



Australian Government
Department of Industry,
Innovation and Science

Anti-Dumping Commission

Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601

Panel Member Mr Scott Ellis
Anti-Dumping Review Panel
c/o- ADRP Secretariat

By email: ADRP@industry.gov.au

Dear Panel Member Ellis,

**ADRP Review No. 130: Steel reinforcing bar exported from
the Republic of Korea, Singapore, Spain (except Nervacero S.A.)
and Taiwan (except Power Steel Co. Ltd)**

I write with regard to the notice under section 269ZZI of the *Customs Act 1901* (Cth) (the Act) published by the Anti-Dumping Review Panel (ADRP) on 16 December 2020. This notice advised of your intention to review a decision by the Minister for Industry, Science and Technology (the Minister) on the continuation of anti-dumping measures applying to steel reinforcing bar exported to Australia from the Republic of Korea (Korea), Singapore, Spain (except Nervacero S.A.) and Taiwan (except Power Steel Co. Ltd).

By declaration under section 269ZHG(1)(b) of the Act, the Minister decided to secure the continuation of the anti-dumping measures and determined, pursuant to section 269ZHG(4)(a) of the Act, that the dumping duty notice continue in force after 19 November 2020, but after this day:

- the notice cease to apply in relation to exporters of steel reinforcing bar from Singapore and Taiwan (except Power Steel Co. Ltd); and
- the notice have effect as if different specified variable factors had been fixed in relation to all exporters of steel reinforcing bar from Korea and Spain (except Nervacero S.A.).

I have read the applications for review submitted by Compania Espanola de Laminacion, S.L. (CELSA) and InfraBuild (Newcastle) Pty Ltd (InfraBuild) and make submissions pursuant to section 269ZZJ(aa) of the Customs Act at **Attachment A** (public version).

The Commission remains at your disposal to assist you in this matter, and would be happy to participate in a conference if you consider it appropriate to do so.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Dale Seymour'.

Dale Seymour
Commissioner, Anti-Dumping Commission

15 January 2021

SUBMISSIONS OF THE COMMISSIONER, ANTI-DUMPING COMMISSION

Background

1. On 6 February 2020, the Anti-Dumping Commission (Commission) received an application¹ from InfraBuild to continue the anti-dumping measures² on steel reinforcing bar exported from the Republic of Korea (Korea), Singapore, Spain (except Nervacero S.A.) and Taiwan (except Power Steel Co. Ltd) (the anti-dumping measures), pursuant to section 269ZHB of the Act.³
2. I subsequently considered the application and decided not to reject the application. Notice of my decision and my intention to inquire whether the continuation of the measures was justified was published on the Commission's website on 3 March 2020, pursuant to section 269ZHD(4).⁴
3. On 6 October 2020, the Minister, among other things:⁵
 - Declared that she had decided to secure the continuation of the anti-dumping measures and determined pursuant to section 269ZHG(4)(a), that the dumping duty notice continues in force after 19 November 2020, but after this day, the notice:
 - ceases to apply in relation to exporters of steel reinforcing bar from Singapore and Taiwan (except Power Steel Co. Ltd); and
 - has effect as if different specified variable factors had been fixed in relation to all exporters of steel reinforcing bar from Korea and Spain (except Nervacero S.A.). (Reviewable Decision).
4. The Reviewable Decision was published on the Commission's website on 10 November 2020, as Anti-Dumping Notice No. 2020/111.
5. In the Reviewable Decision, the Minister stated she had considered and accepted the recommendations and reasons for recommendations, including all the material findings of facts or law, set out in *Anti-Dumping Commission Report No. 546* (REP 546).

¹ Continuation 546 – Electronic Public Record (EPR 546), No. 1.

² The anti-dumping measures take the form of a dumping duty notice published on 19 November 2015.

³ All legislative references in this submission are to the *Customs Act 1901* (Cth) (Act) unless otherwise indicated.

⁴ EPR 546, No. 2.

⁵ EPR 546, No. 38.

