

18 October 2021

The Director, Investigations
Anti-Dumping Commission
GPO BOX 2013
CANBERRA ACT 2600

BY EMAIL:
investigations@adcommission.gov.au

Dear Director,

Dumping Investigation No. 584 concerning Merchant Bar exported from Taiwan

AUSTRALIAN INDUSTRY RESPONSE TO EXPORTER SUBMISSION
AND COMMISSIONER'S DAY 60 STATUS REPORT

InfraBuild NSW Pty Limited (**InfraBuild**), refers to the submission of the Taiwanese exporter, Feng Hsin Steel Co., Ltd (**Feng Hsin**), dated 24 August 2021¹, and the *Commissioner's Day 60 Status Report* published pursuant to the *Customs (Preliminary Affirmative Determinations) Direction 2015 (the Direction)* on 30 July 2021².

A. FENG HSIN SUBMISSION

The use of headings (as quoted) below follow those contained in the exporter's submission.

"Commencement of alleged material injury"

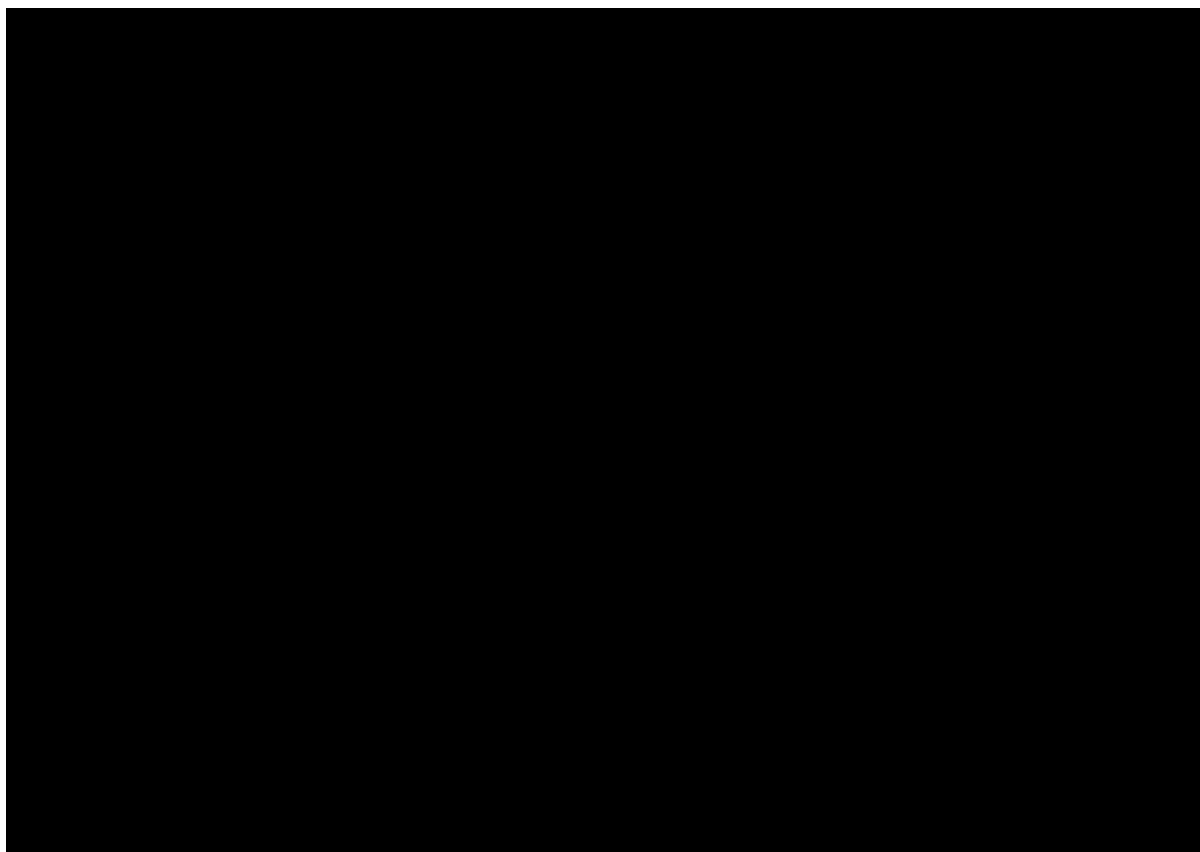
Section A-8.1 of the form (B108) approved by the Commissioner for the purposes of s.269TB³, requires applicants to *estimate the date when the material injury from dumped... imports commenced...* . In its response, the Australian industry applicant estimated the date for *...material injury arising from the volume and price effects [emphasis added]... to be ...in or about November 2020*. However, this is not to suggest that the material injury from the price effects of the dumped goods exported from Taiwan did not commence prior to November 2020.

The clearest indication of the price effects of the dumped Taiwanese goods on the Australian industry's prices for like goods sold in Australia was contained in *Section A-9.2.1* of its application, specifically, CONFIDENTIAL CHART A-9.2.1 and TABLE A-9.2.1, reproduced below:

¹ EPR Folio No. 584/011 (published 25 August 2021)

² EPR Folio No. 584/010

³ Legislative references are to the provisions of the *Customs Act 1901*, unless specified otherwise.



[REPRODUCED] CONFIDENTIAL CHART A-9.2.1: Australian industry's quarterly weighted average FIS price for merchant bar and quarterly weighted average FOB export price for imports of merchant bar from Taiwan, since 1 January 2017 (Source: appendix A2)

Quarter	Jan - Mar 2017	Apr - Jun 2017	Jul - Sep 2017	Oct - Dec 2017
Aust. industry	100	102	103	108
Taiwan	100	107	105	112
Quarter	Jan - Mar 2018	Apr - Jun 2018	Jul - Sep 2018	Oct - Dec 2018
Aust. industry	116	122	121	126
Taiwan	113	119	129	132
Quarter	Jan - Mar 2019	Apr - Jun 2019	Jul - Sep 2019	Oct - Dec 2019
Aust. industry	128	135	111	116
Taiwan	136	135	131	126
Quarter	Jan - Mar 2020	Apr - Jun 2020	Jul - Sep 2020	Oct - Dec 2020
Aust. industry	113	117	116	113
Taiwan	123	130	114	116

[REPRODUCED] TABLE A-9.2.1: Index of Australian industry's quarterly weighted average FIS price for merchant bar and quarterly weighted average FOB export price for imports of merchant bar from Taiwan, since 1 January 2017 (Source: [appendix A2](#))

Specific attention is paid to the significant decline in the Australian industry's weighted average FIS invoice prices in the September 2019 quarter (-17.7 per cent), in response to declining Taiwanese FOB export prices (since September 2019 quarter).

Further, in *Section A-8.2* of its application, the Australian industry identified declining monthly prices, unit profit and profitability across its proposed investigation period, extracts in relevant part are reproduced below:

[reproduced] Index of price variations (merchant bar)

Period	CY 2017	CY 2018	CY 2019	CY 2020
unit sales revenue*	100	117	118	111

Period	Jul 2020	Aug 2020	Sep 2020	Oct 2020	Nov 2020	Dec 2020	Jan 2021	Feb 2021
unit sales revenue*	100	98	97	95	96	97	99	102

[reproduced] Index of profit variations (merchant bar)

Period	CY 2017	CY 2018	CY 2019	CY 2020
unit gain or loss*	100	108	128	116

Period	Jul 2020	Aug 2020	Sep 2020	Oct 2020	Nov 2020	Dec 2020	Jan 2021	Feb 2021
unit gain or loss*	100	110	90	82	73	25	22	32

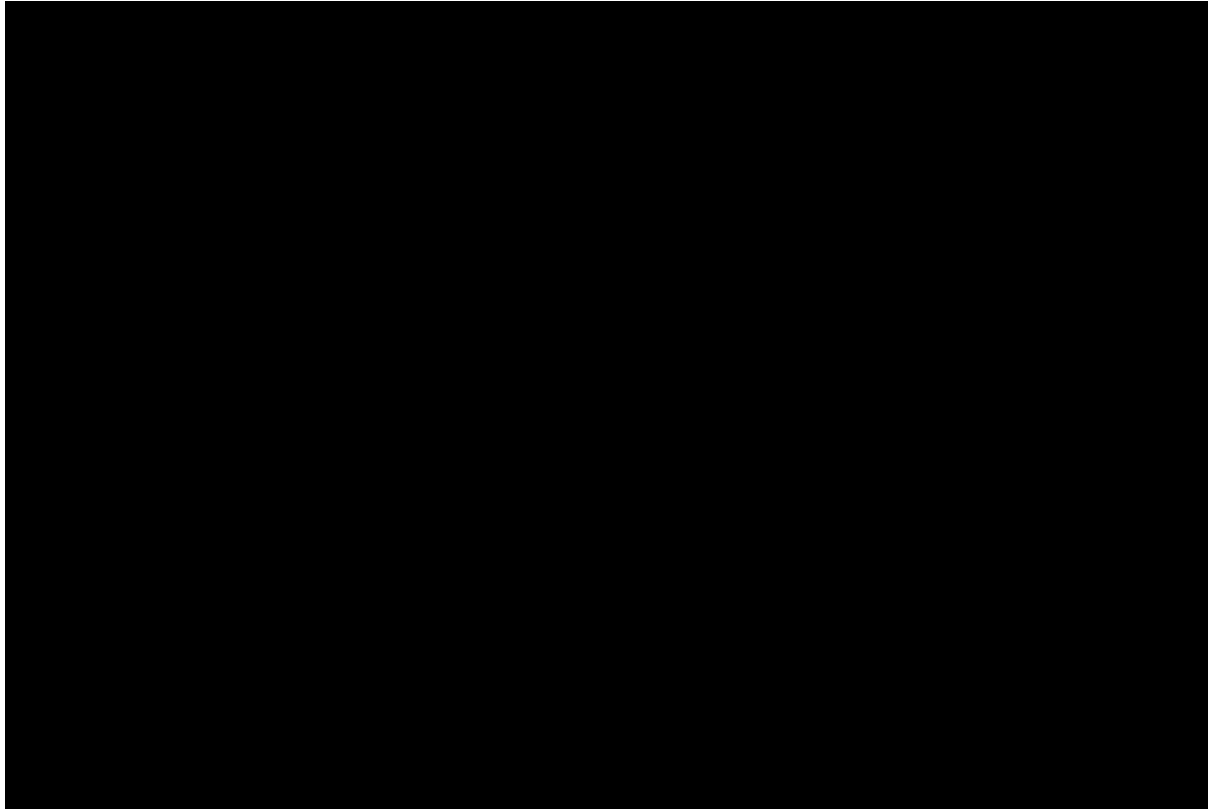
[reproduced] Index of profitability variations (merchant bar)

