



Australian Government
Department of Industry,
Science and Resources

Anti-Dumping
Commission

CUSTOMS ACT 1901 - PART XVB

TERMINATION REPORT

NO 584

ALLEGED DUMPING OF MERCHANT BAR
EXPORTED TO AUSTRALIA FROM TAIWAN

6 September 2022

TER 584 - Merchant Bar - Taiwan

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ABBREVIATIONS

ABF	Australian Border Force
the Act	<i>Customs Act 1901</i>
ADA	<i>Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994</i>
ADN	Anti-Dumping Notice
the applicant	InfraBuild NSW Pty Ltd
the commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTIS	cost to import and sell
CTMS	cost to make and sell
EPR	Electronic public record
E-Sheng	E-Sheng Steel Co., Ltd
Feng Hsin	Feng Hsin Steel Co., Ltd
FOB	free on board
the goods	the goods the subject of the application (also referred to as the goods under consideration)
InfraBuild	InfraBuild NSW Pty Ltd and the Australian Steel Company (Operations) Pty Ltd
injury analysis period	From 1 April 2017
investigation period	1 April 2020 to 31 March 2021
IPP	import price parity
Macsteel	Macsteel International Australia Pty Ltd
the manual	<i>Dumping and Subsidy Manual, December 2021</i>
Material Injury Direction	<i>Ministerial Direction on Material Injury 2012</i>
MCC	model control code
the Minister	the Minister for Industry and Science
MT	metric tonne
OCOT	ordinary course of trade
R&D	research and development
REQ	response to the exporter questionnaire
RIQ	response to the importer questionnaire
SEF 584	<i>Statement of Essential Facts No 584</i>
TASCO	Australian Steel Company (Operations) Pty Ltd
TER 584	<i>Termination Report No 584</i>
thyssenkrupp	thyssenkrupp Materials Australia Pty Ltd
TS Steel	TS Steel Co., Ltd

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

The Anti-Dumping Commission (the commission) has prepared this report (TER 584) in response to an application (the application) by InfraBuild NSW Pty Ltd¹ (the applicant). The application seeks the publication of a dumping duty notice in respect of merchant bar (the goods) exported to Australia from Taiwan. InfraBuild claims that the Australian industry for like goods has suffered material injury because of dumped goods from Taiwan.

The Commissioner of the Anti-Dumping Commission (the Commissioner) has examined an investigation period of 1 April 2020 to 31 March 2021 and found that exporters from Taiwan exported the goods to Australia at dumped prices. However, the Commissioner is satisfied that the injury, if any, to the Australian industry that has been, or may be, caused by dumped exports of the goods to Australia from Taiwan is negligible (as is set out in section 1.3 and chapter 7 below). Accordingly, the Commissioner must terminate the investigation under section 269TDA(13) of the *Customs Act 1901* (Cth) (the Act).²

This report set outs the Commissioner's reasons for terminating the investigation.

1.2 Authority to make decision

Division 2 of Part XVB describes, among other things, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to goods covered by an application under section 269TB(1). Section 269TDA sets out the circumstances in which the Commissioner must terminate an investigation.

The commission has prepared this report to support the Commissioner in his consideration of the application, pursuant to the commission's function specified in section 269SMD.

1.3 Findings and conclusions

The paragraphs below summarise the Commissioner's findings and conclusions, which are set out in further detail in the report.

1.3.1 The goods and like goods (chapter 3)

The Commissioner considers that locally produced merchant bar is 'like' to the goods the subject of the application and is satisfied that there is an Australian industry, InfraBuild, producing like goods.

¹ The Australian Steel Company (Operations) Pty Ltd (TASCO), a related producer of merchant bar, supported the application. Collectively, these entities are referred to as 'InfraBuild' or the Australian industry in this report.

² All legislative references in this report are to the *Customs Act 1901* (Cth) unless otherwise specified.

1.3.2 Australian market (chapter 4)

Local production and imports from a number of countries, including Taiwan, supply the Australian market for merchant bar.

1.3.3 Dumping investigation (chapter 5)

The Commissioner is satisfied that Taiwanese exporters sold the goods into Australia at dumped prices during the investigation period. The Commissioner's assessment of dumping margins is set out in the table below.

Country	Exporter	Dumping margin
Taiwan	Feng Hsin Steel Co., Ltd	18.1%
	TS Steel Co., Ltd	9.9%
	Uncooperative exporters	20.5%

Table 1 - Summary of dumping margins

1.3.4 Economic condition of the Australian industry (chapter 6)

The commission analysed the Australian industry's economic indicators for the injury analysis period (specifically using data ranging from 1 April 2017 to 31 March 2021). The purpose of the injury analysis period is to enable the commission to identify and examine trends in the Australian market (in this case using 4 years of economic data), which in turn assists the Commissioner in determining whether material injury has been caused by dumping in the investigation period (a 12 month period where the dumping has occurred).

The commission's observations include that the Australian industry generally increased its volumes, prices and profits for the injury analysis period on an annual basis.

On a quarterly basis, the commission observed fluctuation in a range of economic indicators throughout the injury analysis period. The fluctuations include a decline in certain economic indicators (market share, profits and profitability) in the third and fourth quarters of the investigation period. The commission has considered these two quarters in the context of the longer injury analysis period. The commission observes that the lowest levels of market share, profits and profitability that the Australian industry achieved during the investigation period were within a range of upper and lower limits achieved throughout the injury analysis period.

1.3.5 Has dumping caused material injury? (chapter 7)

Finding

The Commissioner is satisfied that the injury, if any, to the Australian industry that has been, or may be, caused by dumped exports of the goods to Australia from Taiwan is negligible.

Background to causation analysis

Section 269TAE outlines the requirements for determining whether material injury to an Australian industry is caused by dumping (causation). The Act envisages that causation is examined through the links between the volume of dumped goods and their effect on prices in the Australian market and the consequent impact on the Australian industry. The Act does not prescribe any particular causation methodology. Rather, causation involves a holistic evaluation of all available evidence.

There are a variety of analytical tools that can assist the commission to evaluate causation depending on the circumstances of a given case. The commission assesses available evidence in totality and does not rely solely on any individual economic indicia or subset of data-points to inform its conclusions, as this would be incongruous with the Act. The commission must also exclude any injury caused by factors other than dumping from its causation analysis.

In this case, the commission used what is termed a ‘coincidence analysis’ to assess causation. Where there is a coincidence in timing between declines in the Australian industry’s economic indicators and the volume and price trends of dumped imports, this may be taken to mean there is a causal link.³ The commission has also had regard to the *Ministerial Direction on Material Injury 2012* (Material Injury Direction), which provides (among other things) guidance that injury to an Australian industry must be greater than that likely to occur in the normal ebb and flow of business.⁴

The Commissioner is satisfied for this case that there is a coincidence between the dumped exports of the goods from Taiwan and a decline in certain economic factors of the Australian industry in the form of lost market share, loss of profits and reduced profitability in the latter half of the investigation period. However, the Commissioner finds that any such coincidence is partial and inconsistent, noting the commission’s observations that the Australian industry also increased its volumes, prices and profits during the first and second quarters of the investigation period – and overall during the investigation period – when dumped imports were present.

Under these circumstances, and noting the degree of fluctuation in the Australian merchant bar market, the commission considers it appropriate to assess movements in the Australian industry’s economic indicators during the investigation period in light of the broader market dynamics across the longer injury analysis period. This assessment assists the commission in determining whether trends in the investigation period are indicative of causation and material injury.

For instance, if the Australian industry’s economic performance is trending downward when dumped imports are present in the Australian market for merchant bar, this may suggest a causal link between the two. Conversely, if such downward trends are within the bounds of broader market dynamics, this may suggest that these movements form part of the ordinary business cycle for the Australian market for merchant bar and thus

³ *Dumping and Subsidy Manual, December 2021* (the manual), p 99.

⁴ [*Ministerial Direction on Material Injury 2012*](#).

may not be indicative of material injury. Relatedly, this may suggest that those downward trends are caused by cyclical factors that are structural features of broader market dynamics, instead of by dumping.

Accordingly, the commission understands the guidance in the Material Injury Direction that injury should be 'greater than that likely to occur in the normal ebb and flow of business' to involve a consideration of the Australian industry's performance in light of the ordinary business cycle. Further context of the Australian industry's decline in lost market share, loss of profits and reduced profitability in the third and fourth quarters of the investigation period, in the context of the ordinary business cycle, is below.

Volume effects

The commission found that the Australian industry's market share fluctuated throughout the injury analysis period, but increased overall.

The Australian industry gained market share immediately prior to and into the beginning of the investigation period, peaking during the second quarter to its highest level across the injury analysis period. The Australian industry's market share then declined in the third and fourth quarters of the investigation period. At its lowest point in the investigation period, the Australian industry's market share is marginally below the average for the injury analysis period and has been lower.

Having regard to trends within the broader injury analysis period, the commission observes that the market share in the third and fourth quarters of the investigation period is within a range of upper and lower limits that the Australian industry achieved throughout the injury analysis period.

The commission considers the decline in market share in the third and fourth quarters of the investigation period arises within the context of the ordinary business cycle. The commission therefore cannot be satisfied that dumped imports have caused this decline. Rather, the commission finds that any injury experienced by the Australian industry during the investigation period is more likely caused by factors arising from the cyclical nature of the market.

Profit effects

The commission found that the Australian industry's profit and profitability fluctuated throughout the injury analysis period, with the Australian industry remaining profitable throughout.

During the investigation period, there was some decline in profits and profitability in the third and fourth quarters. Having regard to trends within the broader injury analysis period, the commission notes that the magnitude of decline in the third and fourth quarters of the investigation period is no greater than declines that the Australian industry experienced at other times in the injury analysis period.

The commission considers the decline in profits and profitability in the second and third quarters of the investigation period arises within the context of the ordinary business cycle. The commission therefore cannot be satisfied that dumped imports have caused this decline. Rather, the commission finds that any injury experienced by the Australian

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industry during the investigation period is more likely caused by factors arising from the cyclical nature of the market.

The commission notes that the point at which the Australian industry's profit margins were at their lowest in the investigation period coincides with the point at which export prices of imported goods were higher such that the margins of price undercutting and dumping were also at their lowest during the investigation period. These observations indicate that the decline in profits and profitability are likely attributable to factors other than dumping.

Factors other than dumping

Section 269TAE(2A) lists factors other than dumping that the Minister must consider when assessing whether material injury is caused by dumping. In this case the commission has found that factors other than dumping have impacted the Australian industry in the investigation period.

The commission found that an increase in raw material costs was a factor that impacted the Australian industry's decline in economic factors during the investigation period. The commission found that raw material cost increases likely caused part of the Australian industry's decline in profits and profitability observed during the third and fourth quarters of the investigation period.

While the Australian industry increased its unit selling price of like goods in the final quarter of the investigation period, this only partially offset the rise in raw material costs. Concurrently, the major exporter of the goods increased its selling price at a higher rate such that the levels of price undercutting and dumping decreased to their lowest observable levels. The commission therefore considers that any coincidence between the dumped exports of the goods from Taiwan and a decline in the Australian industry's profits and profitability during the third and fourth quarters of the investigation period is partial and inconsistent. The commission therefore cannot be satisfied that dumped imports have caused this decline. Rather, the commission finds that any injury experienced by the Australian industry during the investigation period is more likely attributable to factors other than dumping, namely an increase in raw material costs.

The commission also found that the Australian industry's loss of market share during the third and fourth quarters of the investigation period could be attributed to a surge in demand spurred by this increase in raw material costs, which are a substantial cost component of the goods and result in increases to the selling price. The commission understands that consumers stockpile product in anticipation of potential further price rises, and notes that the Australian industry increased its sales volume during the investigation period while losing market share. The commission considers that there is increased demand for merchant bar, driven by the upward trend in raw material costs, and that the Australian industry's loss of market share could be temporary.

Conclusion

Having regard to the trends within the injury analysis period, factors other than dumping and the ordinary business cycle for the Australian merchant bar market, the commission considers that the injury, if any, to the Australian industry that has been, or may be, caused by dumped exports of the goods to Australia from Taiwan is negligible.

1.3.6 Threat of material injury (section 7.9)

Finding

The Commissioner has considered the Australian industry's claims and the commission's analysis of the available evidence and is satisfied that dumped goods from Taiwan have not threatened material injury to the Australian industry.

Background

Section 269TAE(2B) provides that in determining whether or not material injury is threatened to an Australian industry, the Minister for Industry and Science (the minister) must only take into account changes in circumstances that would make that injury foreseeable and imminent unless dumping measures were imposed.

The manual states that when assessing the threat of material injury, the commission will consider the non-exhaustive list of factors in Articles 3.4 and 3.7 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (ADA) in totality.⁵

Commission's analysis of the available evidence

The commission analysed import volumes and export price trends of the goods from Taiwan within the investigation period and for the subsequent 12 months. The commission's analysis shows that following the investigation period, import volumes increased at a marginal rate and export prices increased significantly.

By the final quarter of the investigation period, imports entered the Australian market at higher export prices such that price undercutting narrowed and the dumping margin decreased to its lowest point. This upward trend in export prices continued in the 12 months subsequent to the investigation period.

The commission considers that the marginal increase in import volumes is indicative of a growing Australian market. As shown in Figure 2, the Australian market size increased during the investigation period, therefore the marginal increase in import volumes following the investigation period is not a change in circumstances.

The commission also considers the increase in export prices reflects an upward trend in steel prices. The export prices are not a change of circumstances that indicate there will

⁵ Page 19, namely:

- A significant rate of increase of dumped imports into the domestic market indicating the likelihood of substantially increased importation;
- Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to the market, taking into account the availability of any other export markets to absorb any additional exports;
- Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports;
- Inventories of the product being investigated.

be a significant depressing or suppressing effect on prices in the Australian market, which would likely increase demand for further imports.

Further, the exporters of the goods from Taiwan that the commission examined did not have freely disposable capacity in the investigation period and did not substantially increase in their capacity such that there is a likelihood of substantially increased dumped exports to Australia.

Conclusion

The commission is not satisfied that there is a change in circumstances whereby material injury is foreseeable and imminent unless dumping measures are imposed.

1.3.7 Termination of the investigation (chapter 8)

Section 269TDA sets out where the Commissioner must terminate an investigation. Based on the above findings, the Commissioner is satisfied that the injury, if any, to the Australian industry as a result of exports of the goods from Taiwan is negligible. Accordingly, the Commissioner must terminate the investigation in accordance with section 269TDA(13).

2 BACKGROUND

2.1 Initiation

On 31 May 2021, the Commissioner initiated an investigation into the alleged dumping of merchant bar exported to Australia from Taiwan. The Commissioner decided to initiate an investigation following an application lodged by InfraBuild, a manufacturer of merchant bar in Australia, on 19 April 2021 under section 269TB. In its application, InfraBuild claimed that the Australian industry has suffered material injury in the form of:

- lost sales volume
- lost market share
- price depression
- price suppression
- loss of profits
- reduced profitability
- reduced capital investment
- reduced research and development expenditure
- loss of employment (headcount) allocated to production of the like goods
- reduced cash flow in the industry
- lost revenue.⁶

Anti-Dumping Notice (ADN) No 2021/073 and *Consideration Report No 584* provide further details relating to the initiation of the investigation.⁷ In ADN No 2021/073, the Commissioner specified that the investigation period is 1 April 2020 to 31 March 2021, and the injury analysis period for the purpose of determining whether dumped exports of the goods caused material injury to the Australian industry is from 1 April 2017.

2.2 Previous cases

The commission has not conducted any previous investigations into the alleged dumping of merchant bar.

2.3 Conduct of the investigation

2.3.1 The Australian industry

In its application, InfraBuild claimed it is the only Australian manufacturer of like goods. No further Australian industry manufacturers of like goods identified themselves to the commission following the initiation of the investigation, nor were any further Australian industry manufacturers identified by the commission during the investigation. This includes examination of responses from other Australian market participants who have identified themselves as exporters and importers of the goods.

⁶ Electronic Public Record (EPR) 584, no 001.

⁷ EPR 584, nos 002 & 003.

The Commissioner is therefore satisfied that there is an Australian industry, consisting wholly of InfraBuild, producing like goods, and that the like goods are wholly or partly manufactured in Australia.

2.3.2 Importers

The commission identified several entities declared as importers of the goods from Taiwan during the investigation period in the Australian Border Force (ABF) import database. The commission forwarded importer questionnaires to identified importers and placed a copy of the importer questionnaire on the commission's website for completion by other importers that the commission did not contact directly. The commission received a response to the to the importer questionnaire (RIQ) from the following entities:

- DITH Australia Pty Ltd
- Macsteel International Australia Pty Ltd (Macsteel)
- Minmetals Australia Pty Ltd
- thyssenkrupp Materials Australia Pty Ltd (thyssenkrupp)

Macsteel is the largest importer of the goods by volume and value in the investigation period. The commission verified Macsteel's RIQ remotely. The commission selected 12 consignments of the goods during the investigation period and Macsteel provided source documents relevant to those consignments (including the sales contract, commercial invoice with the supplier, packing list, certificate of origin and commercial documents relating to the cost to import and sell (CTIS) the goods). Macsteel also provided invoices relevant to its sale of the goods to customers and copies of its financial statements relevant to the investigation period.

The commission reviewed Macsteel's importer questionnaire response in conjunction with the information it provided and the commission's findings from recently conducted verifications for:

- Review 529, hollow structural sections
- Continuation Inquiry 590, hollow structural sections
- Continuation Inquiry 594, hot rolled coil.⁸

The commission also benchmarked Macsteel's CTIS to importers of a similar product in a past case.

