as exports from Singapore during the inquiry period.

In SEF 546, 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 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. On the basis of this methodology, 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.

In its submission of 9 September 2020⁷⁸, InfraBuild stated that:

- it does not consider the Commission's approach to assessing price undercutting in respect of NatSteel to be the correct or preferable method, nor was it consistent with that of Investigation 264. Considering that FIS selling prices between InfraBuild and its customers have been verified by the Commission, and freight costs were not reported at the sales transaction level, InfraBuild believes the most accurate and reliable point of comparison is at the FIS level, rather than at the '*deduced*' EXW level;
- it is unclear whether the Commission has included an amount for interim or final dumping duty paid in respect of the importer's cost. InfraBuild considers that any inclusion of dumping duty should be an amount for final dumping duty paid;
- the Commission's assessment of the Australian industry's sales price values is based on actual sales achieved. When Singaporean exports undercut the Australian industry's offer price, InfraBuild's sales record will not register a sale or value, as this represents a sale forgone. InfraBuild has presented the Commission with its price offers to NatSteel's Australian customer and it considers that the necessary analysis for the Commission is to assess the extent to which unsuccessful price offers by the Australian industry were undercut by the Singaporean exporter's successful export sales. Further, any absence of undercutting in the context of the IPP model confirms the price injury caused by NatSteel. If the Commission is observing price suppression it is unlikely that price undercutting will be observed; and
- the Commission's finding that the costs incurred by the importer to import the goods from Singapore was materially *greater* than the Australian industry's selling prices suggests to InfraBuild that the export price is influenced by a commercial or other relationship between the importer and the exporter, and as such, ought not to be treated as an arms length transaction under section 269TAA(1). Alternatively, InfraBuild considers that the Commission's statement suggests that the goods were sold in Australia (whether in the condition in which they were imported or otherwise) at a loss under section 269TAA(2).

⁷⁸ EPR 546, document no. [27](#)

PUBLIC RECORD

In the context of InfraBuild's sales terms and the manner in which it reports freight costs, the Commission agrees with InfraBuild that an undercutting analysis conducted at the FIS level would be more reliable and appropriate rather than at the EXW level. In SEF 546, the undercutting analysis incorporated an amount for IDD, however, the Commission recognises that the full cost that an importer is willing to accept may be influenced by its ability to apply for a duty assessment and receive a full or partial refund on the amount of IDD paid.

The Commission has modified its analysis by comparing the Australian industry's selling prices to Best Bar during the inquiry period at FIS delivery terms to the cost incurred by Best Bar to import the goods from Singapore (comprising the exporter's FOB export price and other exportation costs, including delivery costs). As the Commission is unable to establish any final duty payable on Best Bar's imports, the revised analysis has not incorporated an amount of duty given that the dumping margin determined for NatSteel in this inquiry was negligible at 0.6 per cent. Under this methodology, the Commission broadly found that the costs incurred by the importer to import the goods from Singapore was still greater than the Australian industry's selling prices.

InfraBuild asserts that in an IPP environment the usefulness of price undercutting analysis is diminished as it is the lowest price offer that will recognise a sale. It considers it would be more appropriate for the Commission to assess the extent to which unsuccessful offers made by the Australian industry were undercut by exports from Singapore.

The Commission understands that during the inquiry period, InfraBuild undertook price negotiations with reference to import price offers. It is also understood that import price offers in respect of Singaporean exports were infrequent during the inquiry period and in the period subsequent.

There was limited evidence of price negotiations made available to the Commission in respect of Best Bar and exports from Singapore. The examples provided during the Australian industry verification showed that price offers by InfraBuild were made with reference to several import prices, however, Singaporean prices were not the lowest in these negotiations. Further, the Commission observed that the import prices referenced either did not include Singaporean exports or the ultimate price offer was not matched to a Singaporean price.

In its submission, InfraBuild provided the Commission with a comparison of its selling prices to Best Bar with the selling prices it has achieved to its other customers for the same MCCs to support its assertion that NatSteel's exports had caused the Australian industry to experience price injury in the inquiry period. InfraBuild considers that as NatSteel is a significant source of supply to Best Bar, this injury could only have been caused by NatSteel. As InfraBuild has not provided evidence to indicate how import offers in respect of rebar from NatSteel affected or influenced its selling prices, it is not apparent to the Commission how NatSteel's export price drives the IPP, therefore causing price related injury.

InfraBuild claims that the fact that NatSteel's prices to Best Bar were above those of the Australian industry suggests that InfraBuild successfully made sales to this customer only when it sufficiently depressed and suppressed its prices, and suffered volume injury, when it did not. As discussed above, the Commission has revised its undercutting analysis based on FIS delivery terms. The Commission still found that the costs incurred by the importer to import the goods from Singapore were greater than the Australian industry's selling prices. It is the Commission's view that if InfraBuild had either reduced its prices to match Singaporean prices or lost sales volumes as it was unable to match a lower price,

the data should indicate that InfraBuild's prices were comparable to Singaporean prices. Rather, the undercutting analysis indicates that Singaporean prices are above InfraBuild's prices. The Commission also observes that in the inquiry period, InfraBuild's sales volumes to Best Bar exceeded NatSteel's export volumes to Best Bar.

The Commission does not consider its finding that Singaporean exports did not undercut the Australian industry's prices to be necessarily suggestive of the arms length nature of transactions, specifically:

- that the relationship between an importer and exporter is influenced by commercial or other relationship and as submitted by InfraBuild. As detailed in its assessment of NatSteel's export price at section 6.4.1, the Commission did not find this to be the case; and
- that the goods were sold in Australia (whether in the condition in which they were imported or otherwise) at a loss as submitted by InfraBuild. As set out in Best Bar's verification report,⁷⁹ the Commission assessed the weighted average sales revenue of Best Bar's finished goods to the cost to import and sell during the inquiry period and found that Best Bar's sales were profitable.

7.4.7.3 Spain

As there were no exports of the goods from Spain during the inquiry period, no data was available to undertake a price undercutting analysis.

7.4.7.4 Taiwan

The Commission compared InfraBuild's quarterly weighted average selling prices on the Australian market during the inquiry period to the selling prices of an importer of Taiwanese rebar (for the one MCC imported from Taiwan).

The Commission did not find evidence of price undercutting, however recognises the limitations of any analysis as export volumes of the goods from Taiwan were insignificant during the inquiry period and that it could not perform an analysis at the customer level.

7.4.8 InfraBuild's pricing structure

Until 31 December 2019, InfraBuild set its prices in respect of the goods by applying its IPP model, whereby it either references monthly import price offers presented by customers or in the case of sales to related parties, import price offers were the basis for determining monthly prices.

InfraBuild has provided the Commission with information related to its new pricing model which commenced on 1 January 2020. The new pricing structure is in place for some product specifications, while other product specifications continue to be based on IPP.

Despite the attempt to reduce its susceptibility to import prices with its new pricing model, InfraBuild demonstrated that customer notifications of import price offers and InfraBuild's analysis of import pricing influences the margin earned over the Australian industry's CTMS of its rebar products and are therefore used to ascertain the final selling price. InfraBuild's submission⁸⁰ of 12 August 2020 provided evidence of the impact of import prices on its decision to revise its rebar pricing for quarter 2, FY 2021 (1 October to

⁷⁹ EPR 546. document no. [16](#)

⁸⁰ EPR 546, document no. [21](#)

31 December 2020). The evidence before the Commission has led to its conclusion that despite the new pricing structure, InfraBuild continues to be influenced by, or directly follows import pricing when setting its prices for rebar.

While the assessment of price undercutting at section 7.4.7 shows minimal price undercutting, the Commission has several examples of InfraBuild's customers quoting prices from import sources, some of which were from exporters of the subject countries, which InfraBuild had attempted to match during the inquiry period. To support the revised pricing strategy implemented in January 2020, InfraBuild provided the Commission with evidence of import price offers influencing its pricing of rebar. In its price undercutting analysis, the Commission has compared the prices that InfraBuild achieved with those of competing importers. As InfraBuild reduces its prices in line with import offers, the comparison of InfraBuild's final prices and import prices will not show the full extent of price undercutting. As demonstrated in sections 5.5 and 5.6, InfraBuild has also continued to experience price suppression and reduced profits and profitability, which indicates that it has been unable to price rebar above its unit costs to achieve a net profit for its sales of rebar.

7.4.9 Substitutability and price sensitivity

In Investigation 264, the Commission found that rebar is a highly price sensitive commodity good.⁸¹ In this inquiry, the Commission has been provided with examples of InfraBuild's customers quoting import price offers in price negotiations. While the pricing structure for some models of rebar has changed (section 7.4.8 refers), the Commission accepts that the new pricing mechanism is influenced by import pricing. As discussed in section 3.5, the rebar produced by the Australian industry are identical or closely resemble the goods imported from the subject countries. In addition, the main exporters of rebar from the subject countries are ACRS certified (sections 3.4.2 and 7.4.5 refer), providing assurance to customers that they are substitutable goods.

7.4.10 Production displacement resulting in increased volumes to Australia

In its application,⁸² InfraBuild advised of several factors that taken together, may result in the displacement of rebar from its home market to Australia, which in turn, may result in a recurrence or continuation of dumping and associated injury.

Firstly, InfraBuild mentions the imposition of anti-dumping duties on some of the subject countries. The Commission notes that Canada and the USA currently have anti-dumping measures on Korean, Spanish and Taiwanese exports of rebar.⁸³

InfraBuild discussed the impact of Turkish exports of rebar due to the measures under section 232 of the *US Trade Expansion Act 1962* as well as the safeguards measures imposed by the European Commission on 26 steel product categories including rebar. In its submission dated 29 July 2020,⁸⁴ InfraBuild advised of measures that have recently been imposed by Malaysia on NatSteel from Singapore.

⁸¹ [REP 264](#), Final Report p.93

⁸² EPR 546, document no. [01](#)

⁸³ WTO data, 'Detailed Query' from [here](#)

⁸⁴ EPR 546, document no. [15](#) refers

InfraBuild also asserts that there are several capacity building projects in planning stages in several regions that, if realised, would contribute to further excess production of steel that will continue into the next few years.⁸⁵

InfraBuild expects that the dual factors of existing measures and the global excess production of steel will result in an increase of rebar that is diverted from countries subject to dumping duties by the US, Canada and the EU to the subject countries.⁸⁶ Concerning the Malaysian measures, InfraBuild claims that this, together with reduced demand domestically, will *“increase the likelihood of NatSteel continuing to export reinforcing bar products at dumped prices in an effort to retain or increase Australian market share.”*

InfraBuild also sees Turkish rebar as a significant contributor to the global excess supply.

InfraBuild claims that its expectations of product displacement is in keeping with the Commission’s *2017 Steel Manufacturing and Fabricating Markets*⁸⁷ report which discusses how excess capacity in one region can displace production in other regions, with injurious effects.

It expects that with the diversion of rebar to the subject countries’ home markets, and reducing domestic demand, the subject countries will aim to increase exports.

The Commission notes that the measures imposed by Malaysia on Singaporean exports apply specifically to rebar in straight lengths, while exports from Singapore to Australia have historically been in the form of rebar in coils (discussed further in section 7.5.5).

The Commission concurs with InfraBuild’s view that reducing domestic demand and increased measures in traditional markets has the potential to result in excess capacity. However, the Commission noted in SEF 546, that InfraBuild had not explained why excess capacity that displaces production in the subject countries would necessarily be diverted to Australia as opposed to any other country in the Asian region. In response, InfraBuild has re-stated its arguments concerning:

- the presence of exports from the subject countries in the Australian market;
- ACRS accreditation;
- maintenance of distribution links; and
- the ongoing stability of the Australian rebar market.

The Commission agrees that these factors show the subject countries’ continued interest in the Australian market, and that there is potential for excess capacity to be diverted to Australia. However, whether these exports are likely to be at dumped prices such that it will cause a continuation or recurrence of injury must be considered together with other factors unique to each country and its exporting behaviour. This assessment occurs in section 7.6.

