



Australian Government  
Department of Industry and Science

**PUBLIC RECORD**

**Anti-Dumping Commission**

**CUSTOMS ACT 1901 - PART XVB**

**STATEMENT OF ESSENTIAL FACTS  
NO. 264**

**ALLEGED DUMPING OF STEEL REINFORCING BAR  
EXPORTED FROM**

**THE REPUBLIC OF KOREA, MALAYSIA, SINGAPORE,  
SPAIN, TAIWAN, THE KINGDOM OF THAILAND AND  
THE REPUBLIC OF TURKEY**

**2 September 2015**

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### ABBREVIATIONS

Abbreviation / short form	Full reference
ABF	Australian Border Force
ACRS	The Australasian Certification Authority for Reinforcing and Structural Steels
AND	Anti-Dumping Notice
Amsteel	Amsteel Mills Sdn Bhd
Ann Joo Steel	Ann Joo Steel Berhad
ARC	The Australian Reinforcing Company
Arrium	Arrium Ltd
Best Bar	Best Bar Pty Ltd
BOF	Basic oxygen furnace
Celsa Barcelona	Compañía Española de Laminación, S.L
Celsa Nervacero	Nervacero, S.A
China	The People's Republic of China
CTMS	Cost to make and sell
Daehan Steel	Daehan Steel Co., Ltd
DFAT	Department of Foreign Affairs and Trade
EAF	Electric arc furnace
FOB	Free on board
Habaş	Habaş Sinai ve Tibbi Gazlar Istihsal Endüstrisi A.Ş
Korea	The Republic of Korea
Millcon	Millcon Steel Public Company Limited
Minister	Minister for Industry and Science
MT	Metric Tonnes
Natsteel	Natsteel Holdings Pte Ltd
NIP	Non-injurious price
Nominated countries	Collective reference to Korea, Malaysia, Singapore, Spain, Taiwan, Thailand and Turkey
OneSteel	OneSteel Manufacturing Pty Ltd
OSR or OneSteel REO	OneSteel Reinforcing
PAD	Preliminary affirmative determination
Power Steel	Power Steel Co., Ltd
Rebar	Steel Reinforcing Bar
Sanwa	Sanwa Pty Ltd
SEF	Statement of essential facts
SG&A	Selling, general and administrative

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Southern Steel	Southern Steel Berhad
Stemcor	Stemcor Australia Pty Ltd
TCO	Tariff Concession Orders
Thailand	The Kingdom of Thailand
Turkey	The Republic of Turkey
the Act	<i>Customs Act 1901</i>
the Australian Standard	Australian Standard AS/NZS 4671.2001
the Commission	Anti-Dumping Commission
the Commissioner	Commissioner of the Anti-Dumping Commission
the Committee	House of Representatives Agriculture and Industry Committee
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
the Guidelines	Guidelines on the Application of the Form of Dumping Duty November 2013
the Manual	Dumping and Subsidy Manual December 2013
the Parliamentary Secretary	Parliamentary Secretary to the Minister for Industry and Science
USD	United States Dollar
USITC	United States International Trade Commission
USP	Unsuppressed selling price
Wei Chih Steel	Wei Chih Steel Industrial Co., Ltd
WTO	World Trade Organisation

## 1 SUMMARY AND RECOMMENDATIONS

### 1.1 Introduction

This statement of essential facts (SEF) relates to the investigation by the Commissioner of the Anti-Dumping Commission (the Commissioner) into allegations by OneSteel Manufacturing Pty Ltd (OneSteel) that steel reinforcing bar (rebar, also referred to as the goods)<sup>1</sup> exported to Australia from the Republic of Korea (Korea), Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand (Thailand) and the Republic of Turkey (Turkey) at dumped prices has caused material injury to the Australian industry producing like goods.

This report sets out the findings on which the Commissioner proposes to base recommendations to the Parliamentary Secretary to the Minister for Industry and Science (the Parliamentary Secretary)<sup>2</sup> regarding this investigation, subject to any submissions received in response to this SEF.

### 1.2 Proposed recommendation to the Parliamentary Secretary

Based on the findings in this SEF, and subject to any submissions received in response to this SEF, the Commissioner proposes to recommend to the Parliamentary Secretary that a dumping duty notice be published in respect of rebar exported to Australia from all exporters in Korea, Singapore, Spain and Taiwan (excluding Power Steel Co. Ltd (Power Steel)).

### 1.3 Proposal to terminate part of the investigation

Based on the findings in this SEF, and subject to any submissions received in response to this SEF, the Commissioner proposes to:

- terminate the investigation so far as it relates to rebar exported by Millcon Steel Public Company Limited (Millcon) from Thailand, Ann Joo Steel Berhad (Ann Joo Steel) from Malaysia and Habas Sinai Ve Tibbi Gazlar Istihsal Endustri A.S. (Habas) from Turkey, in accordance with subparagraph 269TDA(1)(b)(i) of the *Customs Act 1901* (the Act) on the basis that no evidence was found that dumping had occurred;<sup>3</sup>
- terminate the investigation so far as it relates to rebar exported by Power Steel from Taiwan in accordance with subparagraph 269TDA(1)(b)(ii) on the basis that dumping margins were found to be negligible; and
- terminate the investigation so far as it relates to all other exporters of rebar from Malaysia, Thailand and Turkey in accordance with subsection

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<sup>1</sup> Refer to the full description of the goods in Section 3 of this report.

<sup>2</sup> The Minister for Industry and Science has delegated responsibility with respect to anti-dumping matters to the Parliamentary Secretary, and accordingly, the Parliamentary Secretary is the relevant decision maker.

<sup>3</sup> Unless stated otherwise, all legislative references in this report are to the *Customs Act 1901*.

269TDA(3) on the basis that volumes of dumped goods were found to be negligible.

## **1.4 Application of law to facts**

### **1.4.1 Authority to make decision**

Division 2 of Part XVB sets out, among other matters, the procedures to be followed and the matters to be considered by the Commissioner in anti-dumping investigations in relation to the goods covered by an application for the publication of a dumping duty notice, for the purpose of making a report to the Parliamentary Secretary.

### **1.4.2 Application**

On 8 August 2014, OneSteel lodged an application requesting that the Parliamentary Secretary publish a dumping duty notice in respect of rebar exported to Australia from Korea, Malaysia, Singapore, Spain, Taiwan, Thailand and Turkey (collectively referred to as the nominated countries).

### **1.4.3 Initiation of investigation**

After examining the application and further information provided by OneSteel in support of its application, the Commissioner was satisfied of the matters set out in subsection 269TC(1). Specifically, the Commissioner was satisfied that:

- the application complied with the requirements of subsection 269TB(4);
- there was an Australian industry in respect of like goods; and
- there appeared to be reasonable grounds for the publication of a dumping duty notice in respect of goods exported to Australia from the nominated countries.<sup>4</sup>

The Commissioner decided not to reject the application and initiated an investigation. Public notification of initiation of the investigation was published in *The Australian* newspaper on 17 October 2014.

### **1.4.4 Preliminary affirmative determination**

The Commissioner, after having regard to the application, submissions and other relevant information, was satisfied that there appeared to be sufficient grounds for the publication of a preliminary dumping duty notice in respect of rebar exported to Australia from the nominated countries. The Commissioner made a preliminary affirmative determination (PAD)<sup>5</sup> on 13 March 2015. PAD

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<sup>4</sup> Subsection 269TC(1)

<sup>5</sup> Subsection 269TD(1)

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Report No. 264 (PAD 264) contains details of the decision and is available on the public record.<sup>6</sup>

To prevent material injury to the Australian industry occurring while the investigation continues, securities are being taken in respect of any interim dumping duty that may become payable in respect of rebar exported to Australia from the nominated countries, entered for home consumption on or after 13 March 2015.

On 6 May 2015 an amendment to the securities was made in relation to exporters Ann Joo Steel, Compañía Española de Laminación, S.L (Celsa Barcelona) and Nervacero, S.A (Celsa Nervacero). Further details of the amendments made are contained in Anti-Dumping Notice (ADN) No. 2015/50.<sup>7</sup>

### 1.4.5 Statement of essential facts

The Commissioner must, within 110 days after the initiation of an investigation, or such longer period as the Parliamentary Secretary allows, place on the public record a statement of the facts on which the Commissioner proposes to base a recommendation in relation to the application.<sup>8</sup>

The SEF was originally due to be placed on the public record by 4 February 2015; however, the Commissioner was granted three extensions to this date. Further details of the three extensions granted are available in ADN Nos. 2015/13, 2015/39 and 2015/81.<sup>9</sup> The third and final extension required the Commissioner to publish this SEF on or before 2 September 2015.

