

The Director, Investigations 3
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2600

24 February 2022

BY EMAIL:
investigations3@adcommission.gov.au

Dear Director,

Dumping Investigation No. 584 concerning Merchant Bar exported from Taiwan

AUSTRALIAN INDUSTRY RESPONSE TO EXPORTER VERIFICATION

InfraBuild NSW Pty Limited (**InfraBuild**), refers to the recently published *Exporter Verification Report*¹ and *Preliminary Variable Factors Assessment*² for Taiwanese exporters, Feng Hsin Steel Co. Ltd (**Feng Hsin**) and TS Steel Co. Ltd (**TS Steel**), respectively and makes the following observations and comments in response.

Feng Hsin Exporter Verification Report

At the outset, InfraBuild welcomes the level of detailed disclosure contained in the *Exporter Verification Report* for Feng Hsin. In recent times, the 'exception based' reporting style employed by the Commission has provided limited transparency to interested parties concerning the approach taken in model matching, particularly the grouping of steel grades considered to be most closely matching (a key consideration for steel products). In this instance, the transparency afforded to interested parties permits reasonable insight and allows for proper consideration and a meaningful response to any points of contention.

Note that the use of headings (as quoted) below follow those contained in the Report.

2.2 Model Control Codes (MCCs)

The Feng Hsin verification report states:

*"The company proposed two additional categories to the MCC structure. **One category was based on price premiums for steel standards**. The other was based on price premiums for product dimensions."*

¹ EPR 584/024

² EPR 584/025

*“The company provided tables demonstrating the expected price premiums relating to its sales listings. The company used identifiers (e.g. A, B) for these tables, and included the expected price premium(s) for each identifier. Each identifier is linked to the respective **steel standard** and product dimension in the company’s export and domestic sales listings.”*

Price premiums for “steel standards”

The exporter’s claims in relation to price premiums for “steel **standards**” is not accurate. The categorisation proposed by Feng Hsin to the Commission is merely a grouping of exporter-specific steel grade names that is not based on any physical characteristic or property comparison and there are no Standards referenced anywhere.

To clarify, the merchant bar exported from Taiwan to Australia is predominantly produced to the Australian/New Zealand **Standard**, namely:

- **AS/NZS 3679.1:2016** (Australian/New Zealand Standard for Structural Steel Part 1: Hot-rolled bars and sections).

The **Standard** defines certain **grades** that are required to meet certain minimum chemical and mechanical property specifications (along with dimensional tolerance and testing requirements) in order that the product produced to a given **grade** can be certified as having been produced to the **Standard** and offered for sale as a certified product.

Australia has a single Standard applicable to Hot-rolled Bars and Sections, with all grades meeting the minimum chemistry specifications to be considered readily weldable³ and suitable for building structures.

The most common merchant bar grade produced and sold in Australia and also the most commonly exported grade to Australia is Grade 300 (**GR300**) – a readily weldable grade with a minimum yield strength requirement of 300MPa. This would not be the common grade in Taiwan as it is not produced to a Chinese/Taiwanese/Asian Standard prevalent for that region and would thus be limited in application, particularly for Taiwanese construction projects.

	Australia/ New Zealand Standard
STANDARD DESCRIPTION	Structural Steel Part 1: Hot-rolled bars and sections
STANDARD	AS/NZS3679.1:2016
GRADES defined by the Standard	300
	350
	300L0
	300L15
	300S0
	350L0
	350L15
350S0	

In Taiwan, the Standards relevant to merchant bar differentiate between grades for ‘General Structure’ (for fastening, not welding), those for ‘Welded Structure’ and those for ‘Building

³ EPR 584/018 InfraBuild Exporter Verification Briefing at p12

Structure'. The most commonly produced and sold grades of merchant bar in Taiwan are produced to these Chinese and Japanese Standards that are often used interchangeably in the Asian region:

- CNS 2473/JIS G3101 (Rolled Steels for General Structure)
- CNS 2947/JIS G3106 (Rolled Steels for Welded Structure)
- CNS13812/JIS G3136 (Rolled Steels for Building Structure)

A list of the grades defined in these Standards is provided below:

	Chinese and Japanese Standards prevalent in Taiwan/Asia		
STANDARD DESCRIPTION	Rolled Steels for General Structure	Rolled steels for welded structure	Rolled steels for building structure
STANDARD	CNS 2473	CNS 2947	CNS 13812
	JIS G3101	JIS G3106	JIS G3136
GRADES defined by the Standard	SS330	SM400A	SN400A
	SS400	SM400B	SN400B
	SS490	SM400C	SN400C
	SS540	SM490A	SN490B
		SM490B	SN490C
		SM490C	
		SM490YA	
		SM490YB	
		SM520B	
		SM520C	
		SM570	

While grades produced to these Standards are likely to be the prevalent grades sold domestically in the Taiwanese market, there may also be limited quantities of other grades sold domestically which are predominantly produced for export markets such as Australia, United States and Europe.

It is important to note that the circumstances or conditions associated with domestic sales of these made-for-export goods are likely to be very different to goods produced to the Chinese/Japanese Standards. For example, as there is no Chinese/Japanese Standard grade that is identical in mechanical property and chemistry requirements to AS/NZS3679.1 GR 300, any Taiwanese domestic sales of GR 300 would potentially be considered non-prime or would only be able to be sold at the price of a lower strength domestic grade. It could not be offered as a direct alternative to a Chinese/Japanese Standard grade. GR 300 may be offered to Taiwanese customers periodically as a result of surplus material being produced between export shipments or as a result of the product rusting or having minor damage prior to shipment rendering the goods unsuitable for prime export.

The exporter's approach of grouping these 'made-for-export-grades' and 'made-for-domestic-grades' together on the basis of *"the expected price premiums relating to its sales listings"* is completely at odds with the intention of finding the domestically sold goods that are the closest match to the goods being exported.

The Commission’s *Dumping and Subsidy Manual (Manual)* states:

*The Commission undertakes model matching using a Model Control Code (MCC) structure to **identify key characteristics** that will be used to match models of the goods exported to Australia and like goods sold domestically in the country of export. In determining the MCC structure, the Commission will **have regard to differences in physical characteristics that give rise to distinguishable and material differences in price**⁴. [emphasis added]*

The Commission’s own assessment in Table 11⁵ of the ‘*relationship between product steel standards and MCC grade (yield strength MPa)*’ identified that Taiwanese domestic grades SM490A and SN490B are the most closely matching models to the export GR300⁶. As such, InfraBuild respectfully requests that the Commission reviews the technical assessment model matching on the basis of **key characteristics** and **not** rely solely on the prices achieved for surplus sales of GR 300 into the Taiwanese market.

To illustrate the technical irrationality of the alternative grade grouping adopted during Feng Hsin’s verification, we note the following:

	Commission's assessment of Grade grouping in Table 11			The Feng Hsin Grade Grouping			
	Grade			"Standard"			
Characteristic property for comparison	Standard Minimum Yield Strength < 275MPa	Standard Minimum Yield Strength ≥ 275 and < 330MPa	Standard Minimum Yield Strength ≥ 330MPa	No physical property or characteristic for comparison			
Identifier	250	300	350				
	1015K A36 GRA SM400A SS330 SS400 SUM23	GR300 SM490A SN490B	GR350 GR350LO A572G50 SD420 SS540 SUP9 1050AK 1050K S55C SCM440H	A36 GR300 GRA SM400A SS330 SS400	A572G50 GR350 SD420 SM490A SS540	GR350LO SN490B	1015K S45C S55CLGW SUM23 SUP9 1050AK 1050K S55C SCM440H

The most commonly exported grade to Australia (GR300) has a minimum yield strength of 300MPa. Following Feng Hsin’s verification it has now been model matched to domestically sold grades having a minimum yield strength of 250MPa or less. Grade SS330 and Grade SS400 (grouped together with

⁴ Dumping and Subsidy Manual at p48

⁵ EPR 584/024 at p11

⁶

GR300 in subcategory 'A') only have a minimum yield strength requirement of 205MPa and 245MPa respectively. These grades also have no chemistry specification for carbon or manganese content (the two key chemical elements influencing weldability) in their "General Structure" Standard, while the Australian Standard AS/NZS 3679.1 has no such "non-weldable" option. Instead the scope of AS/NZS 3679.1 includes the statement:

"This Standard is intended for general structural and engineering applications. All grades specified in this Standard are suitable for welding in accordance with AS/NZS 1554, Parts 1, 2, 5 and 7." [emphasis added]

The categorisation proposed by the exporter and adopted by the Commission in this instance is not based on any physical characteristic differences that would allow for a technically sound, consistent basis – capable of *objective* comparison - to establish which goods sold domestically are most alike to the exported goods ie. the purpose of model matching. It appears to be simply an exporter-specific listing of grades grouped together based on what this particular exporter sold them for during this period – as such it is entirely *subjectively* determined by the exporter.

