



CUSTOMS ACT 1901 – PART XVB

**STATEMENT OF ESSENTIAL FACTS
NO 566**

**REVIEW OF ANTI-DUMPING MEASURES APPLYING TO
STEEL REINFORCING BAR**

**EXPORTED TO AUSTRALIA FROM
THE REPUBLIC OF KOREA AND SPAIN**

27 September 2021

CONTENTS

ABBREVIATIONS	3
1 SUMMARY AND RECOMMENDATIONS	5
1.1 INTRODUCTION	5
1.2 AUTHORITY TO MAKE DECISION.....	5
1.3 PRELIMINARY FINDINGS.....	7
2 BACKGROUND	8
2.1 INITIATION.....	8
2.2 CURRENT ANTI-DUMPING MEASURES	8
2.3 REVIEW PROCESS	9
2.4 CONDUCT OF THE REVIEW.....	9
2.5 SUBMISSIONS RECEIVED FROM INTERESTED PARTIES	10
2.6 RESPONDING TO THIS SEF	12
3 THE GOODS AND LIKE GOODS	13
3.1 PRELIMINARY FINDING	13
3.2 LEGISLATIVE FRAMEWORK	13
3.3 THE GOODS SUBJECT TO MEASURES	13
3.4 MODEL CONTROL CODES	15
3.5 LIKE GOODS	16
3.6 AUSTRALIAN INDUSTRY	18
3.7 CONCLUSION	18
4 VARIABLE FACTORS – PRELIMINARY FINDINGS AND FRAMEWORK	19
4.1 PRELIMINARY FINDING	19
4.2 LEGISLATIVE FRAMEWORK	19
4.3 IDENTITY OF THE IMPORTER	20
5 VARIABLE FACTORS – REPUBLIC OF KOREA	22
5.1 DAEHAN	22
5.2 UNCOOPERATIVE AND ALL OTHER EXPORTERS	28
6 VARIABLE FACTORS – SPAIN	30
6.1 CELSA	30
6.2 UNCOOPERATIVE AND ALL OTHER EXPORTERS DUMPING MARGIN	33
7 NON-INJURIOUS PRICE	35
7.1 NON-INJURIOUS PRICE	35
7.2 LESSER DUTY RULE	35
7.3 THE UNSUPPRESSED SELLING PRICE	35
7.4 ESTABLISHING A NIP	36
7.5 THE LESSER DUTY RULE AND THE EFFECTIVE RATE OF DUTY.....	37
8 FORM OF MEASURES	38
8.1 FINDING.....	38
8.2 FORMS OF DUTY AVAILABLE – DUMPING	38
8.3 COMMISSION ASSESSMENT	38
8.4 PROPOSED RECOMMENDATIONS	39
9 ATTACHMENTS	41

ABBREVIATIONS

AUD	Australian dollars
ABF	Australian Border Force
ACRS	Australasian Certification Authority for Reinforcing and Structural Steels
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
AEP	ascertained export price
ANV	ascertained normal value
Best Bar	Best Bar Pty Ltd
the commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CELSA	Compañía Española de Laminación SL
CTM	cost to make
CTMS	cost to make and sell
the Customs Direction	<i>Customs (Extensions of Time and Non-cooperation) Direction 2015</i>
Daehan	Daehan Steel Co Ltd
DITH	DITH Australia Pty Ltd
the Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
the duty guidelines	<i>Guidelines on the Application of Forms of Dumping Duty</i>
EPR	electronic public record
FIS	free-into-store
FOB	free on board
the goods	the goods the subject of the application (also referred to as the goods under consideration)
IDD	interim dumping duty
InfraBuild	InfraBuild (Newcastle) Pty
Inquiry 546	Continuation Inquiry No 546
the manual	<i>Dumping and Subsidy Manual</i>
MCC	model control code
the Minister	the Minister for Industry, Science and Technology
mm	millimetres
MPa	mega Pascals
NIP	non-injurious price
OCOT	ordinary course of trade
review period	1 July 2019 to 30 June 2020
REP 264	<i>Anti-Dumping Commission Report No 264</i>
REP 546	<i>Anti-Dumping Commission Report No 546</i>
REQ	response to the exporter questionnaire
RIQ	response to the importer questionnaire
ROK	Republic of Korea

Sanwa	Sanwa Pty Ltd
SEF	statement of essential facts
SG&A	selling, general and administrative
the subject countries	collectively, the Republic of Korea and Spain
USP	unsuppressed selling price

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This statement of essential facts (SEF) has been prepared in response to an application from InfraBuild (Newcastle) Pty Ltd (InfraBuild) for a review of the anti-dumping measures applying to certain steel reinforcing bar (rebar or the goods). The application concerns goods exported to Australia from the Republic of Korea (ROK), Singapore, Spain (except Nervacero SA) and Taiwan (except Power Steel Co Ltd).

InfraBuild considers it appropriate to review the anti-dumping measures on the basis that one or more of the variable factors relevant to the anti-dumping measures have changed.

This SEF sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base his recommendations to the Minister for Industry, Science and Technology (the Minister) in relation to this review.

1.1.1 Scope of the review

On 10 November 2020, following the consideration of *Anti-Dumping Commission Report No 546* (REP 546), the Commissioner published a notice¹ advising of the Minister's decision to:

- secure the continuation of anti-dumping measures applying to rebar exported from the ROK and Spain (except Nervacero SA)
- not secure the continuation of anti-dumping measures applying to rebar exported from Singapore and Taiwan (except Power Steel Co Ltd).

The effect of the decision is the dumping duty notice applying to rebar from Singapore and Taiwan (except Power Steel Co Ltd) expired on 20 November 2020. Following the Minister's decision, the Commissioner has therefore confined this SEF to consideration of the matters relevant to the dumping duty notice applying to rebar from the ROK and Spain (except Nervacero SA) (hereafter referred to collectively as the subject countries).

1.2 Authority to make decision

Division 5 of Part XVB of the *Customs Act 1901* (the Act)² sets out, among other things, the procedures to be followed by the Commissioner when undertaking a review of anti-dumping measures.

1.2.1 Application

On 21 August 2020, InfraBuild lodged an application under section 269ZB seeking a review of the anti-dumping measures in respect of rebar exported to Australia from the ROK, Singapore, Spain (except Nervacero SA) and Taiwan (except Power Steel Co Ltd).³ The application asserted that one or more of the variable factors have changed since they were last ascertained. The variable factors that InfraBuild alleges have changed are the export price and normal value.⁴

¹ ADN No 2020/111 and Anti-Dumping Commission Report No 546 refer.

² All legislative references in this report are to the *Customs Act 1901* unless otherwise specified.

³ Electronic Public Record (EPR) 566, document no 1.

⁴ Section 269T(4E)(a) refers.

The Commissioner decided not to reject the application and on 10 September 2020 initiated a review of the anti-dumping measures applying to HSS exported from the ROK, Singapore, Spain (except Nervacero SA) and Taiwan (except Power Steel Co Ltd). *Consideration Report No 566* and Anti-Dumping Notice (ADN) No 2020/102 provide further details relating to the initiation of this review and are available on the Anti-Dumping Commission (the commission) website at www.adcommission.gov.au.⁵

1.2.2 Statement of Essential Facts

The Commissioner must, within 110 days after the initiation of a review of anti-dumping measures, 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.⁶

In making preliminary findings in the SEF, the Commissioner must have regard to:

- the application for a review of the anti-dumping measures
- any submissions received prior to, or on day 37 of this case⁷
- any submissions received after day 37 of this case which, in the opinion of the Commissioner, would not delay the timely publication of this SEF
- any submission relating generally to the review to which the Commissioner has had regard for the purpose of formulating the SEF.

The Commissioner may also have regard to any other matter the Commissioner considered relevant to this review.⁸

ADN No 2020/102 notified that the Commissioner would place the SEF on the public record by 29 December 2020. The Commissioner extended the due date for the SEF on a number of occasions.⁹ The Commissioner is now required to publish this SEF by **27 September 2021**.

