



CUSTOMS ACT 1901 - PART XVB

STATEMENT OF ESSENTIAL FACTS NO. 601

**INQUIRY CONCERNING THE CONTINUATION OF
ANTI-DUMPING MEASURES APPLYING TO**

STEEL REINFORCING BAR

**EXPORTED TO AUSTRALIA FROM
GREECE, THE REPUBLIC OF INDONESIA,
SPAIN (BY NERVACERO S.A),
TAIWAN (BY POWER STEEL CO. LTD) AND
THE KINGDOM OF THAILAND**

18 November 2022

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ABBREVIATIONS

ABF	Australian Border Force
ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
ACRS	Australasian Certification Authority for Reinforcing and Structural Steels
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
BBV	BBV Systems Co. Ltd
CBSA	Canada Border Services Agency
the commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTMS	cost to make and sell
DOC	United States Department of Commerce
DSI Underground	DSI Underground Australia Pty Limited
EPR	electronic public record
GPMI	GP Marketing International Pty Ltd
IDD	interim dumping duty
IDE	International Drilling Equipment Pty Ltd
Indonesia	the Republic of Indonesia
InfraBuild, or the applicant	InfraBuild (Newcastle) Pty Ltd
the inquiry period	1 January 2021 to 31 December 2021
INV 264	Investigation No 264
INV 300	Investigation No 300
INV 418	Investigation No 418 (the original investigation that led to the measures)
IPP	import parity pricing
Macsteel	Macsteel International Australia Pty Ltd
Manual	the Dumping and Subsidy Manual
MCC	model control code
Millcon	Millcon Steel Public Company Limited
the Minister	the Minister for Industry and Science
MMT	million tonnes
MPa	Megapascals
Nervacero	Nervacero S.A.
the notice	dumping duty notice
NTS	NTS Steel Group Public Company Limited
OCOT	ordinary course of trade
period of analysis	1 January 2016 to 31 December 2021
Power Steel	Power Steel Co. Ltd
rebar, or the goods	steel reinforcing bar

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REQ	response to the exporter questionnaire
ROI	return on investment
SCSC	Siam Construction Steel Co. Ltd
SEF	statement of essential facts
the subject countries	Greece, Indonesia, Spain (exported by Nervacero S.A), Taiwan (exported by Power Steel Co. Ltd), and Thailand
Thailand	the Kingdom of Thailand
TSMT	Tata Steel Manufacturing (Thailand) Public Company Limited

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This statement of essential facts (SEF) concerns an inquiry into whether to continue the anti-dumping measures (the measures) applying to certain steel reinforcing bar (rebar, or the goods) exported to Australia from Greece, the Republic of Indonesia (Indonesia)¹, Spain (by Nervacero S.A), Taiwan (by Power Steel Co. Ltd) and the Kingdom of Thailand (Thailand) (collectively, the subject countries).

The measures are in the form of a dumping duty notice (the notice).² The measures are due to expire on 7 March 2023.³

The Commissioner of the Anti-Dumping Commission (the Commissioner) initiated this inquiry on 28 March 2022 following consideration of an application lodged by InfraBuild (Newcastle) Pty Ltd (InfraBuild, or the applicant) seeking the continuation of the measures.⁴

InfraBuild is eligible to apply for a continuation of the measures because it is a person specified under section 269ZHB(1)(b)(i) of the *Customs Act 1901*⁵ whose application under section 269TB resulted in the measures.

The Commissioner established an inquiry period of 1 January 2021 to 31 December 2021 (the inquiry period) for this inquiry and examined information from 1 January 2013 to 31 December 2021 for the purposes of assessing:

- whether expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent, and
- whether the notice should remain unaltered or apply to a particular exporter or exporters as if different variable factors had been ascertained.

The Anti-Dumping Commission (the commission) is assisting the Commissioner conduct the inquiry, pursuant to the commission's function specified in section 269SMD.

¹ Excluding PT Ispat Panca Putera and PT Putra Baja Deli who are exempt from the measures. References to Indonesia in this report exclude these two exporters unless otherwise specified.

² Refer to Anti-Dumping Notice (ADN) No. 2018/10.

³ Under section 269TM of the *Customs Act 1901*, dumping duty notices expire 5 years after the date of publication, unless revoked earlier. If not continued, the measures would no longer apply on and from 8 March 2023.

⁴ See Electronic Public Record (EPR) 601, document nos. 1 and 2.

⁵ All legislative references in this report are to the *Customs Act 1901* unless otherwise specified.

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This SEF sets out the facts on which the Commissioner proposes to base his recommendations to the Minister for Industry and Science (the Minister), subject to any submissions received in response to this SEF.

The Commissioner proposes the following recommendations to the Minister in this SEF:

- that the Minister take steps to secure the continuation of the measures applicable to Greece, Indonesia, Spain (Nervacero) and Taiwan (Power Steel) on the basis that dumping and material injury are likely to continue or recur
- that the measures expire for Thailand on the basis that dumping is not likely to continue or recur
- that the notice applicable to Greece, Indonesia, Spain (Nervacero) and Taiwan (Power Steel) remain unaltered.

1.2 Preliminary findings

1.2.1 Summary

Based on the evidence currently available, the Commissioner is satisfied that:

- if the measures expire, exports from the subject countries would likely continue or recur
- if the measures expire, the dumping that the measures are intended to prevent:
 - would likely continue for Spain (Nervacero S.A., or Nervacero)
 - would likely recur for Greece, Indonesia and Taiwan (Power Steel Co. Ltd, or Power Steel)
 - would unlikely recur for Thailand
- if the measures expire, the material injury that the measures are intended to prevent would likely recur in relation to exports from Spain (Nervacero), Greece, Indonesia and Taiwan (Power Steel), but not Thailand.

1.2.2 Are exports likely continue or recur? (Section 8.4)

Exports continued in the inquiry period for Nervacero from Spain and Millcon Steel Public Co Ltd (Millcon) from Thailand. The commission considers that these two exporters would likely continue exporting if the measures expire. These two exporters have maintained their Australasian Certification Authority for Reinforcing and Structural Steels (ACRS) accreditation, which is customers have a preference for in the Australian market and have existing distribution links into the Australian market.⁶

There were no exports from Greece, Indonesia and Taiwan (Power Steel) in the inquiry period. One exporter from Indonesia has a current ACRS accreditation, with certain exporters voluntarily relinquishing their previously held ACRS accreditations. The distribution links previously held by these countries has temporarily ceased. Whilst this creates additional hurdles for exporters from these countries to resume exporting, the ACRS accreditations and distribution links could readily be reinstated or established.

⁶ Further details of the ACRS accreditation scheme is at section 3.5.4 and Appendix 1.

The commission considers that exports would likely recur for Greece, Indonesia and Taiwan (Power Steel) if the measures expire. This finding was made on balance having regard to various factors in totality, including that:

- exports were in substantial volumes for the investigation period (1 April 2016 to 31 March 2017) in Investigation 418 (INV 418), when dumping was present
- the measures have influenced import volumes and patterns of trade in the Australian market, leading to a temporary cessation of import volumes
- the Australian market is highly fluid, with importers readily changing suppliers based on price
- the Australian market is price sensitive and the Australian industry's prices are influenced by the price of imports
- the Australian market remains an attractive destination for exports, as demonstrated by the large import volumes for non-subject countries
- expiration of the measures may make the Australian market more attractive and accessible to imports given the prevalence of trade measures in other jurisdictions
- exporters maintain surplus production capacity
- the global steel market is characterised by oversupply
- importers that previously sourced the goods from subject countries remain significant participants in the Australian market and could easily reinstate previous distribution links with exporters
- the measures have removed the price advantage from dumping
- if the measures were to expire, the price advantage from dumping could return and given the price sensitivity in the Australian market, if the measures expire, imports from subject countries would become more price competitive and previous import volumes could be restored.

1.2.3 Is dumping likely continue or recur? (Section 8.5)

The Commissioner preliminarily considers that dumping would likely continue from Spain (Nervacero) and would likely recur from Greece, Indonesia and Taiwan (Power Steel) if the measures expire. The Commissioner preliminarily considers that dumping would not likely continue or recur for Thailand.

The Commissioner has reached these conclusions having regard to the commission's calculation of historical dumping margins and analysis of trade patterns.

Table 1 shows the historical dumping margins for the subject countries:

Country	Exporter	INV 418 ⁷	Reviews	Continuation Inquiry 601
Greece	Uncooperative and all other exporters	42.1%	NA	NA
Indonesia	Uncooperative and all other exporters	9.3%	NA	NA

⁷ Investigation period 1 April 2016 to 31 March 2017.

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Country	Exporter	INV 418 ⁷	Reviews	Continuation Inquiry 601
Spain	Nervacero	6.3%	NA	33.5%
Taiwan	Power Steel	4.4%	NA	NA
Thailand ⁸	Millcon	9.3%	-0.7% ⁹	-7.7%
	Uncooperative and all other exporters	11.9%	NA	NA

Table 1 - Dumping margins

Spain (Nervacero)

The commission considers that, based on previous dumping findings, dumping from Spain (Nervacero) is likely to continue if the measures expire.

Thailand

Millcon is the only exporter to have exported the goods from Thailand immediately prior to and following the measures. The commission found that Millcon dumped during the investigation period for INV 418, however following INV 418, the commission has found that Millcon did not dump the goods during 2 separate 12-month periods. In addition:

- In Anti-Dumping Review Panel (ADRP) Review 2020/127, Millcon emphasised that its export volumes had reduced significantly due primarily to the emergence of lower priced exports from sources such as Turkey.
- The commission analysed landed prices for Millcon's exports during the inquiry period. This analysis shows that, following the measures, Millcon has become increasingly uncompetitive on price relative to other exporters.
- Millcon was subject to a 0% fixed rate of duty during the inquiry period. Despite this, Millcon did not dump during the inquiry period. The commission considers that Millcon has not endeavoured to compete on price with competitors in the Australian market, by engaging in dumping, in an effort to capture additional sales volumes and market share in the inquiry period.

The above supports a finding that (having changed its pricing behaviour and having not dumped during the inquiry period) Millcon would unlikely reduce its prices to dumped levels if the measures expire. The commission considers that Millcon's recent pricing behaviour indicates that dumping has not continued and is not likely to recur.

The commission further notes that no other exporters from Thailand have exported immediately prior to and following the measures. Two other Thai exporters previously held ACRS accreditation (Siam Construction Steel Co. Ltd (SCSC) and NTS Steel Group Public Company Limited (NTS)) and are currently subject to a floor price following

⁸ The commission also notes that dumping was assessed for Millcon, Nervacero and Power Steel in Investigation 264 (INV 264), which examined an investigation period of 1 July 2013 to 30 June 2014. INV 264 found dumping margins of 0.0% for Millcon, less than 2% for Nervacero and 1.3% for Power Steel.

⁹ Review period 1 April 2018 to 31 March 2019. The dumping margin followed ADRP Report No 127.

Accelerated Review Nos 471 and 472. However, these 2 exporters have not exported at any time.

Following the accelerated reviews, there has been an upward movement in prices in the Australian market. Based on this, it appears that these 2 exporters could have exported to Australia above their current floor price, without attracting any interim dumping duty (IDD). That the 2 exporters did not export indicates that, similar to Millcon, these 2 exporters have not endeavoured to compete on price with competitors in the Australian market, by engaging in dumping, in an effort to capture sales volumes and market share. In addition, SCSC and NTS recently underwent a corporate restructure, and are now known as Tata Steel Manufacturing (Thailand) Public Company Limited (TSMT). TSMT participated in the inquiry by providing a questionnaire response with information about its normal value. The commission is satisfied that TSMT's normal value is lower than a price at which TSMT could reasonably export the goods to Australia. Based on the commission's analysis it is unlikely that TSMT would export at dumped prices if the measures expire.

Accordingly, the evidence supports that dumping is unlikely to continue or recur for any exporters from Thailand.

Greece, Indonesia and Taiwan (Power Steel)

The commission considers that dumping from Greece, Indonesia and Taiwan (Power Steel) is likely to recur if the measures expire, on the basis that:

- those exporters dumped during the investigation period for INV 418
- the measures have coincided with a reduction in export volumes from the subject countries
- the Australian market is highly price sensitive
- these exporters have historically only competed in the Australian market when exporting at dumped prices and would be more competitive in the market if measures expire, with prices likely returning to dumped levels.

1.2.4 Is material injury likely continue or recur? (Chapter 7 and Section 8.6)

The Commissioner preliminarily considers that the expiration of the measures for the subject countries, other than Thailand, would be likely to lead to a continuation or recurrence of the material injury that the measures are intended to prevent.

Material injury in Investigation 418

In INV 418, the commission considered that InfraBuild had experienced material injury caused by dumped goods from the subject countries in the form of:

- loss of market share
- price suppression
- reduced profits and profitability and
- reduced return on investment.

Economic condition of the Australian industry

To determine whether material injury has continued or would likely recur, the commission analysed the Australian industry's economic indices for the period 1 January 2016 to 31 December 2021 (period of analysis). The commission observes that:

- Following the measures in 2018, the Australian industry demonstrated improved performance in terms of increased prices, profits and profitability. These improvements were magnified during the inquiry period, due to favourable supply and demand conditions resulting from the COVID-19 pandemic.
- Despite these improvements, the Australian industry nevertheless saw a reduction in production and sales volumes relative to peaks achieved in 2019. In addition, the Australian industry market share reduced during the inquiry period. Exports from non-subject countries captured around 90% of the growth in the size of the Australian market during the inquiry period.
- Noting the Australian industry's reduced market share in a growing market, the commission considers that the Australian industry continues to be susceptible to competition from imports.

Based on these observations about the Australian industry's economic indices, the commission considers that the measures have coincided with an improvement in the economic condition of the Australian industry, particularly in terms of improving the price suppression, reduced profits and profitability of the Australian industry.

Will material injury that the measures are intended to prevent likely recur?

The commission assessed the likely effect on the Australian industry's volume, prices and profits if the measures were to expire.

The commission's previous investigations and inquiries indicate that price is a major factor in customers' purchasing decisions.¹⁰ As part of this inquiry, the commission analysed:

- landed duty paid prices of imports from all sources during the inquiry period
- changes in the patterns of trade prior to and following the measures

The commission identified that the majority of imports from all sources during the inquiry period were within a narrow price range. This demonstrates that the Australian market continues to be highly price sensitive.

The commission's analysis also demonstrates that the measures have influenced patterns of trade in the Australian market. It appears that subject country exporters could only obtain significant sales volumes and market share in the Australian market when exporting at dumped prices.

The commission considers that, to regain sales volumes and market share in such a price sensitive market, exports from Greece, Indonesia, Spain (Nervacero) and Taiwan (Power

¹⁰ For example, Investigations 264, 300 and 418 and Continuation Inquiries 546 and 560.

Steel) would likely be at prices that undercut existing prices of imported goods in the Australian market. This would likely affect all participants in the Australian market, including the Australian industry, whose prices are influenced by imported goods.

1.3 Proposed recommendations

1.3.1 Continuation of the measures (Section 8.8)

The Commissioner proposes to recommend that:

- the Minister take steps to secure the continuation of the measures for Greece, Indonesia, Spain (Nervacero) and Taiwan (Power Steel)
- the measures cease to apply to Thailand.

1.3.2 Variable factors and interim dumping duty method (Chapter 9)

In continuing the measures for Greece, Indonesia, Spain (Nervacero) and Taiwan (Power Steel), the Commissioner recommends that the variable factors¹¹ relevant to the notice remain unaltered. This is on the basis that, during the inquiry period, there were no exports to Australia from Greece, Indonesia and Taiwan, and a low volume of exports from Spain.

As the Commissioner recommends that the notice remain unaltered, the Commissioner recommends that the method for working out the amount of IDD on exports from the subject countries remains unaltered.

1.4 Responding to this SEF

This SEF sets out the essential facts on which the Commissioner proposes to base his final recommendations to the Minister. This SEF represents an important stage in the inquiry. It informs interested parties of the facts established and allows them to make submissions in response to the SEF. It is important to note that the SEF may not represent the final views of the Commissioner.

Interested parties are invited to make submissions to the Commissioner in response to the SEF within 20 days of the SEF being placed on the public record. The Commissioner will consider submissions made within 20 days of the SEF in making a final report to the Minister.

The due date to lodge written submissions in response to this SEF is **8 December 2022**.

As the report to the Minister is due **20 January 2023**, the Commissioner is unlikely to consider any submission made in response to the SEF received after 8 December 2022 if in the opinion of the Commissioner, to do so would prevent the timely preparation of the report to the Minister. It is likely that any late submissions would prevent timely

¹¹ The variable factors in relation to a dumping duty notice are the export price, normal value and non-injurious price.

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preparation of the report and no extension of time to submit the report to the Minister is possible.

Submissions may be provided by email to investigations3@adcommission.gov.au

Alternatively, interested parties may post submissions to:

Director, Investigations 3
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the public record. Information in relation to making submissions is available on the commission's website at www.adcommission.gov.au

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the commission's visit reports and other publicly available documents. The EPR is available via the commission's website. Interested parties should read this SEF in conjunction with other documents on the EPR.

1.5 Final report

The Commissioner must provide the final report and recommendations to the Minister within 155 days after the publication of a notice under section 269ZHD(4) or such longer period as is allowed.

The Commissioner must report to the Minister by no later than **20 January 2023**.

2 BACKGROUND

2.1 Legislative framework

Division 6A of Part XVB sets out, among other things, the procedures the Commissioner must follow when considering an application for the continuation of anti-dumping measures.

Section 269ZHE(1) requires the Commissioner to publish a SEF to propose recommendations to the Minister concerning the continuation of the anti-dumping measures. Section 269ZHE(2) specifies that the Commissioner must have regard to the application and any submissions received within 37 days of the initiation of the inquiry. The Commissioner may also have regard to any other matters that the Commissioner considers relevant.

Under section 269ZHF(4), the Commissioner is not obliged to have regard to any submissions made in response to the SEF that are received after the end of the 20 day period referred to in section 269ZHF(3)(a)(iv) if to do so would, in the Commissioner's opinion, prevent the timely preparation of this report to the Minister.

Section 269ZHF(1) requires the Commissioner, after conducting an inquiry, to give the Minister a report which recommends that the relevant notice either:

- remain unaltered
- cease to apply to a particular exporter or to a particular kind of goods
- have effect in relation to a particular exporter or to exporters generally as if different variable factors had been ascertained
- expire on the specified expiry day.

Pursuant to section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of the measures, unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent.