In formulating the SEF, the Commissioner must have regard to the application, any submissions concerning publication of the notice that are received by the Commission within 40 days after the date of initiation of the investigation and any other matters considered relevant.<sup>10</sup>

Interested parties are invited to make submissions to the Commission in response to the SEF within 20 days of the SEF being placed on the public record. The Commissioner is not obliged to have regard to a submission made in response to this SEF received after 22 September 2015, if to do so, in the Commissioner's opinion, would prevent the timely preparation of the final report.<sup>11</sup>

The Commissioner will make final recommendations in a report to the Parliamentary Secretary due on or before 19 October 2015.

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<sup>6</sup> See number 26 on the public record

<sup>7</sup> See number 38 on the public record

<sup>8</sup> Subsection 269TDAA(1)

<sup>9</sup> See numbers 18, 33 and 48 on the public record

<sup>10</sup> Subsection 269TDAA(2)

<sup>11</sup> Subsection 269TEA(4)



## 1.5 Preliminary findings and conclusions

The Commissioner has made the following findings and conclusions based on available information at this stage of the investigation:

### 1.5.1 The goods and like goods (Chapter 3)

Locally produced rebar is like to the goods the subject of the application.

### 1.5.2 Australian industry (Chapter 4)

There is an Australian industry producing like goods which is comprised of one Australian producer, OneSteel.

### 1.5.3 Australian market (Chapter 5)

The Australian market for rebar is predominately supplied by locally produced rebar and imports from the nominated countries, with a smaller volume of imports from other countries.

### 1.5.4 Dumping (Chapter 6)

The dumping margins determined for all exporters are set out in Table 1 below.

Country	Exporter / Manufacturer	Dumping margin
Korea	Daehan Steel Co., Ltd	9.7%
	<i>Uncooperative and All Other Exporters</i>	14.3%
Malaysia	Amsteel Mills Sdn Bhd	3.2%
	Ann Joo Steel Berhad	-0.3%
	Southern Steel Berhad	4.7%
	<i>Uncooperative and All Other Exporters</i>	Not Applicable
Singapore	Natsteel Holdings Pte Ltd	6.6%
	<i>All Other Exporters</i>	6.6%
Spain	Compañía Española de Laminación, S.L	3.0%
	Nervacero, S.A.	3.0%
	<i>Uncooperative and All Other Exporters</i>	8.2%
Taiwan	Power Steel Co., Ltd	1.3%
	Wei Chih Steel Industrial Co., Ltd.	4.7%
	<i>Uncooperative and All Other Exporters</i>	8.9%
Thailand	Millcon Steel Public Company Limited	0.0%
	<i>Uncooperative and All Other Exporters</i>	Not Applicable
Turkey	Habas Sinai Ve Tibbi Gazlar Istihsal Endustri A.S.	-1.7%
	<i>Uncooperative and All Other Exporters</i>	Not Applicable

**Table 1 - Dumping margins**

### **1.5.5 Economic condition of the Australian industry (Chapter 7)**

The Commission is satisfied that the Australian industry producing like goods experienced:

- loss of sales volume;
- loss of market share;
- price suppression; and
- reduced profits and profitability.

### **1.5.6 Has dumping caused material injury? (Chapter 8)**

The Commission is satisfied that the Australian industry suffered material injury as a result of dumped exports from Korea, Singapore, Spain and Taiwan (excluding Power Steel).

### **1.5.7 Will dumping and material injury continue? (Chapter 9)**

The Commission is satisfied that dumping and material injury will continue if interim dumping duties are not imposed in relation to rebar exported to Australia from Korea, Singapore, Spain and Taiwan (excluding Power Steel).

### **1.5.8 Non-injurious price (Chapter 10)**

The Commission has calculated a non-injurious price (NIP) for exports of rebar from Korea, Singapore, Spain and Taiwan that is considered to be the minimum export price necessary to prevent the injury, or a recurrence of the injury, caused by the dumped goods.

The Commission has assessed the NIP as equal to the normal value for each exporter, on the basis that the injury caused by dumping is due to OneSteel's matching of import prices.

### **1.5.9 Proposed measures and securities (Chapters 11 and 12)**

For the purposes of this SEF, the Commissioner proposes to recommend that dumping duties be applied to exporters from Korea, Singapore, Spain and Taiwan (except Power Steel) and be calculated on an ad valorem basis (i.e. as a percentage of export price).

The Commissioner proposes to publish a public notice on 4 September 2015 notifying interested parties of amendments to be made to the securities. These amendments are being made to reflect the findings in this SEF.

## **1.6 Final report**

The Commissioner's final report and recommendation in relation to this investigation must be provided to the Parliamentary Secretary on or before 19 October 2015, unless an extension of time is requested and approved by the Parliamentary Secretary.

## 2 BACKGROUND

### 2.1 Initiation

On 8 August 2014, OneSteel lodged an application for the publication of a dumping duty notice in respect of rebar exported to Australia from Korea, Malaysia, Singapore, Spain, Taiwan, Thailand and Turkey.

OneSteel alleges that the Australian industry has suffered material injury caused by rebar exported to Australia from the nominated countries at dumped prices through:

- loss of sales volumes;
- loss of market share;
- price suppression; and
- reduced profits and profitability.

Subsequent to receiving further information on two occasions from OneSteel and having considered the application, the Commissioner decided not to reject the application and initiated an investigation into the alleged dumping of rebar from the nominated countries on 17 October 2014. Public notification of initiation of the investigation was made in *The Australian* newspaper on 17 October 2014.

ADN No. 2014/100 provides further details relating to the initiation of the investigation and is available on the Commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au).<sup>12</sup>

In respect of the investigation:

- the investigation period<sup>13</sup> for the purpose of assessing dumping is 1 July 2013 to 30 June 2014; and
- the injury analysis period for the purpose of determining whether material injury has been caused to the Australian industry is from 1 July 2010.

### 2.2 Previous cases

There have been no previous investigations into rebar exported to Australia.

### 2.3 Other relevant current cases

On 1 July 2015, the Commissioner initiated a dumping investigation in relation to rebar exported from the People's Republic of China (China) following an

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<sup>12</sup> See number 2 on the public record

<sup>13</sup> Subsection 269T(1)

application by OneSteel. Further information on the initiation of this investigation is available in ADN 2015/82.<sup>14</sup>

## **2.4 Extensions of time for the statement of essential facts**

The public notice outlining initiation of this investigation advised that the SEF would be placed on the public record by 4 February 2015. However, the Commissioner was satisfied that the prescribed 110 days to place the SEF on the public record for this investigation was insufficient and requested the Parliamentary Secretary to extend the publication timeframes.

Pursuant to paragraph 269ZHI(1)(a), the Commission was granted three extensions.

The details and reasons for the extensions are outlined in ADN Nos. 2015/13, 2015/33 and 2015/81, which are available at [www.adcommission.gov.au](http://www.adcommission.gov.au).

The last extension required the Commission to publish this SEF on or before 2 September 2015.

## **2.5 Responding to this statement of essential facts**

This SEF sets out the essential facts on which the Commissioner proposes to base his final recommendations to the Parliamentary Secretary.

Interested parties have 20 days to respond to this SEF. The Commissioner will consider these responses in making his final report to the Parliamentary Secretary. The final report will recommend whether or not to publish a dumping duty notice and the extent of any interim dumping duties that are, or should be, payable.

Responses to this SEF should be received by the Commission by no later than 22 September 2015. The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Parliamentary Secretary.

The Commissioner must report to the Parliamentary Secretary by 19 October 2015 unless an extension of the timeframe is granted by the Parliamentary Secretary.

Submissions can be emailed to [operations3@adcommission.gov.au](mailto:operations3@adcommission.gov.au).