1.2.3 Final report

At the conclusion of this review, the Commissioner must provide his final report to the Minister. In this final report, the Commissioner must make a recommendation to the Minister that the dumping duty notice:

- remain unaltered, or
- have effect, in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained.¹⁰

The Minister must make a declaration within 30 days of receiving the final report or, if the Minister considers there are special circumstances that prevent the declaration being made within that period, such longer period as the Minister considers appropriate.¹¹

⁵ EPR 566, document nos. 2 and 3.

⁶ 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.

⁷ Section 269ZD(2)(a)(ii).

⁸ Section 269ZDA(3)(b).

⁹ ADN Nos 2020/147 and 2021/57 refer.

¹⁰ Section 269ZDA(1)(a).

¹¹ Section 269ZDB(1A).

The Commissioner was originally due to provide the final report and recommendations to the Minister on, or before 12 February 2021. The Commissioner is now due to provide the final report and recommendations to the Minister on, or before **16 November 2021** unless the Commissioner grants a further extension of time.

1.3 Preliminary findings

1.3.1 Variable factors assessment

The Commissioner preliminarily finds that the variable factors relevant to the determination of both dumping duty and countervailing duty payable under the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) have changed in respect of rebar exported from the subject countries. The Commissioner therefore proposes to recommend to the Minister that the relevant dumping duty notice have effect as if different variable factors had been ascertained.

The revised variable factors have resulted in different preliminary dumping margins relevant to the taking of interim dumping duty (IDD).

Table 1 provides details of these preliminary dumping margins.

Country	Exporter	Dumping margin
ROK	Daehan Steel Co Ltd (Daehan)	4.7%
	Uncooperative and all other exporters	8.5%
Spain	Compañía Española de Laminación SL (CELSA)	9.4%
	Uncooperative and all other exporters (except Nervacero SA)	11.8%

Table 1: Preliminary dumping margins

1.3.2 Proposed recommendations

The dumping duty notice to have affect in relation to exporters of rebar from the ROK and Spain as if different variable factors had been ascertained. The form of measures in respect of rebar exported from Spain by CELSA to change from a floor price to a combination duty.¹²

¹² Section 8 of this report refers.

2 BACKGROUND

2.1 Initiation

On 21 August 2020, InfraBuild lodged an application under section 269ZB seeking the review of the anti-dumping measures in respect of rebar exported to Australia from the subject countries. The application asserted that one or more of the variable factors have changed since they were last ascertained. The measures were last ascertained on 31 May 2019.¹³

As set out in ADN No 2020/102, the Commissioner was satisfied that the application complied with section 269ZB and, in accordance with section 269ZC(2)(b), there appeared to be reasonable grounds for asserting that the variable factors relevant to the taking of anti-dumping measures have changed. The Commissioner therefore decided not to reject the application and initiated the present inquiry on 10 September 2020.¹⁴

2.2 Current anti-dumping measures

The then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science initially imposed the anti-dumping measures, in the form of a dumping duty notice, on 19 November 2015 after consideration of *Anti-Dumping Commission Report No 264 (REP 264)*.¹⁵

The commission has conducted numerous cases relating to rebar. A list of the major relevant cases is set out in Table 2, and further details are on the commission website.

Case type	Case No	ADN No	Outcome
Investigation	264	2014/100	Imposition of measures
Review – Spain	380	2017/33	Changes to the variable factors
Anti-circumvention – ROK	452	2018/52	Termination of the inquiry
Review – ROK and Taiwan	486 and 489	2019/54	Changes to the variable factors in relation to exporters from the ROK and Spain (except Nervacero SA)
Continuation Inquiry	546	2020/111	Continuation of measures
ADRP Review of Inquiry 546 and Reinvestigation	ADRP 2020/130	ADRP Public Notice 2020/130	Changes to the variables factors in relation to exporters from the ROK

Table 2: Major cases involving rebar from the subject countries

Table 3 summarises the anti-dumping measures currently applying to exporters of the goods to Australia from the subject countries.

Exporter	Form of measures	Fixed component of IDD
ROK		
Daehan	<i>ad valorem</i>	2.3%
Uncooperative and all other exporters	<i>ad valorem</i>	7.2%

¹³ ADN No 2019/54, EPR 486, document no 18.

¹⁴ EPR 566, document nos. 2 and 3.

¹⁵ Available on the Commission's website, EPR 264.

Spain		
CELSA	<i>Floor price</i>	FOB, cash
Nervacero SA ¹⁶	<i>ad valorem</i>	6.3%
Uncooperative and all other exporters	<i>ad valorem</i>	8.2%

Table 3: Current anti-dumping measures applying to rebar from the subject countries

2.3 Review process

If anti-dumping measures have been taken in respect of certain goods, an affected party may consider it appropriate to review those anti-dumping measures as they affect a particular exporter or exporters generally. Accordingly, the affected party may apply for¹⁷ or the Minister may request that the Commissioner conduct¹⁸ a review of those anti-dumping measures, if one or more of the variable factors has changed.

The Minister may initiate a review at any time. However, a review application must not be lodged earlier than 12 months after publication of the notice imposing the original anti-dumping measures or the notice(s) declaring the outcome of the last review.¹⁹ If the Commissioner initiates a review of measures, they have up to 155 days, or such longer time as may be allowed, to conduct a review and report to the Minister on the review of the anti-dumping measures.²⁰

During the course of the review, the Commissioner has examined whether the variable factors have changed. The commission has examined the period from 1 July 2019 to 30 June 2020 (the review period) to establish the variable factors for this review. In this case, the variable factors are a reference to:

- the ascertained export price (AEP)
- the ascertained normal value (ANV)
- the non-injurious price (NIP).

2.4 Conduct of the review

2.4.1 Australian industry

The commission is satisfied that the applicant, InfraBuild, is a member of the Australian industry producing like goods to the goods the subject of this review.²¹ InfraBuild applied for the inquiry into the continuation of the anti-dumping measures in relation to the subject countries.²² The inquiry period was 1 January 2019 to 31 December 2019, which represents a 6 months overlap with the review period.

¹⁶ Measures relating to Nervacero SA are not subject to this review.

¹⁷ Section 269ZA(1).

¹⁸ Section 269ZA(3).

¹⁹ Section 269ZA(2)(a).

²⁰ Section 269ZDA(1).

²¹ Chapter 3 refers.

²² ADN No 2020/20.

The commission conducted a verification of the information provided by InfraBuild in its application for the inquiry. The verification report is available on the public record for Continuation Inquiry No 546 (Inquiry 546).²³

2.4.2 Importers

The commission identified 5 of the largest importers of rebar from the ROK, Singapore, Spain and Taiwan using the Australian Border Force (ABF) import database. These importers collectively accounted for the vast majority of the importations of the goods from these countries in the review period. The commission contacted and invited these importers to participate in this review by providing a response to the importer questionnaire (RIQ).

The commission received an RIQ from the following companies:

- Best Bar Pty Ltd (Best Bar)
- DITH Australia Pty Ltd (DITH)
- Sanwa Pty Ltd (Sanwa).

The commission placed a copy of the importer questionnaire on its website for completion by other importers who the commission did not contact directly. The commission did not receive any other responses from importers.

2.4.3 Exporters

The commission identified the largest suppliers of rebar from the subject countries during the review period using the ABF import database. The commission provided these suppliers with an exporter questionnaire.

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

- Daehan Steel Co Ltd (Daehan)
- Compañía Española de Laminación SL (CELSA).

The non-confidential versions of the REQs and the verification reports in relation to these exporters are available on the Commission website.

The commission published the relevant exporter questionnaires and associated spreadsheets on the commission's website for completion by other suppliers who the commission did not contact directly. The commission did not receive any other responses from exporters.

2.5 Submissions received from interested parties

The commission may receive submissions from interested parties at any time during the course of the review. Non-confidential versions of all submissions received are available on the EPR.

In preparing this SEF, the commission has had regard to all submissions received, which are set out in Table 4.