Period	CY 2017	CY 2018	CY 2019	CY 2020
profitability*	100	92	109	104

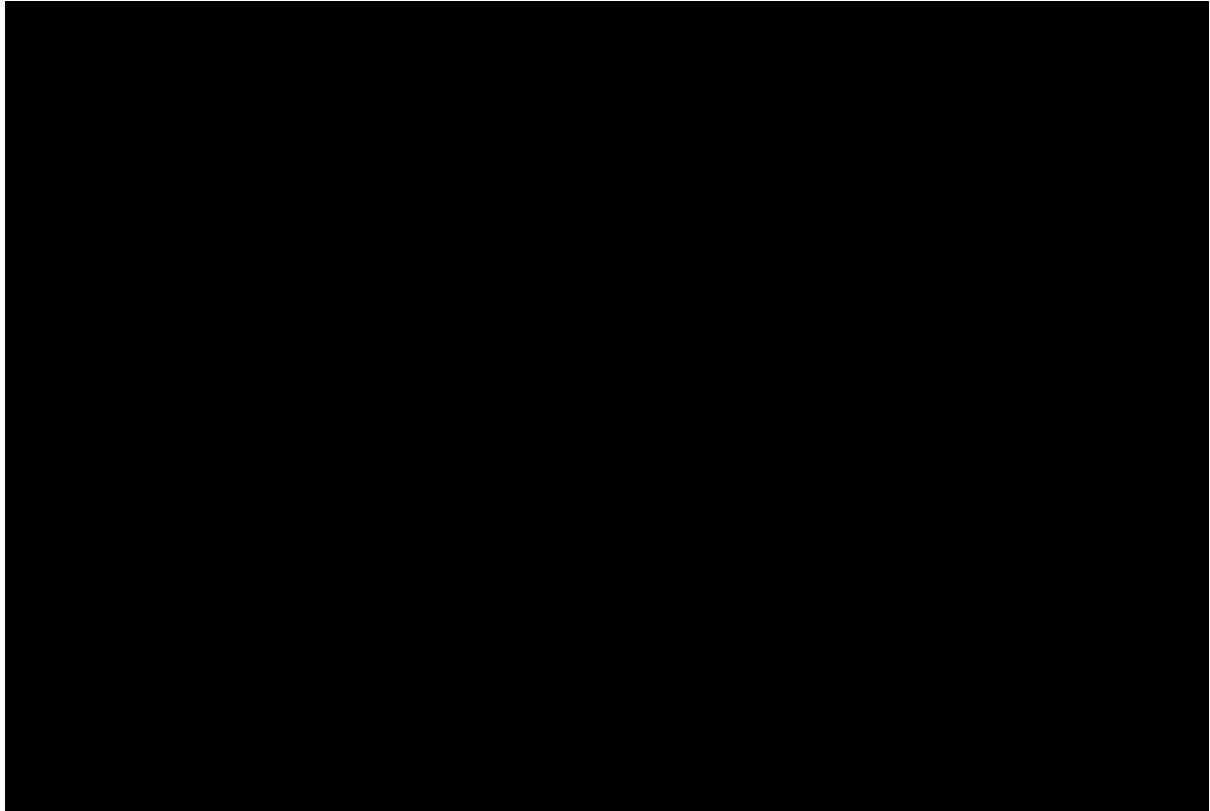
Period	Jul 2020	Aug 2020	Sep 2020	Oct 2020	Nov 2020	Dec 2020	Jan 2021	Feb 2021
profitability*	100	112	93	86	76	26	22	31

The Australian industry then demonstrated by detailed, customer-by-customer, price undercutting analysis, the effect of the dumped Taiwanese imports on its prices (refer CONFIDENTIAL CHARTS A-9.2.2.1 to A-9.2.2.11, therein). Finally, in summary, the Australian industry applicant demonstrated material () price undercutting margins across the investigation period.

Furthermore, in *Section A-2.2.2*, the applicant illustrated the effect of declining Taiwanese export prices on the domestic industry's profit and profitability, in both cases, the impact was observed from July 2019. Extracts of this analysis are reproduced from the application:

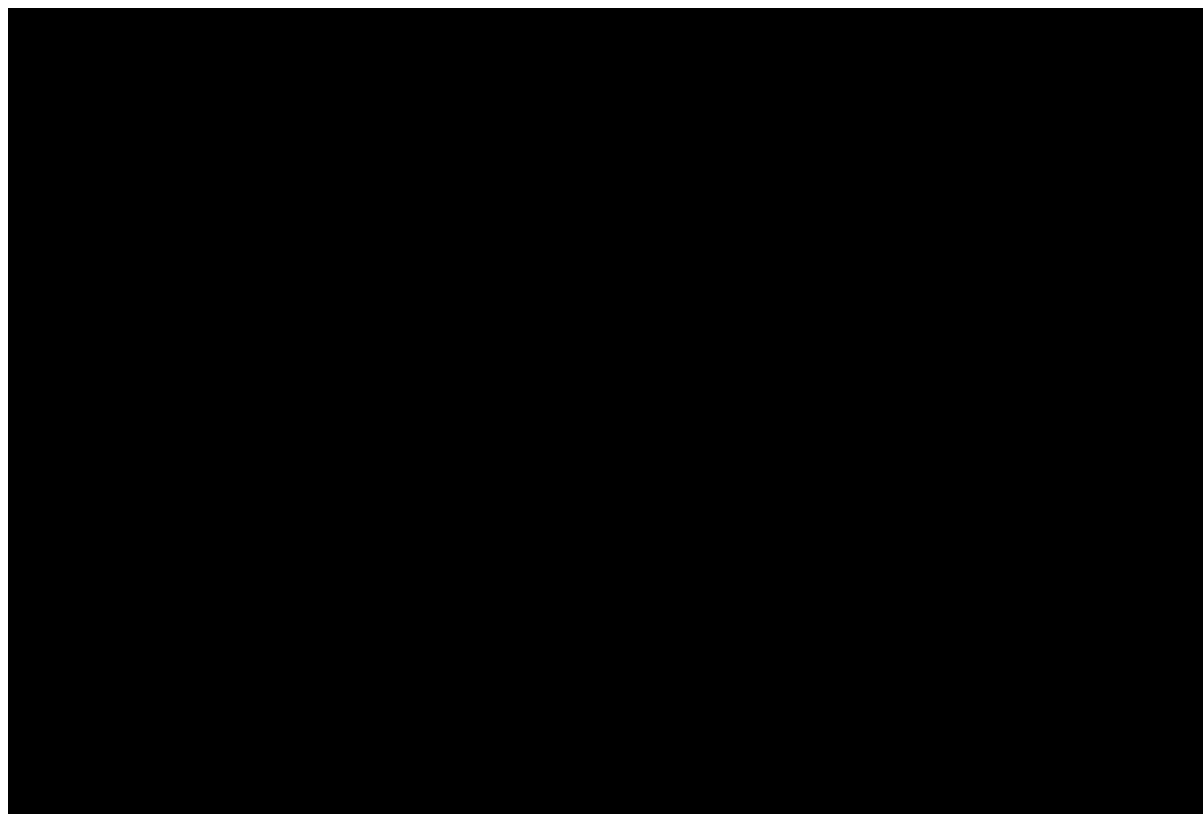


[reproduced] **CONFIDENTIAL CHART A-9.2.4:** Quarterly export prices of dumped goods and Australian industry net gain or loss across the proposed investigation period (Source: appendices A2 and A6.1)



[reproduced] **CONFIDENTIAL CHART A-9.2.5:** Quarterly export prices of dumped goods and Australian industry profitability across the proposed investigation period (Source: [appendices A2](#) and [A6.1](#))

With respect to the volume effects of the dumped Taiwanese exports, *section A-9.1.2* of the application, specifically, [CONFIDENTIAL CHART A-9.1.2](#) and [Table A-9.1.2](#), therein, shows the impact of a significant increase in the market share of the dumped goods (+24.2%), on the declining share of the Australian industry (-12.7%) in the December 2020 quarter, reproduced below:



[reproduced] **CONFIDENTIAL CHART A-9.1.2:** Australian industry's quarterly market share of merchant bar and quarterly market share for imports of merchant bar from Taiwan since 1 January 2017 (Source: [appendix A2](#))

Period	Jan - Mar 2017	Apr - Jun 2017	Jul - Sep 2017	Oct - Dec 2017
<i>Aust. industry</i>	100	101	125	101
<i>Dumped imports</i>	100	125	92	98
Period	Jan - Mar 2018	Apr - Jun 2018	Jul - Sep 2018	Oct - Dec 2018
<i>Aust. industry</i>	91	87	131	75
<i>Dumped imports</i>	124	148	93	145
Period	Jan - Mar 2019	Apr - Jun 2019	Jul - Sep 2019	Oct - Dec 2019
<i>Aust. industry</i>	114	101	108	104
<i>Dumped imports</i>	123	113	117	108
Period	Jan - Mar 2020	Apr - Jun 2020	Jul - Sep 2020	Oct - Dec 2020
<i>Aust. industry</i>	100	105	102	89
<i>Dumped imports</i>	105	93	91	113

[reproduced] **TABLE A-9.1.2:** Index of Australian industry's quarterly market share of merchant bar and quarterly market share for imports of merchant bar from Taiwan, since 1 January 2017 (Source: [appendix A2](#))

Therefore, although the Australian industry experienced the price effects of the dumped imports since the September 2019 quarter, the confluence of both price and volume effects of the dumped imports commenced in or about November 2020 – precisely the position proposed in its application.

“Inappropriate data analysis”

The Taiwanese exporter claims to object to the Australian industry’s inclusion of additional monthly indexed data to improve the transparency of its application. We are at a loss to understand the motivation of the exporter’s grievance here. In addition to annual and quarterly tables of indexed data across the proposed injury analysis period (since January 2017), the Australian industry provided additional information; over and above what is required by the approved form (B108); to help interested parties observe a monthly breakdown of performance in the final two quarters of the proposed investigation period, and any additional monthly information that was; at the time of writing; available to the applicant.

At the time of submitting the application, the March 2021 quarterly financial information of the Australian industry applicant was not available. The Taiwanese exporter will observe that the applicant was submitted on the basis of a proposed investigation period commencing 1 January 2020. Following initiation of the investigation, the Commissioner (in ADN 2021/073) specified the twelve-month period commencing 1 April 2020 to be the investigation period in relation to the application. Accordingly, the Australian industry has since supplied the additional quarter’s worth of financial information to the Commission.

By way of update, the March 2021 quarter shows a further decline in profit and profitability because of increasing price suppression caused by ongoing price undercutting by importers of the dumped, Taiwanese goods.

