

22 March 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 RESPONSE TO FENG HSIN SUBMISSION OF 17 MARCH 2022**

InfraBuild NSW Pty Ltd (**InfraBuild**), the Australian industry applicant in this matter, notes that the Commissioner<sup>1</sup> is not inviting further submissions between 10 March and 1 April 2022, being the date of publication of the Statement of Essential Facts (**SEF**). However, in light of the multiple incorrect and misleading claims contained in the Taiwanese exporter Feng Hsin Steel Co. Ltd (**Feng Hsin**) submission dated 17 March 2022<sup>2</sup>, InfraBuild is compelled to correct the record.

Feng Hsin references submissions made by InfraBuild on 21 January<sup>3</sup> and 28 February 2022<sup>4</sup> and the Australian Industry's *Verification Report* published on 10 March 2022<sup>5</sup>. For ease of reference, InfraBuild has applied the same headings below as those appearing in the submission of Feng Hsin.

**1. InfraBuild submission – 21 January 2022**

Feng Hsin's submission begins by referencing InfraBuild's submission which alerted the Commission to the fact that following the publication of the notice to extend the date for publication of the SEF from 20 December 2021 to 15 March 2022, that its sales team were coming under renewed pressure to reduce their prices in response to significantly lower price offers for Taiwanese merchant bar exports:

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:

[REDACTED]

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<sup>1</sup> EPR 584/034 ADN 2022/025

<sup>2</sup> EPR 584/036

<sup>3</sup> EPR 584/027

<sup>4</sup> EPR 584/031

<sup>5</sup> EPR 584/033

<sup>6</sup> Confidential Attachment A



InfraBuild’s assertion was that importers knew that the delay in publishing the SEF extended the opportunity to sell dumped Taiwanese goods to Australian customers for which final dumping duties may not apply. In this instance, if Taiwanese exporters were able to accept orders in January or February 2022 for goods that could be produced and “on the water” before 15 March 2022, importers knew; based on their previous experience; that whilst securities may be taken for goods landing on or after 15 March 2022, they were unlikely to be converted to final dumping duties at the end of the investigation.

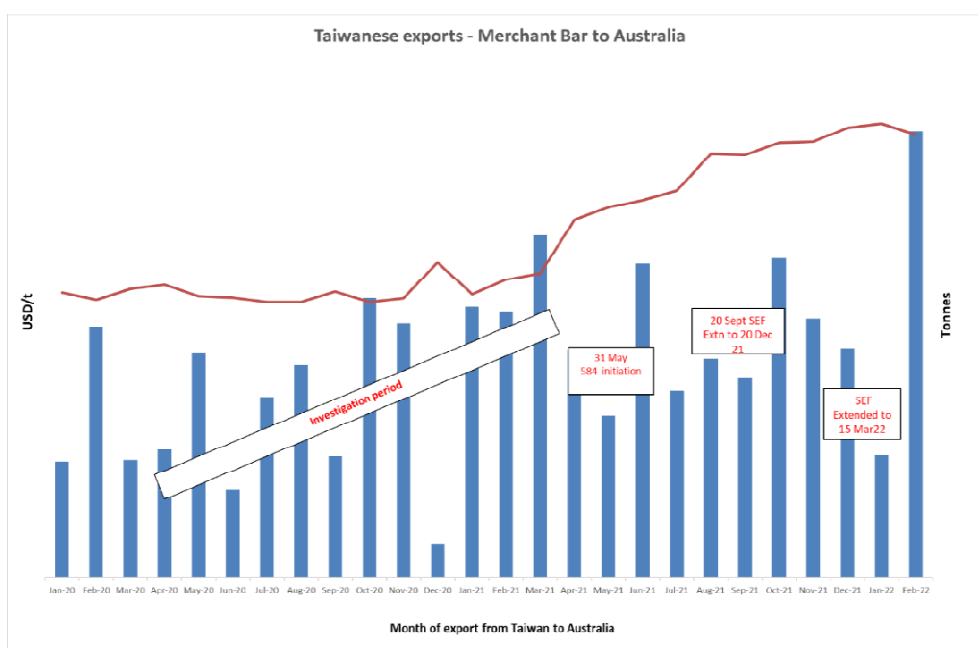
Feng Hsin’s 17 March 2022 submission strongly rejects any assertion that they were involved in this activity.

Feng Hsin wishes to make clear that these assertions are not applicable to its exports. This is confirmed by the monthly shipment volumes since the initiation of the investigation in May 2021.<sup>7</sup>

The data confirms a [redacted] [trend] in Feng Hsin’s export sales volumes since the commencement of the investigation. Accordingly, Infrabuild’s allegations have no relevance to Feng Hsin exports.