Interested Party	EPR No	Date published
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²³ EPR 546, document no 19.

CELSA	4	2 October 2020
NatSteel Holdings Pte Ltd	5	2 October 2020
Government of Spain	6	19 October 2020
InfraBuild	7	27 October 2020
InfraBuild	8	28 October 2020
InfraBuild	9	29 October 2020
InfraBuild	13	27 November 2020
InfraBuild	14	23 December 2020
InfraBuild	18	12 May 2021

Table 4: Submissions received and considered in the report

2.5.1 Submissions concerning initiation of the review

CELSA,²⁴ NatSteel²⁵ and the Government of Spain²⁶ made submissions concerning the initiation of the review. These interested parties submitted that this review and Inquiry 546 should not be conducted at the same time given the similarity in procedures with overlapping time periods, which also places undue burden on exporters. These interested parties claimed that the review should be discontinued, revoked or suspended.

InfraBuild made submissions²⁷ in response to each of the above submissions. InfraBuild submitted that the commission properly initiated the review and that there is no basis for its discontinuation, revocation or suspension. InfraBuild claimed that the commission must consider all relevant and reliable information in its conduct of the review and is not limited to the consideration of information in the inquiry period. InfraBuild submitted that the review allows for the most contemporary, accurate and effective variable factors, and dumping margins, to be ascertained following any decision to continue the measures.

On 10 September 2020, the Commissioner decided to not reject the application for a review of measures after having examined the application under section 269ZC(1). ADN No 2020/102 and *Anti-Dumping Commission Consideration Report No 566* set out the reasons why the Commissioner decided not to reject the application for review.

On 10 November 2020, the commission published a public notice to notify that the Minister decided to secure the continuation of the measures in relation to rebar exported to Australia from the subject countries.²⁸ Therefore, anti-dumping measures apply to rebar exported from the subject countries.

This review seeks to establish whether the variable factors relevant to the taking of the measures in relation to exporters from the subject countries have changed. The Commissioner is conducting the review in line with the provisions under Division 5 of Part XVB of the Act. The Commissioner has placed this SEF on the public record on which he proposes, subject to submissions received, to base his recommendations to the Minister.

²⁴ EPR 566, document no 4.

²⁵ EPR 566, document no 5.

²⁶ EPR 566, document no 6.

²⁷ EPR 566, document nos 7, 8 and 9.

²⁸ ADN 2020/111.

2.6 Responding to this SEF

This SEF sets out the essential facts on which the Commissioner proposes to base his final recommendations to the Minister. This SEF represents an important stage in the review. 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 have 20 days to respond to the SEF upon its placing on the public record. The Commissioner will consider these responses in making his final report to the Minister.

Interested parties should respond to this SEF no later than **18 October 2021**.²⁹ 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. The Commissioner must report to the Minister by no later than **16 November 2021**.

Interested parties should preferably lodge submissions via email to investigations2@adcommission.gov.au. Alternatively, interested parties may post submissions to:

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

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the public record. A guide for making submissions is available on the commission website.

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the commission's verification reports and other publicly available documents. Documents on the public record should be read in conjunction with this SEF.

²⁹ The next business day after 17 October 2021.

3 THE GOODS AND LIKE GOODS

3.1 Preliminary 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

The review of measures must establish relevant variable factors in respect of the goods that are exported to Australia from the subject countries and the like goods that are sold in the relevant domestic market. 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 review in determining the normal value of goods exported to Australia, the NIP and the goods subject to the anti-dumping measures. The commission's framework for assessing like goods is outlined in Chapter 2 of the *Dumping and Subsidy Manual* (the manual).³⁰

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
- 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 review.

3.3 The goods subject to measures

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.*³¹

³⁰ Available on the commission's website.

³¹ As set out in ADN No 2020/020 and REP 264.

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

- plain round bar
- stainless steel
- reinforcing mesh.

The following categories of rebar are excluded³² 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 40mm diameter
- 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.

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 14mm 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:

³² ADN No 2019/089 refers, following exemption inquiries EX0070, EX0071 and EX0072.

Tariff Subheading	Statistical Code	Description
		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

3.4 Model control codes

The commission has used a model control code (MCC) structure in order to identify key characteristics for, among other things, model matching when comparing export prices and normal values.³³

3.4.1 Proposed MCC structure

Australian industry members, exporters and importers participating with this review provided sales and cost data (to varying degrees) in accordance with the proposed MCC structure detailed in ADN No 2020/102 and repeated in Table 6.

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

³³ ADN No 2019/132 and the manual, p. 60, refer.

Item	Category	Sub-category	Identifier	Sales Data	Cost Data
		Greater than 32 and less than or equal to 50	D		
5	Length (metres or 'm')	Less than or equal to 6	1	Mandatory	Optional
		Greater than 6 and less than or equal to 12	2		
		Greater than 12	3		
		Coil product	C		
6	Deformation pattern along Length	Threaded	T	Mandatory	Optional
		Non-Threaded	N		

Table 6: Proposed model controls codes for rebar

As requested in ADN No 2020/102 (the initiation ADN), interested parties were invited to make submissions with proposals to modify the MCC structure as it applied to them.

Any changes to the proposed MCC structure or alterations in terms of its application in respect of each interested party have been addressed in sections 5 and 6.

3.4.2 Other information – Certification

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

3.5 Like goods

The following sets out the commission's assessment of whether the locally produced goods are identical to, or closely resemble, the goods under consideration imported into Australia from the subject countries and are therefore 'like goods'. For the purposes of the findings below, the commission has relied on information provided by InfraBuild, previous investigations and inquiries, and information provided by exporters of the goods from the subject countries.

3.5.1 Physical likeness

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

3.5.2 Commercial likeness

The commission finds that the goods exported to Australia from the subject countries are commercially similar to the rebar produced by the Australian industry. In Inquiry 546,³⁴ the commission found that the goods are sold via the same channels, to the same or similar customers, and compete directly for sales to those customers. In addition, customers have regard to the pricing of rebar from the subject countries (and other countries) when assessing the relative competitiveness of rebar prices from the Australian industry. In Inquiry 546, the verified exporter and importer data indicates that parties in the supply chain switch between purchasing rebar from import sources and the Australian industry. The commission has observed that there is close price competition in the market suggesting that product differentiation is not recognised by the market.

3.5.3 Functional likeness

The commission finds that the goods exported to Australia from the subject countries are functionally alike to the rebar produced by the Australian industry. In Inquiry 546, the commission found that domestically produced goods are completely interchangeable with the imported goods, as both have similar end uses, predominantly in concrete reinforcement and pre-casting.

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

3.5.4 Production likeness

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

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

3.5.5 Conclusion – Like goods

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

3.6 Australian industry

InfraBuild asserts in its application that it is the sole producer of rebar in Australia. InfraBuild produces rebar at its facilities in Laverton North in Victoria, and Rooty Hill and Newcastle in New South Wales. The commission is not aware of any other producer of

³⁴ The inquiry period of Inquiry 546 and the review period overlap by 6 months.

rebar in Australia and therefore considers that InfraBuild represents the Australian industry for rebar.

3.6.1 Production process

The commission previously observed the production processes relevant to rebar as part of Investigation 495.³⁵ 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.

3.7 Conclusion

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

- the like goods were wholly manufactured in Australia³⁶
- there is an Australian industry that produces like goods in Australia.³⁷

³⁵ EPR 495.

³⁶ Section 269T(2).

³⁷ Section 269T(4).

4 VARIABLE FACTORS – PRELIMINARY FINDINGS AND FRAMEWORK

4.1 Preliminary finding

The Commissioner’s preliminary findings in relation to rebar exported to Australia during the review period are summarised in Table 7.

Country	Exporter	Dumping margin
ROK	Daehan	4.7%
	Uncooperative and all other exporters	8.5%
Spain	CELSA	9.4%
	Uncooperative and all other exporters (except Nervacero SA)	11.8%

Table 7: Dumping margins for cooperating exporters

4.2 Legislative framework

4.2.1 Variable factors

The export price and normal value of goods are determined under sections 269TAB and 269TAC respectively.