The commission did not identify any material exceptions. The commission is satisfied that Macsteel's RIQ for CON 601 is relevant and reliable. This is assessment is contained at **Confidential Attachment 1**.

2.3.3 Exporters

At the outset of the investigation, the commission forwarded questionnaires to identified exporters, and the commission also placed a copy on its website for completion by any

⁸ The commission's verification report for this visit is available on its website, EPR 594, no 012.

other exporters. The commission received a response to the exporter questionnaire (REQ) from the following entities:

- E-Sheng Steel Co., Ltd. (E-Sheng)⁹
- Feng Hsin Steel Co., Ltd (Feng Hsin)¹⁰
- TS Steel Co., Ltd (TS Steel)¹¹

2.3.4 Submissions received from interested parties

The commission received the following submissions from interested parties prior to the publication of *Statement of Essential Facts No 584* (SEF 584). The commission considered the points raised in these submissions when reaching the conclusions contained within SEF 584 and this report.

EPR document no.	Interested party	Date published on the EPR
004	Feng Hsin Steel Co., Ltd	24/06/2021
005	InfraBuild NSW Pty Ltd	28/06/2021
007	Feng Hsin Steel Co., Ltd	08/07/2021
008	Macsteel International Australia Pty Ltd	22/07/2021
009	InfraBuild NSW Pty Ltd	26/07/2021
011	Feng Hsin Steel Co., Ltd	25/08/2021
016	InfraBuild NSW Pty Ltd	21/09/2021
017	thyssenkrupp Materials Australia Pty Ltd	07/10/2021
019	InfraBuild NSW Pty Ltd	21/10/2021
021	InfraBuild NSW Pty Ltd	23/12/2021
026	TS Steel Co Ltd	17/01/2022
027	InfraBuild NSW Pty Ltd	24/01/2022
028	Feng Hsin Steel Co., Ltd	3/02/2022
029	InfraBuild NSW Pty Ltd	24/02/2022
030	TS Steel Co Ltd	28/02/2022
031	InfraBuild NSW Pty Ltd	01/03/2022
035	InfraBuild NSW Pty Ltd	16/03/2022
036	Feng Hsin Steel Co., Ltd	17/03/2022
037	InfraBuild NSW Pty Ltd	23/03/2022

Table 2 - Submissions received prior to the publication of SEF 584

⁹ EPR 584, no 014.

¹⁰ EPR 584, no 012.

¹¹ EPR 584, no 013.

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Following publication of SEF 584, the commission received the following submissions. The commission has considered all submissions in reaching the conclusions contained within this report.

EPR document no.	Interested party	Date published on the EPR
043	InfraBuild NSW Pty Ltd	17/06/2022
044	Feng Hsin Steel Co., Ltd	17/06/2022
045	thyssenkrupp Materials Australia Pty Ltd	17/06/2022
046	Feng Hsin Steel Co., Ltd	22/06/2022
047	InfraBuild NSW Pty Ltd	27/06/2022

Table 3 - Submissions received following the publication of SEF 584

2.3.5 Statement of essential facts

The Commissioner must, within 110 days after the initiation of an investigation, or such longer period as the Minister allows under section 269ZHI(3),¹² place on the public record a statement of essential facts on which the Commissioner proposes to base a recommendation to the Minister in relation to the application.¹³

In formulating the SEF, the Commissioner must have regard to the application, and any submissions concerning publication of the notice that the commission receives within 37 days after the date of initiation of the investigation.¹⁴ The Commissioner may also have regard to any other matters considered relevant.¹⁵

The Commissioner was originally due to place the SEF on the public record by 20 September 2021. However, the Commissioner extended the due date for the SEF on 6 occasions.¹⁶ The Acting Commissioner placed the SEF on the public record on 20 May 2022.¹⁷ In the SEF, the Acting Commissioner proposed to terminate the investigation under section 269TDA(13).

¹² The Minister's powers under section 269ZHI(3) have been delegated to the Commissioner (ADN No 2017/010).

¹³ Section 269TDAA(1).

¹⁴ Section 269TDAA(2)(a).

¹⁵ Section 269TDAA(2)(b).

¹⁶ EPR 584, nos 015, 020, 034, 038, 039 and 040.

¹⁷ EPR 584, no 041.

3 THE GOODS AND LIKE GOODS

3.1 Findings

The Commissioner considers that merchant bar produced locally comprises 'like goods' to the goods under consideration.

3.2 Legislative framework

Section 269TC(1) requires that the Commissioner must reject an application for a dumping duty notice if, inter alia, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

In making this assessment, the Commissioner must firstly determine that the goods produced by the Australian industry are 'like' to the imported goods. Section 269T(1) defines like goods as:

Goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

An Australian industry can apply for relief from injury caused by dumped or subsidised imports, even if the goods it produces are not identical to those imported. The industry must however, produce goods that are 'like' to the imported goods.

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- i. physical likeness
- ii. commercial likeness
- iii. functional likeness
- iv. production likeness.

3.3 The goods

The goods the subject of the application are:

Steel bars and sections in the following shapes and sizes, whether or not containing alloys:

- *'flat bars' (rectangular sections) that have a thickness of 4.75 mm or greater and have a width greater than 17 mm and less than 165 mm, including 'modified rectangles', of which two opposite sides are convex or concave arcs, the other two sides being straight, of equal length and parallel*
- *'channels' (U sections and C sections) that have a web thickness greater than 3 mm and are of a height greater than 70 mm and less than or equal to 130 mm, including both parallel and tapered flanges*

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- 'equal angles' and 'unequal angles' (L sections), that have a thickness greater than 2.5 mm with a combined leg length greater than 40 mm and less than or equal to 200 mm.

Steel sections in the dimensions described above, that have minimal processing, such as cutting, drilling or coating (other than coating or plating with zinc or a zinc alloy) do not exclude the goods from the subject of this application.

Goods excluded from this application are:

- goods that are formed by welding or are cold-formed or slit from flat-rolled products
- goods that are galvanised
- goods that are of stainless steel
- goods that are in coiled form.

3.4 Tariff classification

The goods are classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

Tariff classification (Schedule 3 of the <i>Customs Tariff Act 1995</i>)		
Tariff Subheading	Statistical Code	Description
7214		OTHER BARS AND RODS OF IRON OR NON- ALLOY STEEL, NOT FURTHER WORKED THAN FORGED, HOT-ROLLED, HOT-DRAWN OR HOT-EXTRUDED, BUT INCLUDING THOSE TWISTED AFTER ROLLING:
7214.9		- Other:
7214.91.00	49	-- Of rectangular (other than square) cross-section
7214.99.00	50	-- Other
7216		ANGLES, SHAPES AND SECTIONS OF IRON OR NON-ALLOY STEEL:
7216.10.00	27	- U, I or H sections, not further worked than hot-rolled, hot-drawn or extruded, of a height of less than 80 mm
7216.2		- L or T sections, not further worked than hot-rolled, hot-drawn or extruded, of a height of less than 80 mm:
7216.21.00	28	-- L sections
7216.3		- U, I or H sections, not further worked than hot-rolled, hot-drawn or extruded, of a height of 80 mm or more:
7216.31.00	30	-- U sections
7216.40.00	33	- L or T sections, not further worked than hot-rolled, hot-drawn or extruded, of a height of 80 mm or more
7228		OTHER BARS AND RODS OF OTHER ALLOY STEEL; ANGLES, SHAPES AND SECTIONS, OF OTHER ALLOY STEEL; HOLLOW DRILL BARS AND RODS, OF ALLOY OR NON-ALLOY STEEL:
7228.30		- Other bars and rods, not further worked than hot-rolled, hot-drawn or extruded:
7228.30.10	70	--- Goods, as follows: a. of high alloy steel; b. 'flattened circles' and 'modified rectangles' as defined in Note 1(m) to Chapter 72
7228.30.90	41	---- Other, Other

7228.70.00	- Angles, shapes and sections	
	10	U, I, H or L sections, not further worked than hot-rolled, hot-drawn or extruded, of a height of less than 80 mm
	11	U, I, H or L sections, not further worked than hot-rolled, hot-drawn or extruded, of a height of 80 mm or more
	12	Other

Table 4 - The goods and general tariff classification for the goods

3.5 Like goods

This section sets out the commission's assessment of whether the locally produced goods are identical to, or closely resemble, the goods and whether they are, therefore, 'like goods'. For the purposes of the findings below, the commission has relied upon information obtained from the verification of InfraBuild's application, and information provided by cooperating exporters of the goods.

3.5.1 Physical likeness

The commission considers that the merchant bar that the Australian industry produces for sale into the Australian market is physically like to the goods. Australian merchant bar shares similar physical characteristics, namely shape, dimension, appearance and weight, with similar chemical compositions and mechanical properties.

3.5.2 Commercial likeness

The commission considers that the merchant bar the Australian industry produces for sale in the Australian market is commercially 'like' the goods. The Australian industry competes and sells its merchant bar into the same market sectors, including commercial and residential construction, mining and resource construction, engineering fabrication and transport.

3.5.3 Functional likeness

The commission considers the merchant bar that the Australian industry produces for sale in the Australian market is functionally 'like' the goods. Australian merchant bar is substitutable and has similar end-uses in the manufacture of a variety of products, including racking, conveyors, trailers, earthing rods and gate hinges.

3.5.4 Production likeness

The commission considers the merchant bar that the Australian industry produces for sale in the Australian market uses similar raw material inputs, and that the Australian industry manufactures it in a similar manner to the goods, being the rolling of the steel billet to produce merchant bar.

3.5.5 Like goods assessment

Based on the above findings, the commission considers that the merchant bar the Australian industry manufactures, whilst not identical, has characteristics closely resembling the goods exported to Australia. The commission considers this because:

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- the physical characteristics of the goods and locally produced goods are similar
- the goods and locally produced goods are commercially alike, as they are sold to common users, and directly compete in the same market
- the goods and locally produced goods are functionally alike, as they have a similar range of end uses
- the goods and locally produced goods consist of the same raw materials and are manufactured in a similar manner.

As such, the Commissioner is satisfied that the Australian industry for merchant bar produces like goods to the goods, the subject of the application, as defined in section 269T(1).

3.6 Model control code

The commission has used a model control code (MCC) structure in order to identify key characteristics for, among other things, model matching when comparing export prices and normal values. The manual explains the basis for using a MCC structure and the commission's practice.¹⁸ The commission requested all interested parties participating in this investigation to provide sales and cost data in accordance with the MCC structure detailed in the table below:

Item	Category	Sub-Category	Identifier	Sales Data	Cost Data
1	Quality	Prime	P	Mandatory	N/A
		Non-Prime	N		
2	Shape	Flats	F	Mandatory	Mandatory
		Equal Angles	E		
		Unequal Angles	U		
		Parallel Flange Channels	P		
		Tapered Flange Channels	T		
3	Grade Minimum yield strength specified by the Standard the product is	Less than 275	250	Mandatory	Mandatory
		Equal to or greater than 275 and less than 300	300		

¹⁸ The manual, p 48.

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Item	Category	Sub-Category	Identifier	Sales Data	Cost Data
	certified to be produced to (measured in megapascals (MPa) or Netwon per square millimeter (N/mm ²)) ¹⁹	Equal to or greater than 330	350		

Table 5 - MCC structure²⁰

As outlined in SEF 584, the commission revised the MCC structure applied for the purposes of recalculating Feng Hsin's preliminary variable factors. The commission has not deviated from those findings, and other than changes to the MCC structure for Feng Hsin, the commission has applied the MCC structure in Table 5 in respect of all other interested parties for the purposes of assessing dumping and injury in this report.

The revised MCC structure applicable to Feng Hsin is in **Non-confidential Attachment 1**.

¹⁹ This is NOT the actual batch test result indicated on a test certificate as the actual results must necessarily exceed the minimum requirement of the Standard.

²⁰ EPR 584, no 003.

4 AUSTRALIAN MARKET

4.1 Findings

The Commissioner finds that local production and imports from a number of countries, including Taiwan, supply the Australian market for merchant bar. Imports from Taiwan, as a percentage of the total Australian import volume of the goods, were above negligible levels.

4.2 Market structure

In Australia, merchant bar is used in structural applications for construction and various types of manufacturing. Merchant bar is also interchangeable with certain cold formed products. The Australian merchant bar market comprises local manufacturers, overseas manufacturers/exporters, importers, wholesalers, distributors, resellers and end-users. The market is concentrated in capital cities and major regional centres.

The commission found that key supply channels for merchant bar are steel distributors/traders. Steel distributors/traders purchase merchant bar from either Australian manufacturers or overseas manufacturers looking for the lowest price, and then they distribute merchant bar to either steel fabricators or to end-users.

The key Australian market segments using merchant bar include:

- commercial construction
- residential construction
- mining
- resource construction
- engineering fabrication
- manufacturing
- transport.

4.3 Demand

The commission found that the relative strengths and weakness of the market segments listed above drive the demand and overall market size for merchant bar in Australia.

InfraBuild claimed that price cycles in the merchant bar market also cause fluctuations in demand, whereby increases in price surge purchasing behaviour as consumers stockpile product ahead of potential further rises. Conversely, a decrease in prices will lower demand. The commission discusses the relevance of this claim to its material injury analysis in section 7.8. Other causes of demand variability claimed by InfraBuild include seasonal fluctuations in relation to the construction sector's traditional holiday period in December and January of each year.²¹

²¹ InfraBuild's application, EPR 584, no 001, p 25.

4.4 Market size

The commission has analysed the Australian market size for merchant bar during the injury analysis period (from 1 April 2017) and the investigation period (1 April 2020 to 31 March 2021). Figure 1 depicts the commission's estimate of the size of the Australian market for merchant bar during the injury analysis period, which it found to be larger than the applicant's estimate in the application.²²

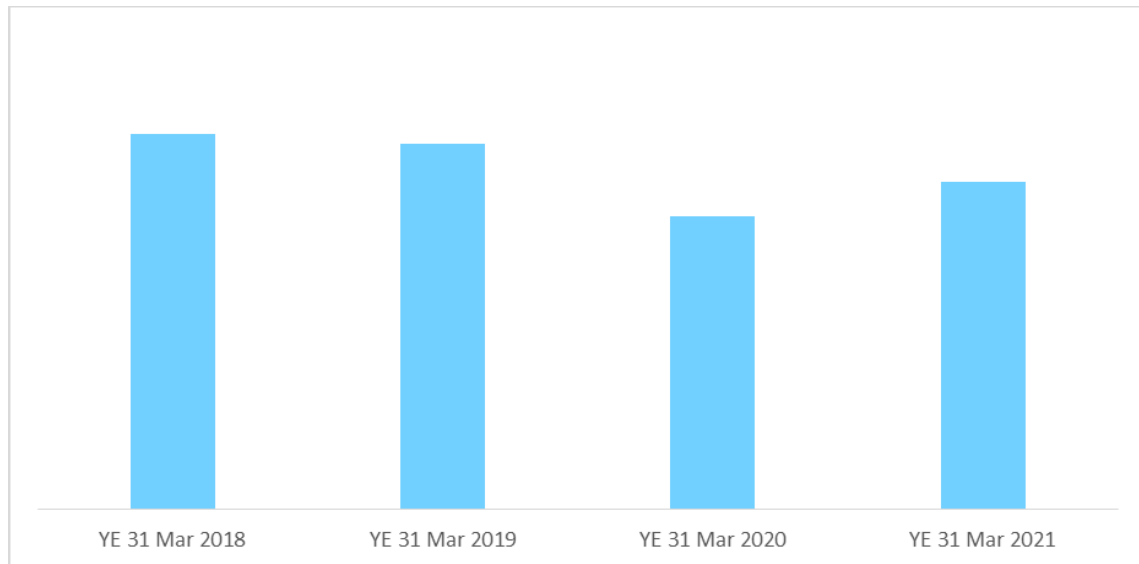


Figure 1 - Size of the Australian market for merchant bar (MT) - injury analysis period

The commission observes that the Australian market size was stable prior to a decline in the year ending March 2020. It recovered during the investigation period, as confirmed in Figure 2 which depicts the commission's estimate of the size of the Australian market during the investigation period.

²² Following publication of SEF 584, the commission re-examined the ABF import database and undertook further cleansing of the data to ensure, as far as practicable, that only the goods relevant to the application have been included. This resulted in changes to the commission's estimate of the market size.

