



*CUSTOMS ACT 1901 - PART XVB*

## **REPORT 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**

**20 January 2023**

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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

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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
REP 418	<i>Anti-Dumping Commission Report No. 418</i>
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

The Anti-Dumping Commission (the commission) has prepared this report concerning an inquiry into whether to continue 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)<sup>1</sup>
- Spain (by Nervacero S.A)
- Taiwan (by Power Steel Co. Ltd)
- the Kingdom of Thailand (Thailand)

(collectively referred to as the subject countries).

The measures are in the form of a dumping duty notice (the notice).<sup>2</sup> The measures are due to expire on 7 March 2023.<sup>3</sup>

This final report sets out the findings and conclusions on which the Commissioner of the Anti-Dumping Commission (the Commissioner) based his recommendations to the Minister. The report concludes that on the evidence available, the expiration of the measures in respect of exports of the goods from the subject countries, except for Thailand, 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. Section 1.3 provides a summary of the Commissioner's findings and recommendations.

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.<sup>4</sup>

The commission is assisting the Commissioner to conduct the inquiry, pursuant to the commission's function specified in section 269SMD. In preparing this report, the Commissioner had regard to:

- the application seeking a continuation of the measures
- submissions relating generally to the continuation of the measures to which the commission has had regard for the purpose of formulating the *Statement of Essential Facts No. 601* (SEF 601)
- SEF 601

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<sup>1</sup> 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.

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

<sup>3</sup> 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.

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

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- three submissions made in response to SEF 601 and received by the Commissioner within 20 days of SEF 601 being placed on the public record (that is, by 8 December 2022)<sup>5</sup>
- other matters that the Commissioner considered relevant as outlined throughout this report, including two submissions<sup>6</sup> made in response to SEF 601 and received by the Commissioner after 8 December 2022.<sup>7</sup>

### **1.2 Statement of essential facts**

The Commissioner published SEF 601 on 18 November 2022. SEF 601 sets out the preliminary findings of the Commissioner and the Commissioner's proposed recommendation to the Minister based on the information before the Commissioner at that time.

### **1.3 Final report findings and recommendations**

#### **1.3.1 Summary**

Based on the evidence available, the Commissioner is satisfied that the expiration of the measures in respect of exports of the goods from Greece, Indonesia, Spain (by Nervacero S.A) and Taiwan (by Power Steel Co. Ltd) 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.

The Commissioner is not satisfied that the expiration of the measures in respect of exports of the goods from Thailand 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.

Chapters 2 to 9 of this report provide the detail on the Commissioner's findings. Chapter 10 sets out the Commissioner's recommendations to the Minister. Sections 1.3.2 to 1.3.9 provide a summary of these findings. The findings and recommendations in this report are unchanged from SEF 601.

#### **1.3.2 Australian industry producing like goods (Chapters 3 and 4)**

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

#### **1.3.3 Australian market (Chapter 5)**

The Commissioner finds that from 1 January 2021 to 31 December 2021 (the inquiry period), the Australian market for rebar was supplied by the Australian industry and

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<sup>5</sup> EPR 601, document nos. 26 to 28.

<sup>6</sup> EPR 601, document nos. 29 and 30. Given that no new issues were raised in these two submissions, they did not prevent the timely preparation of the final report to the Minister.

<sup>7</sup> The Commissioner did not have regard to a submission from Nervacero S.A received on 16 January 2023 (EPR 601, document no. 31) because to do so would, in the Commissioner's opinion, prevent the timely preparation of this report to the Minister.

imports from a number of entities, including entities that are currently subject to the measures, separate measures, and other entities not subject to measures.

**1.3.4 Economic condition of the Australian industry (Chapter 6)**

The Commissioner 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 considers that the Australian industry continues to be susceptible to competition from imported goods in the Australian market.

**1.3.5 Dumping during the inquiry period (Chapter 7)**

For the purpose of this inquiry, the Commissioner has assessed whether exports in the inquiry period were dumped. The dumping assessment was limited to Millcon and Nervacero as the only two exporters that exported during the inquiry period. Chapter 7 also assesses the normal value for TSMT, who did not export to Australia during the inquiry period but provided information regarding its domestic sales during the inquiry period.

The Commissioner has calculated the dumping margins as set out in Table 1.

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

**Table 1 - Dumping margins**

**1.3.6 Continuation or recurrence of exports by the subject countries (Chapter 8.4)**

The commission considers that, should the measures expire, exports from the subject countries are likely to continue or recur. In reaching this conclusion, the commission has had regard to import volumes and prices, the maintenance of distribution channels or links into the Australian market, current and historical ACRS accreditation, production capacity and exporters’ dependence on export markets. The commission has found:

- the subject countries exported the goods 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 removed the price advantage from dumping previously enjoyed by these exporters, which has coincided with export volumes reducing



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- if the measures expire, imports from subject countries would become more price competitive and previous import volumes could be restored
- the Australian market remains an attractive destination for exporters, as demonstrated by the large import volumes from non-subject countries
- the Australian market is highly price sensitive, and the price of imports influence Australian industry's prices
- 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 and could easily reinstate previous distribution links with exporters
- expiration of the measures may make the Australian market more attractive and accessible to imports given the prevalence of trade measures in other jurisdictions
- subject country exporters maintain surplus production capacity, and the global steel market is characterised by significant oversupply
- the conditions of supply and demand (favourable to the Australian industry) seen during the inquiry period resulting from the COVID-19 pandemic are likely to abate, leading to greater competition on price in the future.

Specifically, exports continued in the inquiry period for Nervacero from Spain and 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 customers have a preference for in the Australian market and have existing distribution links into the Australian market.<sup>8</sup> This indicates that exports will likely continue for Nervacero from Spain and Millcon from Thailand.

Besides Millcon, the commission notes that no other exporters from Thailand have exported immediately prior to and following the measures.<sup>9</sup> Millcon's exports solely accounted for the volume of goods from Thailand which led to 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 Accelerated Reviews 471 and 472.<sup>10</sup> However, these two exporters have not exported at any time and have not maintained their ACRS accreditation.

Following the accelerated reviews, there has been an upward movement in prices in the Australian market. Based on this, it appears that these two exporters could have exported to Australia above their current floor price, without attracting any interim dumping duty (IDD). In the absence of any exports to Australia, it appears that these two exporters have not endeavoured to capture sales volumes and market share by competing on price with competitors in the Australian market. On 27 August 2020, NTS was renamed to Tata

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<sup>8</sup> Further details of the ACRS accreditation scheme are at section 3.4.4 and Appendix 1.

<sup>9</sup> The commission notes that it has examined exports of the goods dating back to an investigation period of 1 July 2013 to 30 June 2014 through Investigation Nos. 264 and 418. Therefore, the commission does not have any evidence of exports from Thailand other than Millcon in almost a decade.

<sup>10</sup> Which took effect on 3 August 2018, EPR 471 and 472 refer.

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Steel Manufacturing (Thailand) Public Company Limited (TSMT). The commission found that there have also been no exports from TSMT.<sup>11</sup> The commission has no evidence of any other Thai exporters that are likely to export the goods to Australia. Based on these factors, the commission considers that there are unlikely to be exports from Thailand (other than by Millcon) if the measures expire.

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 have temporarily ceased. Whilst this creates additional hurdles for exporters from these countries to resume exporting, based on the commission's previous investigations and knowledge of the ACRS accreditation scheme, the ACRS accreditations and distribution links could readily be reinstated or established.

### 1.3.7 Continuation or recurrence of dumping (Chapter 8.5)

The Commissioner is satisfied 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 is not satisfied that dumping would 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 2 shows the historical dumping margins for the subject countries:

Country	Exporter	INV 418 <sup>12</sup>	Reviews	Continuation Inquiry 601
Greece	Uncooperative and all other exporters	42.1%	NA	NA
Indonesia	Uncooperative and all other exporters	9.3%	NA	NA
Spain	Nervacero	6.3%	NA	33.5%
Taiwan	Power Steel	4.4%	NA	NA
Thailand <sup>13</sup>	Millcon	9.3%	-0.7% <sup>14</sup>	-7.7%
	SCSC <sup>15</sup>	N/A	0%	NA
	NTS	N/A	0%	NA
	Uncooperative and all other exporters	11.9%	NA	NA

**Table 2 - Historical dumping margins**

<sup>11</sup> Based on TSMT's exporter questionnaire response, it appears that TSMT is the continuation of NTS, and so its incentives to export likely align with that of NTS.

<sup>12</sup> Investigation period 1 April 2016 to 31 March 2017.

<sup>13</sup> 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% for Millcon, less than 2% for Nervacero and 1.3% for Power Steel.

<sup>14</sup> Review period 1 April 2018 to 31 March 2019. The dumping margin followed ADRP Report No 127.

<sup>15</sup> Through a corporate restructure, SCSC and NTS are now TSMT.

Spain (Nervacero)

The commission considers that, based on the dumping finding in INV 418 and the dumping margin calculated for the purposes of this inquiry, there is a pattern of dumping that supports the likelihood of a continuation of dumping from Spain (Nervacero) if the measures expire.

Thailand

As outlined above, 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 two 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. As outlined above, the commission considers that there is insufficient evidence to conclude that it is *likely* that other exporters would export if the measures expired.

For completeness, the commission notes that TSMT participated in the inquiry by providing a questionnaire response with information about its normal value. To provide an additional level of satisfaction that exporters other than Millcon are not likely to dump the goods if the measures expire, the commission analysed whether, if TSMT were to export the goods, those exports would likely be at dumped prices. Specifically, the commission compared TSMT's normal value to Millcon's export price during the inquiry period to inform the commission of TSMT's likely future behaviour. The commission is satisfied that TSMT's normal value is lower than a price at which TSMT could have reasonably exported the goods to Australia during the inquiry period, indicating that TSMT could have exported the goods at undumped prices during the inquiry period. Based on the commission's analysis relevant to the inquiry period, it is unlikely that TSMT and

potentially any other new entrant from Thailand 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.

#### **1.3.8 Continuation or recurrence of material injury (Chapter 8.6)**

The Commissioner is satisfied 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.<sup>16</sup>

The commission also notes that in INV 418, the commission cumulated the effects of the goods from all subject countries as the requirements of section 269TAE(2C) were met.<sup>17</sup>

#### 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

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<sup>16</sup> REP 418, Chapter 8 refers.

<sup>17</sup> REP 418, Section 9.3 refers.

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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.<sup>18</sup> 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 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.

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<sup>18</sup> For example, Investigations 264, 300 and 418 and Continuation Inquiries 546 and 560.

### **1.3.9 Variable factors (Chapter 9)**

The Commissioner is not recommending a change to the variable factors relevant to the notice as part of this inquiry.<sup>19</sup> There is no requirement for the Commissioner to recommend that the Minister change the variable factors in a continuation inquiry. This is not affected by the fact that some exporters exported the goods during the inquiry period, or the fact that the commission assessed dumping for some exporters as part of the inquiry. The commission's assessment of dumping (for some exporters) in this inquiry is relevant to its assessment of the likelihood of dumping and material injury continuing or recurring if the measures expire. The commission notes that, during the inquiry period, there were no exports to Australia from Greece, Indonesia and Taiwan.

### **1.4 Recommendations to the Minister (Chapter 10)**

Based on the findings contained in this report, the Commissioner recommends 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.

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<sup>19</sup> The variable factors relevant to a dumping duty notice are the export prices, normal values and non-injurious price.

## 2 BACKGROUND

### 2.1 Legislative Framework

Division 6A of Part XVB sets out, among other things, the procedures the Commissioner must follow in dealing with an application for the continuation of the measures.

