

21 January 2022

The Director  
Investigations 3  
Anti-Dumping Commission

**BY EMAIL: [investigations3@adcommission.gov.au](mailto:investigations3@adcommission.gov.au)**

Dear Director,

**Dumping Investigation No. 584 concerning Merchant Bar exported from Taiwan**

**AUSTRALIAN INDUSTRY SUBMISSION CONCERNING CONTEMPORARY IMPORTER PRICING  
FOLLOWING EXTENSION TO THE STATEMENT OF ESSENTIAL FACTS**

InfraBuild NSW Pty Ltd (**InfraBuild**), the Australian industry applicant in this matter, submits the following evidence of contemporary importer pricing behaviour in response to the Commission's recent additional extensions to the deadlines for the publication of the SEF (Statement of Essential Facts) and completion of the final report for the Minister.<sup>1</sup>

We have previously provided an update to the Commission concerning the escalation of rates of price undercutting by importers for each of its customers.<sup>2</sup> In that submission, we also identified that the price undercutting had caused and continued to cause the Australian industry to experience price depression that it would not have otherwise experienced if not for the Taiwanese sourced offers for sale of dumped goods.<sup>3</sup> InfraBuild also quantified lost sales volume as follows:

*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.<sup>4</sup>*

However, since the publication of *Anti-dumping Notice (ADN) No. 2021/153*, InfraBuild has become aware of importers intentionally seeking to undercut Australian industry prices in the market and gain sales volume by exploiting delays in *Investigation No. 584* by representing to customers that:

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<sup>1</sup> *EPR Folio No. 584/020*

<sup>2</sup> *EPR Folio No. 584/019 (21 October 2021)*

<sup>3</sup> *EPR Folio No. 584/019, p. 18.*

<sup>4</sup> *EPR Folio No. 584/019, p. 20.*

[REDACTED]  
[REDACTED].<sup>5</sup>

InfraBuild believes that importers have surmised that with the further delay in making the SEF, the making of any Preliminary Affirmative Determination (**PAD**) will also be delayed to at least the SEF date. We expect that importers have reached this conclusion on the basis of the Commission’s observed pattern of not currently making PADs before the publication of the SEF. Analysis of current “live” investigations on the *Electronic Public Record* shows there is no instance of a PAD made prior to the publication of the SEF. As such, it appears that merchant bar importers have now taken the view that they can undercut by increasing margins “[REDACTED]” of preliminary measures, as this extract evidences:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].<sup>6</sup> [emphasis added] [market pricing intelligence]

In other words, the delay in making the PAD, is supporting a renewed and intensified round of price undercutting by importers [REDACTED] of dollars. [market pricing intelligence] In terms of quantifying the amount of value injury, assuming that securities taken at the preliminary, verified dumping margin of 17.7% for Feng Hsin were applied to the most recent FOB export (AU\$ [REDACTED]) for December 2021,<sup>7</sup> then at least AU\$ [REDACTED] of price undercutting per tonne is injuring the Australian industry. Across the Australian industry’s annual average sales volume in the investigation period of [REDACTED] tonnes,<sup>8</sup> this amounts to AU\$ [REDACTED] of lost margin value (at a minimum). This analysis should leave the Commissioner in no doubt as to the materiality of the injury experienced by InfraBuild Steel from the delays in the timely making of the PAD.

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<sup>5</sup> CONFIDENTIAL ATTACHMENT A  
<sup>6</sup> CONFIDENTIAL ATTACHMENT C  
<sup>7</sup> CONFIDENTIAL ATTACHMENT D  
<sup>8</sup> APPENDIX A2

In support of this allegation, we provide the following evidence:

**CONFIDENTIAL ATTACHMENT A**

This extract includes market intelligence corroborating the importers' representations to the market that they were able to undercut the Australian industry in light of ... [REDACTED]

[REDACTED].. specifically the publication of ADN No. 2021/153:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] [approach to price negotiation]

**CONFIDENTIAL ATTACHMENT B**

This extract evidences the impact of the importers' representations to customers directly:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**CONFIDENTIAL ATTACHMENT C**

This extract further corroborates the importers' representation that buying at lower prices is following ADN 2021/153, "[REDACTED]" to them:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

In light of the importers' representations and explicit price undercutting behaviour to InfraBuild's customers; especially following the publication of ADN 2021/153; InfraBuild again requests the Commissioner to reconsider whether or not to make a PAD. We submit that the importer's recently observed behaviour is designed to exploit the delays in *Investigation No. 584* and further cause injury to the Australian industry applicant.

In accordance with the *Customs (Preliminary Affirmative Determinations) Direction 2015* the ...*desirability of providing relief to an injured Australian industry as quickly as possible...* is a relevant matter the Commissioner is required to consider for the purposes of s.269TD(2)(b). InfraBuild submits that the exporters' direct knowledge of their impending dumping margins to be published in, respectively, their *Verification Report* (17.7% for Feng Hsin), and *Preliminary variable factors assessment* (9.9% for TS Steel), and the likely or implied knowledge of the various importers of these (or comparable) impending margin calculations, suggest a concerted effort to exploit market uncertainty and inflict further material price and volume injury on InfraBuild prior to the making of a PAD, as quantified above.

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

FOR AND ON BEHALF OF THE

**AUSTRALIAN INDUSTRY APPLICANT**