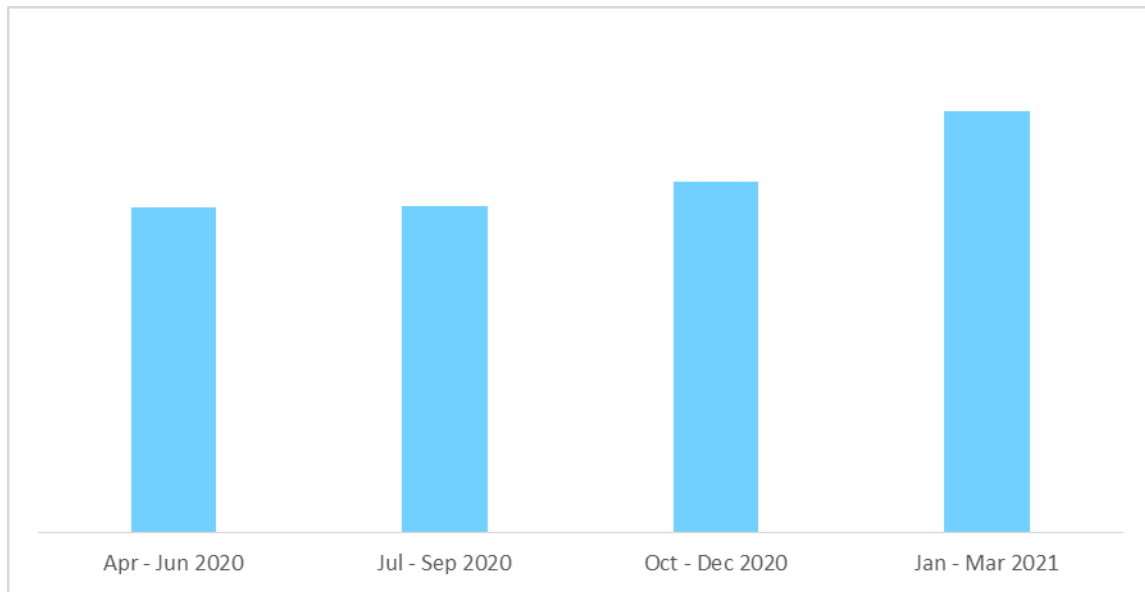


Figure 2 - Size of the Australian market for merchant bar (MT) - investigation period

4.5 Market share

Figure 3 depicts movements in market share during the injury analysis period.²³

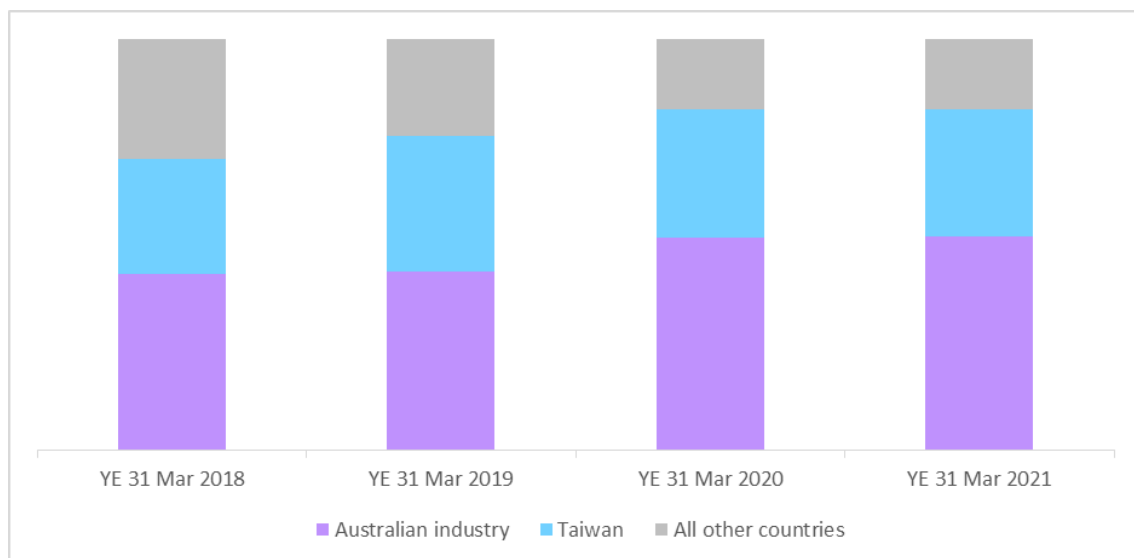


Figure 3 - Estimated annual market shares for merchant bar (MT) - injury analysis period

The commission observes that the Australian industry's market share increased each year of the injury analysis period, including a minor increase of 0.3 percentage points for the investigation period. Imports from Taiwan increased by approximately 3 percentage

²³ Following publication of SEF 584, the commission re-examined the ABF import database and undertook further cleansing of the data to ensure, as far as practicable, that only the goods relevant to the application have been included. This resulted in changes to the commission's estimate of market shares.

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points over the injury analysis period, with a minor decrease of 0.1 percentage points for the investigation period. The market share for other countries reduced.

Figure 4 below shows the Australian industry's market share continued to increase into the investigation period before declining in the third and fourth quarters. The market share of imports from Taiwan were fairly static in the first 3 quarters of the investigation period before increasing in the final quarter of the investigation period. The Australian industry's annual market share remained elevated on the first three years of the injury analysis period.

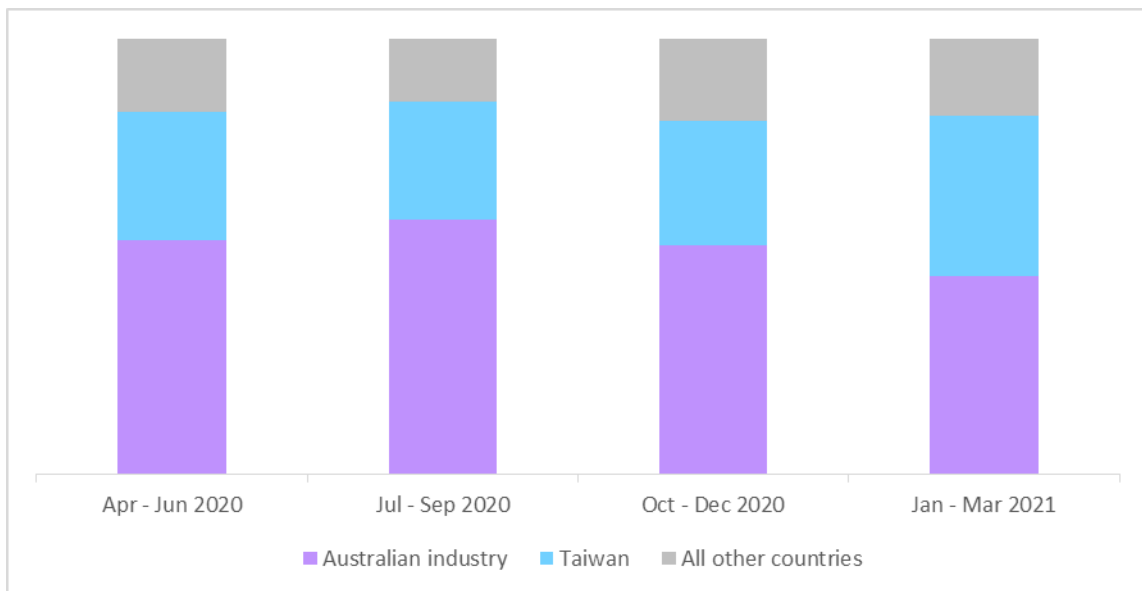


Figure 4 - Estimated quarterly market shares for merchant bar (MT) - investigation period

The commission discusses these findings in further detail in section 6.4.2. The commission's analysis of market size and market share is in **Confidential Attachment 2**.

5 DUMPING INVESTIGATION

5.1 Findings

The commission's dumping margins found in relation to the goods exported to Australia during the investigation period are summarised in Table 6.

Country	Exporter	Dumping margin
Taiwan	Feng Hsin Steel Co., Ltd	18.1%
	TS Steel Co., Ltd	9.9%
	Uncooperative exporters	20.5%

Table 6 - Summary of dumping margins

5.2 Legislative and policy framework

In the report to the Minister under section 269TEA(1), the Commissioner must recommend whether the Minister ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG.

Under section 269TG, one of the matters the Minister must be satisfied of in order to publish a dumping duty notice is that exporters have exported dumped goods to Australia.

Section 269TDA(1) also requires that the Commissioner must terminate the investigation, in so far as it relates to an exporter, if satisfied that the exporter has not dumped the goods, or there has been dumping during the investigation period, but the dumping margin is less than 2%.

Dumping occurs when an exporter exports a product from one country to another country at a price less than its normal value. The export price and normal value of goods are determined under sections 269TAB and 269TAC, respectively.

5.2.1 Export price

The export price is determined in accordance with section 269TAB, taking into account whether the purchase or sale of goods are 'arms length' transactions under section 269TAA. Section 269TAB(1)(a) generally provides that, subject to certain conditions, the export price of any goods exported to Australia is the price paid (or payable) for the goods by the importer, where the goods have been exported to Australia otherwise than by the importer, and have been purchased by the importer from the exporter in 'arms length' transactions.

Where the conditions in section 269TAB(1)(a) are not met, such as when the export transactions are not 'arms length' or the importer(s) have not purchased the goods from the exporter, the export price is determined under sections 269TAB(1)(b) or (c).

Section 269TAB(2) provides that, where the export price cannot be established under the preceding provisions, the export price is determined by having regard to all relevant information.

5.2.2 Normal value

The normal value is determined in accordance with section 269TAC. Section 269TAC(1) provides that the normal value of any goods exported to Australia is the price paid (or payable) for like goods sold in the ordinary course of trade (OCOT) for home consumption in the country of export in sales that are 'arms length' transactions by the exporter. Or, if like goods are not so sold by the exporter, by other sellers of like goods.

However, if one of the circumstances set out in sections 269TAC(2)(a) or (b) is present, such as where there is an absence or low volume of relevant sales of like goods in the market of the country of export, or there is a particular market situation, section 269TAC(1) may not be used. In this instance, the normal value of the goods is to be calculated through either a constructed normal value under section 269TAC(2)(c) or using prices of like goods exported to a third country under section 269TAC(2)(d).

Section 269TAC(6) provides that, where the normal value cannot be established under the preceding provisions, the normal value is determined by having regard to all relevant information.

5.2.3 Dumping margin

Dumping margins are determined under section 269TACB. For all dumping margins calculated for the purposes of this investigation, the commission compared weighted average Australian export prices with the corresponding quarterly weighted average normal values for the investigation period in accordance with section 269TACB(2)(a).

5.3 Cooperative exporters

Section 269T(1) provides that, in relation to a dumping investigation, an exporter is a 'cooperative exporter' where the exporter's exports were examined as part of the investigation and the exporter was not an 'uncooperative exporter'.

The Commissioner considers Feng Hsin and TS Steel to be cooperative exporters on the basis that their exports were examined and they were not uncooperative exporters.

5.3.1 Feng Hsin

Verification

The commission verified the information in Feng Hsin's REQ. A report covering the verification findings is available on the public record.²⁴

The commission is satisfied that Feng Hsin is the producer of the goods and like goods. The commission is further satisfied that the information Feng Hsin provided is accurate

²⁴ EPR 584, no 024.

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and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods.

Export price

The commission considers Feng Hsin to be the exporter of the goods,²⁵ as Feng Hsin:

- is the manufacturer of the goods
- is named on the commercial invoice as the supplier
- is named as consignor on the bill of lading
- arranges and pays for the inland transport to the port of export
- arranges and pays for the port handling charges at the port of export.

The commission is satisfied that, for all its Australian export sales during the investigation period, Feng Hsin was the exporter of the goods.

In respect of Feng Hsin's Australian sales of the goods to its unrelated customers during the investigation period, the verification team found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than price
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.²⁶

The commission therefore considers that all export sales made by Feng Hsin to its unrelated Australian customers during the investigation period were 'arms length' transactions.

In respect of Australian sales of the goods by Feng Hsin, the commission recommends that the export price be determined under section 269TAB(1)(a), as the price paid by the importer to Feng Hsin, less transport and other costs arising after exportation.

Normal value

In respect of Feng Hsin's domestic sales of like goods to its unrelated customers during the investigation period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than price

²⁵ The commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped (the manual, p 23).

²⁶ Section 269TAA refers.

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- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller
- the buyer, or an associate of the buyer, was not directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

The commission therefore considers that all of Feng Hsin's domestic sales to its unrelated domestic customers during the investigation period were 'arms length' transactions. The commission also notes that all domestic sales of merchant bar by Feng Hsin during the investigation period were to unrelated customers.

The commission found that the volume of domestic sales was 5% or greater and was therefore not a low volume under section 269TAC(14). The commission therefore calculated the normal value under section 269TAC(1).

Adjustments

The commission considers the following adjustments under section 269TAC(8) are necessary to ensure that the normal value, so ascertained, is properly compared with the export price of those goods.

Adjustment type	Deduction/addition
Domestic credit terms	Deduct an amount for domestic credit terms
Domestic inland transport	Deduct an amount for domestic inland transport
Export inland transport	Add an amount for export inland transport
Export customs brokerage fee	Add an amount for export customs brokerage fee
Export documentation fee	Add an amount for export documentation fee
Export harbour service fee	Add an amount for export harbour service fee
Export trade promotion fee	Add an amount for export trade promotion fee
Export courier fee	Add an amount for export courier fee
Export commission	Add an amount for export commission
Export bank charge	Add an amount for export bank charge
Export credit terms	Add an amount for export credit terms
Specification	Add or deduct an amount for specification adjustment

Table 7 - Summary of adjustments

Dumping margin

The dumping margin was assessed by comparing weighted average Australian export prices to the corresponding quarterly weighted average normal value for the investigation period under section 269TACB(2)(a).

The dumping margin for the goods exported to Australia by Feng Hsin for the investigation period is **18.1%**.

The commission's calculations are at **Confidential Attachment 6**.

5.3.2 TS Steel

Verification

The commission conducted a risk based assessment of TS Steel's REQ with a view to verifying the information efficiently and effectively, in accordance with the intent of ADN no 2016/30. Based on that assessment, and having regard to the level of detail in the REQ, the commission is satisfied that the information that TS Steel provided is accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods.²⁷

Export price

The commission considers that TS Steel is the exporter of the goods, as TS Steel:

- is the manufacturer of the goods
- is named on the commercial invoice as the supplier/seller
- is named as the shipper on the bill of lading
- arranges and pays for the inland transport to the port of export
- arranges and pays for the port handling charges at the port of export
- pays for harbour duty for international freight.

The commission is satisfied that for all its Australian export sales during the investigation period, TS Steel was the exporter of the goods.

TS Steel did not make export sales of the goods to related customers during the investigation period. In respect of TS Steel's Australian sales of the goods to its unrelated customers during the investigation period, the verification team found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than price
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller, or

²⁷ EPR 584, no 025.

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- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

The commission therefore considers that all export sales made by TS Steel during the investigation period were 'arms length' transactions.

In respect of Australian sales of the goods by TS Steel, the commission recommends that the export price be determined under section 269TAB(1)(a), as the price paid by the importer to TS Steel, less transport and other costs arising after exportation.

Normal value

In respect of TS Steel's domestic sales of like goods to both its related and unrelated customers during the investigation period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than price
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller, or
- the buyer, or an associate of the buyer, was not directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

The commission therefore considers that all domestic sales made by TS Steel to its domestic customers during the investigation period were 'arms length' transactions.

The commission found that in relation to one model, there were insufficient sales of like goods sold in OCOT, on the basis that there was an absence, or low volume, of relevant sales of like goods in the market of the country of export. For this model, the commission was satisfied that there were sufficient domestic sales volumes of a surrogate model based on the model with the closest physical characteristics under the model control code hierarchy structure. Accordingly, the commission has applied a specification adjustment to this model when calculating the normal value.

As the volume of domestic sales of the remainder of TS Steel's exported models are 5% or more of the volume exported, the commission considers it can make a proper comparison at the model level. The commission also assessed the total volume of relevant domestic sales of like goods as a percentage of the total volume of goods exported to Australia and found that the volume of relevant domestic sales was not less than 5%.

Having regard for the points above, the commission is satisfied that there are sufficient volumes of sales of like goods sold for home consumption in the country of export that were 'arms length' transactions and at prices that were within the OCOT. Accordingly, the commission has determined the normal value for TS Steel under section 269TAC(1).

Adjustments

The commission considers the following adjustments under section 269TAC(8) are necessary to ensure that the normal value, so ascertained, is properly compared with the export price of those goods.

Adjustment type	Deduction/addition
Domestic credit terms	Deduct an amount for domestic credit terms
Domestic inland transport	Deduct an amount for domestic inland transport
Domestic sales commission expenses	Deduct an amount for domestic sales team expenses
Export inland transport	Add an amount for export inland transport
Export handling & other	Add an amount for export handling & other
Export Bank Charges	Add an amount for bank charges
Export stuffing charge	Add an amount for stuffing charge
Export promotion fee	Add an amount for promotion fee
Export harbour duty	Add an amount for harbour duty
Export credit terms	Add an amount for export credit terms
Specification adjustment	Adjustment made using the cost to make and sell difference and an amount for OCOT profit

Table 8 - Summary of adjustments

Dumping margin

The dumping margin was assessed by comparing weighted average Australian export prices to the corresponding quarterly weighted average normal value for the investigation period under section 269TACB(2)(a).

The dumping margin for the goods exported to Australia by TS Steel for the investigation period is **9.9%**.

The commission's calculations are at **Confidential Attachment 10**.

5.4 Uncooperative exporters

5.4.1 Legislative framework

Section 269T(1) provides that an exporter is an 'uncooperative exporter' if the Commissioner is satisfied that:

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- an exporter did not give the Commissioner information that the Commissioner considered to be relevant to the investigation within a period the Commissioner considered to be reasonable, or
- an exporter significantly impeded the investigation.

The Commissioner considered the *Customs (Extensions of Time and Non-cooperation) Direction 2015* (Customs Direction) and determined that any exporter which did not do any of the following is an uncooperative exporter for the purposes of this investigation:

- provide a sufficient REQ to the commission
- request a longer period to provide a response within the time specified in ADN 2021/073, being 7 July 2021²⁸
- address requests for further information where REQs were given to the commission.²⁹

Section 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters.

Export price

Pursuant to section 269TACAB(1)(d), the commission has determined an export price for the uncooperative exporters pursuant to section 269TAB(3), having regard to all relevant information. The commission has used the lowest weighted average Free on Board (FOB) export price of cooperative exporters in the investigation period. The commission calculates the weighted average export price using all exports of the goods by that exporter during the investigation period.