2.2 Application and initiation

On 7 January 2022, and in accordance with section 269ZHB(1), the Commissioner published a notice¹² on the commission's website inviting the following persons to apply for the continuation of the measures:

- the person whose application under section 269TB resulted in the measures (section 269ZHB(1)(b)(i))
- persons representing the whole or a portion of the Australian industry producing like goods to the goods covered by the measures (section 269ZHB(1)(b)(ii)).

¹² ADN No 2022/005 refers.

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On 7 March 2022, InfraBuild lodged an application under section 269ZHC seeking the continuation of the measures.

As set out in ADN No. 2022/029, the Commissioner was satisfied that the application complied with section 269ZHC and, in accordance with section 269ZHD(2)(b), there appeared to be reasonable grounds for asserting that the expiration of the measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent. The Commissioner therefore decided not to reject the application and initiated the inquiry on 28 March 2022.

2.3 Current measures

Table 2 shows the current measures (IDD and duty method) for the subject countries.

Country	Exporter	Fixed rate	Duty method
Greece	All exporters	42.1%	Combination fixed and variable duty ¹³
Indonesia	PT Ispat Panca Putera supplied directly or through: Duferco Asia Pte Ltd; or	Exempt	
	PT Putra Baja Deli supplied directly or through: Aspac Alliance Steels SDN BHD Duferco Asia Pte Ltd BRC Asia Limited	Exempt	
	PT Toyogiri Iron Steel	0%	Floor price ¹⁴
	All other exporters	9.3%	Combination fixed and variable duty
Spain	Nervacero, S.A.	6.3%	Combination fixed and variable duty
Taiwan	Power Steel Co. Ltd	4.4%	Combination fixed and variable duty
Thailand	Millcon Steel PLC supplied directly or through: Duferco SA; or Duferco Asia PTE LTD ZAG International PTE LTD	0%	Combination fixed and variable duty
	Siam Construction Steel Co. Ltd	0%	Floor price
	NTS Steel Group Public Company Limited	0%	Floor price
	All other exporters	11.9%	Combination fixed and variable duty

Table 2 - Current measures

¹³ The total IDD liability is calculated as follows:

- a fixed component of IDD – the higher of the actual export price or ascertained export price is multiplied by the applicable fixed rate; plus
- a variable component of IDD – the amount, if any, by which the actual export price is lower than the ascertained export price.

¹⁴ The total IDD liability is the amount by which the actual export price is lower than the floor price.

2.4 History of the measures

The measures were imposed by public notice on 7 March 2018 by the then Assistant Minister for Science, Jobs and Innovation. This followed his consideration of the then Commissioner's recommendation in *Final Report No. 418* (the original investigation).

The original investigation and the measures resulted from an application made under section 269TB by OneSteel Manufacturing Pty Ltd (now known as InfraBuild (Newcastle) Pty Ltd) representing the Australian industry producing like goods.

A list of cases for the measures is set out in Table 3 below.

Case type and report no.	ADN No.	Date	Country of export	Findings
Investigation 418	2018/010	7 March 2018	Greece, Indonesia, Spain (Nervacero), Taiwan (Power Steel) and Thailand	Imposition of the measures (the notice)
Accelerated Reviews 471 and 472	2018/108 and 2018/109	3 August 2018	Thailand	Change in variable factors for SCSC and NTS
Accelerated Review 481	2018/140	21 September 2018	Indonesia	Change in variable factors for PT. Toyogiri Iron Steel
Review 518 ¹⁵	2020/072	28 July 2020	Thailand	Change in variable factors for Millcon

Table 3 - Summary of cases for the measures

2.5 Other cases and measures for rebar

The commission has conducted other cases relating to rebar, which have resulted in the two separate measures (both dumping duty notices which are not part of this inquiry). Those two separate measures have been reviewed on multiple occasions and continued following separate inquiries. A list of the key cases is set out in Table 4 below.

¹⁵ Refer also to *ADRP Report No. 127* available on the ADRP's website which revoked the former Commissioner's decision and substituted it with a new decision.

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Case type and report no.	ADN No.	Date	Country of export	Findings
Investigation 264 ¹⁶	2015/133	19 December 2015	Korea, Singapore, Spain (except Nervacero), and Taiwan (except Power Steel)	Imposition of measures (a dumping duty notice)
Investigation 300	2016/039	12 April 2016	China	Imposition of measures (a dumping duty notice)
Continuation 546	2020/111	10 November 2020	Spain (except Nervacero), Taiwan (except Power Steel), Singapore, Korea	Measures continued for Spain and Korea. Change to the variable factors for Spain and Korea. Measures ceased to apply to exporters from Singapore and Taiwan.
Continuation 560	2021/030	13 April 2021	China	Measures continued. Change to the variable factors

Table 4 - Summary of key cases for other rebar measures

2.6 Conduct of inquiry

The commission established an inquiry period of 1 January 2021 to 31 December 2021 (the inquiry period). The commission also examined data from the Australian Border Force (ABF) import database for the period 1 January 2013 to 31 December 2021 and financial data from InfraBuild from January 2017 to December 2021 for the purpose of analysing trends in the market for the goods and assessing the continuation or recurrence of injury.

2.7 Statement of essential facts and report to the Minister

The initiation notice advised the Commissioner would publish the SEF on the public record no later than 16 July 2022. However, the Commissioner approved extensions of time for the publication of the SEF and final report. The Commissioner is now due to publish the SEF on or before 18 November 2022. The Commissioner is due to provide the final report to the Minister on or before 20 January 2023.¹⁷

¹⁶ Refer also to *ADRP Report No. 34* available on the ADRP's website which excluded exports by Nervacero from the measures. This investigation also investigated the goods from Malaysia, Thailand and Turkey. The former Commissioner terminated the investigation in relation to Malaysia, Thailand, Turkey and Power Steel Co. Ltd (Power Steel) from Taiwan. *Anti-Dumping Commission Termination Report No. 264* sets out the reasons for the termination and is available on the public record.

¹⁷ ADN 2022/098 refers.

2.7.1 Australian industry

The Commissioner is satisfied that the applicant is a person specified under section 269ZHB(1)(b)(i), being a person whose application under section 269TB resulted in the measures.

InfraBuild is both an Australian manufacturer of like goods and an importer of the goods.

In its application, InfraBuild identified the following two additional domestic producers of like goods, both of whom are associated entities:

- InfraBuild NSW Pty Ltd and
- The Australian Steel Company (Operations) Pty Ltd.

Collectively, the applicant and its related party producers of like goods are referred to in this report as 'InfraBuild'.

The commission conducted a site visit to InfraBuild's production facilities in Laverton Victoria and an onsite verification of InfraBuild at its Rooty Hill premises in NSW. The commission published a verification report on the EPR.¹⁸

2.7.2 Importers

The commission identified several entities in the ABF import database who had previously imported the goods from the subject countries. The commission forwarded 3 importer questionnaires to these identified importers and placed a copy of the importer questionnaire on the commission's website for completion by other importers. The commission received importer questionnaire responses from the following entities:

- Macsteel International Australia Pty Ltd (Macsteel)
- DSI Underground Australia Pty Limited (DSI Underground) – Part A only
- International Drilling Equipment Pty Ltd (IDE)
- GP Marketing International Pty Ltd (GPMI)

The commission conducted a desktop verification of the information provided by Macsteel and IDE in their importer questionnaire responses.

GPMI responded to certain parts of the importer questionnaire and offered to provide further information to the commission. However, the commission has elected not to request further information from GPMI in this instance because the commission has sufficient information for this inquiry in relation to the source of those imports.

With regards to DSI Underground, the commission is satisfied that DSI Underground is an end user that purchases goods from other importers. Given that DSI Underground is not an importer, the commission did not request further information from DSI Underground or undertake a verification of its importer questionnaire response.

¹⁸ EPR 601, document no. 18.

The commission's assessment of importers' questionnaire responses is on the EPR.¹⁹

2.7.3 Exporters

The commission identified the exporters of the goods from the subject countries from the ABF import database. The commission provided identified exporters with an exporter questionnaire and associated spreadsheets for completion. The commission placed a copy of the exporter questionnaire on its website for completion by other exporters. The commission received a response to the exporter questionnaire (REQ) from the following companies:

- Millcon
- Nervacero
- TSMT
- BBV Systems Co. Ltd (BBV)

The non-confidential versions of the REQs²⁰ and the commission's verification reports²¹ are available on the EPR.

2.8 Submissions received from interested parties

The commission has received submissions from interested parties during the inquiry as set out in Table 5, which it considered in this SEF. Non-confidential versions of all submissions received are available on the EPR.

EPR item number	Interested party	Date published on EPR
4	Government of Spain	12/05/2022
5	Government of Indonesia	12/05/2022
6	InfraBuild (Newcastle) Pty Ltd	12/05/2022
11	BBV Systems Co. Ltd	22/06/2022
15	InfraBuild (Newcastle) Pty Ltd	16/08/2022
16	InfraBuild (Newcastle) Pty Ltd	23/08/2022
20	InfraBuild (Newcastle) Pty Ltd	18/10/2022
21	InfraBuild (Newcastle) Pty Ltd	21/10/2022
22	InfraBuild (Newcastle) Pty Ltd	21/10/2022

Table 5 - Submissions received prior to publication of the SEF

¹⁹ EPR 601, document no. 14.

²⁰ EPR 601, document nos. 7, 8, 9 and 10.

²¹ EPR 601, document nos. 23 and 24.

3 THE GOODS AND LIKE GOODS

3.1 Preliminary finding

The Commissioner considers that the locally manufactured rebar is a like good to the goods subject to the measures. The Commissioner considers that there is an Australian industry, consisting of InfraBuild, producing like goods, and that the like goods are wholly produced in Australia.

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 and
- iv. production likeness.

3.3 The goods

The goods subject to the measures are:

Hot-rolled deformed steel reinforcing bar whether or not in coil form, commonly identified as rebar or debar, in various diameters up to and including 50 millimetres, containing indentations, ribs, grooves or other deformations produced during the rolling process.

The goods include all steel reinforcing bar meeting the above description regardless of the particular grade, alloy content or coating. Goods excluded from the measures are plain round bar, stainless steel and reinforcing mesh.

The following rebar is currently exempted from the measures following *Exemption Inquiry Nos. 0070 and 0072*:

SEF 601 – Steel reinforcing bar – Greece, Indonesia, Spain, Taiwan and Thailand

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- *Ministerial Exemption Instrument No 2 of 2019* effective from 28 September 2018 exempted:

Hot-rolled steel reinforcing bar with a continuous thread, commonly identified as 'threadbar' or 'threaded bar', in straight lengths, complying with Australian/New Zealand Standard AS/NZS4671, grade 500N, with a 40 mm diameter.

- *Ministerial Exemption Instrument No 3 of 2019* effective from 9 November 2018 exempted:

Fully threaded hot-rolled prestressing steel reinforcing bar, in straight lengths, with a minimum yield strength of 885 MPa or greater, with a 26.5 mm, 32 mm, 36 mm, 40 mm or 50 mm diameter.²²

3.4 Tariff classification

The goods are generally, but not exclusively, classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

Tariff Subheading	Statistical Code	Description
7213		BARS AND RODS, HOT-ROLLED, IN IRREGULARLY WOUND COILS, OF IRON OR NON-ALLOY STEEL
7213.10.00	42	Containing indentations, ribs, grooves or other deformations produced during the rolling process
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
7214.20.00	47	Containing indentations, ribs, grooves or other deformations produced during the rolling process or twisted after rolling
7227		BARS AND RODS, HOT-ROLLED, IN IRREGULARLY WOUND COILS, OF OTHER ALLOY STEEL
7227.90		Other
7227.90.10	69	Goods, as follows: a. of high alloy steel; b. "flattened circles" and "modified rectangles" as defined in Note 1(l) to Chapter 72
7227.90.90	01	<i>Containing indentations, ribs, grooves or other deformations produced during the rolling process</i>
	02	<i>Of circular cross-section measuring less than 14 mm in diameter</i>
	04	<i>Other</i>

²² Further details are available on the commission's website.

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Tariff Subheading	Statistical Code	Description
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	40	<i>Containing indentations, ribs, grooves or other deformations produced during the rolling process</i>
7228.60		Other bars and rods
7228.60.10	72	Goods, as follows: a. of high alloy steel; b. "flattened circles" and "modified rectangles" as defined in Note 1(m) to Chapter 72

These tariff classifications and statistical codes may include goods that are both subject and not subject to the measures. The listing of these tariff classifications and statistical codes is for reference only and do not form part of the goods description.

3.5 Like goods

Like goods are defined under section 269T(1) 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.

The commission considers that locally manufactured rebar has characteristics closely resembling those of the goods subject to the measures for the reasons set out below.

3.5.1 Physical likeness

Rebar sold on the Australian market (both imported and locally manufactured rebar) is typically manufactured to an Australian Standard (AS/NZS4671:2019), which specifies the physical characteristics of the rebar that are to be satisfied. The Australian Standard specifies requirements for chemical, mechanical and physical properties for different steel strength grades, as denoted by the minimum yield strength in megapascals (MPa) (250 MPa, 300 MPa, and 500 MPa) and different ductility classes (low, normal and earthquake).

A test certificate certifies that the relevant Australian Standard has been met. Accordingly, rebar from the subject countries or from the Australian industry if certified to the same Australian Standard, will have a similar or identical physical likeness.

The pattern of deformations on a rebar are similar, despite sometimes including unique markings which indicate the producing mill and the Australian Standard.

3.5.2 Commercial likeness

Imported rebar competes directly with locally manufactured rebar in the Australian market. Rebar is generally further processed before the end-use application by fabricators. Processors and distributors purchase locally made and imported rebar and readily switch between suppliers.

3.5.3 Functional likeness

Imported rebar and locally manufactured rebar have the same end-use applications. Rebar is commonly used as a concrete tensioning device in residential, commercial and infrastructure/construction applications (including continuous reinforced concrete pavement in road building). Rebar straights and rebar coils of the same diameter are substitutable in terms of end-use applications, albeit are processed using different equipment. Some processors may only have equipment to use either rebar in coils or straights.

3.5.4 Production likeness

The commission has toured the production facilities of the Australian industry and various exporters in past rebar cases and considers that imported and locally manufactured rebar are produced using similar methods. Certain aspects of the production process may vary to yield rebar products of the desired physical, mechanical and chemical properties. However, the varying methods do not substantially alter the fundamental production process adopted by both Australian industry and exporters.

Mills with ACRS accreditation are subject to the same testing and validation processes.

ACRS is an independent, not-for-profit production certification scheme. The ACRS 'mark' is internationally recognised as the means of showing conformity to the Australian Standard. Whilst not compulsory, ACRS certification is a generally preferred minimum market requirement for the supply of rebar into the Australian market. Steel mills with ACRS certification are subject to the manufacturing and testing processes prescribed by ACRS to meet the requirements of the Australian Standard. Imported rebar sold in the Australian market generally originates from mills that are ACRS certified. The commission found that many of the exporters of rebar from the subject countries maintained ACRS certification.

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 basis for using a MCC structure and the commission's practice is explained in ADN No. 2019/132 available on the commission's website. The MCC structure adopted for this inquiry is detailed in Table 6 as follows.

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Item	Category	Sub-category	Identifier	Sales Data	Cost Data
1	Prime	Prime	P	Mandatory	Optional
		Non-Prime	N		
2	Minimum yield strength specified by product standard (Mega Pascals or “MPa”)	Less than or equal to 300	A	Mandatory	Mandatory
		Greater than 300 but less than or equal to 480	B		
		Greater than 480 but less than 550	C		
		Equal to or greater than 550	D		
3	Finished form	Rebar in length/straight	S	Mandatory	Mandatory
		Rebar in coil	C		
4	Nominal diameter (millimetres or “mm”)	Less than 12	A	Mandatory	Optional
		Greater than or equal to 12 and less than or equal to 16	B		
		Greater than 16 and less than or equal to 32	C		
		Greater than 32 and less than or equal to 50	D		
5	Length (metres or “m”)	Less than or equal to 6	1	Mandatory	Optional
		Greater than 6 and less than or equal to 12	2		
		Greater than 12	3		
		Coil product	C		
6	Deformation pattern along Length	Threaded	T	Mandatory	Optional
		Non-threaded	N		

Table 6 - Model control codes for rebar

4 THE AUSTRALIAN INDUSTRY

4.1 Preliminary finding

The Commissioner is satisfied that there is an Australian industry producing like goods, consisting of InfraBuild.

4.2 Legislative framework

To recommend that the measures be continued, the Commissioner must be satisfied that the “like” goods are in fact produced in Australia. Sections 269T(2) and 269T(3) specify that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

4.3 Australian industry

InfraBuild states in its application that it is the sole Australian producer of rebar in Australia. InfraBuild produces rebar at its facilities in Laverton in Victoria, and Rooty Hill and Newcastle in New South Wales. The commission is not aware of any other producer of rebar in Australia and therefore considers that the Australian industry for rebar is represented solely by InfraBuild.

4.4 Production process

InfraBuild manufactures rebar using billets that are produced either using blast furnace liquid iron as an input into a basic oxygen furnace process at Whyalla or the electric arc furnace process at Rooty Hill or Laverton.

To produce rebar straights, billets are reheated in a furnace to approximately 1,200 degrees and passed through a series of rolling ‘stands’ which changes the shape from a rectangular cross section to a smaller circular cross section. The circular bar is then passed through the finishing stands which are characterised by a ‘rib profile’ such that when circular bar is processed, deformations or ribs form on the bar. The bar is then subject to a water-cooling process where the surface of the bar is quenched rapidly and subsequently slow cooled on a cooling bed.

In some instances, the strength of the bar is attained using a chemical strengthening mechanism involving alloy addition.

To produce rebar coils, after the finishing stands, rebar is looped into rings, cooled on a cooling conveyor and then formed into coil which may be further cold-worked.

4.5 Preliminary conclusion

Based on the information above, the Commissioner is satisfied that:

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- the like goods were wholly manufactured in Australia²³ and
- there is an Australian industry which produces like goods in Australia, consisting of InfraBuild.

²³ Section 269T(2) refers.

5 AUSTRALIAN MARKET

5.1 Preliminary finding

The Commissioner has found that during the inquiry period the Australian market for rebar was supplied by the Australian industry and imports from a number of entities, including entities that are currently subject to the measures, separate measures, and other entities not subject to measures. The commission estimates that the size of the Australian market during the inquiry period was approximately 1.35 million tonnes (MMT).