Alternatively, submissions may be sent to fax number +61 3 8539 2499, or posted to:

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<sup>14</sup> See <http://www.adcommission.gov.au/cases/EPR%20251%20%20300/EPR%20300/002-ADN-2015-82-Initiation-Case%20300.pdf>

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Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the public record. A guide for making submissions is available at [www.adcommission.gov.au](http://www.adcommission.gov.au).

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. It is available in hard copy by request in Melbourne or online at [www.adcommission.gov.au](http://www.adcommission.gov.au).

Documents on the public record should be read in conjunction with this SEF.

### 2.6 Submissions received from interested parties

The Commission has received submissions from interested parties during the course of the investigation. Where possible, each submission has been considered by the Commissioner in reaching the findings contained within this SEF. The submissions received are summarised in **Attachment 1**.

The Commissioner notes that it has had insufficient time to consider five submissions<sup>15</sup> received from OneSteel, Habas and Wei Chih Steel in relation to dumping margin calculations for Habas, Power Steel, Wei Chih Steel, Ann Joo Steel and Southern Steel.

These submissions will be examined in close detail in providing a final report to the Parliamentary Secretary and in any termination reports, as necessary.

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<sup>15</sup> See numbers 67, 70, 72, 75 and 77 on the public record

### 3 THE GOODS AND LIKE GOODS

#### 3.1 Finding

The Commissioner considers that locally produced rebar are like goods to the goods the subject of the application.

#### 3.2 Legislative framework

Subsection 269TC(1) requires that the Commissioner must reject an application for a dumping duty notice if, inter alia, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

In making this assessment, the Commissioner must first determine that the goods produced by the Australian industry are “like” to the imported goods. Subsection 269T(1) defines like goods as:

*Goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.*

An Australian industry can apply for relief from injury caused by dumped or subsidised imports even if the goods it produces are not identical to the imported goods. The Australian industry must however, produce goods that are “like” to the imported goods.

Where the locally produced goods and the imported goods are not alike in all respects, the Commission assesses whether they have characteristics closely resembling each other against the following considerations:

- physical likeness;
- commercial likeness;
- functional likeness; and
- production likeness.

#### 3.3 The goods under consideration

The goods under consideration, as specified in OneSteel’s application, 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.*

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*The goods covered by this application include all steel reinforcing bar meeting the above description of the goods regardless of the particular grade or alloy content or coating.*

*Goods excluded from this application are plain round bar, stainless steel and reinforcing mesh.*

### 3.4 Tariff classification

The goods are classified to the tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995* specified below. It should be noted that that statistical codes applying to these tariff classifications have been modified subsequent to the initiation of this investigation. The relevant changes are noted in italics below:

- 7214.20.00 (statistical code 47);
- 7228.30.90 (statistical code 49 *(as of 1 July 2015, statistical code 40)*);
- 7213.10.00 (statistical code 42)
- 7227.90.90 (statistical code 42 *(as of 1 January 2015 statistical codes 02 and 04 )*); and
- *Tariff subheading 7227.90.10 with statistical code 69.*

Goods imported from Spain under the above tariff subheadings are subject to a general rate of duty of 5 per cent and goods imported from all other nominated countries are subject to a “free” rate of duty.

### 3.5 Further information

As discussed in section 4, OneSteel has been identified as the sole manufacturer of rebar in Australia. Details of the types, sizes and grades of rebar manufactured by OneSteel are further outlined in section 4.3.3.

OneSteel stated in its application that it manufactured rebar to meet the requirements of Australian Standard AS/NZS 4671.2001 (the Australian Standard) and that an industry-based product certification scheme operates within Australia. The Australasian Certification Authority for Reinforcing and Structural Steels (ACRS) administers this scheme. OneSteel advised that it has ACRS accreditation and provided a sample of certificates evidencing its accreditation.

OneSteel stated in its application that it considers imported rebar to possess the same essential characteristics as locally produced rebar.

### 3.6 The Commissioner’s assessment

From information submitted in the application, gathered during the visit to OneSteel and responses from exporters and importers, the Commissioner considers that the Australian industry produces like goods on the following grounds:

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### Physical likeness

The primary physical characteristics of the goods and locally produced rebar are alike. Locally produced rebar and the imported goods are manufactured to the same requirements of the Australian Standard. The imported and locally produced rebar are manufactured to the range of grades specified under the Australian Standard and are manufactured to similar diameters. It is noted that the indentations, ribs and grooves on the rebar may vary between mills. However, these variations do not significantly modify the performance characteristics of the rebar.

### Commercial likeness

Locally produced rebar competes directly with imported rebar in the Australian market and is sold to common users. The Commission considers that the imported and domestically produced rebar are commercially interchangeable.

### Functional likeness

Both the locally produced and imported goods have comparable or identical end-uses. Rebar products are used 'as is' or are subject to post production processing such as bending, welding and cutting. Locally produced and imported rebar are predominantly used to reinforce concrete structures and precast structures.

### Production likeness

The locally produced goods are manufactured in a similar manner to the imported goods. Whilst minor variations in the respective production processes were observed, the Commission considers that the key production steps and processes are near identical.

No interested parties have submitted that the imported goods and the goods manufactured by the Australian industry are not alike.

Based on the above assessment, the Commissioner is satisfied that the Australian industry produces like goods to the goods the subject of the application, and that the domestically produced goods are 'like goods' as defined in subsection 269T(1).



## 4 THE AUSTRALIAN INDUSTRY

### 4.1 Finding

The Commission has found that there is an Australian industry producing like goods to the goods the subject of the application and that the Australian industry comprises of one manufacturer, OneSteel.

### 4.2 Legislative Framework

The Commissioner must reject an application if not satisfied that there is, or is likely to be established, an Australian industry in respect of “like” goods produced in Australia.<sup>16</sup> Subsection 269T(2) specifies that goods are not taken to have been produced in Australia unless the goods were wholly or partly manufactured in Australia. Subsection 269T(3) specifies that goods shall not be taken to have been partly manufactured in Australia unless at least one substantial process in the manufacture of the goods was carried out in Australia.

### 4.3 Australian Industry

OneSteel is a wholly owned subsidiary of Arrium Limited (Arrium), formerly OneSteel Limited. Arrium is an international mining and materials company listed on the Australian Securities Exchange. The company is structured around three key business segments:

- Arrium Mining: an exporter of hematite iron ore and also supplies iron ore feed to OneSteel’s integrated steelworks at Whyalla;
- Arrium Mining Consumables: supplies resource companies with a range of key mining consumables, including grinding media, wire ropes and rail wheels; and
- Arrium Steel: comprises steel manufacturing, recycling, and processing and steel distribution businesses.

OneSteel is part of the Arrium Steel business segment. OneSteel produces a wide range of finished long products including reinforcing bar, rod in coils, hot rolled structural steel, merchant bar, rail and wire products.

#### 4.3.1 Manufacturing facilities

OneSteel’s manufacturing facilities related to rebar are:

- the fully integrated Whyalla Steelworks in South Australia;
- two electric arc furnaces (EAFs) located in Sydney in New South Wales and Laverton in Victoria; and

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<sup>16</sup> Paragraph 269TC(1)(b)

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- rod and/or bar mills situated in Laverton in Victoria, Sydney and Newcastle in New South Wales.

The Whyalla Steelworks produces steel using Blast Furnace liquid iron as an input into a Basic Oxygen Furnace (BOF) process, where liquid steel is cast into billets, slab or blooms.

The Laverton operation produces steel billets through its EAF using scrap steel as input. The liquid steel is cast into billets which are rolled through the rod and bar mills at Laverton.

The Sydney operation produces steel through its EAF using scrap steel as input. The liquid steel is cast into billets, the majority of which are used in the bar mill at Sydney.

The Newcastle rod mill is also used to manufacture rebar which may be further cold worked to obtain the required mechanical properties.

