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***CUSTOMS ACT 1901 (Cth) - PART XVB***

**STATEMENT OF ESSENTIAL FACTS  
NO. 560**

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

**STEEL REINFORCING BAR**

**EXPORTED TO AUSTRALIA FROM  
THE PEOPLE'S REPUBLIC OF CHINA**

**23 December 2020**

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**ABBREVIATIONS**

\$	Australian Dollars
ABF	Australian Border Force
ACRS	the Australasian Certification Authority for Reinforcing and Structural Steels
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
China	the 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
DCR	Dumping Commodity Register
the Direction	<i>Customs (Extensions of Time and Non-cooperation) Direction 2015</i>
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975 (Cth)</i>
EPR	electronic public record
FOB	Free On Board
FTE	full time equivalent staff
FY	financial year ended 30 June
the goods	the goods the subject of the application (also referred to as the goods under consideration)
IDD	interim dumping duty
Indonesia	The 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 July 2019 to 30 June 2020
Investigation 264	Investigation 264 – Alleged dumping of rebar exported from Korea, Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand and the Republic of Turkey
Investigation 300	Investigation 300 – Alleged dumping of rebar exported from the People's Republic of China
Investigation 418	Investigation 418 – Alleged dumping of rebar exported from Greece, Indonesia, Spain (Nervacero S.A), Taiwan (Power Steel Co. Ltd) and Thailand
Investigation 495	Investigation 495 – Alleged dumping and subsidisation of rebar exported from the Republic of Turkey
IPP model	import parity pricing model

**PUBLIC RECORD**

IREPAS	International Rebar Producers and Exporters Association
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
MT	metric tonnes
OECD	Organisation for the Economic Co-operation and Development
Parliamentary Secretary	Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
PAD	Preliminary Affirmative Determination
R&D	research and development
rebar	steel reinforcing bar
Review 411/412/423	Review 411/412/423 – Variable factors applying to measures relating to the export of rebar from the People's Republic of China by Jiangsu Shagang Group Co., Ltd, Hunan Valin Xiangtan Iron & Steel Co., Ltd and Jiangsu Yonggang Group Co., Ltd.
Review 467	Review 467 – Variable factors applying to measures relating to the export of rebar from the People's Republic of China
Review 563	Review 563 – Variable factors applying to measures relating to the export of rebar from the People's Republic of China
REP 264	<i>Anti-Dumping Commission Report No. 264</i>
REP 264 countries	Korea, Singapore, Spain (except Nervacero S.A) and Taiwan (except Power Steel Co. Ltd)
REP 300	<i>Anti-Dumping Commission Report No. 300</i>
REP 418	<i>Anti-Dumping Commission Report No. 418</i>
REP 418 countries	Greece, Indonesia, Spain (Nervacero S.A), Taiwan (Power Steel Co. Ltd) and Thailand
SBB	S&P Global Platts Steel Business Briefing
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
TTM	trailing 12 months
USA	United States of America

# 1 SUMMARY AND RECOMMENDATIONS

## 1.1 Introduction

This statement of essential facts (SEF) 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 People's Republic of China (China).

The current measures were imposed as a result of the publication of a dumping duty notice, referred to in Anti-Dumping Notice (ADN) No. 2016/39 on 13 April 2016 (the measures).<sup>1</sup> The measures are due to expire on 13 April 2021.

This inquiry was initiated on 10 July 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.<sup>2</sup> The Commissioner established an inquiry period of 1 July 2019 to 30 June 2020 (inquiry period) to determine whether the goods exported from China have been dumped.

This SEF sets out the facts on which the Commissioner proposes to base their recommendations to the Minister for Industry, Science and Technology (the Minister), subject to any submissions received in response to this SEF.

## 1.2 Legislative framework

Division 6A of Part XVB of the *Customs Act 1901* (Cth)<sup>3</sup> 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 SEF on which they propose to base their 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 they consider 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.

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

<sup>1</sup> Available on the electronic public record (EPR) for Investigation 300 (document no. [64](#)), available on the Anti-Dumping Commission's [website](#)

<sup>2</sup> EPR 560 document no. [02](#), ADN No. 2020/074

<sup>3</sup> All legislative references in this report are to the *Customs Act 1901* Cth unless otherwise specified

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 preliminary findings**

For the reasons set out in this SEF the Commissioner is preliminarily satisfied that:

- the expiration of the anti-dumping measures in respect of exports of rebar from China 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.

A summary of each chapter in this SEF 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 China 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 July 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 reduced market share, price suppression and reduced profits and profitability among other factors. The Commission also found that the Australian industry has improved or maintained its position in respect of some economic indicators following the imposition of measures.

#### **1.3.4 Likelihood of dumping and material injury continuing or recurring (Chapter 6)**

The Commissioner has not re-examined the variable factors in this inquiry. For the purposes of this inquiry the Commissioner has relied on the variable factors preliminarily found in Review 563, resulting in the preliminary dumping margin set out in Table 1. Any changes to the preliminary dumping margin will be considered in the final report for this inquiry.

<b>Exporter</b>	<b>Dumping margin</b>	<b>Duty method</b>
Uncooperative and all other exporters	19.0%	Combination

**Table 1: Preliminary dumping margin found in Review 563**

The Commission analysed China's 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 Commission has preliminarily found that the expiration of the measures

applying to rebar exported to Australia from China 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.

### **1.3.5 Form of measures (Chapter 7)**

Currently, IDD is calculated based on the Combination duty method in relation to all exporters of the goods from China. The Commissioner does not propose to recommend the Minister change the existing form of measures.

## **1.4 Proposed recommendation**

The Commissioner proposes to recommend to the Minister that the Minister secures the continuation of the notice applying to rebar exported to Australia from China for another five years until 13 April 2026.

The effect of the proposed recommendation is that rebar exported from China entered for home consumption in the Australian market on and after 14 April 2021 would continue to be subject to dumping duties. The Commissioner's proposed recommendation is subject to the consideration of any submissions made to them in response to this SEF.<sup>4</sup>

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<sup>4</sup> The process for making a submission is described in Section 2.4 of this SEF.

## 2 BACKGROUND

### 2.1 Application and initiation

On 21 April 2020, and in accordance with section 269ZHB(1), the Commissioner published a notice<sup>5</sup> 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 18 June 2020, InfraBuild lodged an application under section 269ZHC seeking the continuation of the anti-dumping measures in respect of rebar exported to Australia from China.<sup>6</sup>

As set out in ADN No. 2020/074, 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 this inquiry on 10 July 2020.

### 2.2 Current anti-dumping measures

The anti-dumping measures were initially imposed by public notice on 13 April 2016 by the then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary) following the original investigation (Investigation 300). The findings of Investigation 300 are detailed in *Anti-Dumping Commission Report No. 300* (REP 300).

The then Parliamentary Secretary's decision in respect of REP 300 was reviewed by the Anti-Dumping Review Panel (ADRP). On 13 December 2016, the ADRP found that the decision of the then Parliamentary Secretary in respect of REP 300 was the correct and preferable decision.<sup>7</sup>

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

Exporter	Dumping Margin	Duty Method
All exporters	22.7%	Combination of fixed and variable duty method

**Table 2: Current anti-dumping measures applying to rebar exported from China**

<sup>5</sup> [ADN No. 2020/041](#)

<sup>6</sup> EPR 560, document no. [01](#)

<sup>7</sup> ADRP [Report No. 39](#)



## PUBLIC RECORD

Separate anti-dumping measures apply to rebar exported from the Greece, the Republic of Indonesia, Republic of Korea, Spain, Taiwan (Power Steel Co. Ltd only) and the Kingdom of Thailand.<sup>8</sup>

As a result of *Ministerial Exemption Instrument No. 2 of 2019* and *Ministerial Exemption Instrument No. 3 of 2019*<sup>9</sup>, certain rebar is exempt from the anti-dumping measures due to a Tariff Concession Order<sup>10</sup> 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.<sup>11</sup>

### 2.2.1 Other Cases

The Commission has conducted numerous cases relating to rebar exported to Australia. A list of previous cases relevant to this inquiry is set out in Table 3 below and further details can be found on the Commission’s website.

Case type and report	ADN No.	Date of decision	Country of export	Outcome
<b>Investigation</b> <i>REP 264</i>	2015/133	19 December 2015	Korea, Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand and the Republic of Turkey	Dumping duties imposed on Korea, Singapore, Spain (except Nervacero S.A) and Taiwan (except Power Steel Co. Ltd)
<b>Investigation</b> <i>REP 300</i>	2016/39	16 April 2016	China	Dumping duties imposed.
<b>Investigation</b> <i>REP 418</i>	2018/10	7 March 2018	Greece, Indonesia, Spain (Nervacero S.A), Taiwan (Power Steel Co. Ltd) and Thailand	Dumping duties imposed
<b>Review</b> <i>REP 411/412/423</i>	2018/49	19 April 2018	China	Dumping duty notice varied in relation to exports from Jiangsu Shagang Group Co., Ltd, Hunan Valin Xiangtan Iron & Steel Co., Ltd, and Jiangsu Yonggang Group Co., Ltd.
<b>Review</b> <i>REP 467</i>	2018/185	14 December 2018	China	Variable factors were changed for all exporters from China.

