

Brussels, 25 November 2014

**ANTI-DUMPING INVESTIGATION BY THE AUSTRALIAN GOVERNMENT ON IMPORTS OF STEEL  
REINFORCING BAR**

**Written submission of the European Commission on the  
Consideration Report Nr 264**

On 17 October, the Australian Anti-Dumping Commission (ADC) announced the initiation of an anti-dumping investigation on imports of Steel reinforcing bar from the Republic of Korea, Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand and the Republic of Turkey. At the same time, the ADC released the Consideration Report No 264 that provides the results of the consideration of the industry application as a basis for initiating the investigation.

The European Commission ('the Commission') would like to thank the Australian authorities for this opportunity to submit comments with regard to the initiation of the above-mentioned proceeding.

Following a detailed analysis of the Consideration Report, the Commission notes that the information presented lacks some important elements of analysis. The Commission understands that this approach could in part be motivated by confidentiality reasons -only one complainant- or because the information has not been verified.

In view of the above, and from the limited information contained in the Report, the Commission would like to bring the investigating authorities' attention on certain issues regarding injury and causality that would require further analysis. These are explained below.

### **1. Material Injury**

The complainant is claiming that the domestic industry is suffering injury in the form of loss of **sales volume, loss of market share, price suppression, reduced profits and profitability**. However, there are elements in the Consideration Report that would raise some doubts about the materiality of the alleged injury that would need to be analysed in more depth.

If we look at the market evolution, we observe that the steel reinforcing bar market in Australia has been growing by 15% along the investigating period. The domestic industry has fully benefited from this circumstance since domestic sales appear have raised at a similar rate

(according to the complaint), even though they seem to decline slightly at the end of the period.

In terms of market share, imports seem to take an increasing portion of the market at the end of the investigation period, when market growth showed signs of deceleration. However, according to the complaint, this shift represents a minimal share of the market, which in the opinion of the Commission, does not appear to be significant enough to cause an injury that is material.

The domestic industry is also alleging that the cause of its reduced profits is the fact that import prices undercut their prices at levels between 2.5% and 7% and that these imports, through the price effects, are preventing the domestic industry to pass on to sales prices the full costs of production increases e.g. price suppression. Here as well, it is not easy to assess the magnitude of these effects but Article 3.2 of the WTO Anti-dumping Agreements determines that price effects should have taken place "*to a significant degree*" and from the information available so far, it does not seem to be the case.

The Commission considers that it is essential to have more information on the price dynamics of the Australian market so as to assess the effects of import prices on the domestic industry. The ADC acknowledges that it will further evaluate price undercutting claims during the course of the investigation and, in this sense, the Commission encourages the ADC to provide yearly information on prices and to assess costs and prices of straight and coil rebars separately. As well, it is important to scrutinise the nature of internal sales further (arms length) and to differentiate between domestic prices to internal and external customers.

Furthermore, the Commission understands that at this initial point of the investigation, the information provided in the complaint has to be verified. But apart from the vague information on trends already provided, the Commission would appreciate more detail on the actual magnitude of variations of the injury indicators. Additionally, it is important to be noted that indicators such as production, imports in relation to production, imports from other origins, export sales, production capacity, import prices, or wages are missing in the Report.

Finally, it should be remembered that Article 3.4 of the WTO Agreement, determines the requirement of the investigating authorities to examine "*all relevant economic factors and indices having a bearing on the state of the industry*" and the WTO jurisprudence has confirmed the obligation to analyse each and every factor listed in that article.

## **2. Causal link**

When referring to causation, the WTO Anti-dumping agreement determines that "*it must be demonstrated that imports are, through the effects of dumping causing injury within the meaning of this Agreement*".

Based on the above, if we look at the information available on price effects, a certain degree of price suppression appears to take place in 2013/14 but not in the rest of the investigation period. On that year, profitability reduces but it remains in any case higher than the beginning of the investigating period.

It is however striking that the domestic industry is suffering losses during the four consecutive years covered by the investigation. This would indicate that the domestic industry is suffering from structural problems rather than any problems caused by imports.

Furthermore, it should be noted that in 2011/12 the Australian steel reinforcing industry suffered the highest losses in the period analyzed, and this coincides with the year when domestic sales had increased considerably (17% according to the industry), the number of employees had expanded and the investigated imports had reduced slightly. This situation does not appear to be consistent with the idea of imports causing injury.

In this respect, the Commission would like recall the importance Article 3.5 WTO ADA: "*The authorities shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped imports".*

In view of the above, the Commission would like to encourage the investigating authorities to have a look at the other factors that may have caused injury, such as the fluctuations of the Australian dollar exchange rate, the apparently significant cost of labour or efficiency of the operational performance.

### **3. Conclusions**

Following the assessment of the information provided in the Report, the Commission would like to draw the investigating authorities' attention to the fact that the injury and causality analysis do not appear to be convincing at this stage of the investigation. In addition to the many missing elements in the analysis, the materiality of the alleged injury does not seem to be sufficient. Furthermore, investigating authorities should examine in depth the underlying reasons accounting for the current situation of the industry and, in this sense, reasons other than dumped imports would need to be further analysed.

The European Commission trusts that the Australian authorities will comply with their WTO obligations throughout the proceeding.