Section 269ZHE(1) requires the Commissioner to publish a statement of essential facts (SEF) on which the Commissioner proposes to base recommendations to the Minister concerning the continuation of the measures. Section 269ZHE(2) requires the Commissioner, in formulating the SEF, to 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 they consider 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 measure is intended to prevent.

### 2.2 Initiation and the measures

The measures, in the form of a dumping duty notice, were initially imposed on 7 March 2018 by the then Assistant Minister for Science, Jobs and Innovation following consideration of the then Commissioner's recommendation in *Final Report No. 418* (REP 418, relating to the original investigation).<sup>20</sup> The original investigation and the imposition of the measures resulted from an application made under section 269TB by OneSteel Manufacturing Pty Ltd (now known as InfraBuild (Newcastle) Pty Ltd)

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<sup>20</sup> Australian Customs Dumping Notice No. 2012/31 refers. REP 418 is available on the commission's website.

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representing the Australian industry producing like goods. The measures are due to expire on 7 March 2023.<sup>21</sup>

A background to key cases in relation to the measures is summarised in Table 3.

Case No.	ADN No.	Date	Country of export	Findings
INV 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 <sup>22</sup>	2020/072	28 July 2020	Thailand	Change in variable factors for Millcon

**Table 3 - Summary of cases in relation to the measures**

Table 4 below sets out the current measures applying to exports of the goods to Australia.

Country	Exporter	Fixed rate	Duty method
Greece	All exporters	42.1%	Combination fixed and variable duty <sup>23</sup>
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 <sup>24</sup>
	All other exporters	9.3%	Combination fixed and variable duty
Spain	Nervacero	6.3%	Combination fixed and variable duty
Taiwan	Power Steel	4.4%	Combination fixed and variable duty
Thailand	Millcon supplied directly or through: Duferco SA; or Duferco Asia PTE LTD ZAG International PTE LTD	0%	Combination fixed and variable duty

<sup>21</sup> On and from 8 March 2023, if not continued, the measures would no longer apply.

<sup>22</sup> 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.

<sup>23</sup> 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.

<sup>24</sup> The total IDD liability is the amount by which the actual export price is lower than the floor price.



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	SCSC	0%	Floor price
	NTS	0%	Floor price
	All other exporters	11.9%	Combination fixed and variable duty

**Table 4 - Current measures**

Further details on the current measures are available on the Dumping Commodity Register (DCR) at [www.adcommission.gov.au](http://www.adcommission.gov.au)

### **2.3 Conduct of the inquiry**

The Commissioner established an inquiry period of 1 January 2021 to 31 December 2021 (the inquiry period). The commission has 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.

#### **2.3.1 Statement of essential facts**

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.<sup>25</sup> The commission placed SEF 601 on the public record on 18 November 2022.

#### **2.3.2 Report to the Minister**

The Commissioner must, within 155 days after the initiation of an inquiry, or such longer period as is allowed under section 269ZH(3), give the Minister a report recommending that the relevant notice:

- 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, or
- expire on the specified expiry day.

The initiation notice advised that the Commissioner would provide a report to the Minister on, or before, 30 August 2022. However, the Commissioner approved extensions of time for the publication of the final report.<sup>26</sup>

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<sup>25</sup> ADN Nos. 2022/068 and 2022/098 refer.

<sup>26</sup> Ibid.

### **2.3.3 Australian industry**

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

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'.

InfraBuild is both an Australian manufacturer of like goods and an importer of the goods. 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.<sup>27</sup>

### **2.3.4 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, given it did not import during the inquiry period, the commission did not request further information from DSI Underground or undertake a verification of its importer questionnaire response.

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<sup>27</sup> EPR 601, document no. 18.

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The commission's assessment of importers' questionnaire responses is on the EPR.<sup>28</sup>

### 2.3.5 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:

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

Non-confidential REQs and the commission's verification reports are on the EPR.<sup>29</sup>

### 2.4 Submissions received from interested parties

The commission received 15 submissions during the course of the inquiry, including 6 in response to SEF 601, as set out in Table 5. Non-confidential versions of all 15 submissions are available on the EPR.

The Commissioner must have regard to any submission made in response to a SEF provided by interested parties within 20 days of the Commissioner publishing the SEF on the public record.<sup>30</sup> The Commissioner is not obliged to have regard to any submission in response to the SEF after this date, if to do so would, in the Commissioner's opinion, prevent the timely preparation of the final report to the Minister.<sup>31</sup>

With the exception of Nervacero's submission published on the EPR on 16 January 2023, the Commissioner had regard to matters raised in submissions 1-14 (as outlined in Table 5) in the preparing this report. The Commissioner did not have regard to Nervacero's submission published on the EPR on 16 January 2023, because to do so would, in the Commissioner's opinion, prevent the timely preparation of this report to the Minister.

Submission number	EPR item number	Interested party	EPR Date	Considered in this report?
1	4	Government of Spain	12/05/2022	Yes
2	5	Government of Indonesia	12/05/2022	
3	6	InfraBuild (Newcastle) Pty Ltd	12/05/2022	

<sup>28</sup> EPR 601, document no. 14.

<sup>29</sup> EPR 601, document nos. 7, 8, 9, 10, 23 and 24.

<sup>30</sup> Section 269ZHF(3)(a)(iv).

<sup>31</sup> Section 269ZHF(4).

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Submission number	EPR item number	Interested party	EPR Date	Considered in this report?	
4	11	BBV Systems Co. Ltd	22/06/2022		
5	15	InfraBuild (Newcastle) Pty Ltd	16/08/2022		
6	16	InfraBuild (Newcastle) Pty Ltd	23/08/2022		
7	20	InfraBuild (Newcastle) Pty Ltd	18/10/2022		
8	21	InfraBuild (Newcastle) Pty Ltd	21/10/2022		
9	22	InfraBuild (Newcastle) Pty Ltd	21/10/2022		
10	26	InfraBuild (Newcastle) Pty Ltd	9/12/2022		
11	27	Nervacero S.A.	12/12/2022		
12	28	Millcon	9/12/2022		
13	29	InfraBuild (Newcastle) Pty Ltd	3/01/2023 <sup>32</sup>		
14	30	Nervacero S.A.	23/12/2022 <sup>33</sup>		
15	31	Nervacero S.A.	16/01/2023 <sup>34</sup>		No

**Table 5 - Submissions received from interested parties**

### 2.5 Public record

The public record contains non-confidential submissions received from interested parties, non-confidential versions of the commission’s verification reports and other publicly available documents. It is available online via the EPR at: [www.adcommission.gov.au](http://www.adcommission.gov.au)

Interested parties should read this report in conjunction with documents on the public record.

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<sup>32</sup> Received by the Commissioner on 21 December 2022.

<sup>33</sup> Received by the Commissioner on 22 December 2022.

<sup>34</sup> Received by the Commissioner on 16 January 2023.

## 3 THE GOODS AND LIKE GOODS

### 3.1 Finding

The Commissioner is satisfied that the locally manufactured rebar is a like good to the goods subject to the measures.

### 3.2 Legislative framework

In order to be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation or recurrence of dumping, the Commissioner assesses whether 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.*

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 including:

- physical likeness
- commercial likeness
- functional likeness
- production likeness.

### 3.3 The goods

#### 3.3.1 Goods subject to measures

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:

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

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*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.<sup>35</sup>*

**3.3.2 Tariff classification**

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

<b>Tariff Subheading</b>	<b>Statistical Code</b>	<b>Description</b>
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>

<sup>35</sup> 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

**Table 6 - Tariff classification of the goods**

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.

### **3.3.3 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 7 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 7 - Model control codes for rebar**

### 3.4 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.



### **3.4.1 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) (for example 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.

### **3.4.2 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.

### **3.4.3 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.

### **3.4.4 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

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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.

## 4 THE AUSTRALIAN INDUSTRY

### 4.1 Finding

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

### 4.2 Legislative framework

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 commission to consider the goods 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 Conclusion

Based on the above, the Commissioner is satisfied that:

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- the like goods were wholly manufactured in Australia<sup>36</sup>
- there is an Australian industry which produces like goods in Australia, consisting of InfraBuild.<sup>37</sup>

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<sup>36</sup> Section 269T(2) refers.

<sup>37</sup> Section 269T(4) refers.

## 5 AUSTRALIAN MARKET

### 5.1 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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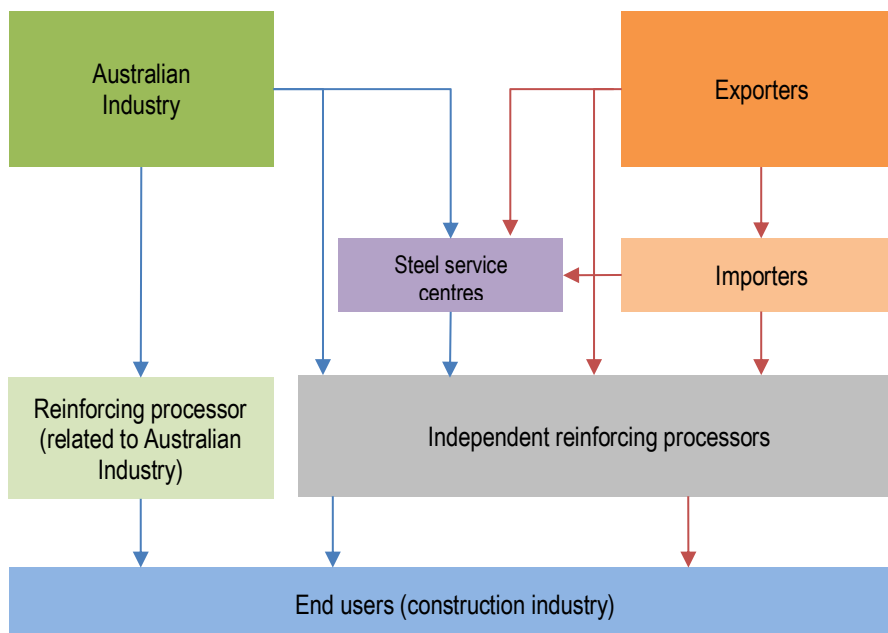


Figure 1 - Channels to market

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* in October 2021 which included the following assessment of the impact of the COVID-19 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.*

*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.<sup>38</sup>*

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**

The commission notes that the COVID-19 pandemic impacted the Australian market during the inquiry period. As the COVID-19 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

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<sup>38</sup> ACCC, [Container stevedoring monitoring report 2020-21](#), October 2021, Australian Government, 2021, accessed 14 June 2022.

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'.<sup>39</sup>

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.