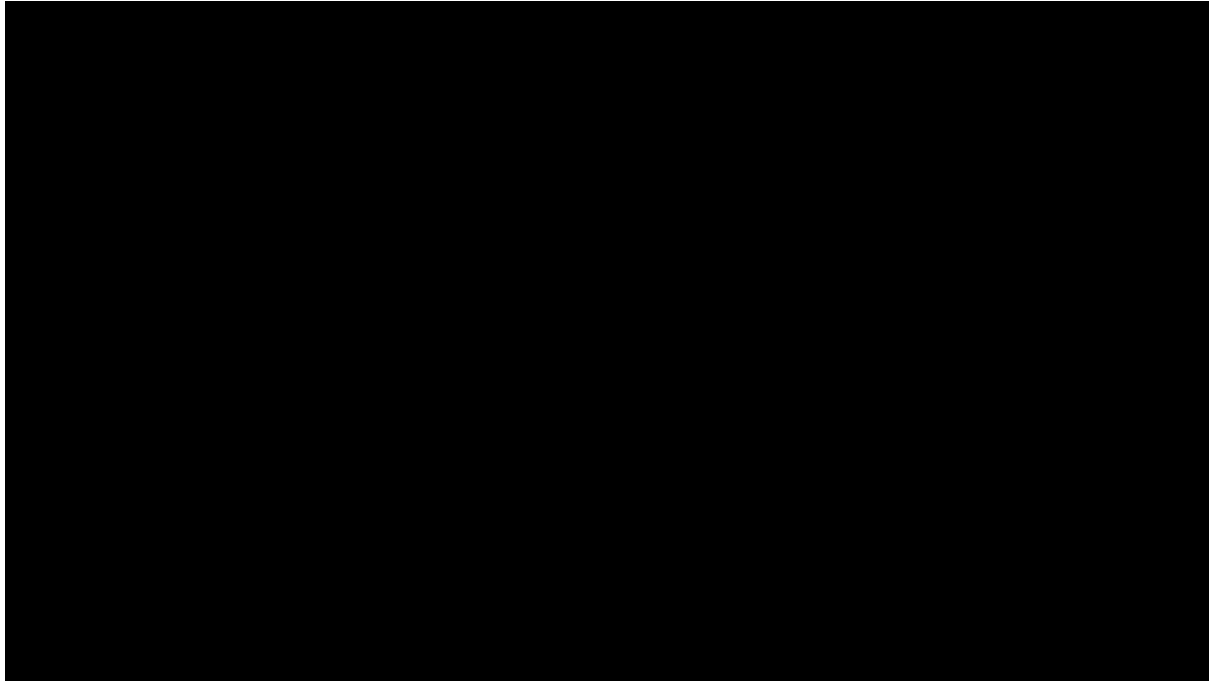
Economic condition of the Australian industry across the injury analysis period ending 31 March 2021

Firstly, the additional quarter’s worth of financial information indicates that the Australian industry has continued, *inter alia*, to experience material injury in the forms of:

- price depression;
- price suppression;
- reduced profit and profitability.

(a) Price depression

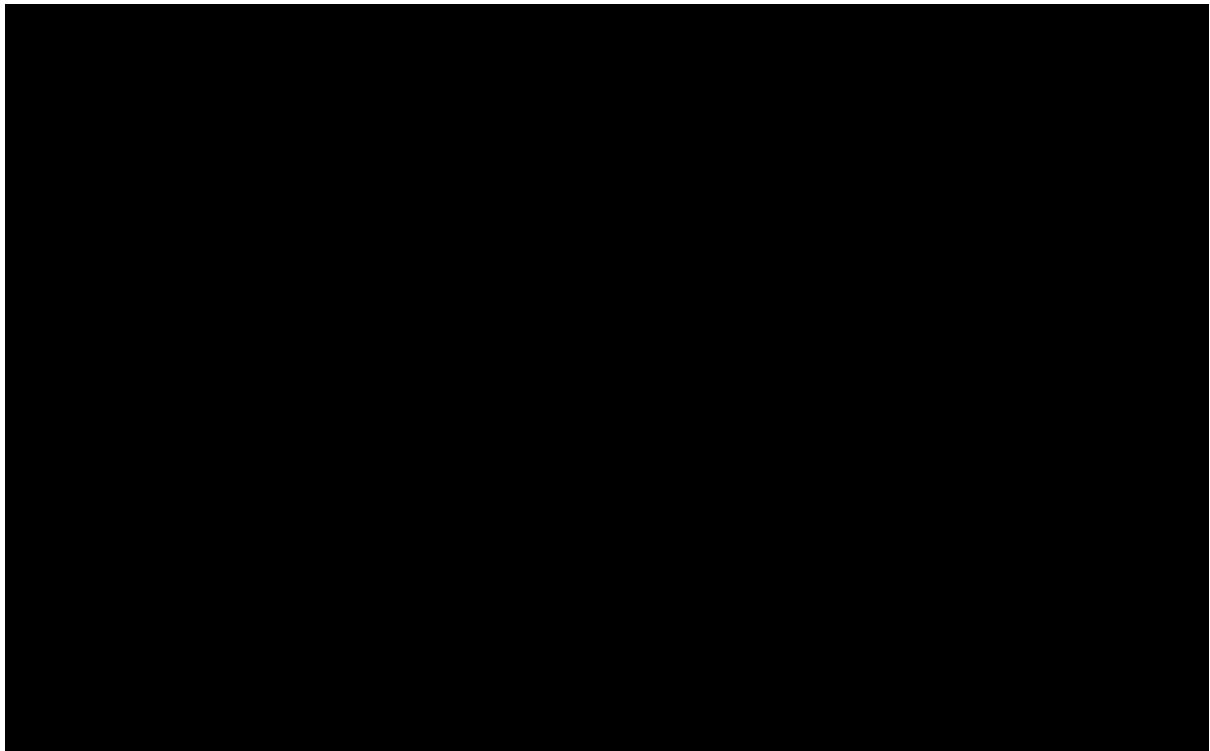
CONFIDENTIAL FIGURE 1, below, indicates that across the injury analysis period, the Australian industry’s unit sales value continued to decline in the 12-months ending 31 March 2021, from its highest level in the 12-month period ending 31 March 2019.



CONFIDENTIAL FIGURE 1: Australian industry unit prices for domestic sales (annual since 1 April 2017)

(b) Price suppression

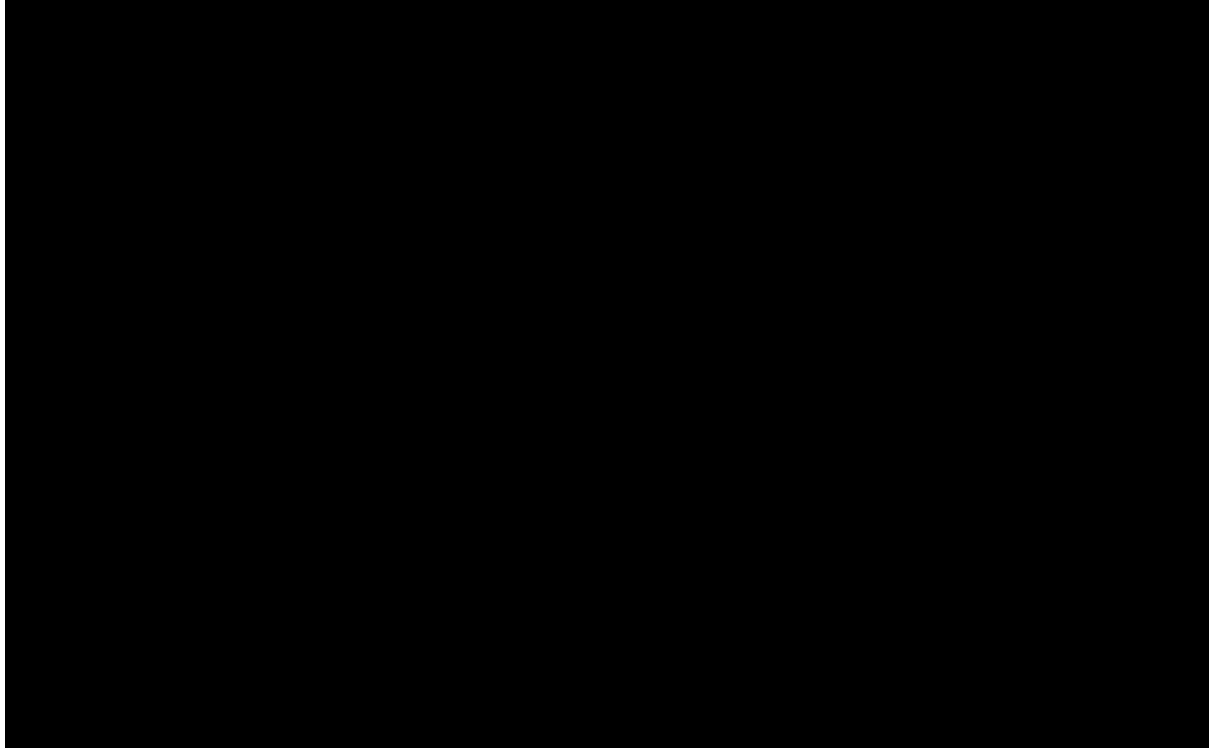
CONFIDENTIAL FIGURE 2, below, indicates that while costs and prices have both declined in the 12-month period ending 31 March 2021, prices have declined at a faster rate. On this basis, the Australian industry considers that there has been price suppression during the investigation period (1 April 2020 to 31 March 2021).