<sup>8</sup> The EPR for these cases is available on the Commission’s [website](#)

<sup>9</sup> [ADN No. 2019/089](#) refers, following exemption inquiries EX0070, EX0071 and EX0072

<sup>10</sup> Available on the Australian Border Force [website](#)

<sup>11</sup> The DCR is available [here](#)

## PUBLIC RECORD

Case type and report	ADN No.	Date of decision	Country of export	Outcome
<b>Review</b> <i>SEF 563</i>	Not applicable	29 October 2020	China	Variable factors have preliminarily been found to have changed for all exporters from China.

**Table 3: Summary of cases relating to rebar exported from China**

## 2.3 Conduct of this 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 application.<sup>12</sup>

This SEF was originally due to be placed on the public record by 28 October 2020. Subsequently, as advised in ADN No. 2020/121, the Commissioner approved an extension of time for the publication of this SEF.<sup>13</sup> This SEF is due to be placed on the public record by **23 December 2020**.

### 2.3.2 Final report

As a result of the extension of time granted by the Commissioner, their final report and recommendations in relation to this inquiry must be provided to the Minister on or before **2 March 2021**, 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.<sup>14</sup>

In this inquiry InfraBuild provided a completed Australian industry questionnaire including data relating to its Australian sales, export sales, cost to make and sell (CTMS) and information on the Australian industry, market situation and proper comparison.

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 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 has relied on a verification of InfraBuild's data that was recently undertaken for Continuation Inquiry 546 that considered the same goods the subject of this inquiry. The verification of InfraBuild for Continuation 546 did not find material deficiencies in the data provided. The Commission is satisfied that the data submitted by InfraBuild is suitable to be used in this inquiry. The verification report of InfraBuild for Continuation Inquiry 546 is available on the public record.<sup>15</sup>

<sup>12</sup> 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

<sup>13</sup> EPR 560, document no. [05](#)

<sup>14</sup> Chapter 3 refers

<sup>15</sup> EPR 546, document no. [19](#)

### 2.3.4 Importers

At initiation, the Commission analysed the Australian Border Force (ABF) import database for imports of the goods from China during the inquiry period. The Commission identified one importer that imported a small quantity of the goods. As the quantity was negligible and the importer did not have a history of importing the goods, the Commission did not contact it directly. The Commission forwarded a questionnaire to three importers that had cooperated in previous rebar cases and placed the questionnaire on the Commission's website for completion by other importers who were not contacted directly.

The Commission did not receive any completed importer questionnaires.

### 2.3.5 Exporters

At initiation, the Commission identified one import of a small quantity of the goods in the ABF import database during the inquiry period. The exporter did not have a history of exporting the goods to Australia. At the time of initiation the Commission identified three suppliers of rebar from China that held Australasian Certification Authority for Reinforcing and Structural Steels (ACRS) certification. The ACRS 'mark' is internationally recognised as the means of showing conformity to the Australian Standard.

The Commission provided these suppliers with an exporter questionnaire. The relevant exporter questionnaires and associated spreadsheets were also placed on the Commission's website for completion by other exporters who were not contacted directly.

The Commission did not receive any completed exporter questionnaires.

### 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 the table below. Non-confidential versions of all submissions received are available on the EPR.

Submission from	Date published on EPR	EPR Document No.
InfraBuild	3 August 2020	3
InfraBuild	23 November 2020	6
InfraBuild	17 December 2020	7

**Table 4: Submissions received**

The Commission has had regard to all submissions received prior to **18 December 2020** in preparing this SEF. Submissions have been addressed in the relevant sections of this report. Submissions received on or after **18 December 2020** have not been considered in the preparation of the SEF, as to do so would, in the Commissioner's opinion, have delayed the timely placement of this SEF on the public record.<sup>16</sup> These submissions will be considered in the preparation of the final report.

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<sup>16</sup> Section 269ZHE(3) refers.

## **2.4 Responding to this SEF**

This SEF sets out the essential facts on which the Commissioner proposes to base their final recommendations to the Minister. This SEF represents an important stage in the inquiry. It informs interested parties of the facts established and allows them to make submissions in response to the SEF. It is important to note that the SEF may not represent the final views of the Commissioner.

Interested parties are invited to make submissions to the Commissioner in response to the SEF within 20 days of the SEF being placed on the public record. The due date to lodge written submissions in response to this SEF is no later than **12 January 2021**.

The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Minister.

Submissions may be lodged by email to [investigations2@adcommission.gov.au](mailto:investigations2@adcommission.gov.au).

Alternatively, interested parties may post submissions to:

Director, Investigations 2  
Anti-Dumping Commission  
GPO Box 2013  
CANBERRA ACT 2601  
AUSTRALIA

Confidential submissions must be clearly marked as “OFFICIAL: Sensitive”. A non-confidential version of the submission, marked “PUBLIC RECORD”, is required for the public record. A guide for making submissions is available on the Commission website.<sup>17</sup>

The public record contains non-confidential submissions from interested parties, non-confidential versions of the Commission’s verification reports and other publicly available documents. Interested parties should read this SEF in conjunction with other documents on the public record.

## **2.5 Final report to the Minister**

The Commissioner’s final report and recommendations must be provided to the Minister within 155 days after the publication of a notice under section 269ZHD(4) or such longer period as the Minister allows.

The Commissioner will consider submissions made in relation to this SEF in making their final report to the Minister. The final report will recommend whether the relevant notice ought to:

- 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.

The Commissioner must report to the Minister by no later than **2 March 2021**.

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<sup>17</sup> Available on the Commission’s [website](https://www.adcommission.gov.au).

### 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 Australian industry and whether the expiration of the measures would lead to a continuation of, or a recurrence of, the dumping and material injury that the measures are intended to prevent. The Commission’s framework for assessing like goods is outlined in Chapter 2 of the *Dumping and Subsidy Manual November 2018* (the Manual).<sup>18</sup>

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.

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<sup>18</sup> Available on the Commission’s [website](#).

### 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.*<sup>19</sup>

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 excluded<sup>20</sup> 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.

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<sup>19</sup> As set out in [ADN No. 2020/020](#) and [REP 264](#).

<sup>20</sup> [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

On 3 August 2020, InfraBuild made a submission to the Commission concerning the tariff classifications outlined in Table 5.<sup>21</sup> InfraBuild's submission, which was a joint submission for this inquiry and Review 563 noted an additional tariff classification heading, 7308 (structures and parts of structures), which it considered may have been assigned to imports of the goods.

InfraBuild requested the Commission review the import data to ensure the goods imported under this additional tariff heading are included in the Commission's analysis. InfraBuild's submission also requested the Commission consider updating the DCR to include goods under this additional heading.

The Commission reviewed the ABF import database for the additional tariff heading and found no evidence of the goods being exported under this heading. Based on this, the Commission does not find it appropriate to update the DCR.

## **3.4 Model control code**

The Commission generally uses 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.<sup>22</sup>

The Commission proposed a MCC structure for this inquiry at initiation,<sup>23</sup> however, due to the lack of cooperation from exporters in this inquiry, the Commission was unable to assess the proposed MCC structure in relation to exports from China.

### **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).<sup>24</sup> 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 China 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**

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

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<sup>21</sup> EPR 560, document no. [03](#)

<sup>22</sup> The basis for using a MCC structure and the Commission's practice is explained in [ADN 2018/128](#).

<sup>23</sup> EPR 560, document no. [02](#)

<sup>24</sup> [AS/NZS 4671:2001](#)



Australian market generally originates from mills that are ACRS certified. The Commission found that two Chinese producers of rebar had ACRS certification in December 2020.<sup>25</sup>

### **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'. The findings below have had regard to the Commission's:

- examination of the Australian industry and the goods in previous cases;<sup>26</sup>
- verification of exporters in China in previous cases;<sup>27</sup> and
- findings in previous cases that locally produced goods are like goods to the goods exported from China;<sup>28</sup>

the Commission is satisfied that the locally produced goods closely resemble the goods the subject of the application and are like goods. This is as the:

- primary physical characteristics of the locally produced goods closely resemble the imported goods;
- imported and locally produced goods are commercially alike as they are sold to the same customers and/or compete in the same markets;
- imported and locally produced goods are functionally alike as they have the same end uses and/or are substitutable; and
- imported and locally produced goods are manufactured in a similar manner.

#### **3.5.1 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.

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<sup>25</sup> <https://www.steelcertification.com/acrshome.html#>

<sup>26</sup> EPR 546, document no. [19](#) and EPR 495, document no. [18](#) refer.

<sup>27</sup> EPR 411, document no. [8](#) and EPR 412, document no. [8](#) refer.

<sup>28</sup> Investigation 300, Review 411/412/423 and Review 467.

### **3.6.1 Production process**

The production processes relevant to rebar were previously observed by the Commission as part of Investigation 495.<sup>29</sup> The Commission is satisfied that there have been no 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;<sup>30</sup> and
- there is an Australian industry which produces like goods in Australia.<sup>31</sup>

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<sup>29</sup> EPR [495](#)

<sup>30</sup> Section 269T(2) refers.

