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21 June 2022

Director, Investigations Unit 4
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601
AUSTRALIA

Dumping Investigation into Merchant Bar exported from Taiwan

Dear Director,

Please accept this submission made on behalf of Feng Hsin Steel Co., Ltd (Feng Hsin), which responds to the submission of 16 June 2022, made by InfraBuild NSW Pty Ltd (Infrabuild).

Incredibly, but not surprisingly, Infrabuild now recognises that its injury claims may be supported by a 'but-for' view of its economic and financial performance. This mere assertion must be rejected, and observed as mere self-serving statements in a frantic attempt to prolong the investigation and the resulting market disruption.

It is noted that the Commission's practice does not provide for a mandatory consideration of an alternative method of causation assessment, instead requiring that consistent *"with the WTO jurisprudence which requires that any other method, other than the coincidence analysis described above, will require a 'compelling explanation' as to why causation exists notwithstanding the absence of any coincidence."*¹

Feng Hsin also reiterates its earlier view that the Applicant's "but for" mode of reasoning is particularly questionable in the present case, and warrants hesitation and doubt by the Commission. Further, as the Applicant is the sole producer of like goods in Australia, imports are the only source for preventing the Applicant from developing monopoly power, amongst which Taiwanese imports are the major source. From this perspective, the Commission should be suspicious of rigid and simple conclusions drawn from such "but for" inferences and extrapolations, given

¹ Dumping & Subsidy Manual – Dec 2021, page 101.

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the unwarranted element of “monopoly rent” that only hurts downstream industries and consumers.

Infrabuild’s request for the use of the alternative ‘but-for’ method, seems to rely on its fresh claim and acceptance that during the investigation period, the steel market was experiencing a ‘super-cycle’ caused by ‘the onset of the global pandemic in 2020’. It is important to note that Infrabuild makes no mention of these super-cycle conditions in its application or subsequent injury submissions.

Presumably, Infrabuild chose to stay quiet about the impact of the ‘super-cycle’ in outlining its views on the broader market and imports, as it would confirm that it was seeking to impose trade barriers on imports at a time when market conditions were extremely tight, and it was achieving ‘super-cycle’ operational and financial targets. In effect, the application for dumping duties was an attempt to reinforce its monopoly power in the Australian market.

It is now clear that Infrabuild has not been transparent with the Commission during the course of the investigation, about the state of the steel market in Australia.

Therefore, the Commission should be suspicious of these latest assertions, and attach no probative weight to Infrabuild’s submission.

Feng Hsin also wishes to respond to Infrabuild’s assertion that the decline in undercutting in the last quarter of the investigation period was a result of industry’s reduction in selling prices. The data verified by the Commission refutes this as Feng Hsin’s FOB export prices increased by approximately ■■■% in the March quarter 2021.

John Bracic