

28 October 2020

The Director, Investigations 2
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2600

BY EMAIL:
investigations2@adcommission.gov.au

Dear Director,

Review of Anti-Dumping Measures No. 566 concerning steel reinforcing bar exported from Korea, Singapore, Spain, Taiwan

AUSTRALIAN INDUSTRY RESPONSE TO FOREIGN GOVERNMENT SUBMISSION – SPAIN

InfraBuild (Newcastle) Pty Ltd (**InfraBuild**), the applicant and a member of the Australian industry producing like goods to the goods the subject of this review of anti-dumping measures (**REV 566**), refers to the submission of the Government of Spain (**GOS**) published on 19 October 2020;¹ and makes the following observations and comments in response.

Assertion that “CELSA ...did not export to Australia in the investigation period”

It is not clear when the GOS refers to the “investigation period” whether it is referring to an absence of exports by Compañía Española de Laminación S.L. (**CELSA**) during the ‘inquiry period’² nominated in the *Continuation Inquiry into Anti-Dumping Measures (CON 546)*, the *previous* ‘review period’³, or the *current* ‘review period’⁴. For the sake of clarity, any comparison drawn in the application for this *Review of Measures “since this variable factor [export price] was last ascertained”* was between the “review period” for the *Review of Anti-Dumping Measures No. 489 (REV 489)* and the “review period” proposed for REV 566. The application was made on the basis of exports identified for CELSA and entered for home consumption in Australia during the “review period” for REV 566, specifically for the goods exported following the end of the “inquiry period” under CON 546. InfraBuild considers that the export of goods during the nominated “review period” amounts to a significant and material event that warrants the

¹ EPR Folio No. 566/006.

² *Continuation Inquiry into Anti-Dumping Measures No. 546* had an “inquiry period” of 1 January to 31 December 2019.

³ *Review of Anti-Dumping Measures No. 489* had a “review period” of 1 July 2017 to 30 June 2018.

⁴ *Review of Anti-Dumping Measures No. 566* has a “review period” of 1 July 2019 to 30 June 2020.

initiation of a review under Division 5⁵. We do not understand why the GOS would be opposed to a transparent process; authorised under the *Agreement on Implementation of Article VI of GATT 1994*⁶; to proceed? REV 566 is designed to ensure that all exporters are subject to contemporary and effective measures. Therefore, we cannot reconcile the submission of the GOS that a review process that seeks to properly ascertain export volumes and prices that were not captured during CON 546 somehow amounts to an “abuse of process”. We respectfully suggest that the GOS consult its locally domiciled exporter, CELSA, and confirm that it did in fact export goods following the end of the ‘inquiry period’, and concede that in those circumstances that it is entirely appropriate that the variable factors for CELSA be re-ascertained in accordance with Australia’s domestic law.

As to the claim that *...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...*⁷ we remind the GOS that the Commission’s inquiry under REV 566 relates to changes to the exporters’ variable factors. In any event, the exploitation by exporters of “the situation created by the COVID” to dump goods into the Australian market is entirely relevant to any assessment of material injury caused by those dumped goods to the domestic industry, having excluded other injury factors.

“The Commission has found that the variable factors have changed for the exporters verified as part of this continuation inquiry”⁸

Given the GOS acknowledges the Commission’s preliminary finding that CELSA’s “variable factors have changed” and given further the commencement of exports by CELSA following the end of the “inquiry period”, then not only has REV 566 been lawfully initiated, but it is entirely justified to ensure that the ascertained variable factors used to determine the margins of dumping are effective and contemporary. To not have initiated REV 566, then the Commission would be applying variable factors used to determine an amount for duty that would be no less than eleven months out of date (the effective date of a notice under s.269ZHG(1) in CON 546, would not be before 19 November 2020).

Please do not hesitate to contact your InfraBuild representative on record with any questions.

FOR AND ON BEHALF OF THE

AUSTRALIAN INDUSTRY APPLICANT

⁵ Legislative references are to the *Customs Act 1901*, unless expressly stated.

⁶ The Anti-Dumping Agreement.

⁷ EPR Folio No. 566/006, p. 1.

⁸ EPR Folio No. 566/006, p. 2.