The NIP is defined in section 269TACA as ‘the minimum price necessary to prevent the injury, or a recurrence of the injury’ caused by the dumped goods, the subject of a dumping duty notice. The methodology for calculating the NIP is described in detail at section 7.

4.2.2 Dumping margin

For all dumping margins calculated for the purposes of this review, the commission compared the weighted average export prices over the whole of the review period with the weighted average of corresponding normal values over the whole of that period.

4.2.3 Cooperative and uncooperative exporters

Section 269T(1) provides that, in relation to a review of measures, an exporter is a ‘cooperative exporter’ if the exporter’s exports were examined as part of the review and the exporter was not an uncooperative exporter.

Section 269T(1) provides that an exporter is an ‘uncooperative exporter’ if the Commissioner is satisfied that an exporter did not give the Commissioner information that the Commissioner considered to be relevant to the review within a period the Commissioner considered to be reasonable, or the Commissioner is satisfied that an exporter significantly impeded the investigation.

The *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Customs Direction) states at section 8 that the Commissioner must determine an exporter to be an uncooperative exporter, on the basis that no relevant information was provided in a reasonable period, if:

- that exporter fails to provide a response, or
- fails to request a longer period to do so within the legislated period.

After having regard to the Customs Direction, the Commissioner has determined that all exporters from subject countries that did not provide an REQ are uncooperative exporters for the purposes of this review.

4.3 Identity of the importer

Section 269T(1) defines the importer as ‘the beneficial owner of the goods at the time of their arrival within the limits of the port or airport in Australia at which they have landed.’³⁸

4.3.1 Best Bar

Following the Minister’s decision to not secure the continuation of the anti-dumping measures applying to rebar exported from Singapore and Taiwan (except Power Steel Co Ltd),³⁹ Best Bar did not import the goods from the subject countries during the review period. Accordingly, the commission did not review the RIQ provided by Best Bar for the purpose of ascertaining whether the variable factors have changed in respect of rebar exported from the subject countries.

4.3.2 DITH

In respect of rebar imported by DITH in the review period, the commission has found that a related-party intermediary, Duferco Asia Pte Ltd (Duferco) acted between it and the exporter, Daehan. The commission found that DITH:

- was named on the commercial invoice
- was named as the notify party on the bill of lading
- declared itself as the importer on the importation declaration to the ABF
- paid for all the post-exportation and importation charges and arranged delivery from the Australian port
- paid Duferco for the rebar from Daehan according to the agreed terms
- was the beneficial owner of the goods at the time of importation.

The commission also had regard to the nature of the import transactions and the relationships between Daehan and Duferco, and Duferco and DITH, and found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price
- the price appeared to be influenced by a commercial or other relationship between the buyer and the seller
- any reimbursement or compensation subsequent to the sale was payable in respect of the whole or any part of the price.⁴⁰

The commission therefore considers that the rebar imported in the review period by DITH, via Duferco, from Daehan were purchased in ‘arms length’ transactions.

The commission’s assessment is at **Confidential Attachment 1**.

³⁸ The manual, p. 28.

³⁹ Section 1.3.1 of this report refers.

⁴⁰ Section 269TAA.

4.3.3 Sanwa

In respect of rebar imported during the review period, the commission found that Sanwa was the importer as Sanwa:

- was named on the commercial invoice from CELSA
- was named as the notify party on the bill of lading
- declared itself as the importer on the importation declaration to the ABF
- paid for all the post-exportation and importation charges and arranged delivery from the Australian port
- was the beneficial owner of the goods at the time of importation.

The commission also had regard to the nature of the import transactions and the commercial relationship between Sanwa and CELSA, and found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price
- the price appeared to be influenced by a commercial or other relationship between the buyer and the seller
- any reimbursement or compensation subsequent to the sale was payable in respect of the whole or any part of the price.⁴¹

The commission therefore considers that the rebar imported in the review period by Sanwa from CELSA were purchased in 'arms length' transactions.

The commission's assessment is at **Confidential Attachment 2**.

⁴¹ Section 269TAA.

5 VARIABLE FACTORS – REPUBLIC OF KOREA

5.1 Daehan

The commission conducted a verification of Daehan's REQ. The commission is satisfied that Daehan is the producer of the goods. A report setting out the commission's findings from the verification is available on the public record.⁴²

The commission examined the circumstances of Daehan's exports of rebar to Australia during the review period. The commission considers that Daehan was the principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia. The commission considers that Daehan is therefore the exporter.

In response to the verification report for Daehan, InfraBuild noted⁴³ that the commission had relied on audited financial statements for 2019 to verify Daehan's information. InfraBuild claimed that Daehan published its audited financial statements for 2020 during the verification process, which it claims show significant changes in Daehan's financial position. InfraBuild requested that the commission verify Daehan's information using the audited financial statements for 2020.

The commission was satisfied that the Daehan's sales and CTMS data was complete and relevant after having verified the information to audited financial statements for 2019, which was information available to the commission during the verification process. The auditors expressed an opinion that the financial statements for the period had been fairly presented and did not provide a qualified opinion. This verification process enabled the commission to be satisfied that the management accounts verified to audited accounts and were reliable, which allowed the commission to rely on the same management accounts for transactions occurring in 2020.

Therefore, the commission does not consider it necessary to repeat the same process for the 2020 period using the financial statements for 2020. Further, it is unclear whether the financial information sourced from Wall Street Journal Markets by InfraBuild reflects audited accounts.

5.1.1 Amendments to the MCC

Daehan did not request MCC amendments and the commission did not identify models in Daehan's data that would warrant an MCC amendment.

5.1.2 Export price

The commission is satisfied that all export sales made by Daehan (regardless of whether through an intermediary or direct to customer) during the review period were 'arms length' transactions, as there was no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price

⁴² EPR 566, document no 16.

⁴³ EPR 566, document no 18.

- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

In respect of the one (1) export sale of the goods by Daehan direct to the Australian customer during the review period, the commission calculated the export price under section 269TAB(1)(a), as the price paid by the importer to the exporter, less transport and other costs arising after exportation.

In respect of all other Australian sales of the goods by Daehan through an intermediary during the review period, the commission considers that as the goods were not purchased by the importer from the exporter, the export price cannot be ascertained under subsections 269TAB(1)(a) or 269TAB(1)(b). The commission calculated the export price under subsection 269TAB(1)(c), having regard to all the circumstances of the exportation. Specifically, the commission calculated the export price as the price between Daehan and the intermediary trader involved in the sale of the goods to Australia.

Table 8 lists the MCC relevant to Daehan’s export sales to Australia in the review period.

MCC	
1.	P-C-C-B-C-N
2.	P-C-C-C-C-N

Table 8: Export MCC for Daehan

5.1.3 Normal value

The commission is satisfied that there were sufficient volumes of domestic sales of like goods that were sold in ‘arms length’ transactions and at prices that were within the OCOT. In respect of all Daehan’s domestic sales of like goods during the period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than price
- the price was influenced by a commercial or other relationship between the buyer or an associate of the buyer, and the seller, or an associate of the seller
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.⁴⁴

The commission is therefore satisfied that the price paid in respect of those domestic sales of like goods were suitable for assessing normal value under section 269TAC(1).

Table 9 lists the MCCs relevant to Daehan’s domestic sales in the ROK in the review period.

MCC					
1.	P-A-S-A-2-N	8.	P-B-S-B-1-N	15.	P-C-S-B-1-N

⁴⁴ Section 269TAA.