<sup>31</sup> Section 269T(4) refers.

## 4 AUSTRALIAN MARKET

### 4.1 Finding

The Commissioner has found that during the inquiry period the Australian market for rebar was supplied by the Australian industry and imports from a number of countries, including China, countries that are currently subject to measures on separate anti-dumping notices and other countries (not 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 rebar industry. The analysis detailed in this chapter is based on verified financial information submitted by InfraBuild and data captured in the ABF import database.

The period from 1 July 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 or processed in some way. 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.

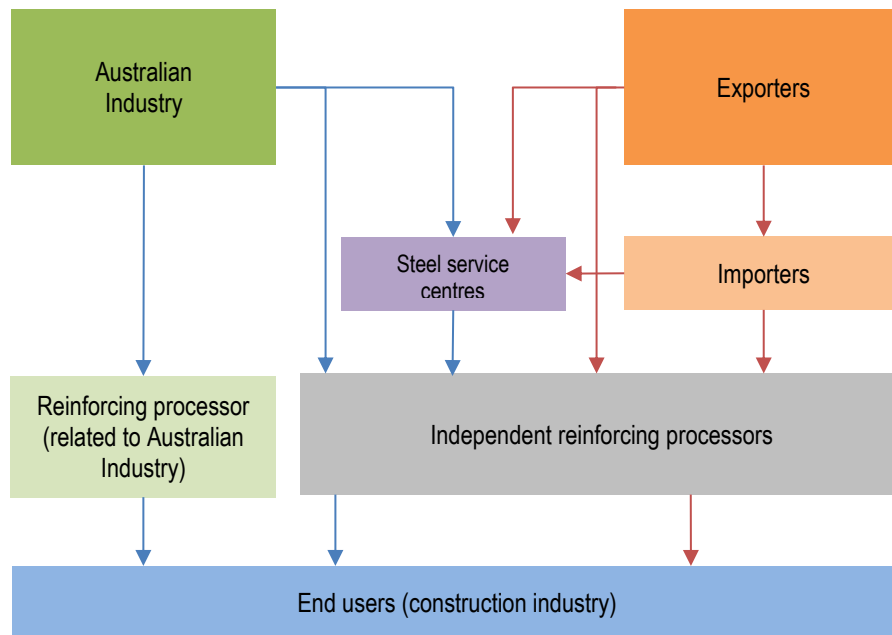
Largely owing to the requirements of the Australian Standard and the Building Code of Australia, there is limited substitutability of rebar with other reinforcing products such as stainless steel, glass fibre, carbon fibre or basalt. These substitutes are not widespread in Australia and rebar is a ubiquitous 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 two 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 two to three 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

Demand for rebar 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 the 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.

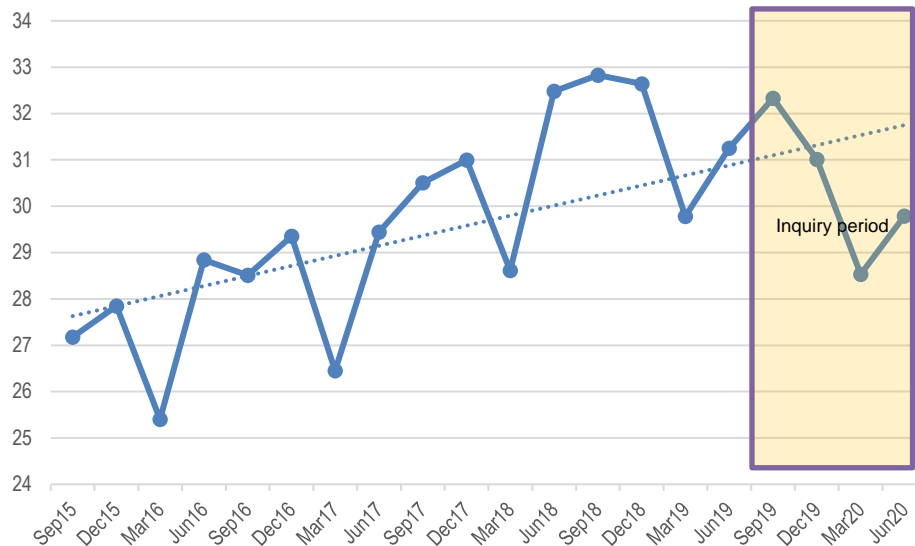
The Australian industry and importers have regard to forecasts for demand to manage their supply chains. In December 2019, BIS Oxford Economics estimated the value of total building and construction work in Australia to be approximately \$200 billion in FY19. At that time, it forecast that this would grow to approximately \$250 billion by FY24.<sup>32</sup> 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.

<sup>32</sup> BIS Oxford Economics' latest *Building Industry Prospects* report (December 2019)

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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 1 July 2015. The dotted line shows the trend over this time.



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

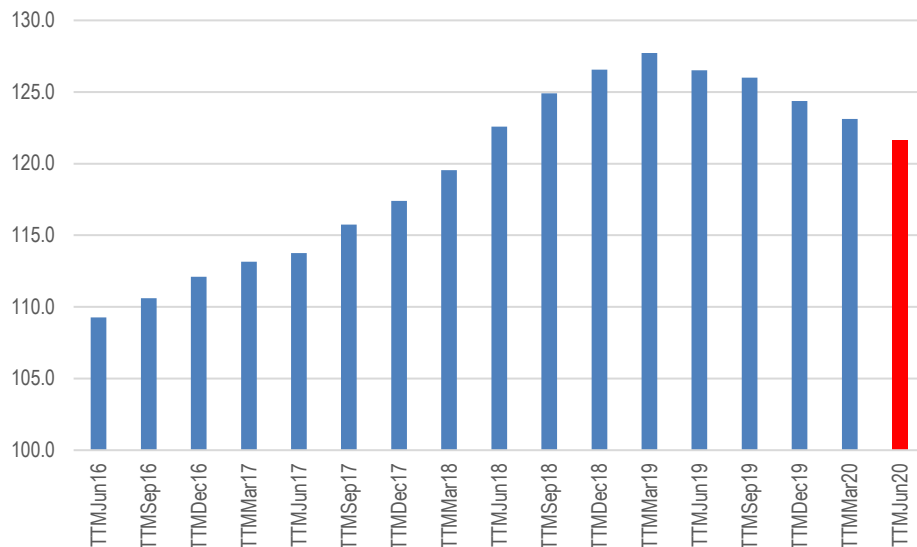
Source: Australian Bureau of Statistics<sup>33</sup>

Figure 2 demonstrates that the historical building and construction trend has generally been upward. Three of the quarters in the inquiry period have been below the long term trend. Although there has been an improvement in the June 2020 quarter compared to the March 2020 quarter it was still below the previous corresponding June quarter. 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 2018.

<sup>33</sup> 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 from 1 July 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 Statistics<sup>34</sup>

Growth peaked in the 12 months ended 31 March 2019 (\$127.7B). Since this time the level of investment has been in decline. The inquiry period experienced the lowest level of activity (\$121.7B) since the TTM to 31 March 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 *Budget 2020-21* in October 2020<sup>35</sup> forecast that dwelling investment will fall by 8.8 per cent in 2019-20 and 11 per cent in 2020-21. Beyond this it has forecast that dwelling investment will increase by 7 per cent in 2021-22. However, the outlook is constantly being revised and the full extent of recently announced government stimulus is yet to be realised, particularly in the residential segment.

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.

<sup>34</sup> Available from the Australian Bureau of Statistics (ABS) [website](#). Data from section 8752.0 Building Activity, Australia (Table 12).

<sup>35</sup> Australian Government, *Budget 2020-21*, October 2020, [Budget Paper 1 - Statement 2: Economic Outlook](#)

#### 4.3.4 Pricing

In Investigation 300, 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 continued to apply the IPP model in the period following the imposition of measures and throughout half of the inquiry period. It further claimed that pricing in the Australian market is influenced by prices of imported rebar.

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, InfraBuild 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 6.4.6 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 2018, Commercial Metals Company was acquired by Macsteel International Trading Holdings B.V., and became Macsteel.

In August 2019, InfraBuild acquired Dalian Steelforce Hi-tech Co., Ltd (a Chinese producer of rebar) and its related party businesses in Australia (Steelforce Holdings Pty Ltd and subsidiaries) which is an importer and distributor of rebar.<sup>36</sup>

In March 2020 it was announced that InfraBuild Trading Pty Ltd had agreed to acquire Best Bar.<sup>37</sup> In June 2020 it was announced that the acquisition would no longer proceed.

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<sup>36</sup> The relevant media release from GFG Alliance's [website](#) .

<sup>37</sup> The public register of the Australian Competition & Consumer Commission [website](#).

