

WRITTEN SUBMISSION OF SPANISH GOVERNMENT ON CONSIDERATION REPORT 566- CONSIDERATION OF AN APPLICATION FOR A REVIEW OF VARIABLE FACTORS IN RELATION TO THE AD MEASURES APPLYING TO STEEL REINFORCING BAR FROM KOREA, SINGAPUR, SPAIN AND TAIWAN-.

The Spanish Government (ES) would like to thank the Antidumping Commission (hereinafter the Commission) for the opportunity to submit comments on the Consideration Report 566 of an application for a review of variable factors in relation to the Antidumping measures applying to steel reinforcing bar from Spain (except Nervacero) and other countries. This new contribution must be understood as complementary to the one by Compañía Española de Laminación S.L. (hereinafter CELSA).

On 19 November 2015, the then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science Minister, based on Report 264, imposed anti-dumping measures on imports of steel reinforcing bar exported from the Republic of Korea, Singapore, Spain and Taiwan.

On 3 March 2020 the Commission initiated a continuation inquiry 546 in relation to the goods from the subject countries being the final recommendation expected to be issued on October 9.

On 21 August 2020, the Commission received an application from InfraBuild for a review of the anti-dumping measures applying to the goods exported to Australia from the subject countries claiming that there has been a change in normal value and export price. The consideration report 566 claims that the application is not prevented by section 269ZA(2), which requires that an application for review of anti-dumping measures must not be made earlier than 12 months after the publication of a dumping duty and/or countervailing duty notice or a notice declaring the outcome of the last review of the dumping duty notice.

Firstly, ES argues that the petition for review for change in circumstances claiming that *“the ascertained normal values for Celsa Barcelona and all other exporters will have changed, specifically, it is likely to have decreased by 10.9 per cent since this variable factor was last ascertained”* (page 10), based on the price of rebar on published industry information, can never affect CELSA which did not export to Australia in the investigation period. We also believe that the situation created by the COVID is not an argument in favor of the injury to the local industry created by imports, but a factor that should not be attributed to imports.

Secondly, ES argues that even if the petition for review formally is not contrary to law, it constitutes a clear case of abuse of process. The coexistence of two review procedures on the same products, whose investigation periods partially overlap, creates an unjustified burden for CELSA.

It is the Commission's obligation to ensure that that the rights of defense of interested parties are fully respected in this quasi-judicial process. In particular, the Commission should prevent any abuse of process, which is the commencement of proceedings against another party maliciously and without proper cause.

The petitioner may assert that the purpose of each proceeding is different and that the new review 566 has the objective of analyzing a change in the circumstances affecting the margin of dumping. However, the current review 546 also analyzes the changes in circumstances to decide whether to continue the measure. Indeed, in the continuation

review if the Minister decides to continue the anti-dumping measures, the Minister may determine that the notice continues in force after the specified day but that, after that day, the notice has effect, in relation to a particular exporter or to exporters generally, as if the Minister had fixed different specified variable factors in relation to an exporter or to exporters generally (Section 269ZHG). As a matter of fact, the SAF 546 devoted its paragraph 6 to assess variable factors stating that “*The Commission has found that the variable factors have changed for the exporters verified as part of this continuation inquiry*” (page 37).

In the light of the above, ES request the Commission to discontinue the investigation review 566.