6. On 10 December 2020, InfraBuild applied to the Anti-Dumping Review Panel (ADRP) for review of the Reviewable Decision.⁶
7. On 10 December 2020, CELSA applied to the ADRP for review of the Reviewable Decision.⁷
8. Following receipt of the applications for review, the ADRP published an intention to conduct a review.⁸

Material findings upon which recommendation based

Cessation of measures with respect to exports from Singapore

9. In REP 546, I recommended that the dumping duty notice cease to apply to exports of steel reinforcing bar exported from Singapore.
10. I made this recommendation on the basis that I was not satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation or recurrence of dumping of steel reinforcing bar from Singapore and the material injury⁹ that the measures are intended to prevent. This was based on the following findings:
 - The dumping margin of steel reinforcing bar exported from Singapore during the inquiry period was negligible.¹⁰
 - Duty assessments of consignments of steel reinforcing bar exported to Australia from Singapore resulting in partial or full refunds of interim duty paid, reflecting that the goods exported from Singapore had not been dumped or were dumped at negligible margins.¹¹
 - Consistently higher volumes of steel reinforcing bar exported to Australia from Singapore relative to volumes exported by other countries subject to anti-dumping measures, since the measures were imposed.¹²
 - Export prices of steel reinforcing bar exported from Singapore in the inquiry period and throughout the period subsequent to the imposition of measures were generally higher than prices of steel reinforcing bar exported from other countries subject to the anti-dumping measures as well as countries not subject to anti-dumping measures.¹³

⁶ Published 16 December 2020, ADRP website (InfraBuild Application for Review).

⁷ Published 16 December 2020, ADRP website (CELSA Application for Review).

⁸ ADRP Review 130 – *Anti-Dumping Review Panel*, Public Notice under s 269ZZI, 16 December 2020.

⁹ The original investigation found the Australian industry had experienced injury from dumped exports in the form of price suppression, reduced profit and profitability, loss of sales volume and market share.

¹⁰ REP 546, Section 6.4.1.5 and Confidential Attachment 4.

¹¹ REP 546, Section 7.5.5, page 74.

¹² REP 546, Section 7.4.2.2, page 57; Figure 10, page 56; and Confidential Attachment 6.

¹³ REP 546, Section 7.4.3.2, page 59.

- No evidence of price undercutting of Australian Industry prices by prices of steel reinforcing bar exported from Singapore in the inquiry period.
 - Modest underutilised production capacity in Singapore.¹⁴
 - As NatSteel Holdings Pte Ltd (NatSteel), the sole exporter from Singapore has historically exported to Australia in relatively significant quantities and at higher prices, the Commission considered that it would be reasonable to assume that it would not change its behaviour by reducing export prices to the detriment of its profit margin. Therefore, it is unlikely that NatSteel would commence dumping at margins injurious to the Australian industry.¹⁵
11. InfraBuild disagrees with my recommendation and submits that the reasons for the recommendation are not reasonable:
- InfraBuild disagrees with the calculation of the dumping margin in the inquiry period because it disagrees with the calculation of normal value upon which the dumping margin is based.
 - InfraBuild submits that the findings in REP 546 of the likelihood of dumping recurring is unsound because it did not appropriately consider pricing trends in the inquiry period of goods exported to Australia from Singapore.
 - InfraBuild contends that the Commission's analysis of the recurrence of material injury following the inquiry period is unsound.
12. I consider that the calculation of normal value and dumping margin in the inquiry period is correct. I discuss this further below under the heading 'Calculation of Normal Value in Inquiry Period'.
13. I consider that the findings in REP 546 as to likely future pricing of steel reinforcing bar exported from Singapore is sound and that the findings appropriately consider the following pricing trends in the inquiry period:
- During the inquiry period, InfraBuild's prices of steel reinforcing bar were established and negotiated with reference to competing price offers in respect of imported goods.
 - There was no evidence indicating that prices offered by importers of steel reinforcing bar from Singapore influenced or affected InfraBuild's price offers in the inquiry period.¹⁶

¹⁴ REP46, section 7.4.6.2, page 61

¹⁵ REP 546, section 7.6.2, pages 82 and 83.

¹⁶ REP 546, section 7.4.7.2, page 64.