It is noted that the OECD report⁸⁸ cited by InfraBuild points to a deceleration of global steelmaking capacity and suggests that the current capacity building projects that are in

⁸⁵ OECD, *Latest Developments in Steelmaking Capacity*, 2019, p.9, available [here](#)

⁸⁶ EPR 546, document no. [01](#), p16 refers

⁸⁷ Anti-Dumping Commission, *Analysis of Australia’s Steel Manufacturing and Fabricating Markets Report to the Commissioner of the Anti-Dumping Commission*, November 2017, available [here](#).

⁸⁸ OECD, *Latest Developments in Steelmaking Capacity*, 2019, available [here](#)

their planning stage would need to be realised for a sustained increase in capacity. Section 4.4 above found that the main demand driver for rebar, the construction industry, has seen subdued growth for two consecutive quarters in 2020 in Australia. In its submission of 12 August 2020,⁸⁹ InfraBuild cited a EuroConstruct press release⁹⁰ that forecasts a marked contraction of the construction sector in Europe as a consequence of COVID-19 and associated lockdowns. Further, the Australian Treasury⁹¹ has forecast a contraction of the global economy by 4.75 per cent in 2020, with falls widespread across countries. If reduced demand in construction is mirrored globally in the wake of COVID-19, there is likely to be an impact on steel capacity building projects in the next few years.

While the Commission finds that InfraBuild's conclusions concerning excess supply are uncertain in the current global environment, the expected reduction in demand is likely to intensify price competition and the incentive to dump to maintain or acquire market share.

7.4.11 Impact of other factors on injury

The Spanish Government submitted that injury caused by other factors should not be attributed to CELSA, specifically, imports from other sources like Turkey and the effects of the downturn in the construction sector in Australia.⁹² The EC also drew attention to the price level of imports from Turkey, which it posits may contribute to the continuation of injury in the future.⁹³ CELSA referred to claims by InfraBuild in its application and submissions related to Investigation 495, an investigation into Turkish exports of rebar to the Australian market.⁹⁴ As the Commission did not find dumping in Investigation 495, a material injury assessment was not made.

Best Bar⁹⁵ submitted that an assessment of non-subject imports should be included in the Commission's analysis of injury, particularly Turkish imports, which it claims has an increasing influence on the Australian market.

In their respective submissions, NatSteel⁹⁶ and Daehan⁹⁷ quoted InfraBuild's application for measures in Investigation 495 where InfraBuild highlighted the impact of Turkish prices on its own pricing. Daehan states that as rebar is a highly commoditised good, where price is the primary factor driving purchasing decisions, Korean prices would not be likely to lead to a recurrence of material injury as lower rebar prices from Turkey would prevent Daehan from achieving substantial sales orders. It claims that this is already occurring. As discussed in section 7.4.10, InfraBuild⁹⁸ has stated in its application to this inquiry that it sees Turkish rebar as a significant contributor to global excess supply.

Imports of rebar from Turkey have occurred in substantial volumes since 2018 and during the inquiry period, as well as being some of the lowest priced exports in the market. While injury was not assessed in Investigation 495, the Commission observes that volumes that

⁸⁹ EPR 546, document no. [20](#), refers

⁹⁰ EuroConstruct, 12 June 2020, available [here](#)

⁹¹ Australian Government, *Economic and Fiscal Update July 2020*, Part 2 – Economic Outlook, available [here](#)

⁹² EPR 546, document no. [32](#)

⁹³ EPR 546, document no. [25](#)

⁹⁴ EPR 546, document no. [31](#)

⁹⁵ EPR 546, document no. [33](#)

⁹⁶ EPR 546, document no. [23](#)

⁹⁷ EPR 546, document no. [30](#)

⁹⁸ EPR 546, document no. [1](#)

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may otherwise have been supplied by the Australian industry may be supplied by Turkish exports of rebar. The Commission notes, however, that despite Turkish rebar exports into the Australian market, the subject countries, other than Taiwan, have continued to supply rebar for much of the period since the imposition of measures. The Commission observed that between 2017 and 2019 Turkish imports increased significantly. During this time, exports from the subject countries decreased. However, it is noted that the size of the rebar market in Australia as a whole also increased between 2016 and 2018, with some contraction in 2019.

The Commission analysed the form of rebar that is exported by Turkey and the subject countries, as well as Australian industry production.

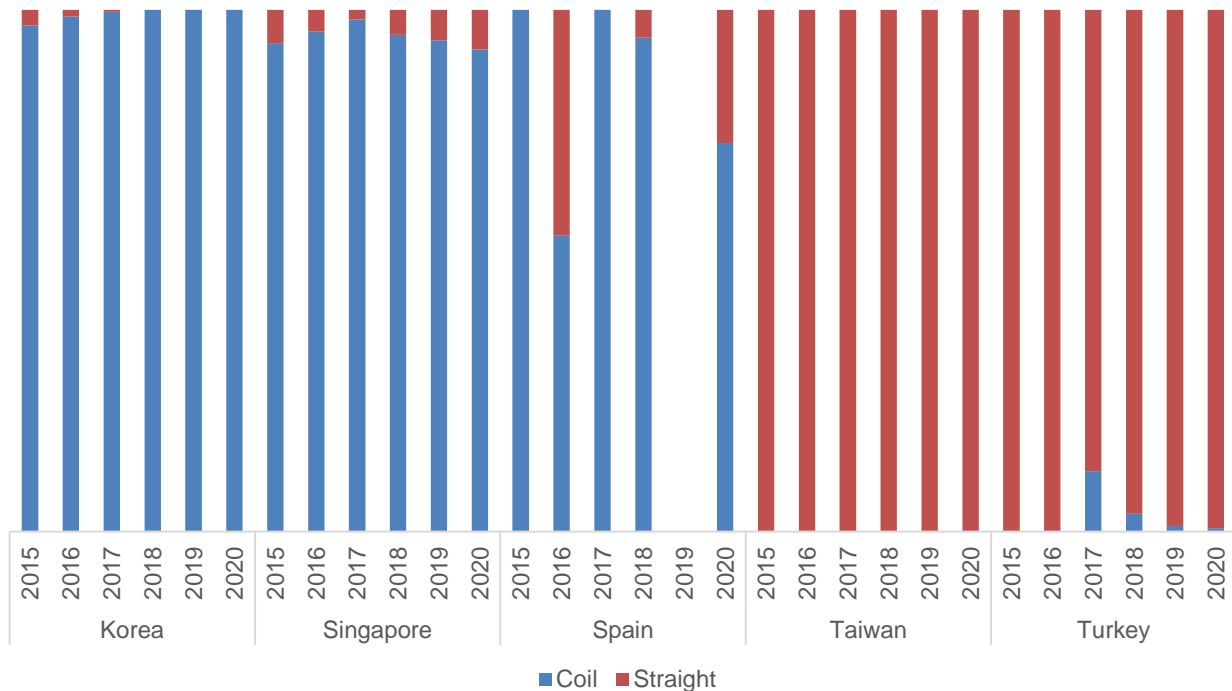


Figure 13: Proportion of rebar in coil and straight form exported by subject countries and Turkey

Figure 13 shows that with the exception of Taiwan, the predominant form of rebar exported from the subject countries since the measures was coil. Exports from Turkey have overwhelmingly been of straight lengths. On an annual basis, the Australian industry's production has been a fairly even split between coil and straight length rebar.

It is the Commission's view that the Australian industry has potentially lost volumes and experienced price related injury due to Turkish rebar as well as dumped rebar from the subject countries, in respect of its sales of straights and coils respectively. While Taiwan has historically exported straights these exports have been sporadic and in low volumes. The Australian industry may be injured by multiple sources and due to various reasons. The Commission does not accept that the existence of other causes of injury negates the injury that the Australian industry has experienced as a result of dumped exports from the subject countries. While the Commission agrees that injury caused by other factors should not be attributed to dumping, it is also noted that dumping need not be the sole cause of injury to the industry.⁹⁹

⁹⁹ Ministerial Direction on Material Injury, 2012.

The Commission's assessment of Turkey rebar exports and the Australian industry's sales of coils and straights is at **Confidential Attachment 9**.

In keeping with the forward looking assessment as required by section 269ZHF(2), the Commission has reviewed the likelihood of the recurrence of dumping and associated injury in respect of each of the subject countries in section 7.6.

The Spanish Government highlighted the strong correlation between construction activity and demand for rebar in the Australian market, as a factor other than dumped exports that may have injured the Australian industry.¹⁰⁰ It submits that the effects of a subdued construction industry on the Australian domestic industry should not be attributed to imports from CELSA.

As detailed in section 4.3.3 and section 7.4.10 above, the Australian construction industry is likely to experience a contraction until at least the middle of 2021 and perhaps beyond. The reduced demand will affect the Australian industry as well as exporters to the Australian market. As stated in section 7.4.10, the Commission observes that a contracting market is likely to have the effect of increasing price competition and the incentive to dump to maintain or acquire market share. The Commission notes that an industry which at any other time is healthy and could withstand the effects of dumped goods in the market, could at another time, weakened by other events, suffer material injury from the same amount and degree of dumping.¹⁰¹ At a time of declining construction activity and reduced demand for rebar in the aftermath of COVID-19, the Commission observes that even low volumes of dumped goods may continue to materially injure the Australian industry.

7.4.12 Impact of measures on sales volumes and market share

The Manual provides that the inquiry may gather facts relevant to whether the expiration of the measures is likely to lead to a continuation or recurrence of material injury to the Australian industry, such as reduced sales volumes and reduced market share.¹⁰²

Figure 6 demonstrates that the highest volumes that InfraBuild has been able to achieve since 2011 occurred following the imposition of measures. InfraBuild has continued to increase its sales volumes over the ensuing years. The Commission considers that this recovery in sales volumes demonstrates the effectiveness of the measures. InfraBuild advised in its application that rebar production is a high fixed cost business and it is necessary to maintain sales volumes. As seen in section 5.6, this has been at the cost of profitability. 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.

7.4.13 Impact of measures on price

While InfraBuild has increased selling prices since the imposition of measures in late 2015 (Figure 8 refers), it has not been able to raise its selling price in order to recover its CTMS. This reflects InfraBuild's vulnerability to import prices and its customers' expectation that it will meet competing offers. Further, InfraBuild experienced price undercutting from Korean imports during the inquiry period (section 7.4.7.1 refers).

The Commission did not find undercutting in respect of imports from Singapore or Taiwan.

¹⁰⁰ EPR 546, document no. [32](#)

¹⁰¹ Ministerial Direction on Material Injury, 2012.

¹⁰² [The Manual](#), page 175-176

The Commission had insufficient data to perform a price undercutting analysis for Spain. As found in section 7.4.3, the measures have resulted in the average export prices of the subject countries being closer and, in some cases, even exceeding, the average export prices of rebar from other countries not subject to anti-dumping measures. As Australian industry prices are influenced by export pricing, the Commission considers that an increase in export prices will reduce price related injury to the Australian industry.

7.4.14 Impact of measures on profits and profitability

InfraBuild has been consistently unprofitable in its sales of rebar. However, it has seen some improvement in its profit and profitability position after 2017. This may be a result of the measures or the increase in the average price of exports (Figure 12 refers).

7.5 Submissions concerning the continuation and recurrence of dumping and material injury

Where appropriate, submissions have been responded to above in the relevant sections. Additional submissions are detailed below.