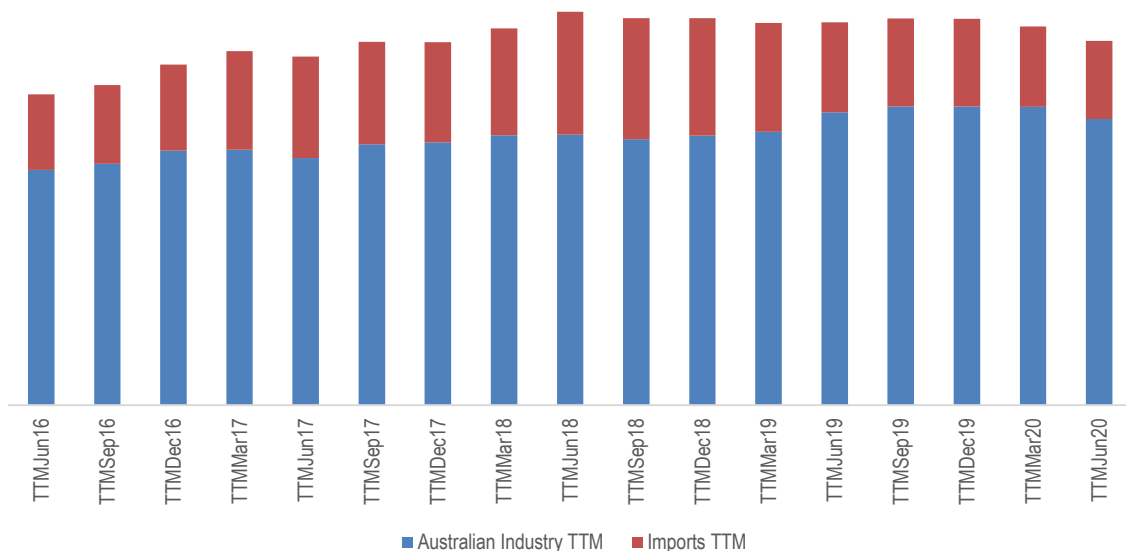
#### 4.4 Market size

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. 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 2015. This analysis can be found in **Confidential Attachment 1**.



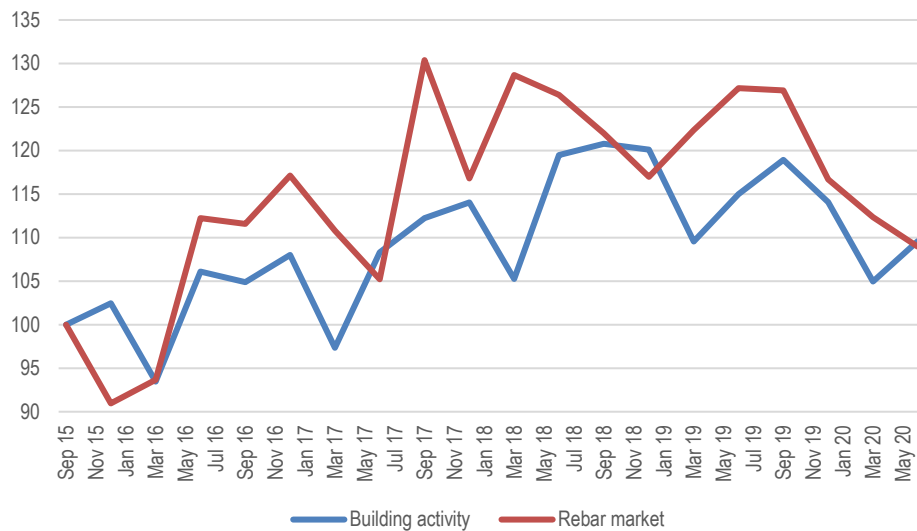
**Figure 4: Australian market for rebar (MT), TTM**

The Commission observes that the Australian rebar market grew by 28 per cent from TTM June 2016 before peaking in the 12 months ended 30 June 2018. Since reaching its peak in TTM 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 to the total rebar market (domestic production and imports), indexed to the September 2015 quarter.



**Figure 5: Value of building and construction and total rebar market, quarterly change, indexed to September 2015 quarter**

### 4.5 Importers

The Commission analysed the ABF import database for imports of the goods from China during the inquiry period. The Commission identified negligible quantities of the goods from China during the inquiry period.

## 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 reliable financial information submitted by InfraBuild and information captured in the ABF import database.

The period from 1 July 2011 has been used for the purposes of identifying trends in the sales volume and market share of the Australian industry. The period from 1 July 2015 has been used to identify trends in the price, profit, profitability and other economic factors of the Australian industry. 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 6.

### 5.2 Findings in original investigation

REP 300 found that the Australian industry had experienced injury in the form of:

- loss of sales volumes;
- less than achievable market share;
- price suppression;
- less than achievable profits and profitability;
- reduced employment;
- reduced value of assets employed in the production of rebar; and
- reduced value of capital investment in the production of rebar.

### 5.3 Commencement of injury and analysis period

Measures currently apply<sup>38</sup> to goods exported to Australia from Republic of Korea, Greece, the Republic of Indonesia, Taiwan (Power Steel Co. Ltd only), the Kingdom of Thailand, Spain and China.

On 19 November 2015, anti-dumping measures in the form of interim dumping duty (IDD) were imposed on rebar exported from Korea, Singapore, Spain and Taiwan.<sup>39</sup>

On 13 April 2016, anti-dumping measures in the form of IDD were imposed on rebar exported from China.<sup>40</sup> The measures were amended on 19 April 2018,<sup>41</sup> and again on 14 December 2018.<sup>42</sup>

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<sup>38</sup> On 10 November 2020 the Minister decided to cease measures applying to exports of rebar from Singapore and Taiwan (except Power Steel Co Ltd)

<sup>39</sup> Refer to the Final Report [REP 264](#) and [ADN 2015/133](#)

<sup>40</sup> Refer to the Final Report [REP 300](#) and [ADN 2016/39](#)

<sup>41</sup> [ADN 2018/49](#)

<sup>42</sup> [ADN 2018/185](#)

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.<sup>43</sup>

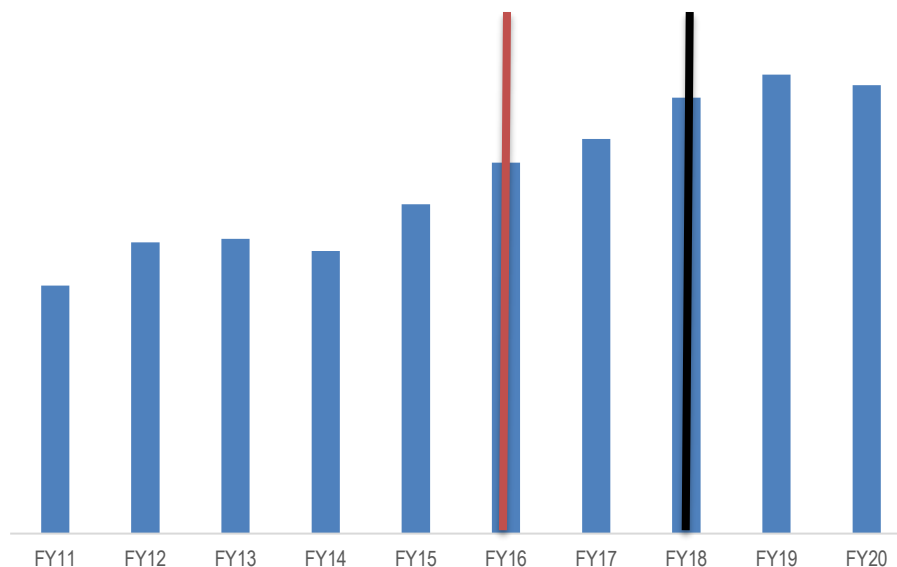
On 31 May 2019, anti-dumping measures in the form of IDD were amended on rebar exported from Korea and Taiwan (except Power Steel).<sup>44</sup>

In REP 300, the Commission analysed the period commencing 1 July 2011. In this continuation inquiry, the Commission has reviewed the economic condition of the Australian industry from 1 July 2015. In order to review trends in volume effects, the Commission has examined the initial injury analysis period from REP 300 as well as the period commencing 1 July 2015.

## **5.4 Volume effects**

### **5.4.1 Sales volume**

The chart below shows the volume of rebar sold by InfraBuild during the financial years (FY) ended 30 June 2011 to 30 June 2020. During FY16 measures were imposed (denoted by the vertical red line) on exports of the goods from China (REP 300), Korea, Singapore, Spain (except Nervacero S.A) and Taiwan (except Power Steel Co. Ltd) (REP 264 countries). During FY18 measures were imposed (denoted by the vertical black line) on exports of the goods from Nervacero (Spain), Power Steel (Taiwan), Greece, Indonesia and Thailand (REP 418 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 FY16 and FY18.

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

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

### 5.4.2 Market share

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

- the Australian industry;<sup>45</sup>
- exports from China;
- exports from countries subject to measures;<sup>46,47</sup> and
- exports from countries not subject to measures.