- Final price offers made by InfraBuild in the inquiry period were made with reference to the price of exports from countries other than Singapore.¹⁷
 - Analysis of pricing in the inquiry period found no evidence of price undercutting by exports from Singapore – specifically for the principal importer of Singaporean steel reinforcing bar and InfraBuild customer, Best Bar Pty Ltd, Best Bar (NSW) Pty Ltd and Best Bar (VIC) Pty Ltd (collectively Best Bar), the prices of steel reinforcing bar exported from Singapore were broadly above that of InfraBuild's selling prices.¹⁸ Further, following the imposition of measures, export prices of Singaporean steel reinforcing bar were the highest in comparison to the goods exported from other countries subject to anti-dumping measures, as well as countries not subject to anti-dumping measures.¹⁹
 - Sales volumes to Best Bar by InfraBuild in the inquiry period exceeded export sales volumes by NatSteel to Best Bar.
 - Sales data submitted by InfraBuild²⁰ comparing its sales prices to Best Bar with its sales prices to all other customers does not evidence price suppression caused by steel reinforcing bar exported from Singapore in the absence of concurrent evidence of InfraBuild lowering its price offers in response to competing price offers in respect of steel reinforcing bar exported from Singapore.²¹
14. Further, I consider that the following analysis in REP 546 of pricing of steel reinforcing bar exported from Singapore by NatSteel in the period following the inquiry period is sound:
- In REP 546, I found that the average export prices for Singaporean exports decreased in the first two quarters of 2020 following the inquiry period. This was broadly consistent with the pricing patterns of all exports to Australia and appeared to be driven by a decrease in the underlying scrap price during the same period.
 - In the first two quarters of 2020, Singaporean export prices of steel reinforcing bar were generally above countries subject to anti-dumping measures as well as those not subject to anti-dumping measures.
15. As to InfraBuild's contention that the extent of NatSteel's export price 'premium' above any other exporter the subject of measures has diminished in the last two quarters of the inquiry period and the first two quarters of 2020, REP 546 concluded that while there was a decrease in the variance between Singaporean export prices with that of Korea, Spain and other countries not

¹⁷ REP 546, section 7.4.7.2, page 64.

¹⁸ REP 546, section 7.4.7.2, page 64 and Confidential Attachment 8.

¹⁹ REP 546, section 7.4.3.2, page 59 and Confidential Attachment 6.

²⁰ InfraBuild Application for review, Appendix B, pages 12 and 13 and InfraBuild Submission dated 9 September 2020, EPR546 No. 027, pages 20 and 21.

²¹ REP 546, section 7.4.7.2, page 64.

subject to measures in the first two quarters of 2020 (compared to the inquiry period), the change in the variance was considered minimal.²²

16. On the basis of the findings in REP 546, as summarised above, I cannot be satisfied that prices of steel reinforcing bar exported to Australia from Singapore are likely to cause price related injury to InfraBuild in the future if the measures cease to apply to goods exported from Singapore.
17. Consequently, I invite the ADRP to find that REP 546 contained a sufficient factual basis and reasoned analysis to support my recommendation that the measures cease to apply to exports of rebar from Singapore and find that the Reviewable Decision was the correct and preferable decision.

Continuation of measures with respect to exports from Spain

18. In REP 546 I recommended that the dumping duty notice continue to apply to exports of steel reinforcing bar exported from Spain but that the notice have effect as if different specified variable factors had been fixed in relation to all exporters of steel reinforcing bar from Spain (except Nervacero S.A.).
19. I made this recommendation to continue the measures on the basis that I was satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation or recurrence of dumping of steel reinforcing bar from Spain and the material injury (price suppression, reduced profit and profitability, loss of sales volume and market share) that the measures are intended to prevent. This was based on the following findings:
 - Steel reinforcing bar produced by CELSA is certified by the Australasian Certification Authority for Reinforcing and Structural Steels (ACRS) and CELSA has maintained distribution links to Australia.
 - There were no exports of steel reinforcing bar from Spain during the inquiry period. Volumes of steel reinforcing bar exported from Spain by CELSA declined significantly following the imposition of the measures in 2015. Following the inquiry period, CELSA resumed exporting steel reinforcing bar from Spain to Australia in volumes within the range of those exported prior to the inquiry period.²³
 - The absence of exports from Spain by CELSA during the inquiry period was such that a dumping margin was calculated as 0% on the basis of finding that the export price was equal to the normal value. Further, price undercutting analysis could not be undertaken as there were no exports. However, average prices of steel reinforcing bar exported from Spain have historically been low relative to average prices of steel reinforcing bar exported from other countries not subject to measures.²⁴

²² REP 546, Section 7.4.3.2, page 59 and Confidential Attachment 6.