5.2 The Australian rebar market

5.2.1 End use

Rebar is used in a wide range of construction applications to reinforce concrete, precast concrete or masonry. The majority of rebar is fabricated, shaped or processed in some way. There are instances where no cutting, bending or welding is needed before use. The end uses for rebar largely fall into the following main market segments:

- engineering construction (including infrastructure, mining, oil and gas);
- non-residential commercial construction;
- residential construction which includes swimming pool construction (i.e. Grade 250N)

Non-residential commercial construction is considered to be the main driver of demand for rebar.

Largely owing to the requirements of the Australian Standard and the Building Code of Australia, there is limited substitutability of rebar with other reinforcing products such as stainless steel, glass fibre, carbon fibre or basalt. These substitutes are not widespread in Australia and rebar is a ubiquitous product in the Australian construction industry. Rebar is expected to continue to be the dominant reinforcing product for the foreseeable future.

5.2.2 Supply and distribution

Local production of rebar is supplemented by imports, with distributors and end users engaging with producers from a range of countries.

The Australian industry sells rebar to related-party and independent reinforcing processors and steel service centres. Rebar is despatched to customers from inventory which is held at the Australian manufacturer's mills. Once sold, it is transported via road, rail or sea freight to the customer.

Exporters essentially utilise the same channels to market. The channels to market are detailed in Figure 1.

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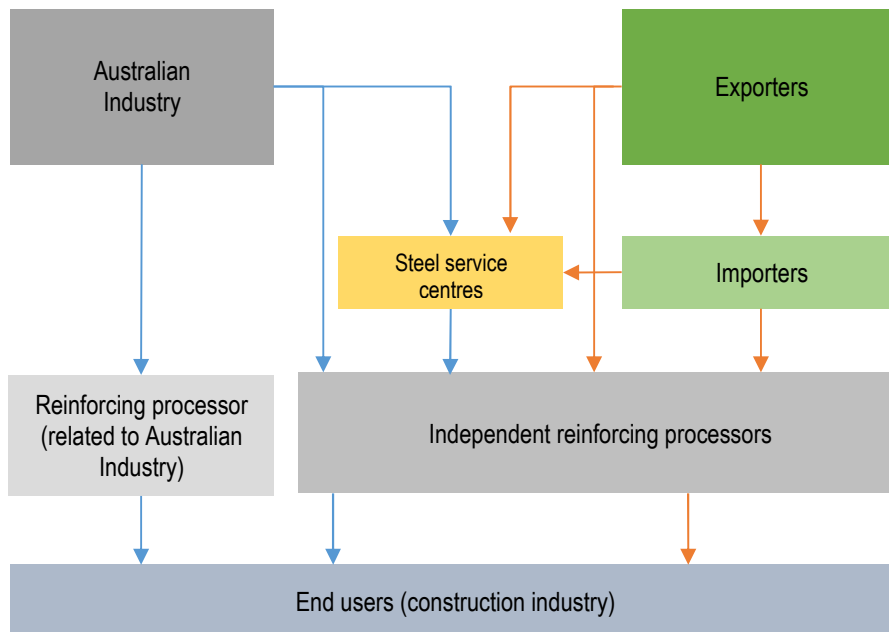


Figure 1 - Channels to market

The Australian industry is able to supply rebar from stock (if available) or from scheduled production. The supply of rebar from stock can occur within two days. The supply of non-standard products or out-of-stock specifications will depend on the rolling schedule. In contrast, the lead time from an exporter from order confirmation through to the receipt of the goods can range from two to three months. Exporters generally supply standard products (500N grade) in either straight lengths (e.g. 6 and 12 metre lengths) or coil as demand for these products is more predictable than non-standard products.

5.2.3 Supply effects of the COVID-19 pandemic

The commission notes that the COVID-19 pandemic impacted international supply into the Australian market during the inquiry period. The Australian Competition and Consumer Commission (ACCC) released its *Container Stevedoring Monitoring Report*²⁴ in October 2021 which included the following assessment of the impact of the pandemic on supply chains:

‘Over the past 12 months, the COVID-19 pandemic has derailed the global container freight supply chain (the supply chain). The pandemic-induced lockdowns, border closures and travel restrictions have shifted consumer demand from hospitality services towards manufactured household goods that are typically transported in containers.

At the same time, the pandemic set off a cascade effect, with intermittent and ongoing shocks across the supply chain draining spare shipping and port capacity. The supply chain has been kept in a continuous state of disarray, unable to cope with increased container demand.

²⁴ ACCC, [Container stevedoring monitoring report 2020-21](#), October 2021, Australian Government, 2021, accessed 14 June 2022.

This represents a logistical nightmare for the industry. The once efficient major overseas ports have become a cause of severe congestion and delays. The shipping line schedules that worked like clockwork are out of sync. Shipping lines have deployed all their fleet but are unable to fully utilise their capacity as vessels are either trapped for long periods of time in port waiting queues or choose to skip ports altogether.

There is an abundance of empty containers, but they are stuck in the wrong places.'

'Shipment delays have been mounting as shipping lines are increasingly omitting ports, rolling over cargo and cancelling bookings. Cargo owners around the world are scrambling to book scarce capacity on vessels, bidding up freight rates to unprecedented levels. Freight rates on key global trade routes are around 7 times higher than they were a little over a year ago.

Australian importers and exporters are finding this situation particularly challenging. Many are struggling to get all their cargo on ships and are facing rapidly escalating freight rates. Some are paying significant premiums and surcharges to shipping lines to obtain priority loading, but even this does not guarantee on-time delivery.²⁵

The commission considers that the dynamics of the Australian rebar market during the inquiry period would likely have been influenced by the supply disruptions caused by the COVID-19 pandemic.

5.2.4 Drivers of demand

Demand for rebar is closely aligned to the level of construction activity in Australia. Demand is therefore susceptible to changes in both government and private investment. At a macro level, drivers of demand are the availability of credit to fund construction works and population growth. The degree to which demand is sensitive to these broad factors can differ between market segments, and the effect of changes in demand are not necessarily experienced consistently in different market segments. There are therefore a diverse range of specific factors at play within market segments that contribute to demand for rebar in the Australian market.

5.2.5 Demand effects of the COVID-19 pandemic and government stimulus

The commission notes that the COVID-19 pandemic impacted the Australian market during the inquiry period. As the pandemic emerged in 2020 there was considerable concern that the global, and consequently the Australian, economies would be adversely impacted.

The minutes of the monetary policy meeting of the Reserve Bank of Australia Board held on 3 March 2020 noted that 'it had become increasingly clear that the spread

²⁵ Ibid, p ix.

of...COVID-19...beyond China would cause a major disruption to economic activity around the world...[and]....was having a significant effect on the Australian economy'.²⁶

Despite these initial concerns, based on the commission's estimate in section 5.4, the Australian market for rebar expanded by almost 20% during the inquiry period.

The commission analysed Australian Bureau of Statistics (ABS) building and construction industry data. Figure 2 shows the total investment in residential and non-residential building work by quarter since 1 January 2016. The dotted line shows the trend over this time.

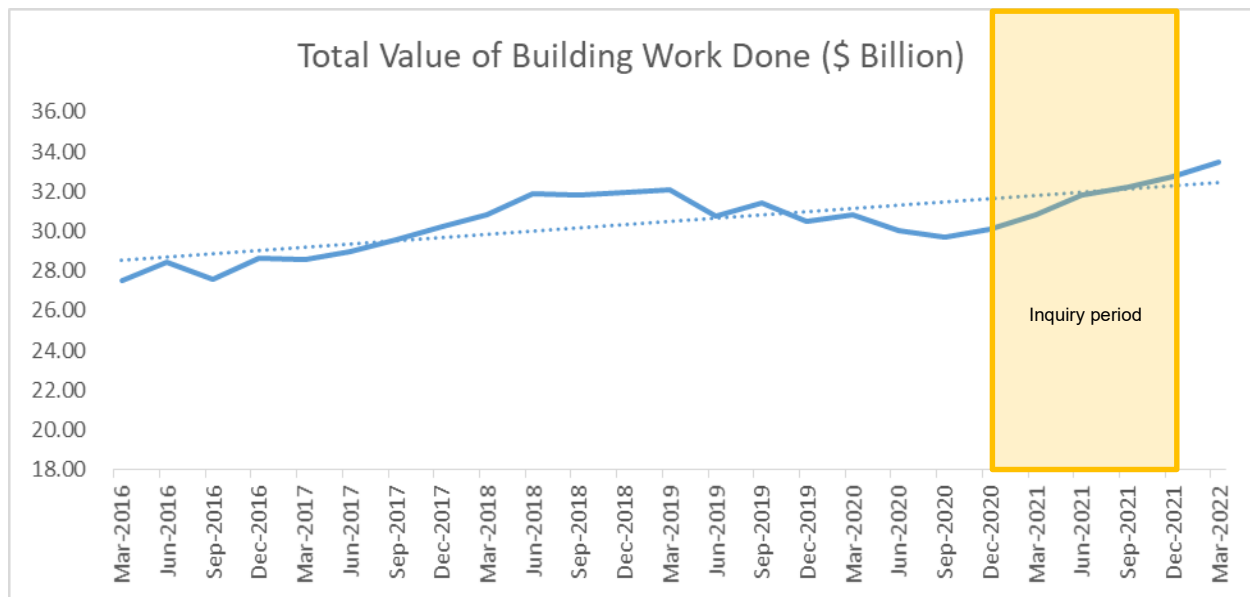


Figure 2 - Building and construction sector in Australia, quarterly (\$ Billion)²⁷

Figure 2 demonstrates that:

- the historical building and construction trend has been upward
- the quarterly value of building work done began to decline in the June quarter of 2019 and moved below the quarterly average at a time coincident with the onset of the pandemic
- the quarterly value of work done reached a trough in the September quarter of 2020 after which a sustained upward trend emerged
- the rate of growth in investment in building and construction during the inquiry period was significantly greater than the longer term trend.

The commission considers that the increase in activity in the building and construction industry was a result of significant direct and indirect government stimulus initiatives intended to support confidence in the sector during the uncertainty caused by the

²⁶ Reserve Bank of Australia, [Minutes of the Monetary Policy Meeting of the Reserve Bank Board](#), 3 March 2020, Australian Government, 2020, accessed 6 July 2022.

²⁷ Available from the Australian Bureau of Statistics (ABS) [website](#). Data from section 8752.0 Building Activity, Australia (Table 12).

pandemic. The commission considers that demand for rebar increased as a consequence.

While the economic uncertainty driven by the COVID-19 pandemic is likely to continue in the short term, the commission does not consider that the growth in the Australian market experienced during the inquiry period is likely to be replicated on an ongoing basis.

The commission considers that the growth in the Australian market during the inquiry period was anomalous when assessed against the longer term trend identified in Figure 3. The commission expects that as the impacts associated with the pandemic recede, the Australian market will return to more normalised conditions, characterised by gradual growth over the long term, within the context of the shorter term variability inherent to the business cycle.

5.2.6 Pricing

The commission has established in previous matters involving rebar that it is a commodity product. Provided the goods meet the relevant Australian Standard and the grade requirements for the desired end use, there are limited ways in which suppliers can differentiate their offering beyond price and service. The commission's analysis of the landed price of imports from the wide variety of sources supplying the Australian market shows that the market for rebar is highly price sensitive.

Since the measures InfraBuild continues to apply an Import Parity Pricing (IPP) model. Under the IPP model InfraBuild negotiates pricing with customers with reference to offers made in the rebar market for imported goods.

InfraBuild noted in its application that since January 2020 the IPP model only applied to rebar in straight lengths, while a benchmarked pricing mechanism applied to other models. Regardless of the pricing mechanism used, InfraBuild submitted that customers continue to reference price offers relating to imported rebar, and consequently the price that it is able to achieve in the market continues to be influenced by the prices of imported goods.

The commission notes from prior matters involving rebar that the Australian industry is generally able to command a small price premium for low volume product specifications due to its capacity to supply from stock holdings with shorter delivery timeframes than imported sources. Importers' capacity to supply low volume product specifications from stock holdings is generally limited to smaller quantities or across a narrower range of products. Importers tend to compete mainly in the higher volume, standard product offerings of 6 metre straight lengths or coil of 500N grade. Although the pricing for standard, long-lead time products is more heavily influenced by import pricing it is also a contributory factor in the pricing of non-standard product specifications.

5.3 Market size

The commission estimated the size of the Australian market for rebar using verified sales data from InfraBuild, information from the ABF import database and verified information from importers and exporters.

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The commission's estimate of the size of the Australian rebar market since 1 January 2013 is depicted in Figure 3 below.

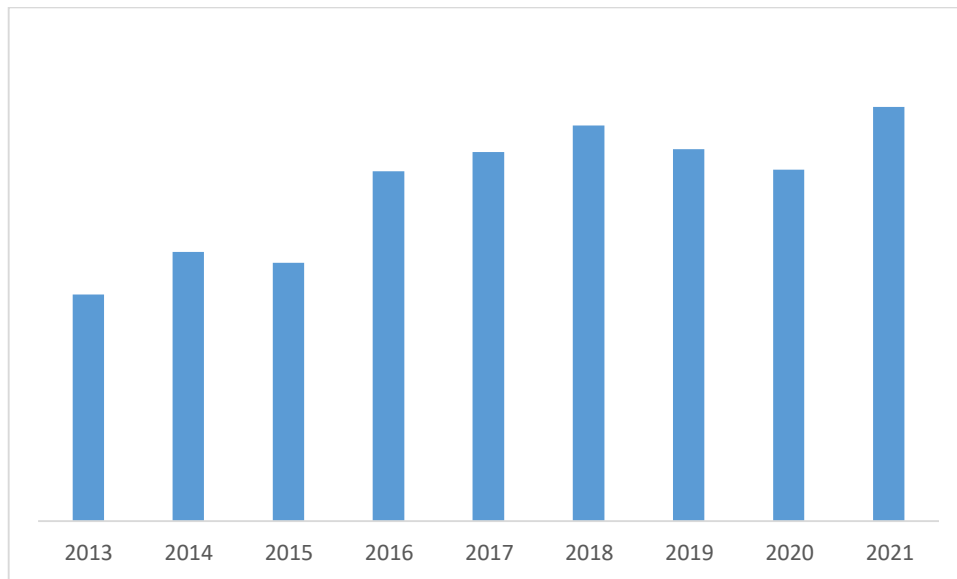


Figure 3 - Australian market for rebar (tonnes)

Figure 3 shows that the Australian market was on an upward trajectory until 2018, followed by contractions in 2019 and 2020. There was a strong growth during the inquiry period, with the total size of the Australian market reaching its highest level.

In terms of composition, prior to 2016 the Australian market was comprised almost entirely of sales by the Australian industry and exports from countries now subject to measures. From 2016 exports from countries not subject to measures increased at the expense of exports by countries currently subject to measures. During the inquiry period the Australian market was almost entirely comprised of sales by the Australian industry and exporters not subject to measures. The largest sources of imports during the inquiry period were from (in alphabetical order) Indonesia (exporters not subject to measures), Italy, Malaysia, Poland, Singapore and Turkey.

The commission's assessment of the size of the Australian market is contained in **Confidential Attachment 1**.

6 DUMPING IN THE INQUIRY PERIOD

6.1 Preliminary finding

For the purpose of assessing whether dumping is likely to continue or recur, the Commissioner has examined whether exports in the inquiry period were dumped. The Commissioner also used this information to determine whether the variable factors in relation to exporters have changed. This assessment was limited to Millcon and Nervacero as the only two exporters that exported during the inquiry period and TSMT who provided information about its normal value.

The commission has preliminarily determined dumping margins as summarised in Table 7.

Country	Exporter	Dumping margin
Spain	Nervacero	33.5%
Thailand	Millcon	-7.7%

Table 7 - Preliminary dumping margin

6.2 Legislative framework

In accordance with section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of the measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of dumping. The existence of dumping during the inquiry period may be an indicator of whether dumping may occur in the future.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of the goods are determined under sections 269TAB and 269TAC respectively. The commission applied the method in section 269TACB(2)(a) to determine whether dumping has occurred and the levels of dumping by comparing the weighted average export price over the whole of the inquiry period with the weighted average of corresponding normal values over the whole of the inquiry period.

Further details of the export price and normal value calculations for each exporter are set out in the following chapters.

6.2.1 Export price

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) provides that 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.

PUBLIC RECORD

Section 269TAB(1)(b) provides that the export price of goods is the price that the importer sold the goods, less the prescribed deductions, where:

- goods have been exported to Australia otherwise than by the importer, and
- were purchased by the importer from the exporter, but not at arms length, and
- the importer subsequently sells the goods in the condition they were imported to a party not associated with the importer.

Section 269TAB(1)(c) provides that in all other cases, the export price is a price determined by the Minister having regard to all the circumstances of the exportation.

Section 269TAB(3) provides that, where the export price cannot be established under the preceding sections, the export price is determined having regard to all relevant information.

6.2.2 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).

6.2.3 Dumping margin

For all dumping margins calculated for the purposes of this inquiry, the commission compared export prices over the whole of the inquiry period with the corresponding normal values.

6.3 Exporters

6.3.1 Responses to the exporter questionnaire - exporters

The commission received exporter questionnaire responses from the following exporters:

- Millcon (Thailand)
- Nervacero (Spain)
- TSMT (Thailand)

The commission undertook a virtual verification of Millcon and Nervacero and a benchmark verification of TSMT.

6.3.2 Response to the exporter questionnaire - intermediaries

The Dumping and Subsidy Manual (the Manual)²⁸ provides that 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
- owns, or previously owned, the goods, but need not be the owner at the time the goods were shipped.

The Manual notes that it is common for traders or other intermediaries to play a role in the exportation of the goods. These parties will typically provide services such as arranging transportation (both land and ocean), arranging port services, arranging loading, conducting price negotiations, arranging contracts with producer and customer alike, conveying the customer's specifications to the producer including quality, marking, and packing requirements, and so forth.

Typically, the manufacturer, as a principal who knowingly sent the goods for export to any destination will be the exporter.

Depending on the facts, the commission considers that only in rare circumstances would an intermediary be found to be the exporter. Typically this will only occur where the intermediary has purchased the goods from the manufacturer; the manufacturer has no knowledge at all that the goods are destined for export to any country; and the essential role of the intermediary is that of a distributor rather than a trader and because it is acting more like a distributor the intermediary would usually have its own inventory for all export sales.

The commission received one REQ from an intermediary. This is discussed in section 6.4.2 below.

6.4 Dumping assessment – Thailand

6.4.1 Millcon

Verification

The commission conducted a virtual verification of the data and information submitted in Millcon's REQ.

The commission is satisfied that Millcon is the producer of the goods and like goods. The commission is further satisfied that the information provided by Millcon is accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods.