This approach is entirely at odds with the Commission's stated aims at the introduction of MCCs of imposing a **'discipline on the selection of characteristics'** that will be used to identify the most closely matching models of the goods sold for export to Australia and the like goods sold domestically in the country of export' and further to **'facilitate a consistent approach'** to the collection of financial data in responses to exporter questionnaires and calculating dumping margins⁸.

The Feng Hsin exporter-specific MCC category of 'Standard' adopted in this instance is neither based on the selection of any characteristic nor does it facilitate a consistent approach to assessment across exporters. It is unclear whether the Feng Hsin MCC 'Standard' categorisation of grouping various grade names together has been applied to the data of the other cooperative Taiwanese exporter in this matter (TS Steel) in determining their preliminary variable factors. As the category is not based on any readily comparable characteristic, which could be applied irrespective of which grade names feature in the two exporters' sales listings, it is unlikely in InfraBuild's view that any level of consistency could be achieved across exporter questionnaires or in the calculation of dumping margins. The basis for dumping margin calculations are fundamentally different for the two exporters, necessarily delivering a fundamentally inconsistent outcome.

InfraBuild respectfully requests that the Commission adopt MCC codes based on properties of the goods that allow for comparison and revert to the original MCC category appearing in the initiation notice for Investigation 584, namely 'Grade' which identified three sub-categories based on the **physical characteristic** of Minimum Yield Strength measured in Megapascals (Mpa) or Newtons per square millimetre (N/mm²). It is a measure of the force per unit area that the material is able to withstand before it starts to yield and permanently deform and it is a key property for steel applied in any structural application. Minimum yield strength is measured when a sample of the steel is

⁷ AS/NZS 3679.1:2016 Structural Steel hot-rolled bars and sections at Scope p4

⁸ Anti-dumping Notice 2018/77 *Consultation on the introduction of Model Control Codes* at p1.

tested mechanically in a Tensile Testing Machine. Irrespective of which Standard a structural steel grade has been produced to, this physical characteristic has to be measured in a tensile test and the minimum Standard requirements have to be met. Importantly, in the context of an anti-dumping investigation involving steel products, when this category is applied in MCCs, it allows for a consistent comparison of steel grades across many different countries and produced by many exporters. The alternative (if Feng Hsin’s approach is to be followed) is simply to provide a customised MCC listing for each exporter based on grouping together goods that sold for a similar price for that exporter for a given period in time.

Price premiums for “product dimensions”

InfraBuild provides the following comment on the extensive additional categories 5 and 6 for ‘Size’ added to the Feng Hsin-specific MCCs (shown below):