²³ REP 546, Section 7.4.2.3, page 56; Figure 10, page 56; and Confidential Attachment 6.

²⁴ REP 546, Section 7.4.3, page 59 and Confidential Attachment 6.

In 2020, the prices of steel reinforcing bar exported from Spain were the lowest of the countries subject to the measures.²⁵

- Spanish and European steel reinforcing bar domestic markets are likely to contract in the future due to a contraction in construction sectors, making it likely that volumes of steel reinforcing bar exported to Australia from Spain will increase if the measures expire.
 - CELSA is part of the CELSA Group which owns or controls a number of steel mills in several countries.²⁶ The CELSA Group has distribution links to the Australian market for steel reinforcing bar. The CELSA Group has the ability to alternate between different sources of steel reinforcing bar supplied to the Australian market making it likely that volumes of steel reinforcing bar exported from Spain will increase if the measures expire.
 - Exports of steel reinforcing bar from Spain by CELSA's related party, Nervacero, increased significantly following the imposition of the measures in relation to CELSA in 2016 until 2018 when measures were imposed on Nervacero and exports from Nervacero ceased. This past exporting behaviour of the CELSA Group supports the view that volumes of exports from Spain by CELSA are likely to increase in the future if the measures are not continued.
 - The Australian construction sector is likely to experience subdued activity in the future.²⁷ This is likely to lead to increased price competition in the Australian steel reinforcing bar market, increasing the likelihood that the price of exports from Spain will be lower as suppliers compete for volumes and market share.
20. On this basis, I am satisfied that steel reinforcing bar exported to Australia from Spain by CELSA is likely to be dumped at prices likely to cause price-related injury to InfraBuild if the measures expire with respect to goods exported from Spain.
21. CELSA submits that the expiration of the measures applying to rebar exported to Australia from Spain would not lead, or be likely to lead, to a continuation or recurrence of dumping and the material injury that the measures are intended to prevent. This is on the basis that REP 546:
- failed to properly account for changes in the circumstances in the Australian market since the measures were imposed; and
 - improperly relied upon the ability of the Celsa Group to alternate supply sources.

I address both of these points below.

²⁵ REP 546, Section 7.4.3.3, page 59 and Confidential Attachment 6.

²⁶ REP 546, Section 7.4.2.3, page 57.

²⁷ REP 546, Section 4.3.3, page 28.

Changes in the circumstances in market

22. In considering the likelihood that material injury will continue or recur if the measures expire, I am required to consider the likelihood of material injury being caused by factors other than the exportation of the goods subject to the measures.
23. In this continuation inquiry I considered the likelihood of material injury from other sources by considering historical pricing and volumes of steel reinforcing bar exported from other countries, specifically goods exported from Turkey. I found that since 2018 and during the inquiry period steel reinforcing bar was exported from Turkey in substantial volumes. Further, the price of steel reinforcing bar exported from Turkey was of the lowest in the market.²⁸ However, given the type and scope of goods subject to the measures, the presence of Turkish steel reinforcing bar in the Australian market does not disturb my finding of likely material injury from steel reinforcing bar exported to Australia from Spain.
24. I consider that the Australian industry may be injured by multiple sources and due to various reasons. The existence of one cause of injury need not negate the other.
25. Taking into account the substitutability and price-sensitive nature of steel reinforcing bar and the likelihood of injury from all causes (including likely price-related injury from steel reinforcing bar exported from other countries), I remain satisfied that the Australian industry is likely to experience material injury from dumped exports from Spain on the basis of the findings in REP 546 as summarised above.
26. I am therefore of the view that REP 546 appropriately accounted for changes in the circumstances in the Australian market since the measures were imposed.

Relevance of ability to switch supply sources

27. I consider that the ability of the CELSA Group to switch supply sources and increase the supply of steel reinforcing bar to the Australian market exported from Spain is a relevant consideration for assessing whether or not dumping and material injury is likely to recur.
28. As set out in REP 546²⁹, historical exporting behaviour of members of the CELSA Group demonstrates that it has previously switched supply sources in response to the imposition of measures. I am of the view that it is appropriate for me to take into consideration the likelihood of this occurring in the future if the measures expire.
29. The ACRS certification of steel reinforcing bar produced by the CELSA Group's steel mill in Poland and the supply of steel reinforcing bar to the Australian market from this mill makes it likely that the CELSA Group will continue to supply the Australian market from this Polish mill and CELSA's mill in

²⁸ REP 546, section 7.4.11, page 68 and Confidential Attachment 9.