As Feng Hsin is a significant exporter of the goods under consideration InfraBuild expected that the total export volume of the like goods from Taiwan after January 2022 would have decreased or remained level. This is not the case. Taiwanese export statistics of merchant bar products exported from Taiwan to Australia in February 2022 show a large increase, double the normal monthly annual average.

Graph 1 – Taiwanese exports of Merchant Bar to Australia<sup>8</sup>



<sup>7</sup> EPR 584/36 p1

<sup>8</sup> Confidential attachment 1

Whilst InfraBuild has no visibility of the actual Taiwanese mills responsible for the sudden export of large volumes of the goods, the Commission will be able to examine the Australian Border Force (ABF) import data over the coming weeks to test the veracity of Feng Hsin's claim that they did not engage in this activity.

Irrespective of whether or not the increase in the volume of merchant bar exports from Taiwan to Australia in February 2022 is attributable to Feng Hsin, the high volumes corroborate InfraBuild's market intelligence that importers were exploiting the delay in publication of the SEF by lowering prices to increase volumes whilst knowing that exports made in that delay period would likely not be subject to dumping duties.

### **InfraBuild submission – 28<sup>th</sup> February 2022.**

In reference to InfraBuild's submission, Feng Hsin acknowledges that they agree with InfraBuild that merchant bar is a commodity product that is substitutable and price sensitive.

*Feng Hsin accepts that merchant bar is a commodity product, and the Australian market is confined to a single local producer and imports predominantly supplied from Taiwan. It is also accepted that the primary features of a commoditised market include substitutability and transparency of product features and prices.<sup>9</sup>*

Implicit in their acknowledgement of price sensitivity and product substitutability is the fact that dumped goods entering the Australian market at lower prices than non-dumped goods lower the price that the Australian industry could otherwise achieve for their goods. It is therefore likely, given the magnitude at which Feng Hsin were dumping (by a margin determined at verification to be 17.7%) and the volumes they were exporting to Australia, that Feng Hsin were aware that those exports would cause material injury to the Australian industry in the form of suppressed and/or depressed prices, reduced profitability and lost volume.

Rather than acknowledge the impact of the injury caused by Feng Hsin's own large dumping margin, Feng Hsin asserts that any lost volume by InfraBuild related to local logistic constraints such as road transportation and the broader impact of COVID 19. Whilst these factors did at times have an impact on lead times in the Australian market, they impacted all parties in the supply chain including customers, the Australian industry and importers, however they had minimal impact on InfraBuild's capacity to manufacture the goods.

Of more relevance is the question, if Feng Hsin genuinely believed that InfraBuild was unable to supply the market for any reason, why was Feng Hsin continuing to dump like goods into the Australian market at such high margins? As the dominant foreign exporter in a so-called "transparent market" normal business acumen would suggest that Feng Hsin would increase their prices if they knew of supply shortages from their major competitor in the Australian market.

Feng Hsin's submission also seeks to attribute InfraBuild's lost volumes to dumped goods on the basis that InfraBuild increased its prices.

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<sup>9</sup> Ibid p3.



*which immediately made their product offering less competitive against imports;*<sup>10</sup>

This statement again begs the question, if Feng Hsin believed that InfraBuild had become less competitive, why did Feng Hsin continue to dump goods into the Australian market at such high dumping margins?

Feng Hsin's submission also attempts to create the impression that InfraBuild was at maximum capacity utilisation to produce merchant bar, falsely stating that

*..it is known that Infrabuild sources merchant bar from Japan and indirectly from Taiwan.*<sup>11</sup>

The assertion that InfraBuild sources the "like goods" directly from another country is not correct and has been verified to be the case by the Commission. Feng Hsin are deliberately misrepresenting the definition of merchant bar beyond what has been defined in the goods description for this investigation to be the "like goods" in order to deflect attention away from the injury caused to the Australian industry by their own large dumping margins.

The further assertion that InfraBuild, the applicant in this investigation, has sourced the "like goods" *indirectly* from Taiwan is yet another misleading statement. InfraBuild has not sourced the like goods *indirectly* from Taiwan. If there have been any purchases of the Taiwanese like goods by InfraBuild's related downstream customers from importers, this simply demonstrates the arms-length nature of the relationship between InfraBuild and its related customers and the magnitude of the price and volume injury caused by the Feng Hsin's high dumping margin.