7.5.1 European Commission, 8 April 2020

The European Commission (EC) submission¹⁰³ raised the following issues:

- as InfraBuild's application did not include an analysis as to whether Spanish exports would be dumped, it did not establish that exports from the subject countries, in particular Spain, would recur in significant quantities and at dumped prices, should measures be allowed to lapse;
- according to InfraBuild's application, domestic industry has shown positive developments from 1 October 2014 to 31 September 2019. Profitability in Australian industry was low, particularly in 2016/17, despite the imposition of measures on the subject countries in 2015. The EC requested the Commission examine all elements that could have caused price injury on the domestic market during the October 2014 to September 2019 period;
- in terms of market share, InfraBuild's application states that, of the subject countries, Singapore and Taiwan hold the highest market share, however, imports from Singapore are not dumped. There was no indication as to the level of market share imports from the subject countries represented on Australian demand; and
- in terms of prices, InfraBuild's application states that imports from subject countries undercut Australian domestic prices, however, no data was provided in the public version of the application. According to the narrative, Spanish imports undercut Australian domestic prices and caused price suppression. The undercutting analysis undertaken by InfraBuild appeared to be based on 2016-17 data which does not allow for "*a likelihood analysis based on positive evidence as provided for by the WTO jurisprudence*". The EC states that based on the information provided in Investigation 495, it is clear that the prices from the countries under measures (including Spain) did not undercut Australian domestic prices and requests that any recurrence of injury be demonstrated on "*the basis of positive evidence regarding*

¹⁰³ EPR 546, document no. [03](#) refers

likely import volumes and prices and their likely impact on the situation of the domestic industry”.

In keeping with section 269ZHF(2), the Commission aims to ascertain if 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.

As measures are currently in place, low dumping margins and minimal price undercutting may be an indication of the effectiveness of the measures. The relevance of these factors to exports from each subject country is discussed in section 7.6. Further, the Commission concurs that InfraBuild has seen improvements in some of its economic factors as stated in sections 5.4.1 and 5.7. The positive trends in InfraBuild’s economic factors may be an indication of the effectiveness of measures. Using 2015 as a base year (as measures were imposed in November of that year) the Commission has been able to chart the trends of various factors since the measures. In Figures 6 and 7, the Commission has demonstrated the changes in sales volume and market share before and after the measures being imposed to provide a basis for assessing the effectiveness of measures.

7.5.2 NatSteel, 22 May 2020

NatSteel¹⁰⁴ submitted that:

- InfraBuild’s application to this inquiry acknowledged that the weighted average export price has remained above the estimated normal value since the measures came into operation;
- NatSteel’s share of the Australian market is now below that prior to the imposition of measures; and
- InfraBuild’s application presents evidence on the strength of the Australian industry in the forms of growth in the Australian market, increasing sales volumes as well as improved productivity and capital investment.

For these reasons, NatSteel considers that InfraBuild’s application did not support the initiation of an inquiry and there is no basis to sustain InfraBuild’s assertions that there will be a continuation or a recurrence of material injury if the anti-dumping measures imposed against NatSteel were allowed to expire.

NatSteel expressed its concerns that InfraBuild failed to adequately disclose its proposed acquisition of Best Bar, an export customer of NatSteel, in its application. NatSteel considers the application was a “misuse” of the process afforded to InfraBuild under section 269ZHC, by virtue of this omission.

7.5.3 InfraBuild, 29 July 2020

In response to NatSteel’s submission of 22 May 2020, InfraBuild¹⁰⁵ submitted that:

- the outcome of the proposed acquisition of Best Bar was unknown at the time of the application;

¹⁰⁴ EPR 546, document no.[10](#) refers

¹⁰⁵ EPR 546, document no.[15](#)

- NatSteel had recently been found to be dumping and causing material injury to the Malaysian steel concrete reinforcing bar market with final definitive anti-dumping duties of 4.97 per cent imposed on NatSteel on 22 January 2020;
- the fact that NatSteel had been found to be dumping in a nearby market so close to the expiration of Australian measures is a significant concern, particularly in the context that NatSteel's actions preceded the impact of the COVID-19 pandemic on Singaporean and global steel demand;
- as previously stated in its application, it has assessed that NatSteel's dumping margin of 3 per cent has increased since the original investigation;
- should the Commission find that NatSteel was not dumping during the inquiry period, that is not a determinative reason for the discontinuation of measures, but rather, an indicator that the measures are having the intended effect of preventing injury caused by dumping;
- *"it would not be surprising"* that NatSteel has reduced export sales of the goods to Australia during the inquiry period to minimise its dumping margin;
- since COVID-19, Singaporean domestic demand for reinforcing bar has fallen by 150,000-180,000 tonnes per month. Further Singapore's construction market is highly susceptible to COVID 19 due to its high reliance on migrant workers. The dramatic fall in domestic demand has understandably led to increased stock levels; and
- options for NatSteel to offload its excess capacity onto its other traditional markets has also reduced as a consequence of COVID-19.

7.5.4 NatSteel, 18 August 2020

In its submission dated 18 August 2020,¹⁰⁶ NatSteel responded to InfraBuild's submission of 29 July 2020. Concerning its excess capacity, NatSteel stated that its sales volumes are above its production capacity. It explains that this is through *"the strategic and targeted importation and sale of products, including the goods under consideration"*. It further discusses its relationship with its buyer in Australia, Best Bar, and how Best Bar's demand for rebar is the only determinant for NatSteel's export volumes to Australia.

NatSteel rejects InfraBuild's claim that it reduced its exports during the inquiry period to influence the continuation inquiry, stating that its export volumes are determined by its customer's demand. It further rejects InfraBuild's allegation that Singapore increased its exports of rebar at a time of low domestic demand. It states that dumping during the period in question was assessed in Duty Assessments DA0146, DA0147 and DA0153 and these found what NatSteel refers to as *"no actionable dumping"*. It also points to its imports that are used to supplement domestic sales to meet customer demand and argues that any shortfall in domestic demand will be met with reduced imports.

Concerning the measures imposed on NatSteel by the Malaysian Ministry of International Trade and Industry, NatSteel states that it has instituted an appeal at the High Court of Malaya, Kuala Lumpur. It further states that the goods under consideration in that investigation were steel bars and not coil. It points out that the preliminary measures have

¹⁰⁶ EPR 546, document no. [23](#)

been in place since September 2019, however Singaporean volumes to Australia have not risen as a consequence, but rather, have seen a decrease.

Concerning the downturn in the economy as a consequence of COVID-19, NatSteel argues that the effects on demand are short term in nature and lists several infrastructure projects that are predicted to “*re-start relatively quickly*”. NatSteel expects that in the medium term, demand for its products will be better than it has been for the last five years.

7.5.5 Commission’s response to NatSteel’s and InfraBuild’s submissions

From its assessment of InfraBuild’s application and other information available to it, the Commission considered that there were reasonable grounds for the initiation of this continuation inquiry in respect of Singapore, irrespective of the proposed acquisition of Best Bar by the InfraBuild group at the time. The Commission’s reasons for the initiation of the inquiry were set out at ADN 2020/020.

The Commission notes that on 2 June 2020, the ACCC discontinued its review of the proposed acquisition of Best Bar, after InfraBuild withdrew its application for an informal merger clearance.

The Commission has calculated a dumping margin in respect of NatSteel of 0.6 per cent. The Commission agrees that duty assessments completed in respect of NatSteel’s exports of rebar to Australia subsequent to the imposition of measures have found margins of a similar magnitude, and in some cases, negative margins.

The Commission observes that NatSteel’s export volumes of the goods have declined in 2019 relative to 2018 (section 7.4.2 refers). InfraBuild’s application indicated that periods of growth in Singapore’s export volumes coincided with increases in export prices that were not commensurate with estimated normal values. InfraBuild further submitted that NatSteel has reduced its export sales to minimise its dumping margin, however, from its examination of sales data and dumping margins in this inquiry and completed duty assessments, the Commission did not find there to be any definitive correlation between NatSteel’s dumping margins and export volumes.

The Commission is satisfied that the measures imposed on Singaporean exports of rebar by the Malaysian Ministry of International Trade and Industry covered only rebar in straight lengths.¹⁰⁷ The Commission’s analysis of Singaporean exports to Australia shows that it primarily comprised rebar coils (Figure 13 refers). As such, it is the Commission’s view that the imposition of measures on rebar in straight lengths would have had a minimal, if any, impact on export volumes of coils to Australia.

The Commission concurs with InfraBuild’s position that a negative or negligible dumping margin is not in and of itself a determinant for the discontinuation of measures. A further assessment of the Commission’s consideration of factors relating to Singapore is at section 7.6.2.

7.5.6 European Commission, 8 September 2020

The EC submitted that CELSA’s situation has changed significantly since the original investigation. At the time it was experiencing the after effects of the financial crisis of 2007-

¹⁰⁷ The Commission has obtained the Customs Order from the Malaysian Ministry of International Trade and Industry showing the tariff classification numbers of the goods subject to the measures. The tariff classification numbers do not include any rebar in coil form.

2008, whereas at present, Spain has recovered and demand for rebar has increased considerably. As evidence of this, the EC points out CELSA's high capacity utilisation.

The EC draws attention to the improvements in the Australian industry's economic factors following the imposition of measures, but observes that despite these improvements it has experienced net losses, reduced profitability and the inability to raise prices to recover costs. It submits that these problems may not be exclusively attributed to import competition, but that it may be due to structural problems. In support of its arguments it states that the Australian industry producer was under voluntary administration and sold to a new parent entity in 2017.

The EC also discussed the lack of price undercutting by the subject countries other than Korea. It further argues that there is no price analysis of other sources of rebar, such as Turkey.

7.5.7 Spanish Government, 9 September 2020

The Spanish Government argued that the reduced exports from CELSA since 2015 were not a consequence of the measures. Rather it claims that this is due to a reorientation of its sales to a domestic market that has now recovered after the financial and real estate crisis that commenced in 2007. As evidence of this, the Spanish Government points out the high capacity utilisation of CELSA during the inquiry period. It claims that this reduces the risk of idle capacity being directed to the Australian market.

It further submits that the situation of the Australian industry producer has changed during the period since the measures due to a restructure, with improvements in debt and cash flow, followed by its acquisition of Steelforce Holdings Pty Ltd (Steelforce). The Spanish Government claims that these factors have increased InfraBuild's influence and control over the construction and structural steel market. It argues that this dominant position means that even in the event of a recurrence of imports, there is no possibility of a recurrence of injury.

The submission also highlights the 0.0 per cent dumping margin assessed for CELSA during the inquiry period and argues that it provides "*a strong indication that, absent an order, dumping would not be likely to continue or recur*". It claims that this demonstrates that the exporter does not need to dump to sell.

The Spanish Government alleges that the Commission has not established a causal link between dumping and injury. It argues that an essential part of a causal link analysis is not to attribute injury caused by other factors to imports from the subject countries. In particular, the submission discusses imports from Turkey as well as the downturn in the construction industry in Australia.

Finally, the submission argues that it "*lacks all legal and logical sense*" to continue measures on CELSA based on "*fair exports from other countries where the group may have plants*". It finds these consequences illegal as it sees it as penalising a company for fair exports made by another company within the group in another country.

7.5.8 CELSA, 9 September 2020

CELSA submits that the reason behind its reduced exports to Australia since 2015 is that it has pivoted its sales and marketing focus to the domestic Spanish market and the EU market and away from non-EU markets, including Australia. This has been due to the strong recovery of the Spanish economy and its construction industry. It contrasts

CELSA's position during the original investigation when it *"was in a difficult financial position, with low capacity utilization"* with its position during the inquiry period.

CELSA submits that it has not been afforded similar treatment to the other countries in the continuation inquiry. In particular, it argues that it should be treated in a similar manner to Singapore, due to its *"comparable pricing behaviour and the lack of evidence of dumping or injury"*. Alternatively, that it should be treated the same as Taiwan due to its minimal export sales volume. It argues that CELSA's overall export volumes have diminished (and not only to Australia) thus providing a stronger basis for discontinuing measures than for Taiwan.