²⁸ Anti-Dumping Commission, [Dumping and Subsidy Manual](#), December 2021, Australian Government, pages 23 and 24.

A report covering the verification findings is available on the public record.²⁹

Export price

The commission found that Millcon exported the goods to Australia either directly to the Australian customer or indirectly via an intermediary.

For all direct sales that Millcon made to an Australian customer, the commission considers Millcon to be the exporter of the goods, as Millcon:

- is named as the seller on the commercial invoice
- is named as the shipper on the bill of lading
- is the manufacturer of the goods located in the country of export
- arranges transportation of the goods from the port of export to Australia.

For all indirect sales that Millcon made to an Australian customer via an intermediary, the commission considers Millcon to be the exporter of the goods, as Millcon:

- is located in the country of export
- manufactured the goods in all relevant sales to the Australian Standard, which the domestic market in Thailand does not require
- manufactured the goods in all relevant sales with an ACRS accreditation
- considered the relevant goods it sold to the intermediary as destined for export, namely to Australia or New Zealand
- sold goods to the intermediary in their finished form – the intermediary did not further work the goods before arranging transportation of them from the port of export to Australia.

In respect of Millcon's direct and indirect Australian sales of the goods during the inquiry period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its 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 receive a benefit for, or in respect of, the whole or any part of the price.³⁰

For sales which Millcon made directly to the Australian customer, the commission has determined the export price under section 269TAB(1)(a), as the price paid (or payable) for the goods by the importer, other than any part of that price that represents a charge in respect of any other matter arising after exportation.

²⁹ EPR 601, document no. 23.

³⁰ Section 269TAA refers.

For sales which Millcon made to the Australian customer via an intermediary, the commission considers that the importer did not purchase the goods from the exporter. Accordingly, the commission cannot determine the export price under sections 269TAB(1)(a) or 269TAB(1)(b).

The commission therefore has determined the export price under section 269TAB(1)(c), having regard to all circumstances of the exportation. Specifically, the export price has been determined as the price the intermediary paid to Millcon.

Normal value

The commission is satisfied that there were 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 under section 269TAC(1).

The commission's preliminary normal value calculations are at **Confidential Attachment 5**. The following sections outline the commission's preliminary assessment of Millcon's normal value.

Arms length assessment

In respect of Millcon's domestic sales of like goods to its customers during the inquiry period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its 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 receive a benefit for, or in respect of, the whole or any part of the price.³¹

The commission therefore considers that all domestic sales made by Millcon to its customers during the inquiry period were arms length transactions.

Ordinary course of trade and sufficiency of domestic sales

Section 269TAAD states that domestic sales of like goods are not in the OCOT if arms length transactions are both of the following:

- unprofitable in substantial quantities over an extended period
- unlikely to be recoverable within a reasonable period.

The commission tested profitability by comparing the net invoice price against the relevant cost for each domestic sales transaction. The commission tested whether the unprofitable sales were in substantial quantities (not less than 20%) by comparing the

³¹ Ibid.

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volume of unprofitable sales to the total sales volume, for each MCC over the inquiry period. The commission then tested recoverability by comparing the net invoice price against the relevant weighted average cost over the inquiry period for each domestic sales transaction.

Based on the above analysis, the commission has found that Millcon's domestic sales were arms length transactions in the OCOT. Accordingly, the commission is satisfied that the normal value of the goods for Millcon is able to be determined in accordance with section 269TAC(1). The commission has determined normal value by making comparisons at the MCC level.

Section 269TAC(2) provides alternative methods for calculating the normal value of goods exported to Australia where there is an absence, or low volume, of relevant sales of like goods in the market of the country of export.

An exporter's domestic sales of like goods are taken to be in a low volume where the total volume of sales of like goods for home consumption in the country of export by the exporter is less than 5% of the total volume of the goods under consideration that are exported to Australia by the exporter (unless the Minister is satisfied that the volume is still large enough to permit a proper comparison for the purposes of assessing a dumping margin).

The commission assessed the total volume of relevant sales of like goods as a percentage of the goods exported to Australia and found that the volume of domestic sales was 5% or greater and therefore was not a low volume.

When calculating a normal value under section 269TAC(1), in order to ensure a proper comparison between the goods exported to Australia and the goods sold on the domestic market, the commission considers the volume of sales of each exported MCC on the domestic market. Where the volume of domestic sales of an exported MCC is less than 5% of the volume exported, the commission will consider whether it can make a proper comparison at the MCC level. In these situations, the commission may consider whether it should use a surrogate domestic MCC to calculate normal value for the exported MCC.

The commission has considered whether each exported MCC was sold on the domestic market and the volume of domestic sales, as shown in Table 8.

Export MCC	Is volume of domestic sales of same MCC 5% or greater as a proportion of export volume?	Treatment of normal value
P-C-S-B-1-N	N	No domestic sales of P-C-S-B-1-N. Surrogate model P-C-S-B-2-N with specification adjustment under section 269TAC(8).
P-C-S-B-2-N	Y	The commission considers that the volume of domestic sales of the same MCC allows for a proper comparison to exported goods.
P-C-S-C-2-N	Y	The commission considers that the volume of domestic sales of the same MCC allows for a proper comparison to exported goods.

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Export MCC	Is volume of domestic sales of same MCC 5% or greater as a proportion of export volume?	Treatment of normal value
P-C-S-C-2-T	N	No domestic sales of P-C-S-C-2-T. Surrogate model P-C-S-C-2-N with specification adjustment under section 269TAC(8).

Table 8 - Surrogate models assessment - Millcon

The commission found that for MCC P-C-S-B-1-N and P-C-S-C-2-T, there were insufficient sales of like goods sold in the OCOT on the basis that there was an absence of relevant sales of like goods in the domestic market. For these MCCs, the commission was satisfied that there were sufficient domestic sales volumes of a surrogate MCC based on the MCC with the closest physical characteristics under the MCC hierarchy structure. Accordingly, the commission has applied a specification adjustment to these MCCs when calculating the normal value, as detailed in Table 9.

As the volume of domestic sales of the remainder of Millcon's exported MCCs are 5% or more of the volume exported, the commission considers it can make a proper comparison at the MCC level.

Adjustments to normal value

The commission is satisfied there is sufficient information to justify the following adjustments in accordance with section 269TAC(8). The commission considers the adjustments in Table 9 necessary to ensure a fair comparison of normal value and export prices.

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 port handling and other charges	Add an amount for export port handling and other charges
Export credit terms	Add an amount for export credit terms
Specification	Add or deduct an amount for the specification adjustment

Table 9 - Summary of adjustments - Millcon

Dumping margin

The preliminary dumping margin for the goods exported to Australia by Millcon for the inquiry period is **-7.7%**.

The commission's preliminary dumping margin calculation is at **Confidential Attachment 6**.

6.4.2 BBV

BBV's REQ and submissions

In its REQ submitted to the commission, BBV claimed that it sells the goods to Australian customers. BBV further submitted a letter dated 27 May 2022 stating:

In support of IDE's (the importer) application, BBV-Systems currently only export 500N Thread Bar, which is NOT used in reinforced concrete, but rather in a Prestressed Thread bar application (with ACRS Certification) for example, as soil nails for embankment stabilisation. To my knowledge no Australian manufacturer is producing such Prestressed thread bar. Therefore BBV-Systems/IDE are NOT competing in the rebar for reinforced concrete market in Australia, but rather in a specialised field of Prestressed Products with applications, for example, in embankment stabilisation.

In response to this submission, InfraBuild disputed BBV's claims and stated that in its view, both Grade 500N thread bar and prestressing thread bar (yield strength typically above 800MPa) produced by Millcon are currently exported and are likely to continue to be exported from Thailand to Australia, whether by Millcon (directly) or (via) BBV. InfraBuild also stated that mapping of the MCC of Millcon's products in Review of Measures No. 518 was incorrect. Accordingly, InfraBuild requested the commission reassess the classification to MCCs in this inquiry to ensure the correct models are being compared as prestressed thread bar is likely to sell for a much higher price due to its higher yield strength.

InfraBuild further requested that the commission carefully scrutinise sales transactions between Millcon and BBV to ensure all products (rebar, 500N threaded bar and prestressed threaded bar) is accounted for and appropriately considered in ascertained normal value and export price determinations.

Commission's assessment

The commission considers that BBV is an intermediary, who purchases the goods on the Thai domestic market from Millcon (the producer) for supply to customers in Australia. BBV does not manufacture the goods and does not further process the goods purchased from Millcon.

In its verification of Millcon, the commission clarified the respective roles of Millcon and BBV in the export of the goods to Australia.

The commission found that 500N threaded bar produced by Millcon was exported to Australia by BBV during the inquiry period. However, there were no evidence that high yield prestressing bar was exported to Australia by either Millcon or BBV during the inquiry period.

The commission found that Millcon initially reported 500N grade rebar sales to BBV as domestic sales. Based on the information available, the commission found that these sales should be part of Millcon's Australian sales listing and therefore removed them from Millcon's domestic sales listing and added them to Millcon's Australian sales listing.

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The commission is satisfied that for sales of Millcon produced 500N grade rebar to Australia through BBV, Millcon is the exporter, as Millcon:

- confirmed that it was aware that the goods were destined for either Australia or New Zealand
- manufactures the 500N grade rebar with ACRS certification, and
- is a principal located in the country of export.

Accordingly, the commission has taken the sales made through BBV into account in Millcon's dumping margin.

In relation to InfraBuild's request for the commission to reassess the MCC classification to ensure the correct models are being compared, the commission determined the MCC sub-categories by verifying it to source documents. The commission also mapped the relationship between steel standard and minimum yield strength using source documents including commercial invoices and mill certificates and is satisfied that the MCCs are mapped correctly.

6.4.3 TSMT

Verification

The commission conducted a benchmark verification of the data and information submitted in TSMT's REQ.

The commission is satisfied that TSMT is a producer of the goods and like goods. The commission is satisfied that the information and data provided by TSMT is accurate and reliable for the purposes of ascertaining variable factors. As TSMT did not export the goods to Australia during the inquiry period, the commission has not calculated an export price and dumping margin in this chapter. The commission has assessed the normal value below.

Normal value

The commission has found that in respect of TSMT, there were sales of like goods sold in the OCOT for home consumption in the country of export that were arms length transactions.

Arms length assessment

In respect of TSMT's domestic sales of like goods to its customers during the inquiry period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its 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 not directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

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The commission therefore considers that all domestic sales made by TSMT to its domestic customers during the inquiry period were arms length transactions.

Adjustments

To ensure the comparability of normal values to export prices, the commission made adjustments pursuant to section 269TAC(8) as follows:

Adjustment	Deduction/addition
Domestic inland transport	Deduct an amount for domestic inland transport
Domestic credit	Deduct the cost of credit charges
Export inland transport	Add an amount for export inland transport
Export port handling and other charges	Add an amount for port handling and other charges
Differences in physical characteristics	Add an amount for the specification adjustment

Table 10 - Summary of adjustments - TSMT

6.5 Spain (Nervacero)

Verification

The commission conducted a desktop verification of the data and information submitted in Nervacero's REQ.

The commission is satisfied that Nervacero is the producer of the goods and like goods. The commission is further satisfied that the information provided by Nervacero is accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods.

A report covering the verification findings is available on the public record.³²

Export price

The commission considers Nervacero to be the exporter of the goods, as Nervacero:

- 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
- arranges and pays for the ocean freight.

The commission is satisfied that for all Australian export sales during the inquiry period that Nervacero was the exporter of the goods.

In respect of Nervacero's Australian sales of the goods (which are to an unrelated customer) during the inquiry period, the commission found no evidence that:

³² EPR 601, document no. 24.

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- there was any consideration payable for, or in respect of, the goods other than its 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 receive a benefit for, or in respect of, the whole or any part of the price.³³

The commission therefore considers that all export sales made by Nervacero to its unrelated Australian customer during the inquiry period were arms length transactions.

In respect of Australian sales of the goods by Nervacero, the commission has determined the export price under section 269TAB(1)(a), being the price paid by the importer to the exporter less transport and other costs arising after exportation.

Normal value

The commission is satisfied that there were 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 under section 269TAC(1).

The commission's preliminary normal value calculations are at **Confidential Attachment 13**. The following sections outline the commission's preliminary assessment of Nervacero's normal value.

Arms length assessment

In respect of Nervacero's domestic sales of like goods to its related customer during the inquiry period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

However, the commission found evidence that a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller appeared to influence the price because:

- Nervacero and its related customer are ultimately wholly owned by the same parties
- prices between Nervacero and its related customer are consistently less than prices offered to Nervacero's unrelated customers throughout the inquiry period.

³³ Section 269TAA refers.

The commission therefore considers that domestic sales made by Nervacero to its related customer during the inquiry period were not arms length transactions, pursuant to section 269TAA(1)(b).³⁴ The commission has excluded these sales from Nervacero's domestic sales listing.

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

- there was any consideration payable for, or in respect of, the goods other than its 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 not directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

Ordinary course of trade and sufficiency of domestic sales

Section 269TAAD states that domestic sales of like goods are not in the OCOT if arms length transactions are both:

- unprofitable in substantial quantities over an extended period
- unlikely to be recoverable within a reasonable period.³⁵

The commission tested profitability by comparing the net invoice price against the relevant cost for each domestic sales transaction.

The commission then tested whether the unprofitable sales were in substantial quantities (not less than 20%) by comparing the volume of unprofitable sales to the total sales volume, for each MCC over the inquiry period.

The commission tested recoverability by comparing the net invoice price against the relevant weighted average cost over the inquiry period for each domestic sales transaction.

Based on the above analysis, the commission has found that Nervacero's domestic sales were arms length transactions in the OCOT. Accordingly, the commission is satisfied that the normal value of the goods for Nervacero is able to be determined in accordance with section 269TAC(1). The commission has determined normal value by making comparisons at the MCC level.

³⁴ The commission notes that the finding in this report that the sales to domestic customers did not take place on an arms length basis relates to the assessment of normal values for anti-dumping purposes under section 269TAC. It is not an assessment of the exporter's transfer pricing policy with respect to compliance with the revenue laws of any jurisdiction.

³⁵ In general, the commission will consider 'extended period' and 'reasonable period' to be the investigation, review or inquiry period.

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Section 269TAC(2) provides alternative methods for calculating the normal value of goods exported to Australia where there is an absence, or low volume, of relevant sales of like goods in the market of the country of export. An exporter's domestic sales of like goods are taken to be in a low volume where the total volume of sales of like goods for home consumption in the country of export by the exporter is less than 5% of the total volume of the goods under consideration that are exported to Australia by the exporter (unless the Minister is satisfied that the volume is still large enough to permit a proper comparison for the purposes of assessing a dumping margin).

The commission assessed the total volume of relevant sales of like goods as a percentage of the goods exported to Australia and found that the volume of domestic sales was 5% or greater and therefore was not a low volume.

When calculating a normal value under section 269TAC(1), in order to ensure a proper comparison between the goods exported to Australia and the goods sold on the domestic market, the commission considers the volume of sales of each exported MCC on the domestic market. Where the volume of domestic sales of an exported model is less than 5% of the volume exported, the commission will consider whether it can make a proper comparison at the MCC level. In these situations, the commission may consider whether it should use a surrogate domestic model to calculate normal value for the exported model.

The commission has considered whether the exported MCC was sold on the domestic market and the volume of domestic sales, as shown in Table 11.

Export MCC	Is volume of domestic sales of same MCC 5% or greater as a proportion of export volume?	Treatment of normal value
P-C-C-B-C-N	Yes	Domestic sales of P-C-C-B-C-N sold in the OCOT

Table 11 - Domestic volumes - Nervacero

As the volume of domestic sales of the exported MCC is 5% or more of the volume exported, the commission considers it can make a proper comparison at the MCC level.

Adjustments to normal value

The commission is satisfied there is sufficient information to justify the following adjustments in accordance with section 269TAC(8). The commission considers the adjustments in Table 12 necessary to ensure a fair comparison of normal value and export prices.

Adjustment Type	Deduction/addition
Domestic credit terms	Deduct an amount for domestic credit
Domestic inland transport	Deduct an amount for domestic inland transport
Export inland transport	Add an amount for export inland transport
Export credit terms	Add an amount for export credit terms

Table 12 - Summary of adjustments - Nervacero

Submissions from interested parties

In response to Nervacero's REQ submission, the commission received a submission from InfraBuild with regards to deficient information in Nervacero's public REQ.³⁶ InfraBuild submitted that the lack of sufficient detail in relation to Nervacero's date of sale and adjustments for due allowance is of 'considerable consequence and some prejudice to InfraBuild'.

Nervacero subsequently submitted a revised REQ³⁷ to address some of the deficiencies that InfraBuild referred to in its submission. InfraBuild submitted a further submission³⁸ requesting the commission give due consideration to exports by Nervacero and to consider them as a 'relevant sale'.

Commission's assessment of submissions

The commission was satisfied that Nervacero produced and exported the goods to Australia during the inquiry period. However, Nervacero only exported a small quantity of goods to Australia, and it did not produce these exported goods in 2021. Nervacero produced these goods between 2017 and 2019.

Nervacero informed the commission that it had exported these goods to Australia to maintain accreditation with ACRS. Nervacero submitted that the Commissioner should not treat these sales as normal commercial sales of the goods.

Date of sale

In its REQ, Nervacero claimed that the order date should be the date of sale, rather than the invoice date. The commission has examined the evidence available, and tested Nervacero's claims. The commission notes that in ADRP Report 80, the ADRP accepted Nervacero's position that its order date should be the date of sale. The commission did not identify any reason to depart from the ADRP's finding in the inquiry. Accordingly, the commission finds that the order date should be used as the date of sale for Nervacero's Australian and domestic sales.

Relevant sales

As stated above, Nervacero claimed that it exported the small volume of goods only for the purpose of maintaining its ACRS accreditation. The commission has no basis to disregard these sales and considers them relevant for determining a preliminary dumping margin. However, the commission considers that this information is not a sufficient basis to recommend that new variable factors be ascertained given the low volume of exports from Nervacero during the inquiry period. The current measures are based on a much larger volume of exports.

³⁶ EPR 601, document no 15.

³⁷ EPR 601, document no 17.

³⁸ EPR 601, document no 20.

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The commission has, however, utilised this information in its assessment of the likelihood of dumping continuing or recurring, as outlined in chapter 8 of this report.

Dumping margin

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

The preliminary dumping margin for the goods exported to Australia by Nervacero for the inquiry period is **33.5%**.

