

22 December 2021

Isolde Lueckenhausen
General Manager
Anti-Dumping Commission
GPO BOX 2013
CANBERRA ACT 2600

BY EMAIL: investigations3@adcommission.gov.au

Dear Isolde,

Dumping Investigation No. 584 concerning Merchant Bar exported from Taiwan

**AUSTRALIAN INDUSTRY RESPONSE TO EXTENSION OF TIME GRANTED TO ISSUE THE STATEMENT
OF ESSENTIAL FACTS AND THE FINAL REPORT**

InfraBuild NSW Pty Ltd (**InfraBuild**), the Australian industry applicant in this matter, seeks to provide clarity to interested parties in relation to the Commission's published reasons for their second extension of time to issue *Statement of Essential Facts No. 584 (SEF 584)*.

In relevant part, *Anti-dumping Notice No. 2021/153* states that:

Due to delays in completing the remote Australian industry verification, and in order to fully consider issues raised by interested parties in this investigation, I, Isolde Lueckenhausen, General Manager, Anti-Dumping Commission, requested additional extensions to the deadlines for the publication of the SEF and completion of the final report for the Minister.¹

InfraBuild acknowledges that the Australian industry verification exercise has not yet been completed. However, InfraBuild submits that it has not been responsible for the delays noted.

InfraBuild observes that the Commission's first request for information relating to industry verification was received on 12 November 2021 - 165 days after the investigation was initiated (31 May 2021) - with responses required to be provided by 24 November. InfraBuild has complied with this request and the Commission's two subsequent requests for information.

¹ *EPR Folio No. 584/020*

InfraBuild is concerned by the asymmetric apportionment of the reason for the delay on the verification of industry data, and entirely neglects to acknowledge the disproportionate delay in the publication of the verification report for the primary Taiwanese exporter, Feng Hsin Steel Co. Ltd. (**Feng Hsin**). It is understood that the Commission commenced the remote verification of Feng Hsin in September 2021 and are yet to publish their findings. InfraBuild would have thought that the failure to conclude and publish the verification outcomes of this key exporter would have ranked; at least in equal part; as a relevant and significant reason for the delay in publication of SEF 584 beyond 20 December 2021.

Further to its submission dated 18 October 2021², InfraBuild reiterates that the Commissioner's duty to consider the making of a PAD under section 269TD; and the relevant *Ministerial Direction*; is not contingent upon the verification of all the information, but rather a reasonable level of satisfaction formed on the basis of the information received in accordance with subsection 269TD(2).

Therefore, unless there is information contained in the verified, but unpublished, verification report for Feng Hsin, 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 *Ministerial Direction* to reconsider whether to make a PAD at least once, if not more, prior to the publication of SEF 584; now due to be placed on the public record no later than 15 March 2022.

Noting that the Commission's second extension of time to issue SEF 584 results in the investigation timeline increasing from the statutory timeline of 155 to 333 days, InfraBuild submits that the time to reconsider whether or not to make a PAD is now overdue. As a consequence of the delay, the Australian industry continues to experience serious and material economic injury.

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

FOR AND ON BEHALF OF THE

AUSTRALIAN INDUSTRY APPLICANT

² *EPR Folio No. 584/019*