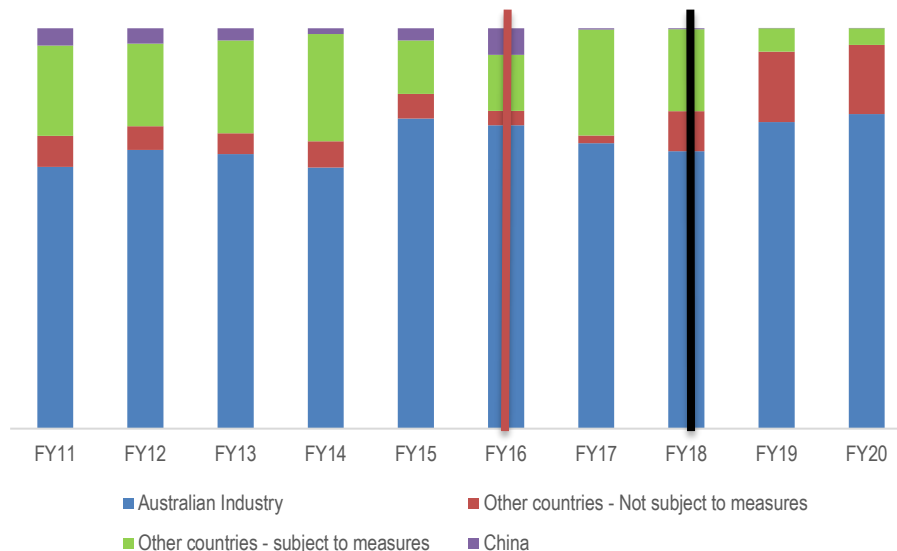


Figure 7<sup>48,49</sup>: Australian market share

#### Australian Industry

Following the imposition of measures in FY16 InfraBuild initially regained some market share. From FY15 to FY18 InfraBuild experienced a steady decline in market share. Following the imposition of measures on other countries in FY18 InfraBuild has experienced an increase in market share.

#### China

The market share of Chinese exports initially grew in FY16 following the imposition of measures on the REP 264 countries. Since the imposition of measures on exports of the goods from China in FY16, exports from China have almost ceased.

<sup>45</sup> 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. InfraBuild's sales of imported goods have not been included in its sales volumes in Figure 7.

<sup>46</sup> 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.

<sup>47</sup> Exports of goods from Countries subject to measures have been classified as such for the entire analysis period and not from the date of the measures being imposed.

<sup>48</sup> Vertical red line denotes the imposition of measures on China, Korea, Singapore, Spain and Taiwan.

<sup>49</sup> Vertical black line denotes the imposition of measures on Nervacero (Spain), Power Steel (Taiwan), Greece, Indonesia and Thailand

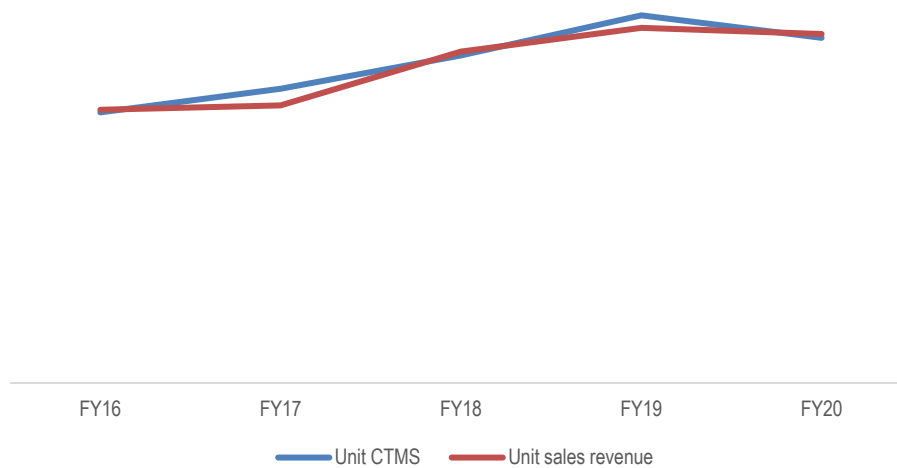
## Other countries – subject to measures

The market share of countries subject to measures increased in FY17, which was after the imposition of measures on the REP 264 countries in FY16. In FY19 and FY20 the market share of exports from countries subject to measures has decreased following the imposition of measures on the REP 418 countries in FY18.

## 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. An indicator of price suppression may be the margin between prices and costs. Figure 8 below summarises the Australian industry's unit selling price and unit CTMS for rebar.

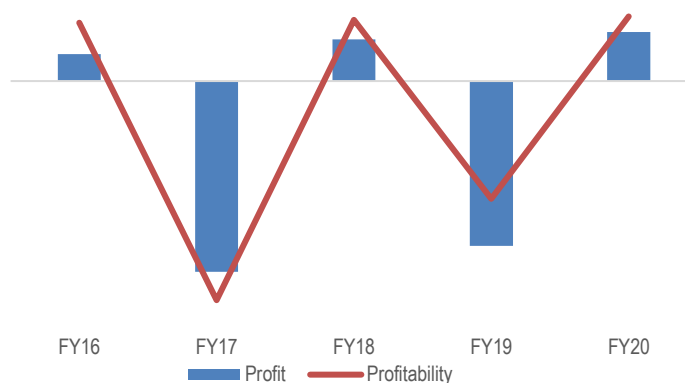


**Figure 8: Australian industry unit selling price and CTMS**

Since FY16, the Australian industry's unit selling price of rebar has experienced an upward trend, however, the unit CTMS was above the unit selling price in FY17 and FY19. This suggests that InfraBuild has not been able to increase its selling price in order to move from a loss to a sustained profit position on a per unit basis. The Commission notes that more recently, the unit selling price has been higher than the unit CTMS.

## 5.6 Profit and profitability

Figure 9 below summarises InfraBuild's profit and profitability for the period FY16 to FY20.



**Figure 9: Profit and profitability**

InfraBuild has not been able to achieve consistent profits on its sales of rebar since FY16, despite the measures. While small profits were achieved in FY16, FY18 and FY20 cumulatively, InfraBuild has posted a loss on its sales of rebar from FY16 to FY20.

## 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	FY16	FY17	FY18	FY19	FY20
Assets (\$)	100	101	92	114	108
Capital investment (\$)	100	171	176	307	273
R & D Expense (\$)	100	0	66	55	28
Revenue (\$)	100	108	143	161	154
Return on investment (%)	100	-735	160	-588	148
Capacity (MT)	100	99	106	106	103
Actual production (MT)	100	109	111	120	122
Capacity utilisation (%)	100	110	105	113	118
Employment (persons)	100	99	105	108	97
Productivity (MT per shift)	100	100	104	101	99
Stock/inventory (closing stock MT)	100	119	223	127	102
Cash flow (receivables turnover)	100	94	98	101	85
Wages (\$)	100	102	113	127	129
Average wage (\$ per FTE)	100	98	112	104	126

**Table 6: Indices of other economic factors, FY**

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With the exception of research and development (R&D) expense and cash flow, all of the other metrics show a general improvement or have remained stable since FY16, the year the anti-dumping measures were imposed. The variability in the return on investment mirrors InfraBuild's profit performance for like goods as shown at section 5.6. Receivables turnover as a cash flow metric reflects a slower rate of accounts receivable collection meaning that it takes longer for InfraBuild to be paid by its customers.

InfraBuild advised that the drop off in R&D expense in 2017 was due to it being placed in voluntary administration (then Arrium Limited) just prior. While there has been a recovery in this metric in FY18 it again declined in FY19 and FY20.

### **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 LIKELIHOOD THAT DUMPING AND MATERIAL INJURY WILL CONTINUE OR RECUR

### 6.1 Preliminary finding

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 China would lead, or would be likely to lead, to a recurrence of the dumping and the material injury that the measures are intended to prevent.

### 6.2 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.<sup>50</sup>

### 6.3 Australian industry claims

In its application,<sup>51</sup> the Australian industry made the following claims regarding the continuation or recurrence of injury of rebar exported to Australia from China:

- strong demand for rebar in Australia makes it an attractive destination for exporters;
- exporters from China have maintained certification necessary to supply via their original distribution networks in Australia;
- exporters of rebar from China 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;
- Chinese exporters of rebar continue to be active in the Asian regional market at prices that are at, or near, the lowest prices of any other source of rebar; and
- 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. The Commission did not receive any submissions challenging the claims made by the Australian industry.

<sup>50</sup> ADRP Report no. [44](#) (Clear float glass) refers.

<sup>51</sup> EPR 560, document no. [01](#)



## 6.4 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.<sup>52</sup> 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.

### 6.4.1 Analysis of dumping margins

In the table below, the Commission has summarised the history of dumping margins associated with each exporter from China.

Exporter	Investigation 300	Review 411/412/423	Review 467	Review 563 <sup>53</sup>
Shandong Shiheng Special Steel Group	15.3%	No change	All exporters reverted to uncooperative and all other exporters rate	All exporters reverted to uncooperative and all other exporters rate
Shandong Iron and Steel Company Limited, Laiwu Company	16.4%	No change		
Jiangsu Yonggang Group Co. Ltd.	11.7%	6.1%		
Hunan Valin Xiangtan Iron & Steel Co. Ltd.	15.2%	19.7%		
Jiangsu Shagang Group Co. Ltd.	n.a	12.3%		
Uncooperative and all other exporters	30.0%	No change	22.7%	19.0%

**Table 7: Previous dumping margins**

The Commission has found dumping margins for all Chinese exporters of rebar to have been consistently high throughout the life of the measures. Following review 467 all exporters reverted to a single dumping margin.<sup>54</sup>

The Commission has not re-examined the variable factors in this inquiry. For the purposes of this inquiry the Commissioner has relied on the variable factors preliminarily found in Review 563. The Commissioner notes these preliminary variable factors relate to the same exporters and goods, and were found following consideration of the same time period as this inquiry. Accordingly, the Commissioner considers the preliminary variable factors are relevant, reliable and contemporaneous for the purposes of this inquiry.