MCC					
2.	P-A-S-B-2-N	9.	P-B-S-B-2-N	16.	P-C-S-B-2-N
3.	P-A-S-C-1-N	10.	P-B-S-C-1-N	17.	P-C-S-C-1-N
4.	P-A-S-C-2-N	11.	P-B-S-C-2-N	18.	P-C-S-C-2-N
5.	P-B-C-A-C-N	12.	P-C-C-A-C-N	19.	P-D-S-B-2-N
6.	P-B-C-B-C-N	13.	P-C-C-B-C-N	20.	P-D-S-C-1-N
7.	P-B-S-A-2-N	14.	P-C-S-A-2-N	21.	P-D-S-C-2-N

Table 9: Domestic MCCs for Daehan

For one of the MCC exported to Australia, the commission found that there was insufficient domestic sales volumes of the same MCC made in the OCOT. Therefore, the commission adopted a surrogate model with a specification adjustment for physical differences, as described in Table 10 below.

The commission found that there was a sufficient domestic sales volume of the identical MCC made in OCOT for export MCC P-C-C-B-C-N. For the other export MCC P-C-C-C-C-N, there were no domestic sales of the same MCC. For this MCC, the commission used a surrogate model P-C-C-B-C-N and found sufficient domestic sales volumes. In relying on the surrogate model, the commission considered a specification adjustment under section 269TAC(8) was warranted to ensure fair comparison between the export model and surrogate domestic model.

Table 10 describes these specification adjustments.

Export MCC	Description of Adjustment
P-C-C-C-C-N	The commission adjusted for the difference in normal value between two other MCCs which displayed the same physical differences in the relevant MCC subcategory of nominal diameter, in accordance with section 269TAC(8).

Table 10: Description of specification adjustments for Daehan

In response to the verification report for Daehan, InfraBuild agreed⁴⁵ with the preliminary conclusion that barter sales are not taken to be ‘arms length’ transactions. InfraBuild submitted that the commission should test whether products received by Daehan in barter sales are not then on-sold with little or no further processing to ‘arms length’ customers. Further, InfraBuild queried how production costs are allocated in the event that rebar coil received by Daehan in barter trade are further processed by Daehan to rebar straight lengths.

Consistent with previous findings and for the reasons set out in the verification report,⁴⁶ Daehan’s barter sales during the review period are not taken to be ‘arms length’ transactions and not in the ordinary course of trade. As such, the commission excluded barter sales from the calculation of the normal value.

The commission has reviewed Daehan’s domestic sales data regarding barter and commercial sales, and the production and sale of 20mm nominal diameter rebar coil. Based on the information verified, Daehan received rebar straight lengths in exchange for

⁴⁵ EPR 566, document no 18.

⁴⁶ EPR 566, document no 16.

rebar coil products in the vast majority of barter sales during the review period. Daehan then consumed these rebar straight lengths to produce processed rebar (not like goods). A negligible quantity of rebar straight lengths received in barter sales were on-sold without further processing, and the commission excluded these sales from the calculation of the normal value.

The commission verified the domestic sales data with respect to nominal diameter and the classification of barter sales, and considers that the data is complete, relevant and accurate.

The commission verified Daehan's cost to make (CTM) data to source documents, and was satisfied with the accuracy and allocation of the raw material costs. The commission did not identify that Daehan consumed rebar coil as the raw material for the manufacture of rebar straight lengths.

In relation to determining the selling price of like goods, InfraBuild submitted⁴⁷ that it was unclear whether there was a commercial or trading basis for the billing adjustments listed as exceptions 6, 7 and 8 in the verification report for Daehan. The commission verified the billing adjustments to source documents and substantiated that the amounts, which related to credit and debit notes, impacted the net selling price of like goods. After having established that the billing adjustments were relevant to determining the net selling price, the commission identified that Daehan's allocation of these adjustments was inappropriate in certain cases.

In relation to exception no 6, the commission verified that the billing adjustment related to a larger pool of sales than had originally been included in the allocation. As such, Daehan revised the billing adjustment within the domestic sales listing so that it was allocated to the larger pool of sales. In verifying the revised domestic sales listing, the commission identified that the revision resulted in negative sales values for a negligible quantity of like goods sold to one customer. Daehan presented a revised domestic sales listing that changed the allocation basis of the billing adjustment to be sales value, rather than sales quantity. The commission considers that the revisions better reflect the nature of the billing adjustment. This is detailed as exception no 7 in the verification report.

The commission then selected a domestic sale with the largest credit note value to test Daehan's reallocations. The commission notes that the billing adjustments represent a very small proportion of the total net invoice value for sales of like goods during the review period. Given the nature of the reallocations and billing adjustments, the commission is satisfied that the revised listing is accurate.

In relation to the CTM, InfraBuild submitted that it was unclear whether Daehan's CTM for rebar coil was differentiated from rebar straight lengths given Daehan's different manufacturing plant locations. The commission verified the integrated nature of Daehan's production process. The commission validated that the full, actual cost of production and transfer of steel billet, which incorporated freight for transfer between plants, was captured in the CTM for rebar coil. As such, the commission is satisfied that Daehan's CTM is complete, relevant and accurate.

In response to the verification report for Daehan, InfraBuild queried⁴⁸ why an adjustment to the normal value for domestic inland transport was necessary when domestic sales

⁴⁷ EPR 566, document no 18.

⁴⁸ EPR 566, document no 18.

were at ex-works terms. The commission notes that Daehan sold like goods domestically at ex-works and delivered terms during the period. The commission conducted the OCOT test for sales and CTMS at ex-works terms and therefore confirms that deductions for inland transport costs were only made to sales with free-into-store (FIS) terms. As outlined in the verification report, the commission calculated the normal value at free on board (FOB) terms, which was exclusive of domestic costs (domestic credit and domestic inland transport) and inclusive of all export costs to the FOB level.

Further, InfraBuild submitted that any profit achieved by Daehan’s related party for the brokerage of delivery should reflect no more than the related party’s fully absorbed SG&A, otherwise the transactions may not be ‘arms length’. The commission examined the role of the related party, and verified to source documents the costs charged by independent logistic providers and the profit achieved by the related party. Based on this examination, the commission considers the delivery costs incurred by Daehan and the profit achieved by the related party are reasonable and reflect ‘arms length’ transactions.

The commission notes that the total domestic delivery costs represents a very small proportion of the total selling price. As such, the commission considers the amount of profit achieved by the related party on the brokerage service does not have a material impact on the determination of the normal value.

5.1.4 Adjustments

To ensure the comparability of normal values to export prices, the commission made adjustments pursuant to section 269TAC(8).

These adjustments are summarised in Table 11.

Adjustment Type	Deduction/addition
Specification adjustment	Refer Table 10 above.
Domestic credit terms	Deduct an amount for domestic credit terms
Domestic inland transport	Deduct an amount for domestic inland transport
Export inland transport	Add an amount for export inland transport
Export port and handling charges	Add an amount for port and handling charges
Export bank charges	Add an amount for export bank charges

Table 11: Adjustments to Daehan’s normal value

In response to Daehan’s REQ, InfraBuild submitted⁴⁹ that, given the 6-month overlap between Inquiry 546 and this review, it is unclear whether in this review Daehan has addressed the deficiencies identified by the commission in Inquiry 546. Following verification of Daehan’s REQ for the purpose of this review, the commission is satisfied that the sales and CTMS data provided by Daehan, and revised as part of the verification, is complete, relevant and accurate.

In relation to Daehan’s claim for a domestic technical services cost adjustment, InfraBuild submitted⁵⁰ that it is unclear whether the commission applied this adjustment to the

⁴⁹ EPR 566, document no 14.

⁵⁰ EPR 566, document no 18.

normal value. The commission clarifies that this adjustment claim was investigated but not accepted, and therefore was not applied to the normal value.

In relation to Daehan's claim for a domestic inventory carrying cost adjustment, InfraBuild submitted that the commission must consider whether the inventory carrying costs affect price comparability between export and domestic sales. As outlined in the verification report for Daehan, the commission assessed the claim for domestic inventory carrying costs but did not accept the adjustment, and therefore did not apply the adjustment to the normal value.

InfraBuild submitted that the commission should not apply a domestic credit rate greater than 3.5%, which it claims reflects the total interest, and the short and long-term debt expenses, in Daehan's audited financial statements for 2020. The commission verified the credit interest rate to Daehan's publically issued short-term corporate bonds and considers the amount to reasonably reflect Daehan's short-term borrowing rate. The commission notes that it would be inappropriate to rely on long-term debt given that Daehan's credit terms for domestic sales reflect short-term debt.