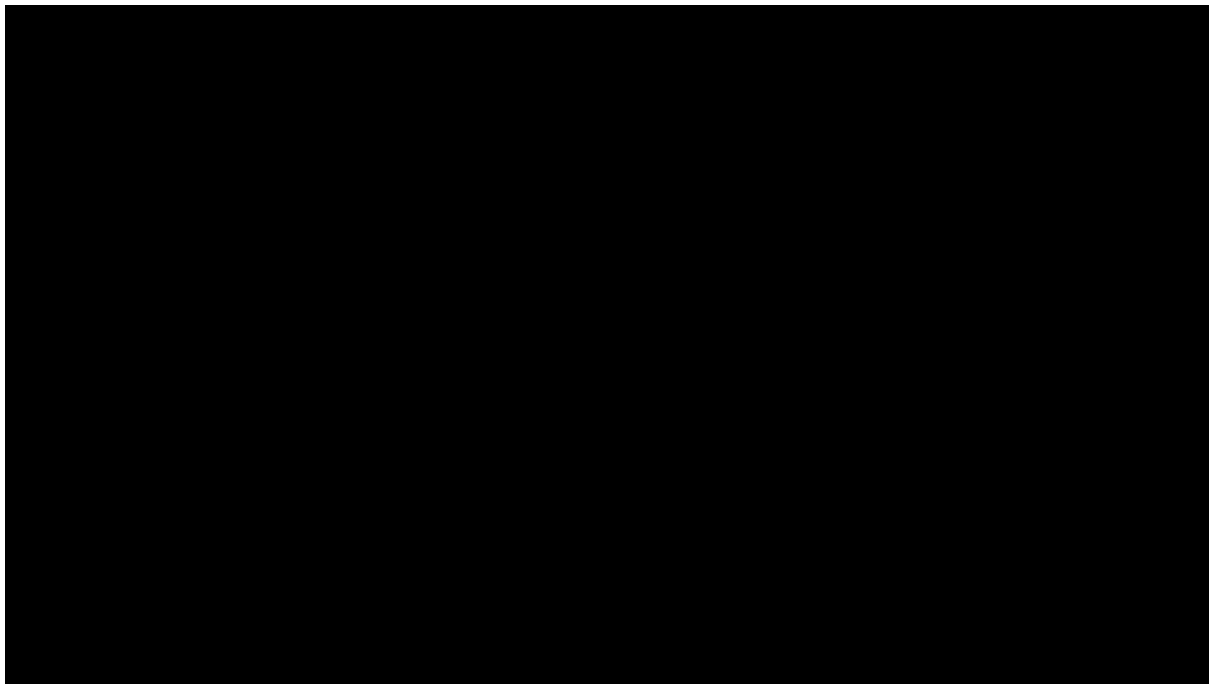
CONFIDENTIAL FIGURE 2: Australian industry unit prices, unit costs for domestic sales (annual since 1 April 2017)

(c) reduced profit and profitability

The Australian industry has compared its unit profit and profitability (measured as a percentage of revenue) over the four years to the 12-months ending 31 March 2021. It declined in every year of the injury analysis period since the 12-month period ending 31 March 2019 (**CONFIDENTIAL FIGURE 3.1 and 3.2**, below, refers).



CONFIDENTIAL FIGURE 3.1: Australian industry unit gain or loss for domestic sales (annual since 1 April 2017)



CONFIDENTIAL FIGURE 3.2: Australian industry profitability for domestic sales (annual since 1 April 2017)

“Price comparison for undercutting purposes”

It is incorrect for the exporter to suggest that any of InfraBuild’s price offers to the market are not based on import parity price (IPP). All offers to the market are based on IPP. This ought to be an unremarkable revelation to the exporter. Indeed, the Australian industry’s approach to pricing merchant bar is consistent with that applied, and extensively examined by the Commission and the Anti-dumping Review Panel (ADRP) in *Continuation Inquiry No. 505* and *ADRP Review No. 120*. By way of reminder, the Commission described the Australian industry’s IPP pricing policy there as follows:

...the Commission observed that the prices offered by OneSteel to its customers are based on an IPP model plus a premium. The IPP model is:

- *used to set prices on an individual customer basis;*
- *is set with reference to monthly price offers by importers in the Australian HRS market; and*
- *used by customers in negotiations with OneSteel.⁴*

All InfraBuild’s offers are aligned and benchmarked against importer delivery terms. Customers are invited to either take delivery on the importer equivalent delivery date ([REDACTED] offers), or at a future (albeit [REDACTED]) delivery date, which again is priced against a forward (future) IPP offer applicable at that delivery time.

Therefore, irrespective of when delivery is made, it is always benchmarked against a comparable IPP based on the same delivery date timeframe.

By way of example, two external, unrelated customers, [REDACTED] and [REDACTED]:

- [REDACTED] offer: Under this offer, an offer in [REDACTED] for [REDACTED] delivery is aligned and benchmarked against import offers also for [REDACTED] delivery. InfraBuild Steel’s offer price is based on the IPP plus a premium, typically approximately \$ [REDACTED] /tonne. If accepted, an order is placed in [REDACTED] for delivery in [REDACTED], and 100% of the order amount is required to be accepted (drawn down) by the customer. The amount of the price premium is [REDACTED]
[REDACTED];
- [REDACTED] offer: Under this offer the price is approximately \$ [REDACTED] /tonne above the forward IPP [REDACTED] benchmark. Again, the [REDACTED] benchmark is referenced against an equivalent, shorter future (forward) delivery date of [REDACTED] weeks ([REDACTED]), compared to the [REDACTED] offer of typically, [REDACTED] weeks between order placement and delivery. The [REDACTED] price premium here relates to the [REDACTED] delivery lead times, but the underlying price remains the [REDACTED] benchmark applicable at the equivalent ([REDACTED]) delivery date (albeit with a [REDACTED] price premium).

⁴ Reinvestigation Report of certain findings in REP 499 and REP 505, Hot Rolled Structural Steel Sections – Japan, Korea, Taiwan and Thailand (15 January 2021) p. 42.

Other customers, such as [REDACTED] and [REDACTED] have one “monthly” offer, which is explicitly tied to IPP modelling based on the equivalent delivery date together with an agreed price premium.

Therefore, we do not understand the basis on which the exporter makes the following suggestions:

- *...any price undercutting analysis... should not be compared with Infrabuild’s ezystock prices as they reflect sales prices made at different times and incorporating different sales functions.*⁵

This makes no sense as all InfraBuild’s price offers are made by reference to the IPP applicable at the equivalent delivery date. The applicable price premiums vary on the basis of lead-times between order placement and agreed delivery. In every case, however, the underlying IPP is based on the equivalent delivery date of the import offer. Therefore, price undercutting analysis may be performed irrespective of lead-times, as the import offer will continue to cause injury in terms of price depression and price suppression, as InfraBuild continues to make price offers by reference to equivalent IPP offers, i.e. on equivalent delivery terms.

- *prices of subject imports should be compared with Infrabuild’s IPP by reference to the importer’s sales date to the final customer...*⁶

Again, the point of comparison between the importer’s and InfraBuild’s sales is not the “sales date”, but the delivery date, best evidenced by the invoice date of the two competing parties.

- *The price comparison between subject imports and Infrabuild’s IPP should be based on ex-works and ex-Australian port.*

The exporter proposed an approach to price comparison that is inconsistent with the Commission’s recent approach to price undercutting analysis applied in *Continuation Inquiry No. 505* and endorsed by Member Fisher in ADRP Report No. 121.

In REP 505, the Commission explained its approach to price undercutting analysis as follows:

*The Commission has compared the Australian industry’s prices in the inquiry period to sales by importers of HRS. The analysis was based on verified sales data from Liberty Steel as well as on available information from importers. The analysis was conducted in respect of prices made to Australian customers at the distributor level and on Free In Store (FIS) delivery terms. [emphasis added]*⁷

In ADRP Report No. 121, Panel Member Fisher concluded that:

I find no flaw in either the price undercutting or the price suppression analysis undertaken by the ADC in REP 505. Its conclusion regarding the importance of price in terms of the material

⁵ EPR Folio No. 584/011, p. 2.

⁶ EPR Folio No. 584/011, p. 2.

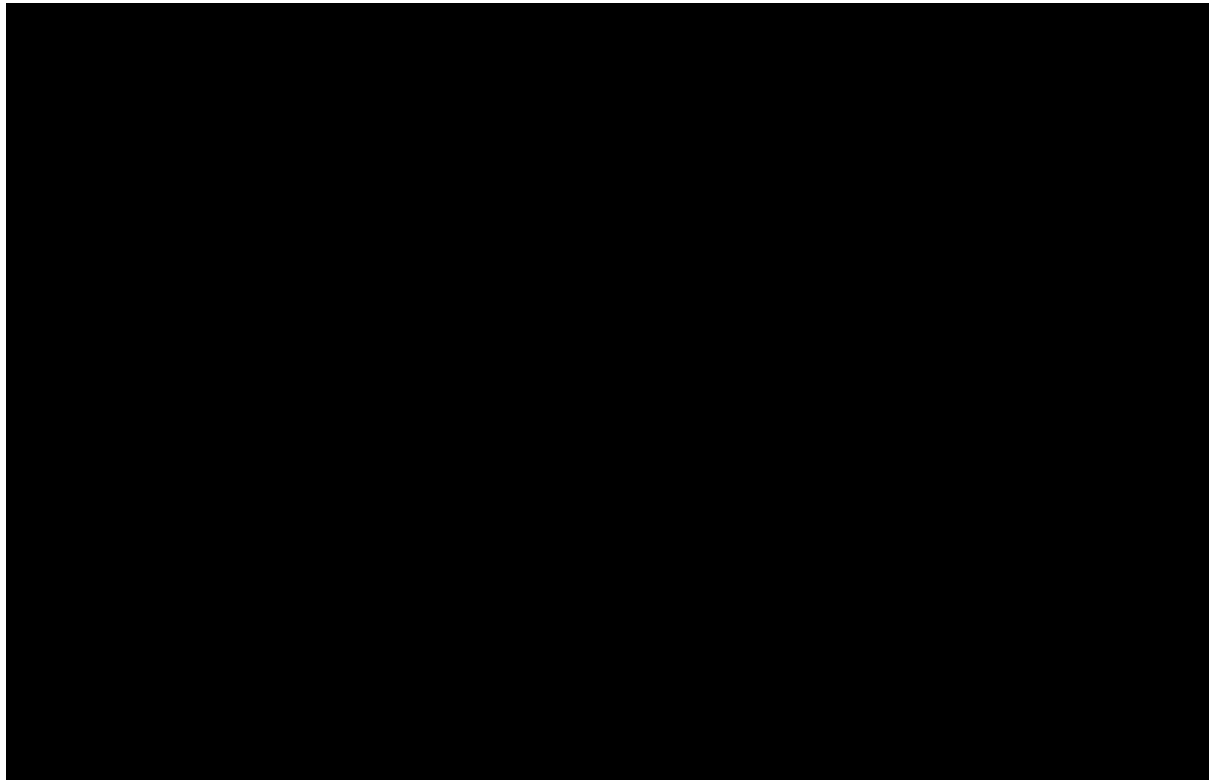
⁷ REP 505, p. 41.

*injury analysis in the review period as well as the impact on future performance appears valid. [emphasis added]*⁸

The exporter's explanation of performing a price comparison at an *...ex-works and ex-Australian port...* basis makes no sense, since both the importer's and InfraBuild's price to the Australian market is on an FIS basis delivered at an equivalent time. The question of the *...effects of transport costs incurred by InfraBuild for delivery from its two production sites...* is not relevant to the price undercutting analysis, but rather goes to the question of injury, specifically as an item contributing to its SG&A (selling general and administration) expenses, and therefore the degree of price suppression, and therefore profit and profitability achieved.

In terms of ongoing price undercutting since the lodgement of its application, InfraBuild has experienced increased degrees of monthly price undercutting by the exporter for each of its customers.