Normal value

Pursuant to section 269TACAB(1)(e), the commission has determined the normal value for the uncooperative exporters pursuant to section 269TAC(6), having regard to all relevant information. The commission has used the highest weighted average normal value of cooperative exporters in the investigation period.

Dumping margin

The dumping margin in respect of the goods exported to Australia by uncooperative exporters for the investigation period is **20.5%**.

The commission's calculations are included in **Confidential Attachment 11**.

5.4.2 Commissioner's assessment of E-Sheng

E-Sheng provided information to the commission within the legislated period. The commission considered that this response contained extensive deficiencies, such that the commission was unable to reliably determine an individual dumping margin for E-Sheng

²⁸ This is the relevant legislated period.

²⁹ Requests for further information are contained in deficiency letters.

based on the response. In the opinion of the Commissioner, E-Sheng could not quickly or easily rectify the deficiencies in a further response. The acting general manager informed E-Sheng of this on 9 November 2021. E-Sheng acknowledged this advice and provided a supplementary response on 10 November 2021, however, the commission's assessment that the exporter's response was materially deficient remains unchanged.

In accordance with section 269T(1), the Commissioner considers E-Sheng to be an uncooperative exporter on the basis that it did not give the Commissioner information the Commissioner considered to be relevant to the investigation within a period the Commissioner considered to be reasonable.

5.5 Volume of dumped imports

Pursuant to section 269TDA(3), the Commissioner must terminate the investigation, in so far as it relates to a country, if satisfied that the total volume of goods that have been or may be dumped is a negligible volume. Section 269TDA(4) defines a negligible volume as less than 3% of the total volume of goods imported into Australia over the investigation periods, where section 269TDA(5) does not apply. Section 269TDA(5) does not apply to this investigation.

Using the ABF import database and having regard to the information collected and verified during the investigation, the commission determined the volume of imports in the Australian market. Based on this information, the commission is satisfied that, when expressed as a percentage of the total Australian import volume of the goods, the volume of goods that have been exported from Taiwan at dumped prices was 3% or greater of the total import volume. The volume of dumped goods exported from Taiwan is therefore not negligible.

The commission's calculations are at **Confidential Attachment 12**.

5.6 Level of dumping

Section 269TDA(1) provides that the Commissioner must terminate a dumping investigation, in so far as it relates to an exporter of the goods, if satisfied that:

- there has been no dumping by the exporter of any of those goods or
- there has been dumping by the exporter of some or all of those goods, but the dumping margin for the exporter is less than 2%.

As detailed in this chapter, the commission is satisfied that all goods exported from Taiwan were at dumped prices during the investigation period and the dumping margin for all exporters of the goods from Taiwan is 2% or more.

6 ECONOMIC CONDITION OF THE INDUSTRY

6.1 Findings

The commission analysed the Australian industry's economic condition for the injury analysis period.

The commission's observations include that the Australian industry generally increased its volume, prices and profits for the injury analysis period on an annual basis.

On a quarterly basis, the commission observed fluctuation in a range of economic indicators, including a decline in certain economic indicators (market share, profits and profitability) in the last two quarters of the investigation period. In relation to these economic indicators, the lowest quarterly levels in the investigation period were within a range of upper and lower limits that the Australian industry achieved throughout the broader injury analysis period.

6.2 Applicant's claims

In its application, InfraBuild claimed that the Australian industry has experienced injury in the form of:

- lost sales volume
- lost market share
- price depression
- price suppression
- loss of profits
- reduced profitability
- reduced capital investment
- reduced research and development expenditure
- loss of employment (headcount) allocated to production of the like goods
- reduced cash flow in the industry
- lost revenue.

6.3 Commission's approach to analysing the economic condition

To assess InfraBuild's claims, the Commissioner specified an investigation period from 1 April 2020 to 31 March 2021. The Commissioner also specified an injury analysis period from 1 April 2017 for the purpose of examining trends relevant to determining whether the Australian industry experienced material injury caused by dumping in the investigation period.³⁰

³⁰ Section 269T(2AD) states that, the fact that an investigation period is specified to start at a particular time does not imply that the Minister may not examine periods before that time for the purpose of determining whether material injury has been caused to an Australian industry or to an industry of a third country. The purpose of the injury analysis period is to enable the commission to identify and examine trends in the Australian market, which in turn assists the Commissioner in determining whether material injury has been caused by dumping in the investigation period (when the dumping is alleged to have occurred).

The commission has based the analysis detailed in this chapter on verified data provided by the applicant. As that data includes that of TASCO, a related producer, the commission is satisfied that the following assessment is indicative of the economic condition of the Australian industry as a whole.

The commission has compiled the figures presented in this chapter on an annual basis for the 4 year injury analysis period ending 31 March 2021 as well as a quarterly basis for the investigation period. Where appropriate, the commission has also examined quarterly trends over the injury analysis period to establish context for the Australian industry's performance during the investigation period. The figures depict the Australian industry's actual performance for each quarter or year.

The analysis in this chapter does not consider whether dumped exports of the goods have caused or threaten material injury to the Australian industry. That analysis is contained within chapter 7.

The commission's assessment is at **Confidential Attachment 2**.

6.4 Volume effects

6.4.1 Sales volume

In its application, InfraBuild claimed that volume injury to the Australian industry commenced in or about November 2020. The commission's analysis, depicted below in Figure 5, demonstrates declining domestic sales volume of like goods in the first 3 years of the injury analysis period. This decline was followed by a notable increase during the investigation period, between March 2020 and March 2021.

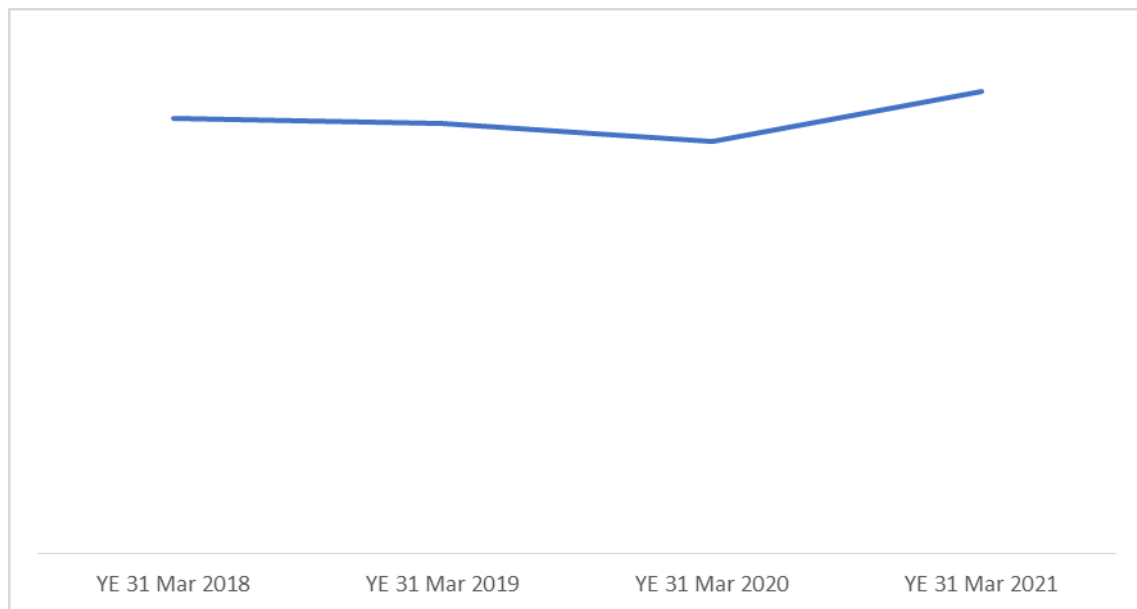


Figure 5 - Australian industry's domestic sales volume of like goods (MT) - injury analysis period

Figure 6 below depicts the Australian industry's domestic sales volume within the investigation period. It shows a fluctuation in the Australian industry's quarterly sales volume throughout the investigation period with an overall rise. Although a slight decrease in sales volume is evidenced in or about November 2020, the decrease was less than

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other declines experienced in the preceding three years of the injury analysis period. In addition, the quarterly sales volume increased in the March 2021 quarter, the first full quarter after which InfraBuild claimed that volume injury commenced.

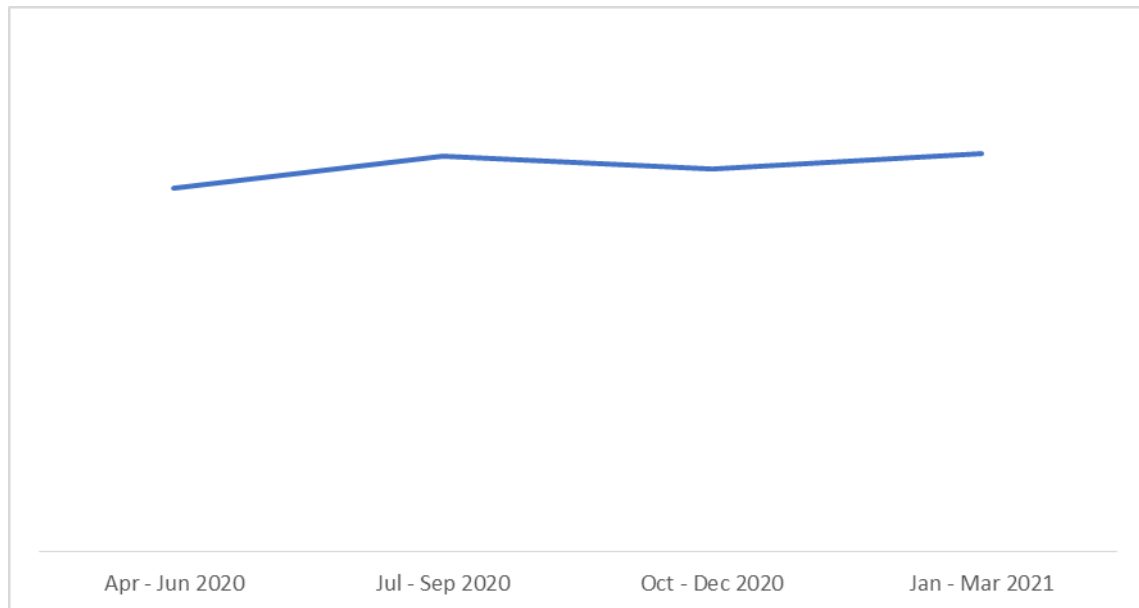


Figure 6 - Australian industry's domestic sales volume of like goods (MT) - investigation period

6.4.2 Market share

Annual trends

As shown in Figure 3 in section 4.5 of this report, the Australian industry's market share increased during all 4 years of the injury analysis period. The Australian industry's market share in the investigation period is approximately 9 percentage points above the first year of the injury analysis period.

Quarterly trends

Figure 7 below shows that the Australian industry's market share fluctuated on a quarterly basis for the injury analysis period.

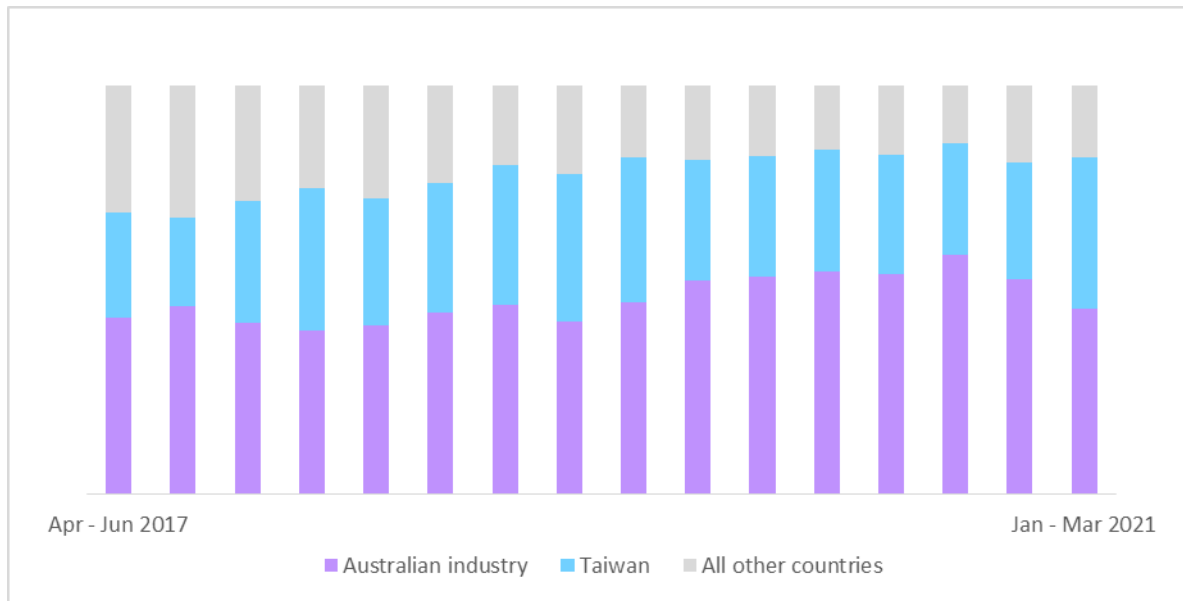


Figure 7 - Estimated quarterly market shares for merchant bar (MT) - injury analysis period

On a quarterly basis during the investigation period, also depicted in Figure 4 in section 4.5, the Australian industry's market share increased in the second quarter of the investigation period before declining in the third and fourth quarters. The Australian industry's market share in the fourth quarter of the investigation period is the lowest during the investigation period, and is below the average quarterly market share during the injury analysis period. There was one quarter during the injury analysis period where the Australian industry's market share was lower than the fourth quarter of the investigation period, and there were a number of quarters during the injury analysis period where the Australian industry's market share was at a comparable level to the fourth quarter of the investigation period.

6.4.3 Conclusion

The commission finds that the Australian industry increased its sales volume during the investigation period while losing market share during the same period. Having regard to trends within the broader injury analysis period, the commission concludes that the decline in market share in the second half of the investigation period is within a range of upper and lower limits that the Australian industry achieved throughout the injury analysis period. The commission discusses the relevance of this finding to its material injury analysis in section 7.4.2.

6.5 Profits and profitability

6.5.1 Analysis

In its application, InfraBuild has claimed that imports of goods from Taiwan impacted its ability to raise its profits and profitability from merchant bar sales during the injury analysis period.

Annual trends

As shown below in Figure 8, the Australian industry's profit and profitability on domestic sales of like goods peaked during the year ending 31 March 2019 before declining in the year ending 31 March 2020. Unit profitability at 31 March 2020 levels was sustained in the investigation period and the total profit increased.

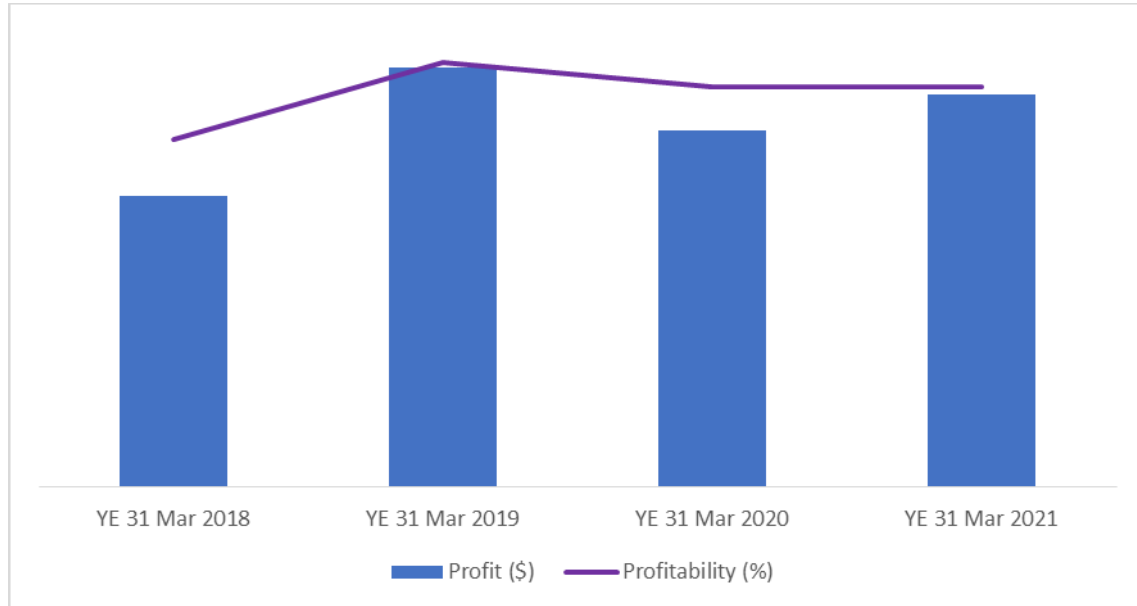


Figure 8 - Australian industry's unit profit and profitability on domestic sales of like goods - injury analysis period

Quarterly trends

Figure 9 below illustrates the Australian industry's quarterly profits and profitability on domestic sales of like goods during the investigation period, and shows these to increase and peak in the second quarter before declining in the third and fourth quarters. The commission notes, however, that the Australian industry's domestic sales of like goods remained profitable throughout the investigation period.