Specification adjustment

In response to the verification report for Daehan, InfraBuild submitted⁵¹ that the commission's method of making a specification adjustment was unclear, as the verification report did not specify the MCC used to calculate the adjustment. As there were no domestic sales of MCC P-C-C-C-C-N, the commission adopted the closest MCC P-C-C-B-C-N as it only differed with respect to one sub-category, being nominal diameter ('C' and 'B'). Therefore, the commission sought to calculate a specification adjustment to account for the difference in nominal diameter between those MCC. The commission calculated the specification adjustment using two separate MCCs with reference to the MCC hierarchy. The commission had regard to MCCs P-C-S-B-1-N and P-C-S-C-1-N given they exhibited the same difference in nominal diameter ('C' and 'B'), were identical to each other with respect to all other MCC sub-categories, and reflected reasonable prices for the purpose of calculating the adjustment.

The commission found that for one of the MCCs used to calculate the specification adjustment, being P-C-S-B-1-N, there were no sales available for certain quarters of the review period. To obtain the normal value in these missing quarters, the commission identified the closest MCC with reference to the MCC hierarchy, being P-C-S-B-2-N, and calculated a timing adjustment based on the quarterly movements. The commission then applied the timing adjustment to the previous quarter's normal value of P-C-S-B-1-N to obtain the normal values.

In addition, InfraBuild submitted that Daehan's claim in its REQ for a specification adjustment using its standard price list is inappropriate, and should be based on verified domestic sales data.

Based on price analysis of Daehan's verified domestic sales, the commission considers that differences in nominal diameter impact price comparability and therefore a specification adjustment is required. As outlined in the verification report,⁵² the commission was unable to establish how the list, which showed price differences for products across certain nominal diameters, was reflected in Daehan's verified domestic

⁵¹ EPR 566, document no 18.

⁵² EPR 566, document no 16.

selling prices during the review period. The commission applied the specification adjustment using differences in the normal value, which reflect Daehan's verified domestic selling prices. The specification adjustment is described in Table 10.

5.1.5 Dumping margin

The commission calculated a dumping margin in respect of the goods exported to Australia by Daehan for the review period. The preliminary dumping margin is **4.7%**.

The commission's calculations are included at **Confidential Attachment 3**.

5.2 Uncooperative and all other exporters

5.2.1 Export price

In accordance with section 269TACAB(1), the commission has determined the export price for the uncooperative exporters and all other exporters from the ROK pursuant to section 269TAB(3). Specifically, the commission has had regard to the ascertained export price for Daehan in this review.

InfraBuild submitted⁵³ that based on its export trade intelligence, there was an additional exporter from the ROK, being Dongkuk Steel Mill Co Ltd, which exported the goods to Australia during the review period at prices lower than Daehan's export prices. For calculating the export price under section 269TAB(3), InfraBuild claimed it would be inappropriate to rely on Daehan's export price and proposed that the commission should rely on the weighted average FOB price of goods exported from the ROK from the ABF import database.

The commission undertook an assessment of export volumes and prices to Australia by exporters from the ROK using data from the ABF import database and Daehan's verified information. The commission identified suppliers from the ROK other than Daehan ('all other suppliers') that exported the goods to Australia during the review period, but at volumes that were very low relative to Daehan.

The commission compared Daehan's ascertained export price and export prices from all other suppliers on a quarterly basis. The commission found that these prices were very similar and followed a consistent trend during the review period. While the export price for all other suppliers was materially lower than Daehan's price for one quarter within the review period, the export volume in that quarter was very low and does not appear to allow for a reasonable comparison.

The commission also assessed the volumes and prices in the four quarters⁵⁴ after the review period. The commission found that despite an increase in export volume from all other suppliers following the review period, the export prices were similar and followed the same trend as Daehan.

As such, the Commission considers it appropriate to have regard to Daehan's ascertained export price, which is based on verified information, to determine the export price for uncooperative and all other exporters from the ROK.

The commission's assessment is at **Confidential Attachment 4**.

⁵³ EPR 566, document no 13.

⁵⁴ Quarter ending 30 September 2020 to quarter ending 30 June 2021.

In addition, the commission notes that in the absence of other information, importation data from import declarations made to the ABF may provide a reasonable basis for determining export prices of uncooperative exporters. However, verified export price data from a cooperative exporter provides a more accurate and reliable basis for the calculation. This is because the commission validated the various components that comprise an FOB export price, which cannot be said of the information within the ABF import data. For the purpose of this review, the commission found that the invoice terms recorded in ABF import data for the majority of all other suppliers' export sales during the review period were not FOB invoice terms. Therefore, the FOB export prices within the ABF import data represent estimated amounts and, in this instance, may not be the best available information.

5.2.2 Normal value

In accordance with section 269TACAB(1), the commission has determined the normal value for uncooperative and all other exporters from the ROK pursuant to section 269TAC(6). Specifically, the commission considers that the most reliable and contemporaneous information is verified information from Daehan.

In calculating the normal value, the commission used Daehan's ascertained normal value without deductions for favourable adjustments under section 269TAC(8).

5.2.3 Dumping margin

The dumping margin for uncooperative and all other exporters from the ROK is **8.5%**.

The commission's calculations are included at **Confidential Attachment 5**.

6 VARIABLE FACTORS – SPAIN

6.1 CELSA

The commission conducted a verification of CELSA's REQ. The commission is satisfied that CELSA is the producer of the goods. A report setting out the commission's findings from the verification is available on the public record.⁵⁵

The commission examined the circumstances of CELSA's exports of rebar to Australia during the review period. The commission considers that CELSA was the principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia. The commission considers that CELSA is therefore the exporter.

6.1.1 Amendments to the MCC

Consistent with Inquiry 546, CELSA proposed an amendment to the MCC in relation to the nominal diameter subcategory. The amendment is detailed in the verification report.⁵⁶

In response to CELSA's REQ, InfraBuild opposed⁵⁷ the proposed amendments to the MCC on the basis that CELSA's models do not reflect unique or special requirements. InfraBuild claimed that CELSA's models already align with the MCC structure. InfraBuild claimed that CELSA sells rebar with nominal diameters between 12mm–16mm, which it considers to be standard run-of-the-mill products.

The commission analysed price differences for the nominal diameters of 12mm and 16mm using the verified domestic and Australian sales data and took into account the key factors of level of trade, customer, MCC, quantity and timing. The commission observed that there were material and consistent price differences between nominal diameters 12mm and 16mm for domestic sales across the review period. Therefore, the commission is satisfied that there is a price difference such that the proposed MCC amendment is warranted for the purposes of this review.

The commission's assessment is at **Confidential Attachment 6**.

6.1.2 Export price

The commission is satisfied that all export sales made by CELSA during the review period were 'arms length' transactions, as there was no evidence that:

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

⁵⁵ EPR 566, document no 20.

⁵⁶ Ibid.

⁵⁷ EPR 566, document no 14.

The commission calculated the export price under section 269TAB(1)(a), as the price paid by the importer to the exporter, less transport and other costs arising after exportation.

Table 12 lists the MCCs relevant to CELSA’s export price in the review period.

MCC	
1.	P-C-C-B-C-N
2.	P-C-C-C-C-N

Table 12: Export MCCs for CELSA

6.1.3 Normal value

The commission is satisfied that there were sufficient volumes of domestic sales of like goods that were sold in ‘arms length’ transactions and at prices that were within the OCOT. The commission is therefore satisfied that the prices paid in respect of those domestic sales of like goods were suitable for assessing normal value under section 269TAC(1).

Table 13 lists the MCCs relevant to CELSA’s domestic sales in Spain in the review period.