CELSA questions the evidentiary basis for the Commission's conclusion in the SEF concerning the substitution of supply mills by the CELSA Group, and specifically the conclusion that in the absence of measures, CELSA will again supply the Australian market. It submits that this is based on the assumptions that CELSA must supply the Australian market, and that the exports will be at dumped prices and at volumes that are not negligible. CELSA argues that there is no evidentiary basis as CELSA's exports have diminished to all its export markets and that it is now focused on the Spanish and EU markets for wire rods and rebar. It further claims that the SEF did not make clear why the existence of an alternate source for CELSA Group's exports makes it more or less likely that the expiration of measures will lead to a recurrence of dumping causing material injury. It argues that a *"more rational"* view would be that the establishment of a supply channel through CELSA Poland and Australia indicated that it is unnecessary for CELSA Barcelona to re-enter the Australian market.

CELSA objects to the Commission's views concerning the maintenance of its ACRS accreditation. It submits that it maintains the accreditation in order to be ready to supply customers that require AS/NZS standard products.

CELSA draws attention to Investigation 495 and imports from Turkey. In particular, it discusses comments by the Australian industry concerning the downward pressure Turkish prices have had on its own pricing. CELSA states that there is no evidence that allowing the measures to expire against CELSA will make Turkish exporters any less competitive, or that CELSA would attempt to undercut Australian industry or Turkey, as it is *"operating profitably and at high capacity utilisation in its production for the Spanish and EU markets"*.

7.5.9 Commission's response to the EC, Spanish Government and CELSA submissions

Due to similarities in the content of the submissions, the Commission will respond to these submissions collectively in this section.

In considering these submissions, the Commission examined the Spanish economy since 2015. In its Economic Survey of Spain published in November 2018, the Organisation for Economic Co-operation and Development (OECD)¹⁰⁸ stated that from 2015 to 2018 Spain's real GDP grew by around 3 per cent outpacing most other European economies. Spain's construction sector, which is a major demand driver for rebar, also rebounded between 2015 and 2018.¹⁰⁹ Therefore the Commission accepts that there has been a recovery in the Spanish domestic market that supports claims by the EC, the Spanish

¹⁰⁸ OECD Economic Surveys: Spain, November 2018, available [here](#)

¹⁰⁹ Atradius Market Monitor February 2018, available [here](#)

Government and CELSA that CELSA's focus has shifted to a profitable domestic market. The Commission observes that the improvements in the Spanish domestic market were gradual, whereas CELSA's reduced exports was sudden and coincided with the PAD for Investigation 264. The Commission concludes that the imposition of measures impacted the exportation of Spanish rebar, while the ongoing improvements in the domestic and EU market may have influenced the lower export volumes since then.

The Commission has also examined the future outlook of the Spanish and EU construction industry, which is the main demand driver for rebar. The Commission found that Spain, as well as the European region generally, is experiencing a new downturn in its construction sector.¹¹⁰ According to S&P Global:

*The construction sector, the region's largest steel consumer, is experiencing its sharpest contraction in activity since the 2009 global financial crisis. Italy, Spain, Eastern Europe and the U.K. are bearing the brunt of the construction slowdown.*¹¹¹

Both S&P Global and the OECD have pointed out that many steel manufacturers in the region have reduced supply due to reduced demand:

*Amongst the larger steel producers, the decrease was led by Poland (-10.8%), followed by Germany (-6.5%), France (-6.1%), Italy (-5.2%) and Spain (-5.2%).*¹¹²

However, in the period 2017 to 2019, the Commission verified that while there has been no change to CELSA's capacity, CELSA has increased its production volumes.

While the Commission accepts that CELSA may well have changed its sales focus in recent years, reduced demand in the Spanish and European construction markets is expected to result in a contracting market for its rebar. The Commission notes further that while there were no exports of the goods subject to measures by CELSA in 2019, there has been a recurrence of exports following the inquiry period at volumes that are not insignificant in comparison with historical quantities since the imposition of measures. In one quarter in 2020, CELSA exported more than double the volumes it exported in 2018.

The expected contraction in its market of focus over the upcoming period, together with the recommencing of its exports into the Australian market in the first half of 2020, leads the Commission to the view that it is likely that dumping and related injury will recur in the absence of measures. The EC, Spanish Government and CELSA's reasoning for dumping in the original investigation was that it was experiencing a downturn in its economy. As it is now faced with a new downturn, described as the "*sharpest contraction in activity since the 2009 global financial crisis*",¹¹³ the Commission is of the view that similar exporting of dumped rebar is likely.

Both the Spanish Government and the EC noted that the Australian industry has shown recovery in many economic factors. The EC submitted that the ongoing challenges experienced by the Australian industry may be indicative of structural problems. It draws attention to InfraBuild's period of voluntary administration and purchase by its new parent entity. The Spanish Government takes the view that its purchase of Steelforce puts InfraBuild in a dominant position to weather any potential injury from imports.

¹¹⁰ Atradius, 'Market Monitor: Focus on metals and steel performance and outlook', November 2019, Available [here](#)

¹¹¹ S&P Market Intelligence, 'COVID-19 impacts - Demand shock for European steel and iron ore', Available [here](#)

¹¹² OECD, Steel Market Developments Q2 2020, 8 June 2020, Available [here](#)

¹¹³ S&P Market Intelligence, 'COVID-19 impacts - Demand shock for European steel and iron ore', Available [here](#)

The Commission agrees that the Australian industry has experienced improvements in its sales volumes as well as many of the economic factors detailed in section 5.7. The Commission notes that InfraBuild was purchased by its new parent entity in September 2017 following a period of voluntary administration. Table 7 shows that InfraBuild was already experiencing some improvements prior to this, between 2015 and 2016. The most obvious changes in 2017 are related to R&D expense and capital expenditure. There is also some improvement in InfraBuild's net loss position between 2017 and 2018, however, it has remained unprofitable. InfraBuild has continued to experience reduced market share (noting that recovery has been observed in 2019), net losses, reduced profitability, and ongoing price suppression.

Steelforce, acquired by InfraBuild, is a distributor of rebar products. The Commission accepts the Spanish Government's view that this may place InfraBuild in a better position within the fabricated products market, which is a downstream market. The Commission does not accept, however, that InfraBuild will not be injured by imports as a consequence of the acquisition, as imports relate to its capacity as a producer of rebar. The Commission's analysis is focussed upon how the possible expiry of anti-dumping measures relates to the industry producing rebar. In this respect, Steelforce and InfraBuild operate at different levels of trade and in different markets. Therefore, the Commission does not consider the acquisition of Steelforce changes the structure of the Australian industry that produces rebar.

All three submissions have made comments concerning imports from Turkey and its effect on the Australian market. These submissions have been addressed in section 7.4.11.

CELSA submitted that it has not been afforded similar treatment to Singapore and Taiwan in this inquiry. Concerning Singapore, it refers to its "*comparable pricing behaviour and lack of evidence of dumping or injury*". The Commission's conclusions concerning Singapore is based on several factors. These factors include that Singapore has maintained high volumes to its customer in Australia at a higher price than the other subject countries and for most of the period following the measures, at a higher average FOB price than all exports of the goods to Australia. In order to recommence dumping, NatSteel would need to change its behaviour to the detriment of its profitability. In contrast, Spain's export volumes reduced significantly following the measures. Its prices, when it did export the goods, were below almost all the subject countries for much of the period following imposition of the measures. The Commission does not consider the export behaviour of the two countries to be comparable.

Both Taiwan and Spain have reduced volumes since the measures. Exports from Taiwan have been sporadic, while Spain continued exporting until 2019 when CELSA did not export any volume. While both countries have exported volumes in 2020, Taiwanese exports subject to these measures continue to be minimal, while CELSA exports have increased to volumes that are not insignificant. The average price of the Taiwanese exports in 2020 was also well above the average FOB price of all other countries. Exporters from Taiwan are currently subject to a floor price, where IDD is paid when the export price is lower than the floor price. The Commission's examination of ABF import data indicates that the export prices for the relatively low volume of Taiwanese exports during the inquiry period exceeded the floor price. Further, the Commission observes that Taiwan's FOB export prices during the first two quarters of 2020 also exceeded the existing floor price. The average FOB price of Spanish exports in 2020 is the lowest of the subject countries. Due to these factors the Commission does not find the export behaviour of the two countries to be comparable.

The Spanish Government and CELSA object to the Commission's views concerning the substitution of mills by the CELSA Group. The Commission's observations concerning the substitution of mills relate to the CELSA Group's access to production capacity from other mills and its continued interest in the Australian market. This is further demonstrated by the recurrence of exports by CELSA in 2020.

CELSA argued in its submission that the Commission's view assumes that CELSA must supply the Australian market and that these exports will be at dumped prices and at volumes that are not negligible. CELSA states that this is not the case as its focus is on the domestic Spanish and EU markets.

As stated above, the Commission observes that the domestic Spanish and EU markets are experiencing another downturn and a contraction of its construction sector. This, together with the volumes and the low prices of its exports to Australia in the first half of 2020 shows that Australia remains an attractive market for CELSA. As discussed in section 7.4.10, there is also a contraction in the Australian construction industry. The Commission has observed that a contracting market will result in price competition by suppliers to maintain volumes and market share. The increased price competition and the low price of the Spanish exports relative to the subject countries to Australia this year, leads the Commission to its views that dumping of Spanish exports is likely to recur causing injury to the Australian industry.

The examination of exports to Australia following the imposition of measures also contradicts CELSA's claim that the establishment of a supply channel through CELSA Poland makes it unnecessary for CELSA Barcelona to re-enter the Australian market. The Commission found that exports from CELSA Barcelona have re-entered the market in 2020. As stated above, the volumes were not insignificant.

The Commission accepts that CELSA maintains its ACRS accreditation in order to supply customers that require products that meet the Australian and New Zealand standard. The Commission observes that it is unlikely to maintain this accreditation if it does not plan to supply this market. CELSA has not provided evidence that ACRS accreditation is maintained to supply other markets.

7.5.10 InfraBuild submission, 9 September 2020

InfraBuild submitted that it disagreed with the Commission's characterisation of Taiwanese exports following the inquiry period as "*minimal*" as Taiwan continues to export at volumes comparable to the inquiry period. It also asserts that high export volumes of rebar during the inquiry period from "*sources other than those exporters the subject of the measures of this inquiry*" is an indication that the Australian rebar market remains attractive to Taiwanese exporters.

InfraBuild suggests that the Commission review Taiwanese export activity, both volumes and FOB prices in the period following the inquiry period as it argues that this is relevant to the likelihood of the recurrence or continuation of dumping and material injury. InfraBuild provided data detailed in Review of Anti-Dumping Measures No. 566 – Steel Reinforcing Bar exported from the Republic of Korea, Singapore, Spain (except Nervacero S.A) and Taiwan (except Power Steel Co., Ltd) (Review 566),¹¹⁴ an ongoing review with an inquiry period of 1 July 2019 to 30 June 2020 in support of its arguments.

¹¹⁴ [ADN No. 2020/102](#) refers

The Commission has reviewed exports from Taiwan following the inquiry period. While it is accurate that 2020 volumes are comparable to those during the inquiry period, the Commission observes that the volumes in both these periods remain minimal. While the Commission accepts InfraBuild's argument that total exports from Taiwan point to Australia continuing to be an attractive market to Taiwanese exporters, it notes that exports from the subject exporters have been sporadic and the average FOB price of the exports subject to measures were above the average FOB price for other Taiwanese exports in the period following the inquiry period and above the existing floor price that applies.

InfraBuild argues that as Singaporean prices have risen since the imposition of measures, the historical data indicates NatSteel's propensity to export rebar to Australia at dumped prices in the absence of measures, and supports the effectiveness of the current measures.

The Commission accepts that Singaporean prices have increased since the measures. However, the Commission also observes that Singapore has continued to supply rebar at prices well above other exporters since 2015 and dumping margins have been negligible. As it is achieving high volumes without dumping and at a higher price than other exporters, the Commission finds it is unlikely that the Singaporean exporter will revert to dumping in the absence of measures.

7.5.11 Daehan submission, 9 September 2020

Daehan's submission dated 9 September 2020 detailed what it referred to as a "*key element missing from the injury analysis*", specifically the impact of exports from Turkey during the period following the imposition of measures. The Commission's response is at section 7.4.11.