²⁹ REP 546, section 7.4.2.3, page 57.

Barcelona in the future. If the measures were to expire with respect to exports from Spain by CELSA, then CELSA is likely to seek to export higher volumes from Spain. This ability to switch supply sources in conjunction with historic exporting behaviour of the CELSA Group is a relevant consideration in assessing the likelihood of dumping and material injury if the measures were to cease applying to exports by CELSA from Spain.

30. This factor in combination with the other factors set out in REP 546 and summarised above are relevant considerations that informed my view that dumping of exports to Australia from Spain and material injury is likely to recur if the measures expire.
31. Consequently, I invite the ADRP to find that REP 546 contained a sufficient factual basis and reasoned analysis to support my recommendation for the continuation of the measures with respect to exports of steel reinforcing bar from Spain and find that the Reviewable Decision was the correct and preferable decision.

Continuation of measures with respect to exports from Korea

32. I recommended that the dumping duty notice continue to apply to exports of steel reinforcing bar exported from Korea but that the notice have effect as if different specified variable factors had been fixed in relation to all exporters of steel reinforcing bar from Korea.
33. As discussed further below, InfraBuild disagrees with the calculation of normal value and export price. Below, I address why I consider that the calculation of normal value and export price is correct under the heading 'Calculation of Normal Value in Inquiry Period'.
34. Consequently, I invite the ADRP to find that the specified normal values fixed by the Minister in relation to steel reinforcing bar exported from Korea are correct.

Cessation of measures with respect to exports from Taiwan

35. I recommended that the dumping duty notice cease to apply to exports of steel reinforcing bar exported from Taiwan.
36. I made this recommendation on the basis that I could not be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation or recurrence of dumping of steel reinforcing bar from Taiwan and the material injury that the measures are intended to prevent. This was based on the following findings:
 - No finding of dumping since measures were imposed.³⁰

³⁰ REP 546, Section 7.4.1, page 55.

- No or minimal volumes exported from Taiwan (excluding Power Steel) during and following the inquiry period.³¹
 - High export prices relative to prices of goods exported from countries not subject to measures.³²
 - Exports of steel reinforcing bar from Taiwan (excluding Power Steel) were subject to the floor price duty method, where interim dumping duty was payable only when the export price was lower than the ascertained floor price. REP 546 found that the export prices of the goods exported from Taiwan (excluding Power Steel) during the inquiry period and in the period subsequent exceeded the floor price in operation at the time.³³
 - No evidence of price undercutting.³⁴
 - Distribution link between only one Taiwanese exporter and importer.³⁵
37. InfraBuild disagrees with my recommendation and submits that the reasons for the recommendation are not reasonable.
38. InfraBuild disagrees with the calculation of the dumping margin in the inquiry period because it disagrees with the calculation of normal value upon which the dumping margin finding is based. I consider that the calculation of normal value and dumping margin in the inquiry period is correct. I discuss this further below under the heading 'Calculation of Normal Value in Inquiry Period'.
39. InfraBuild submits that the Commission's analysis of the volume and pricing of steel reinforcing bar exported from Taiwan following the inquiry period is unsound. The Commission's analysis of the volume and prices of steel reinforcing bar exported from Taiwan (including the period following the inquiry period) is set out in Confidential Attachment 6 to REP 546. I consider this analysis and the conclusions set out in REP 546³⁶ based on this analysis to be sound.
40. I therefore cannot be satisfied that dumping of steel reinforcing bar exported to Australia from Taiwan and material injury is likely to recur if the notice ceases to apply to exports from Taiwan.
41. Consequently, I invite the ADRP to find that REP 546 contained a sufficient factual basis and reasoned analysis to support my recommendation that the dumping duty notice ceases to apply to exports of rebar from Taiwan and find that the Reviewable Decision was the correct and preferable decision.

³¹ REP 546, Section 7.4.2.4, page 58 and Confidential Attachment 6.