#### **4. Australian Industry Verification Report.**

The final section of Feng Hsin's submission contains false statements in relation to InfraBuild's verification report. Feng Hsin states that

*Prices continued to move in line with costs confirming the lack of price suppression. Prices remained steady in the investigation period, consistent with movements in steel costs. This confirms that Infrabuild did not suffer price depression during the investigation period.*<sup>12</sup>

*Profits and profitability showed an increasing trend over the injury assessment period, with levels remaining steady in the investigation period.*

This is yet another claim that is at odds with the published facts of this investigation. The Commission published a graph (Figure 6<sup>13</sup>) of InfraBuild's unit profit and profitability on domestic sales of like goods during the investigation period. Rather than profit levels remaining steady, as claimed by Feng Hsin, InfraBuild's profits and profitability drop significantly across the investigation period due to the price undercutting and price suppression caused by the Taiwanese exporters' dumping of the like goods.

<sup>10</sup> Ibid p4.

<sup>11</sup> Ibid P4

<sup>12</sup> Ibid p4

<sup>13</sup> EPR584/33 p19.

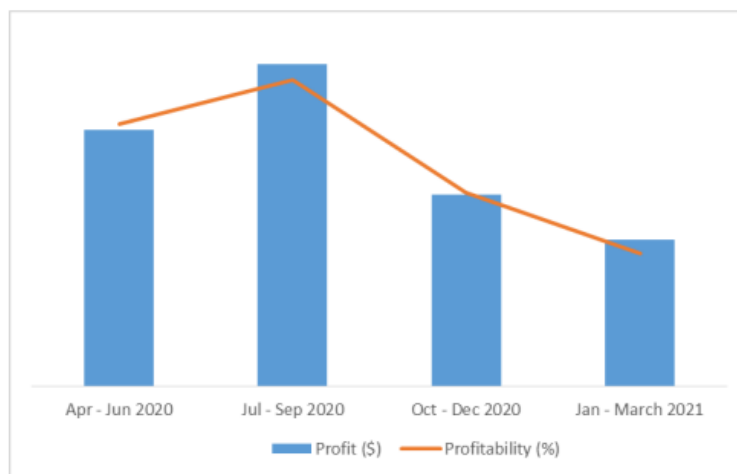
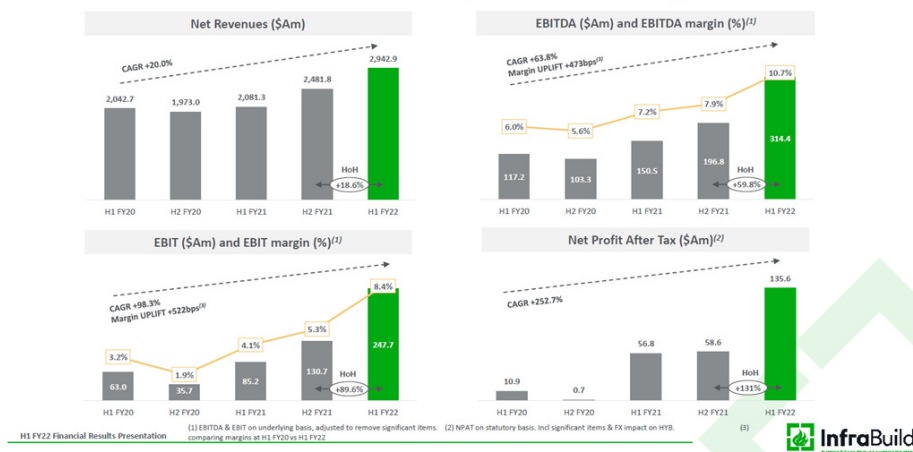


Figure 6 - Australian industry's unit profit profitability during the investigation period

The conclusion of Feng Hsin’s submission contains an extract of the consolidated InfraBuild Group’s recently published financial performance. The graphs shows that InfraBuild’s consolidated business fundamentals across the corporate group (which includes 35 scrap recycling and brokerage sites, 113 distribution and process sites as well as tube, wire and rolling mills that are not part of the Australian industry in this investigation) improving in H1 FY22.

### Fundamentals continue to improve & strengthen



Feng Hsin claims that the consolidated group’s improving performance in H1 FY22 is ‘evidence of the flawed ‘but-for’ argument’. InfraBuild argues that the opposite is true.

InfraBuild’s verified declining profits and profitability and lost market share for domestic sales of the like goods during the investigation period is in stark contrast to the improving profitability and business fundamentals of the rest of the group. If not for the dumping of the like goods by the dominant Taiwanese exporters into the Australian market (Feng Hsin 17.7% and TS Steel 9.9%),



InfraBuild would likely have achieved improving profit and profitability on sales of the like goods across the investigation period, in line with the improving performance of other (non-merchant bar) businesses within the InfraBuild group of companies

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

FOR AND ON BEHALF OF THE

**AUSTRALIAN INDUSTRY APPLICANT**

Attachments – Confidential Attachment 1