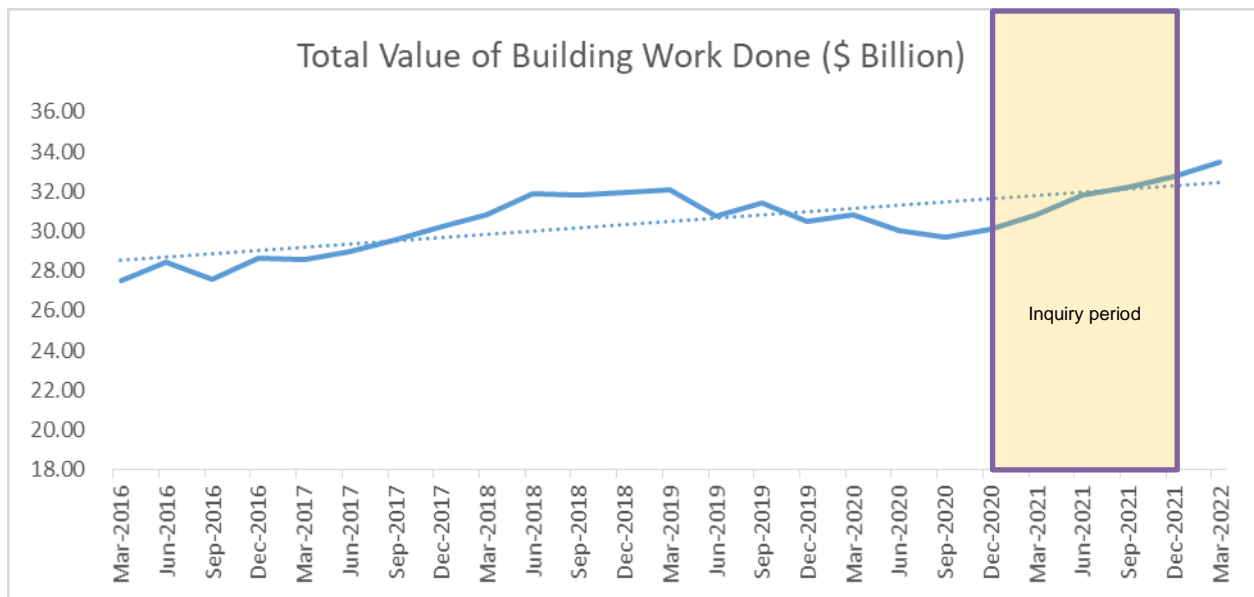


Figure 2 - Building and construction sector in Australia, quarterly (\$ Billion)<sup>40</sup>

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 COVID-19 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

<sup>39</sup> 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.

<sup>40</sup> Available from the Australian Bureau of Statistics (ABS) [website](#). Data from section 8752.0 Building Activity, Australia (Table 12).



COVID-19 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 COVID-19 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.

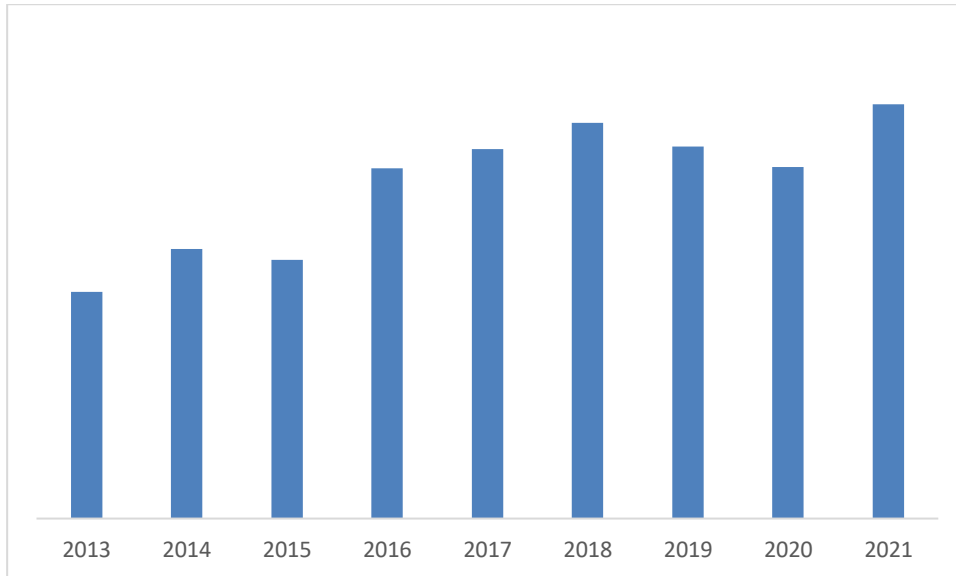
Since the measures InfraBuild continues to apply an Import Parity Pricing (IPP) model. Under the IPP model InfraBuild negotiates pricing with customers with reference to offers made in the rebar market for imported goods.

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. 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 ECONOMIC CONDITION OF THE INDUSTRY

### 6.1 Finding

The commission 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 considers that the Australian industry continues to be susceptible to competition from imported goods in the Australian market.

### 6.2 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 COVID-19 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.

### **6.3 InfraBuild's claims**

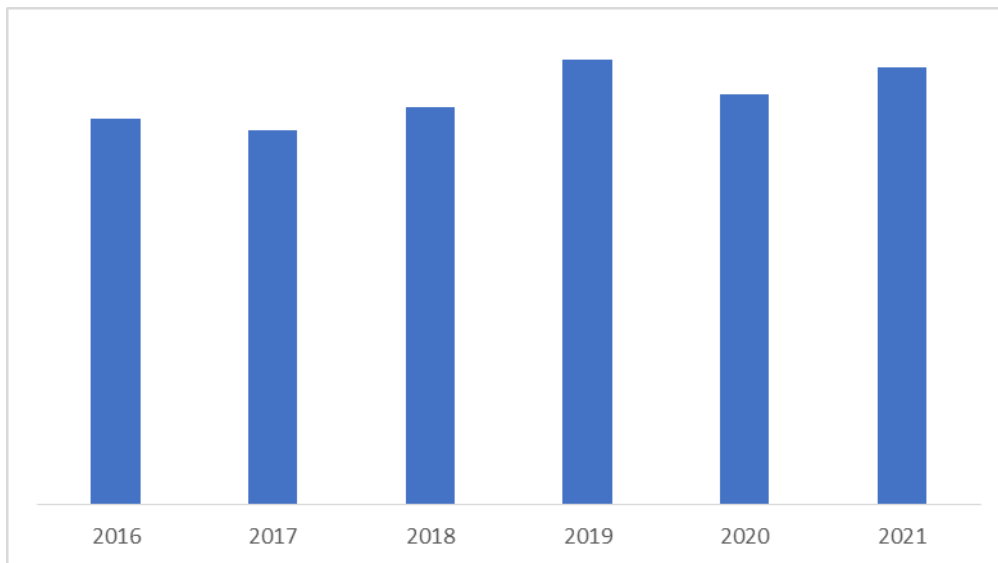
InfraBuild submits that following the measures in March 2018, it has experienced injury in the forms of:

- 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).

### **6.4 Volume effects**

#### **6.4.1 Production volume**

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

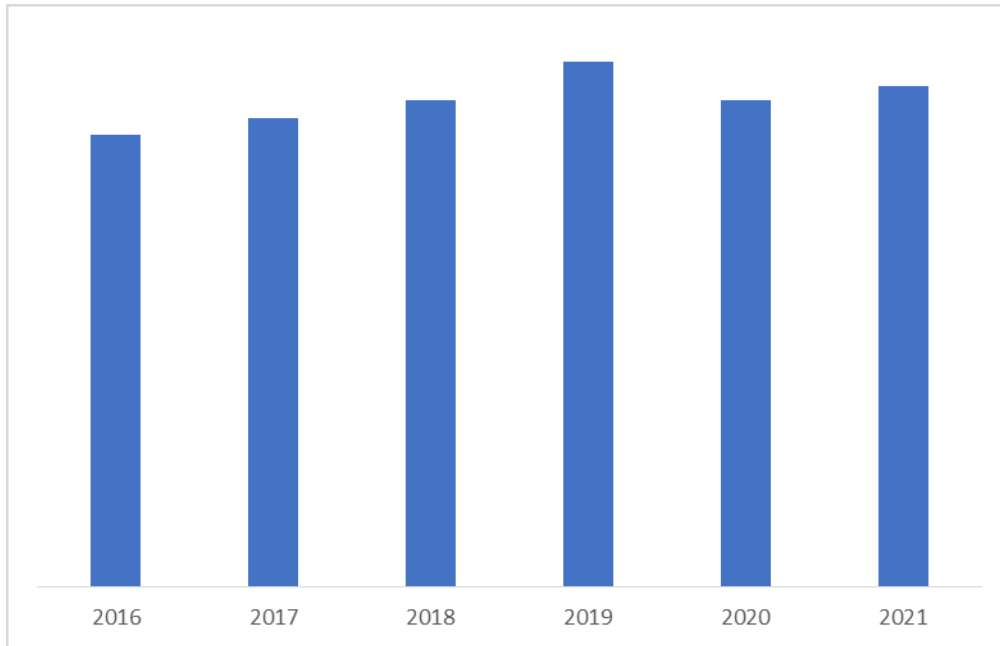


**Figure 4 - Production volume (tonnes)**

Figure 4 shows 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.

#### **6.4.2 Sales volume**

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



**Figure 5 - Sales volume (tonnes)**

Figure 5 shows 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.

### **6.4.3 Market share**

Table 8 shows the change in InfraBuild’s market share.<sup>41</sup>

	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Market share	100	98.1	99.0	108.4	105.8	95.0

**Table 8 - Change in market share**

Table 8 shows that InfraBuild’s market share peaked in 2019 and has decreased in each year thereafter.

### **6.4.4 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.

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<sup>41</sup> 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.

## 6.5 Price effects

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.

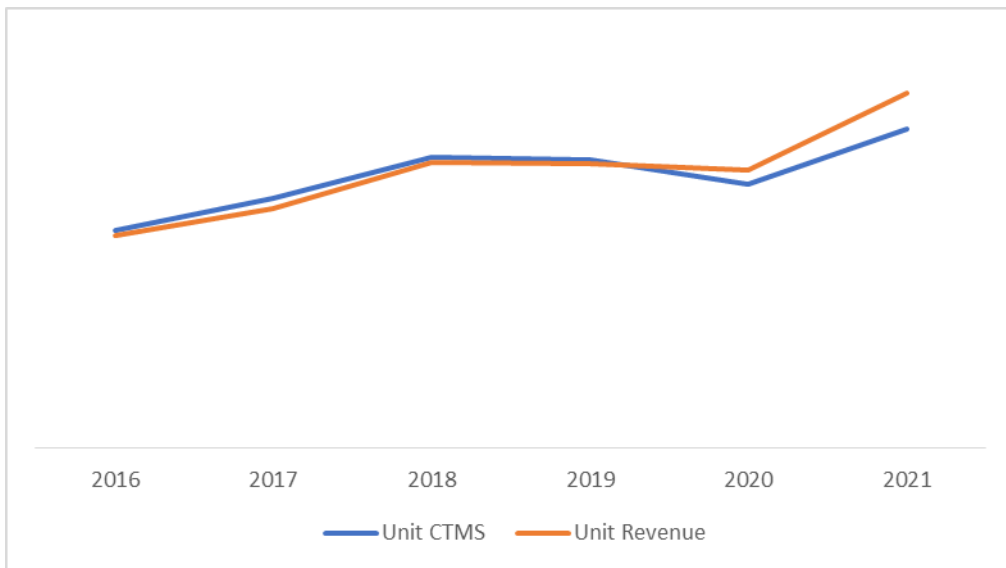


Figure 6 - Unit selling price and unit CTMS (AUD/tonne)

Figure 6 shows 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.