### 4.3.2 Production process

OneSteel provided a description and diagram of its production processes with its application. During a verification visit, OneSteel provided a tour of the EAF, rod mill and bar mill facilities at Laverton where the Commission observed the following steel making processes:

#### *Steel Making*

- *Scrap was loaded from the scrap yard and brought into the EAF facility.*
- *Scrap, fluxes and alloys were combined in the EAF to produce molten steel.*
- *The molten steel was poured into a ladle to separate the molten steel from slag and final adjustments to the molten steel's chemical composition and temperature were done in a ladle furnace.*
- *The ladle was then transported to the Continuous Casting Machine where the steel flowed into a tundish which distributed the steel into a number of water-cooled copper moulds to be cast and cut into billets. Finished billets were held in a storage yard until required.*

#### *For Rebar Straights:*

- *Steel billets are loaded into a reheat furnace and reheated to approximately 1200°C.*
- *The heated billet then passes through a series of rolling stands.*
- *As the billet passes through each stand it gradually reduces in size and changes shape from a square section to a circular section.*
- *The final (finishing) stand rolls have a rib profile machined into them so that when the circular bar passes through the rolls, deformations (ribs) are formed on the bar which will provide gripping power so that concrete adheres to the bar and provides reinforcing value.*
- *After the finishing stand, the bar passes through a special water cooling process where the surface of the bar is quenched rapidly. On exiting this part of*

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*the mill for slow cooling on the cooling bed, the temperature gradient established over the cross-section of the bar causes heat to flow from the core to the surface resulting in a (tempered) steel microstructure which gives increased strength. Rebar produced in this way is known as “QST” rebar as the bar has been Quenched and Self-Tempered.<sup>17</sup>*

*For Rebar Coils:*

- *Steel billets are loaded into a reheat furnace and reheated to approximately 1200°C.*
- *The heated billet then passes through a series of rolling stands.*
- *As the billet passes through each stand it gradually reduces in size and changes shape from a square section to a circular section.*
- *The final (finishing) stand rolls have a rib profile machined into them so that when the circular section passes through the rolls, deformations (ribs) are formed on the bar which will provide gripping power so that concrete adheres to the bar and provides reinforcing value.*
- *For rebar coils produced through [a particular mill] all rebar coils (10, 12 and 16mm diameter) are produced by rolling billets that have had a small controlled amount of a microalloys (typically ferrovanadium) added. The steel chemistry ensures the rebar strength requirements are met. After the finishing stand, the deformed rod is looped into rings, laid onto a cooling conveyor and the cooled rings are then formed into a coil.*
- *For rebar coils produced through 10mm rebar coils are produced the same way as through [a particular mill] using billets with microalloy additions to effect the required rebar strength through chemistry. For 12mm and 16mm rebar coil, billets without microalloy additions are rolled, looped into rings, cooled and formed into coils. These coils are then put through a process where the required strength is achieved by cold-working (mechanical strain-hardening) the coil through a stretching panel. At the end of the process the rebar is spooled into a coil. During the tour of the Laverton facilities we observed the operation of both the rod and bar mill facilities.*

### 4.3.3 Product range

OneSteel manufactures a range of rebar at its Sydney, Laverton and Newcastle mills. The rebar is manufactured in a variety of methods to obtain the required mechanical properties. These methods include micro-alloying, quenching and self-tempering or continuous stretching.

OneSteel advised in its application that rebar is either sold in straight lengths (rebar straights) or coils (rebar coils). Both rebar coils and rebar straights are produced in a variety of diameters.

Grade: OneSteel advised that it produces rebar in two grade levels (classified by minimum yield strength), 500N and 250N.

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<sup>17</sup> Two of OneSteel's mills produce like goods via this method

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Diameter: OneSteel advised that rebar is commonly produced up to a diameter of 16mm for rebar coils and 40mm for rebar straights. However, it has the capability to manufacture rebar coils with a diameter of 10-16mm and 12-50mm for rebar straights.

Length: OneSteel advised that rebar coil sizes range from 1.5 tonnes to [weight] and that rebar straights are sold in standard lengths of 6, 9, 10, 12 and 15 metres. OneSteel advised that rebar straights can also be sold at various non-standard lengths by customer request.

Table 2 below summarises the types, sizes and grades of rebar currently manufactured by OneSteel.

Rebar Type	Diameter Range (mm)	Grade
Rebar Coil	10, 12, 16	500N
Rebar Straight	12, 16, 20, 24, 28, 32, 36, 40, 50 <sup>18</sup>	500N
Rebar Straight	12	250N

Table 2 – OneSteel grades and sizes<sup>19</sup>

### 4.4 The Commissioner's assessment

In its application, OneSteel claimed to be the sole Australian producer of rebar in Australia. The Commission is not aware of any other producer of rebar in Australia and no submissions or other information has been received to indicate that there are any other producers of rebar in Australia.

Following the Commission's verification of OneSteel's manufacturing processes in Australia, the Commission is satisfied that:

- rebar is wholly manufactured by OneSteel in Australia; and
- OneSteel conducts one or more substantial process in the production of rebar at its manufacturing plants in Laverton, Newcastle, Sydney and Whyalla.

Accordingly, the Commissioner is satisfied, in accordance with subsections 269T(2) and 269T(3), that there is an Australian industry producing rebar in Australia, and that this industry solely consists of OneSteel.

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<sup>18</sup> OneSteel specified in its application that "OneSteel's Laverton facility has previously manufactured rebar of 50mm diameter and has the capability to do so again if required".

<sup>19</sup> Based on information contained in production route map provided by OneSteel

## 5 AUSTRALIAN MARKET

### 5.1 Findings

The Commission has found that the Australian market for rebar is supplied by the Australian industry and imports from a number of countries, including the nominated countries. The Commission estimates that the size of the Australian market during the investigation period was approximately 900,000 tonnes.

### 5.2 Market segmentation and end-use

The key market segments for rebar are commercial and residential construction, mining and resource construction and, to a lesser degree, swimming pool construction.

In its application, OneSteel stated that rebar is primarily purchased by fabricators and steel service centres that typically undertake further processing prior to supply into the following concrete reinforcement markets:

- commercial;
- engineering construction; and
- residential.

Rebar is typically cut, bent, and/or welded into various shapes before use in concrete reinforcement as a tension device. However, whilst the majority of rebar is fabricated in some way, there are instances where no cutting, bending or welding is required by a fabricator or service centre prior to end-use.

### 5.3 Market distribution

The Australian rebar market is supplied by OneSteel, importers that on sell to end-users, and end-users that import rebar.

OneSteel explained that a significant portion of its sales are to related entities including The Australian Reinforcing Company (ARC) and OneSteel Reinforcing (OSR or OneSteel REO). Rebar sold to related entities encompasses the full range of grades and sizes produced by OneSteel.

OneSteel rebar is sold and delivered Australia wide. The majority of independent sales are to independent fabricators who compete in the same rebar market as OneSteel's related entities.

End-users purchase rebar through a number of sources including OneSteel, OneSteel's related entities, direct imports from exporters or overseas traders, or through imports by local steel trading houses. The supply chain for rebar is shown below (noting that the reinforcing and steel service centres include OneSteel's related entities).

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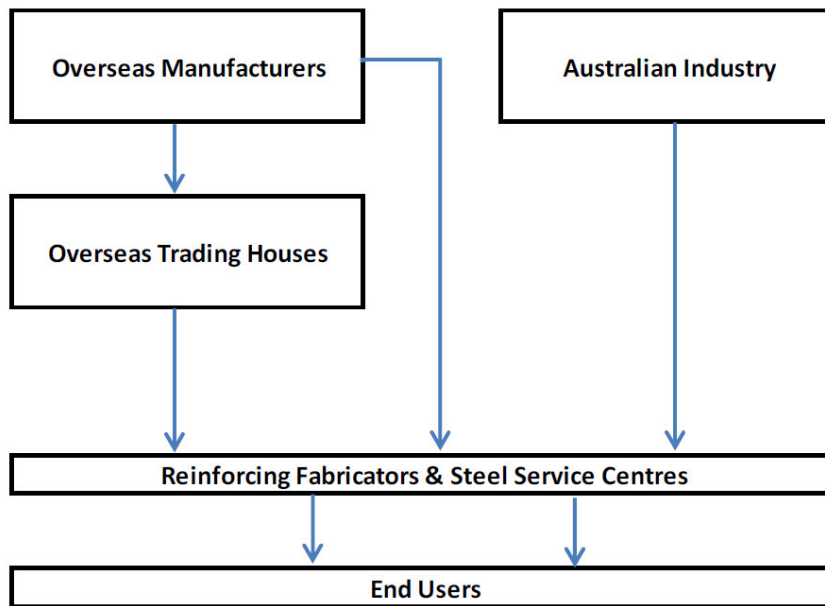


Figure 1 – Australian Supply Chain for Rebar

OneSteel explained that unrelated end-users purchase a combination of imported and locally produced rebar. OneSteel's related entities source their entire supply of rebar from OneSteel, although OneSteel also imports a small volume of rebar.