The Commission's approach to calculating the preliminary dumping margin in Review 563 was to index the variable factors found in Review 467 with the movements in relevant S&P Global Platts Steel Business Briefing (SBB) price benchmarks from the Review 467 review

<sup>52</sup> [The Manual](#), pp. 175-176 refer.

<sup>53</sup> Preliminary finding

<sup>54</sup> EPR 467. Document no. [09](#)

period until the Review 563 review period. Normal values were indexed with the movement in the SBB price benchmark for the Latin American Billet FOB export price. Export prices were indexed with the SBB price benchmark for the rebar FOB export price from Zhangjiagang, China.

The Commission also considered the likelihood that Chinese exporters would have dumped exports during the inquiry period by comparing:

- the average SBB export price for the inquiry period; and
- the normal values found in Review 411/412/423 (which were the most recently determined normal values based on verified exporter data) indexed with the movement in the SBB Latin American billet benchmark over the same period.

This comparison results in dumping margins ranging from 15.2 per cent to 28.9 per cent and an average of 22.8 per cent, which is similar to the dumping margin preliminarily found in Review 563. This analysis can be found in **Confidential Attachment 3**.

#### 6.4.2 Export volumes and the impact of measures

Figure 10 illustrates that exports from China have virtually ceased since measures were introduced in FY16 (denoted by the vertical red line). However there has continued to be exports of the goods from China, albeit in negligible quantities.

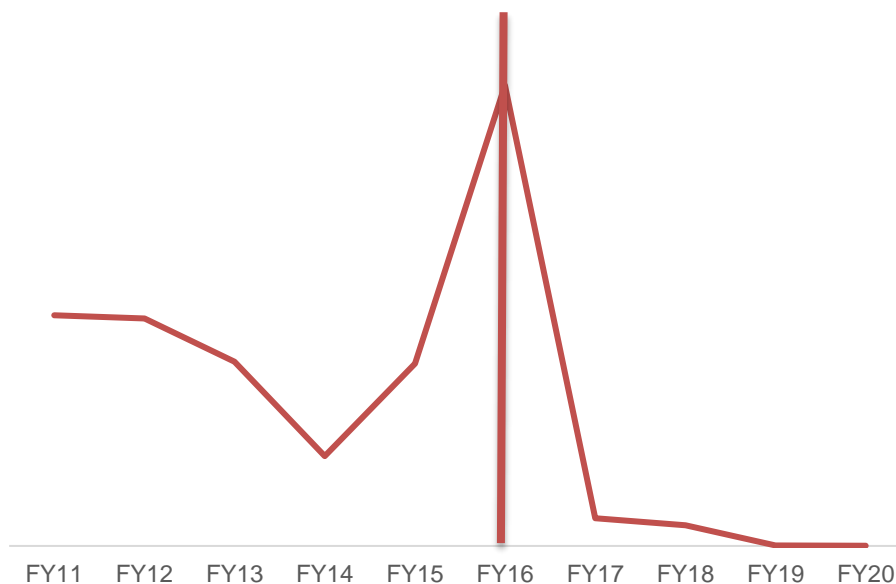
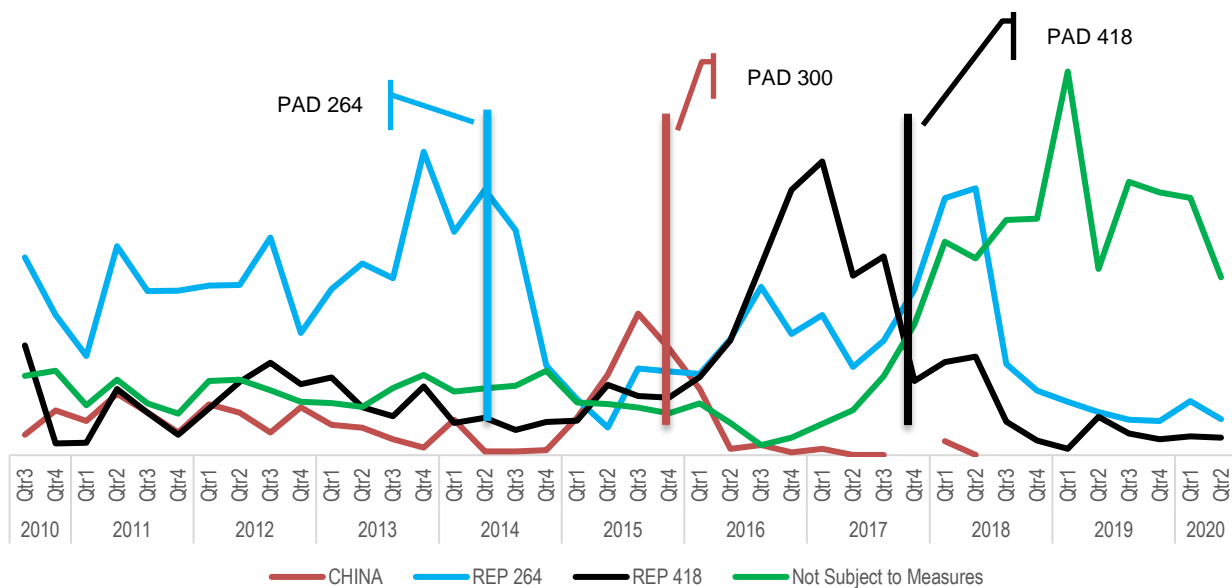


Figure 10: Export volumes from China (MT)

## PUBLIC RECORD

Figure 11 below shows the quarterly export volumes from China, REP 264 countries, REP 418 countries and countries not subject to measures, along with the imposition of the respective measures for each of the investigations.<sup>55</sup>



**Figure 11: Quarterly export volumes of rebar (MT)**

Figure 11 above illustrates the impacts on trade flows of the goods from various countries following the imposition of measures. Of particular note is the decline in exports from countries subject to measures around the time of measures being imposed or the associated investigations being announced. These changes in the patterns of trade that coincide with new investigations being initiated or measures being imposed demonstrates the Australian rebar market's ability to readily switch suppliers. The Commission considers that in the absence of measures on China, it is likely that Australian importers would similarly switch supplier and source the goods from China. The Commission further considers that such behaviour would be motivated on account of the data in the chart at Figure 12, which shows that the price of the goods from China would likely have been the lowest in the Australian market during the inquiry period had the goods been exported.

### 6.4.3 Maintenance of distribution links

The Commission's analysis of the ABF import database indicates that during the inquiry period, there was an insufficient quantity of goods imported to determine that Chinese distribution links had been maintained with particular customers. However as demonstrated by Figure 11 importers are able to quickly switch supply from alternate sources. The Commission also found that importers who had previously sourced the goods from rebar exporters in China continue to import the goods from other countries during the inquiry period.

The Commission considers it likely that Australian importers would restore their trading links with exporters from China should the measures on rebar from China be allowed to expire on the basis of:

<sup>55</sup> In relation to each investigation, provisional measures were first imposed in the form of securities following the preliminary affirmative determination (PAD) made by the Commissioner.

- the historical relationships observed between Australian importers and exporters from China; and
- the finding that export prices of the goods from China would have been the lowest in the Australian market during the inquiry period and that the price of the goods has historically had a strong influence on the volume exported to Australia.

#### **6.4.4 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 China 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 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.

The Commission reviewed the ACRS certification register at the initiation of this Inquiry and found that there were three Chinese producers with active ACRS certification. A number of other Chinese producers that had previously held certification had had their certification suspended or terminated earlier due to non-compliance.

During the conduct of this inquiry two of the three Chinese producers had their ACRS certification terminated or suspended due to non-compliance with the certification scheme.<sup>56</sup> In a short period of time one of those two subsequently had its ACRS certification reinstated. This demonstrates how rapidly producers are able to reactivate ACRS certification.

Given the requirements placed on exporters in order to maintain ACRS certification, the Commission considers it reasonable that the exporters with ACRS certification intend to continue to supply the Australian market. While those with suspended certification may seek to reactivate their certification by applying to ACRS.

The Commission therefore considers that exporters who hold or can readily obtain ACRS accreditation would provide those exporters from China the opportunity to supply the Australian market at very short notice should the measures be allowed to expire.

#### **6.4.5 Production capacity and capacity utilisation**

The Commission did not receive information concerning capacity and capacity utilisation from Chinese exporters of rebar during this inquiry. However the Commission notes the EUROFER research which indicated that Chinese domestic steel production exceeded domestic demand and there was a 70 per cent increase in China's steel inventory

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<sup>56</sup> <https://www.steelcertification.com/acrshome.html>

compared to the average inventory levels from 2014 to 2019.<sup>57</sup> With this level of excess production capacity, the Commission considers that exporters from China would not be prevented from exporting the goods to Australia should the measures be allowed to expire.