### 6.5.1 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.

## 6.6 Profit effects

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

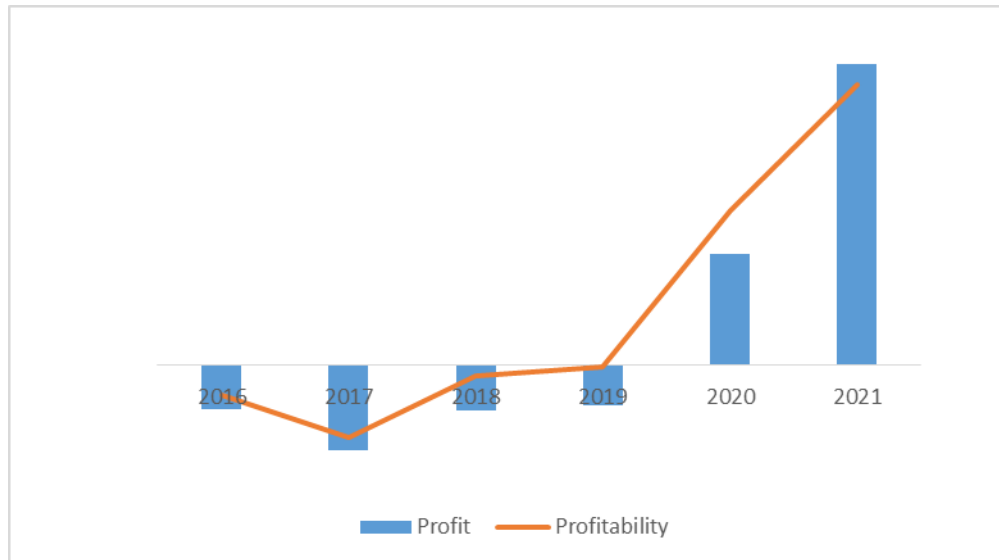


Figure 7 - Profit and profitability (%)

Figure 7 shows 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.

### 6.6.1 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.

## 6.7 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

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

**6.7.1 Assets**

Table 9 shows the change in the value of InfraBuild’s assets used in the production of like goods.<sup>42</sup>

	2017	2018	2019	2020	2021
Assets	100	98	124	107	116

**Table 9 - Value of assets**

Table 9 shows 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.

**6.7.2 Capital investment**

Table 10 shows the change in InfraBuild’s capital investment.

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

**Table 10 - Capital investment**

Table 10 shows that with the exception of 2020 capital investment increased in each year.

**6.7.3 Revenue**

Table 11 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 11 - Revenue**

Table 11 shows that with the exception of 2020 revenue increased in each year.

**6.7.4 Return on investment**

Table 12 shows the change in InfraBuild’s return on investment (ROI).

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<sup>42</sup> 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.



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	2017	2018	2019	2020	2021
ROI	100	142	163	314	479

**Table 12 - Return on investment**

Table 12 shows that InfraBuild's ROI has improved in each year. The commission notes that ROI was negative until 2020, after which ROI has improved significantly.

### 6.7.5 Capacity utilisation

Table 13 shows the change in InfraBuild's production capacity utilisation.

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

**Table 13 - Capacity utilisation**

Table 13 shows 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.

### 6.7.6 Employment

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

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.

### 6.7.7 Wages

Table 14 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 14 - Wages**

Table 14 shows 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.

**6.7.8 Productivity**

Table 15 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 15 - Productivity**

Table 15 shows that productivity has been reasonably constant, with an improvement during the inquiry period such that productivity was at the highest level achieved.

**6.7.9 Closing stock**

Table 16 shows the change in InfraBuild’s closing stock.

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

**Table 16 - Closing stock**

Table 16 shows that closing stocks were depleted in 2020 however increased during the inquiry period.

**6.7.10 Inventory turnover**

Table 17 shows the change in InfraBuild’s inventory turnover.

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

**Table 17 - Inventory turnover**

Table 17 shows that InfraBuild’s inventory turnover has increased in each year.

**6.7.11 Receivables turnover**

Table 18 shows the change in InfraBuild’s receivables turnover.

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

**Table 18 - Receivables turnover**

Table 18 shows that InfraBuild’s receivables turnover peaked in 2018 and has since reduced in each year.

**6.8 Conclusion**

Following the measures in 2018, the Australian industry demonstrated improved performance in terms of increased prices, profit and profitability. These improvements

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were magnified during the inquiry period, due to the favourable trading conditions for the Australian industry 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 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.

## **7 DUMPING IN THE INQUIRY PERIOD**

### **7.1 Finding**

For the purpose of assessing whether dumping is likely to continue or recur, the Commissioner has assessed whether exports in the inquiry period were dumped. The dumping assessment is limited to Millcon and Nervacero as the only two exporters that exported during the inquiry period. This chapter also assesses the normal value for TSMT, who did not export to Australia during the inquiry period, but provided information regarding its domestic sales during the inquiry period.

The commission has determined dumping margins as summarised in Table 19.

<b>Country</b>	<b>Exporter</b>	<b>Dumping margin</b>
Spain	Nervacero	33.5%
Thailand	Millcon	-7.7%

**Table 19 - Dumping margins**

### **7.2 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.

#### **7.2.1 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.

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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.

### **7.2.2 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).

### **7.2.3 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.

## **7.3 Exporters**

### **7.3.1 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, a desktop verification of Nervacero and a benchmark verification of TSMT.

### **7.3.2 Response to the exporter questionnaire – intermediaries**

The Dumping and Subsidy Manual (the Manual) 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.<sup>43</sup>

The commission received one REQ from an intermediary. This is discussed in section 7.4.2 below.

## **7.4 Dumping assessment – Thailand**

### **7.4.1 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.

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<sup>43</sup> [The Manual](#), pp 23-24.

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A report covering the verification findings is available on the public record.<sup>44</sup>

### 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.<sup>45</sup>

The commission therefore considers that all of Millcon's direct and indirect Australian sales during the inquiry period were 'arms length' transactions.

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

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<sup>44</sup> EPR 601, document no. 23.

<sup>45</sup> Section 269TAA refers.

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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.

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 normal value calculations are at **Confidential Attachment 5**. The following sections outline the commission's 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.<sup>46</sup>

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.

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<sup>46</sup> Ibid.



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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 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 20.

<b>Export MCC</b>	<b>Is volume of domestic sales of same MCC 5% or greater as a proportion of export volume?</b>	<b>Treatment of normal value</b>
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).

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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-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.
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 20 - 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 21.

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 21 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 21 - Summary of adjustments - Millcon**

Dumping margin

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

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

#### **7.4.2 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

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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.

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.

### 7.4.3 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 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

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- the buyer, or an associate of the buyer, was not directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

The commission therefore considers that all domestic sales made by 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:

<b>Adjustment</b>	<b>Deduction/addition</b>
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 22 - Summary of adjustments - TSMT**

#### **7.4.4 Submissions regarding the commission's dumping assessment**

In its submission dated 8 December 2022,<sup>47</sup> InfraBuild stated the following:

- It was concerned that the additional models of threaded rebar had not been included in Millcon's export sales listing and therefore the commission's dumping margin calculations. This was because the commission identified the sale of four threaded models in its assessment of IDE's importer questionnaire response,<sup>48</sup> and only one in its verification of Millcon's exporter questionnaire response.<sup>49</sup>
- It expected Millcon to have sold additional models of threaded rebar into the Thai market. InfraBuild contended that despite differences in diameter, models with a threaded deformation pattern and a yield strength similar to that of the MCC model, P-C-S-C-2-T, exported to Australia, would be more suitable surrogates for the normal value of this particular model. InfraBuild suggested that if indeed there were not sufficient domestic sales by Millcon of threaded bar considered a close match to this model, the preferable approach in determining the normal value would be to calculate a specification adjustment based on a price comparison between TSMT's domestic sales of MCC model, P-C-S-C-2-T, and a model considered a close match, sold domestically.
- It was unclear whether all exports for the different HS tariff codes applicable to threaded and non-threaded bar are included in Millcon's export sales listing or the commission's analysis of ABF data, noting that goods description filters may have excluded some importations of the goods.

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<sup>47</sup> EPR 601, document no. 26.

<sup>48</sup> EPR 601, document no. 14.

<sup>49</sup> EPR 601, document no. 23.

#### **7.4.5 Commission's assessment**

The commission carried out verification procedures to ensure Millcon had correctly classified the deformation pattern in its sales listing. The details of these procedures are contained in Confidential Attachment 1 of Millcon's verification report.<sup>50</sup> The commission has also reviewed its analysis of the ABF database to ensure importations have not been excluded as a result of filtering. The commission remains satisfied that Millcon's sales listings are complete, relevant and accurate.

In selecting the appropriate surrogate model for determining the normal value of exported model P-C-S-C-2-T, the commission has had regard to the MCC structure and the hierarchy of its sub-categories. As outlined in the Manual, where physical differences affect price comparability, adjustments will be based on the incremental production costs relating to the particular characteristic, combined with amounts for selling, general and administration expenses and profit.<sup>51</sup> The commission considers that using surrogate model P-C-S-C-2-N with a specification adjustment under section 269TAC(8) under these means remains the most suitable treatment of the normal value for exported model P-C-S-C-2-T.

#### **7.5 Dumping assessment – 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.<sup>52</sup>

##### 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 in INV 418. 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.

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<sup>50</sup> EPR 601, document no. 23.

<sup>51</sup> The Manual, p 52.

<sup>52</sup> EPR 601, document no. 24.

Relevant sales

Nervacero claimed that it exported the small volume of goods only for the purpose of maintaining its ACRS accreditation. The commission considers these export sales are relevant for assessing the likelihood of dumping and material injury continuing or recurring, as outlined in chapter 8 of this report.

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:

- 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.<sup>53</sup>

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).

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<sup>53</sup> Section 269TAA refers.

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

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).<sup>54</sup> 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.

The commission considers that domestic sales made by Nervacero to its unrelated customers during the inquiry period were 'arms length' transactions.

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<sup>54</sup> 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.



Ordinary course of trade and sufficiency of domestic sales

Section 269TAAAD 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.<sup>55</sup>

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 to its unrelated customers 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.

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

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<sup>55</sup> In general, the commission will consider 'extended period' and 'reasonable period' to be the investigation, review or inquiry period.

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 23.

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 23 - 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 24 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 24 - Summary of adjustments - Nervacero**

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

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

**7.5.1 Submissions regarding the commission’s dumping assessment**

In its submission dated 8 December 2022,<sup>56</sup> InfraBuild noted that maintenance of ACRS accreditation does not require exportation of rebar to Australia. However, the fact that Nervacero remained willing to produce and export the goods for this purpose indicates its

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<sup>56</sup> EPR 601, document no. 26.

intention to remain active in the Australian market. Moreover, the fact that the goods could only be sold at dumped prices is demonstrative of Nervacero's inability to compete in the Australian market at undumped prices.

InfraBuild also submitted that the commission erred in not having regard to these sales in fixing different variable factors in relation to the dumping notice.

### **7.5.2 Commission's assessment**

As outlined in section 2.1 of this report, section 269ZHF(1) requires the Commissioner to recommend to the Minister 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.

In a continuation inquiry, the Commissioner is not required to recommend that the Minister alter the variable factors in relation to a particular exporter or exporters generally. This is not affected by the fact that Nervacero exported goods during the inquiry period, or the fact that the commission calculated variable factors for Nervacero as part of the continuation inquiry. The commission's calculation of variable factors for Nervacero is relevant to its assessment of the likelihood of dumping and material injury continuing or recurring if the measures expire, discussed further in Chapter 8.

## 8 LIKELIHOOD THAT DUMPING AND MATERIAL INJURY WILL CONTINUE OR RECUR

### 8.1 Finding

This chapter examines whether the expiration of the current 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.

On the basis of the evidence available, the Commissioner is satisfied that:

- In relation to Greece, Indonesia, Spain (Nervacero) and Taiwan (Power Steel), the expiration of the current measures 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.
- In relation to Thailand, the expiration of measures would not 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.