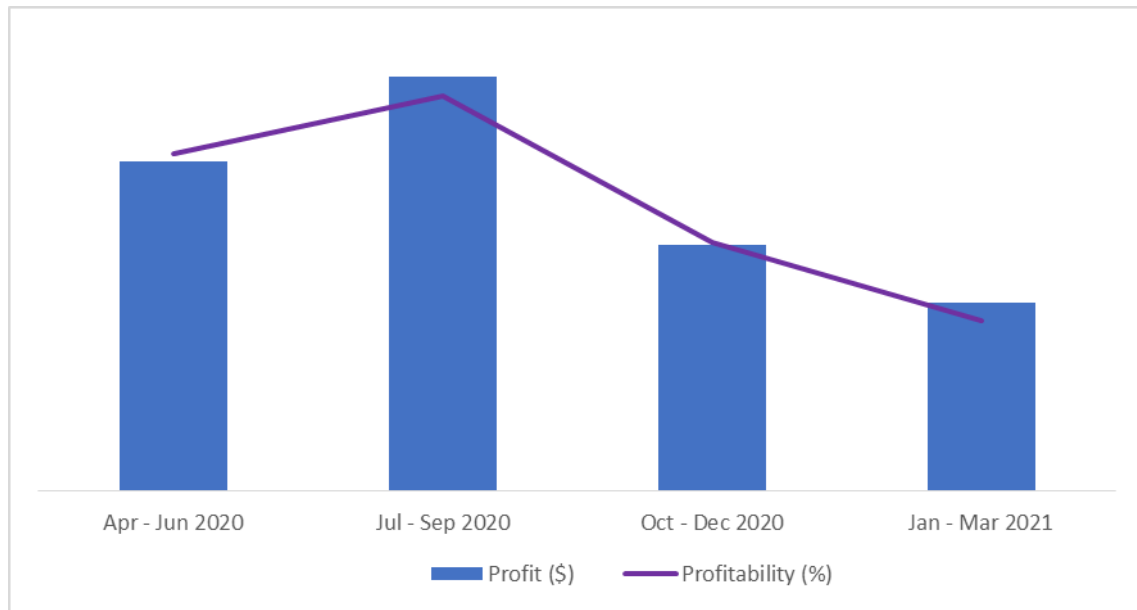


Figure 9 - Australian industry's unit profit and profitability on domestic sales of like goods - investigation period

Similar to the commission's observations made in relation to market shares, Figure 10 below shows the Australian industry's unit profitability generally fluctuated over the injury analysis period on a quarterly basis. There were certain quarters during the injury analysis period where unit profitability was below the lowest point during investigation period.



Figure 10 - Australian industry's unit profit and profitability on domestic sales of like goods - injury analysis period

6.5.2 Conclusion

The commission finds that InfraBuild's profit and profitability declined during the second half of the investigation period. Having regard to trends within the broader injury analysis period, the commission concludes that this decline is within a range of upper and lower limits that the Australian industry achieved throughout the injury analysis period. The

commission discusses the relevance of this finding to its material injury analysis in section 7.5.

6.6 Price suppression and depression

6.6.1 Analysis

In its application, InfraBuild claimed that imports of the goods from Taiwan caused injury in the form of price depression and price suppression.

Price depression occurs when the Australian industry is forced to reduce prices in order to compete with the imported goods.³¹ As shown below in Figure 11, InfraBuild's unit selling price increased during the investigation period.

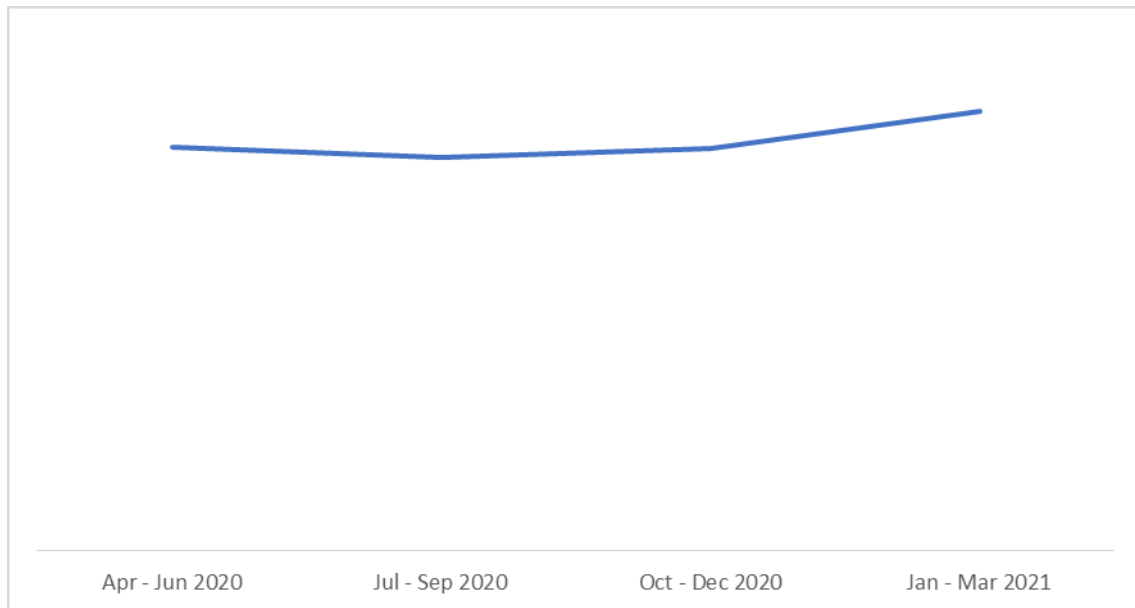


Figure 11 - Australian industry's weighted average unit selling price - investigation period

Price suppression occurs when dumped imports prevent price increases, which otherwise would have occurred, to a significant degree.³² A key indicator of price suppression is a convergence between unit selling prices and unit cost to make and sell (CTMS). If the Australian industry were suffering from price suppression, the commission considers it might be indicated through the Australian industry's inability to raise prices to offset rising CTMS. However, as shown in Figure 12, the Australian industry's unit selling price and unit CTMS have largely moved in tandem on an annual basis over the injury analysis period.

³¹ The manual, p 16.

³² Article 3.2, ADA.

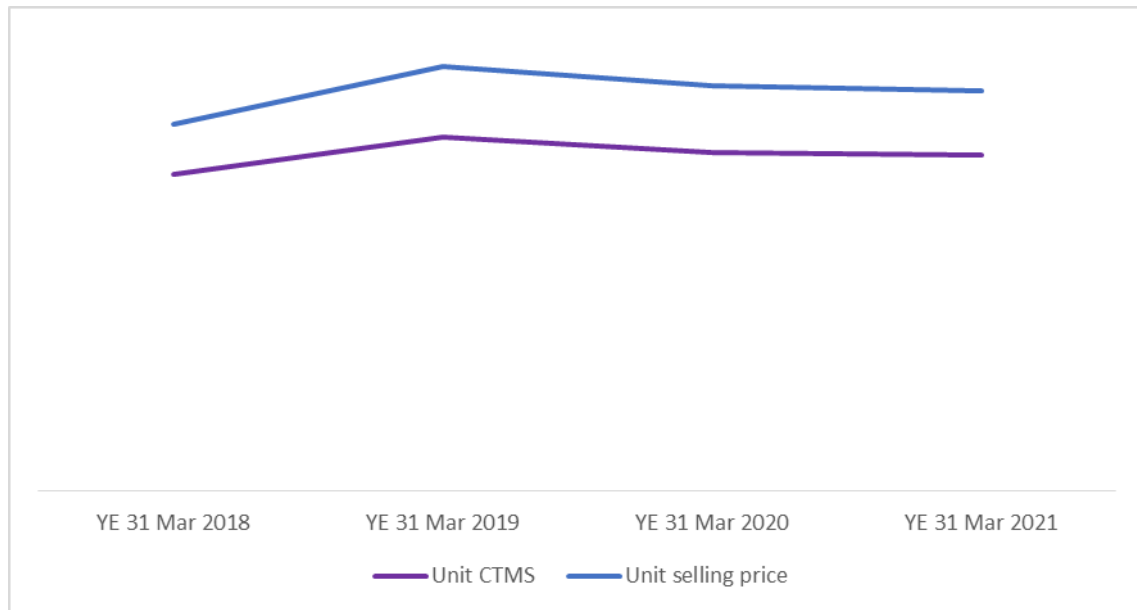


Figure 12 - Australian industry's unit selling price and unit CTMS - injury analysis period

6.6.2 Conclusion

The commission finds that the Australian industry's unit selling price rose during the investigation period and therefore that the Australian industry has not experienced price depression. The commission also finds that the Australian industry's unit selling price and unit CTMS have largely moved in tandem over the injury analysis period. If the Australian industry was experiencing price suppression, the commission may expect to see an inability for the Australian industry to raise prices to offset rising CTMS. The commission discusses the relevance of this finding to its material injury analysis in section 7.6.

6.7 Other economic factors

6.7.1 Capital investment

In its application, InfraBuild claimed that it experienced material injury caused by dumping in the form of reduced capital investment. Figure 13 below shows a reduction in capital expenditure in the year ending March 2021 from previous years.

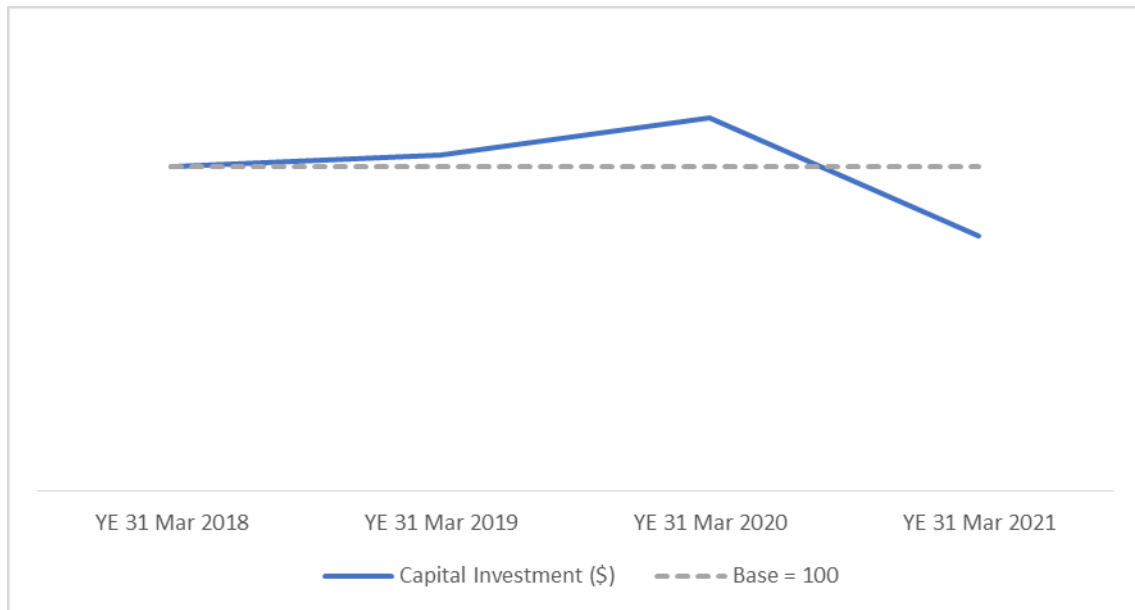


Figure 13 - InfraBuild's index of capital investment - injury analysis period

The commission notes however that in calculating capital expenditure associated with the production of merchant bar, InfraBuild has apportioned total capital expenditure by production volumes of merchant bar as a percentage of its rolling mills' total production volumes. As InfraBuild's total capital expenditure includes that which is related to other products, and merchant bar represents only a portion of a mill's output, the commission cannot assess or isolate a decrease in capital expenditure related specifically to merchant bar and caused by dumped imports from Taiwan.

6.7.2 Research and development expenditure

In its application, InfraBuild claimed that it experienced material injury caused by dumping in the form of reduced research and development (R&D) expenditure. Figure 14 below shows R&D expenditure declined consistently across the injury analysis period.

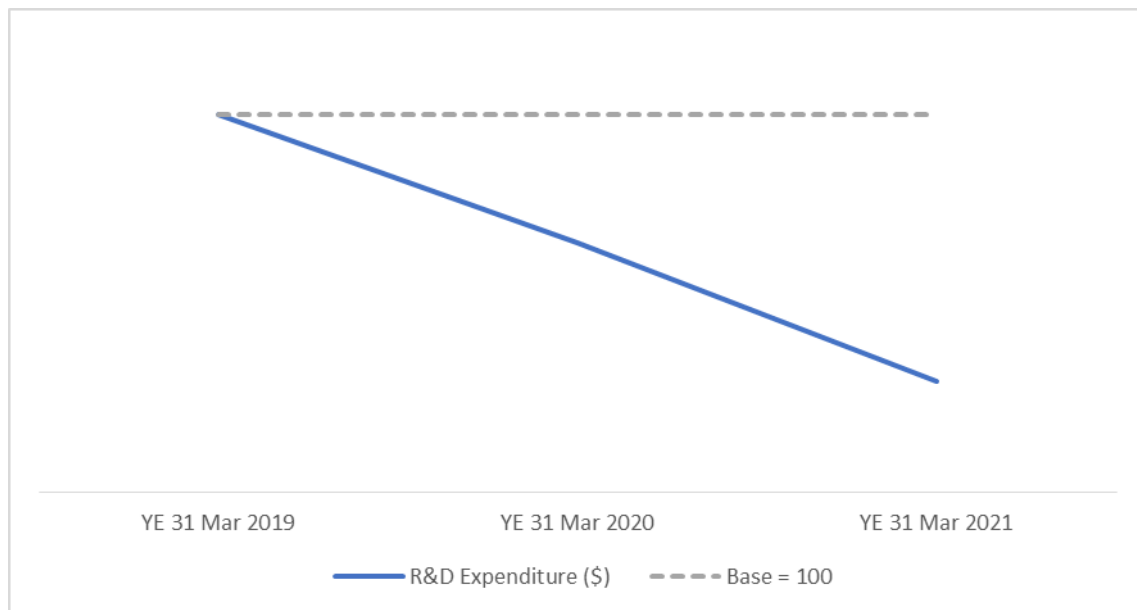


Figure 14 - Australian industry's index of R&D expenditure - injury analysis period

Similarly to capital expenditure, InfraBuild has calculated R&D spending by using aggregate R&D expenditure and apportioning a percentage based on sales revenue of like goods as a percentage of total sales revenue. As InfraBuild's total R&D expenditure includes that which is related to other products, and merchant bar represents only a portion of a mill's output, the commission cannot assess or isolate a decrease in R&D expenditure related specifically to merchant bar and caused by dumped imports from Taiwan. It is also unclear to the commission whether any R&D activities were planned in relation to like goods specifically.

6.7.3 Employment

In its application, InfraBuild claimed injury in the form of a decrease in employment (headcount) related to the production of like goods. As shown below in Figure 15, employment related to the production of like goods decreased consecutively in the first 2 years of the injury analysis period. However, employment then remained steady from the third year in the injury analysis period into the investigation period. The commission therefore finds there was no loss of employment (headcount) during the investigation period.

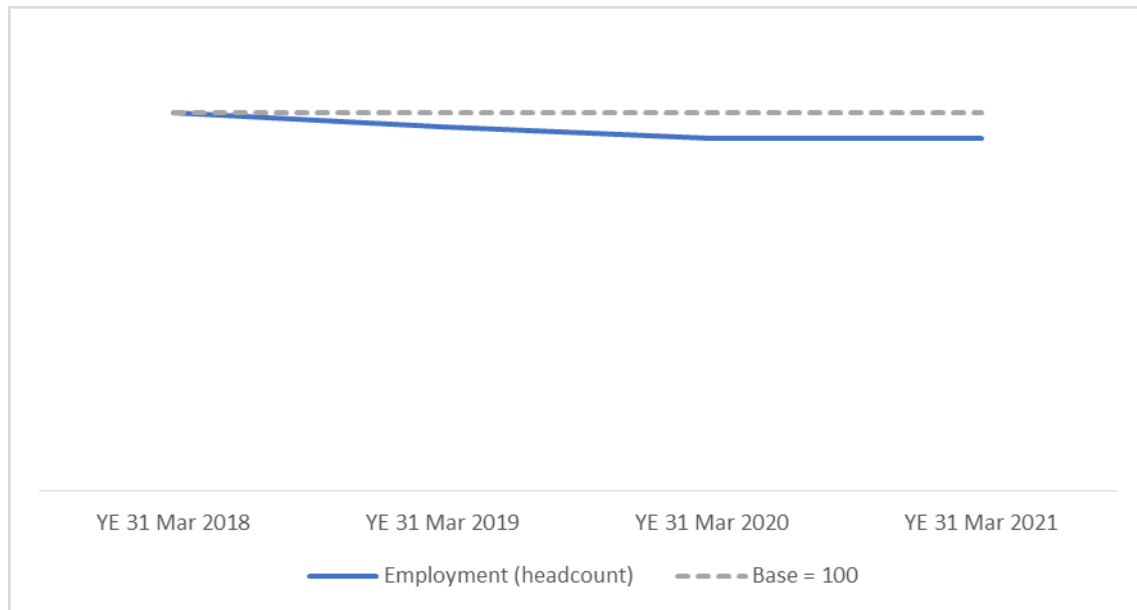


Figure 15 - Australian industry's index of employment (headcount) - injury analysis period

6.7.4 Cash flow

In its application, InfraBuild claimed that it suffered material injury in the form of reduced cash flow. InfraBuild included in its application 2 measures of cash flow, accounts receivable turnover and inventory turnover, both of which are depicted below in Figure 16.