7.5.12 Best Bar submission, 14 September 2020

Best Bar claimed that competition in the rebar market does not occur "*on a level playing field*". It claims that the Australian industry producer has a two-tiered pricing system with its related parties offered a lower price. This results in one of Best Bar's main suppliers also being its main competitor in a downstream market. It claims that in spite of this environment, it has achieved success through going "*above and beyond*" in terms of quality of its fabricated products and services. Despite this, it states that it is important to have access to steel rebar from multiple sources, in order to not rely solely on its major competitor.

Best Bar submitted that the analysis into the likelihood of injury recurring was limited as it did not consider non-subject imports, in particular an analysis of imports from Turkey.

The Commission accepts that a customer may wish to maintain more than one supply source. The Commission observes that Best Bar did not provide evidence to support its claim that the Australian industry producer has a two-tiered pricing system for rebar sold to related and unrelated parties. Further, the Commission examined InfraBuild's sales of rebar to its related and unrelated customers and did not find evidence of a distinct and consistent pattern that would suggest price discrimination. The Commission therefore considers InfraBuild's sales to its related customers to be arms length transactions during the inquiry period.¹¹⁵

The Commission's discussion of imports from Turkey is at section 7.4.11.

¹¹⁵ EPR 546, document no. [19](#), p14.

7.6 Conclusion

Australian-produced goods and the imported goods have essentially the same end uses, meet similar quality specifications and standards, are sold to the same types of customers and compete directly with each other in the same markets. The trends shown in Chapter 5 indicate that the imposition of the anti-dumping measures has had some positive impacts on the economic condition of the Australian industry. However, the Australian industry has experienced reduced market share, price suppression and reduced profits and profitability in the period since 2015.

As discussed in section 4.3.3, the Commission notes that despite the uncertainty in forecasting the full impact of COVID-19 on demand for rebar in the Australian market, metrics have shown that there has been a sustained downturn in the construction industry over the first two quarters of 2020 (refer Figures 2 and 3). As stated in section 4.3.3, it is reasonable to expect subdued activity at least until the middle of 2021. It is also reasonable to expect that a contracting market may result in intensified competition with associated price pressure to achieve sales volumes and market share, providing an incentive for dumping to recur. As seen in section 7.4.3, measures appear to have had an impact on the average export prices of the subject countries which have increased in comparison to the average prices of exports from other countries not subject to anti-dumping measures.

The requirement within this market to match import offers in order to maintain sales volumes will likely result in a continuation of injury in the form of price suppression and as a result, reduced profits and profitability to the Australian industry.

Despite the inherent uncertainty in predicting the behaviours that are likely to occur in the market if the measures were to expire, having weighed all of the available evidence obtained in respect of rebar exported to Australia from the subject countries, the Commissioner is satisfied that the expiration of the measures applying to rebar exported to Australia from Korea and Spain would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and material injury that the measures are intended to prevent.

The Commissioner is not satisfied that the expiration of the measures applying to rebar exported to Australia from Singapore and Taiwan would be likely to lead to a continuation of, or recurrence of dumping and the material injury that the measures are intended to prevent.

7.6.1 Korea

The Commission found that exports during the inquiry period were at dumped prices. Korean exports to Australia have continued, with a peak in volumes following the measures. Daehan, a major Korean exporter, has maintained its distribution links in Australia as well as its ACRS certification. Both of these factors signal its intention to continue to supply the Australian market. Daehan was also found to have significant underutilised production capacity during the inquiry period, which, if diverted to Australia, would represent a significant portion of the Australian market for rebar. Given the price sensitivity of the goods and its substitutability, the influence of import prices in respect of Korean rebar on the Australian industry's prices and evidence of price undercutting by exporters from Korea, it is the Commission's view that in the absence of measures, dumping of Korean rebar is likely to continue. Greater volumes from Korea at dumped prices will likely result in a further deterioration of the Australian industry's market share and consequently, price and profit related injury. In a contracting market, it is also likely to

experience injury in the form of reduced sales volumes. It is the Commission's view that the expiration of measures on Korean rebar would lead or be likely to lead to the continuation of dumping and the material injury that the measures are intended to prevent.

7.6.2 Singapore

The Commission found exports from Singapore during the inquiry period to be at dumped prices, albeit the calculated dumping margin was negligible. Further, the Commission notes that duty assessments conducted in respect of NatSteel's exports after the imposition of measures have determined margins of a comparable degree, and in some cases, negative margins and a full refund of the IDD paid.

Since the imposition of measures, Singapore has exported to Australia at higher volumes than the other subject countries, as well as at higher prices generally than the other subject countries. As discussed in section 7.4.3, prior to measures, Singaporean export prices were below the average of other countries' export prices (not subject to measures). Following measures, Singaporean export prices were above that of other countries' export prices. NatSteel, the only exporter of rebar from Singapore, has maintained an ongoing distribution link with its importer in Australia following the measures. This importer is also a customer of InfraBuild. The Commission compared prices paid by this customer to import rebar from NatSteel to the prices paid to purchase rebar from the Australian industry and did not find price undercutting by NatSteel during the inquiry period.

The Commission observes that Singapore has been able to export higher volumes than the other subject countries and at a price higher than the other subject countries without undercutting the Australian industry.

The Commission notes that NatSteel is an ACRS certified exporter, maintains the same customer relationship since the original investigation and has only modest underutilised production capacity. InfraBuild's claimed that a contracting Singaporean domestic market and excess production of rebar following the imposition of recent measures from Malaysia¹¹⁶ indicates a likely increase in export volumes to Australia. It stated that this circumstance will increase the likelihood of NatSteel continuing to dump rebar in an effort to retain or increase Australian market share. InfraBuild has not explained why it considers Singaporean export volumes displaced by these factors would be exported to Australia at dumped prices such that it will result in continuing or recurring injury. Particularly as the current dumping is negligible.

While the Commission agrees with InfraBuild¹¹⁷ that NatSteel's pricing increased following the measures, for many years NatSteel has exported to Australia at prices above the average prices of all other countries and in higher volumes than other subject countries. As submitted by NatSteel, its sales volumes to Australia are dictated by the demand of one customer, Best Bar. It has been able to achieve these sales volumes without undercutting the Australian industry's prices. As stated in section 7.5.4, the measures imposed by Malaysia were on straights, while exports to Australia from NatSteel have been generally in the form of coils.

The Commission considers that it is reasonable to assume that a profit-making business that has historically been able to sell significant quantities of rebar at a higher price will not change its behaviour and reduce its prices at the detriment of its own profit margins. On

¹¹⁶ Ministry of International Trade and Industry, Malaysia, available [here](#)

¹¹⁷ EPR 546, document no. [27](#)

balance, the Commission considers it unlikely that in the absence of measures, Singapore will commence dumping at margins that are injurious to the Australian industry.

7.6.3 Spain

The Commission has established in section 7.5.9 that a downturn in the Spanish and European construction markets have had an impact on Spanish producers' domestic demand for rebar. CELSA has also exported the GUC to Australia following the inquiry period at a price below that of the other subject countries, and at a volume that is more than double the volumes it exported in 2018.

The Commission has observed that the CELSA Group is able to switch supply mills in Spain (discussed in section 7.4.2.3) and therefore has access to further production capacity to supply the Australian market.

These factors, together with the substitutability and price-sensitive nature of the goods, and the influence of import prices on Australian industry's prices, leads the Commission to the view that in the absence of measures, dumping of Spanish rebar is likely to recur resulting in the likely recurrence of injury to the Australian industry.

7.6.4 Taiwan

The Commission has found that Taiwanese exporters subject to these measures were not dumping in the current inquiry, with the dumping margin calculated to be negative 0.9 per cent. The Commission did not find evidence of price undercutting by Taiwanese exports, however recognises the limitations of this analysis due to low volumes in the inquiry period.

Taiwanese exports ceased in 2015 and recommenced in 2017. Since 2018, volumes have been minimal.

Further, exports of rebar from Taiwan are currently subject to anti-dumping measures in the form of a floor price. IDD is only payable if the export price is lower than the floor price. The Commission's examination of ABF import data indicates that the export prices for the relatively low volume of Taiwanese exports during the inquiry period exceeded that of the ascertained floor price by a material quantum. Taiwanese exports, even at a lower export price (and in greater volumes) would not have incurred any dumping duty.

InfraBuild¹¹⁸ submitted that in the period following the end of the inquiry period, Taiwanese exporters exported 88.3 per cent of the volume of all exports of the goods exported during the inquiry period. It further claimed that the weighted average export price of the goods exported in the period following the inquiry period, declined by 34.8 per cent.

The Commission found that while the volume increased for exporters subject of these measures in the first two quarters of 2020, it was from a very low base in 2019, thus volumes were still comparatively insignificant. Even considering all exports from Taiwan i.e. not only exporters subject to this inquiry, it is just above 2 per cent of exports from all countries in the six months following the inquiry period. Concerning pricing, the Commission found that the price of Taiwanese exports subject to the measures increased in the first two quarters of 2020 by 8.2 per cent.

The factors described above lead the Commission to the view that the expiration of the measures applying to rebar exported to Australia from Taiwan would not be likely to lead

¹¹⁸ EPR 546, document no. [27](#)

to a continuation of, or recurrence of, dumping and the material injury that the measures are intended to prevent.

7.6.5 Is injury from dumping likely to be material?

The *Ministerial Direction on Material Injury* (ADN 2012/24), dated 27 April 2012, provides that injury from dumping need not be the sole cause of injury to the industry, where injury caused by dumping or subsidisation is material in degree.

ADN 2012/24 further provides that the materiality of injury caused by a given degree of dumping can be judged differently, depending on the economic condition of the Australian industry suffering the injury. In considering the circumstances of each case, the Commission must consider whether an industry that at one point in time is healthy and could shrug off the effects of the presence of dumped or subsidised products in the market, could at another time, weakened by other events, suffer material injury from the same amount and degree of dumping or subsidisation.

The Commission's analysis of the economic condition of the Australian industry in the period since measures were imposed in 2015, found that the Australian industry's:

- market share trended down for much of the period since the measures;
- sales volumes increased following the imposition of measures;
- per unit selling price has increased since 2016;
- per unit CTMS has continued to be above per unit selling price despite the imposition of measures, although there has been a narrowing of the margin in the inquiry period;
- net loss position has continued since 2016, with some improvement in profitability after 2017; and
- prices during the inquiry period were undercut by the prices of rebar imported from Korea.

The Commission considers that if measures were to expire, the continuation or recurrence of dumped exports from Korea and Spain would put downward pressure on prices in the Australian market such that the Australian industry would experience continued price suppression and the prospect of further deterioration in market share.

The Korean exporter, Daehan has significant underutilised capacity that if directed to Australia, can supply a large part of the Australian market. Daehan was also found to be dumping in this inquiry and undercutting Australian industry prices.

The Commission concurs with InfraBuild's claim concerning the CELSA Group and its practice of alternating supply between mills (section 7.4.2 refers). Spain and the EU are experiencing a downturn. It is expected that demand for rebar will reduce in the medium term. The likely effect of this will be to incentivise exports where Spanish exporters already have distribution links. CELSA has also exported to Australia following the inquiry period at prices lower than the other subject countries and at volumes that are not insignificant in comparison with its historical volumes since the measures. The Commission has found that in the absence of measures it is likely that the CELSA Group will continue to supply through CELSA Barcelona, and in higher volumes and lower prices as has been seen in 2020.

Based on this analysis, the Commission considers that if measures were to expire, the economic condition of the Australian industry would be such that the presence of dumped

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goods from Korea and Spain in the Australian market would result in material injury to the Australian industry.

8 NON-INJURIOUS PRICE

8.1 General

Dumping duties may be applied where it is established that dumped imports have caused, or threaten to cause, material injury to an Australian industry producing like goods. The level of dumping duty imposed cannot exceed the margin of dumping, but a lesser duty may be applied if it is sufficient to remove the injury.