The preliminary dumping margin calculation is at **Confidential Attachment 14**.

7 ECONOMIC CONDITION OF THE INDUSTRY

7.1 Preliminary finding

The commission preliminarily finds that the Australian industry's economic condition exhibited mixed results from 1 January 2016 to 31 December 2021 (the period of analysis).

Following the measures in 2018, the Australian industry demonstrated improved performance in terms of increased selling prices, profit and profitability. Despite these improvements, the Australian industry nevertheless saw a reduction in production and sales volumes, as well as market share, relative to the peaks it achieved in 2019.

The commission has assessed these recent results within the context of changes in supply and demand resulting from the COVID-19 pandemic which impacted Australian industry during the inquiry period. In this context, the commission preliminarily considers that the Australian industry continues to be susceptible to competition from imported goods in the Australian market.

7.2 Approach to injury analysis

An assessment as to whether the expiration of the measures would lead, or would be likely to lead, to a continuation or recurrence of the material injury that the measure is intended to prevent involves a consideration of future outcomes based on an evaluation of the present position.

This chapter considers the economic condition of InfraBuild from 1 January 2016. The analysis is based on verified financial information submitted by InfraBuild as well as data from the ABF import database.

The commission has also assessed the economic condition of Australian industry within the context of supply and demand conditions resulting from the COVID-19 pandemic which impacted Australian industry during the inquiry period.

In terms of supply, various factors related to the COVID-19 pandemic led to increased levels of port congestion and schedule disruption which in turn resulted in longer shipping times and significantly increased costs of shipping.

In terms of demand, the Australian market for rebar expanded dramatically within the inquiry period, driven by government stimulus programs and loosening monetary policy designed to dampen any contractionary effects of the pandemic. This supported increased spending on housing construction and renovation during lockdown where other avenues of spending had been curtailed.

The data and analysis on which the commission has relied to assess the economic condition of the Australian industry is at **Confidential Attachment 2**.

The commission's consideration of whether material injury from dumping would likely continue or recur, if the measures expire, is in Chapter 8.

7.3 InfraBuild's claims

InfraBuild submits that following the measures in March 2018, it has experienced injury in the forms of:

- price suppression (in 2018 and 2019)
- price depression (in 2019 and 2020)
- reduced sales volume across the entire period
- sales revenue (in 2020)
- profit and profitability (2018 and 2019)
- capacity utilisation rates (in 2020)
- capital investment (in 2020)
- research and development expenditure (since 2019)
- productivity (in 2019 and 2020)
- employment levels (since 2020).

7.4 Volume effects

7.4.1 Production volume

Figure 4 demonstrates InfraBuild's production volume across the period of analysis.

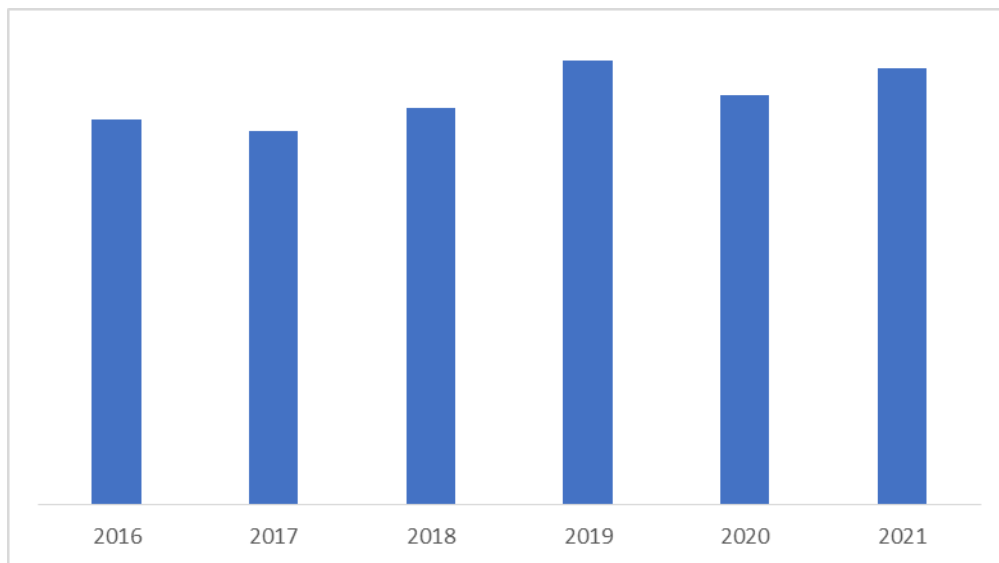


Figure 4 - Production volume (tonnes)

Figure 4 indicates that InfraBuild's production volume improved following the measures. Production volumes subsequently declined during 2020, before improving in the inquiry period. At the conclusion of the inquiry period, production volumes remained lower than the peak achieved in 2019.

7.4.2 Sales volume

Figure 5 demonstrates InfraBuild's sales volume across the period of analysis.

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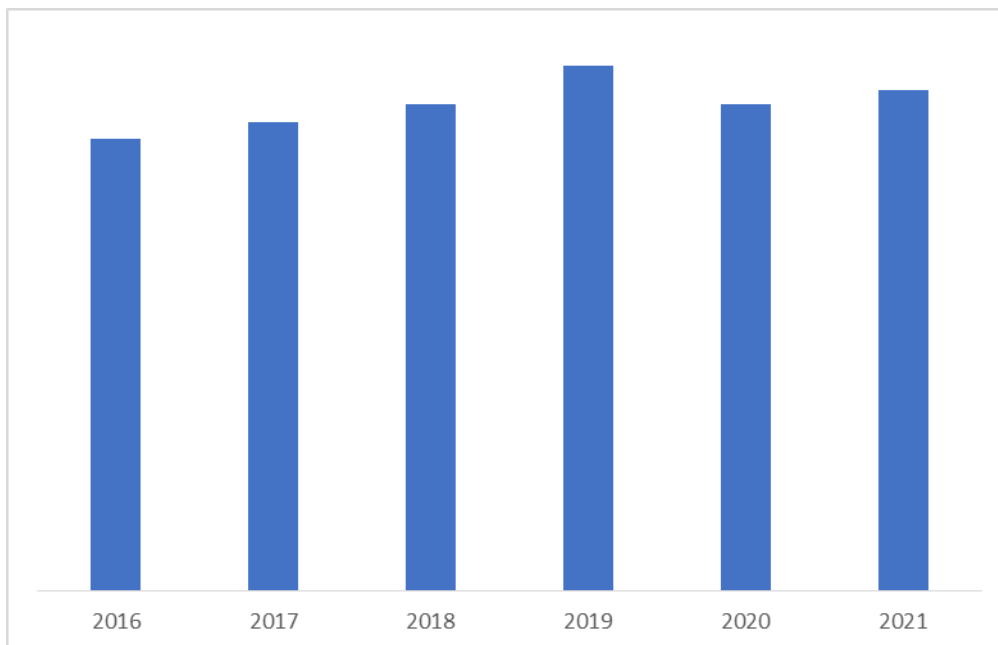


Figure 5 - Sales volume (tonnes)

Figure 5 indicates that InfraBuild's sales volume was increasing until 2019, with a significant boost following the measures in 2018. Sales volumes subsequently declined during 2020, before improving in the inquiry period. At the conclusion of the inquiry period, sales volumes remained lower than the peak achieved in 2019.

7.4.3 Market share

Table 13 shows the change³⁹ in InfraBuild's market share.

	2016	2017	2018	2019	2020	2021
Market share	100	98.1	99.0	108.4	105.8	95.0

Table 13 - Change in market share

Table 13 indicates that InfraBuild's market share peaked in 2019 and has decreased in each year thereafter.

7.4.4 Conclusion – volume effects

Based on the available information, the commission considers that InfraBuild has experienced a deterioration in its economic performance in the form of reduced market share during the inquiry period. The commission does not consider that InfraBuild has experienced a deterioration in its economic performance in the form of reduced production or sales volumes during the inquiry period.

³⁹ A value index is a measure (ratio) that describes change in a value relative to its value in the base year. The base year is FY 2016.

7.5 Price effects

7.5.1 Price depression and suppression

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs.

Figure 6 shows InfraBuild's unit selling price and unit cost to make and sell (CTMS) across the period of analysis.

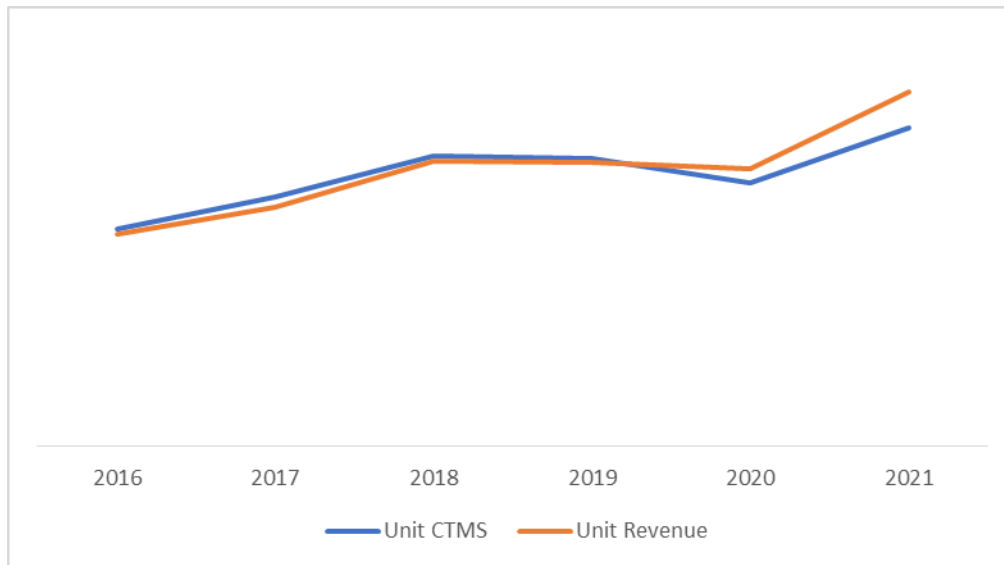


Figure 6 - Unit selling price and unit CTMS (AUD/tonne)

Figure 6 indicates that:

- prior to, and during 2019, InfraBuild was operating with a negative margin between unit selling prices and unit CTMS, meaning that it was unable to increase prices to a level that would recover the costs of manufacture and sale
- unit selling prices and unit CTMS declined across the period 2018 to 2020
- during the period 2019 and 2020, InfraBuild's unit selling prices reduced at a lesser rate than unit CTMS, such that the margin between InfraBuild's unit selling price and unit CTMS became positive during 2019
- while unit CTMS increased during the inquiry period, InfraBuild was able to increase unit selling prices at a greater rate, leading to a significant improvement in the margin between the two.

7.5.2 Conclusion – Price effects

Based on the available information, the commission does not consider that InfraBuild has experienced a deterioration in its economic performance in the form of price depression or price suppression during the inquiry period. The commission considers that InfraBuild has, however, experienced price depression between 2018 and 2020 and price suppression until a positive margin was achieved during 2019.

7.6 Profit effects

7.6.1 Profit and profitability

Figure 7 shows InfraBuild's total profit and profitability as a percentage of revenue across the injury analysis period.

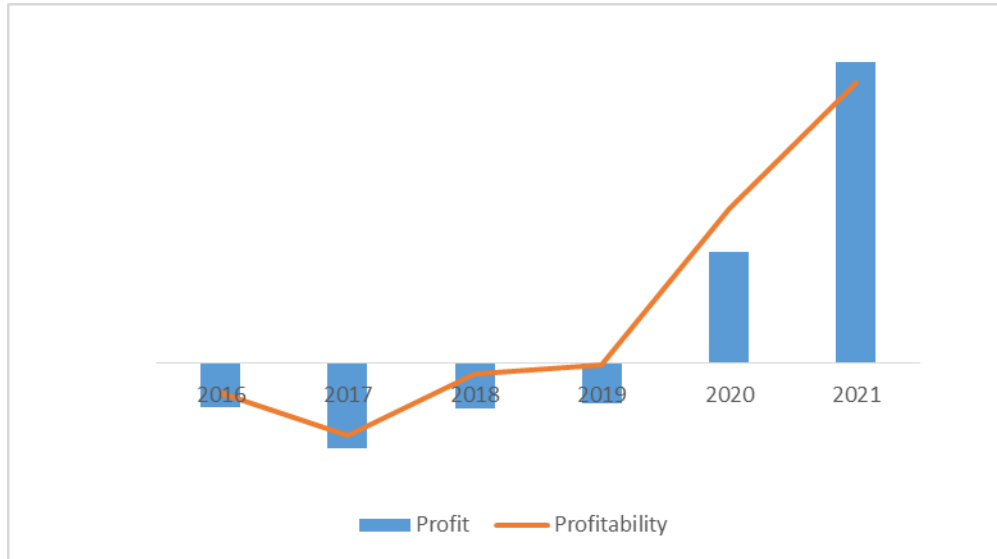


Figure 7 - Profit and profitability (%)

Figure 7 indicates that InfraBuild was making a loss for the period up until 2020, with the largest losses in 2017. InfraBuild returned to profit during 2020, and experienced further growth in profit and profitability during the inquiry period. This improvement coincides with both a higher volume of sales and a stronger margin between selling prices and CTMS.

7.6.2 Conclusion – Profit effects

Based on the available information, the commission notes that InfraBuild was loss making until 2020, however does not consider that InfraBuild has experienced a deterioration in its economic performance in the form of reduced profit and profitability during the inquiry period, nor in the period since the measures.

7.7 Other economic factors

As part of its application, InfraBuild provided data in relation to a range of other economic factors that may also be indicative of injury to the Australian industry. InfraBuild provided data relating to the production and sale of like goods for the period covering calendar years 2017 to 2021 for the following factors:

- assets
- capital investment
- revenue
- return on investment
- production capacity utilisation
- employment
- wages

SEF 601 – Steel reinforcing bar – Greece, Indonesia, Spain, Taiwan and Thailand

- productivity
- closing stock
- inventory turnover
- accounts receivable turnover.

7.7.1 Assets

Table 14 shows the change⁴⁰ in the value of InfraBuild's assets used in the production of like goods.

	2017	2018	2019	2020	2021
Assets	100	98	124	107	116

Table 14 - Value of assets

Table 14 indicates that InfraBuild's assets used in the production of like goods has fluctuated, with a peak in 2019. At the conclusion of the inquiry period the value of assets used in the production of like goods remained lower than the peak achieved in 2019.

7.7.2 Capital investment

Table 15 shows the change in InfraBuild's capital investment.

	2017	2018	2019	2020	2021
Capital investment	100	104	185	74	196

Table 15 - Capital investment

Table 15 indicates that with the exception of 2020 capital investment increased in each year.

7.7.3 Revenue

Table 16 shows the change in InfraBuild's revenue from the sale of like goods.

	2017	2018	2019	2020	2021
Revenue	100	124	133	121	158

Table 16 - Revenue

Table 16 indicates that with the exception of 2020 revenue increased in each year.

7.7.4 Return on investment

Table 17 shows the change in InfraBuild's return on investment (ROI).

	2017	2018	2019	2020	2021
ROI	100	142	163	314	479

⁴⁰ A value index is a measure (ratio) that describes change in a value relative to its value in the base year. The base year is FY 2017.

Table 17 - Return on investment

Table 17 indicates that InfraBuild's ROI has improved in each year. The commission notes that ROI was negative until 2020, after which ROI has improved significantly.

7.7.5 Capacity utilisation

Table 18 shows the change in InfraBuild's production capacity utilisation.

	2017	2018	2019	2020	2021
Capacity utilisation	100	102	116	108	115

Table 18 - Capacity utilisation

Table 18 indicates that InfraBuild's capacity utilisation improved until 2019. Capacity utilisation decreased in 2020 before improving during the inquiry period. At the conclusion of the inquiry period capacity utilisation remained lower than the peak achieved in 2019.

7.7.6 Employment

Table 19Table 19 - Employment numbers

shows the change in the number of employees employed in the production of like goods.

	2017	2018	2019	2020	2021
Employment	100	103	107	92	94

Table 19 - Employment numbers

Table 19Table 19 - Employment numbers

indicates that the number of employees increased until 2019, after which time employee numbers decreased. At the conclusion of the inquiry period employee numbers remained lower than the peak achieved in 2019.

7.7.7 Wages

Table 20 shows the change in InfraBuild's wages bill relating to the production of like goods.

	2017	2018	2019	2020	2021
Wages	100	116	125	118	117

Table 20 - Wages

Table 20 indicates that, consistent with movements in employee numbers, wages increased until 2019, after which time wages decreased. At the conclusion of the inquiry period wages remained lower than the peak achieved in 2019.

7.7.8 Productivity

Table 21Table 21 - Productivity

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shows the change in InfraBuild's productivity, measured in terms of output in tonnes per shift.

	2017	2018	2019	2020	2021
Tonnes per shift	100	100	96	96	102

Table 21 - Productivity

Table 21Table 21 - Productivity

indicates that productivity has been reasonably constant, with an improvement during the inquiry period such that productivity was at the highest level achieved.

7.7.9 Closing stock

Table 22 shows the change in InfraBuild's closing stock.

	2017	2018	2019	2020	2021
Closing stock	100	136	100	62	113

Table 22 - Closing stock

Table 22 indicates that closing stocks were depleted in 2020 however increased during the inquiry period.

7.7.10 Inventory turnover

Table 23 shows the change in InfraBuild's inventory turnover.

	2017	2018	2019	2020	2021
Inventory turnover	100	119	127	167	205

Table 23 - Inventory turnover

Table 23Table 23 - Inventory turnover

indicates that InfraBuild's inventory turnover has increased in each year.

7.7.11 Receivables turnover

Table 24 shows the change in InfraBuild's receivables turnover.

	2017	2018	2019	2020	2021
Receivables turnover	100	108	94	80	71

Table 24 - Receivables turnover

Table 24Table 24 - Receivables turnover

indicates that InfraBuild's receivables turnover peaked in 2018 and has since reduced in each year.

7.8 Conclusion

Following the measures in 2018, the Australian industry demonstrated improved performance in terms of increased prices, profit and profitability. These improvements were magnified during the inquiry period, due to the favourable trading conditions resulting from the COVID-19 pandemic.

Despite these improvements, the Australian industry nevertheless saw a reduction in production and sales volumes relative to the peaks achieved in 2019. In addition, the Australian industry experienced a decrease in its market share during the inquiry period. Exports captured around 90% of the growth in the size of the Australian market during the inquiry period.