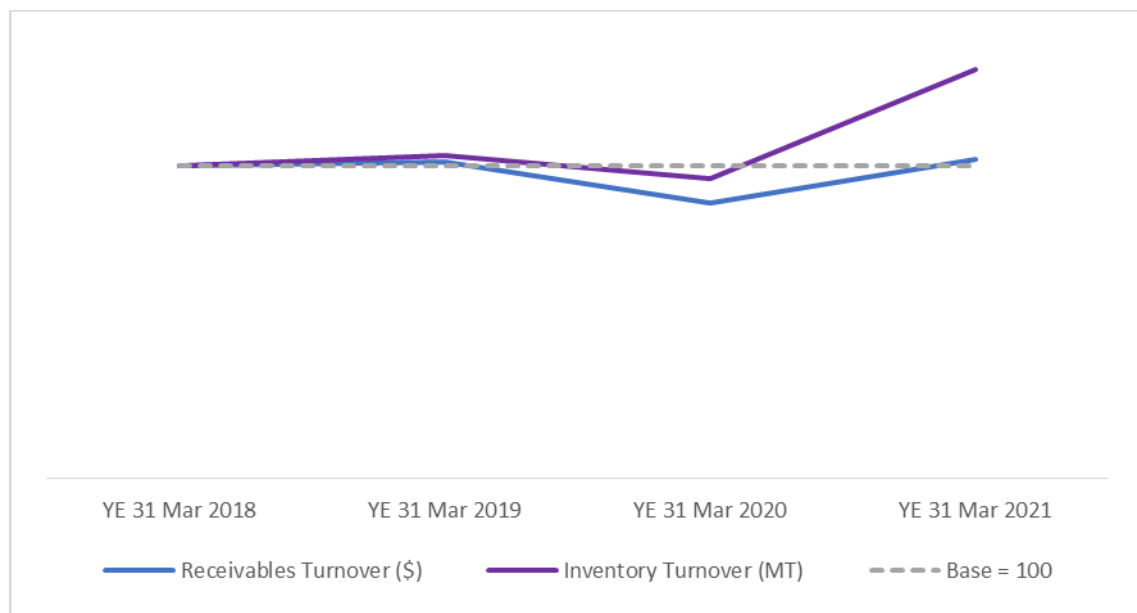


Figure 16 - Australian industry's index of receivables and inventory turnover - injury analysis period

As shown in Figure 16, both measures of cash flow decreased during the third year of the injury analysis period before increasing during the investigation period. Both measures were higher in the investigation period compared to the first year of the injury analysis period. The commission therefore finds there was no reduction in cash flow during the investigation period.

6.7.5 Revenue

As shown below in Figure 17, the Australian industry's revenue increased in the investigation period relative to the prior year. Additionally, the Australian industry's revenue reached its highest point in the injury analysis period during the investigation period. The commission therefore finds there was no loss of revenue during the investigation period.

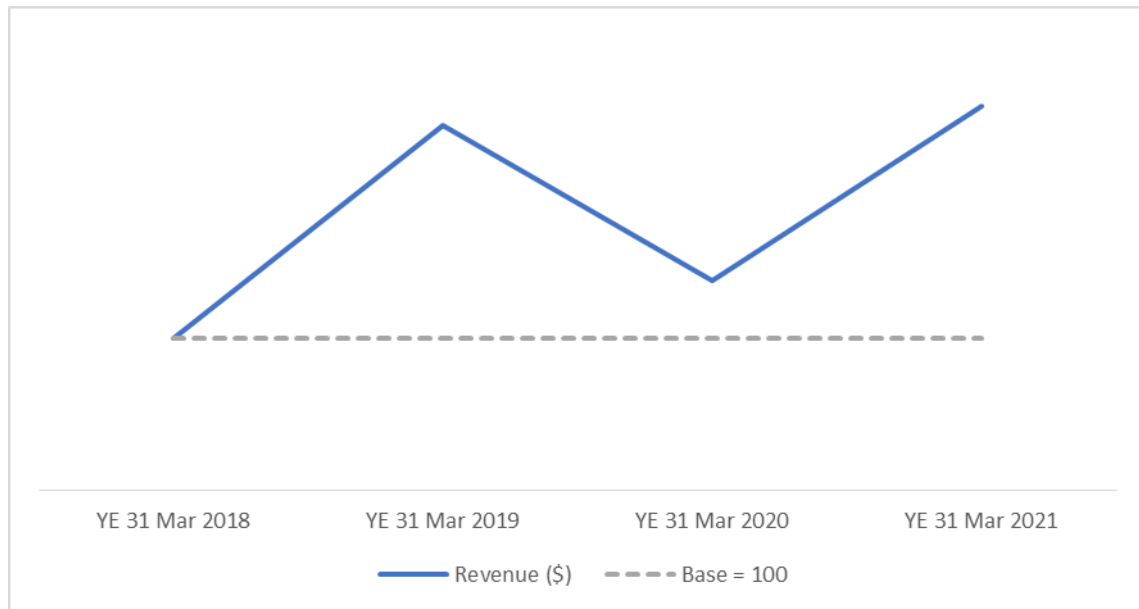


Figure 17 - InfraBuild's index revenue - injury analysis period

7 HAS DUMPING CAUSED MATERIAL INJURY?

7.1 Findings

The Commissioner has weighed up the available evidence and is satisfied that dumped goods exported to Australia from Taiwan has not caused or threatened material injury to the Australian industry. The Commissioner has made this finding, on balance, having considered the elements of section 269TAE which sets out a non-exhaustive list of factors that are considered when assessing whether the Australian industry has experienced material injury caused by dumped imports of the goods. The Commissioner has also had regard to the manual and the Material Injury Direction.

To inform the Commissioner's finding, the commission used what is termed a 'coincidence' analysis, outlined in further detail in section 7.3. The Commissioner finds that there is a coincidence between dumped goods and a decline in certain economic factors during the last two quarters of the investigation period. However, any coincidence between the dumped exports of the goods from Taiwan and a decline in certain economic factors of the Australian industry is partial and inconsistent, having regard to the commission's observations that the Australian industry also increased its volumes, prices and profits during the first and second quarters of the investigation period – and overall during the investigation period – when dumped imports were present.

Although the dumping margins are not negligible and the volume of dumped goods is not negligible, the commission is satisfied that the downward trends observed for some economic indices in the investigation period arise within the context of the ordinary business cycle. The commission therefore cannot be satisfied that dumped imports have caused these downward trends. Relatedly, for the same reason, the commission finds that any injury experienced by the Australian industry during the investigation period is more likely caused by factors arising from the cyclical nature of the market. As outlined in further detail in section 7.8, the commission has found that factors other than dumping have also impacted the Australian industry in the investigation period.

The commission therefore finds that the injury, if any, that has been, or may be, caused to the Australian industry by dumped imports is negligible. Specifically, the commission finds:

- in relation to volume effects:
 - there is no evidence that the Australian industry has suffered injury in the form of lost sales volumes, as its sales volumes increased during injury analysis period and the investigation period.
 - the Australian industry's market share increased during the injury analysis period, and peaked during the second quarter of the investigation period when the major exporter's (Feng Hsin) dumping margin was also at its highest recorded level. The Australian industry's market share reduced in the second half of the investigation period, which coincided with an increase in the volume of dumped goods from Taiwan. However, the Australian industry's market share at its lowest point in the investigation period is only marginally below its average market share during the injury analysis period, and has been lower. Having regard to these broader trends of the ordinary business cycle within the injury analysis period, the Australian industry's

loss of market share in the investigation period when considered alongside other economic indices is not indicative of material injury caused by dumping.

- in relation to price effects:
 - there is no evidence that the Australian industry has suffered injury in the form of price depression, as its prices rose in the injury analysis period and during the investigation period.
 - the Australian industry's prices are closely correlated with the prices of imported goods due to the Australian industry's import price parity (IPP) model.
 - the prices of imported dumped goods have undercut the Australian industry's prices during the whole investigation period and at a rate that narrowed during the final quarter. However, there is no evidence that the Australian industry has suffered price suppression during the investigation period as a result of this undercutting. In reaching this conclusion, the commission found that the point at which the Australian industry's profit margins were at their lowest coincides with the point at which prices of exports increased such that the margins of price undercutting and dumping were at their lowest.
- in relation to profit effects:
 - the Australian industry's sales of like goods remained profitable throughout the injury analysis period and investigation period.
 - the quarterly movements of the Australian industry's profit and profitability fluctuated considerably during the injury analysis period.
 - the Australian industry's profit and profitability was lower towards the end of the investigation period.
 - the lowest point of the Australian industry's profit margins coincides with the point at which the margins of price undercutting and dumping were also at their lowest.
 - the Australian industry's profits and profitability at their lowest level in the investigation period is within a range of upper and lower limits that the Australian industry achieved during the ordinary business cycle in the injury analysis period.
 - having regard to broader trends within the injury analysis period, the decline in profits and profitability in the investigation period when considered alongside other economic indices is not indicative of material injury caused by dumping.
- in relation to other economic indicators (that InfraBuild claimed in addition to price, profit and volume injury), there is no evidence to support a finding of material injury (refer to section 6.7).
- the evidence does not support a threat of material injury (refer to section 7.9). The commission has reached this view based on the relatively static trend of import volumes, the capacity utilisation of exporters and the upward trend of export prices. By the final quarter of the investigation period, imports entered the Australian market at higher prices such that the level of price undercutting narrowed and the dumping margin decreased to its lowest point. This upward trend in import prices continued following the investigation period. The combination of these factors do not satisfy the commission that there is a change in circumstances whereby material injury from dumping is clearly foreseen and imminent.

7.2 Legislative framework

Under section 269TG, one of the matters that the Minister must be satisfied of in order to publish a dumping duty notice is that, because of dumping, the Australian industry has experienced material injury.

Section 269TAE(1) outlines the factors to which the Commissioner has had regard, and that may be taken into account, when determining whether material injury to an Australian industry has been, or is being, caused or threatened by dumping.

Section 269TAE(2A) requires that regard be had to the question as to whether any injury to an industry is being caused by a factor other than the exportation of the goods, and provides examples of such factors.

7.3 Approach to causation analysis

7.3.1 Background

The Act envisages that causation analysis is examined through the links between the volume of dumped goods and their effect on prices in the domestic market and the consequent impact on the Australian industry. Certain analytical tools are available to the commission to perform causation analysis. The Act does not prescribe any particular methodology for performing causation analysis, which is inherently a qualitative assessment based on all available evidence.

Chapter 22 of the manual states that the most common way to perform causation analysis is by using a 'coincidence analysis'. Where there is a coincidence in timing between the injury factors and the volume and price trends of dumped imports, this may be taken to mean there is a causal link. In this case, the commission considers a coincidence analysis to be particularly useful in light of the data-points set out in Figure 7 and Figure 10 in relation to movements in the Australian industry's market share, profits and profitability. The commission's causation analysis examines the existence, relevance and implications of any coincidence, or lack thereof, against the background of the conditions of competition in the market, particularly when viewed against broader market dynamics and trends over the injury analysis period.

In section 7.8, the commission further seeks to separate and exclude the effects of any other known factors from that attributable to the dumped imports.

The degree of coincidence between the presence of dumped imports during the investigation period and the downward trends in certain indices of the Australian industry's economic condition during the third and fourth quarters is partial and inconsistent. This is highlighted by the commission's observations that the Australian industry also increased its volumes, prices and profits during the first and second quarters of the investigation period – and overall during the investigation period – when dumped imports were present.

The commission has therefore examined these downward trends in the investigation period in light of the broader market dynamics and competitive environment over the injury analysis period. This assessment assists the commission in determining whether the partial coincidence mentioned above is indicative of causation and material injury.

For instance, if downward trends occur in the presence of dumped imports and fall outside of the broader market dynamics and competitive environment over the injury period, this may suggest that the presence of dumped imports have altered the ordinary business cycle to the detriment of the Australian industry. Conversely, if the downward trends are within the bounds of the ordinary business cycle for the Australian market, this may suggest that these trends are not indicative of 'material injury' as envisaged by section 269TAE. Relatedly, this may suggest that cyclical factors are an inherent part of the broader market dynamics and are causing downwards trends instead of dumping.

The commission considers this to be a useful analytical tool in its overall qualitative assessment of the ordinary business cycle and whether the Australian industry is experiencing material injury from dumped imports.

The commission has examined the following evidence in its coincidence analysis:

- verified volume, price and profit effects of the Australian industry during the injury analysis and investigation periods
- verified sales data from cooperating exporters and participating importers to determine relevant selling prices and volumes of the goods
- the broader context of the economic condition of the Australian industry.

7.3.2 Submissions regarding the commission's approach to causation analysis

In its submission dated 16 June 2022,³³ InfraBuild submitted the following:

- The commission erred in using a coincidence analysis to assess the materiality of injury, as the commission had not removed the temporary and extraordinary effects of the COVID-19 pandemic from its assessment of injury or threat of injury. The commission should have assessed how dumping behaviours will affect the Australian industry once long-term trends resume.
- The Australian industry's material injury has been the decline in its rate of growth, as provided by the Material Injury Direction. But for the dumped goods, the Australian industry would have been more prosperous.
- In assessing longer trends in the injury analysis period, the commission cannot assume that the Australian industry's economic performance in earlier periods were not affected by the presence of dumped goods from Taiwan.
- Even if the commission had correctly applied a coincidence analysis, the commission ought to have concluded that material injury was found to coincide with dumped imports. InfraBuild's decision to price more competitively in the final quarter of the investigation period in response to injury and threat of injury from dumped imports is evidence of this coincidence in timing.

In its submission dated 21 June 2022,³⁴ Feng Hsin submitted the following:

³³ EPR 584, no 043.

³⁴ EPR 584, no 046.

- In order to consider an alternative method for assessing causation, the commission's practice requires a 'compelling explanation' as to why causation exists notwithstanding the absence of any coincidence, consistent with WTO jurisprudence.
- InfraBuild's request for the use of a 'but for' method relies on a new claim that during the investigation period, the steel market was experiencing a 'super-cycle' caused by the COVID-19 pandemic. This demonstrates that InfraBuild was seeking to reinforce monopoly power in the Australian market by imposing trade barriers when market conditions were extremely tight.
- Feng Hsin's data, verified by the commission, shows an increase in its export prices during the quarter ending March 2021, refuting InfraBuild's claim that a reduction in price undercutting was the result of its own decision to price more competitively.

In its submission dated 24 June 2022,³⁵ InfraBuild responded to Feng Hsin's submission, noting that the manual permits an alternative method for examining causation where no coincidence has been found or a coincidence analysis has not been possible. InfraBuild stated that the commission failed to consider a 'but for' approach despite being provided evidence of price undercutting and the causative effects of this on the Australian industry's prices and sales volumes.

7.3.3 Commission's assessment

The commission considers the COVID-19 pandemic and its resulting changes in patterns of demand for the goods to be a factor other than the exportation of the goods, as outlined in section 269TAE(2A). Consideration of the factors set out in section 269TAE(2A) (and any other factor having a bearing on the examination of injury and causation) is mandatory only to the extent that they are known and assessable.³⁶

InfraBuild has described the COVID-19 pandemic as a 'super-cycle' that has seen volume and prices spike to unprecedented levels. InfraBuild claims its assessment on steel scrap prices demonstrates the super-cycle in the market for merchant bar. The commission accepts InfraBuild's data on steel scrap prices, however, the commission's focus must be the market for merchant bar.

Figure 1 does not reflect InfraBuild's proposition. While it shows that the market size for merchant bar increased in the year ending 31 March 2021 as the result of greater demand, it also shows that this increase in market size appears to be a return to levels seen at the beginning of the injury analysis period. The market size for merchant bar in the year ending 31 March 2021 is slightly below the corresponding period in 2018 unaffected by the claimed super-cycle. This evidence suggests that there are not any particular characteristics stemming from the COVID-19 pandemic that are known and assessable and would warrant and enable consideration.

³⁵ EPR 584, no 047.

³⁶The manual, p 99.

In addition, the commission is satisfied that the supposed effects or not of the COVID-19 pandemic do not detract or call into question the coincidence analysis the commission has used to examine any link between the volumes of dumped goods and their effect on prices in the domestic market and the consequent impact on the Australian industry. Accordingly, the commission used a coincidence analysis when examining the causation of injury in relation to dumped imports.

The commission observes that while dumping of the goods was present throughout the whole investigation period, dumping only coincided with a decline in the Australian industry's market share, profits and profitability during the third and fourth quarters of the investigation period. The commission does not envisage that the Australian industry will consistently achieve growth without a slowing of growth or contractions in particular quarters. Where a slowing of growth or contractions warrants anti-dumping action, the commission must first establish a causal link between dumped imports and material injury to the Australian industry.

As outlined above, the degree of coincidence between the presence of dumped imports and downward trends in certain economic indicators during the investigation period is partial and inconsistent. The commission has therefore examined these downward trends in light of the broader market dynamics and competitive environment over the injury analysis period, and found that the same downwards trends arise within the context of the ordinary business cycle. The commission therefore cannot be satisfied that dumped imports have caused this decline in certain economic factors. Rather, the commission finds that any injury is likely caused by factors arising from the cyclical nature of the market.

The manual states that there can be no presumption that goods exported to Australia before the commencement of the investigation period are dumped goods.³⁷ The commission also notes that the applicant nominated a 12 month investigation period, and that the very function of a longer injury analysis period is to enable a comparative evaluation of dumping in light of broader market dynamics and trends.

Having regard to the trends within the broader injury analysis period, the commission considers the declines in market share, profits and profitability are within the bounds of broader market dynamics, and therefore form part of the ordinary business cycle for the Australian merchant bar market.

7.4 Volume effects

7.4.1 Sales volume

As discussed in section 6.4.1, the Australian industry's sales volume of like goods increased during the injury analysis period and investigation period. This occurred in the context of an expanding Australian market. The commission therefore finds that dumped imports have not caused the Australian industry to lose sales volume.