### 5.4 Demand variability

According to OneSteel, demand variability is driven by the following major markets for rebar:

- residential;
- commercial; and
- engineering construction (including mining and infrastructure).

OneSteel noted that the commercial construction market is the main driver of demand for rebar. OneSteel highlighted some seasonal fluctuations at year end as the construction industry typically closes for the Christmas holiday period.

### 5.5 Market size

In its application, OneSteel estimated the size of the Australian market using three sources:

- Australian Bureau of Statistics import data;
- an independent recognised international supplier of trade statistics; and
- OneSteel's domestic sales.

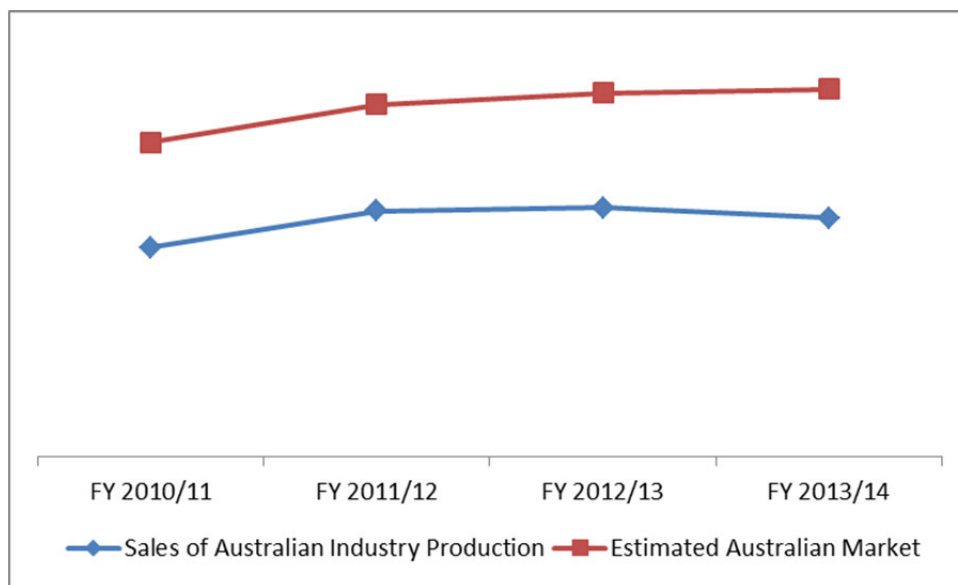
For the purposes of estimating the size of the Australian rebar market, the Commission combined OneSteel's domestic sales data with Australian Border

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Force's (ABF) import data. OneSteel's sales data was verified during an Australian industry visit. The Commission filtered the ABF import data based on tariff subheading, statistical code, goods description and country of export.

The Commission considers that the ABF import database is a reliable source for imported rebar data. ABF import data was further verified with importers and exporters. The Commission considers that this combined data is reliable, relevant and suitable for estimating the size of the Australian market for rebar.

The size of the Australian rebar market and the volume of Australian industry sales for the financial years 2010/11 to 2013/14 are shown in the following chart.



**Figure 2 – Australian Rebar Market and Australian Industry Sales (Tonnes)**

During the period 2010/11 to 2013/14, the size of the Australian rebar market increased each year, albeit at a declining rate of growth. Over the same period, OneSteel's rebar sales volume grew in 2011/12, but subsequently increased at a lower rate than Australian rebar market in 2012/13 before declining in 2013/14. Overall, OneSteel's rebar sales volume increased between 2010/11 and 2013/14.

### 5.6 Importers

The Commission examined ABF import database and identified 35 importers of rebar in the investigation period. The three largest importers accounted for 57 per cent of imports from the nominated countries during the investigation period.

The Commission undertook verification visits of the following four importers who accounted for approximately 66 per cent of the total imports over the investigation period:

- Stemcor Australia Pty Ltd (Stemcor);

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- Commercial Metals Australia Pty Ltd;
- Sanwa Pty Ltd (Sanwa); and
- Best Bar Pty Ltd (Best Bar).

Visit reports for the above importers can be found on the electronic public record available on the Commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

### **5.7 Substitutable products**

According to OneSteel, there are no commercially accepted or market penetrated substitutable products for rebar. No submissions have been received from interested parties identifying any substitutable products.



## **6 DUMPING INVESTIGATION**

### **6.1 Findings**

Table 3 below summarises the Commission’s findings in relation to dumping of rebar exported to Australia from each of the nominated countries:

Country	Findings	Dumped Volume
Korea	<ul style="list-style-type: none"> <li>• Imports from Daehan Steel Co., Ltd (Daehan Steel) were at dumped prices.</li> </ul>	The volume of dumped goods from Korea was not negligible.
Malaysia	<ul style="list-style-type: none"> <li>• Imports from Ann Joo Steel were not at dumped prices.</li> <li>• Imports from Southern Steel Berhad (Southern Steel) were at dumped prices.</li> <li>• Imports Amsteel Mills were at dumped prices.</li> </ul>	The volume of dumped goods from Malaysia was negligible.
Singapore	<ul style="list-style-type: none"> <li>• Imports from Natsteel Holdings Pte Ltd (Natsteel) were at dumped prices.</li> </ul>	The volume of dumped goods from Singapore was not negligible.
Spain	<ul style="list-style-type: none"> <li>• Imports from Compañía Española de Laminación, S.L (Celsa Barcelona) and Nervacero, S.A. (Celsa Nervacero) were at dumped prices.</li> </ul>	The volume of dumped goods from Spain was not negligible.
Taiwan	<ul style="list-style-type: none"> <li>• Imports from Wei Chih Steel Industrial Co., Ltd (Wei Chih Steel) were at dumped prices.</li> <li>• Imports from Power Steel were dumped but at negligible dumping margins.</li> </ul>	The volume of dumped goods from Taiwan was not negligible.
Thailand	<ul style="list-style-type: none"> <li>• Imports from Millcon were not at dumped prices.</li> </ul>	The volume of dumped goods from Thailand was negligible.
Turkey	<ul style="list-style-type: none"> <li>• Imports from Habas were not at dumped prices.</li> </ul>	The volume of dumped goods from Turkey was not negligible.

**Table 3 – Findings by Country**

## 6.2 Summary of dumping margins

Preliminary dumping margins for exporters of rebar from the nominated countries are summarised in Table 4 below:

Country	Exporter / Manufacturer	Dumping margin
Korea	Daehan Steel Co., Ltd	9.7%
	<i>Uncooperative and All Other Exporters</i>	14.3 %
Malaysia	Amsteel Mills Sdn Bhd	3.2%
	Ann Joo Steel Berhad	-0.3%
	Southern Steel Berhad	4.7%
	<i>Uncooperative and All Other Exporters</i>	Not Applicable
Singapore	Natsteel Holdings Pte Ltd	6.6%
	<i>All Other Exporters</i>	6.6%
Spain	Compañía Española de Laminación, S.L	3.0%
	Nervacero, S.A.	3.0%
	<i>Uncooperative and All Other Exporters</i>	8.2%
Taiwan	Power Steel Co., Ltd	1.3%
	Wei Chih Steel Industrial Co., Ltd.	4.7%
	<i>Uncooperative and All Other Exporters</i>	8.9%
Thailand	Millcon Steel Public Company Limited	0.0%
	<i>Uncooperative and All Other Exporters</i>	Not Applicable
Turkey	Habas Sinai Ve Tibbi Gazlar Istihsal Endustri A.S.	-1.7%
	<i>Uncooperative and All Other Exporters</i>	Not Applicable

**Table 4 – Preliminary dumping margins**

Pending any submissions that may require further investigation, the Commissioner proposes to terminate the dumping investigation in so far as it relates to exports from Malaysia, Thailand and Turkey. The Commission also proposes to terminate the investigation in so far as it relates to Ann Joo Steel, Habas and Power Steel.

The Commission's calculations of export price, normal value and dumping margins are at **Confidential Appendix 1**.

## 6.3 Introduction and legislative framework

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 goods are determined under sections 269TAB and 269TAC respectively.