### 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 the anti-dumping measure is intended to prevent.

The commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation. The ADRP has supported this view, and noted that the commission must consider what will happen in the future should a certain event, being the expiry of the measures, occur. However, the Commissioner must nevertheless base any conclusions and recommendation on facts.<sup>57</sup>

### 8.3 Australian industry's claims

The Australian industry has 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.

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<sup>57</sup> ADRP Report No. 44 (Clear Float Glass).

- 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?**

The text of section 269ZHF specifies that the key question is whether the expiration of the measures would be 'likely' to lead to a continuation or recurrence of the dumping and material injury that the measures are intended to prevent. As a part of that overall question, this section analyses whether exports would likely continue or recur in a reasonably foreseeable timeframe, particularly in light of the export-orientation and incentives of subject country exporters.<sup>58</sup>

The commission considers that should the measures expire, exports from the subject countries are likely to continue or recur. In reaching this conclusion, 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 report outline the commission's assessment in respect of each of the above considerations.

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<sup>58</sup> The commission also notes that it is well established WTO jurisprudence provides that 'the "likely" standard of Article 11.3 applies to the overall determinations regarding dumping and injury; it need not necessarily apply to each factor considered in rendering the overall determinations on dumping and injury' such as the 'volume of dumped imports' (Appellate Body, US — Oil Country Tubular Goods Sunset Reviews, para. 323).

### 8.4.1 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 countries<sup>59</sup>
- countries subject to measures from INV 264<sup>60</sup> and Investigation 300 (INV 300)<sup>61</sup> and
- all other exports (not subject to any measures).

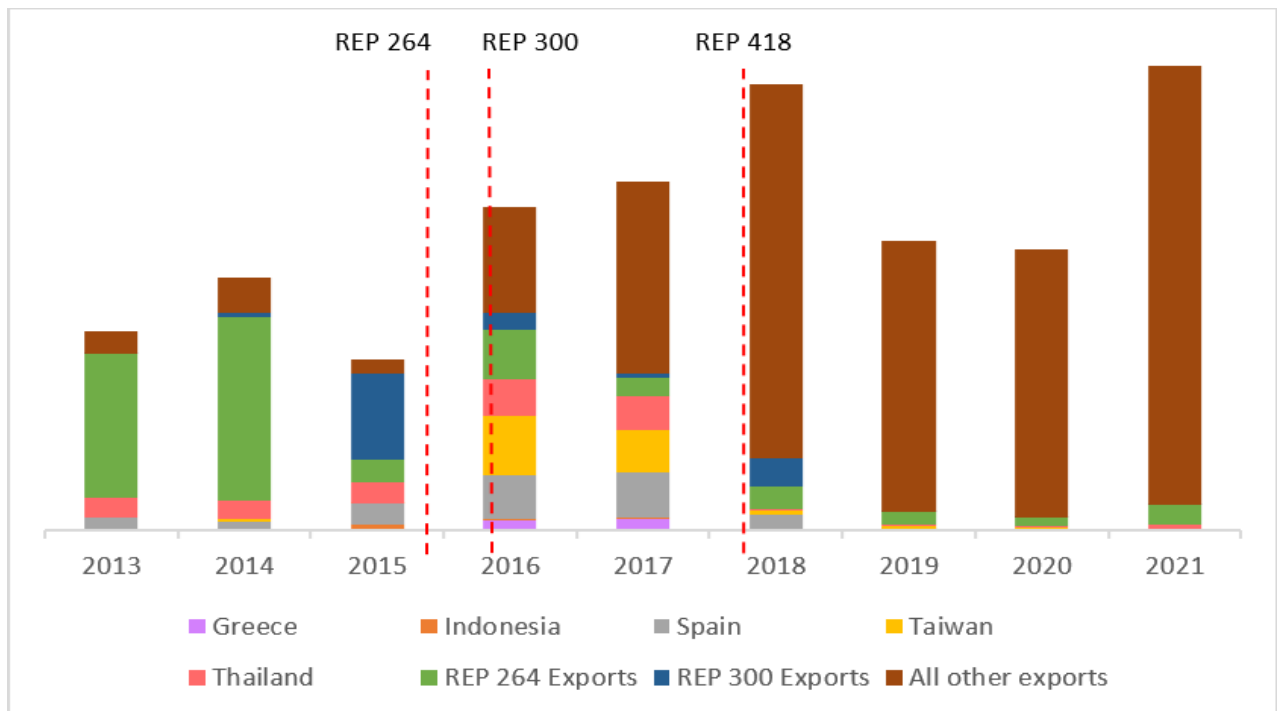


Figure 8 - Import volumes (tonnes)

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
- 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

<sup>59</sup> Measures were applied to the subject countries in March 2018.

<sup>60</sup> Measures were applied to exporters from Korea, Singapore, Spain (except Nervacero) and Taiwan (except Power Steel) in November 2015, following INV 264.

<sup>61</sup> Measures were applied to exporters from China in April 2016 following INV 300.

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- 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 expired.

The commission found that in the inquiry period specifically, exports continued for Spain (Nervacero) and Millcon from Thailand. The commission considers that these two exporters would likely continue exporting if the measures expire.

Besides Millcon, the commission notes that no other exporters from Thailand have exported immediately prior to and following the measures.<sup>62</sup> Millcon's exports solely accounted for the volume of goods from Thailand which led to the measures. Two other Thai exporters previously held ACRS accreditation (SCSC and NTS) and are currently subject to a floor price following Accelerated Reviews 471 and 472.<sup>63</sup> However, these two exporters have not exported at any time and, as discussed in section 8.4.4, have not maintained their ACRS accreditation.

Following the accelerated reviews, there has been an upward movement in prices in the Australian market. Based on this, it appears that these two exporters could have exported to Australia above their current floor price, without attracting any IDD. In the absence of any exports to Australia, it appears that these two exporters have not endeavoured to capture sales volumes and market share by competing on price with competitors in the Australian market. On 27 August 2020, NTS was renamed to TSMT. The commission found that there have also been no exports from TSMT.<sup>64</sup> The commission has no evidence of any other Thai exporters that are likely to export the goods to Australia. Based on these factors, the commission considers that there are unlikely to be exports from Thailand (other than by Millcon) if the measures expire.

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<sup>62</sup> The commission notes that it has examined exports of the goods dating back to an investigation period of 1 July 2013 to 30 June 2014 through Investigation Nos. 264 and 418. Therefore, the commission does not have any evidence of exports from Thailand other than Millcon in almost a decade.

<sup>63</sup> Which took effect on 3 August 2018, EPR 471 and 472 refer.

<sup>64</sup> Based on TSMT's exporter questionnaire response, it appears that TSMT is the continuation of NTS, and so its incentives to export likely align with that of NTS.

#### **8.4.2 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 8.4.1, 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.

#### **8.4.3 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 COVID-19 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.

#### **8.4.4 ACRS accreditation**

As set out in section 3.4.4, 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)<sup>65</sup>
- Nervacero (Spain)
- Millcon (Thailand)

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<sup>65</sup> InfraBuild made two submissions regarding PT Dexin Steel, EPR 601 documents 21 and 22 refer.

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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 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.

### **8.4.5 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).<sup>66</sup> No submissions have been received which refute the information provided by InfraBuild. Accordingly, the commission has had regard to that information in this report.

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.<sup>67</sup>

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.

#### **8.4.6 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:

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<sup>66</sup> <https://www.oecd.org/industry/ind/latest-developments-in-steelmaking-capacity-2021.pdf> refers.

<sup>67</sup> The commission received one submission on this issue, EPR 601, document no. 27 refers. The commission addresses this in section 8.6.5.

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- 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.<sup>68</sup>
- 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).<sup>69</sup>
- On 5 October 2018, as a result of a sunset review, the United States Department of Commerce (DOC) found that revocation of the measures on rebar from Indonesia would likely lead to a continuation or recurrence of dumping at 71.01% dumping margins.<sup>70</sup>
- 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.<sup>71</sup>
- 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.<sup>72</sup>

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.

### 8.4.7 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 subject countries exported the goods in substantial volumes for the investigation period (1 April 2016 to 31 March 2017) in INV 418, when dumping was present

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<sup>68</sup> 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).

<sup>69</sup> Canada Border Services Agency (2018), Certain Concrete Reinforcing Bar: Notice of Conclusion of Reinvestigation.

<sup>70</sup> 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.

<sup>71</sup> Federal Register / Vol. 85, No. 196 / Thursday, October 8, 2020 / Notices.

<sup>72</sup> Canada Border Services Agency (2022), Certain concrete reinforcing bar 3: Dumping (Algeria, Egypt, Indonesia, Italy, Malaysia, Singapore, and Vietnam).

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- the measures have removed the price advantage from dumping previously enjoyed by these exporters, which has coincided with export volumes reducing
- if the measures expire, imports from subject countries would become more price competitive and previous import volumes could be restored
- the Australian market remains an attractive destination for exporters, as demonstrated by the large import volumes from non-subject countries
- the Australian market is highly price sensitive, and the price of imports influence Australian industry's prices and
- 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 and could easily reinstate previous distribution links with exporters
- expiration of the measures may make the Australian market more attractive and accessible to imports given the prevalence of trade measures in other jurisdictions
- subject country exporters maintain surplus production capacity, and the global steel market is characterised by significant oversupply
- the conditions of supply and demand (favourable to the Australian industry) seen during the inquiry period resulting from the COVID-19 pandemic are likely to abate, leading to greater competition on price in the future.

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

### 8.5 Is dumping likely to continue or recur?

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.

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).<sup>73</sup>

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.<sup>74</sup> 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**.

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<sup>73</sup> The Manual, p 176.

<sup>74</sup> Ibid.

**8.5.1 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 7 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**

**8.5.2 Previous dumping margins**

Table 26 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%
	SCSC	NA	0%
	NTS	NA	0%
	Uncooperative and all other exporters	11.9%	NA

**Table 26 - Previous dumping margin assessments**

Table 25 and Table 26 show the following:

- 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 two separate 12-month periods relevant to the measures. In INV 418, the dumping margin was 6.3%

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and in the inquiry period the dumping margin was 33.5%.<sup>75</sup> As outlined in section 7.5.2, the commission's calculation of variable factors for Nervacero during the inquiry period is relevant to its assessment of the likelihood of dumping and material injury continuing or recurring if the measures expire.

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.

### 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.<sup>76</sup> Millcon's dumping margin for the

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<sup>75</sup> 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.

<sup>76</sup> Following the outcome of ADRP review 2020/127.

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inquiry period is negative 7.7%.<sup>77</sup> 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.

As outlined in section 8.4, the commission considers that there is insufficient evidence to conclude that it is likely that other exporters from Thailand would export if the measures expired. For completeness, the commission notes that TSMT participated in the inquiry by providing a questionnaire response with information about its normal value. To provide an additional level of satisfaction that exporters other than Millcon are not likely to dump the goods if the measures expire, the commission analysed whether, if TSMT were to export the goods, those exports would likely be at dumped prices. Specifically, the commission compared TSMT's normal value to Millcon's export price during the inquiry period to inform the commission of TSMT's likely future behaviour. The commission is satisfied that TSMT's normal value is lower than a price at which TSMT could have reasonably exported the goods to Australia during the inquiry period, indicating that TSMT could have exported the goods at undumped prices during the inquiry period. Based on the commission's analysis relevant to the inquiry period, it is unlikely that TSMT and potentially any other new entrant from Thailand 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.