8.2 Legislative framework

Under section 8(5) of the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act), the Minister must specify a method for calculating the IDD payable. In doing so, the Minister must, if the NIP is less than the normal value, have regard to the desirability of specifying a method of calculating the IDD such that the sum of the IDD payable and the ascertained export price (AEP) is not greater than the NIP (lesser duty rule).

The NIP is defined in subsection 269TACA(a) as the minimum price necessary to prevent the injury or a recurrence of the injury caused by the dumping.

Under section 8(5BAA) of the Dumping Duty Act, the Minister is not required to have regard to the desirability of fixing a lesser amount of duty where the Minister is satisfied that one or more of the following circumstances exist:

- (a) the normal value of the goods was not ascertained under section 269TAC(1) because of the operation of section 269TAC(2)(a)(ii);
- (b) there is an Australian industry in respect of like goods that consists of at least two small-medium enterprises, whether or not that industry consists of other enterprises.

Neither of the above circumstances apply in the context of this inquiry.

8.3 Establishing a NIP

Under section 269TACA(a), the NIP of the goods exported to Australia is the minimum price necessary to prevent the injury, or a recurrence of the injury, or to remove the hindrance to the Australian industry caused by the dumping of the goods.

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP). Deductions from this figure are made for post-exportation costs to derive a NIP that is expressed in similar delivery terms to the export price and the normal value (e.g. FOB).

Where the NIP is lower than the normal value, the duty is calculated with respect to the difference between the export price and the NIP, thereby giving effect to the lesser duty rule.

8.3.1 The unsuppressed selling price

The Manual provides a hierarchy of options for establishing a USP:

- the price or market approach of the Australian industry in a period unaffected by dumping;

- the constructed approach, using the Australian industry's CTMS data and a reasonable amount for profit; or
- the price of undumped imports in the Australian market.¹¹⁹

8.4 Approach in the original investigation

In REP 264, the Commission was not satisfied that a USP could be established using Australian industry selling prices at a time unaffected by dumping or applying the constructed approach. The Commission was unable to substantiate claims put forth by the Australian industry of the existence of dumping preceding the original investigation, and did not have satisfactory evidence before it for the purposes of deriving a reasonable level of profit in constructing a USP.

The Australian industry submitted that it established pricing for rebar relative to landed import prices. The Commission therefore adopted the view that in a market unaffected by dumping, it is reasonable to expect that the Australian industry would continue to set its prices with regard to benchmarked import prices. As the price of imports would be higher at least by the dumping margins found, it would be expected that Australian industry prices would also be higher at least by the percentage of the dumping margins found. It was on this basis that the Commission considered that the NIP for each exporter would be set at a price equal to the respective normal value.

8.5 Submissions received

In its submission of 17 August 2020,¹²⁰ NatSteel noted that *Termination Report No. 495A – Alleged Dumping and Subsidisation of Steel Reinforcing Bar Exported to Australia from the Republic of Turkey* found that exports of rebar from Turkey were not dumped. In this context, it submitted that it would be appropriate for the Commission to determine a NIP based on import prices of rebar from Turkey. NatSteel was of the view that as InfraBuild's performance in recent years has improved despite the presence of Turkish imports, the NIP should not be greater than price of exports from Turkey, as that price reflects the competitive, non-dumped price in the Australian market.

On 9 September 2020,¹²¹ CELSA submitted that given imported rebar was primarily sourced from countries not subject to anti-dumping measures, the Australian market could not have been materially influenced by dumped prices. Therefore, the export prices of those exporters would be the most convincing benchmark for a NIP. CELSA noted that during the inquiry period, the Australian industry increased in sales volume and market share despite competition from imports. The submission further claimed that the Australian industry predicts it will be profitable despite continuing to implement a form of IPP, however, these import prices are mostly unaffected by dumping measures.

In its submission of 9 September 2020,¹²² InfraBuild expressed its support of the Commission's adoption of the constructed approach to establishing the USP. However, InfraBuild did not agree with the amount of profit applied as it considered the amount was adversely affected by price depression and lost sales volumes caused by dumped import

¹¹⁹ [The Manual](#), pp. 137-140 refer.

¹²⁰ EPR 546, document no. [23](#)

¹²¹ EPR 546, document no. [31](#)

¹²² EPR 546, document no. [27](#)

competition. According to InfraBuild, it would be more appropriate for the Commission to apply InfraBuild's target return on investment.

8.6 Commission's approach and assessment

In this inquiry the USP has been calculated applying the constructed approach, using the Australian industry's CTMS data and a reasonable amount for profit.

In considering a suitable approach for the derivation of the USP for this continuation inquiry, the Commission has taken into account the following factors:

- the pricing policy of the Australian industry; and
- whether it is reasonable to expect that InfraBuild would continue to implement this policy or a similar market based pricing policy in the future and in a market unaffected by dumping (where that market continues to be supplied by imports subject to measures and other imports).

The Commission considers that the Australian industry selling prices were affected by the presence of dumped imports in the market such that it considers the first method under the Manual's hierarchy to be unsuitable.

The Commission is of the view that the Australian market will continue to be supplied by dumped imports subject to measures as well as other imports. In respect of claims submitted by NatSteel and CELSA that undumped imports from non-subject countries (specifically Turkey as asserted by NatSteel) should be the point of reference for establishing the USP, the Commission does not consider this approach to be suitable because the Australian industry's prices of coil and straight rebar taken collectively, are influenced by a number of different price offers in the market and cannot necessarily be attributed to the lowest import offer from Turkey and other countries not subject to measures. As a result, the Commission does not consider this method to be preferable.

The Commission has had regard to the suitability of the second method, being the constructed approach under the Manual's hierarchy in establishing the USP. In this inquiry, the Commission has found that the Australian industry was unprofitable during the inquiry period and for a significant period of time preceding this. The Commission considers that the amount of profit achieved by the Australian industry in 2015 is not adequately contemporaneous and such, would not take into account changes in the Australian industry or the Australian market since that time for the purposes of constructing a USP.

The Commission has had regard to the methods detailed in the Manual for calculating an appropriate amount for profit, which draws reference to the application of a target return on investment or profit surveys.¹²³ InfraBuild submits that its target return on investment should be applied as the amount of profit. The Commission understands that the Australian Industry's target return on investment relates broadly to its business and not distinctly to any general category of products. Given that a correlation between this target return on investment and sales of rebar cannot be established, the Commission does not consider InfraBuild's proposed approach suitable.

The Commission is not aware of any relevant profit surveys and notes that InfraBuild is the only producer of like goods in Australia.

The Commission considers that there is sufficient and reliable evidence before it to calculate a reasonable level of profit in the construction of the USP specifically relevant to

¹²³ [The Manual](#), p. 139 refers.

rebar, in the form of forward projections on revenue, costs and profit margins in 2020 (July to September) under InfraBuild's revised rebar pricing policy. The Commission understands that the projected revenues assimilate rebates and discounts that are typical of InfraBuild's business in respect of rebar. InfraBuild has advised the Commission that the source of its forward projections are management reports and has provided the Commission with such evidence to underpin this level of profit. However, InfraBuild asserts that because this profit rate is affected by price injury and loss of sales volumes that it is not be suitable for use in the construction of the USP. The Commission observes that the resultant USP from the application of the projected profit amount exceeds that of the target net selling prices from its forward projections. Regard was also had to this projected profit rate in the context of its profits in previous years and the Commission is satisfied that it is reasonable. Further, the Commission notes that the application of the target return on investment as proposed by InfraBuild would not change the finding at section 8.7 as to whether the NIP is the operative measure.

The NIP applicable to Korea and Spain was calculated by deducting from the USP, a weighted average of the following:

- ocean freight and marine insurance expenses;
- other importation costs (port, unpacking, container charges etc.); and
- importer selling expenses.

These items were obtained from verified importer data, where this data was available and considered relevant. The Commission notes that an importer profit was not deducted to calculate the NIP because the Commission found either the importer not to be profitable during the inquiry period in respect of its sales of rebar or the profit was not relevant to the goods.

8.7 Lesser duty rule

The Commission has assessed that the calculated NIP is not less than the normal values ascertained for exporters from Korea and Spain, such that the Minister is not required to have regard to the lesser duty rule.

The Commission's NIP calculation is at **Confidential Attachment 10** of this report.

9 FORM OF MEASURES

9.1 Findings

Having established that dumping and material injury is likely to continue or recur if the anti-dumping measures are not continued in respect of rebar exported from Korea and Spain, the Commission recommends that the Minister secure the continuation of the measures applying to the goods exported to Australia from Korea and Spain.

In continuing the anti-dumping measures, the Commission recommends that IDD be calculated based on the:

- floor price duty method in relation to the exporter CELSA from Spain; and
- combination duty method in relation to the following exporters:
 - Daehan and uncooperative and all other exporters from Korea; and
 - Uncooperative and all other exporters from Spain.

The form of measures currently in effect for exporters of rebar from Korea and Spain is the *ad valorem* method.

9.2 Legislative framework

Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013* (Cth), in accordance with section 8(5BB) of the Dumping Duty Act, prescribes the methods for working out the amount of IDD payable on goods the subject of a notice under section 269TG.

The forms of duty available to the Minister when imposing anti-dumping measures are:

- Fixed duty method;
- Floor price duty method;
- Ad valorem duty method; and
- Combined duty method.

9.2.1 Fixed duty method

A fixed duty method operates to collect a fixed amount of duty – regardless of the actual export price of the goods.

9.2.2 Floor price duty method

The floor price duty method sets a ‘floor’, for example a normal value of \$100 per tonne, and duty is collected when the actual export price is less than that normal value of \$100 per tonne. The floor price is either the normal value or the NIP, whichever becomes applicable under the duty collection system.

9.2.3 Ad valorem duty method

The *ad valorem* duty method is applied as a proportion of the actual export price of the goods. The *ad valorem* duty method does not show the same variability in the ‘effective rate’ of the duty – as export prices fluctuate - that arises under the other methods.

9.2.4 Combination duty method

The combination duty comprises two elements: the 'fixed' element and the 'variable' duty element. The fixed element is determined when the Minister exercises powers to 'ascertain' an amount (i.e., set a value) for the export price and the normal value. This may take the form of either a fixed duty or an *ad valorem* on the ascertained export price.

The variable component stems from a feature of this form of duty whereby, having ascertained the export price for the purposes of imposing the dumping duty, if the actual export price of the shipment is lower than the ascertained export price, the variable component works to collect an additional duty amount (i.e., the difference between the ascertained export price and the actual export price). It is called a 'variable' element because the amount of duty collected varies according to the extent the actual export price is beneath the ascertained export price.

9.3 Guidelines

In determining the form of measures to be imposed, the Commission has had regard to the *Guidelines on the Application of Forms of Dumping Duty* (the Guidelines)¹²⁴ and relevant factors influencing the rebar market. The Guidelines set out a number of factors to be considered when deciding on the form of duties to be imposed.

The key considerations in deciding whether an *ad valorem* or combination duty is appropriate include:

- whether there are a large number of export models with significantly different prices;
 - for some commodities there can be a large number of models and the difference between the lowest and highest prices in the product range can be well over 100 per cent); and
 - in such a circumstance, the AEP (which is a weighted average of all models) can be too generic and therefore inappropriate as a basis for setting measures;
- whether there are complex company structures with related parties and whether price manipulation or circumvention of measures is likely; and
- the effect of this form of measures in a rising and falling market:
 - there is the potential for a combination duty to be unreasonably punitive in a falling market. However, the fixed portion of the combination duty – when set at an *ad valorem* rate - ensures that the combination duty does not become ineffective in a rising market.

9.4 Commission's assessment

The Commission has considered the Guidelines, specific factors and circumstances relevant to exporters of rebar from Korea and Spain, as well as submissions to this inquiry in recommending the form of duty that should apply.