Noting the Australian industry's deteriorating market share in a rapidly growing market, the commission preliminary considers that the Australian industry continues to be susceptible to competition from imported goods in the Australian market.

Chapter 8 addresses whether the expiration of measures would lead, or would be likely to lead, to a continuation or recurrence of the material injury that the measures are intended to prevent.

8 LIKELIHOOD THAT DUMPING AND MATERIAL INJURY WILL CONTINUE OR RECUR

8.1 Preliminary finding

The Commissioner is preliminarily satisfied that the expiration of the measures for Greece, Indonesia, Spain (Nervacero) and Taiwan (Power Steel) would likely lead to a continuation of, or a recurrence of, dumping and the material injury that the measures are intended to prevent.

The Commissioner is preliminary satisfied that the expiration of the measures for Thailand would not likely lead to a continuation of, or a recurrence of, dumping and the material injury that the measures are intended to prevent.

8.2 Legislative framework

Section 269ZHF(2) provides that the Commissioner must not recommend that the Minister take steps to secure the continuation of measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that measures are intended to prevent. As noted in the Manual, the commission considers 'likely' to mean more probable than not.⁴¹

The commission notes that the assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires a forward-looking assessment, including an assessment of a hypothetical situation. The Anti-Dumping Review Panel, which supports this view, noted that the commission must consider what would happen (or would be likely to happen) in the future should a certain event, being the expiration of the measures, occur. The Commissioner must nevertheless base his conclusions and recommendations on facts.⁴²

8.3 Australian industry's claims

In its application, the Australian industry made the following claims:

- Exports have continued at material volumes from the subject countries for most of the period following the measures.
- Strong demand for rebar in Australia makes it an attractive destination for exporters.
- Exporters from the subject countries have maintained their distribution networks in Australia.

⁴¹ Anti-Dumping Commission, [Dumping and Subsidy Manual](#), December 2021, Australian Government, 2021, p 136.

⁴² Anti-Dumping Review Panel (2016), [Anti-Dumping Review Panel Report No. 44](#), Australian Government, 2016.

- Exporters from the subject countries have excess export capacity and crude steel making capacity, and are expected to continue to seek other markets including Australia.
- The Australian market is highly price sensitive and the Australian industry's prices into the Australian market are mainly influenced by price competition from importers.

The Australian industry therefore claims that it is reasonable to expect that the expiration of the measures would lead, or would be likely to lead, to a continuation of the dumping and the material injury that the measures are intended to prevent.

8.4 Are exports likely to continue or recur?

8.4.1 Preliminary finding

The commission considers that if the measures were to expire, exports from the subject countries would likely continue or recur.

8.4.2 Introduction

For the Commissioner to be satisfied that the expiration of the measures would lead, or would likely lead, to a continuation of, or recurrence of dumping, it would need to be demonstrated that exports are likely to continue or recur. This is particularly relevant to this inquiry given that export volumes from the subject countries decreased significantly, and for some countries ceased, following the measures.

The commission found that exports continued in the inquiry period for Nervacero from Spain and Millcon from Thailand. Exports did not continue for Greece, Indonesia and Taiwan (Power Steel) in the inquiry period.

To determine whether exports from the subject countries would likely continue or recur should the measures expire, the commission had regard to:

- import volumes from the subject countries and non-subject countries, including the pattern of trade before and after the measures
- import prices of the goods from the subject countries relative to other participants in the Australian market
- whether exporters from the subject countries have maintained (or could quickly re-establish) distribution channels or links into the Australian market
- current and historical ACRS accreditation holders
- steel production capacities and capacity utilisation for the subject countries, including any investments to increase production capacity
- exporters' dependence on export markets, including trade measures in other countries and the effect on exports of the goods, including the likelihood of trade diversion to Australia.

The following sections of the SEF outline the commission's assessment in respect of each of the above considerations.

8.4.3 Import volumes and patterns of trade

The commission assessed import volumes from all sources, including the subject countries, from 1 January 2013. The commission also assessed the pattern of trade before and after the measures to assess the effect the measures had on import volumes.

Figure 8 below shows the annual import volumes from:

- each of the subject countries⁴³
- countries subject to measures from INV 264⁴⁴ and Investigation 300 (INV 300)⁴⁵ and
- all other exports (not subject to any measures).

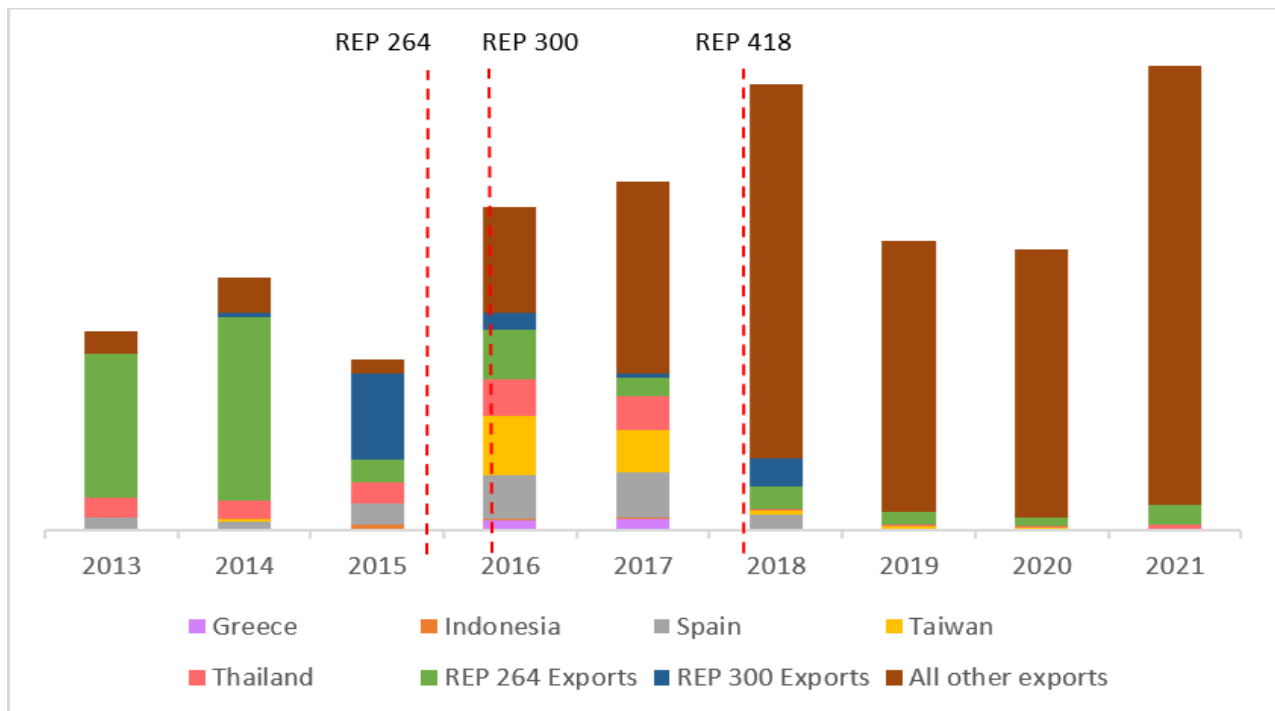


Figure 8 - Import volumes (tonnes)

Figure 8, and the underlying data supporting it, indicates that:

- following measures from INV 264 in November 2015, import volumes from those exporters reduced significantly, and were replaced by import volumes from the subject countries and other sources, most notably China

⁴³ Measures were applied to the subject countries in March 2018.

⁴⁴ Measures were applied to exporters from Korea, Singapore, Spain (except Nervacero) and Taiwan (except Power Steel) in November 2015, following INV 264.

⁴⁵ Measures were applied to exporters from China in April 2016 following INV 300.

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- following measures on China in 2016, import volumes from China reduced significantly, and were replaced by import volumes from the subject countries and other sources
- following the measures in 2018, import volumes from the subject countries reduced significantly, such that from 2019 onwards, 94.7% of import volumes are from other sources (not subject to any measures).

The commission's analysis demonstrates that measures have influenced import volumes and patterns of trade in the Australian market. The commission considers that the changes in the pattern of trade are a direct result of the price sensitivity in the Australian market. Exporters subject to measures have generally only exported significant volumes when at dumped prices, due to the price advantage from dumping. The fact that new supply sources have quickly emerged following measures indicates that Australia is an attractive market for exporters of rebar.

The commission considers that if the measures were to expire, the subject country exporters would gain a price advantage from dumping currently prevented by the measures.

Further, given the demonstrated ease at which supply sources have changed in the past, it is likely that import volumes for the subject countries would increase if the measures expire.

Submission from the Government of Spain

In its submission, the Government of Spain pointed to the following reasons as contributing factors for the decline in export volumes to Australia:

- The volume of exports from Nervacero, and Spain overall, have diminished over recent years due to strong demand in the Spanish and European markets.
- There has been a significant surge in ocean freight costs, especially from Europe and this has been a disincentive for Nervacero to export to Australia given the much higher transportation costs and lower prices that can be achieved compared to the European markets.
- There has been significant steel price inflation in Europe and Spain since the pandemic and the energy price crisis in 2021, and this has been exacerbated by the Russian invasion of Ukraine.
- This inflationary scenario with a shortage of raw materials in Europe, point to a lack of supply in both Spain/Europe and in Australia, rather than excess supply.

Commission's assessment

The commission acknowledges the points made by the Government of Spain, however not all of the points are supported by the evidence available to this inquiry. In particular,

exports from Europe have not reduced despite higher shipping costs and steel price inflation in Europe.

The commission analysed the exports from 2016 using ABF import data. The commission identified European exports and compared those to exports from other sources, as summarised in Figure 9:

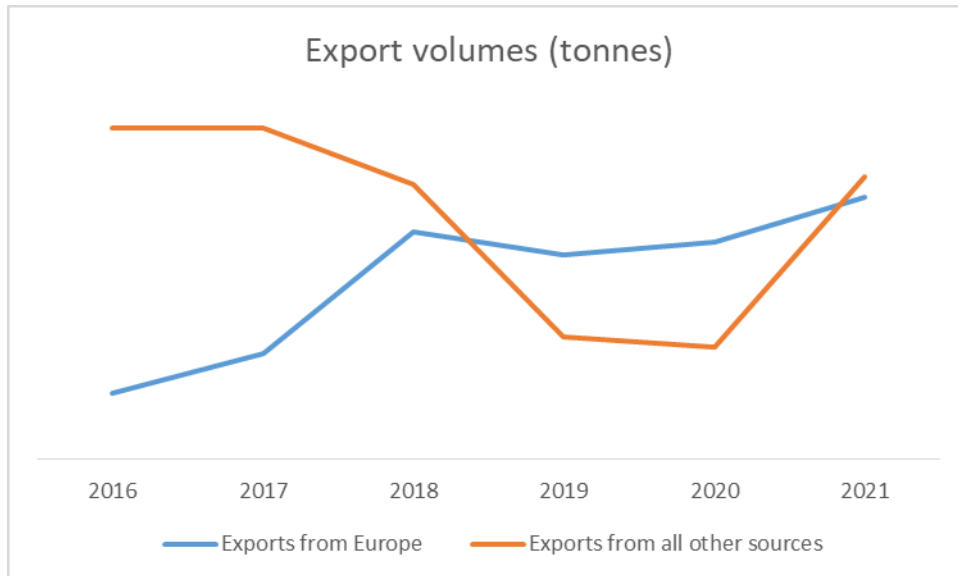


Figure 9 - Exports from Europe and all other sources (tonnes)

Figure 9, and the data underlying it, indicates that European exports have continued to increase and are a significant proportion of total exports.

This indicates that the Australian market remains an attractive destination for European exporters despite the points made by the Government of Spain regarding increased costs of shipping and steel price inflation in Europe.

At a more granular level, the commission observed that following the measures, Nervacero from Spain (which is part of the CELSA group) significantly reduced its export volumes. A Polish exporter from the CELSA group, who is not covered by any measures, commenced exporting from Poland. This indicates a change of supplier within Europe by the CELSA group.

The commission considers that the measures have contributed to exports from Spain (Nervacero) significantly reducing in recent years.

8.4.4 Distribution links to the Australian market

The commission considers that if the measures were to expire, importers (particularly steel traders) supplying the Australian market would be able to readily re-establish trade relationships with exporters from the subject countries.

In its application to continue the measures, InfraBuild claimed that exporters from the subject countries have maintained distribution links to the Australian market. To assess this claim, the commission analysed ABF import data from 1 January 2016.

In INV 418 which led to the measures, the commission established that the 4 largest importers from the subject exporters accounted for:

- 76% of the volume of imports from those exporters
- 52% of the total volume of imports from all sources
- 15% of the total Australian market by volume.

During the inquiry period, these same importers (taking into account corporate acquisitions or name changes since INV 418) accounted for:

- 46% of the total volume of imports from the subject countries, noting that imports have reduced
- 50% of the total volume of imports from all sources
- 17% of the total Australian market by volume.

It is evident from this analysis that these importers remain significant participants in the Australian market.

As detailed in section 8.4, importers have switched their sources of supply in response to the measures. This observed behaviour suggests that importers can quickly switch between sources of supply, and can source rebar from different suppliers and countries, including suppliers and countries where they might not have previously sourced goods. This is particularly so for steel traders that operate under tight trading margins. For steel traders, price is the primary factor in purchasing decisions, noting that these steel traders are not bound by exclusive or long-term contracts and typically source rebar from multiple suppliers or countries.

The commission considers that the measures had a dampening or restraining effect on imports. This is because the measures, in a highly price sensitive market, have lessened the competitive advantage that importers obtained from sourcing goods at dumped prices, incentivising importers to seek alternative, cheaper sources of supply.

The commission considers that if the measures were to expire, importers (particularly steel traders) supplying the Australian market would likely quickly re-establish trade relationships with exporters from the subject countries at dumped prices. Therefore, should the measures expire, the commission considers that exports from the subject countries would likely continue or recur.

In relation to Spain, the commission also notes that two related parties that form part of the CELSA Group in addition to Nervacero hold an ACRS accreditation. Exports supplied by those related parties could instead return to being supplied by Nervacero given the CELSA Group's past practice of supplying rebar from mills without measures.

8.4.5 Likely future supply and demand conditions in the Australian market

As detailed in chapter 5, the Australian market during the inquiry period was characterised by strong growth in demand against a backdrop of significant disruption to the global supply chain.

The commission considers that domestic demand for rebar is likely to moderate given that the fiscal stimulus applied during the pandemic has dissipated. Further, monetary policy

settings have recently been tightened in an attempt to curb the burgeoning inflationary pressures caused by the unusual combination of supply and demand factors that emerged during 2020 and 2021, and will likely lead to a decrease in building and construction activity. Despite the likely moderation in demand for rebar, the commission considers that Australia will remain an attractive market for exporters, as has historically been the case.

In terms of supply, the commission expects that in the medium to long-term, freight costs would likely return to lower levels than those seen during the inquiry period, as the rebalancing in demand will address issues of port congestion and container movements. In time, export supply will likely be as cost effective and timely as had been the case prior to the COVID-19 pandemic. With supply constraints moderating the commission considers that imports will continue to account for a significant portion of the Australian market.

The commission therefore considers that the conditions of competition in the Australian market are such that if the measures expired exports from the subject exporters would likely continue of recur.

8.4.6 ACRS accreditation

As set out in section 3.5, imports in the Australian market generally originate from mills that hold ACRS certification. ACRS certification is for a 12 month period and each exporter must demonstrate to ACRS that it has maintained conformity with the standards to be re-certified each year.

The commission reviewed the ACRS certification register and found that the following subject country exporters are currently certified:

- PT Dexin Steel (Indonesia)⁴⁶
- Nervacero (Spain)
- Millcon (Thailand)

The following exporters from the subject countries voluntarily relinquished their ACRS certification:

- Sidenor (relinquished as at 31 December 2019)
- Power Steel (relinquished as at 1 January 2022)
- Tata Steel SCSC (relinquished as at 31 December 2019)
- Tata Steel (Thailand) – NTS (relinquished as at 31 December 2019).

Given the requirements placed on exporters to maintain ACRS certification, the commission considers it reasonable to conclude that exporters with ACRS certification intend to continue to supply the Australian market.

In relation to those exporters who have voluntarily relinquished ACRS accreditation, InfraBuild submitted that it can be re-activated. InfraBuild referenced the commission's

⁴⁶ InfraBuild made two submissions regarding PT Dexin Steel, EPR 601 documents 21 and 22 refer.

findings in REP 560 where a Chinese exporter of rebar quickly reactivated its ACRS accreditation following non-conformance.

The commission accepts that exporters from the subject countries could reactivate ACRS accreditation and that voluntary relinquishment does not equate to a permanent barrier to entry. Whilst the ACRS accreditation process is an additional hurdle in exporting the goods to Australia and involves certain fees, the voluntary relinquishment of ACRS accreditation alone is not a definitive indication that an exporter has no intention of exporting when the conditions suit, i.e. when there are no measures.

The commission observes that exporters from all subject countries maintained ACRS accreditations prior to INV 418 when the commission assessed dumping that led to the measures. The measures have likely led certain exporters to temporarily cease exporting and relinquishing their ACRS accreditation, which makes commercial sense given there are annual fees and annual certification requirements to maintain the accreditation.

The commission also notes that SCSC and NTS voluntarily relinquished their ACRS accreditation in 2019. However, those two entities have now undergone a corporate restructure resulting in a new entity, TSMT. TSMT submitted a REQ to the current inquiry. If TSMT does export in the future, it is likely that it would apply for ACRS accreditation.

Based on these considerations the commission considers that exporters from the subject countries who hold or can readily obtain ACRS accreditation are in a position to supply the Australian market in the future.

8.4.7 Excess production capacity of the subject exporters

The commission analysed the excess production capacity for each of the exporters that submitted capacity utilisation data for the inquiry period. The commission determined that excess capacity ranged between 7% and 53%.

The commission did not receive REQs from the majority of subject country exporters who have previously exported to Australia, and therefore does not have production capacity data for those exporters.

In its application InfraBuild provided information regarding surplus production capacity in each of the subject countries. For example, InfraBuild submitted third party export statistics for Greece. InfraBuild submits that total exports have decreased from Greece in recent years which indicates increased capacity for exporters given there has been no change in nominal crude steelmaking capacity since 2016 (3.9 million metric tonnes) according to an Organisation for Economic Co-operation and Development report on the latest developments in steelmaking capacity in September 2021 (OECD Report).⁴⁷ No submissions have been received which refute the information provided by InfraBuild. Accordingly, the commission has had regard to that information in this SEF.