5											6				
Flats dimensions											Angles dimensions				
100x10	130x10	38x12	50x25	65x19	75x19	102x12.7	40x21	25.4x4.76	19x6	60x7	90x25	100x100x10	50x50x5.5	30x30x2.7	25x25x2.7
100x12	130x12	38x16	50x5.7	65x20	75x20	120x15	42x14	25x10	19x9			100x100x12	50x50x6	30x30x3	25x25x3
100x16	130x16	38x19	50x5.8	65x25	75x25	120x20	44.4x9.3	25x5	20x10			100x100x13	50x50x8	30x30x4	
100x19	130x20	38x6	50x6	65x5	75x5	120x22	44.5x12.7	25x6	20x5			100x100x6	60x60x5	50x50x3	
100x20	130x25	38x9	50x6.5	65x6	75x5.6	127x9.3	46x10	25x8	20x6			100x100x7	65x65x5	75x75x12	
100x25	130x6	40x10	50x7	65x6.5	75x6	140x12	46x12.5	25x9	26.5x10			100x100x8	65x65x6	90x90x13	
100x5	130x8	40x12	50x8	65x7	75x6.5	18x8	50x20.5	31.8x4.76	26.8x7.6			38x38x3	65x65x8		
100x6	140x20	40x16	50x8.6	65x8	75x7	25x12	50x5	32x5	26.8x9.2			38x38x4	75x75x10		
100x8	150x10	40x20	50x8.8	65x8.8	75x8	25x16	51x28	32x5.7	27x8			38x38x5	75x75x5		
100x9	150x12	40x5	50x9	65x9	75x9	32x12	60x5	32x6	27x9.5			40x40x2.7	75x75x6		
103x20.2	150x16	40x6	51x16	67x14	80x20	32x16	67.5x14	38.1x4.76	35.3x6.3			40x40x3	75x75x8		
113x22	150x19	40x8	54.5x21.5	68.5x29.5	90x10	32x8	69.8x9.3	38x5	60x11			40x40x4	75x75x9		
120x10	150x20	44x5	55x6.5	68x30	90x12	32x9	80x28		60x12			40x40x4.6	90x90x10		
125x12	150x25	46x20.5	55x7	68x8.6	90x16	34x22	88.9x9.3		60x8			40x40x5	90x90x6		
125x16	150x5	50x10	60x7	68x8.8	90x19	35x6.7	90x22		80x11			40x40x6	90x90x7		
125x19	150x6	50x12	63.5x29.5	68x9	90x25	37x22	95x28					50x50x3.5	100x75x10		
125x25	150x8	50x16	65x10	75x10	90x6	38x25						50x50x4	100x75x7		
125x6	150x9	50x19	65x12	75x12	90x8	40.2x27						50x50x4.6	100x75x6		
125x9	32x10	50x20	65x16	75x16	90x9	40x14						50x50x5	100x75x8		
			A			B		C	D	E	F	A		B	C

InfraBuild does not see the value in the additional size category being applied for Feng Hsin. In the hierarchy of model matching for merchant bar, the strength comparison to establish which grades are most alike is the top priority. While there may be some limited differentiation on price across size range for a given grade, it is not possible to analyse the size effect on price in isolation. Often a higher price realised for a certain size of merchant bar is due to that size being rolled less frequently in smaller volumes (a niche product) or because that size has been produced from a higher strength grade.

4.2 Date of Sale

In response to Feng Hsin’s claim that ‘the date of sale for its Australian and domestic sales should be the order date’, the verification team reportedly ‘examined the evidence available, and tested Feng Hsin’s claims’:

For Australian sales and for any domestic sales with corresponding purchase orders, the verification team found that the purchase order details the unit price for goods purchased, and this price remains unchanged with respect to invoicing. For any domestic sales without

purchase orders, the verification team found that the material terms of the purchases were set at the time of order through Feng Hsin's online ordering system.

Accordingly, the verification team finds that the order date should be used as the date of sale for Australian and domestic sales.⁹

It is unclear from Feng Hsin's verification report whether appropriate consideration has been given to the Commission's own evidentiary threshold requirements for departing from invoice date as date of sale as stated in the *Dumping and Subsidy Manual*:

For such a claim to succeed it would first be necessary to demonstrate that the material terms of sale were, in fact, established by this other date. In doing so, the evidence would have to address whether price and quantity were subject to any continuing negotiation between the buyer and the seller after the claimed contract date.

This arises because there can be circumstances where an exporter and importer agree on price and quantity and make a sales agreement to that effect, but this may not establish the date on which terms were finally agreed upon because an element of informality continues, and conditions can be changed.

Any claim for an adjustment would need to substantively address:

- ***whether, why, and to what degree, the considerations in determining price differed between export and domestic sales;***
- ***whether the materials cost differs at the time of subsequent invoicing of that export sale (compared to domestic sale invoices in the same invoice month of that export sale) having regard to factors such as the production schedules for domestic and export; and lead times for purchasing main input materials;***
- ***whether contracts were entered into for the materials purchases, and materials inventory valuation.¹⁰ [emphasis added]***

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

FOR AND ON BEHALF OF THE

AUSTRALIAN INDUSTRY APPLICANT

⁹ EPR584/024 at p15

¹⁰ Dumping and Subsidy Manual (December 2021) at pp51-52