³⁷ Ibid.

7.4.2 Market share

As discussed in section 6.4.2, the Australian industry's market share increased during the injury analysis period, with a lowering in the third and fourth quarters of the investigation period. The data-points in this regard demonstrate that any coincidence between the presence of dumped imports and movements in market share is partial and inconsistent. This is particularly relevant given the cyclical nature of the market, in which a degree of volatility for market share is evidenced on a quarterly basis over the injury analysis period.³⁸

The injury analysis period provides a longer pattern of assessment, during which the Australian industry gained market share, including into the earlier quarters of the investigation period. Notably, the Australian industry's market share during the second quarter of the investigation period was the highest it achieved across the 4 year injury analysis period, as depicted in Figure 7. This occurred at the same time as the major exporter's (Feng Hsin) dumping margin was also at its highest recorded level.

In relation to the lower levels of market share during the second half of the investigation period, the commission also notes that the Australian industry's market share has been lower during the injury analysis period, and its market share during the fourth quarter of the investigation period is only marginally below the average market share achieved during the injury analysis period as a whole.

The commission therefore considers the decline in market share in the third and fourth quarters of the investigation period arises within the context of the ordinary business cycle. The commission therefore cannot be satisfied that dumped imports have caused this decline. Rather, the commission finds that any injury experienced by the Australian industry during the investigation period is more likely caused by factors arising from the cyclical nature of the market.

7.4.3 Submissions regarding volume effects

InfraBuild

In its submission dated 16 June 2022,³⁹ InfraBuild acknowledged that its domestic sales volume increased in absolute terms throughout the investigation period, but reiterated that it lost market share as a result of dumped imports. In response to the commission's preliminary finding that the decline in market share was not greater than that likely to occur in the normal ebb and flow of business, InfraBuild submitted that the commission did not explain how it measures the normal ebb and flow of business. InfraBuild submitted that when compared to changes and trends in the market size, which grew during the investigation period, its loss of market share represented a departure from the ebb and flow of business.

³⁸ In its application, the applicant pointed to a variety of factors giving rise to the cyclical nature of the market, such as seasonal fluctuations, a demand-driven price cycle and industry practices regarding stockpiling.

³⁹ EPR 584, no 043.

InfraBuild also claimed that the commission's preliminary finding was inconsistent with the Material Injury Direction, which states that anti-dumping action is possible in circumstances where dumping has 'slowed the rate of the industry's growth, without causing it to contract', and that 'a decline in an industry's rate of growth may be just as relevant as the movement of an industry from growth to decline'.⁴⁰ InfraBuild submitted that in this case, dumping had not only slowed the rate of the industry's growth, but had caused its market share to reverse for two consecutive quarters in the investigation period.

InfraBuild submitted that the commission is in a position to calculate the volume of lost market share but had failed to do so. It claimed that given the large volumes of its sales across the investigation period, the loss of market share in the second half of this period amounted to a material loss of sales and, by extension, revenue and overall profits.

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The commission received two submissions in response to SEF 584 which concurred with its preliminary finding that the declines in certain economic indicators in the third and fourth quarters of the investigation period were within established trends and therefore consistent with the ordinary business cycle.⁴¹

7.4.4 Commission's assessment

As outlined in section 7.3.3, in the manual:

*Consideration of material injury data in periods prior to the investigation period may be useful in assessing whether publication of a dumping duty notice is justified... The injury examination period provided by section 269T(2AD) also enables the Commission to examine alleged indicators of injury over a period of time so that benchmarks/trends may be established to assess the materiality of any injury occurring in the dumping investigation period.*⁴²

Accordingly, as this is the first investigation regarding merchant bar, the commission has assessed the broader market and competitive dynamics by having regard to the benchmarks and trends of certain economic indicators across the injury analysis period.

InfraBuild's contention is that since its loss of market share occurred during a time of market growth, this decline represented a departure from the normal ebb and flow of business. Market share is measured by the sales volume achieved relative to the size of the Australian market at that time. By InfraBuild's reasoning, the normal ebb and flow of business would see the Australian industry maintain a static level of market share, when in fact ebb and flow can imply a recurrent pattern of growth and decline depending on the nature of the market in question.

⁴⁰ Material Injury Direction.

⁴¹ EPR 584, nos 044 & 045.

⁴² The manual, p 99.

The commission acknowledges that the Material Injury Direction allows consideration of anti-dumping action being taken not only in circumstances where dumping has caused the industry's growth to contract (as is the case in the second half of the investigation period), but also where it has slowed the rate of the industry's growth. The commission also notes that the Material Injury Direction goes on to state:

*As in all cases, a loss of market share cannot alone be decisive. I direct that a loss of market share should be considered with a range of relevant injury indicators before material injury may be established.*⁴³

Applied here, the commission has considered the Australian industry's loss of market share within the context of its overall economic performance for a range of indicators across the injury analysis period. The commission considers that based on this economic performance, the movements in market share within the investigation period is within the broader cyclical trends exhibited by the merchant bar market over the injury analysis period.

The commission considers that projections of lost sales volumes and, by extension, market share, revenue and overall profits, to be postulation of what would have happened in the Australian domestic market 'but for' the presence of the dumped goods. As outlined in section 7.3, the Act envisages an analysis of volumes and prices, and the manual states that the most common way to perform this analysis is by using a 'coincidence' analysis. The commission considers that the coincidence analysis is appropriate given the broader market trends over the injury analysis periods and the fact that the injury analysis period is presumed to not be affected by dumping. This is not to suggest that the commission excluded any consideration of the domestic industry's performance 'but for' the dumped imports in the sense of ensuring that injury caused by other factors was not erroneously attributed to dumping. The commission's non-attribution analysis in this regard is set out in section 7.8.

In addition, any attempt to rely on one individual factor, such as the calculation of lost volume, is incongruous with the Act in terms of implying a particular methodology for determining material injury. Relying on any individual data point is not definitive in the overall assessment of the broader market dynamics and trends over the injury analysis period.

7.5 Profit effects

7.5.1 Analysis

As discussed in section 6.5, the commission found the Australian industry's annualised profits and profitability on domestic sales of like goods did not decline in the investigation period compared to the 12 month period preceding it. On a quarterly basis, however, the commission did observe that the Australian industry's profits and profitability declined during the third and fourth quarters of the investigation period.

⁴³ Material Injury Direction.

In order to determine whether this decline is indicative of material injury caused by dumped imports of the goods, the commission assessed the broader market and competitive dynamics over the injury analysis period. The commission has examined the Australian industry's quarterly profits and profitability of like goods over the injury analysis period, as depicted in Figure 10. The commission notes that the Australian industry's quarterly movements for both profit and profitability fluctuated considerably during the injury analysis period (while remaining positive). Furthermore, the magnitude of the declines in profits and profitability from respective peaks has been greater than the decline in profits and profitability observed during the third and further quarters of the investigation period where profits and profitability declined.

The commission therefore concludes that the decline in profits and profitability during the third and fourth quarters of the investigation period is within the established trends pertaining to the Australian industry's long term quarterly profit and profitability. Accordingly, the commission considers that the decline in profits and profitability arises within the context of the ordinary business cycle. The commission therefore cannot be satisfied that dumped imports have caused this decline. Rather, the commission finds that any injury experienced by the Australian industry during the investigation period is more likely caused by factors arising from the cyclical nature of the market.

7.5.2 Submissions regarding profit effects

InfraBuild

In its submission dated 16 June 2022,⁴⁴ InfraBuild submitted that the commission's analysis of its profit and profitability ignored its claim of 'profit foregone', which the Material Injury Direction confirms as a relevant consideration in an expanding market. InfraBuild claimed that it is not sufficient for the commission to claim that profit or profitability was 'sustained', 'increased', or that domestic sales 'remained profitable'.

InfraBuild submitted that a 12-month moving average of its quarterly profit and profitability trended downwards in the second half of the investigation, with its actual performance below trend during this period.

InfraBuild also submitted that the commission's causative analysis does not define the normal ebb and flow of business.

In the alternative, InfraBuild claimed that changes in the steel scrap price over time provides a summary of the ebb and flow of the business cycle, including the outliers spurred by certain events and conditions. InfraBuild submitted that the commission's analysis does not interrogate those events and conditions that resulted in historically lower levels of profit and profitability during the injury analysis period compared to those observed specifically during the investigation period. The quarter ending March 2018, InfraBuild claims for example, coincides with the effects of the acquisition of the industry by the GFG Alliance following a period of voluntary administration, as well as the United States' imposition of its Section 232 tariffs. The onset of the COVID-19 pandemic also

⁴⁴ EPR 584, no 043.

created a 'super-cycle' in steel markets, and InfraBuild's decline in profits and profitability during this cycle, it claims, is incongruous with the normal ebb and flow of the business.

InfraBuild also submitted that the commission's preliminary finding ignores the provision under section 269TAE(1) that regard may be had to the size of the dumping margins and the existence of price undercutting.

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The commission received two submissions in response to SEF 584 which concurred with its preliminary finding that the declines in certain economic indicators in the third and fourth quarters of the investigation period were within established trends and therefore consistent with the ordinary business cycle.⁴⁵

7.5.3 Commission's assessment

The commission has had regard to the Material Injury Direction in its totality. In addition to the section of the Material Injury Direction cited by InfraBuild, the commission also notes the requirement that 'injury caused by dumping' be 'material in degree', and the explanatory statement that 'injury must also be greater than that likely to occur in the normal ebb and flow of business'.

As outlined in section 7.4.4, the commission has analysed the benchmarks and market trends to gain an understanding of the normal ebb and flow of certain economic indicators across the injury analysis period. The commission considers that based on the Australian industry's performance during the injury analysis period, the decline in profits and profitability observed only during the third and fourth quarters of the investigation period shows the same cyclical trends as observed throughout the entire injury analysis period.

The commission does not agree that a comparison of the 12-month moving average to actual performance provides a better understanding of trends, as submitted by InfraBuild, since a decline in actual profitability precipitates a decline in the 12-month moving average (the result being that declines in actual performance always appear below trend). The commission also considers that it is not required or able to identify, isolate and remove the effects of each outlier event over the course of the 4 year injury analysis period.

The commission has had regard to the size of the dumping margins and degree of price undercutting. In relation to these, the commission notes that price undercutting is not an emerging characteristic of the Australian market for merchant bar. Rather, InfraBuild has acknowledged that it makes all of its price offers using an IPP model, and price undercutting was present throughout the investigation period as a result.

As discussed further in section 7.6, the level of price undercutting decreased during the final quarter of the investigation period due to an increase in the major exporter's (Feng Hsin) export price. This resulted in the quarterly dumping margin of the major exporter reducing to its lowest observable level during the investigation period.

⁴⁵ EPR 584, nos 044 & 045.

7.6 Price effects

7.6.1 Analysis

As discussed in section 6.6, the commission observed that the Australian industry's unit selling price rose during the investigation period. The commission therefore finds that dumped imports have not caused injury to the Australian industry in the form of price depression.

The commission also observed in Figure 12 that the Australian industry's unit selling price and unit CTMS have largely moved in tandem over the injury analysis period. If the Australian industry were suffering material injury in the form of price suppression from dumped goods, the commission may expect to see an inability for the Australian industry to raise prices to offset rising CTMS.

Figure 18 below depicts the Australian industry's weighted average selling price and unit CTMS during the investigation period, as well as its raw material costs.

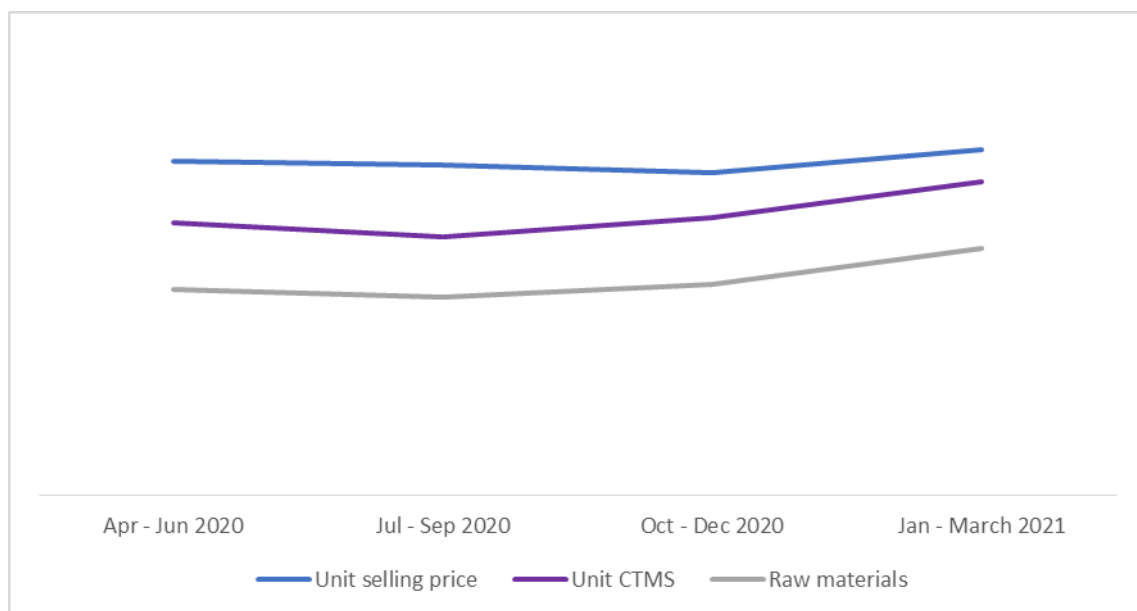


Figure 18 - Comparison of Australian industry's unit price, unit CTMS and raw material costs - investigation period

The commission notes the slight convergence between selling price and CTMS at two points during investigation period. The commission considers that the movements in profits and profitability discussed in section 6.5 is partly attributed to a rise in raw material costs that occurred during this time. The Australian industry's selling price increased during the final quarter of the investigation period, but at a rate that was not high enough to fully offset this rise in CTMS.

In its application, InfraBuild claimed that dumped imports from Taiwan undercut its domestic selling price, with the level of undercutting increasing in November 2020 and reaching its peak in March 2021. InfraBuild has submitted that this price undercutting has prevented it from increasing its selling prices.

As shown below in Figure 19, the estimated selling price of goods from Feng Hsin in the Australian market undercuts the Australian industry's domestic selling price throughout the investigation period.⁴⁶

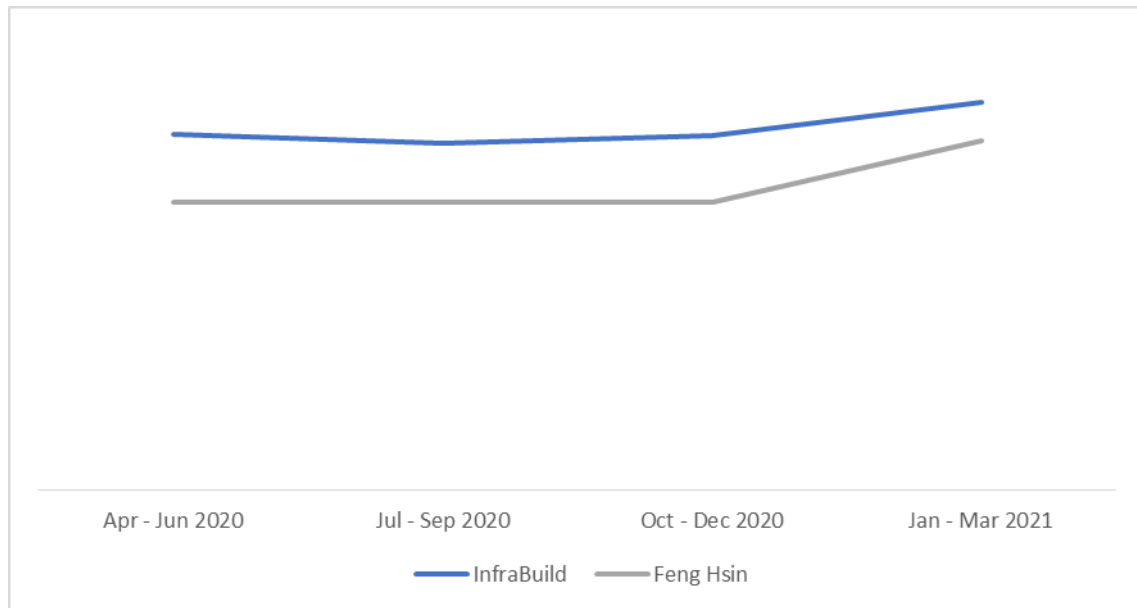


Figure 19 - Weighted average unit selling prices (all models) of the Australian industry and Feng Hsin - investigation period

The level of undercutting remains relatively consistent in the first 3 quarters of the investigation period, however, it decreases in the final quarter as a result of Feng Hsin's export price into Australia increasing at a higher rate than the Australian industry's selling price. Thus, the lowest point of the Australian industry's unit profit pertaining to sales of like goods coincides with the point at which the margin of price undercutting was also at its lowest. The commission therefore finds that dumped imports do not appear to be causing the Australian industry to suffer price suppression.

7.6.2 Submissions regarding price effects

In its submission dated 16 June 2022,⁴⁷ InfraBuild submitted that the commission confined its trend analysis of price depression to the investigation period, and did not perform any similar analysis across the injury analysis period. The Australian industry's price, InfraBuild claims, has trended downward since the quarter ending June 2019, and in light of the super-cycle in steel markets since August 2020, the Australian industry's modest price recovery in the final quarter of the investigation period suggests price suppression.