³² REP 546, Section 7.4.3.4, page 60 and Confidential Attachment 6.

³³ REP 546, pages 78 and 83.

³⁴ REP 546, Section 7.4.7.4, page 65.

³⁵ REP 546, Section 7.4.4.4, page 60.

³⁶ REP 546, Section 7.5.10, page 80.

Calculation of Normal Value in Inquiry Period

42. InfraBuild submits that the Minister erred in calculating the normal value of the goods exported to Australia in the inquiry period by exporters from Korea, Taiwan and Singapore.³⁷

Determination of normal value under s 269TAC(6) - timing adjustment based on export price movements

43. The Minister accepted my recommendation and determined the normal value for steel reinforcing bar exported to Australia by certain exporters under section 269TAC(6) having regard to all relevant information. In particular, the Minister determined the normal value of steel reinforcing bar:
- exported by Daehan from Korea, by having regard to the normal values established in Anti-Dumping Commission Report No. 486/489 (REP 486/489), with an adjustment made for the movement in Daehan's export prices between the two periods;
 - exported by uncooperative and all other exporters from Korea, by having regard to the normal values established in REP 486/489, with an adjustment made for the movement in Daehan's export prices between the two periods;
 - exported by uncooperative and all other exporters from Taiwan, by having regard to the normal values established in ADRP Report No. 108, with an adjustment made for the movement in the export prices of uncooperative and all other exporters from Taiwan between the two periods.³⁸
44. I am of the view that this method of calculating normal value by adjusting previously ascertained variable factors by movements in ascertained export prices is permissible in light of the discretion afforded to the Minister under section 269TAC(6) and in the circumstances of this case, is the most preferable method based on the best available information before me during the review.
45. Consequently, I invite the ADRP to find that the Minister correctly ascertained the normal value for those exporters within the meaning of section 269TAC(6) and therefore that the Reviewable Decision was the correct and preferable decision.

Published price surveys

46. InfraBuild submits that an adjustment to normal values should have been based on published price surveys and not on movements in ascertained export prices. Specifically, InfraBuild submits that an adjustment to normal values should have been based on published price surveys included with its application for continuation.³⁹

³⁷ By Daehan Steel Co., Ltd. (Daehan) (Ground 1); by 'uncooperative and all other exporters' from Taiwan (except Power Steel Co. Ltd (Power Steel) (Ground 6); and by exporters from Singapore (Grounds 4 and 5).

³⁸ Set out in Confidential Attachment 2 of REP 546.

³⁹ InfraBuild Application for Continuation, Confidential Attachments 1.1 and 1.2.

47. As set out in REP 546, the Commission was unable to use the published price survey information previously submitted because the publisher of that information did not consent to its use.⁴⁰
48. The Statement of Essential Facts (SEF) published on 20 September 2020 set out the material facts upon which the calculation of normal values were made.⁴¹ The fact that the Commission was unable to use the published price surveys previously submitted to the Commission with InfraBuild's application for continuation is not an essential fact upon which my recommendation was based. This fact was only included in REP 546 to respond to InfraBuild's submission following the publication of the SEF.⁴²
49. InfraBuild submits that the ADRP could require a reinvestigation under section 269ZZL to consider new published price surveys it has submitted with its application for review.⁴³
50. I submit that a reinvestigation is not required in these circumstances. The purpose of a SEF is to put interested parties on notice of the essential facts I propose to rely upon when making my recommendation to the Minister and provide an opportunity to make submissions in response to the SEF. In this case, it was clear in the SEF that the pricing survey data provided by InfraBuild was not an essential fact that I proposed to rely on. I consider the absence of my reliance on the price survey data in the SEF sufficiently put InfraBuild on notice that this information was not an essential fact. Accordingly, following the publication of the SEF, InfraBuild had an opportunity to provide further data but did not do so.
51. For these reasons, I am of the view that InfraBuild was not denied procedural fairness.
52. Further, given I did not have consent from the publisher to use its information for the purpose of assessing the magnitude of a change in normal values in Korea and Taiwan, the Commission has not assessed its credibility and reliability, or its relevance to the calculation of a timing adjustment for normal value, taking into account all other available information.
53. I further note that making a timing adjustment to normal value based on the movements in Korean and Taiwanese domestic prices set out in InfraBuild's Application for Review⁴⁴ would not change my finding as to whether or not exports of steel reinforcing bar from Korea and Taiwan were dumped.⁴⁵

⁴⁰ REP 546, pages 42 and 52.