¹²⁴ The Guidelines can be found [here](#)

9.4.1 Korea

In respect of Daehan and uncooperative and all other exporters from Korea, the Commission has calculated positive dumping margins of 3.9 per cent and 4.0 per cent respectively.

In its submission of 9 September 2020,¹²⁵ InfraBuild indicated that it did not support the proposed recommendation in SEF 546 that the *ad valorem* duty method apply to exports from Korea. The submission further stated:

- that the relationship between scrap prices and export prices are not always correlated. Therefore, the suggestion that the *ad valorem* duty calculation is appropriate is unsound. For example during the period from 1 April 2016 to 31 March 2017, Daehan's estimated normal value did not reduce in line with its export price, resulting in a period of increased dumping which was incapable of remedy;
- InfraBuild does not agree that the *ad valorem* duty method is advantageous where goods are subject to significant price variation over time as the effective rate of duty will not exhibit the same variability as is suggested by the Guidelines. InfraBuild asserts that the *ad valorem* method reduces variability in a declining market by way of the non-collection of a variable amount of duty. This is at the expense of the Australian industry whom will observe a decreasing effective rate irrespective of whether those lower export prices are at greater rates of dumping. An importer however, may seek a duty refund;
- the frequency of reviews of measures, particularly for products that show price variability, is entirely independent of the form of duty consideration and should not be a determining factor in the Commission's decision; and
- InfraBuild is of the position that the combination duty method is suitable for exports from Korea because:
 - the existence of a few export models would not preclude its application;
 - it is suited in circumstances where there are complex company structures. Review 489 noted that Daehan had '*seven subsidiary companies and one affiliated company*'. InfraBuild also referenced an investigation concerning Daehan undertaken by the South Korean Fair Trade Commission;¹²⁶
 - this would avoid the recurrence of the un-remedied injury identified by the Australian industry in *Anti-Circumvention Inquiry 452 - Steel Reinforcing Bar Exported to Australia from the Republic of Korea by Daehan Steel Co., Ltd*,¹²⁷ being an attempt by a Korean exporter to reduce its export prices by a degree that was misaligned to its domestic selling prices;
 - the Guidelines recognise that a potential disadvantage of the *ad valorem* duty method is the lowering of export prices to avoid the effect of duty;
 - any punitive impact of the combination method in a falling market and associated repercussions on downstream industries is not relevant, as InfraBuild advocates that a percentage amount be applied for the fixed component, rather than a set unit value; and
 - in view that the Commission was unable to fully verify Daehan's domestic sales and CTMS data, the *ad valorem* rate of 3.9 per cent is at risk of error.

¹²⁵ EPR 546, document no. [27](#)

¹²⁶ EPR 546, document no. [29](#)

¹²⁷ EPR 452 and Termination Report No. 452 ([TER 542](#)) refer.

PUBLIC RECORD

The operation of the combination duty method is both appropriate and necessary as the variable component will be based on an ascertained export price, which in the case of Daehan was verified to the Commission's satisfaction.

The Guidelines set out factors that the Commission may consider in its assessment of an appropriate form of duty. The various forms of duty each serve the purpose of removing the injurious effects of the dumping. However, in achieving this purpose, certain forms of duty are better suited to a particular set of circumstances than other forms of duty. The Commission notes that a number of factors are taken collectively by the Commission in its assessment and has had regard to the factors below.

Rebar market

The Commission considers that rebar is a commodity product where the price is largely determined by factors such as demand and supply. Price is also predominantly influenced by the cost of raw material inputs. In relation to rebar, the most significant cost component is scrap metal, with which global indicators of scrap metal prices have indicated a broad downward trend in the past two years as depicted below:

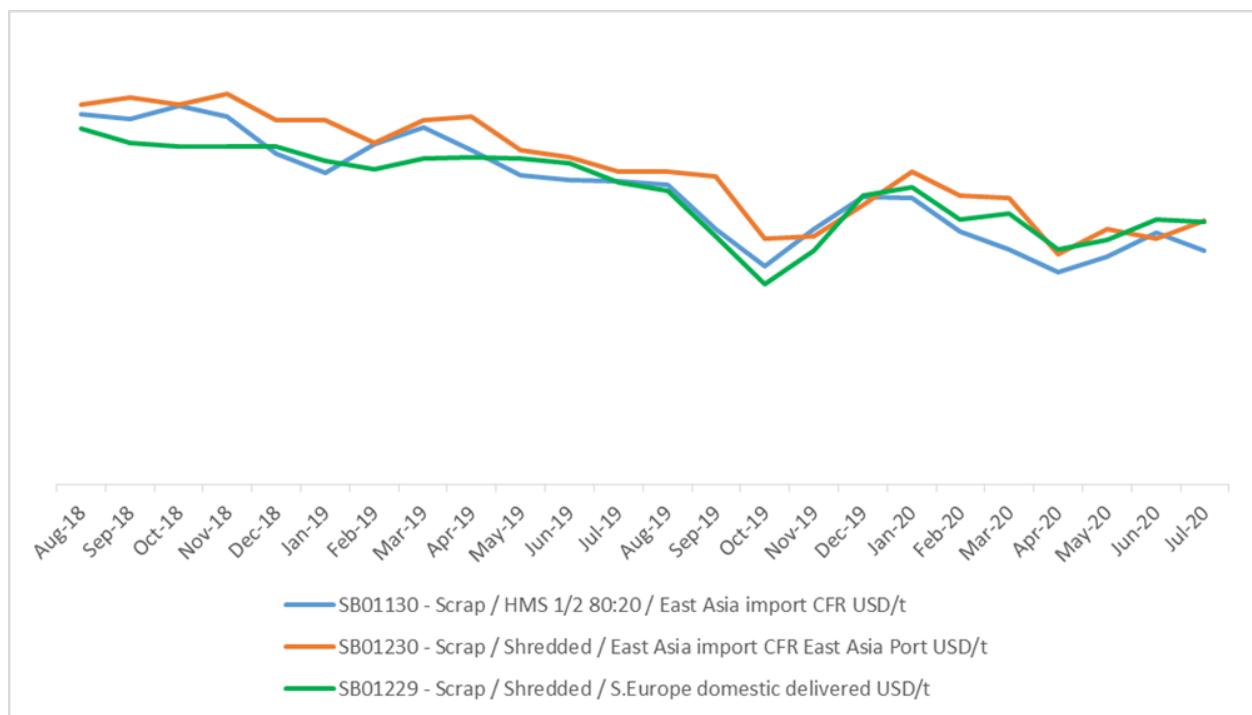


Figure 14: Scrap metal prices¹²⁸

The Commission understands that rebar displays significant price volatility secondary to its correlation with global steel prices. The Commission has examined the movement in the FOB export prices of Korean rebar as captured in the ABF import database with scrap prices and observed that in the period between July 2019 to June 2020, the scrap metal indices as referred to in Figure 14 declined in the order of 11 to 14 per cent. Similarly, the ABF database shows a decline in Korean export prices in the same period of a magnitude of 13 per cent.

The Commission considers that the rebar market is at present, a falling market.

¹²⁸ Subscription at <https://www.steelbb.com/steelprices/>

Model types and prices

The Commission observes that the number of export models of the goods from Korea is not large nor is there a significant price disparity between models.

Effectiveness of the *ad valorem* and combination duty method

Combination duty methods are considered to be suitable for exporters with limited models or types of the goods with minimal price differences. However, there is a risk that a combination duty method can be unreasonably punitive in situations where prices fluctuate, including in falling markets. This is true whether the fixed element is collected as an amount per unit or as an *ad valorem* (i.e. percentage) duty.

The Guidelines note that the *ad valorem* duty method has an advantage for goods which are subject to significant price variations over time because it does not lead to the same variability in the 'effective rate' of the duty in the event that export prices fluctuate, which arises under other duty methods.

Potential circumvention activity

The Commission recognises that a potential disadvantage of *ad valorem* measures is that export prices can be lowered to avoid the intended effect of duty. Combination duty may be suitable where the Commission considers that there is a likelihood of price manipulation owing to the existence of complex related party company structures, or where there has been proven instances of price manipulation.

InfraBuild provided information relevant to Daehan's past behaviours of lowering export prices and price falsification in respect of rebar. This information was also furnished in Review 489.¹²⁹ In relation to this information, the Commission concluded in REP 489 that there was no evidence before it to demonstrate that the alleged price falsification concerned the goods exported to Australia during the period relevant to Review 489.¹³⁰ In this inquiry, InfraBuild has not provided evidence to support that the alleged price falsification concerned the goods exported to Australia.

The Commission is of the view that the potential behaviour highlighted by InfraBuild as a reason for changing the proposed form of measures from *ad valorem* to the combination duty method has not been demonstrated as likely. As set out in TER 452, whilst the Commission found that Daehan lowered its export price in the period following the imposition of measures these relative changes were explained by external factors. Specifically, concerning the period from 1 April 2016 to 31 March 2017 referred to in InfraBuild's submission, the lowering of scrap metal prices led to the reduction in Daehan's export prices.

Form of measures recommendation

The Commission has considered the proposal in SEF 546 to retain *ad valorem* duty for exports from Daehan and the submission from InfraBuild to change to a combination duty.

The Commission notes that an *ad valorem* duty where the NIP is not operative relies on the difference between the ascertained export price and normal value, whereas a combination duty has an additional variable component using the ascertained export price as a floor. In this inquiry, the Commission is able to ascertain Daehan's export price based on the price it sold the goods exported to Australia, however, was not satisfied with

¹²⁹ EPR 489, document no. [19](#)

¹³⁰ EPR 489, document no. [25](#)

Daehan's normal value data such that its normal value is based on all relevant information (as outlined at section 6.3.1). The combination duty method would therefore better reflect Daehan's verified export prices and be less reliant upon its normal value than the *ad valorem* method.

As stated above, there are no significant differences in price between the different models of rebar exported from Korea that would render the combination duty method inappropriate. Further, exports of rebar from other countries (China, Greece, Indonesia and Thailand) are subject to a combination duty, indicating that this is a reasonable methodology for rebar more generally.

While a combination duty can become punitive in a falling market, the Commission notes that there is already a review underway, Review 566, which will update variable factors to reflect a more contemporaneous period up to 30 June 2020.

Having considered the submission from InfraBuild and the factors outlined above, the Commission considers it appropriate to apply the combination duty method in respect of exports of rebar from Korea, where the fixed component is an amount equal to the percentage dumping margin applied to the higher of the AEP or the actual export price.

9.4.2 Spain

9.4.2.1 CELSA

Owing to an absence of exports from CELSA during the inquiry period, the Commission has determined the export price for CELSA to be the same amount as that determined to be the normal value.

In response to the recommendation proposed in SEF 546 that the floor price duty method apply to CELSA's exports, with the floor price set equal to the ascertained normal value, CELSA's submission of 9 September 2020 argued that:¹³¹

- the normal value has been calculated with reference to all of CELSA's domestic sales of rebar during the inquiry period;
- without prejudice to its primary submission that the anti-dumping measures not continue in respect of CELSA, should this not be the outcome, that the measures imposed properly reflect the type of rebar that CELSA or its affiliated companies are likely to export. Therefore, the weighted average normal value should be determined by reference to the kind of goods that CELSA and its affiliated company have sold to Australia in the past;
- the floor price duty method is likely to impede CELSA's ability to export to the Australian market. SEF 546 notes that steel scrap markets tend to fluctuate and have been trending downwards. Conversely, CELSA considers that rebar prices in Australia have been on an upward trend since 2016. Should the scrap price trend continue or stabilise, it is likely that rebar prices will follow, unable to sustain continued high levels against the regional market trend. The application of a normal value ascertained with reference to 2019 domestic selling prices would result in a high floor price for CELSA. This outcome is unwarranted and CELSA requests that

¹³¹ EPR 546, document no. [31](#)

the measure be set at 0.0 per cent *ad valorem*, fixed, or in a manner that is otherwise consistent with un-dumped export prices to Australia.