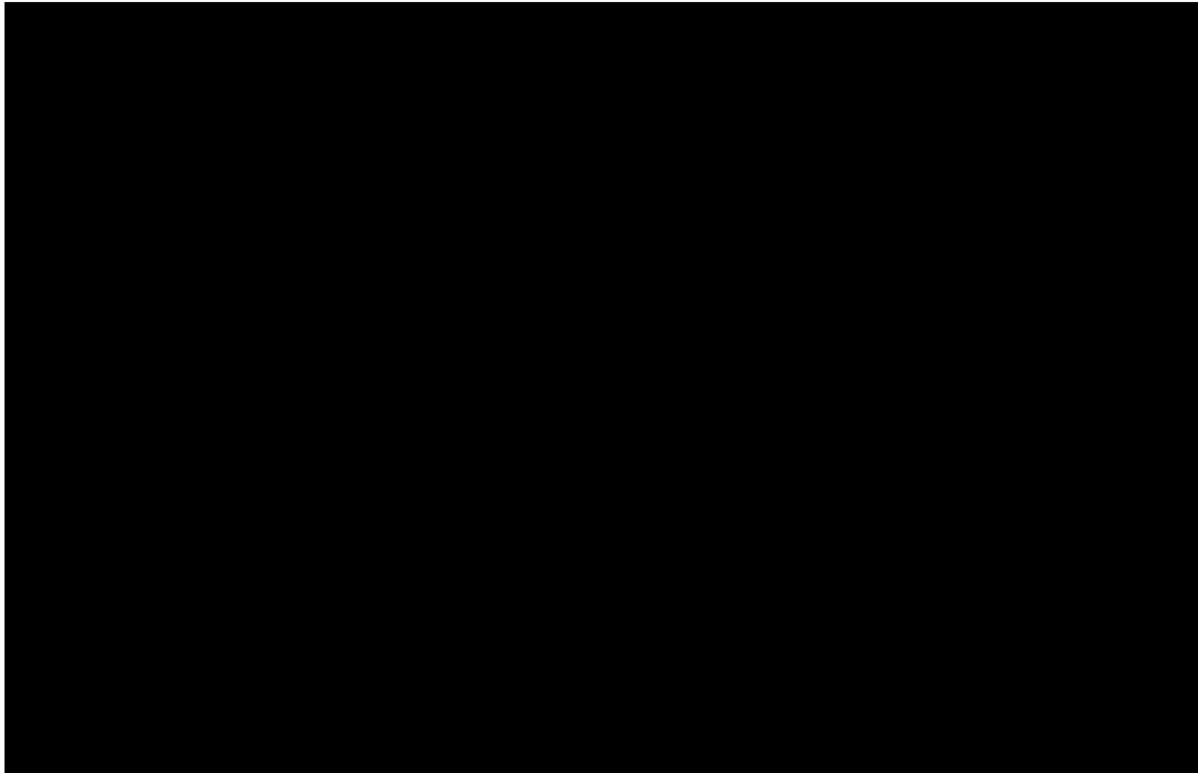
To demonstrate the impact of price undercutting by importers of the dumped goods on the Australian industry's prices, the applicant has performed analysis of [REDACTED] to unrelated customers, and its own offer, both at the FIS level of trade. **CONFIDENTIAL CHARTS 4.1 to 4.11**, below.



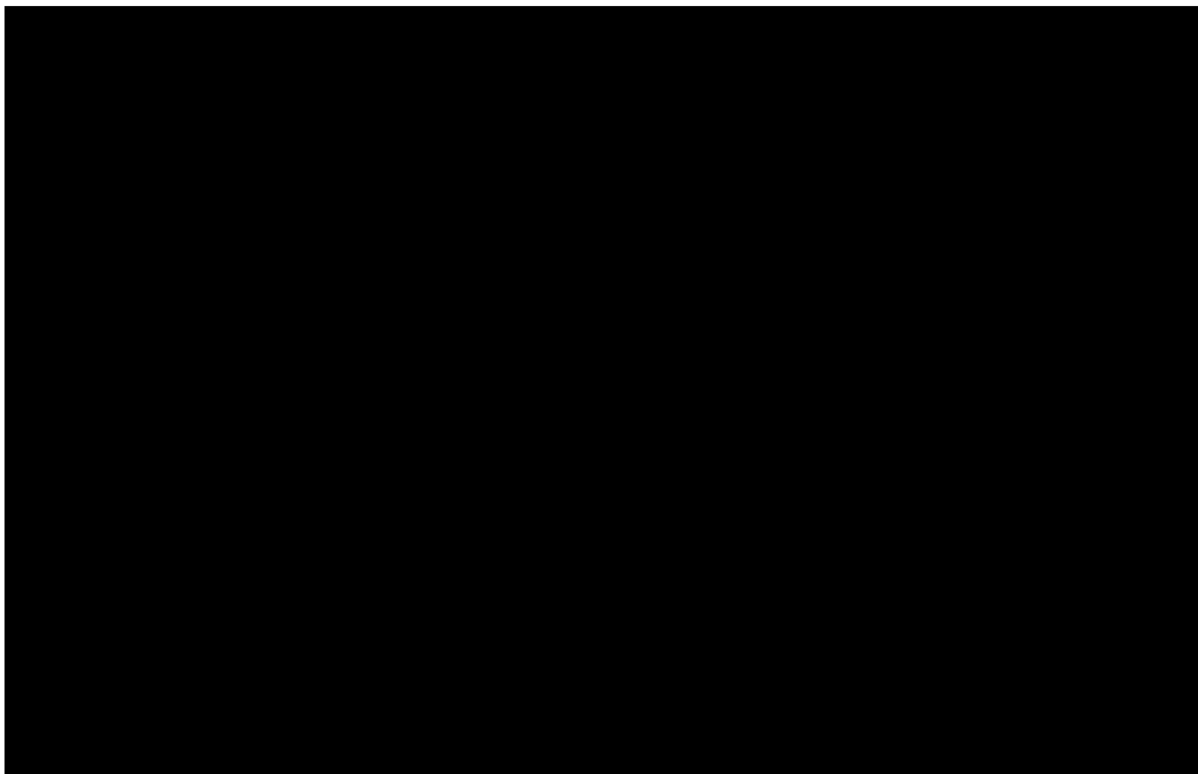
CONFIDENTIAL CHART 4.1: Analysis of importer and InfraBuild Steel price offers for merchant bar to a named customer (FIS, delivery date)
(Source: CONFIDENTIAL ATTACHMENT A)

CONFIDENTIAL CHART 4.2: Analysis of importer and InfraBuild Steel price offers for merchant bar to a named customer (FIS, delivery date)
(Source: CONFIDENTIAL ATTACHMENT A)

⁸ ADRP Report No. 121, p, 26.



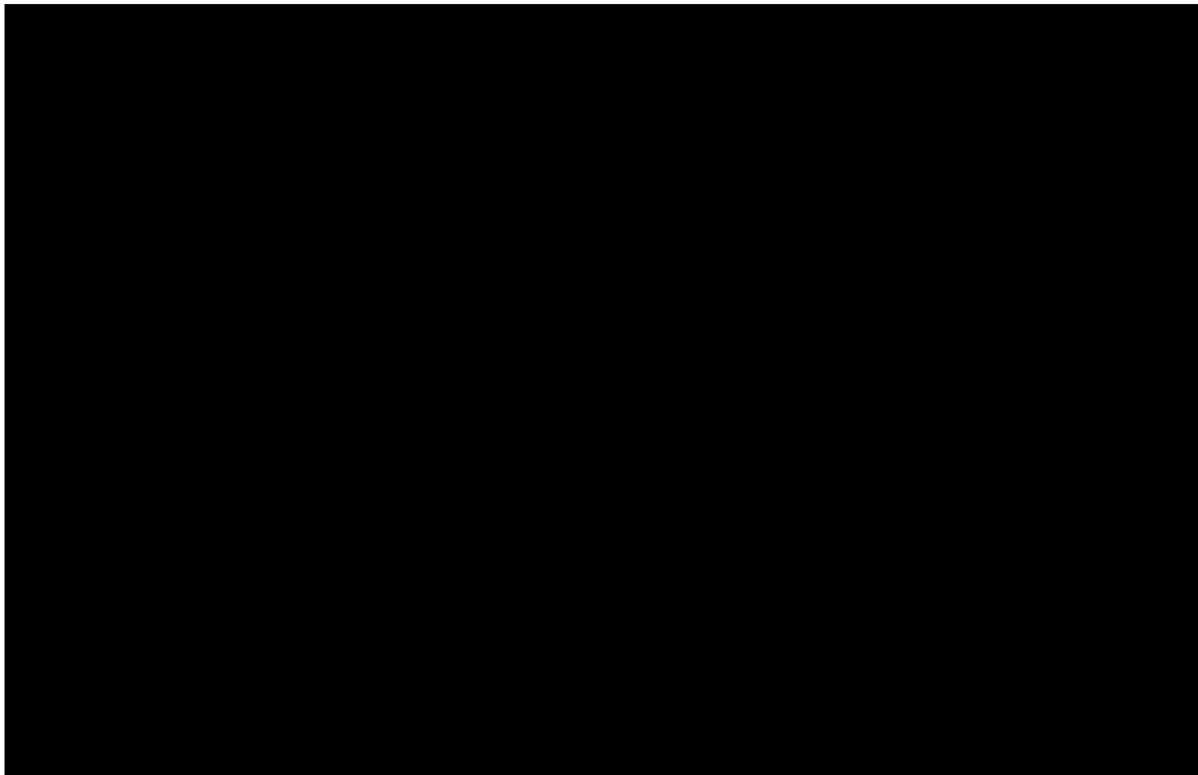
CONFIDENTIAL CHART 4.3: Analysis of importer and InfraBuild Steel price offers for merchant bar to a named customer (FIS, delivery date)
(Source: CONFIDENTIAL ATTACHMENT A)