⁴⁷ <https://www.oecd.org/industry/ind/latest-developments-in-steelmaking-capacity-2021.pdf> refers.

Based on the information provided by cooperating exporters, and the information in InfraBuild's application, the commission considers that subject exporters maintain excess production capacity.

The commission's conclusion is supported at a macro-economic level by the OECD Report. Key findings contained in that report include:

- global crude steelmaking capacity increased by 37.6 million tonnes, or 1.6%, in 2020 despite extremely weak market conditions, with Asia accounting for the vast majority of that growth
- due to falling production and demand for steel, the global capacity increase led to a worsening excess capacity situation for the world steel industry in 2020 (capacity utilisation fell from an estimated 76.5% to 74.5%)
- capacity is expected to continue expanding over the next few years, with investment projects totalling 45 MMT of additional capacity currently underway and a further 68.7 MMT in the planning stages, which in total could add 5% to global steelmaking capacity
- excess capacity pressures have emerged, and are getting worse, in regions that previously had strong steel demand and positive prospects for market growth, including Southeast Asia where foreign investment, particularly from China, supports capacity growth.

Based on this analysis, the commission considers that excess production capacity exists in the domestic markets of the subject countries.

8.4.8 Availability of other markets – impact of trade measures in other jurisdictions

InfraBuild provided details of trade remedies applying to rebar in other jurisdictions (or comparable goods where the definitions of the goods vary from jurisdiction to jurisdiction).

InfraBuild referred to the following:

- On 3 April 2017, the Canada Border Services Agency (CBSA) concluded a reinvestigation concerning rebar exported from Spain which found a dumping margin of 39.6% in respect of Nervacero.⁴⁸
- On 4 May 2018, the CBSA concluded a reinvestigation concerning rebar exported from Taiwan which found a dumping margin of 108.5% for all other exporters (except for Tung Ho Steel Enterprise Corporation).⁴⁹
- On 5 October 2018, as a result of a sunset review, the United States Department of Commerce (DOC) found that revocation of the anti-dumping measures on rebar

⁴⁸ Certain Concrete Reinforcing Bar: Notice of Final Determination (2017) <https://www.cbsa-asfc.gc.ca/sima-lmsi/ie/rb22016/rb22016-nf-eng.html> (accessed 24 January 2020)

⁴⁹ Canada Border Services Agency (2018), Certain Concrete Reinforcing Bar: Notice of Conclusion of Re-investigation.

from Indonesia would likely lead to a continuation or recurrence of dumping at 71.01% dumping margins.⁵⁰

- On 2 October 2020, as a result of an administrative review, DOC found that Power Steel exported rebar to the US at 3.3% dumping margins.⁵¹
- On 4 June 2021, the Canadian International Trade Tribunal found that the dumping of rebar exported from Indonesia caused injury to the domestic industry at 21.8% dumping margins.⁵²

In addition there have been two significant developments in respect of global trade remedies relating to the goods following the measures. In 2018, the USA imposed tariffs and quotas under section 232 of the *Trade Expansion Act of 1962* (USA). In 2021 the European Union extended safeguards measures on certain steel products for a further 3 years until 2024.

The commission considers that the application of trade remedies in other jurisdictions is a factor that influences global trade by altering comparative access to markets. The commission considers that the expiration of the measures may make Australia a comparatively more attractive and accessible market for exports from the subject countries given the prevalence of trade measures against those countries in other jurisdictions.

8.4.9 Conclusion

The commission considers that should the measures expire, exports from the subject countries are likely to continue or recur on the basis that:

- the Australian market remains an attractive destination for exporters
- the Australian market is highly price sensitive and the measures have removed the price advantage from dumping previously enjoyed by these exporters, which has coincided with export volumes reducing
- the rebar market is highly fluid, with importers readily changing suppliers based on relative price competitiveness
- those importers that previously sourced rebar from the subject countries remain significant participants in the Australian market
- subject country exporters maintain surplus production capacity, and the global steel market is characterised by significant oversupply
- the favourable conditions of supply and demand seen during the inquiry period resulting from the COVID pandemic are likely to abate, leading to greater competition on price in the future.

⁵⁰ International Trade Administration (2018), Steel Concrete Reinforcing Bars from Belarus, the People's Republic of China, Indonesia, Latvia, Moldova, Poland, and Ukraine: Final Results of Expedited Third Sunset Reviews of the Anti-dumping Duty Orders.

⁵¹ Federal Register / Vol. 85, No. 196 / Thursday, October 8, 2020 / Notices.

⁵² Canada Border Services Agency (2022), Certain concrete reinforcing bar 3: Dumping (Algeria, Egypt, Indonesia, Italy, Malaysia, Singapore, and Vietnam).

The commission's analysis is at **Confidential Attachment 1**.

8.5 Is dumping likely to continue or recur?

8.5.1 Preliminary finding

Based on the analysis outlined in the following sections of the report, the commission considers the evidence before it supports a finding that the expiration of the measures would likely lead to a continuation or recurrence of dumping from the subject countries, except for Thailand.

8.5.2 Introduction

The Manual outlines a number of the relevant factors that the commission considers in assessing whether dumping is likely to continue or recur. Such factors may include exporters' dumping margins, export volumes before and after the measures, the effect of the measures, the level of dumping compared with the level of measures, and any change in those measures (e.g. as a result of a review).⁵³

The commission's view is that the relevance of each factor will vary depending on the nature of the goods and the market into which the goods are sold.⁵⁴ No one factor can necessarily provide decisive guidance, therefore the factors are considered in totality. The following analysis therefore examines a range of factors that the commission considers are relevant to this inquiry.

The commission's analysis is contained in **Confidential Attachment 1**.

8.5.3 Analysis of dumping in the inquiry period

The only exports during the inquiry period were from Spain (Nervacero) and Thailand (Millcon). The commission found that for the inquiry period, the goods exported from:

- Spain (Nervacero) were dumped
- Thailand (Millcon) were not dumped.

As outlined in chapter 6 of this report, the commission determined the following dumping margins for the inquiry period.

Country	Exporter	Dumping margin
Spain	Nervacero	33.5%
Thailand	Millcon	-7.7%

Table 25 - Dumping margins during inquiry period

⁵³ Anti-Dumping Commission, [Dumping and Subsidy Manual](#), December 2021, Australian Government, 2021, p 176.

⁵⁴ Ibid.

8.5.4 Previous dumping margins

Table 26 - Previous dumping margin assessments

details the dumping margins assessed for the subject countries in previous cases.

Country	Exporter	INV 418	Reviews
Greece	Uncooperative and all other exporters	42.1%	NA
Indonesia	Uncooperative and all other exporters	9.3%	NA
Spain	Nervacero	6.3%	NA
Taiwan	Power Steel	4.4%	NA
Thailand	Millcon	9.3%	-0.7%
	Uncooperative and all other exporters	11.9%	NA

Table 26 - Previous dumping margin assessments

Table 26 - Previous dumping margin assessments

and Table 26 show that:

- Exporters from Greece and Indonesia dumped at above negligible levels in INV 418. No reviews of the dumping margins have been undertaken since.
- Nervacero from Spain dumped at above negligible levels in INV 418 and the inquiry period.

Spain (Nervacero)

In relation to Spain (Nervacero), the commission has assessed dumping for 2 separate 12-month periods relevant to the measures. In INV 418, the dumping margin was 6.3% and in the inquiry period the dumping margin was 33.5%.⁵⁵

The past dumping behaviour is a potential indicator that dumping is likely to continue if the measures expire. There have been no periods following the measures where the commission has assessed Spain (Nervacero) to not have dumped the goods.

Additionally, InfraBuild provided evidence available to it in the form of third party paid subscription data to support that the normal value for Spain has recently increased more than the export price. This was demonstrated by the commission's dumping assessment for the inquiry period. The Government of Spain's submission also referred to significant steel price inflation in Spain and Europe, which could have increased the normal value for Spain. The evidence provides a reasonable basis for the commission to conclude that, if exports continue for Spain, those goods are likely to continue to be dumped.

⁵⁵ The commission also notes that dumping was assessed for Nervacero in INV 264 which examined an investigation period of 1 July 2013 to 30 June 2014. INV 264 found a dumping margin of less than 2% for Nervacero.

Greece and Indonesia

In relation to Greece and Indonesia, the commission has assessed dumping in INV 418 and the dumping margin was 42.1% and 9.3% respectively. There have been no subsequent periods following the measures where the commission has assessed dumping for Greek and Indonesian exporters. The past dumping behaviour from INV 418 is a potential indicator that dumping is likely to continue if the measures expire. The commission does not currently have evidence of any market or production changes in Greece or Indonesia that would indicate (as has occurred with Thailand) that exports are likely to recur without dumping,

Additionally, the level of dumping and measures for Greece and Indonesia is a relevant consideration. The level of measures (at a fixed rate of IDD at 42.1% and 9.3% respectively and with a variable component of IDD) is likely to have prevented Greek and Indonesian exporters from competing with other participants in the Australian market without engaging in dumping, noting the price sensitivity in the Australian market. This is a potential indicator that dumping is likely to recur for Greece and Indonesia if the measures were to expire.

Thailand

In relation to Thailand, the commission has assessed dumping for 3 separate 12-month periods relevant to the measures. In INV 418, the dumping margin was 9.3%. Millcon had a dumping margin of negative 0.7% from Review 518.⁵⁶ Millcon's dumping margin for the inquiry period is negative 7.7%.⁵⁷ As such the only positive dumping margin determined for Millcon in the 3 separate 12-month periods, was in INV 418.

In ADRP review 2020/127 Millcon emphasised that its export volumes had reduced significantly due primarily to the emergence of lower priced exports from sources such as Turkey.

The commission has analysed Millcon's landed prices during the inquiry period. This analysis shows that Millcon has become increasingly uncompetitive on price relative to other exporters. Millcon was subject to a 0% fixed rate of duty during the inquiry period. Despite this, Millcon did not dump during the inquiry period. The commission considers that Millcon has not endeavoured to compete on price with the lower price offerings currently in the market, by dumping, in an effort to capture additional sales volumes and market share. This would support a finding that (having not dumped during the inquiry period) Millcon would be unlikely to reduce prices to dumped levels if measures expire.

The commission considers that Millcon's behaviour indicates that dumping has not continued and is not likely to recur.

⁵⁶ Following the outcome of ADRP review 2020/127.

⁵⁷ The commission also notes that dumping was assessed for Millcon in INV 264 which examined an investigation period of 1 July 2013 to 30 June 2014. INV 264 found a dumping margin of 0% for Millcon.

The commission further notes that no other exporters from Thailand have exported immediately prior to and following the measures. Two other Thai exporters previously held ACRS accreditation (SCSC and NTS) and are currently subject to a floor price following accelerated reviews. However, these 2 exporters have not exported at any time since the floor price was implemented. Given the upward movement in prices in the Australian market during the inquiry period, these 2 exporters could have exported to Australia above the floor price, without attracting any IDD. That the 2 exporters did not export at all is indicative, similar to Millcon, that these exporters have elected not to compete on price with the lower price offerings currently in the market, by dumping, in an effort to capture additional sales volumes and market share.

The 2 exporters have now undergone a corporate restructure with a new entity TSMT being created. TSMT provided a REQ to the inquiry. In chapter 6, the commission calculated a normal value for TSMT based on the REQ. TSMT did not export during the inquiry period, therefore there is no dumping margin for TSMT in the inquiry period. To assess whether TSMT would likely have dumped during the inquiry period had it exported, the commission compared TSMT's normal value to Millcon's export price. Millcon is an exporter from the same country and exported goods with the same MCCs that TSMT sold domestically. The commission considers that Millcon's export price may indicate a price at which TSMT could export the goods to Australia. Based on the commission's comparison, it is unlikely that TSMT would have dumped the goods in the inquiry period. On this basis, the commission does not consider that TSMT would likely export at dumped prices if the measures expire.

Accordingly the evidence does not support that dumping is likely to continue or recur for all exporters from Thailand.

8.5.5 Likely future supply and demand conditions in the Australian market

As a general principle, the commission considers that, whilst the presence (or absence) of dumping during the inquiry period may be indicative of future behaviour, this factor alone is not determinative.

As detailed in chapter 5, the Australian market during the inquiry period was characterised by strong growth in demand against a backdrop of significant global supply chain disruptions. This led to rebar price increases in the Australian market, to the benefit of the Australian industry as well as exporters/importers (mainly those not subject to measures).

Based on the available evidence, the commission considers that rebar price increases in the Australian market are unlikely to be sustained following the inquiry period.

As outlined in section 8.4.5 of this report, the commission considers that domestic demand for rebar is likely to moderate given that the fiscal stimulus applied during the pandemic, which has led to an increase in activity within the building and construction industry, has dissipated. Further, monetary policy settings have recently tightened in an attempt to curb the burgeoning inflationary pressures caused by the unusual combination of supply and demand factors that emerged during 2020 and 2021, and will likely lead to a decrease in building and construction activity.

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In terms of supply, the commission expects that in the medium to long-term, freight costs would likely return to lower levels than those seen during the inquiry period, as the rebalancing in demand will address issues of port congestion and container movements. In time, export supply will likely be as cost effective and timely as had been the case prior to the COVID-19 pandemic.

The commission considers that decreasing demand and increasing supply are likely to see a stabilisation of rebar prices toward the long-term average, as shown in Figure 10. With Greece and Spain located within the same region, the commission expects that its prices would follow a similar trend.

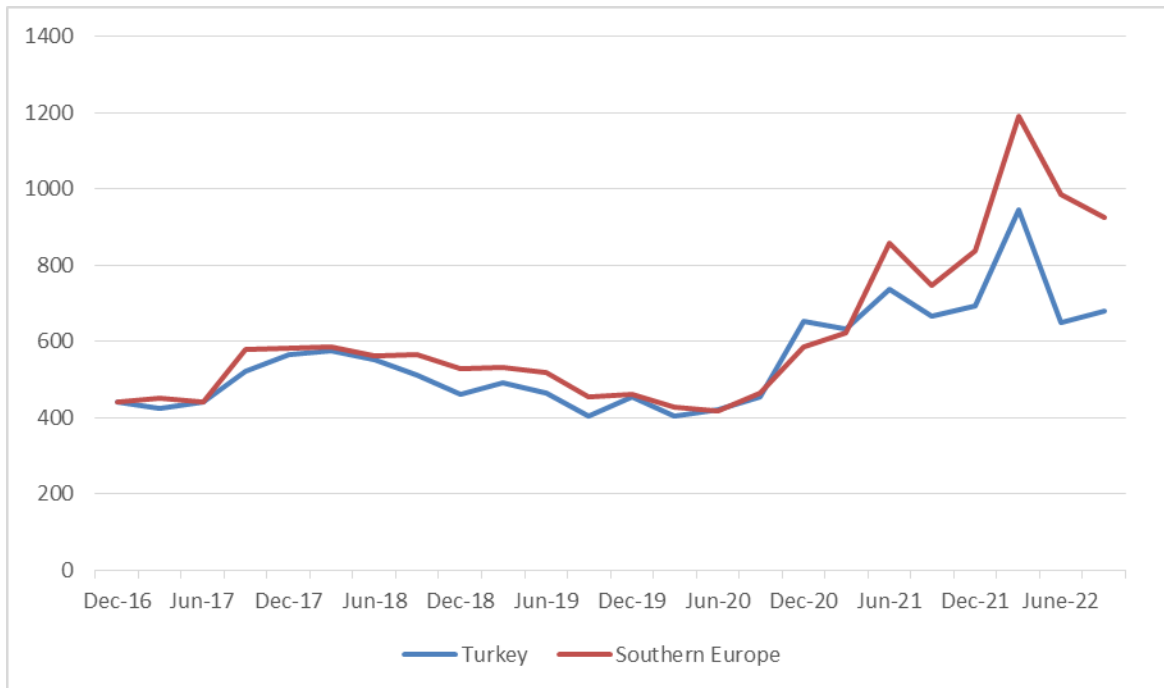


Figure 10 - Rebar FOB Southern Europe prices (US\$/tonne)⁵⁸

Figure 10 indicates that from 2017 to 2020 rebar prices fluctuated within a range between US\$400 to US\$650 per tonne, before peaking at US\$1200 per tonne in the quarter ending March 2022. While still above the long-term average, prices have decreased during the subsequent six months.

As detailed in section 7.5, Australian industry was able to achieve a higher margin between its selling prices and its costs of manufacture and sale during the inquiry period. The commission considers this improvement was in part due to a shift in relative price competitiveness within the Australian market - due to the increase in the landed price of imports from all sources caused by the increased cost of shipping, Australian industry became relatively more competitive on price and was able to achieve higher average selling prices. The commission considers that this shift in relative price competitiveness may incentivise exporters to reduce prices in the future in order to maintain or increase market share in a cooling market.

⁵⁸ Prices series for rebar sourced from Bloomberg under subscription (STS3RBFB and STTRBFB).

The commission considers that if the measures expired, dumping would likely continue or recur as exporters reduce prices.

8.5.6 Conclusion

The commission considers it is likely that future exports of the goods by exporters subject to the inquiry, other than those from Thailand, will be dumped, on the basis that:

- dumping occurred during the inquiry period for Nervacero
- the commission's pattern of trade analysis shows the highly price sensitive nature of the Australian market, and that the subject exporters have been more competitive when exporting at dumped prices
- the significant increase in export prices during the inquiry period is unlikely to be sustained as the effects of the COVID pandemic on supply and demand recede and the Australian market normalises.

8.6 Is material injury likely to continue or recur?

The commission considers that the expiration of the measures for the subject countries, other than Thailand, would be likely to lead to a continuation or recurrence of the material injury that the measures are intended to prevent.

To inform its consideration, the commission has assessed the likely effect on price, volume and profits if the measures were to expire, as outlined in the following sections.

8.6.1 Likely effect on prices

The commission considers that the Australian-produced goods and the imported goods have similar end uses, meet similar quality specifications and standards, are sold to the same types of customers and compete directly with each other in the same market segments. Previous investigations and inquiries by the commission indicate that the rebar market is a commodity market and that price is a major factor in customers' purchasing decisions.⁵⁹

To inform its consideration of the likely effect on prices if the measures expired, the commission has analysed:

- landed duty paid prices of imports from all sources during the inquiry period and
- changes in the patterns of trade following the measures.

Landed duty paid import prices

Noting the small volume of exports from the subject exporters during the inquiry period, the commission used ABF import data to analyse landed duty paid prices of all imports into the Australian market.

⁵⁹ Investigations 264 and 418, Continuation Inquiries 546 and 560.