Usually, the normal value reflects the price paid for like goods in the domestic market of the country of export. However, sometimes the like goods are not sold in that market, are sold in low volumes, or the price paid in that market cannot, for some reason, be used. Section 269TAC provides several methods by which normal values may be obtained.

Subsection 269TAC(1) provides that, subject to certain conditions, the normal value is the price at which like goods are sold in the domestic market of the country of export. Paragraph 269TAC(2)(c) provides for the normal value to be a constructed amount that the Parliamentary Secretary determines to be the cost of production or manufacture of the goods in the country of export, and the selling, general and administrative (SG&A) costs and the profit on that sale, assuming that the goods had been sold for home consumption in the ordinary course of trade in the country of export.

If the Parliamentary Secretary directs that it applies, paragraph 269TAC(2)(d) provides for the normal value to be based on the price of like goods sold in the ordinary course of trade in arms length transactions from the country of export to a third country.

Dumping margins are determined under section 269TACB.

#### **6.4 Model matching**

On 4 March 2015, the Commission published Issues Paper No. 2015/01<sup>20</sup> outlining its proposed approach to model matching criteria for the purpose of identifying which models sold in each exporter's domestic market most closely resembles the physical and technical characteristics of the exported models.

In the Issues Paper, the Commission proposed to apply model matching criteria based on minimum yield strength, shape and diameter. In addition, the Commission advised that it was also considering whether carbon equivalence was an appropriate model matching criteria.

Interested parties were invited to comment on the Commission's proposed model matching approach. Submissions were received from two interested parties.

OneSteel in a submission<sup>21</sup> dated 18 March 2015 specified that:

- in relation to minimum yield strength, the most relevant grade would be the exporter's domestic model that most closely matched the Australian Standard's G500N characteristics;
- the form of the rebar (rebar straight or rebar coil) was an important model matching criterion;

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<sup>20</sup> See: <http://www.adcommission.gov.au/cases/Documents/024-IssuesReport2015-01.pdf>

<sup>21</sup> See number 27 on the public record

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- the domestic rebar diameters that most closely aligned with the exported rebar diameter was a reasonable approach for size comparison; and
- that carbon content was an important characteristic to be included in the model matching criteria.

OneSteel's submission also specified that the Commission should consider grounds for adjustment under subsections 269TAC(8) and (9) to the normal value for differing production methods and to account for differences in mass per metre tolerance limits allowable by each nominated country's domestic rebar standards.

Habas made a submission<sup>22</sup> specifying that rebar with different yield strengths were still comparable for dumping margin calculation purposes and that yield strength should either be disregarded or, if used, be based on yield strengths of greater or less than MYS 400N/mm<sup>2</sup>. Habas stated that the proposed model matching criteria for diameter sizes to within a 1 mm difference was too broad. It also submitted that either no diameter criteria should be applied or if applied, be applied on specified size ranges. A further submission<sup>23</sup> was received from OneSteel indicating that it did not agree with Habas' views in relation to minimum yield strength. A further submission<sup>24</sup> was received from Habas in relation to OneSteel's submissions in relation to model matching.

For the purposes of model matching, the Commission had regard to available evidence and applied the most appropriate criteria depending on the specific circumstances of each exporter.

### 6.5 Cooperative exporters

At the commencement of the investigation, the Commission contacted all known exporters of the goods and each identified supplier of the goods within the relevant tariff subheadings for rebar (see section 3.4), as identified in the ABF import database and invited them to complete an exporter questionnaire.

The exporter questionnaires sought information regarding the exporters' commercial operations, the goods exported to Australia, like goods sold on the domestic market and to third countries, economic and financial details and relevant costing information.

The Commission received exporter questionnaire responses from the following cooperative exporters.

- Daehan Steel from Korea;
- Amsteel Mills from Malaysia;

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<sup>22</sup> See number 28 on the public record

<sup>23</sup> See number 36 on the public record

<sup>24</sup> See number 47 on the public record

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- Ann Joo Steel from Malaysia;
- Southern Steel from Malaysia;
- Natsteel from Singapore;
- Celsa Barcelona from Spain;
- Celsa Nervacero from Spain;
- Power Steel from Taiwan;
- Wei Chih Steel from Taiwan;
- Millcon from Thailand; and
- Habas from Turkey.

The Commission assessed all responses as being substantially complete.

The Commission visited the following exporters and verified information relating to costs, domestic sales and exports to Australia during the investigation period:

- Daehan Steel;
- Natsteel;
- Celsa Barcelona;
- Celsa Nervacero;
- Wei Chih Steel; and
- Millcon.

Verification visits were not undertaken in relation to the following exporters:

- Amsteel Mills;
- Ann Joo Steel;
- Southern Steel;
- Habas; and
- Power Steel.

The Commission's decision not to conduct exporter verification visits to the above cooperating exporters in Malaysia and Turkey and for Power Steel of Taiwan was based on the low volume of exports from the relevant exporters during the investigation period. For example, based on data available to the Commission, both Turkey and Korea each separately constituted between 3 per cent and 4 per cent of total rebar imports during the investigation period.

The Commission analysed the data submitted by cooperating exporters that were not visited and was satisfied that the data was reasonably accurate, relevant, complete and without material deficiency. This data was used to calculate dumping margins.

OneSteel<sup>25</sup> disagreed with the Commission's decision not to conduct verification visits to all cooperating exporters and made a submission to this effect.

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<sup>25</sup> See number 45 on the public record

Non-confidential exporter questionnaire responses, verification reports and dumping margin reports for each of the cooperating exporters are available at the Commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au) and provide additional detail to the discussion below. The visit reports should be read in conjunction with the SEF.

## **6.6 Uncooperative exporters**

Subsection 269T(1) provides that an exporter an 'uncooperative exporter', where the Commissioner is satisfied that an exporter did not give the Commissioner information that the Commissioner considers to be relevant to the investigation, within a period the Commissioner considers to be reasonable or where the Commissioner is satisfied that an exporter significantly impeded the investigation.

The Commission considers that all the above mentioned exporters in section 6.5 fully cooperated with the investigation.

All remaining exporters are considered uncooperative exporters for the purposes of this investigation. Dumping margins for uncooperative exporters are outlined at section 6.15.

## **6.7 Submissions in relation to dumping margin calculations**

As outlined at section 2.6, the Commissioner has had insufficient time to consider three submissions<sup>26</sup> received from OneSteel and Wei Chih Steel in relation to dumping margin calculations for Habas, Power Steel, Wei Chih Steel, Ann Joo Steel and Southern Steel.

These submissions will be examined in close detail in providing a final report to the Parliamentary Secretary and in any termination reports, as necessary.

## **6.8 Singapore**

### **6.8.1 Verification of information**

The Commission conducted a verification visit to NatSteel and verified information relating to costs, domestic sales and exports to Australia during the investigation period.

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<sup>26</sup> See numbers 70, 72 and 75 on the public record

## 6.8.2 NatSteel

### Export Prices

Export prices for sales of rebar to Australia by NatSteel were established under paragraph 269TAB(1)(a) using the invoiced price from the exporter to the importer less transport and other charges arising after exportation.<sup>27</sup>

### Normal Values

Normal values for exported models were determined under paragraph 269TAC(2)(c) using the relevant costs and an amount for profit.

### Adjustments

To ensure the comparability of normal values to export prices, the Commission considered adjustments to normal values were required pursuant to subsection 269TAC(9) as follows:

<b>Adjustment type</b>	<b>Description</b>
Domestic inland freight	<b>Deduct</b> the actual domestic inland freight cost
Domestic credit terms	<b>Deduct</b> the actual costs of domestic credit
Domestic level of trade	<b>Deduct</b> level of trade differences
Export inland freight and handling	<b>Add</b> the actual export inland freight and handling cost
Export container stuffing	<b>Add</b> the actual cost of export container stuffing
Export certification cost	<b>Add</b> the actual cost of export certification
Export credit	<b>Add</b> the actual cost of export credit

**Table 5 - Summary of adjustments (NatSteel)**

### Dumping Margin

The Commission compared the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding

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<sup>27</sup> The Commission notes that for all cooperative exporters, export price has been established under paragraph 269TAB(1)(a) based on the finding that:

- (i) the goods been exported to Australia otherwise than by the importer and have been purchased by the importer from the exporter; and
- (ii) the purchase of the goods by the exporter was an arms length transaction.