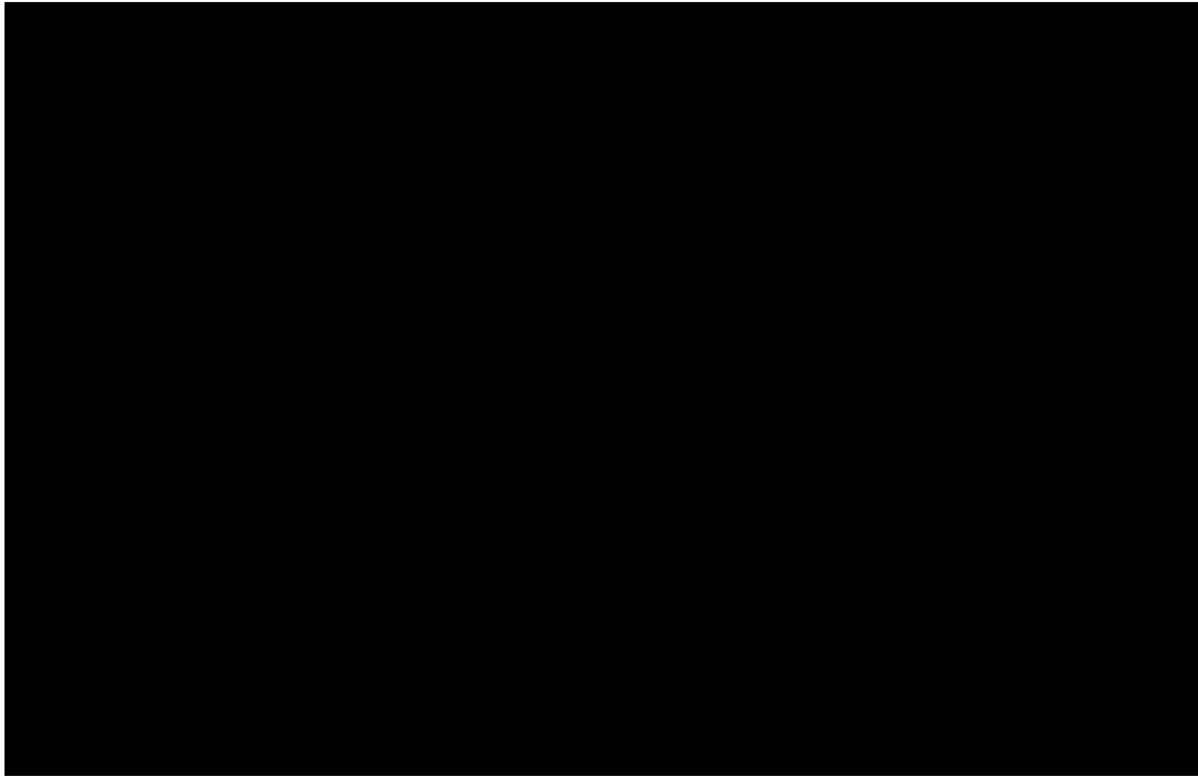
CONFIDENTIAL CHART 4.4: Analysis of importer and InfraBuild Steel price offers for merchant bar to a named customer (FIS, delivery date)
(Source: CONFIDENTIAL ATTACHMENT A)



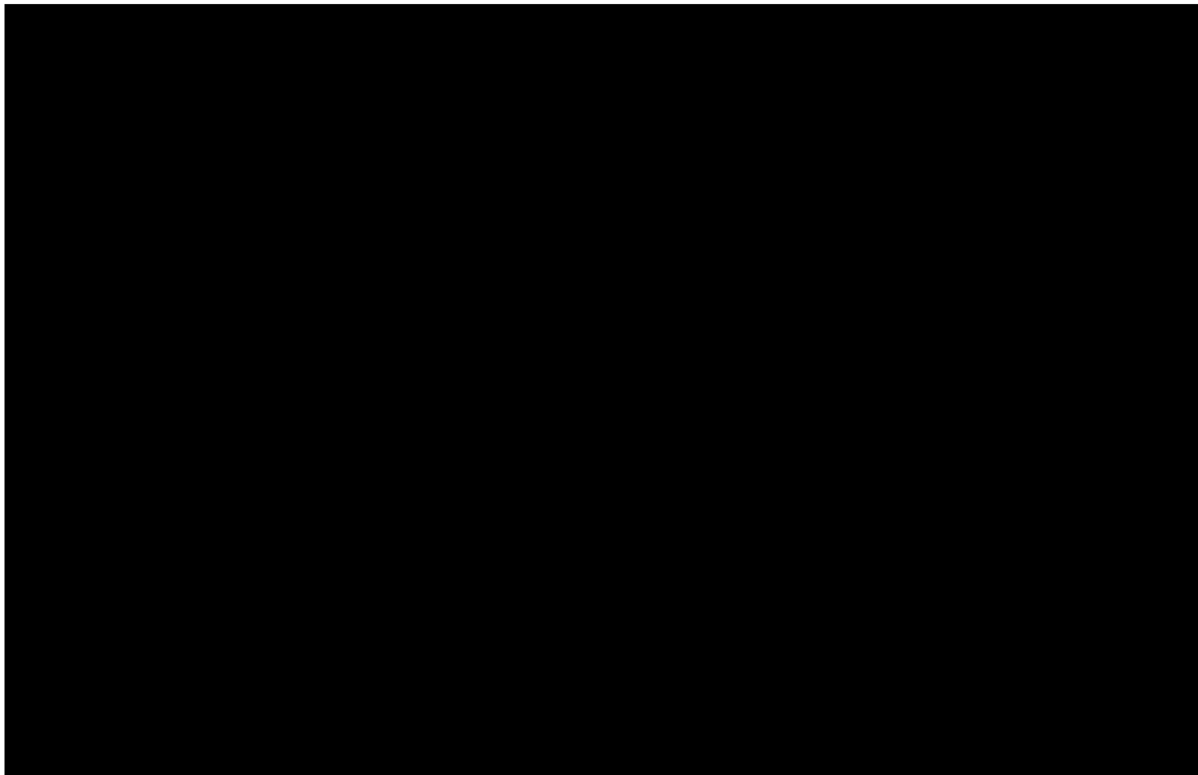
CONFIDENTIAL CHART 4.5: Analysis of importer and InfraBuild Steel price offers for merchant bar to a named customer (FIS, delivery date)
(Source: CONFIDENTIAL ATTACHMENT A)



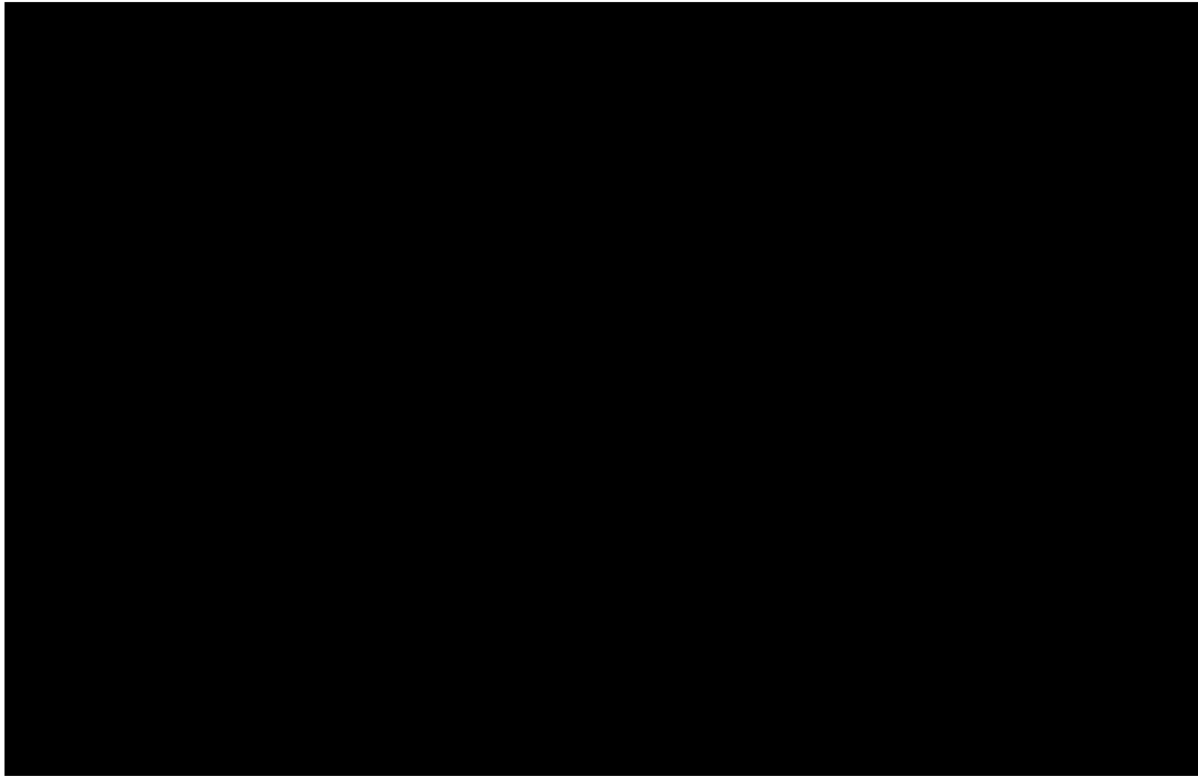
CONFIDENTIAL CHART 4.6: Analysis of importer and InfraBuild Steel price offers for merchant bar to a named customer (FIS, delivery date)
(Source: CONFIDENTIAL ATTACHMENT A)



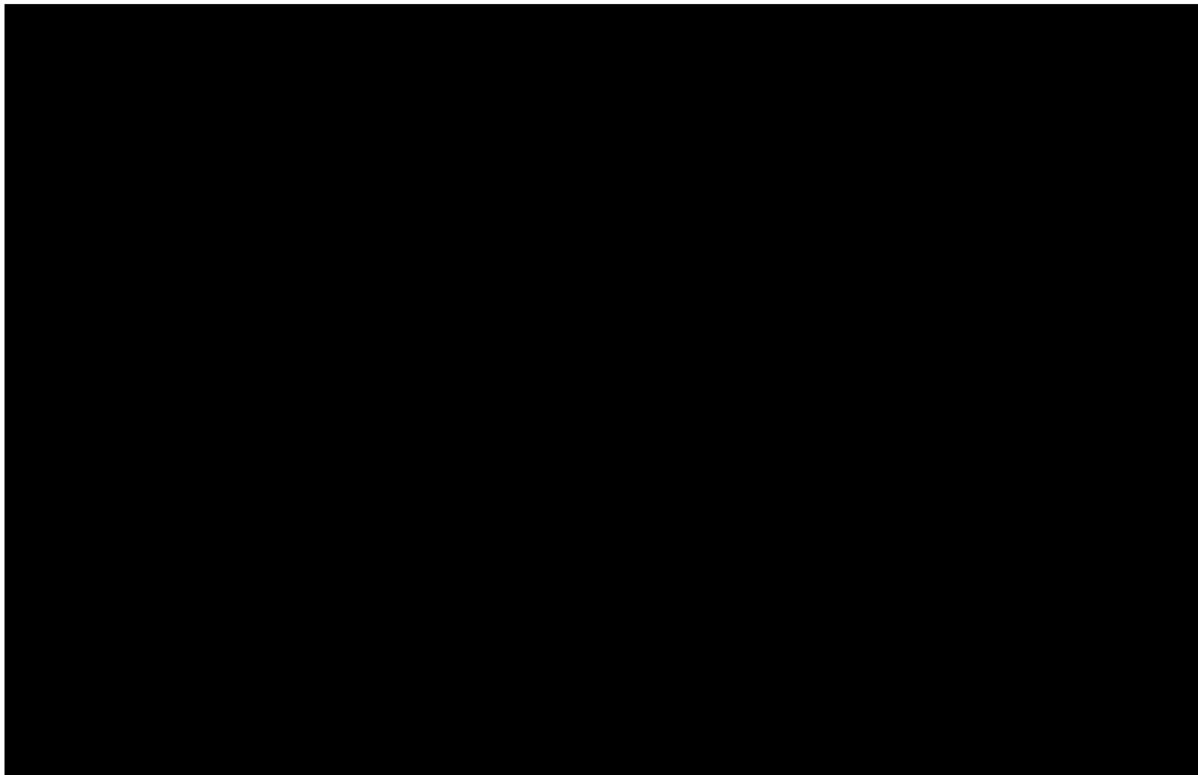
CONFIDENTIAL CHART 4.7: Analysis of importer and InfraBuild Steel price offers for merchant bar to a named customer (FIS, delivery date)
(Source: CONFIDENTIAL ATTACHMENT A)