MCC					
1.	N-C-S-C-1-N	8.	P-C-C-D-C-N	15.	P-C-S-C-3-N
2.	N-C-S-D-1-N	9.	P-C-S-A-1-N	16.	P-C-S-D-1-N
3.	N-C-S-E-1-N	10.	P-C-S-A-1-N	17.	P-C-S-D-2-N
4.	P-B-C-A-C-N	11.	P-C-S-B-1-N	18.	P-C-S-D-3-N
5.	P-C-C-A-C-N	12.	P-C-S-B-2-N	19.	P-C-S-F-2-N
6.	P-C-C-B-C-N	13.	P-C-S-B-2-N		
7.	P-C-C-C-C-N	14.	P-C-S-C-2-N		

Table 13: Domestic MCCs for CELSA

In respect of all CELSA’s domestic sales of like goods during the period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than price
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated, or otherwise receive a benefit for, or in respect of, the whole or any part of the price.⁵⁸

The commission considers that all domestic sales made by CELSA during the period were ‘arms length’ transactions. The commission has ascertained the normal value under section 269TAC(1).

⁵⁸ Section 269TAA of the Act refers.

In response to CELSA’s REQ, InfraBuild submitted⁵⁹ that non-prime MCC should be excluded from the determination of the normal value and adjustments. As CELSA did not export non-prime MCC to Australia during the review period, the commission did not have regard to non-prime MCC in calculating the normal value or for the purposes of adjustments.

InfraBuild requested that the commission verify whether the minimum yield strength MCC subcategory was inadvertently misclassified for any domestic sales. This was claimed on the basis that CELSA reported only one MCC with subcategory ‘B’, whereas its website lists minimum yield strengths of 400MPa and 500MPa for its range of rebar coil and rebar straight lengths. The commission verified CELSA’s domestic sales to source documents and did not identify any issues relating to the accuracy of the minimum yield strength categorisation.

6.1.4 Adjustments

The commission also considered that further adjustments in accordance with section 269TAC(8) were necessary to ensure the normal value is comparable to the export price of goods exported to Australia. The commission is satisfied that there is sufficient and reliable information to justify the adjustments described in Table 14.

Adjustment Type	Deduction/addition
Domestic credit terms	Deduct an amount for domestic credit
Domestic inland transport	Deduct an amount for domestic inland transport
Export inland transport	Add an amount for export inland transport
Export port charges	Add an amount for port charges
Export credit 7terms	Add an amount for export credit terms

Table 14: Adjustments to CELSA’s normal value

In response to CELSA’s REQ, InfraBuild submitted⁶⁰ that post-exportation expenses such as import duties paid by importers would not be a relevant adjustment under section 269TAC(8). The commission confirms that no adjustment was made for import duty under section 269TAC(8).

In addition, InfraBuild submitted that there was insufficient information on the public record to justify the specification adjustment claimed by CELSA. Consistent with the reasons in the verification report,⁶¹ the commission has not adjusted the normal value for the specification adjustment claimed by CELSA. No evidence of price comparability was provided by CELSA and the commission’s analysis of unit cost differences did not support an adjustment.

⁵⁹ EPR 566, document no 14.

⁶⁰ EPR 566, document no 14.

⁶¹ EPR 566, document no 20.

6.1.5 Submission concerning date of sale

In response to CELSA's REQ, InfraBuild submitted⁶² that the commission establish the date of sale according to the date that best aligns with the costs of production for export and domestic sales, having regard to the factors outlined in the manual.

The commission ascertained CELSA's export price and normal value using the proforma invoice date as the date of sale. The commission has examined the evidence provided and the factors outlined in the manual⁶³ to establish whether the proforma invoice date, as opposed to the invoice date, best reflects the material terms of sale.

The commission notes that CELSA's export price and normal value were ascertained in REP 546 using the proforma invoice date as the date of sale. In verifying CELSA's information as part of this review, the commission identified that the proforma invoice date reflects the date on which the material terms were established without continued negotiation or variation to these terms following this date.

The commission found that transactions are recognised as sales in CELSA's accounting system on the proforma invoice date, rather than the invoice date. In addition, this treatment of sales recognition is supported by CELSA's audited financial statements.

In comparing the time period between the issue of the proforma invoice date and invoice date, the commission identified that there was on average a short time period for domestic sales, while there was a longer period for Australian export sales. However, having regard to CELSA's CTM for Australian exported goods, the proforma invoice date is closer to the production period than the invoice date. By using the proforma invoice date as the date of sale, the date of sale for all Australian export transactions occurs within the same quarter as the production of those goods. This would not be the case if relying on the invoice date as the date of sale.

In addition, the commission assessed the raw material (steel scrap) costs incurred by CELSA in the production of the Australian exported goods and like goods sold domestically. The commission found that there was neither a significant difference in the steel scrap costs between Australian export and domestic goods, nor in the variation of these costs on a quarterly basis. As such, the commission considers that for CELSA's Australian export and domestic sales, the production timing and steel scrap costs is best reflected by the proforma invoice date, as opposed to the invoice date.

The commission's assessment of date of sale is at **Confidential Attachment 7**.

Given the above factors, the commission considers that the proforma invoice date best reflects CELSA's material terms for Australian export and domestic sales, and therefore is the date of sale.

6.1.6 Dumping margin

The commission calculated a dumping margin for CELSA for the review period. The preliminary dumping margin is **9.4%**.

The commission's calculations are included at **Confidential Attachment 8**.

⁶² EPR 566, document no 14.

⁶³ The manual, pp. 66–67.

6.2 Uncooperative and all other exporters dumping margin

6.2.1 Export price

In accordance with section 269TACAB(1), the commission has determined the export price for the uncooperative exporters and all other exporters from Spain pursuant to section 269TAB(3). Specifically, the commission has had regard to the ascertained export price for CELSA in this review.

6.2.2 Normal value

In accordance with section 269TACAB(1), the commission has determined the normal value for uncooperative and all other exporters from Spain pursuant to section 269TAC(6). Specifically, the commission considers that the most reliable and contemporaneous information is verified information from CELSA.

In calculating the normal value, the commission used CELSA's ascertained normal value without deductions for adjustments under section 269TAC(8).

6.2.3 Dumping margin

The dumping margin for uncooperative and all other exporters from Spain is **11.8%**.

The commission's calculations are included at **Confidential Attachment 9**.

7 NON-INJURIOUS PRICE

7.1 Non-injurious price

Section 269TACA defines the NIP as ‘the minimum price necessary to prevent the injury, or a recurrence of the injury’ caused by the dumped or subsidised goods, the subject of a dumping duty notice or a countervailing duty notice. The commission will generally derive the NIP from the Australian industry’s unsuppressed selling price (USP).

7.2 Lesser duty rule

Where the Minister is required to determine the IDD, section 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) applies.

Section 8(5B) requires the Minister to have regard to the ‘lesser duty rule’ when determining the IDD payable. In relation to a dumping duty notice, the lesser duty rule requires consideration of whether the NIP is less than the normal value of the goods.

However, pursuant to section 8(5BAA) of the Dumping Duty Act, the Minister is not required to have regard to the lesser duty rule where one or more of the following circumstances apply:⁶⁴

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

7.3 The unsuppressed selling price

The manual provides that the commission will normally use the following approaches, in order of preference, subject to the facts of the case, for establishing a USP:

1. The price or market approach of the Australian industry’s selling prices in a period unaffected by dumping.
2. The constructed approach, using the Australian industry’s CTMS plus a reasonable amount for profit.
3. The selling prices of undumped imports in the Australian market.⁶⁵

7.3.1 Approach in Inquiry 546

In Inquiry 546, the commission considers that the Australian industry selling prices were affected by the presence of dumped imports in the market during the inquiry period such that the first method under the manual’s hierarchy is unsuitable.

The commission considered that the USP should be calculated according to the second method under the manual’s hierarchy, being the sum of:⁶⁶

- InfraBuild’s CTMS for the inquiry period (1 January 2019 to 31 December 2019)

⁶⁴ Sections 8(5BAA)(a) and (b) of the Dumping Duty Act concern the calculation of dumping duty.