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normal values over the whole of that period, in accordance with paragraph 269TACB(2)(a).

The weighted average dumping margin for the goods exported to Australia by Natsteel is **6.6 per cent**.

### 6.9 Korea

#### 6.9.1 Verification of information

The Commission conducted a verification visit to Daehan Steel and verified information relating to costs, domestic sales and exports to Australia during the investigation period.

#### 6.9.2 Daehan Steel

##### Export Prices

Export prices for sales of rebar to Australia by Daehan Steel were established under paragraph 269TAB(1)(a) using the invoiced price from the exporter to the importer less transport and other charges arising after exportation.

##### Normal Values

Normal values for exported models were determined under subsection 269TAC(1) based on domestic sales of the comparable models in the ordinary course of trade.

##### Adjustments

To ensure the comparability of normal values to export prices, the Commission considered adjustments were required pursuant to subsection 269TAC(8) as follows:

<b>Adjustment type</b>	<b>Description</b>
Domestic credit	<b>Deduct</b> a weighted average calculated cost of domestic credit.
Domestic technical support	<b>Deduct</b> a weighted average calculated cost of technical support.
Domestic inland freight	<b>Deduct</b> a weighted average cost of inland freight.
Domestic inventory carrying cost	<b>Deduct</b> a weighted average calculated inventory carrying cost.
Export inland freight	<b>Add</b> a weighted average export inland freight cost.



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Export credit	<b>Add</b> a weighted average calculated cost of domestic credit.
Export handling charges	<b>Add</b> a weighted average export handling charge.

**Table 6 - Summary of adjustments (Daehan Steel)**

### Dumping Margin

The Commission compared the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period, in accordance with paragraph 269TACB(2)(a).

The weighted average dumping margin for the goods exported to Australia by Daehan Steel is **9.7 per cent**.

## **6.10 Malaysia**

### **6.10.1 Verification of information**

Based on the volume of exports from Malaysia relative to the total import volume during the investigation period a decision was made not to conduct on-site verification visit at the premises of Amsteel Mills, Ann Joo Steel and Southern Steel.

Whilst a decision was made not to conduct on-site verification visits, an analysis of the exporter questionnaire responses provided by these Malaysian exporters was completed. This analysis reviewed the reasonableness of the export price, domestic sales and cost data provided to calculate the dumping margins for each Malaysian exporter.

### **6.10.2 Amsteel Mills**

#### Export Prices

Export prices for sales of rebar to Australia by Amsteel Mills were established under paragraph 269TAB(1)(a) using the invoiced price from the exporter to the importer less transport and other charges arising after exportation.

#### Normal Values

Normal values for rebar straights were determined under subsection 269TAC(1) based on domestic sales of the comparable models in the ordinary course of trade.

For rebar coils, normal values were determined under paragraph 269TAC(2)(c) based on constructed costs and an amount for profit.

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### Adjustments

To ensure the comparability of normal values to export prices, the Commission considered adjustments were required pursuant to subsections 269TAC(8) and (9) as follows.

<b>Adjustment type</b>	<b>Description</b>
Domestic ocean freight	<b>Deduct</b> an amount for ocean freight of domestic sales
Domestic marine insurance	<b>Deduct</b> an amount for marine insurance of domestic sales
Domestic inland transport	<b>Deduct</b> an amount for domestic inland transport costs.
Domestic handling expenses	<b>Deduct</b> amount domestic sales handling expenses.
Domestic cost of credit	<b>Deduct</b> an amount for the cost of credit to domestic customers.
Domestic commissions	<b>Deduct</b> an amount for domestic commission.
Export commission	<b>Deduct</b> an amount for export commission in determining FOB export price.
Export inland transport	<b>Add</b> an amount for export inland transport costs.
Export handling	<b>Add</b> an amount for export handling costs.

**Table 7 - Summary of adjustments (Amsteel)**

### Dumping Margin

The Commission compared the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period, in accordance with paragraph 269TACB(2)(a).

The weighted average product dumping margin for rebar exported to Australia by Amsteel for the investigation period is **3.2 per cent**.

**6.10.3 Ann Joo Steel**

Export Prices

Export prices for sales of rebar to Australia by Ann Joo Steel were established under paragraph 269TAB(1)(a) using the invoiced price from the exporter to the importer less transport and other charges arising after exportation.

Normal Values

Normal values for exported models were determined under subsection 269TAC(1) based on domestic sales of the comparable models in the ordinary course of trade.

Adjustments

To ensure the comparability of normal values to export prices, the Commission considered adjustments were required pursuant to subsection 269TAC(8) as follows:

Adjustment type	Description
Domestic inland transport	<b>Deduct</b> an amount for domestic inland transport costs.
Export packaging	<b>Add</b> an amount for packaging costs.
Export inland transport	<b>Add</b> an amount for export inland transport costs.
Export handling	<b>Add</b> an amount for export handling costs.

**Table 8 - Summary of adjustments (Ann Joo Steel)**

Dumping Margin

The Commission compared the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period, in accordance with paragraph 269TACB(2)(a).

The weighted average product dumping margin for rebar exported to Australia by Ann Joo Steel for the investigation period is **-0.3 per cent**.

#### **6.10.4 Southern Steel**

##### Export Prices

Export prices for sales of rebar to Australia by Southern Steel were established under paragraph 269TAB(1)(a) using the invoiced price from the exporter to the importer less transport and other charges arising after exportation.

##### Normal Values

Normal values were determined under subsection 269TAC(1) based on domestic sales of like goods sold in the ordinary course of trade.

##### Adjustments

To ensure the comparability of normal values to export prices, the Commission considered adjustments were required pursuant to subsection 269TAC(8) as follows:

<b>Adjustment type</b>	<b>Description</b>
Domestic inland transport	<b>Deduct</b> an amount for domestic inland transport costs.
Domestic commission	<b>Deduct</b> an amount for domestic commission.
Export inland transport	<b>Add</b> an amount for export inland transport costs.
Export handling	<b>Add</b> an amount for export handling costs.

**Table 9 - Summary of adjustments (Southern Steel)**

##### Dumping Margin

The Commission compared the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period, in accordance with paragraph 269TACB(2)(a).

The weighted average product dumping margin for rebar exported to Australia by Southern Steel for the investigation period is **4.7 per cent**.

## **6.11 Spain**

### **6.11.1 Verification of information**

The Commission conducted a combined verification visit for Celsa Barcelona and Celsa Nervacero to verify information relating to costs, domestic sales and exports to Australia during the investigation period.

### **6.11.2 Celsa Barcelona and Celsa Nervacero**

While Celsa Barcelona and Celsa Nervacero are separate legal entities, due to the close structural and commercial relationships between the individual companies the Commission has treated the two companies as a single exporter for the purposes of calculating a dumping margin.

In making this determination the Commission has had consideration to subsection 269TAA(4), acknowledging that the Act does not provide for the collapsing of entities for the purpose of calculating a single dumping margin. However, subsection 269TAA(4) deems that parties should be associates of each for the purpose of Part XVB in certain circumstances. It specifies that parties are deemed to be associates “if, and only if”, the prescribed circumstances apply. In the Commission’s view, these circumstances are relevant to a consideration of the relatedness of entities for the purpose of determining whether the Commission may calculate a single dumping margin for two entities.

Paragraph 269TAA(4)(b) provides that if the entities are bodies corporate, as Celsa Barcelona and Celsa Nervacero are, they are related if:

- (i) both of them are controlled, directly or indirectly, by a third person (whether or not a body corporate); or
- (ii) both of them together control, directly or indirectly, a third body corporate; or
- (iii) the same person (whether or not a body corporate) is in a position to cast, or control the casting of, 5% or more of the maximum number of votes that might be cast at a general meeting of each of them; or

Subsection 269TAA(4) further provides that entities are related if:

- (c) one of them, being a body corporate, is, directly or indirectly, controlled by the other (whether or not a body corporate); or
- (d) one of them, being a natural person, is an employee, officer or director of the other (whether or not a body corporate); or
- (e) they are members of the same partnership.

The Commission is therefore of the view that in accordance with subsection 269TAA(4)(b) Celsa Barcelona and Celsa Nervacero could be considered to be associates of each other.