#### 6.4.6 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 referenced 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. Product specifications priced based on IPP account for a large proportion of InfraBuild's sales making InfraBuild highly susceptible to import prices for a significant proportion of its sales.

InfraBuild's submission<sup>58</sup> of 12 August 2020 provided evidence that InfraBuild's customers continue to reference the price offers relating to imported rebar regardless of what price mechanism was in play.

In relation to the above the Commission has several examples of InfraBuild's customers quoting prices from import sources, which have influenced InfraBuild's prices during the inquiry period. This evidence can be found in **Confidential Attachment 4**. 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.

The Commission considers the above analysis and evidence supports the finding that when negotiating prices with its customers, InfraBuild continues to be influenced by, or directly follows, import pricing when setting its prices for rebar. In particular the lowest price offer in the market at the time. Within this context, the Commission also considers that should rebar from China become a viable option on the Australian market, InfraBuild would similarly be required to have regard to the price of rebar from China in its price setting practices.

#### 6.4.7 Substitutability and price sensitivity

In Investigation 264, the Commission found that rebar is a highly price sensitive commodity good.<sup>59</sup> In Continuation Inquiry 546 and in this inquiry, the Commission was provided with examples of InfraBuild's customers quoting import price offers in price negotiations. Having regard to this information and the information examined below in section 6.4.8, the Commission considers that InfraBuild's prices continue to be influenced as a result of the price offers relating to imported rebar.

As discussed in section 3.5, the rebar produced by the Australian industry is identical or closely resembles the goods imported from China. In the absence of measures the

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<sup>57</sup> EPR 560, document no. [06](#)

<sup>58</sup> EPR 546, document no. [21](#)

<sup>59</sup> [REP 264](#), Final Report p.93

Commission considers it reasonable that rebar from China would be readily substitutable with rebar sourced from other countries and Australian industry.

The Commission further considers that should the measures be allowed to expire and exports of the goods from China were to recur in material quantities, the price of these goods would likely become the reference price in negotiations between InfraBuild and its customers.

#### 6.4.8 Price undercutting

Price undercutting occurs when imported goods are sold at prices below those of Australian manufactured like goods. In REP 300 the Commission found that there was price undercutting by Chinese exports or rebar.

Although there was no cooperation from Chinese exporters in this inquiry the Commission was able to undertake a price undercutting analysis using export price data sourced from SBB.<sup>60</sup>

Having regard to the SBB price data, the Commission estimated a Chinese selling price using the Chinese FOB export prices plus reasonable estimates for ocean freight, marine insurance, importation costs, importer selling, general and administrative expenses, and an amount for importer profit. The Commission then compared this estimate of Chinese export prices with InfraBuild's selling prices during the inquiry period.

The Commission found that during the inquiry period the estimated Chinese selling prices were on average 19.3 per cent lower than InfraBuild's prices. Over the course of the inquiry period the estimated Chinese prices ranged from 11.4 per cent to 25.2 per cent lower than InfraBuild's prices. This analysis is contained in **Confidential Attachment 2**.

Figure 12 below compares the quarterly FOB export prices from China, REP 264 countries, REP 418 countries and countries not subject to measures sourced from ABF data, China FOB export prices sourced from SBB, and InfraBuild's delivered price.

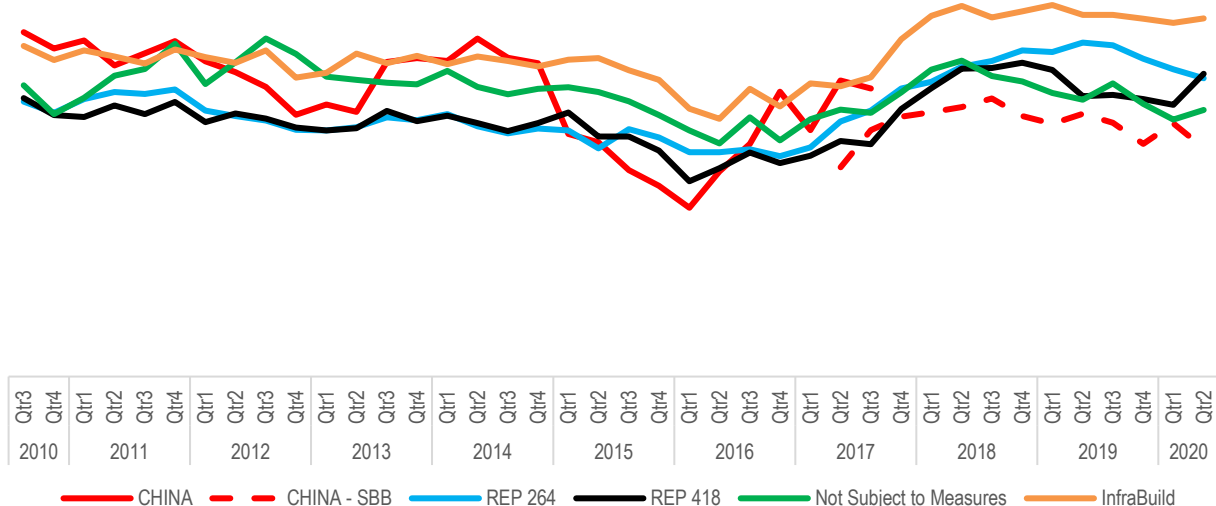


Figure 12: Quarterly export price, FOB A\$/MT<sup>61</sup>

<sup>60</sup> SBB Price series: STCBZ02 - Long Products / Rebar / China export FOB China RMB/t

<sup>61</sup> Except for InfraBuild which is a delivered price.



Figure 12 demonstrates that the source of the lowest export price has varied over time however in the period since mid-2017 the SBB export price data shows that had China exported the goods to Australia, at the average price it exported to other global markets, China would have had the lowest FOB export prices in the Australian market.

Figure 12 also demonstrates that, although not at the same level of trade, InfraBuild's delivered price moves closely with the prices of exports, in particular the prices of countries not subject to measures. This confirms that InfraBuild's pricing is highly sensitive to export prices.

Actual export prices obtained in ABF data demonstrated that since mid-2018, the FOB export prices of the goods from countries not subject to measures have tended to be the lowest. This has translated into countries not subject to measures commanding the largest volume of exports to Australia (refer Figure 11).

On account of the observation that the FOB export price of the goods from China would have been the lowest in the Australian market during the inquiry period, the Commission considers that the price and volume relationship observed in relation to exporters not subject to measures would likely emerge in relation to exports of the goods from China should the measures be allowed to expire.

As shown in Figure 12, the export price from China would have been the lowest in the market and the price undercutting analysis at **Confidential Attachment 2** shows Chinese prices would have undercut Australian industry's prices by on average 19.3 per cent if the goods had been exported to Australia.

On the basis that the Commission has established that InfraBuild's customers rely on import prices to negotiate price, the Commission considers it likely that the price of rebar from China would also be referenced by InfraBuild's customers, should these goods become available on the Australian market in the event that the measures are not continued.

At the lowest in the market, the Commission considers the price of rebar from China would afford exporters from China a significant price advantage over other market participants and likely become the reference point for price negotiations between other parties in the Australian market. As a result, the Commission considers that the price of the goods exported from China would likely have a depressive effect on prices across the market generally, including those achieved by InfraBuild. The Commission therefore considers it likely that InfraBuild would experience a recurrence of injury in the form of price depression, price suppression and reduced profit and profitability should the measures be allowed to expire in relation to exports of the goods from China.

The Commission notes InfraBuild's submission on 17 December 2020 citing contemporary research that for the first time since 29 April 2020, global Chinese FOB export prices for rebar were trading at a discount to global Turkish FOB export prices.<sup>62</sup>

#### **6.4.9 Production displacement resulting in increased volumes to Australia**

In its application,<sup>63</sup> 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.

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<sup>62</sup> EPR 560, document no. [07](#)

<sup>63</sup> EPR 560, document no. [01](#)

Firstly, InfraBuild mentions the imposition of anti-dumping measures on Chinese exports by other countries. The Commission notes that Canada, USA, the European Commission (EC), Egypt and Pakistan currently have anti-dumping measures on Chinese exports of rebar.<sup>64</sup>

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

InfraBuild asserts that global demand for steel and rebar is forecast to contract in 2020. InfraBuild cites a range of sources to support this claim including the OECD, World Steel Association and the International Rebar Producers and Exporters Association (IREPAS).

Further InfraBuild asserts that global steelmaking capacity increased in 2019 and that global steelmaking capacity exceeded production.

InfraBuild expects that the factors of weakening global demand for steel and rebar, significant excess steel production capacity in China, weakened economic growth in China, restricted access to export markets due to anti-dumping measures on Chinese exports of rebar, will result in an increase of rebar that is diverted from China.<sup>65</sup>

In its submission to this inquiry published on 23 November 2020 InfraBuild provided further evidence to support its assertion that Chinese steel production would be diverted to Australia should measures not be continued. InfraBuild asserts that Chinese steel capacity has continued to expand well beyond its domestic requirements. Further InfraBuild cites EUROFER's research that found there was a 70 per cent increase in Chinese steel inventory compared to the 2014 -2019 average.<sup>66</sup>

The Commission concurs with InfraBuild's view that reducing domestic demand and increased measures in potential export markets has the potential to result in China's increased propensity to export to Australia. Notwithstanding Australia's geographical proximity to China the Commission notes that InfraBuild has not explained why China's displaced exports would necessarily be diverted to Australia as opposed to any other country in the Asian region.