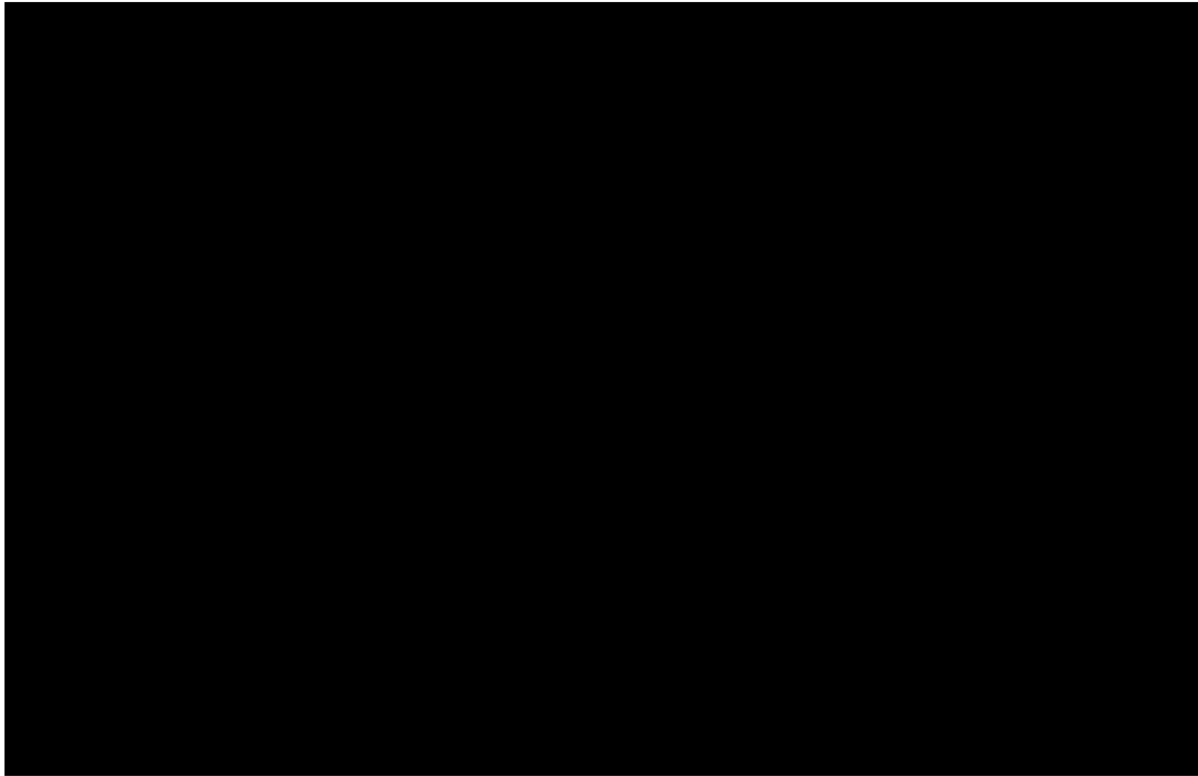
CONFIDENTIAL CHART 4.8: Analysis of importer and InfraBuild Steel price offers for merchant bar to a named customer (FIS, delivery date)
(Source: CONFIDENTIAL ATTACHMENT A)



CONFIDENTIAL CHART 4.9: Analysis of importer and InfraBuild Steel price offers for merchant bar to a named customer (FIS, delivery date)
(Source: CONFIDENTIAL ATTACHMENT A)

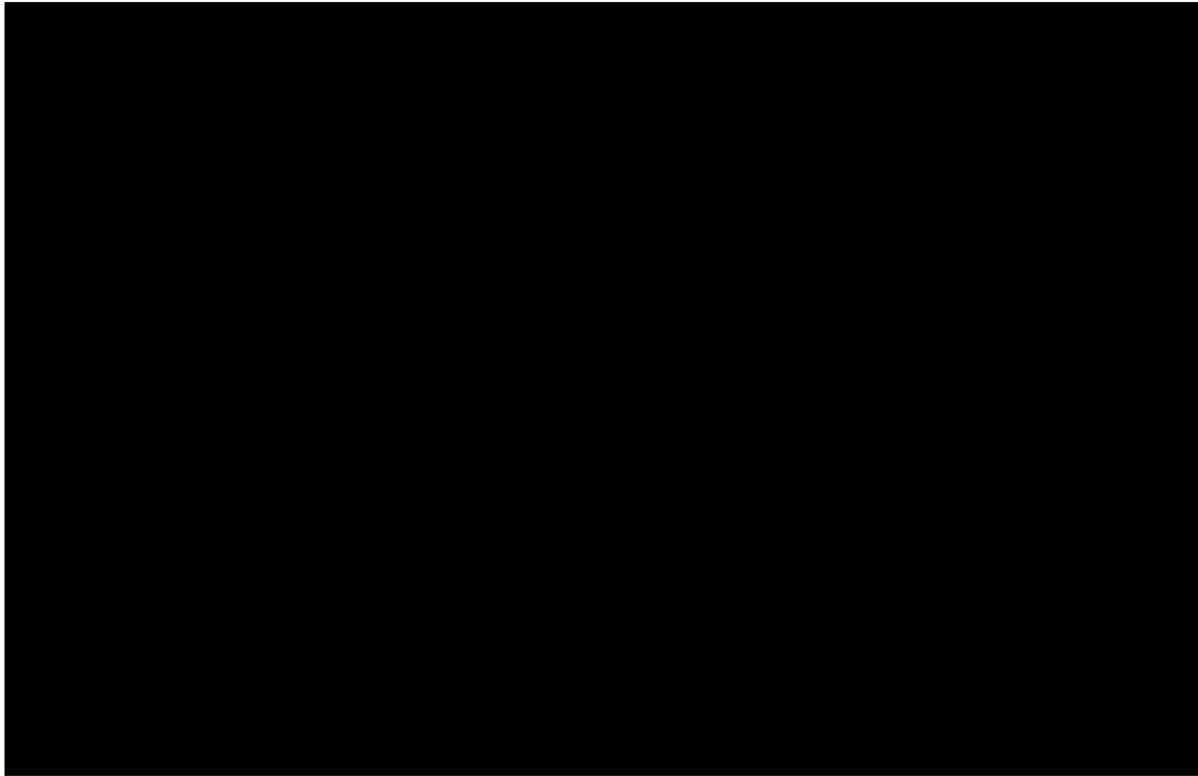


CONFIDENTIAL CHART 4.10: Analysis of importer and InfraBuild Steel price offers for merchant bar to a named customer (FIS, delivery date)
(Source: CONFIDENTIAL ATTACHMENT A)



CONFIDENTIAL CHART 4.11: Analysis of importer and InfraBuild Steel price offers for merchant bar to a named customer (FIS, delivery date)
(Source: CONFIDENTIAL ATTACHMENT A)

In summary, importer offers of dumped goods to customers in the Australian market continued to undercut InfraBuild Steel's offers. For most customers, the magnitude of price undercutting increased for goods delivered and sold in September 2021 and reach their maximum rates for sales to be delivered in December 2021. **CONFIDENTIAL CHART 5**, below, illustrates the rates and distribution of price undercutting:



CONFIDENTIAL CHART 5: Summary of price undercutting of InfraBuild Steel price offers for merchant bar by importers of dumped goods (Source: CONFIDENTIAL ATTACHMENT A)

This analysis indicates that Australian industry’s prices were undercut and that it would have achieved higher prices in the absence of offers for sales of merchant bar exported from Taiwan at dumped prices, in other words, the price undercutting caused the Australian industry to experience price depression that it would not have otherwise experienced if not for the offers for sale of dumped goods.

“Price trends of imports from November 2020”

CONFIDENTIAL CHART 6, below indicates that despite rising price offers, this has been outpaced by the rate of price undercutting by importers of the dumped goods. This evidence entirely invalidates the exporter’s assertion that InfraBuild’s claimed negative impact on profitability being only “transitory”. The accelerating rates of price undercutting supports the conclusion that InfraBuild could have achieved higher prices if not for the dumped goods sold in the Australian merchant bar market.



CONFIDENTIAL CHART 6: Future price analysis between importer and InfraBuild Steel offers of merchant bar in the Australian market
(Source: CONFIDENTIAL ATTACHMENT A)

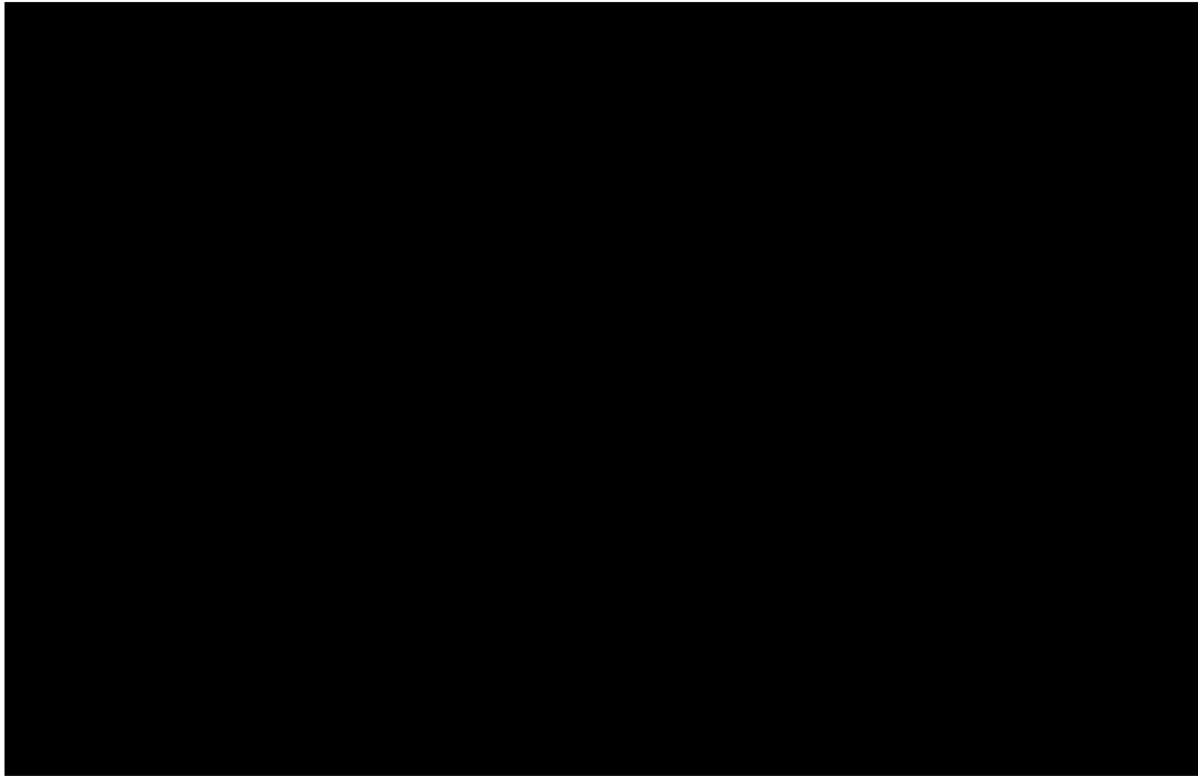
Exporter claim: “Volume injury does not exist”