⁴⁶ The commission used Feng Hsin's sales for this analysis on the basis that it represents a significant majority of exports volume from Taiwan.

⁴⁷ EPR 584, no 043.

InfraBuild also submitted that changes in profit and profitability were an indication of expansions or reductions in price suppression, and the decline in the second half of the investigation period was an example of this.

InfraBuild also submitted that the commission's decision to use Feng Hsin's selling price to perform its undercutting analysis was flawed for the following reasons:

- The Australian industry competes with importers' sale prices, not an adjusted export price, and the analysis should therefore compare industry's selling prices to the verified sales information of importers.
- Macsteel is one of many importers, and its CTIS may or may not be representative of the Australian industry's key competitors.
- It is unclear whether the commission's adjusted export price calculation takes into account importers' margins, let alone Macsteel's margin.
- The commission has not accounted for timing differences and delays in arrival of the exported goods.
- The analysis does not account for different MCCs.

InfraBuild claims that the reduced level of price undercutting evident in the second half of the investigation period was the result of price suppression whereby the Australian industry absorbed lower unit profits to compete with imports. It also claims that the increase in prices for imports was sharper than for the Australian industry, mostly due to the increased cost of shipping borne by importers.

7.6.3 Commission's assessment

The commission disagrees with InfraBuild's assessment of the price analysis presented in its submission. The decline in the Australian industry's unit selling price which began in the quarter ending June 2019 recovered during the investigation period, spurred by price increases during the third and fourth quarters. Notably, this occurred at the same time that the Australian industry's profit and profitability also declined. The commission therefore does not accept there is a correlation between price suppression and declines in profit and profitability, as submitted by InfraBuild.

The commission considers its undercutting analysis to be representative of the level of price competition within the Australian market, as:

- Feng Hsin was the major exporter during the investigation period
- Feng Hsin's sales data was fully verified by the commission
- Macsteel was the major importer during the investigation period and, as outlined in section 2.3.2, the commission is satisfied that its data is complete, relevant and accurate
- a majority of the Australian industry's sales of like goods during the investigation period were to customers who also purchase from Macsteel
- Macsteel's imports of the goods into the Australian market relate to a considerable volume and its import costs when added to Feng Hsin's export price represent a likely price for imported goods within the Australian market and are therefore a reasonable basis for assessing price undercutting for the purposes of section 269TAE

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- the analysis accounts for different lead times by using the order date as the relevant date of sale for both the Australian industry and Feng Hsin⁴⁸
- the commission found no discernible increase in the CTIS borne by Macsteel across the investigation period. The commission therefore applied a single CTIS to export sales in its price undercutting analysis. Consequently, the observable decrease in the level of price undercutting cannot be attributed to any increase in the CTIS.

The commission has also conducted its undercutting analysis on a model-by-model basis and found no discernible difference in trend to the aggregate analysis depicted in Figure 19. Figure 20 below depicts the level of price undercutting for the Australian industry's two highest-selling models which collectively accounted for more than 75% of sales volumes during the investigation period:

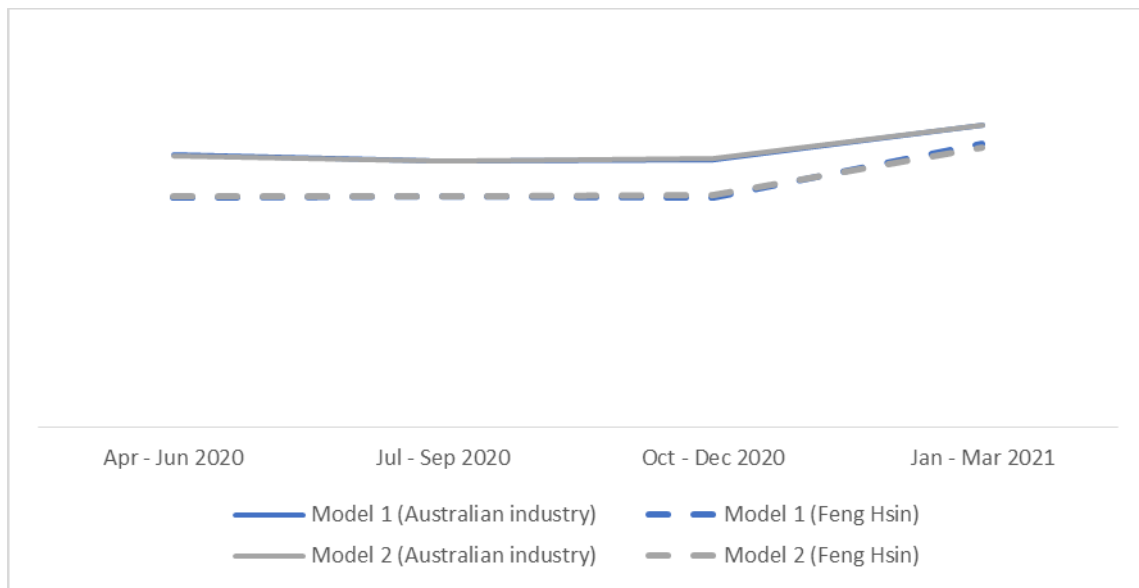


Figure 20 - Weighted average unit selling prices of the Australian industry and Feng Hsin - investigation period

The commission notes that its price undercutting analysis does not include importer profit margins, and that including an importer profit margin would reduce the level of price undercutting in Figure 20.

The commission observes that the Australian industry was able to achieve growing sales volumes and higher levels of profit and profitability during the first half of the investigation period, depicted in Figure 6 and Figure 9 respectively, when the level of price undercutting was greater. The commission therefore does not accept InfraBuild's claim

⁴⁸ The commission understands that the manufacturers and buyers agree to the material terms of trade, including prices, for merchant bar at the point of order. Given this, and the lead time between order and importation, the commission considers the order date is the relevant date of sale for comparing InfraBuild's prices with competing imports. In undertaking this analysis, the commission has therefore used the verified export prices of the major cooperating exporter from Taiwan, Feng Hsin, rather than the ABF import database. The commission adjusted Feng Hsin's export prices to include the CTIS of the major importer, Macsteel, to measure the level of undercutting on comparable terms of trade.

that it was unable to increase prices in line with the increase in CTMS and rising import prices due to price suppression.

7.7 Other economic factors

7.7.1 Analysis

As discussed in section 6.7, the commission did not observe a decline in the following economic indicators during the investigation period:

- employment
- cash flow
- stock holding
- revenue.

In relation to capital investment and R&D expenditure, the commission cannot assess or isolate a decline in these economic indicators related specifically to merchant bar and caused by dumped imports from Taiwan.

The commission therefore concludes that there is no evidence to support that dumped imports have caused material injury to the Australian industry in the form of:

- reduced capital investment
- reduced research and development expenditure
- loss of employment (headcount) allocated to production of the like goods
- reduced cash flow in the industry
- lost revenue.

7.7.2 Submissions regarding other economic factors

In its submission dated 16 June 2022,⁴⁹ InfraBuild submitted that the commission has ignored the Material Injury Direction in requiring the Australian industry to isolate a decline in capital investment and R&D expenditure to like goods specifically. The Material Injury Direction states that ‘dumping or subsidisation need not be the sole cause of injury to the industry’.⁵⁰

InfraBuild claimed that in modern manufacturing, the same capital equipment is inevitably applied to the production of like goods and other goods. Similarly, InfraBuild claims that R&D expenditure related to plant, equipment and ancillary purposes will also be allocated to both like goods and other goods. It is therefore reasonable, InfraBuild claimed, to measure the value of these other economic factors by allocating to various products based on production.

InfraBuild also submitted that the observed decline in capital investment is a reflection of both the anticipated and actual reduction in profit and profitability for like goods.

⁴⁹ EPR 584, no 043.

⁵⁰ Material Injury Direction.

7.7.3 Commission's assessment

The commission notes the full text of Material Injury Direction, which states:

In the past some uncertainty has arisen over establishing the requirements for material injury where other factors may be contributing to injury suffered by the industry. Injury caused by other factors must not be attributed to dumping or subsidisation. However, I direct that dumping or subsidisation need not be the sole cause of injury to the industry.

The commission considers that the Material Injury Direction, in its totality, does not lower the evidentiary burden to the extent submitted by InfraBuild. Given that production of merchant bar represents only a portion of the output of the Australian industry's steel mills, the commission does not consider it reasonable to extrapolate an overall decline in capital investment and R&D expenditure to a decline relating to merchant bar caused by dumped imports of the goods. This is particularly relevant as InfraBuild have not submitted evidence of proposed capital investment and R&D expenditure that has been reduced for reasons specific to dumping.

The evidence is not clear that dumping has caused any injury in the form of reduced capital investment and R&D expenditure, let alone contributed to the decline amongst other causes.

7.8 Factors other than dumping

7.8.1 Analysis

The commission has considered factors other than dumping relevant to the Australian merchant bar market, including the rise in steel scrap prices, and finds that increases in the costs of raw materials likely drove part of the Australian industry's decline in profits and profitability of sales of like goods.

As depicted in Figure 18, the Australian industry's increase in its unit selling price of like goods in the final quarter of the investigation period partially offset the increase in the Australian industry's raw materials costs. InfraBuild argued in its application and its submission dated 16 June 2022 that it could not increase prices further to fully offset this increase in raw material costs due to price suppression caused by imports from Taiwan.⁵¹ However, as discussed in section 7.6, the commission has found that the price of imported goods increased such that the level of price undercutting by the major exporter from Taiwan decreased to its lowest observable level in the final quarter of the investigation period.

Accordingly, the commission considers that the Australian industry's decline in profits and profitability during the second half of the investigation period cannot be sufficiently linked to price suppression from dumped goods. Rather, the decline in profits and profitability are likely attributable to factors other than dumping. The commission considers that an

⁵¹ EPR 584, nos 001 & 043.

increase in raw material costs was a relevant factor in the Australian industry's decline in economic factors.

7.8.2 Submissions regarding factors other than dumping

In its submission dated 16 June 2022,⁵² InfraBuild expanded on the claim in its application that price increases surge purchasing of merchant bar. InfraBuild claimed in its submission that it was the presence of dumped imports in the Australian market, and perceptions of future access to dumped prices, that was driving fluctuations in demand for merchant bar.

InfraBuild also noted that its statement in its application applied to the entire market, and claimed that the increase in prices for the goods was sharper than that for like goods produced by the Australian industry due to the increased cost of shipping borne by importers, as reflected in the price undercutting analysis.

7.8.3 Commission's assessment

As discussed in section 6.4, the Australian industry lost market share during the third and fourth quarters of the investigation period, though it increased its sales volume during the investigation period as a whole, and sales volume peaked during the fourth quarter. The commission considers that the timing of these trends are indicative of an increased demand for merchant bar, driven by the upward trend in steel prices and the potential for further price increases of merchant bar as a result. If demand was being driven primarily by the availability of dumped imports, the commission would not expect to observe an increase in the Australian industry's sales volume at the same time as its market share was declining. The commission therefore considers that the Australian industry's loss of market share could be transitory as result of a surge in demand for merchant bar.

The commission disagrees that the increase in prices for the goods that occurred during the second half of the investigation period was sharper due to the increased cost of shipping. In conducting its price undercutting analysis, the commission applied a single CTIS to all exports of the goods by Feng Hsin. The export price increase observed in Figure 19 is therefore reflective of an increase in the FOB price, spurred by the rise in raw material costs that occurred during this time.

7.9 Threat of material injury

7.9.1 Application

In its application, InfraBuild claimed that the volume of dumped imports from Taiwan at higher rates of dumping will create a situation where the threat of material injury to the Australian industry is foreseeable and imminent. InfraBuild also claimed that Feng Hsin was operating below capacity in 2020 but expects its capacity will increase in 2021.

⁵² EPR 584, no 043.

7.9.2 Submissions regarding threat of material injury

In its submission dated 16 June 2022,⁵³ InfraBuild submitted the following:

- In the 12 months following the investigation period, imports from Taiwan accounted for 113% of the volume imported during the investigation period.
- Importer demand during this subsequent period was probably suppressed by knowledge of the dumping investigation and the risk of preliminary measures being imposed.
- The Australian industry's estimate of the weighted average dumping margin for exports from Taiwan has increased following the investigation period.
- Previously supplied evidence demonstrates an intention of exporters to continue to sell the goods into the Australian market at dumped prices.⁵⁴ InfraBuild also provided what it asserts to be further evidence of importer price offers that are having a suppressing effect on the Australian industry's prices.
- As the Australian industry's prices are being suppressed, the commission's price undercutting analysis does not necessarily indicate the full extent of price injury, as found in *Continuation Inquiry No 505*.
- The Taiwanese Directorate General of Budget, Accounting and Statistics announced that the domestic economic outlook has been downgraded. It is therefore reasonable to assume that there will be incentives to increase export volumes to markets such as Australia.
- The commission has misconstrued the Australian industry's reduced profit margins as a reduction in price undercutting by exporters of the goods, when this is actually indicative of increasingly aggressive pricing on the part of the Australian industry to compete with dumped imports.

7.9.3 Commission's assessment

As outlined in the manual, Articles 3.4 and 3.7 of the ADA set out factors that should be considered in totality when determining threat of material injury. These include:

- a significant rate of increase of dumped imports into the domestic market indicating the likelihood of substantially increased importation
- sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to the market, taking into account the availability of any other export markets to absorb any additional exports
- whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports.⁵⁵

⁵³ EPR 584, no 043.

⁵⁴ EPR 584, no 027.

⁵⁵ The manual, p 19.

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The commission understands that InfraBuild has estimated import volumes and values of the goods for the 12 months following the investigation period by reference to export data sourced from Taiwan's Customs Administration, Ministry of Finance. The commission considers the ABF import database to be preferable data source for assessing volume and price trends, as the commission has cleansed the data to ensure, as far as practicable, that only the goods relevant to the application have been included. The data has been cleansed with reference to the goods description listed against each shipment, and with consideration of an appropriate range of FOB unit prices.

In cleansing the data from the ABF import database, the commission identified several errors in the data entries which inflated the import volume. After correcting for these errors, the commission found that import volumes had increased 3.6% during the 12 months following the investigation period, not the 113% asserted by InfraBuild. The commission considers this marginal increase to be indicative of an increased demand for merchant bar, i.e. the upward trend in market size observed in the injury analysis period which has continued.

The commission also notes that the rate of dumping of the major exporter declined in the second half of the investigation period to its lowest observable level in the final quarter. The commission further notes that the quarterly weighted average FOB export price of the goods imported from Taiwan had increased a further 49.2% 12 months following the end of the investigation period. The commission's assessment of import volume and price trends does not suggest any increase in the rate of dumped imports into the Australian market that would indicate the likelihood of substantially increased importation.

The commission's assessment of the ABF data is contained at **Confidential Attachment 13**.

The commission has also examined the capacity utilisation of exporters during the investigation period. Noting this, and the limited increase in import volumes following the investigation period, the commission does not consider there is an imminent, substantial increase in the capacity of exporters which would, in turn, indicate the likelihood of substantially increased dumped exports into the Australian market and material injury to the Australian industry.

The commission acknowledges that InfraBuild has presented evidence of continued price undercutting following the investigation period. However, the commission also notes that price undercutting is not an emerging characteristic of the Australian market for merchant bar. Rather, price undercutting was present throughout the investigation period, and as discussed in section 7.6, the level of price undercutting decreased during the final quarter of the investigation period. The commission observes that the major exporter increased its prices at a higher rate than the Australian industry, and this occurred at the same time that the dumping margin of the major exporter decreased to its lowest point. The commission notes again that the quarterly weighted average FOB price of the goods imported from Taiwan continued to trends upwards following the end of the investigation period. The commission therefore does not consider that imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports.

The manual also states:

The commission examines the volume and price effects of the dumped imports on the Australian industry in accordance with section 269TAE(1). Under the terms of section 269TAE(2B), consideration is also given to whether any changes in circumstance would make the threat of injury to the Australian industry imminent or foreseeable unless dumping or countervailing measures were imposed. Conclusions must be based on facts, not on conjecture.⁵⁶

The commission considers that the assessment of the evidence outlined above is the preferable method for establishing whether a threat of material injury to the Australian industry from dumped imports is foreseeable and imminent. Based on this evidence, and the factors that the commission considers as outlined in the manual, the Commissioner is satisfied there is no threat of material injury being caused to the Australian industry by dumped goods.

⁵⁶ Ibid.

8 TERMINATION OF THE INVESTIGATION

Section 269TDA sets out the circumstances in which the Commissioner must terminate an investigation. Based on the findings in this report, the Commissioner is satisfied that the injury, if any, that has been, or may be, caused to the Australian industry by goods exported from Taiwan is negligible. Accordingly, the Commissioner must terminate the investigation pursuant to section 269TDA(13).

9 APPENDICES AND ATTACHMENTS

Confidential Attachment 1	Macsteel RIQ assessment
Confidential Attachment 2	Market size and share
Confidential Attachment 3	Feng Hsin export price
Confidential Attachment 4	Feng Hsin CTMS
Confidential Attachment 5	Feng Hsin normal value
Confidential Attachment 6	Feng Hsin dumping margin
Confidential Attachment 7	TS Steel export price
Confidential Attachment 8	TS Steel CTMS
Confidential Attachment 9	TS Steel normal value
Confidential Attachment 10	TS Steel dumping margin
Confidential Attachment 11	Uncooperative and all other exporters rate
Confidential Attachment 12	Economic condition analysis
Confidential Attachment 13	Threat analysis
Non-confidential Attachment 1	Revised MCC structure applicable to Feng Hsin