The commission identified that around half of all imports into the Australian market were clustered within a 3.5% price range, while around two thirds of imports were within a 6% price range.

The commission considers that this analysis demonstrates that the Australian market is highly price sensitive. The commission considers that to capture sales volumes and market share in a price sensitive market the exporters currently subject to measures would likely seek to export to the Australian market at prices that undercut the existing import offers. This would likely have a deflationary effect on all participants in the market.

Patterns of trade

In section 8.4.3 the commission assessed the import volumes of rebar from all sources, including the subject countries, since 1 January 2013. The commission also assessed the pattern of trade prior to and since the measures in order to assess the relative effects of the measures on the import volumes.

This analysis demonstrates that the measures have influenced patterns of trade in the Australian market. The commission considers that the changes in the pattern of trade that have followed the measures reinforce the price sensitivity in the Australian market, and demonstrate that those exporters subject to measures have only been able to obtain sales volumes and market share when exporting at dumped prices.

The commission considers that if the measures were to expire, the subject country exporters that have ceased exporting to Australia would have no barrier against re-entering the Australian market, and would likely re-enter the market at prices that undercut other exporters as well as Australian industry. This would have a deflationary impact on prices for all participants in the market.

8.6.2 Likely effects on volumes

The commission has analysed the import volumes and the market share of the key market participants since 2013 to inform its consideration of the likely effect on import volumes should the measures expire.

Figure 11 below shows the change in the composition of imports since 2013, market share for Australian industry, the subject countries, other exporters subject to measures, and all other exporters combined.

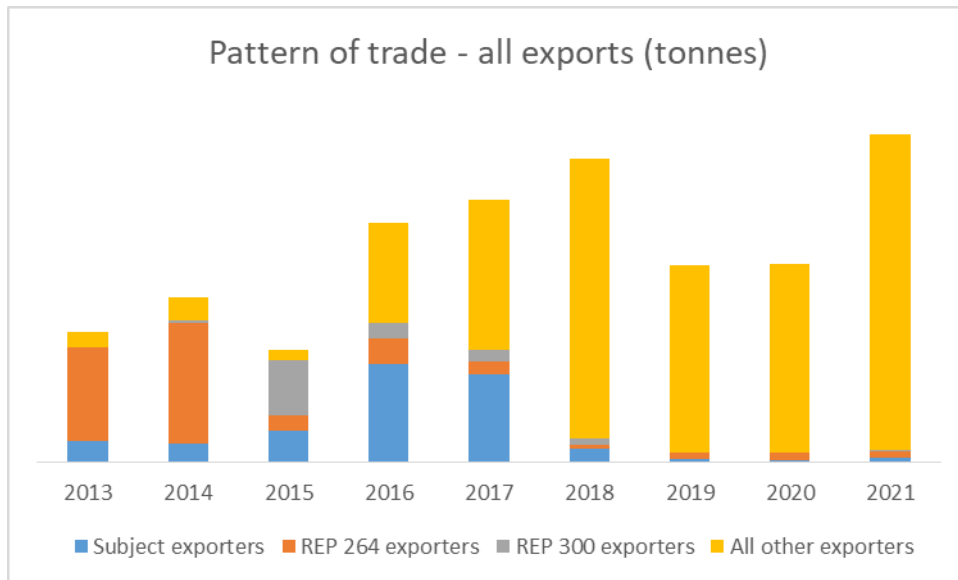


Figure 11 - Composition of imports since 2013 (tonnes)

Figure 11 and supporting data about overall market share, indicates that:

- in 2013, prior to any measures, Australian industry and imports from exporters now subject to measures accounted for around 97% of the Australian market
- following measures from INV 264, imports from those exporters reduced significantly, replaced by imports from subject country exporters, imports from China and imports from all other exporters
- following measures from INV 300, imports from China reduced significantly, replaced by imports from subject country exporters, as well as imports from all other exporters
- at their peak, during 2016, exporters from the subject countries accounted for 12% of the Australian market
- following the measures in 2018, exports from the subject countries reduced significantly, such that by 2021 these exporters retained a negligible share of the Australian market
- from 2019 onward, Australian industry and exports from exporters not subject to measures accounted for around 99% of the Australian market.

The commission considers that measures across the various investigations have coincided with export volumes reducing from those sources.

Measures have, however, provided opportunities for exporters of lower priced goods not subject to measures to build market share by undercutting the price of Australian industry as well as the duty inclusive price of goods subject to measures.⁶⁰

⁶⁰ The commission's assessment is contained in Confidential Attachment 1.

The changes in the pattern of trade resulting from the various investigations evidence that price is the key determinant of purchaser behaviour. As dumped prices have been remedied by measures, volumes have shifted to lower priced sources.

The commission considers that despite the changes in the pattern of trade resulting from the measures, the conditions of competition in the Australian market have not changed since the measures. As such, the commission considers that price will continue to be the key determinant of purchaser behaviour, and would expect that if the measures were to expire dumped goods will again enjoy a competitive price advantage that will see volumes move toward exporters of dumped goods.

The commission considers it likely, based on the pattern of trade analysis conducted, that some of the sales volume captured by the exporters subject to measures will be at the expense of other exporters. Noting the deterioration in the Australian industry's market share during the inquiry period, at a time when the Australian market was expanding, the commission considers it likely that Australian industry will be vulnerable to losing sales volume and market share to dumped exports in the event that measures expire.

8.6.3 Likely effect on profits

Profit and profitability rely on price and volume as inputs. Based on the analysis in sections 8.6.1 and 8.6.2 the Australian industry will be impacted by reduced profits and profitability from dumped exports in the event that measures expire.

8.6.4 Is injury from dumping likely to be material?

The *Ministerial Direction on Material Injury 2012* provides that the materiality of injury caused by a given degree of dumping or subsidisation can be judged differently, depending on the economic condition of the Australian industry suffering the injury. In considering the circumstances of each case, the commission must consider whether an industry that at one point in time is healthy and could shrug off the effects of the presence of dumped products in the market, could at another time, weakened by other events, suffer material injury from the same amount and degree of dumping.⁶¹

The commission's analysis of the economic condition of the Australian industry in the inquiry period and since the measures found that the Australian industry has experienced improved performance in terms of increased selling prices, profit and profitability. Despite these improvements, the Australian industry has nevertheless seen a reduction in production and sales volumes, and market share relative to the peaks achieved in 2019.

The Australian market for rebar expanded by around 18% in the inquiry period compared to the prior 12 months. Significant direct and indirect government stimulus aimed at the construction industry as well as increased consumer spending on home improvements fuelled this growth. This boost in demand coincided with longer shipping times and significantly increased costs of shipping caused by the pandemic. Despite the challenges faced by exporters during the inquiry period, exports captured around 90% of the growth in the size of the Australian market. Australian industry only captured around 10% of the

⁶¹ ADN No. 2012/24.

additional volumes sold into the Australian market, resulting in a significant reduction in its market share. The commission considers that the Australian industry's failure to consolidate its market share in a buoyant market at a time when exporters' supply chains were disrupted by the pandemic is indicative of its ongoing vulnerability to the injurious effects of lower priced competition.

As discussed above, if the measures expired, the commission considers it likely that those exporters currently subject to measures would export at prices necessary to compete with the lowest priced exports from countries currently not subject to measures. Given:

- the highly price sensitive nature of the rebar market
- the existing market share of imports from all sources
- Australian industry's reliance on an IPP model to guide its pricing

The commission considers that an increasing presence of dumped goods in the market from the subject exporters would have a dampening impact on prices across the entire market. The price reductions required of the Australian industry to remain competitive if the measures expired would extrapolate into material reductions in revenue, profit and profitability. A deterioration in these factors is likely to worsen the Australian industry's economic condition in relation to the other economic factors that are in part a function of price and profit.

The commission has also considered the alternative scenario where the Australian industry elects not to reduce prices in order to compete with the dumped exports. As detailed in section 8.6.2 above, the commission considers that if the measures were to expire it is likely that Australian industry would lose market share to exporters from the subject countries.

The commission notes that prior to the measures subject country exporters held around 12% of the Australian market. The commission estimates that, based on the Australian market size and average selling prices during the inquiry period, the Australian market total revenue was over \$1.6 billion. As such, each 1% of market share represents approximately \$16 million in revenue. At this scale, small movements in market share can amount to significant lost revenue.

The *Ministerial Direction on Material Injury 2012* provides guidance on material injury. It directs that there is no threshold amount [of injury] that is capable of general application. Rather, identifying material injury will depend upon the circumstances of each case and will differ from industry to industry and from time to time. Given the nature of this industry, which had a total revenue of over \$1.6 billion in the inquiry period, should the subject countries recapture some of the market share held prior to the measures, the Australian industry would likely experience a material level of injury by way of lost revenue from lost sales and market share. The Australian industry would also experience injury to other economic indices related to volume, such as reduced profit, profitability and reduced capacity utilisation.

Based on the preceding analysis of the likely effect on price and volume if the measures expired, the commission considers that the continuation or recurrence of dumped exports from the subject exporters would put downward pressure on prices in the Australian market. As a consequence Australian industry would likely experience price depression

and/or a material erosion in the improvements made since the measures in relation to sales volumes, sales revenue, profit and profitability.

Accordingly, the commission considers that the expiration of the measures as they relate to exporters from the subject countries would be likely to lead to a continuation of, or a recurrence of, the material injury that the current measures are intended to prevent.

8.7 Factors other than dumping causing injury

As detailed in section 8.4.1 above, since 2019 almost the entirety of exports were from sources not subject to measures. From this, it can be reasonably inferred the Australian industry's economic performance during the inquiry period has not been impacted by the subject countries. Any deterioration of the Australian industry's economic indices during the inquiry period are attributable to imports from other sources in a highly price sensitive market. The commission accepts that the presence of imports from other sources may continue to adversely influence the economic condition of Australian industry. The commission notes however that the Australian industry may be affected by many factors. The commission does not accept that the existence of other potential causes of injury negates the injury that the Australian industry will likely experience as a result of the continuation or recurrence of dumped exports from the subject countries. While the commission accepts that injury caused by other factors should not be attributed to dumping, it is also noted that dumping need not be the sole cause of injury to the industry.⁶²

To that end the commission notes the discussion in section 8.4.1 on import volumes and pattern of trade changes following the measures. The commission's analysis evidenced the price sensitive nature of the Australian market. The contraction in import volumes evident following the measures indicates that the subject exporters were not able to compete in the price sensitive Australian market without the price advantage obtained by exporting at dumped prices.

The commission considers that if the measures expired exporters from Greece, Indonesia, Spain (Nervacero) and Taiwan (Power Steel) would again benefit from a price advantage from dumping. While Australian industry will still face competition from exports from other sources as it did during the inquiry period, the commission considers that the presence of dumped exports from Greece, Indonesia, Spain (Nervacero) and Taiwan (Power Steel) if the measures expired will likely result in a pressure on prices across the entire market, to the material detriment of all participants, including Australian industry.

8.8 Conclusion

8.8.1 Greece, Indonesia, Spain (Nervacero) and Taiwan (Power Steel)

In relation to Greece, Indonesia, Spain (Nervacero) and Taiwan (Power Steel), the Commissioner is satisfied that, if the measures expire:

⁶² Ministerial Direction on Material Injury, 2012.

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- exports would likely continue for Spain (Nervacero) and would recur for Greece, Indonesia and Taiwan (Power Steel)
- dumping would likely continue for Spain (Nervacero) and recur for Greece, Indonesia and Taiwan (Power Steel)
- material injury to the Australian industry would likely recur.

As a result, the Commissioner is satisfied that the expiration of the measures in relation to Greece, Indonesia, Spain (Nervacero) and Taiwan (Power Steel), would lead, or would be likely to lead, to a continuation of the material injury that the measures are intended to prevent.

8.8.2 Thailand

The Commissioner is satisfied that exports from Thailand would likely continue or recur, if the measures expire. However, the Commissioner is not satisfied that dumping from Thailand would likely continue or recur.

The Commissioner accepts that, should the measures expire, it is possible that exporters from Thailand *may* export at dumped prices. However, the Commissioner is not satisfied on the evidence available that this is *likely*.

As a result, the Commissioner is not satisfied that the expiration of the measures as they relate to exporters from Thailand, would lead, or would be likely to lead, to a continuation of the material injury that the measures are intended to prevent.

8.8.3 Proposed recommendation

Based on the above conclusions, the Commissioner proposes to recommend to the Minister that:

- the Minister take steps to secure the continuation of the measures for Greece, Indonesia, Spain (Nervacero) and Taiwan (Power Steel),
- the measures cease to apply to Thailand.

9 VARIABLE FACTORS AND INTERIM DUMPING DUTY METHOD

9.1 Variable factors

As detailed in chapter 8.4, there were no exports of the goods to Australia from Greece, Indonesia (other than by exempt exporters) and Taiwan (Power Steel) during the inquiry period.

There were exports of the goods from Spain (Nervacero) and Thailand (Millcon only) during the inquiry period. However:

- The goods from Spain were in low volumes and Nervacero claims that these exports were made only for the purpose of maintaining its ACRS accreditation. The commission utilised this information in its assessment of the likelihood of dumping continuing or recurring, as outlined in chapter 8 of this report. However, the Commissioner considers that this information is not a sufficient basis for the Commissioner to recommend that the Minister ascertain new variable factors due to the low volume of exports from Nervacero.
- The goods exported by Millcon from Thailand were not dumped. There were no other exports of the goods from Thailand and the only other known potential exporter from Thailand is TSMT who the commission considered is unlikely to dump if the measures expire.

Accordingly, the commission does not have sufficient contemporary information to recommend that the Minister change the current export price, normal value and non-injurious price relevant to the dumping duty notice.

The commission recommends that the Minister not alter the variable factors. Accordingly, should the Minister decide to secure the continuation of the measures, the dumping duty notice will remain unaltered.

9.2 Interim dumping duty method

As the Commissioner recommends that the dumping duty notice remain unaltered, the Commissioner recommends that the method for working out the amount of IDD on exports from the subject countries remains unaltered.

APPENDIX 1 – ACRS ACCREDITATION

Background

ACRS⁶³ certifies steel reinforcing, steel prestressing, and structural steels manufacturers and suppliers, providing conformity and traceability validation to Australian and New Zealand Standards.

The ACRS two-stage certification process give users assurance of impartial, expert certification. All ACRS assessments and reviews are undertaken by its own qualified and experienced metallurgists and engineers. They conduct eight areas of review on the conformity of steel products to some nineteen applicable standards.

ACRS certification is for a 12 month period and each exporter must demonstrate to ACRS that it has maintained conformity with the standards in order to be re-certified each year.

Whilst not compulsory, ACRS certification is a generally preferred minimum market requirement for the supply of rebar into the Australian market. Steel mills with ACRS certification are subject to the manufacturing and testing processes prescribed by ACRS to meet the requirements of the applicable standards. Imported rebar sold in the Australian market generally originates from mills that are ACRS certified.⁶⁴

Application process

The application process requires an applicant to complete an application form, provide relevant information, pay the assessment fee for each site and type of certification and complete a Certification Agreement.

Fees

There is an assessment fee and a certification fee. As an example, a mill with one site seeking a full assessment would incur costs of AU\$19,800 for assessment and AU\$4,400 for certification. The ACRS fee schedule is included below.

⁶³ <https://www.steelcertification.com>

⁶⁴ [REP 560](#)

SCHEDULE OF ASSESSMENT FEES FOR EACH SITE

Certification Type	Full Assessment		Surveillance Assessment	
	Excluding GST	Including GST ¹ (\$ AUS)	Excluding GST	Including GST ¹ (\$ AUS)
Steelmaking and rolling (Certification Stage 1)				
Bar (DBIL)/Coil (DBIC) ²	\$18,000	\$19,800	\$10,300	\$11,330
Wire	\$14,700	\$16,170	\$8,800	\$9,680
Prestress	\$18,000	\$19,800	\$10,300	\$11,330
Plate/Slab/Strip ³	\$18,000	\$19,800	\$10,300	\$11,330
Bars/Sections	\$18,000	\$19,800	\$10,300	\$11,330
Manufacturing, Processing, and Fabricating (Certification Stage 2)				
Hollow sections ⁴	\$18,000	\$19,800	\$10,300	\$11,330
Welded I sections	\$18,000	\$19,800	\$10,300	\$11,330
Bar processing ⁵	\$7,900	\$8,690	\$5,100	\$5,610
Mesh manufacture	\$12,000	\$13,200	\$7,400	\$8,140
Bolts manufacture	POA	POA	POA	POA
Technical Approvals				
Steel Reinforcing couplers	POA	POA	POA	POA
Steel Prestressing Materials	POA	POA	POA	POA

CERTIFICATE FEES

CERTIFICATE FEE

Certification Type	Fee per certificate
	(\$ AUS) Including GST
Mill Manufacturer	\$4,400
Technical Approval (Mill)	\$3,300
Technical Approval (Product)	\$1650
Processors & Fabricators	\$990

In addition to site assessment fees, ACRS charges an annual fee for each certificate issued.
GST is charged on all certificate fees, as the related services are provided in Australia.

Accreditation process

The ACRS website outlined the accreditation process as follows:

- An ACRS auditor confirms the scope of application for approval
- ACRS follows up to seek clarification on documentation provided with the completed application form, including an initial review of the supporting documentation
- An invoice for full payment is issued, with confirmation of payment being sought prior to any next stage activities
- ACRS conducts a pre-evaluation review, including supplier's manufacturing history and ongoing test results
- ACRS evaluates the site, or sites, manufacturing or supplying to Australian and New Zealand Standards. ACRS also verifies to one British standard, and several technical approvals as outlined in points 18 and 19 of the application form
- ACRS conducts independent testing of samples selected by ACRS assessors at the site audit and review of results against Australian and New Zealand Standards.

APPENDICES AND ATTACHMENTS

Appendix 1	ACRS accreditation
Confidential Attachment 1	Australian market
Confidential Attachment 2	Economic condition of the Australian industry
Confidential Attachment 3	Millcon export price
Confidential Attachment 4	Millcon CTMS
Confidential Attachment 5	Millcon normal value
Confidential Attachment 6	Millcon dumping margin
Confidential Attachment 7	TSMT export price
Confidential Attachment 8	TSMT CTMS
Confidential Attachment 9	TSMT normal value
Confidential Attachment 10	TSMT dumping margin
Confidential Attachment 11	Nervacero export price
Confidential Attachment 12	Nervacero CTMS
Confidential Attachment 13	Nervacero normal value
Confidential Attachment 14	Nervacero dumping margin
Confidential Attachment 15	Export price analysis