In its submission dated 8 December 2022,<sup>78</sup> InfraBuild stated it was concerned that the comparison between TSMT and Millcon was based on a singled ascertained normal value (for TSMT) and export price (for Millcon). InfraBuild submitted that this would not be a reasonable approach for the commission's dumping assessment, as TSMT's predecessors did not export the same models to Australia as Millcon did during the inquiry period. The commission confirms that it compared TSMT's normal value and

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<sup>77</sup> 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.

<sup>78</sup> EPR 601, document no. 26.



Millcon's export price using a model by model comparison consistent with InfraBuild's submission.

### **8.5.3 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 8.4.3 of this report, the commission considers that domestic demand for rebar is likely to moderate given that the fiscal stimulus applied during the COVID-19 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.

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 9. With Greece and Spain located within the same region, the commission expects that its prices would follow a similar trend.

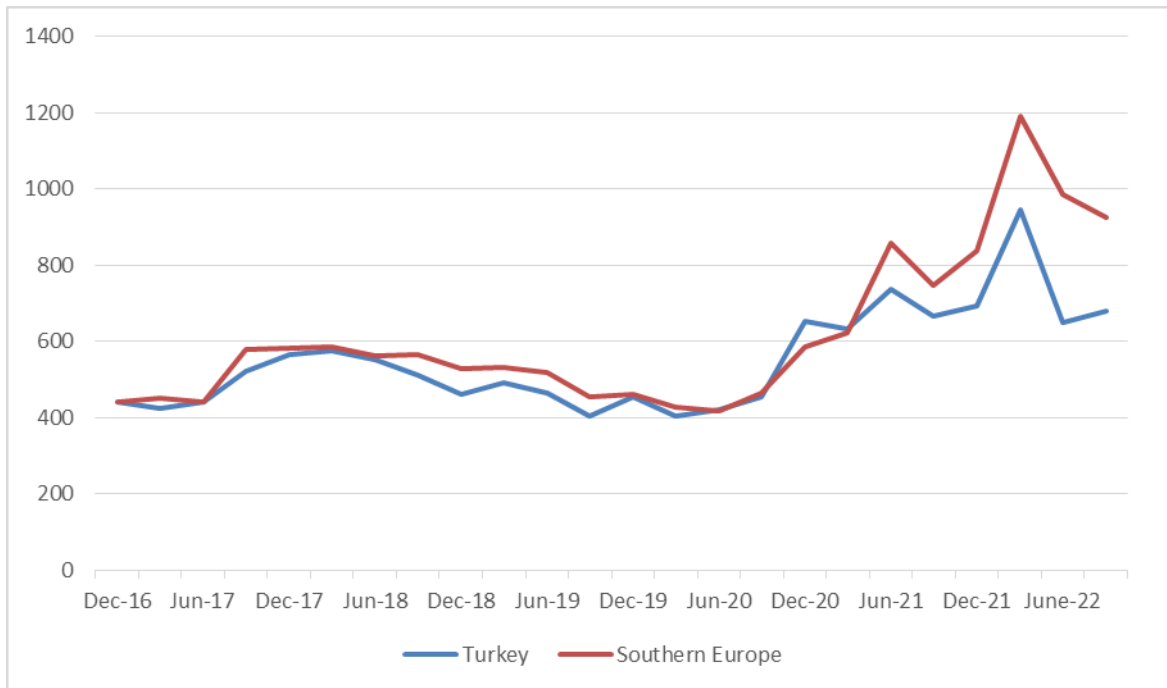


Figure 9 - Rebar FOB Southern Europe prices (US\$/tonne)<sup>79</sup>

Figure 9 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 6.5, the 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.

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

#### 8.5.4 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

<sup>79</sup> Prices series for rebar sourced from Bloomberg under subscription (STS3RBFB and STTRBFB).

- 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-19 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 in the event that measures 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.<sup>80</sup>

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.

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.

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<sup>80</sup> Investigations 264 and 418; Continuation Inquiries 546 and 560.

Patterns of trade

In section 8.4.1 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.

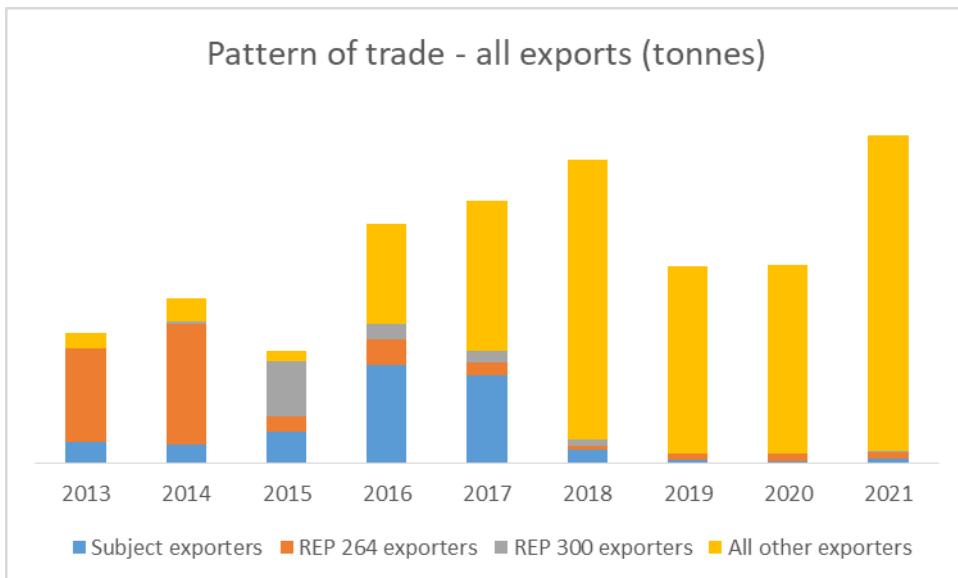
This analysis demonstrates that the measures have influenced patterns of trade in the Australian market. The commission considers that the changes in the pattern of trade that have followed the measures reinforce the price sensitivity in the Australian market, and demonstrate that those exporters subject 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 10 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 10 - Composition of imports since 2013 (tonnes)**

Figure 10 and supporting data about overall market share, indicates that:

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- 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.<sup>81</sup>

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.

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<sup>81</sup> The commission's assessment is contained in Confidential Attachment 1.

### **8.6.3 Likely effects 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 Likelihood of continuation or recurrence of material injury**

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 COVID-19 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 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 COVID-19 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
- the 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 some market share to exporters from the subject countries. 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.

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.

#### **8.6.5 Submission received from Nervacero**

In response to the SEF, Nervacero submitted that the available evidence does not support a conclusion that the expiry of the measures would lead or would be likely to lead to a continuation or recurrence of material injury in so far as exports from Nervacero is concerned.<sup>82</sup>

Nervacero specifically addressed the following three factors in support of its submission:

- the substantially changed market and operational conditions that are now being experienced by Nervacero, as the only exporter from Spain subject to the measure
- the substantial changes in the economic condition of InfraBuild since the measure was first imposed
- there is no nexus between expiry and recurrence of Nervacero dumping and injury.

#### Changed market and operational conditions experienced by Nervacero

While noting the imposition of measures in 2018 as a factor, Nervacero attributes the decline in its exports to Australia to:

- cessation of sales to Australian industry, such sales previously amounting to around a of quarter of its total exports
- strong demand and profitable prices in the European market
- relatively higher costs of production and logistics in comparison to other suppliers to the Australian market.

Nervacero submitted that due to the higher prices in the Spanish and EU markets, which are its main market destinations, and the relatively higher costs of production and of freight to Australia, there is a strong incentive and indeed necessity for it to focus on

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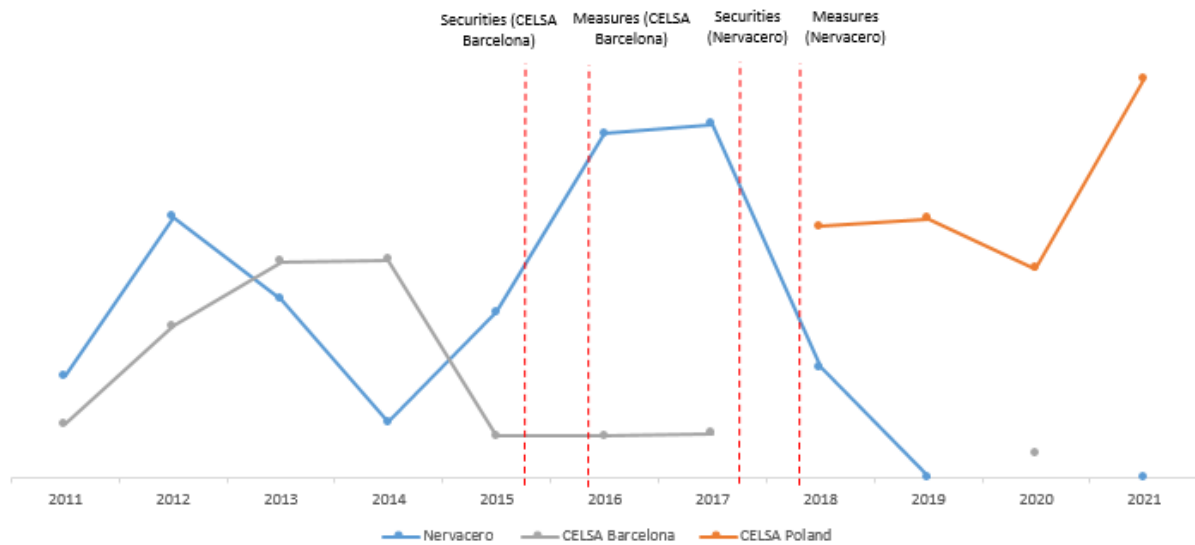
<sup>82</sup> EPR 601, document no. 27.

supplying rebar to those European markets. Nervacero submitted that these factors, as well as its lack of spare production capacity make it unlikely that it would shift sales away from its existing markets to Australia, let alone at dumped or injurious levels. Nervacero provided economic forecasts published by Euroconstruct in support of its arguments that the projected strength of the Spanish market will ensure it remains the focus of its sales strategy.

*The commission’s assessment*

The commission notes that Nervacero is a member of the CELSA Group. The CELSA Group owns or controls a number of steel mills in several countries. Three of these mills – CELSA Barcelona, CELSA Poland and Nervacero maintain ACRS accreditation for the supply of both rebar coils and straights to the Australian market.

The commission analysed the pattern of exports to Australia for these 3 entities from 2012 until 2022. While exports of the goods to Australia from Poland are not subject to this inquiry, the commission finds it a relevant consideration when assessing the previous, and likely future, export behaviour of the CELSA Group, including Nervacero. The commission’s analysis is shown in Figure 11 below.



**Figure 11 - Exports from CELSA Barcelona, Nervacero and CELSA Poland to Australia (tonnes)**

Figure 11, and the underlying data supporting it, indicates that:

- prior to measures on CELSA Barcelona, both CELSA Barcelona and Nervacero exported material volumes of the goods to Australia
- following the initiation of investigation 264, the total volume of exports from Spain reduced
- exports from Nervacero increased coincident with measures on CELSA Barcelona
- exports from Poland increased coincident with the initiation of INV 418, which included exports by Nervacero



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- regardless of the source of supply, the CELSA group maintains the same distribution links to the Australian market
- during the inquiry period, CELSA Poland was responsible for almost the entire volume of exports from these three CELSA Group entities
- the combined volume of goods exported by these CELSA Group entities during the inquiry period has only been surpassed by the volume of exports in 2012.

While the factors cited by Nervacero as reasons for the reduction in its exports to Australia are likely contributors, the above analysis supports the commission's view that the CELSA Group has primarily altered supply sources to the Australian market in response to measures. The commission therefore considers that excess production capacity is either available or can become available across the CELSA Group's mills. While Nervacero's production capacity utilisation was high during the inquiry period, the commission also notes it was not fully exhausted.