The EC submitted on 9 September 2020¹³² that:

- CELSA's duty calculation in SEF 546 ignored recent evidence of likely behaviour on the basis that positive dumping margins were found in respect of CELSA in the past;
- there is positive evidence before the Commission to assess the likelihood of dumping and the dumping margin in relation to CELSA, specifically, its Australian export sales immediately preceding the inquiry period or CELSA's exports to third countries; and
- the floor price form of duty can be punitive for CELSA. SEF 546 noted that scrap prices are in decline and should CELSA's export prices decrease as a consequence, it will be unable to adjust its selling prices to remain competitive in the Australian market.

The Commission notes that the inquiry period established at the time of the initiation of this continuation inquiry seeks to examine contemporaneous information and data in respect of dumping. Further, there was no information before the Commission to underpin how CELSA's sales to third country markets would be relevant to or reflective of, an export price to Australia. The floor price methodology is imposed without reference to an ascertained export price. Therefore, it can be advantageous in circumstances where an exporter has not exported during the inquiry period.

The Commission does not consider that the calculation of CELSA's normal value for the inquiry period should be confined to its domestic selling prices of certain kinds of goods because CELSA's historical patterns of exporting certain models would not be wholly indicative of all the kinds of rebar that may be exported to Australia going forward. This matter has been addressed in further detail at section 6.5.1 of this report.

The Guidelines state that a disadvantage of the floor price duty method is that it may quickly become obsolete, particularly, if during the life of the measure, there have been no reviews. CELSA and the EU have each submitted that in a falling market, should CELSA's export prices exhibit the trends identified in steel scrap prices, then the effect of the existing floor price is punitive, as the normal value has been established with reference to its 2019 domestic selling prices. The Commission notes that Review 566 was initiated on 10 September 2020.¹³³ In Review 566, the Commission may examine whether the variable factors as they affect CELSA have changed, the review period being from 1 July 2019 to 30 June 2020. This may address in part, CELSA's concerns as to the level of the floor price given the prevailing market conditions. Further, where interim duty paid is greater than final duty payable, a refund can be sought through the duty assessment process.

CELSA submitted that the form of duty be applied as 0.0 per cent *ad valorem*, fixed or otherwise consistent with undumped exports. The Commission notes that the *ad valorem* duty method is effective where a positive dumping margin is determined. The application of a 0.0 per cent *ad valorem* duty would not be effective in circumstances where the Commission is satisfied that the absence of measures would lead, or would be likely to

¹³² EPR 546, document no. [25](#)

¹³³ [ADN No. 2020/102](#) refers

lead, to a continuation of, or a recurrence of, the dumping and material injury that the measures are intended to prevent.

Form of measures recommendation

Having considered the submissions received and in view that CELSA did not export during the inquiry period, the Commission considers it appropriate and aligned with its current practice, to apply the floor price duty method in respect of CELSA's exports. The Commission recommends that the floor price be set equal to CELSA's ascertained normal value.

9.4.2.2 Uncooperative and all other exporters

The Commission has calculated a dumping margin of 8.2 per cent for uncooperative and all other exports from Spain.

In its submission of 9 September 2020,¹³⁴ InfraBuild advocated that the combination duty method should be in operation where dumping margins were positive.

The Commission observed from its examination of the ABF import database, that Spanish rebar export prices demonstrated a downward trend consistent with scrap metal prices in Figure 13. The Commission considers that the rebar market is at present, a falling market.

Noting the recommendation above to apply a floor price to exports from Spain by CELSA, the Commission considers that an *ad valorem* duty rate of 8.2 per cent could give uncooperative exporters an advantage over CELSA, which did cooperate with the inquiry. In such circumstances the Commission considers that a combination duty would be more appropriate for uncooperative and all other exporters.

Form of measures recommendation

Having considered the submissions received and in view that the cooperative exporter from Spain, CELSA, should not be at a disadvantage compared to uncooperative exporters, the Commission considers it appropriate to apply the combination duty method in respect of exports of rebar by uncooperative and all other exporters from Spain, where the fixed component is an amount equal to the percentage dumping margin applied to the higher of the AEP or the actual export price.

¹³⁴ EPR 546, document no. [27](#)

10 RECOMMENDATIONS TO THE MINISTER

10.1 Recommendations

The Commissioner recommends:

- pursuant to section 269ZHF(1)(a)(ii), that the notice **cease to apply** to exporters of rebar from **Singapore** and **Taiwan**; and
- pursuant to section 269ZHF(1)(a)(iii), that the notice have effect in relation to exporters of rebar from **Korea** and **Spain** as if different variable factors had been ascertained;

The Commissioner recommends that the Minister declare:

- pursuant to section 269ZHG(1)(b), that she has decided to secure the continuation of the anti-dumping measures relating to the goods exported to Australia from **Korea** and **Spain**;

and that the Minister **determine**:

- pursuant to section 269ZHG(4)(a)(iii), that the notice continues in force after 19 November 2020 but that, after that day, the notice has effect, in relation to exporters of rebar from **Korea** and **Spain** generally, as if the Minister had fixed different variable factors in relation to those exporters, relevant to the determination of duty, as specified in **Confidential Attachment 2**.

The Commissioner recommends that the Minister be satisfied that:

- pursuant to section 269T(2) and (3), like goods are wholly manufactured in Australia;
- pursuant to section 269TAB(3), sufficient information has not been furnished, or is not available, to enable the export price of the goods exported to Australia from **Spain** in the inquiry period to be ascertained under the sections of section 269TAB preceding 269TAB(3);
- pursuant to section 269TAC(6), sufficient information has not been furnished, or is not available, to enable the normal value of the goods exported to Australia in the inquiry period by **Daehan** from **Korea** to be ascertained under the sections of section 269TAC preceding section 269TAC(6) (other than section 269TAC(5D));
- pursuant to section 269TAAD(1) and for the purpose of determining normal value,
 - (a) like goods were sold by **NatSteel** in **Singapore** in sales that were arms length transactions in substantial quantities during an extended period for home consumption in **Singapore** at a price less than the cost of such goods; and
 - (b) **NatSteel** was unable to recover the cost of such goods within a reasonable period; such that
the price paid for the goods referred to in paragraph (a) is taken not to have been paid in the OCOT, as set out in **Confidential Attachment 4**.
- pursuant to section 269TAAD(1) and for the purpose of determining normal value,
 - (a) like goods were sold by **CELSA** in **Spain** in sales that were arms length transactions in substantial quantities during an extended period for home consumption in **Spain** at a price less than the cost of such goods; and

(b) **CELSA** was unable to recover the cost of such goods within a reasonable period; such that

the price paid for the goods referred to in paragraph (a) is taken not to have been paid in the OCOT, as set out in **Confidential Attachment 5**.

The Commissioner recommends that the Minister find that:

- pursuant to section 269TAB(1)(a), that the **export price** of steel reinforcing bar exported to Australia by **NatSteel** from **Singapore** in the inquiry period is the price paid or payable for the goods by the importer, less transport and other costs arising after exportation, as set out in **Confidential Attachment 4** and **Chapter 6** of this report;
- in accordance with section 269TAC(1), the **normal values** of rebar exported to Australia by **NatSteel** from **Singapore** and **CELSA** from **Spain** in the inquiry period is the price paid or payable for like goods sold in the OCOT for home consumption in **Singapore** and **Spain** respectively, in sales that are arms length transactions by **CELSA** and **NatSteel** and adjusted in accordance with section 269TAC(8), as set out in **Confidential Attachments 4** and **5** and **Chapter 6** of this report;

The Commissioner recommends that the Minister determine:

in relation to **export prices**;

- being satisfied that section 269TAB(1)(c) applies, the **export price** for the goods exported to Australia by **Daehan** from **Korea** in the inquiry period having regard to all the circumstances of the exportation, as set out at **Confidential Attachment 3** and **Chapter 6** of this report;
- in accordance with section 269TAB(3), export prices in relation to sales by **CELSA** from **Spain**, uncooperative and all other exporters from **Korea**, **Singapore**, **Spain** (except Nervacero) and **Taiwan** (except Power Steel) having regard to all relevant information as set out in **Confidential Attachment 2** and **Chapter 6** of this report;

in relation to **normal values**;

- in accordance with section 269TAAD(4), and for the purpose of working out the **cost of goods** and determining (under section 269TAAD(1)) whether the price paid for like goods sold in the country of export in sales that are arms length transactions are taken to have been in the **OCOT**, the cost of production or manufacture of those goods sold by **NatSteel** and **CELSA**, and the administrative, selling and general costs associated with the sale of those goods sold by **NatSteel** and **CELSA** to be the amounts set out in **Confidential Attachments 4** and **5** of this report;
- in accordance with section 269TAC(6), the **normal values** of rebar exported to Australia by **Daehan** from **Korea** and by uncooperative exporters and all other exporters from **Korea**, **Singapore**, **Spain** (except Nervacero) and **Taiwan** (except Power Steel) to be the amounts set out in **Confidential Attachment 2** and **Chapter 6** of this report having regard to all relevant information;

in relation to **dumping margins**;

- having applied section 269TACB(2)(a) and in accordance with section 269TACB(1), the **dumping margins** for **all exporters** from **Korea** and **Singapore** is the difference between the weighted average export prices of rebar over the whole of the inquiry period and the weighted average corresponding normal values over that period as set out in **Confidential Attachment 2** and **Chapter 6** of this report; and

in relation to the **dumping duty method**;

- in accordance with sections 8(5) and 8(5BB) of the Dumping Duty Act, that the **interim dumping duty payable** on the goods exported to Australia by **CELSA** from **Spain** is an amount worked out in accordance with the **floor price duty method**, in accordance with sections 5(4) and 5(5) of *the Customs Tariff (Anti-Dumping) Regulation 2013*, with effect from the date of publication of the signed notice; and
- in accordance with sections 8(5) and 8(5BB) of the Dumping Duty Act, that the **interim dumping duty** payable on the goods exported to Australia by exporters from **Korea** and **uncooperative and all other exporters** from **Spain** is an amount worked out in accordance with the **combination duty method**, where the fixed component is an amount equal to the percentage dumping margin applied to the higher of the AEP or the actual export price, in accordance with sections 5(2) and 5(3)(a) of *the Customs Tariff (Anti-Dumping) Regulation 2013*, with effect from the date of publication of the signed notice.

The Commissioner recommends that the Minister direct:

- in accordance with section 269TAC(8), that, as the normal values of rebar exported to Australia by **NatSteel** from **Singapore** and **CELSA** from **Spain** are the prices paid or payable for like goods sold in **Singapore** and **Spain** respectively, the **normal values** be adjusted for specified differences between like goods sold in **Singapore** and **Spain** and export sales, as set out in **Confidential Attachments 4** and **5**, and **Tables 9** and **10** of this report.

The Commissioner recommends that the Minister be of the opinion:

- in accordance with section 269TAC(7), that domestic sales and cost to make and sell data for **Daehan** is unreliable, and the Commissioner recommends that the Minister **disregard this information** for the purpose of calculating the **normal value** of steel reinforcing bar exported to Australia in the inquiry period by **Daehan**.

11 ATTACHMENTS

Non-Confidential Attachment 1	Verification Report - InfraBuild
Non-Confidential Attachment 2	Verification Report - Daehan
Non-Confidential Attachment 3	Verification Report - NatSteel
Non-Confidential Attachment 4	Verification Report - CELSA
Confidential Attachment 1	Injury analysis
Confidential Attachment 2	Dumping margin summary
Confidential Attachment 3	Daehan dumping margin calculations
Confidential Attachment 4	NatSteel dumping margin calculations
Confidential Attachment 5	CELSA dumping margin calculations
Confidential Attachment 6	Export volume and price analysis
Confidential Attachment 7	Capacity utilisation analysis
Confidential Attachment 8	Undercutting analysis
Confidential Attachment 9	Assessment of Turkey rebar exports
Confidential Attachment 10	USP and NIP calculations