⁶⁵ The manual, pp. 137–140.

⁶⁶ REP 546, section 8.6.

- a reasonable amount for profit based on InfraBuild’s forward projections under its rebar pricing policy for the period July to September 2020 sourced from management reports.

7.3.2 Commission’s approach

Given the finding that the goods exported to Australia from the ROK and Spain (except Nervacero SA) were dumped,⁶⁷ the commission considers that the Australian industry selling prices were affected by the presence of dumped imports in the market during the review period such that the first method under the manual’s hierarchy is unsuitable.

The inquiry period of Inquiry 546 overlaps with this review period by 6 months, being 1 July 2019 to 31 December 2019. The commission verified InfraBuild’s CTMS data for the inquiry period.

The manual provides that when determining the USP under a constructed method, there is a preference for using a weighted average of the most recent verified Australian industry CTMS, with a preference for a one year minimum. This allows for fluctuations for seasonal or longer cyclical trends to be taken into account.

As such, the commission considers that InfraBuild’s verified CTMS data for the period 1 July 2019 to 31 December 2019 to be relevant and preferable for the purpose of establishing the USP for the review period.⁶⁸ In addition, the commission considers that the amount for profit based on a projection under its rebar pricing policy for the period July to September 2020 that was applied in Inquiry 546 reasonably reflects the amount of profit that InfraBuild could achieve in a market unaffected by dumping for the purpose of establishing the USP for the review period.

Consistent with the approach in Inquiry 546, the commission considers that the USP should be calculated according to the constructed approach, being the sum of:

- InfraBuild’s CTMS for the period 1 January 2019 to 31 December 2019
- a reasonable amount for profit based on InfraBuild’s forward projections on the profit margin under its rebar pricing policy for the period July to September 2020 sourced from management reports.

The commission’s USP calculations are at **Confidential Attachment 10**.

7.4 Establishing a NIP

Having calculated the USP, the Commission then calculated a NIP for each exporter, by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to a comparable level of trade in Australia. The deductions included were into-store costs, importer profit, importer selling expenses, Australian customs fees and charges, overseas freight and marine insurance. In this review, the commission applied deductions sourced from importer data that the commission verified as part of this review.

⁶⁷ Sections 5 and 6 refer.

⁶⁸ The commission does not possess verified information for the second half of the review period, being 1 January 2020 to 30 June 2020.

The commission calculated a NIP for each of the ROK and Spain. The commission's calculation of the NIP is at **Confidential Attachment 10**.

7.5 The lesser duty rule and the effective rate of duty

As described above, the Minister must have regard to the 'lesser duty rule' unless one of the 3 exceptions in section 8(5BAA) of the Dumping Duty Act applies.

The Australian industry producing like goods does not consist of at least 2 small-medium enterprises and therefore the second exception to the lesser duty rule does not arise.

With respect to exporters from the subject countries, the operation of section 269TAC(2)(a)(ii) does not apply and the exception to the Minister's consideration of the desirability of applying the lesser duty rule does not arise. Accordingly, where the NIP is less than the normal value, the Minister must consider the desirability of imposing a lesser amount of duty with respect to the goods and exporters of the goods from the subject countries.

The commission compared the NIP with the normal values of the goods exported to Australia from the ROK and Spain by each exporter. The commission found that in respect of the goods exported to Australia by exporters from the ROK and Spain, the NIP is greater than the normal value of those goods and therefore the NIP is not the operative measure. As a result, the Minister is not required to have regard to the desirability of specifying a lesser amount of duty in accordance with section 8(5B) of the Dumping Duty Act.

8 FORM OF MEASURES

8.1 Finding

The Commissioner finds that, in relation to rebar exported to Australia from the subject countries during the review period, for all exporters:

- the ascertained export price has changed
- the ascertained normal value has changed
- the NIP has changed.

8.2 Forms of duty available – dumping

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 (AUD per tonne)
- floor price duty method
- combination of fixed and variable (combination) duty method
- *ad valorem* duty method (i.e. a percentage of the export price).⁶⁹

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 duty guidelines)⁷⁰ and relevant factors applicable to the market for the goods.

In this case, the goods exported to Australia are subject to the floor price duty method or the combination duty method.

Under the floor price duty method, IDD is payable if the export price of the goods exported to Australia is less than the floor price. The amount of IDD payable is the difference between the export price and the floor price.

Under the combination duty method, the IDD payable is the combination of a:

- fixed component, which may be a percentage of the export price of the goods or an amount per unit of the goods, and
- variable component, whereby additional IDD is payable if the export price of the goods is less than the export price last ascertained by the Minister following an investigation, review or inquiry.

8.3 Commission assessment

Having regard to the dumping margins established in sections 5 and 6, the commission found that all exporters from the ROK and Spain were dumping.

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

⁷⁰ The Guidelines are available on the commission's website.

The commission observes that the number of export models of the goods exported from the ROK and Spain is not large nor is there a significant price disparity between models.

Daehan is currently subject to a combination duty following REP 546, which was based on the following reasons:

- The commission was not satisfied with the information presented by Daehan regarding the normal value. Therefore, the commission calculated the normal value based on all relevant information.
- The combination duty method was less reliant upon its normal value and therefore better reflected Daehan's verified export prices compared to the *ad valorem* duty method.
- There were no significant differences in Daehan's price between different models of rebar exported to Australia from the ROK that would render the combination duty method inappropriate.

The commission also applied a combination duty to uncooperative and all other exporters from the ROK in REP 546. In contrast to REP 546, for the purpose of this review the commission ascertained Daehan's normal value based on verified information from Daehan.

CELSA is currently subject to a floor price following REP 546, as it did not export the goods to Australia during that inquiry period. The commission found that CELSA did export the goods to Australia during the review period and that these exports were at dumped prices. Uncooperative and all other exporters from Spain are subject to a combination duty.

The commission has found that all exporters from the ROK and Spain were dumping during the review period. Those dumped prices occurred in circumstances where all exporters from the ROK, and uncooperative and all other exporters from Spain, were subject to a combination duty.

The commission considers that the combination duty method is the most appropriate form of duty in the current circumstances for exporters from the ROK and Spain. As indicated in the duty guidelines, the combination duty method lends itself to these circumstances outlined above.

The commission notes that exports of rebar from other countries⁷¹ are subject to a combination duty, which indicates that this is a reasonable duty method for rebar generally.

8.4 Proposed recommendations

The Commissioner proposes to recommend to the Minister that the dumping duty notice in respect of rebar exported from the subject countries have effect as if different variable factors had been ascertained.

The Commissioner proposes to recommend that IDD be calculated using the combination duty method for all goods exported to Australia.⁷²

⁷¹ The People's Republic of China, Greece, the Republic of Indonesia and the Kingdom of Thailand.

⁷² Pursuant to section 5(2) of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

The table below sets out the proposed dumping measures that will apply if these recommendations are accepted. The calculations are at **Confidential Attachment 11**.

Exporter	Form of measures	Fixed component of IDD
ROK		
Daehan	combination	4.7%
Uncooperative and all other exporters	combination	8.5%
Spain		
CELSA	combination	9.4%
Uncooperative and all other exporters (except Nervacero SA)	combination	11.8%

Table 15: Proposed measures applying to rebar from the subject countries

9 ATTACHMENTS

Confidential Attachment 1: Assessment of DITH

Confidential Attachment 2: Assessment of Sanwa

Confidential Attachment 3: Daehan, export price, normal value and dumping margin calculations

Confidential Attachment 4: ROK export price and volume assessment

Confidential Attachment 5: Uncooperative and All Other Exporters from the ROK, dumping margin calculations

Confidential Attachment 6: Assessment of CELSA MCC

Confidential Attachment 7: Assessment of CELSA date of sale

Confidential Attachment 8: CELSA, export price, normal value and dumping margin calculations

Confidential Attachment 9: Uncooperative and All Other Exporters from Spain, dumping margin calculations

Confidential Attachment 10: USP and NIP calculations

Confidential Attachment 11: Effective rate of duty calculations