⁴¹ EPR546, No. 24.

⁴² EPR546, No. 27.

⁴³ InfraBuild Application for Review, Confidential Attachments A and B.

⁴⁴ InfraBuild Application for Review, Appendix B, pages 2, 4 and 9.

⁴⁵ For comparison with timing adjustments made by Minister see REP 546 – Confidential Attachment 2 – Dumping Margin summary:

Worksheet '(a)(i) 546 Daehan NV', Cell H17

Worksheet '(c) 546 Korea uncoop and other', Cell D8

Worksheet '(l) Taiwan Uncoop rate', Cell C16.

However, I note that the magnitude of the dumping margin for Korea would change.

54. Based on the best available information before me during the conduct of the continuation inquiry, I maintain that the use of export price data to undertake the timing adjustments was preferable.

Normal Value Calculation - section 269TAC(8) - adjustment for both credit terms and factoring costs

55. The Minister accepted my recommendation and, in accordance with section 269TAC(1), ascertained the normal value of steel reinforcing bar exported to Australia by NatSteel from Singapore to be the price paid or payable for like goods sold in the ordinary course of trade (OCOT) for home consumption, in sales that were arms length transactions adjusted for certain differences pursuant to section 269TAC(8).
56. Accordingly, the Minister directed under section 269TAC(8) that prices paid or payable for like goods be taken to be such a price adjusted for specified differences between that price and NatSteel's export price, which assimilated adjustments for domestic factoring costs and domestic credit terms.
57. In its application for review⁴⁶, InfraBuild contends that the above mentioned adjustments for domestic factoring costs and domestic credit terms are not supported by the terms of section 269TAC(8) and that the Commission misunderstands the operation of a factoring arrangement. InfraBuild contends that as '*domestic sales are paid by the "factor" on terms less than the domestic payment terms endorsed on the sales invoice*', it is not permissible to make an adjustment for both domestic factoring costs and domestic credit terms, that is, it must be one or the other.
58. I am of the view that it is correct and preferable to make both adjustments under section 269TAC(8) as each is independent of the other. As explained in REP 546, the verified domestic factoring costs (bank and insurance charges) pertain to expenses NatSteel incurred in respect of factoring its accounts receivable ledger to other parties for financing purposes and that the operation of a factoring arrangement did not alter the payment terms between NatSteel and its customers as indicated on the sales invoice, as has been asserted by InfraBuild. I further note that customer payment terms are the basis on which an adjustment for domestic credit terms is made.⁴⁷
59. Consequently, I invite the ADRP to find that in ascertaining the normal value of goods exported from Singapore by NatSteel, the Minister correctly adjusted under section 269TAC(8) the price of like goods for both domestic credit terms expenses and domestic factoring costs.
60. I note that the change to the prices paid for like goods from making an adjustment for domestic factoring costs is of a greater magnitude than that change from making an adjustment for credit terms. If only one adjustment

⁴⁶ InfraBuild Application for Review, Ground 5.

⁴⁷ REP 546, page 47.

(being credit terms) is applied, as proposed by InfraBuild, the resultant change to normal value and the dumping margin in the inquiry period would not disturb my recommendation that the measures cease to apply to exports from Singapore.