The commission further considers that its pattern of trade analysis in respect of the CELSA Group does not support Nervacero's submission that conditions of trade in Europe are so advantageous that there is no incentive to export to the Australian market. The commission notes that the volume of exports from CELSA Poland reached its peak during the inquiry period. This indicates that even with a favourable European market (and the allegedly higher costs of transport from Europe as opposed to Turkey and Asia), Australian was an attractive market for the CELSA Group.

In terms of future trading conditions in Nervacero's domestic market, the commission does not consider that the evidence provided by Nervacero in its submission is persuasive. Nervacero note Euroconstruct's forecast that the Spanish construction sector will experience a strong post-COVID recovery out to 2024. Nervacero assert that this, combined with the shortage of supply associated with the Russia-Ukraine war, higher energy and freight costs, and the effects of a post-war recovery point towards continued demand for locally produced steel products at high price points in the short, medium and longer term. Nervacero conclude that 'there are no indications that these fundamentals are likely to change or change substantially in the near future in a way that would suggest that expiry of the measure will lead Nervacero to shift its sales away from existing markets to Australia, let alone at "dumped" or "injurious" levels'.

The commission has reviewed the forecasts supplied by Nervacero that were sourced from Euroconstruct as well as independently researching economic forecasts for the Spanish and European markets.

In relation to the Euroconstruct forecast, the commission notes the following chart and supporting commentary:

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Spain: GDP and total construction output forecast  
year to year change in %



Source: EUROCONSTRUCT (94th Conference)

*The forecasts for Spanish economy from 2023 onwards have been revised downwards again. However, a recession is not expected, let alone a deep or long one. The Spanish economy will not come away unscathed from the energy crisis, although it will suffer a more bearable impact as a result of a lower dependence on Russian gas and a higher diversification of suppliers. Unfortunately, this relief will not be felt in inflation, which is no longer restricted to energy and has spread to virtually all goods and services, and will keep punishing household incomes and economic growth. GDP forecasts just contemplate 1.3% growth in 2023 and 2.5% in 2024.*

*The construction sector has not yet seen a wide-spread drop in demand due to fears of an economic slowdown, but indicators show a change in the production pace. Employment in construction has not grown in 3Q22 (-1% less compared to 2Q22, but there are still 2.7% more employed than in 3Q21) and cement consumption is stagnating... As in most sectors, companies in the construction sector are suffering from a narrowing profit margins due to the rise in raw materials prices and interest rates. However, considering that output levels are low, there is no overstock in the real estate market and the Next Generation EU (NGEU) funds are providing a substantial safety net, we keep envisaging a growth scenario, but with underlying slowdown: the forecast starts at 4.0% for 2022, and it ends up at 1.8% for 2025.*

The commission considers that the Euroconstruct chart and commentary indicate that the Spanish economy and construction sector grew strongly during 2021 and 2022, however the forecasts show growth construction output declining year on year until the end of the forecast period, and to levels below those seen prior to the COVID-19 pandemic. While GDP growth is expected to reach a nadir in 2023 before recovering, that recovery is occurring with declining growth in construction output, indicating the sources of the recovery are not related to the construction sector. In its entirety, the commission considers that the Euroconstruct forecast presents a bearish assessment of the

economic fundamentals as they relate to the Spanish construction sector in the short to medium term.

The commission considers that this assessment is further supported by its independent research. According to the OECD Economic Outlook for Spain<sup>83</sup> there are signs of a slowdown in economic activity. Economic growth slowed in the third quarter of 2022, with GDP rising by 0.2% after 1.5% in the second quarter. The report identified a number of contributing factors including a rise in the unemployment rate, high inflation and low consumer confidence which fell to levels close to those reached in the beginning of the COVID-19 pandemic.

*Economic activity is projected to grow by 1.3% in 2023 and 1.7% in 2024, after increasing by 4.7% in 2022. High inflation will curb household purchasing power, but savings accumulated during the pandemic will support consumption. With deteriorating demand prospects and rising financing costs, private investment is expected to remain subdued. The slowdown in key trading partners will dent exports. Inflation will peak at 8.6% in 2022 and then decline to 4.8% in 2023 and 2024.*

*Growth is expected to slow in 2023 and remain moderate in 2024, mainly due to the depressing effect of inflation on household purchasing power and weaker in foreign demand prospects. The rise in euro area interest rates will weigh on business investment, while public investment is expected to remain dynamic thanks to the support from Next Generation EU funds. Increasing interest rates will also hamper consumption and housing investment, although the impact is expected to be more moderate than in previous periods of rising rates, as the share of floating-rate housing loans has fallen considerably over the last decade, to around 25%.*

Similarly, the OECD's outlook for the Euro area is that growth will slow sharply in 2023 before gradually resuming afterwards.

*Quarterly growth is projected to turn negative in the final quarter of 2022, although strong carryover effects from 2021 and strong performance in the first half of the year mean that annual GDP growth of 3.3% is projected. High energy and food prices, weak confidence, continuing supply bottlenecks, and the initial impact of tighter monetary policy will lead to a sharp slowdown in 2023. Despite robust wage growth, consumer price inflation of 8.3% in 2022 and 6.8% in 2023 will lead to a contraction of real disposable income in 2022 and 2023, and a slowdown of private consumption growth. Investment will be held back by slowing demand, although additional funding of about 0.5% of GDP a year under the pandemic recovery funds will moderate the slowdown. Inflation is projected to moderate perceptibly only in 2024, with subdued domestic growth helping to*

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<sup>83</sup> [OECD Economic Outlook, Volume 2022 Issue 2 - Spain](#)

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*contain price and cost pressures. Even so, core inflation is projected to still be above the ECB inflation target at the end of the projection horizon.<sup>84</sup>*

The Atradius Economic Outlook December 2022 report also points to a slowdown of economic activity within the Eurozone:

*Advanced economies as a whole will see their growth come to a standstill in 2023 as high inflation and tighter financing conditions constrain consumer purchasing power. The situation for European economies that are more dependent on energy imports from Russia is especially subject to downside risk.<sup>85</sup>*

*The eurozone is facing several headwinds, including energy prices, while the initial benefits from the reopening of the economy are mostly exhausted. Sentiment indicators confirm this picture. The European Sentiment Indicator (ESI) declined in the past couple of months, to 92.5 in October (100 is the neutral level). A similar negative sentiment is visible in the composite Purchasing Managers Index (PMI), which dropped below 50 (the neutral level) four months ago. The latest composite PMI reading was 47.8 in November 2022. The ongoing slowdown is visible in both services and manufacturing. While industrial production numbers for September were positive (4.3% year-on-year), industry is facing several headwinds, such as soaring energy costs, weakening demand, supply disruptions, and input shortages – though supply pressures have been improving recently.<sup>86</sup>*

The forecast is a slowdown of real GDP growth. Across the Eurozone, negative growth is expected in 2023 before picking up again in 2024. For Spain, growth is expected to slow before rebounding in 2024:

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<sup>84</sup> [OECD Economic Outlook, Volume 2022 Issue 2 - Euro zone](#)

<sup>85</sup> [Atradius Economic Outlook - December 2022, p 1.](#)

<sup>86</sup> [Atradius Economic Outlook - December 2022, pp 16-17.](#)

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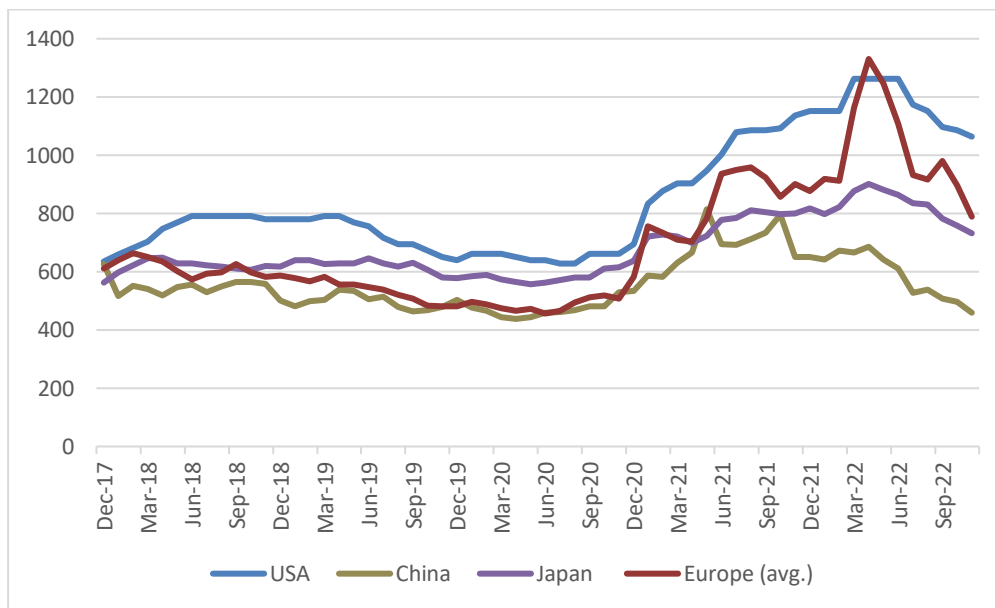
Table 2.2 Real GDP growth (%) – eurozone

	2021	2022e	2023f	2024f
Austria	4.7	4.3	-1.0	2.5
Belgium	6.1	2.8	-0.2	2.5
France	6.8	2.5	0.2	1.9
Germany	2.6	1.5	-1.1	2.7
Greece	8.0	6.1	-0.2	2.2
Ireland	13.4	7.8	1.7	2.2
Italy	6.7	3.7	-0.1	1.2
Netherlands	4.9	4.7	0.8	1.6
Portugal	5.5	6.6	0.4	1.8
Spain	5.5	4.5	0.8	2.5
<b>Eurozone</b>	<b>5.3</b>	<b>3.1</b>	<b>-0.1</b>	<b>2.1</b>

Sources: Oxford Economics, Atradius

**Figure 12 – Real GDP growth (%) – eurozone<sup>87</sup>**

In terms of rebar pricing, Nervacero maintains that the factors currently influencing its domestic market ‘point toward continued demand for locally produced steel products at high price points in the short, medium and longer term’. Nervacero supplied a pricing chart to January 2022 in support of this claim. The commission has obtained contemporary pricing information to assess the veracity of Nervacero’s claim. Figure 13 below demonstrates rebar pricing for various markets from December 2017 to November 2022 in USD per tonne.



**Figure 13 - Rebar prices (US\$/tonne)<sup>88</sup>**

<sup>87</sup> Ibid.

<sup>88</sup> Prices for rebar sourced from MEPS under subscription.

Figure 13 indicates that rebar pricing has recently been in decline globally, and contrary to Nervacero's claim, the decline in European prices have been particularly noticeable following a peak in March 2022.

The commission accepts that Nervacero's sales mix has shifted toward the European markets since the imposition of measures. The commission considers this shift is likely a consequence of both the measures and the favourable trading conditions in the Spanish and European markets during 2021 and the early stages of 2022. The commission considers that the projected slowdown in the European market, and the already evident decline in rebar prices, is likely to be detrimental to Nervacero. Based on Nervacero's willingness to export to Australia at dumped prices in previous periods of economic slowdown in its domestic market, the commission considers it likely that in the absence of measures Nervacero would likely export goods to Australia at dumped prices.