Section 4.3 above found that the main demand driver for rebar in Australia, the construction industry, has seen declining growth in three of the last four quarters and total construction activity is at its lowest level since the 12 months ended 31 March 2018. The Australian Treasury<sup>67</sup> has forecast continued declines in dwelling investment in Australia and a contraction of the global economy by 4.5 per cent in 2020, with falls widespread across countries. Further the Australian Treasury has forecast the Chinese economy to grow at 1.75 per cent in 2020 and 8 per cent in 2021.

While the Commission finds that InfraBuild's conclusions concerning the impact of excess capacity remain uncertain in the current global environment, the expected reduction in demand in Australia can be expected to intensify price competition among steel suppliers.

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<sup>64</sup> WTO data, 'Detailed Query' from <https://i-tip.wto.org/goods/default.aspx?language=en>

<sup>65</sup> EPR 560, document no. 01, p24 refers

<sup>66</sup> EPR 560, document no. 06

<sup>67</sup> Australian Government, *Budget 2020-21*, October 2020, [Budget Paper 1 - Statement 2: Economic Outlook](#)



#### **6.4.10 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.<sup>68</sup>

Figures 6 and 7 show that following the imposition of measures in FY16 and FY18 respectively InfraBuild achieved its highest volumes in FY19 and market share in FY20 since 2011. The Commission considers that this improvement 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 in some years. While InfraBuild has increased its sales volumes, it experienced declining market share, until FY19. During the same period, the market share of exports subject to measures increased until declining sharply in FY19 and FY20, which further reflects the effectiveness of measures in reducing exports from dumped sources. Further the analysis in Figure 11 and Figure 12 shows that lowest priced exports tend to command the largest volumes and share of imports.

#### **6.4.11 Impact of measures on price**

While InfraBuild has increased selling prices since the imposition of measures in FY16 (refer Figure 8), it has not been able to raise its selling price in order to consistently recover its CTMS. This reflects InfraBuild's vulnerability to import prices and its customers' expectation that it will meet competing offers. As discussed at 6.4.8, since mid-2017 global Chinese FOB export prices have been lower than sources that did export to Australia. Had there been exports from China during this period InfraBuild would have had to compete with Chinese exports at dumped prices.

The Commission considers that an increase in export prices will reduce injury to the Australian industry as a consequence of it having to more closely meet export pricing to maintain volumes.

#### **6.4.12 Impact of measures on profits and profitability**

As a consequence of InfraBuild's requirement to maintain sales volumes, as well as the pressure to align its pricing with that of import prices, InfraBuild has not been consistently profitable in its sales of rebar. Although InfraBuild was profitable in some years, losses have exceeded profits resulting in InfraBuild incurring cumulative losses on its sales of rebar from FY16 to FY20. The improvement in profitability may be a result of the measures, however, the Commission notes that it also coincides with the sale of InfraBuild (then Arrium) to a new parent entity in 2017 following a period of voluntary administration (section 4.3.5 refers).

### **6.5 Conclusion**

The Commission's assessment of the recurrence of material injury was limited in this inquiry by the lack of cooperation from exporters and importers of rebar from China.

In the main, the Australian-produced goods and 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

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<sup>68</sup> [The Manual](#), page 175-176

Australian industry has experienced periods of price suppression, reduced market share, cumulative losses since FY16, and reduced research and development (R&D) expense and cash flow.

The Commission considers that there are reasonable grounds to assume that Chinese exporters are likely to resume exports to Australia. Chinese exporters have maintained ACRS certification, Chinese export prices have been the lowest during the inquiry period and there is a close relationship between price and export volumes, Australian importers have shown a propensity to import the cheapest priced product in the market, exports from China have not entirely ceased, there is increased steel inventory in China, and notwithstanding the recent decline in the Australian construction market, a continued demand for rebar. Chinese exports also enjoy the added advantage of geographical proximity to Australia resulting in better shipping lead times compared to other sources located further afield.

The Commission has consistently found since Investigation 300 that exports of Chinese rebar have been dumped. The Commission also notes that when compared against the indexed normal values from Review 411/412/423, the average Chinese FOB export price from SBB results in a dumping margin of over 20 per cent. As a general principle the Commission considers that, while the presence (or absence) of dumping during the inquiry period may be indicative of future behaviour, this factor alone is not determinative. As stated earlier the Commission believes that should Chinese exports recur they would be at dumped prices.

As discussed in section 4.3.3, the Commission notes that despite the uncertainty in reliably forecasting the full impact of COVID-19 on demand for rebar in the Australian market, data has shown that there has been a sustained downturn in construction activity since the 12 months ended 31 March 2019 (refer Figure 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 contracted market will result in intensified competition with associated price pressure to achieve sales volumes and market share, providing an incentive for dumping to recur.

The requirement within this market to match or more closely meet import offers in order to maintain sales volumes will likely result in a recurrence of injury in the form of price suppression and as a result, reduced profits and profitability to the Australian industry. The analysis at Figure 12 shows that had China exported to Australia at the average price it exported to other global markets, China would have had the lowest FOB export prices of the sources that did export to Australia.

Since the imposition of measures in FY16 there has been a dramatic reduction in the export of Chinese rebar to Australia. This indicates that due to the presence of measures, that exports of Chinese rebar would not be able to compete at undumped prices.

Despite the inherent uncertainty in predicting the behaviours that will be 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 China, the Commissioner is satisfied that the expiration of the measures applying to rebar exported to Australia from China would lead, or would be likely to lead, to a recurrence of the dumping and the material injury that the measures are intended to prevent.

#### **6.5.1 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 FY16, found that the Australian industry's:

- market share trended down for much of the period since the measures were imposed, although there has been an improvement since FY19;
- sales volumes increased following the imposition of measures;
- per unit selling price has increased;
- per unit CTMS has been above per unit selling price in some years, despite the imposition of measures, the Commission notes that the selling price was above the per unit CTMS during the inquiry period; and
- profitability has been variable since FY16 with cumulative net losses incurred from FY16 to FY20.

The Commission considers that if measures were to expire, the recurrence of dumped exports from China would put downward pressure on prices in the Australian market such that the Australian industry would experience price suppression, loss of profits and the prospect of a deterioration in market share.

The size of the dumping margins found is significant and a high proportion of InfraBuild's sales are priced based on an IPP model.

The Chinese steel industry has, in general, underutilised capacity that if directed to Australia can supply a large part of the Australian market.

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 goods from China in the Australian market would result in material injury to the Australian industry.

## 7 FORM OF MEASURES

### 7.1 Preliminary finding

In Review 563 the Commissioner preliminarily found that the existing form of anti-dumping measures to be appropriate. Since Review 563 the Commissioner is not aware of any information that would change this finding.

### 7.2 Forms of duty

The forms of duty available to the Minister when imposing anti-dumping measures are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013*. In relation to IDD, the forms of duty are:

- fixed duty method (\$X per tonne);
- floor price duty method;
- combination duty method; or
- *ad valorem* duty method (i.e. a percentage of the export price).<sup>69</sup>

The various forms of dumping duty all have the purpose of removing the injurious effects of dumping. However, in achieving this purpose, certain forms of duty will better suit particular circumstances than others. In considering which form of duty to recommend to the Minister, the Commissioner will have regard to the *Guidelines on the Application of Forms of Dumping Duty* (the Guidelines)<sup>70</sup> and relevant factors applicable to the market for the goods.

The Commission notes that current anti-dumping measures are in the form of a combination duty. The original investigation also found that rebar from China does not have various price points for different grades or finishes.

As there was no cooperation from Chinese exporters during this inquiry, the Commission considers that the circumstances of rebar exported from China remain the same and the combination duty method continues to be the most appropriate form of duty.

<sup>69</sup> Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

<sup>70</sup> The Guidelines are available [here](#).

## **8 PROPOSED RECOMMENDATION TO MINISTER**

On the basis of the reasons contained in this report, and in accordance with section 269ZHF(2):

- the Commissioner is satisfied that the expiration of the anti-dumping measures applying to rebar exported to Australia from China would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and material injury that the anti-dumping measures are intended to prevent.

As such, the Commissioner proposes to recommend that the Minister:

- secure the continuation of the dumping duty notice applying to rebar exported to Australia from China. If the Minister were to accept the Commissioner's proposed recommendation, the dumping duty notice in respect of rebar exported from China would continue for a another five years on 13 April 2021.

## **9 ATTACHMENTS**

<b>Confidential Attachment 1</b>	Injury analysis
<b>Confidential Attachment 2</b>	Price undercutting analysis
<b>Confidential Attachment 3</b>	Alternative dumping margin calculation
<b>Confidential Attachment 4</b>	Customer pricing evidence