Normal Value Calculation - inclusion of sale of goods not produced in Singapore

61. In REP 546, I provided the following explanation of how I calculated the normal value:

- In assessing whether NatSteel's sales of like goods on the domestic market were in the ordinary course of trade (OCOT), I included sales of imported like goods which were sold by NatSteel on the domestic market. This is a different approach to that taken in Investigation 264.
- As set out in NatSteel's verification report, during the inquiry period, NatSteel sold like goods on the domestic market which were either of its own production or from imported sources. NatSteel's accounting system does not differentiate between manufactured and imported like goods once the goods have been entered as inventory and at the time a sale is recognised. Imported products for domestic sale are produced to meet the same standards and physical specifications as the goods that it manufactures.⁴⁸
- For the purpose of assessing whether sales of like goods were in the OCOT and ascertaining NatSteel's normal value:
 - I applied the cost of production of NatSteel's self-produced goods for the purposes of sections 269TAAD(2), 269TAAD(3) and 269TAAD(4). Regard was not had to the cost incurred by NatSteel of importing the goods or the cost of production of the imported goods. In establishing an amount of selling, general and administrative costs (SG&A) associated with the sale of like goods under section 269TAAD(4), I applied NatSteel's domestic sales volumes (including both self-produced and imported rebar) to derive a unit SG&A amount relevant to each domestic MCC model;
 - sales of imported goods were included in my assessment of whether NatSteel's domestic sales of like goods were made in low volumes in accordance with section 269TAC(2)(a)(i); and
 - prices of sales of imported goods assessed to be in the OCOT were included in my ascertainment/calculation of NatSteel's normal value in accordance with section 269TAC(1).⁴⁹

62. InfraBuild submits that the inclusion of the price of sales of imported like goods in calculating the normal value is not supported by the legislation.⁵⁰ I disagree. I

⁴⁸ Non-Confidential Attachment 3 to REP 546, NatSteel verification report, page 5.

⁴⁹ REP 546, page 46.

⁵⁰ InfraBuild's Application for Review, Ground 4.

consider that section 269TAC(1) provides the legislative basis for my approach to determining the normal value.

63. Section 269TAC(1) relevantly provides:

Subject to this section, for the purposes of this Part, 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 for home consumption in the country of export in sales that are arms length transactions by the exporter...

64. 'Like goods' is defined in section 269T(1) as follows:

"like goods", in relation to goods under consideration, means 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.

65. The imported goods are 'like goods' for the purposes of section 269T(1). NatSteel sold the imported goods for home consumption (i.e. the goods were bought by Singaporean customers for consumption in Singapore) in the country of export (Singapore). Therefore, the prices paid for the imported goods were assessed under section 269TAAD in the same manner as the prices paid for self-produced goods.
66. Further, section 269TAAD(1) describes when the price paid for the goods is taken *not* to have been paid in the OCOT. No evidence before me led me to believe the price paid for those goods was not in the OCOT.
67. Consequently, I am of the view that there were sales of imported goods by NatSteel that were in the OCOT.
68. Similarly, section 269TAA(1) describes when the sale of goods shall *not* be treated as an arms length transaction. No other evidence before me led me to believe that those sales were not conducted on an arms length basis. Therefore, I consider that sales of the imported goods were arms length transactions by NatSteel.
69. On the basis that my calculation of normal value and assessment under section 269TAAD accords with the process specified in section 269TAC(1), I invite the ADRP to find that my calculation of normal value is correct.

Calculation of Export Price in Inquiry Period

Export price calculation – section 269TAB(3) – uncooperative exporters - determined by reference to export price of other cooperative exporter

70. The Minister accepted my recommendation and determined the export price of steel reinforcing bar exported to Australia by uncooperative and all other exporters from Korea having regard to all relevant information under section

269TAB(3), specifically the ascertained export price of steel reinforcing bar exported from Korea by Daehan in the inquiry period.

71. I am of the view that the Minister's determination is permissible and in the circumstances of this case the most appropriate method to determine such export prices. I disagree with InfraBuild that importation data from import declarations made to the Australian Border Force (ABF) is more reliable and/or relevant information for determining export prices.⁵¹
72. The ascertained export price of steel reinforcing bar exported from Korea by Daehan has been verified by the Commission as being complete, relevant and accurate.⁵²
73. In the absence of other information, importation data from import declarations made to the ABF may provide a reasonable basis for determining export prices of uncooperative exporters. However, I am of the view that where available, the verified export price data from a cooperative exporter provides a more accurate and reliable basis for the calculation. This is because the various components that comprise a Free on Board export price are before the Commission to be validated, which cannot be said of the information within the ABF database.
74. Therefore, in the circumstances of this case, I maintain that using the ascertained export price of goods exported by Daehan is the preferable method to determine such export prices.
75. Consequently, I invite the ADRP to find that the Minister correctly determined the export price of goods exported from Korea by uncooperative and all other exporters under section 269TAB(3) having regard to all relevant information.

⁵¹ InfraBuild Application for Review, Ground 2.

⁵² Non-Confidential Attachment 2 to REP 546, Daehan Verification Report, pages 8 and 10.