Changes of market and operational condition of InfraBuild since measures were imposed

Nervacero submit that:

- during the inquiry period, InfraBuild has enjoyed some of its best ever financial performance, and references in support of that contention both the findings contained in the commission's verification report of InfraBuild, as well as InfraBuild's own financial reporting and media announcements
- any deterioration identified by the commission with respect to InfraBuild's market share should be viewed within the context of the InfraBuild's improved sales, revenue and profit
- InfraBuild were running at full capacity during the inquiry period
- the key factor in the Australian market has been availability of product and high prices, rather than competition for market share
- since the original investigation InfraBuild has changed its sales arrangements with major customers which provides an effective safeguard to maintain and advance its sales volume and revenue
- InfraBuild's new sales arrangements insulate it against competition from smaller higher cost/higher price exporters such as Nervacero
- the highest price sensitivity in the Australian market relates to straight products, while Nervacero has historically supplied coil products
- these factors indicate, that, contrary to the commission's finding in the SEF, the conditions of competition in the Australian market have changed since the measures
- it cannot compete in the Australian market against the incumbent lower priced exporters from Turkey and Asia.

*The commission's assessment*

The commission does not agree with Nervacero's submission that the fundamental conditions of competition in the Australian market have changed since the measures.

In chapter 5, the commission details its findings in respect of the Australian market, including its size, composition of supply, factors that have affected supply and demand (including those related to the COVID-19 pandemic) and pricing. While these factors may

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be subject to change, the commission considers that the fundamental conditions of competition have remained constant. These factors are that:

- rebar is supplied to the Australian market by Australian industry and exporters from various countries
- rebar is a commodity product with limited substitutability with other reinforcing products
- because price is the key determinant of purchaser behaviour, the market is highly price sensitive
- the price that Australian industry can achieve in the market is influenced by the price of imported goods (be they coil or straight rebar products), and this is reflected in Australian industry's pricing models.

Despite the arguments tendered by Nervacero, its statement that it 'cannot compete with the prices offered by the new wave of exporters who are not impacted by dumping measures' implicitly confirms the commission's characterisation of the Australian market. In the Australian market, customers can choose whether they wish to purchase from Australian industry or purchase imported goods, and if they choose the imported goods price will be the key factor in determining the supplier. As an exporter of dumped goods currently subject to measures, Nervacero has not been able to compete as effectively in the Australian market. The commission accepts that the composition of the Australian market has changed since the imposition of measures (as demonstrated in section 8.4.1). The commission considers that the change in composition is precisely because the conditions of competition have not changed – as the imposition of measures at various times during the last decade have impacted the price competitiveness of exporters who had exported at dumped prices, lower priced undumped goods have entered the highly price sensitive market.

Within that context, the commission considers that the Australian industry remains vulnerable to injury from lower priced imports. As detailed in section 6.4.3, the Australian industry has experienced a deterioration in market share during the inquiry period at a time when the Australian market was expanding. In its submission Nervacero implies that the Australian industry is operating at capacity and therefore would not be able to maintain market share in an expanding market. The commission's verification of the Australian industry's capacity utilisation indicated that the Australian industry has excess capacity. While the Australian industry's capacity utilisation increased during the inquiry period, as detailed in section 6.7.5, its capacity utilisation rate remains below the peaks achieved prior to the COVID-19 pandemic.

Further, as detailed in section 8.4.3, the commission considers that domestic demand for rebar is likely to moderate given that the fiscal stimulus applied during the COVID-19 pandemic dissipated and monetary policy settings have recently been tightened. The commission considers that in a contracting market price competition among suppliers will intensify as they seek to maintain volumes and market share.

### No nexus between expiry and recurrence of Nervacero dumping and injury

Nervacero submit that the commission must demonstrate the nexus between the expiry of the measures as they relate to Nervacero and the likelihood of continuation of dumping

and injury. Nervacero argue that the evidence on the record does not support the finding of such a nexus. Nervacero draws particular attention to the following factors in support of its argument:

- competition from Nervacero is currently non-existent
- there is a low likelihood that such competition would re-emerge, given the various factors in both Nervacero's home market and the changed circumstances in the Australian market
- Nervacero's exports would not be likely to be more competitive with or injurious to the Australian industry than the exports of the new incumbents that are already competing with the Australian industry.

*The commission's assessment*

The commission acknowledges that 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.

In assessing the likelihood of whether dumping and material injury will continue or recur, a number of factors are relevant, as outlined in the Manual.<sup>89</sup> The commission's view is that the relevance of each factor will vary depending on the nature of the goods being examined and the market into which the goods are being sold. No one factor can necessarily provide decisive guidance.

In assessing whether the expiration of measures as they relate to Nervacero 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, the commission has had regard to the following factors:

- rebar is supplied to the Australian market by Australian industry and exporters from various countries
- rebar is a commodity product with limited substitutability with other reinforcing products
- because price is the key determinant of purchaser behaviour, the market is highly price sensitive
- the price that Australian industry can achieve in the market is influenced by the price of imported goods and this is reflected in Australian industry's pricing models
- while Australian industry has experienced improved financial performance in recent years, it nonetheless remains susceptible to injury from lower priced imports, as evidenced by its declining market share in an expanding market in 2021
- domestic demand for rebar is likely to moderate given that the fiscal stimulus applied during the COVID-19 pandemic has dissipated and monetary policy settings have recently been tightened

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<sup>89</sup> The Manual, pp 175-176.



- in a contracting market price competition among suppliers will likely intensify as they seek to gain or consolidate sales volumes and market share
- measures at various times during the last decade have impacted the price competitiveness of exporters who export at dumped prices, effectively forcing them from the market
- prior to the imposition of measures Nervacero exported material volumes of the goods to Australia at dumped prices which undercut Australian industry
- following the imposition of measures exports from Nervacero effectively ceased
- the primary importer of Nervacero's goods commenced the importation of the goods from a Polish affiliate of Nervacero, indicating that the CELSA group maintains distribution relationships in the Australian market
- despite effectively exiting the Australian market, Nervacero has retained ACRS accreditation for both straight products and coiled products
- during the inquiry period Nervacero exported a small quantity of the goods to Australia, ostensibly for the purpose of retaining its ACRS accreditation
- the goods exported during the inquiry period by Nervacero were dumped
- while Nervacero's sales mix has shifted toward its domestic market since the imposition of measures, independently assessed economic indicators point toward a slowdown in the Spanish economy and the broader Eurozone, which will likely reduce the demand for Nervacero's product in its domestic market, reduce its capacity utilisation and incentivise it to seek additional sales channels
- it is appropriate for the commission to consider Nervacero's circumstances together with exporters from other subject countries (except Thailand for the reasons outlined in section 8.5) in its forward-looking assessment noting that in INV 418, the commission cumulated the effects of the goods from all subject countries as the requirements of section 269TAE(2C) were met.<sup>90</sup>

While no single factor is determinative, the commission considers that when assessed in aggregate it can be satisfied the expiration of the measures would likely 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.

### **8.7 Other injury factors**

The commission examined whether the submissions of interested parties, or any other evidence, substantiated the existence of other factors that could effectively sever the link between the expiration of the measures on the one hand, and a likely recurrence of material injury on the other.

As detailed in section 8.4.1, since 2019 almost the entirety of exports was 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

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<sup>90</sup> The commission considers that the conditions of competition that led to the cumulation assessment in INV 418 remain present in this inquiry. Therefore in assessing the continuation or recurrence of material injury, the commission has not viewed Nervacero's circumstances in isolation.

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.<sup>91</sup>

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:

- 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.

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<sup>91</sup> Ministerial Direction on Material Injury, 2012.

### **8.8.2 Thailand**

The Commissioner considers 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 dumping and material injury that the measures are intended to prevent.

### **8.8.3 Recommendation**

Based on the above conclusions, the Commissioner 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

The Commissioner is not recommending a change to the variable factors relevant to the notice as part of this inquiry.<sup>92</sup> There is no requirement for the Commissioner to recommend that the Minister change the variable factors in a continuation inquiry. This is not affected by the fact that some exporters exported goods during the inquiry period, or the fact that the commission calculated dumping margins for some exporters as part of the inquiry.

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

- 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 and material injury continuing or recurring, as outlined in Chapter 8.
- For the reasons set out in section 8.5.2, the Commissioner recommends that the measures cease to apply to Thailand.

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<sup>92</sup> The variable factors relevant to a dumping duty notice are the export prices, normal values and non-injurious price.

## 10 RECOMMENDATIONS

In accordance with section 269ZHF(2), the Commissioner is satisfied that the expiration of the measures applying to rebar exported to Australia from Greece, Indonesia, Spain (by Nervacero) and Taiwan (by Power Steel) 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.

The Commissioner recommends, pursuant to section 269ZHF(1)(a)(ii), that the notice **cease to apply** to exporters of rebar from Thailand.

The Commissioner recommends that the Minister **declare** pursuant to section 269ZHG(1)(b), that they have decided to secure the continuation of the measures.

The Commissioner recommends that the Minister **determine** pursuant to section 269ZHG(4)(ii), that the notice continues in force after 7 March 2023 (the specified expiry day) but that, after that day, the notice ceases to apply to exporters of the goods from Thailand.

## APPENDIX 1 – ACRS ACCREDITATION

### **Background**

ACRS<sup>93</sup> 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.

### **Application process**

The application process requires and 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.

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<sup>93</sup> <https://www.steelcertification.com>

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### SCHEDULE OF ASSESSMENT FEES FOR EACH SITE

Certification Type	Full Assessment		Surveillance Assessment	
	Excluding GST	Including GST <sup>1</sup> (\$ AUS)	Excluding GST	Including GST <sup>1</sup> (\$ AUS)
<b>Steelmaking and rolling (Certification Stage 1)</b>				
Bar (DBIL)/Coil (DBIC) <sup>2</sup>	\$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 <sup>3</sup>	\$18,000	\$19,800	\$10,300	\$11,330
Bars/Sections	\$18,000	\$19,800	\$10,300	\$11,330
<b>Manufacturing, Processing, and Fabricating (Certification Stage 2)</b>				
Hollow sections <sup>4</sup>	\$18,000	\$19,800	\$10,300	\$11,330
Welded I sections	\$18,000	\$19,800	\$10,300	\$11,330
Bar processing <sup>5</sup>	\$7,900	\$8,690	\$5,100	\$5,610
Mesh manufacture	\$12,000	\$13,200	\$7,400	\$8,140
Bolts manufacture	POA	POA	POA	POA
<b>Technical Approvals</b>				
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.

<b>APPENDICES AND ATTACHMENTS</b>
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<b>Appendix 1</b>	ACRS accreditation
<b>Confidential Attachment 1</b>	Australian market
<b>Confidential Attachment 2</b>	Economic condition of the Australian industry
<b>Confidential Attachment 3</b>	Millcon export price
<b>Confidential Attachment 4</b>	Millcon CTMS
<b>Confidential Attachment 5</b>	Millcon normal value
<b>Confidential Attachment 6</b>	Millcon dumping margin
<b>Confidential Attachment 7</b>	TSMT export price
<b>Confidential Attachment 8</b>	TSMT CTMS
<b>Confidential Attachment 9</b>	TSMT normal value
<b>Confidential Attachment 10</b>	Comparison of TSMT's normal value and Millcon's export price
<b>Confidential Attachment 11</b>	Nervacero export price
<b>Confidential Attachment 12</b>	Nervacero CTMS
<b>Confidential Attachment 13</b>	Nervacero normal value
<b>Confidential Attachment 14</b>	Nervacero dumping margin
<b>Confidential Attachment 15</b>	Export price analysis