In contradiction of the exporter’s assertion that *...InfraBuild made no claim, and presented no evidence with respect to volume related injury indicators*. This is simply untrue. InfraBuild refers the Commission to *Section A-9.4.1* of its *Application for dumping and/or countervailing duties*⁹, specifically, estimates of:

- lost sales volume;
- impact of lost sales volume on stock-on-hand position;
- financial impact of lost sales volume.

Further, analysis of InfraBuild Steel’s lost sales to goods imported from Taiwan since January 2021, demonstrates an ongoing material loss of sales volumes. A summary of its result appears in **CONFIDENTIAL CHART 7**, below.

⁹ EPR Folio No. 584/001, p. 58.



CONFIDENTIAL CHART 7: Future sales analysis between importer and InfraBuild Steel offers of merchant bar in the Australian market
(Source: CONFIDENTIAL ATTACHMENT A)

In summary, the Australian industry has lost sales of merchant bar for delivery between July and December 2021, of [REDACTED] tonnes to dumped imports. This sales volume loss is in addition to InfraBuild's estimate of lost sales volume calculated for the period between January and June 2021 of [REDACTED] tonnes.¹⁰

Further, the exporter reports; in redacted format; that there was *...no obvious or sustained increase in export volumes...* and that there is *...a downward trend line.*¹¹ Again, this is entirely unsupported by the evidence. **CHART 8**, below, indicates that significant monthly volumes, both in relative and absolute terms, of merchant bar have been exported to Australia from Taiwan since January 2020, and have continued to grow notwithstanding a low-point for arrivals in the month of December 2020.

¹⁰ EPR Folio No. 584/001, p. 94.

¹¹ EPR Folio No. 584/011, p. 4.

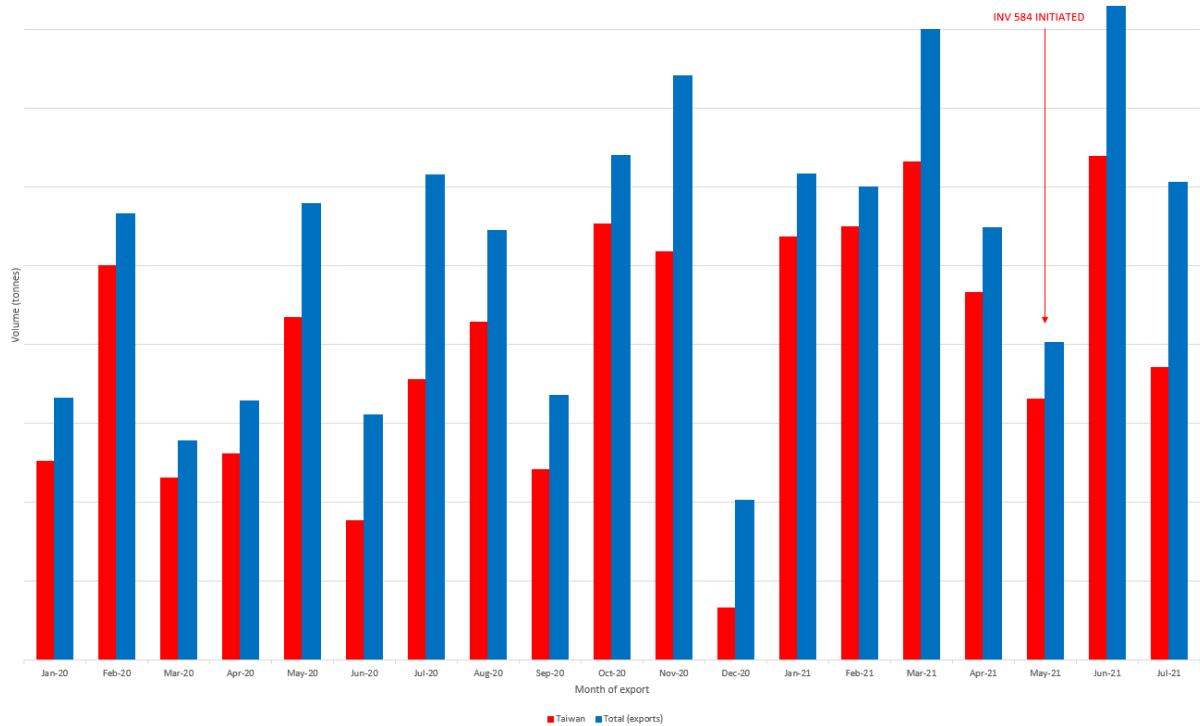


CHART 8: Volumes of merchant bar exported to Australia from Taiwan and all sources (Source: [CONFIDENTIAL ATTACHMENT B](#))

Of significant concern to InfraBuild is the escalation in exports following the publication of the Commission's initiation of the subject investigation on 31 May 2021. **CHART 8**, above, indicates that the volume of merchant bar exported from Taiwan in the month preceding the initiation reached its highest level since January 2020. Further, as **CHART 9** below evidences, exports from Taiwan have consistently constituted the majority by origin since January 2020, for every month except December 2020, achieving levels in excess of 90 per cent (February 2021). This contradicts a number of assertions made by the exporter in its submission, specifically, the following ought to be entirely dismissed by the Commission as unsupported by the evidence:

- that *...the volume data... shows no obvious or sustained increase in export volumes, either across the investigation period, since November 2020... or in the months subsequent to the end of the investigation period;*
- that the *...downward trend line provides clear confirmation that Taiwan imports did not increase in absolute volume during the investigation period;*
- that the *...downward trend in Taiwanese import volumes over the injury analysis period... and ...a similar downward trend in imports from all sources;*
- that *...Taiwanese imports were declining in a growing market during CY 2020.*¹²

¹² EPR Folio No. 584/011, pp. 4-5.

B. DAY 60 STATUS REPORT

We observe that on 30 July 2021, the Commissioner published a *Day 60 Status Report* (the **Report**) in accordance with the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the **Direction**),¹³ outlining the reasons why he did not make a PAD. In the Report, the Commissioner considered that on the information available at that time, he was not yet satisfied that there appeared to be sufficient grounds for the publication of a dumping duty notice, citing the issues *...critical to determining whether the goods are dumped...* specifically:

...export prices and normal values of the goods exported from Taiwan;

...volumes of the goods exported from Taiwan;

...the Australian market size for the goods and the market share held by interested parties; and

*...whether the goods exported from Taiwan, if dumped at above negligible levels, have caused or are causing material injury to the Australian industry.*¹⁴

At the time the Commissioner made the Report, extensions of time for *Questionnaire Responses* had been granted to the named Taiwanese exporters, with a revised return date of between 28 July and 7 August 2021. InfraBuild acknowledges that the information contained in the *Questionnaire Responses* go to the issues identified by the Commissioner as *...critical...* to his satisfaction for the purpose of making a PAD. However, a reasonable amount of time has now elapsed from the revised (latest) return date for the *Questionnaire Responses* (>70 days) for the Commissioner to consider that information.

Other relevant matters the Commissioner is required to consider in accordance with the Direction and for the purposes of s.269TD(2)(b) is the *...desirability of providing relief to an injured Australian industry as quickly as possible*. As observed above, the degree of material injury experienced by the Australian industry across the investigation period under which the Commissioner initiated this investigation has worsened since the proposed investigation period contained in InfraBuild's application. Furthermore, immediately following the initiation of the investigation, InfraBuild has observed an increase in the volume of merchant bar exported from Taiwan, at prices which continue to undercut the Australian industry at ever increasing rates. This evidence forms the basis of this submission.

The Commissioner's duty to consider the making of a PAD under section 269TD and the Direction is not contingent upon the verification of the information, but rather a reasonable level of satisfaction formed on the basis of the information received in accordance with s.269TD(2):

Subject to subsection (3), in deciding whether to make such a preliminary affirmative determination, the Commissioner:

(a) must have regard to:

(i) the application concerned; and

¹³ Anti-dumping Notice No. 2021/097

¹⁴ Anti-dumping Notice No. 2021/097, p. 2.

(ii) any submissions concerning publication of the notice that are received by the Commissioner within 37 days after the date of initiation of the investigation; and

(b) may have regard to any other matters that the Commissioner considers relevant.

Therefore, unless there is information contained in the Exporters' Questionnaire Responses that displaces the Commissioner's satisfaction of the volume and value of the goods under consideration and like goods for the purposes of determining a dumping margin; including a view of the size of the Australian market for merchant bar; then the Commissioner is expressly obliged under the Direction to reconsider whether or not to make a PAD at least once, if not more, prior to the publication of the *Statement of Essential Facts*, currently due to be placed on the public record no later than 20 December 2021.

In InfraBuild's submission, the time to reconsider whether or not to make a PAD is now overdue, and as a consequence of the delay, the Australian industry is experiencing serious and material financial injury.

Conclusions

InfraBuild submits that it experienced material injury across the investigation period, and has continued to do so as a result of increasing degrees of price undercutting by importers of merchant bar exported from Taiwan.

Furthermore, it is now appropriate for the Commissioner to reconsider whether or not to make a PAD in light of the evidence tendered in InfraBuild's original application, supplementary financial information corresponding with the investigation period prescribed in *ADN No. 2021/073*, and this submission of ongoing serious material injury.

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

FOR AND ON BEHALF OF THE

AUSTRALIAN INDUSTRY APPLICANT