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As outlined above, the Act does not specifically address the collapsing of associated entities in these circumstances; the Commission has therefore gone on to consider WTO jurisprudence on this matter.

Where entities are 'collapsed' the actions of one member of the entity are taken to represent the actions of the whole. The issue of considering multiple entities as a single entity for the purpose of calculating dumping margins was considered by a World Trade Organization (WTO) dispute settlement panel dealing with the case of *Korea – Anti-Dumping Duties on Imports of Certain Paper from Indonesia*.<sup>28</sup>

In that WTO dispute settlement panel, the panel stated:

*“In our view, in order to properly treat multiple companies as a single exporter or producer in the context of its dumping determinations in an investigation, the [Investigating Authority] has to determine that these companies are in a relationship close enough to support that treatment.”*

It also stated that entities could be treated as a single entity where *“the structural and commercial relationship between the companies in question is sufficiently close to be considered as a single exporter or producer.”* The panel considered that common management and ownership are indications of a close legal and commercial relationship and such companies *“could harmonize their commercial activities to fulfil common corporate objectives.”*

Consistent with this approach, the *Dumping and Subsidy Manual* outlines circumstances in which related producers and selling entities may be treated as one entity.

Both Celsa Barcelona and Celsa Nervacero submitted that they should not be treated as a single entity during the Commission's verification visit.

Applying the principles established under the WTO decision to the circumstances of Celsa Barcelona and Celsa Nervacero, the Commission considers that the companies can reasonably be treated as a single entity for the purposes of determining a dumping margin.

### Export Prices

Export prices for exports of rebar to Australia by the Celsa Barcelona and Celsa Nervacero were determined under paragraph 269TAB(1)(a) as the price paid by the importer less transport and other costs arising after exportation.

### Normal Values

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<sup>28</sup> WT/DS312/R

## PUBLIC RECORD

Normal values were determined under subsection 269TAC(1) based on domestic sales of like goods sold in the ordinary course of trade.

### Adjustments

To ensure the comparability of normal values to export prices, the Commission considered adjustments were required pursuant to subsection 269TAC(8) as follows:

Adjustment type	Description
Domestic inland transport	<b>Deduct</b> downwards adjustment for actual domestic inland transport costs
Export inland transport, handling and other expenses	<b>Add</b> an upwards adjustment for export inland transport
Domestic credit terms	<b>Deduct</b> downwards adjustment for domestic credit costs
Export letter of credit costs	<b>Add</b> an upwards adjustment for export letter of credit costs
Domestic commissions	<b>Deduct</b> a downwards adjustment for commissions
Export commissions	<b>Add</b> an upwards adjustment export commission costs
Export other financial expenses	<b>Add</b> an upwards adjustment for other export financial expenses
Domestic other financial expenses	<b>Deduct</b> a downwards adjustment for other financial expenses
Export SG&A and expenses	<b>Add</b> an upwards adjustment to the export sales for SG&A expenses
Domestic SG&A expenses	<b>Deduct</b> a downwards adjustment to domestic sales for SG&A expenses.

**Table 10 - Summary of adjustments (Celsa Barcelona and Celsa Nervacero)**

### Dumping Margin

The Commission has calculated a dumping margin in accordance with paragraph 269TACB(2)(a), by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period.

The dumping margin for the Celsa Barcelona and Celsa Nervacero is **3.0 per cent**.

## **6.12 Taiwan**

### **6.12.1 Verification of information**

The Commission conducted a verification visit at Wei Chih Steel and verified information relating to costs, domestic sales and exports to Australia during the investigation period.

Given the small volume of exports by Power Steel relative to the total export volume during the investigation period a decision was made not to conduct an on-site verification visit at Power Steel's premises. Whilst a decision was made not to conduct an on-site verification visit, an analysis of the exporter questionnaire response provided by Power Steel was completed. This analysis reviewed the reasonableness of the export price, domestic sales and cost data provided to calculate the dumping margin.

### **6.12.2 Wei Chih Steel**

#### Export Prices

Export prices for exports of rebar to Australia by Wie Chih were determined under paragraph 269TAB(1)(a) as the price paid by the importer less transport and other costs arising after exportation.

#### Normal Values

Normal values were calculated pursuant to paragraph 269TAC(2)(c) and based on constructed costs and an amount for profit.

#### Adjustments

To ensure the comparability of normal values to export prices, the Commission considered adjustments were required pursuant to subsection 269TAC(9) as follows:

<b>Adjustment type</b>	<b>Description</b>
Domestic credit	<b>Deduct</b> an amount for domestic credit costs.
Export inland freight	<b>Add</b> an amount for export inland freight.
Export handling charges	<b>Add</b> an amount for export handling charges.



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Export commissions	<b>Add</b> an amount for export commissions.
Adjustment for difference in weight basis of sales	<b>Deduct</b> a calculated amount from normal value for export shipments invoiced using theoretical weight.

**Table 11 - Summary of adjustments (Wei Chih Steel)**

### Dumping Margin

The Commission compared the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period, in accordance with paragraph 269TACB(2)(a).

The weighted average product dumping margin for rebar exported to Australia by Wei Chih for the investigation period is **4.7 per cent**.

### **6.12.3 Power Steel**

#### Export Prices

Export prices for sales of rebar to Australia by Power Steel were established under paragraph 269TAB(1)(a) using the invoiced price from the exporter to the importer less transport and other charges arising after exportation.

#### Normal Values

Normal values were calculated pursuant to paragraph 269TAC(2)(c) and based on constructed costs and an amount for profit.

#### Adjustments

To ensure the comparability of normal values to export prices, the Commission considered adjustments were required pursuant to subsection 269TAC(9) as follows:

Adjustment type	Description
Export inland transport and handling	<b>Add</b> an amount to the constructed normal value for export inland transport inland transport, port and loading expenses.
Foreign Exchange Gain	<b>Add</b> an amount to the Export price for the WA exchange gain to the final FOB Price.

**Table 12 - Summary of adjustments (Power Steel)**

### Dumping Margin

Dumping has been assessed by comparing quarterly weighted average export prices to corresponding quarterly constructed normal values as described in paragraph 269TAC(2)(c) for the corresponding quarter of the investigation period.

The weighted average product dumping margin for rebar exported to Australia by Power Steel for the investigation period is **1.3 per cent**.

## **6.13 Thailand**

### **6.13.1 Verification of information**

The Commission conducted a verification visit at Millcon and verified information relating to costs, domestic sales and exports to Australia during the investigation period.

### **6.13.2 Millcon**

#### Export Prices

Export prices were determined under paragraph 269TAB(1)(a) as the price paid by the importer less transport and other costs arising after exportation.

#### Normal Values

For certain rebar models there were sufficient volumes of domestic sales that were arm's length transactions and at prices that were in the ordinary course of trade. For these models the prices paid in respect of domestic sales were suitable for assessing normal value under subsection 269TAC(1).

In relation to the other export models where there were insufficient sales of comparable domestic models, normal values were calculated pursuant to paragraph 269TAC(2)(c) and based on constructed costs and an amount for profit.

#### Adjustments

To ensure the comparability of normal values to export prices, the Commission considered adjustments were required pursuant to subsections 269TAC(8) and (9) as follows:

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Adjustment type	Deduction/addition
Domestic inland freight	<b>Deduct</b> an downwards adjustment for domestic inland transport costs
Export inland transport	<b>Add</b> an upwards adjustment for export inland transport costs
Export handling and other	<b>Add</b> an upwards adjustment for export handling costs
Credit terms	<b>Deduct</b> a downwards adjustment for domestic credit costs

Table 13 - Summary of adjustments (Millcon)

### Dumping Margin

The dumping margin has been assessed by comparing the weighted average export prices to the corresponding weighted average normal values for the investigation period.

The weighted average dumping margin in respect of rebar exported to Australia by Millcon for the investigation period is **0.0 percent**.

## **6.14 Turkey**

### **6.14.1 Verification of information**

Based on the volume of Habas' exports relative to the total export volume during the investigation period a decision was made not to conduct an on-site verification visit at Habas' premises.

Whilst a decision was made not to conduct an on-site verification visit, an analysis of the exporter questionnaire response provided by Habas was completed. This analysis reviewed the reasonableness of the export price, domestic sales and cost data provided to calculate the dumping margin.

### **6.14.2 Habas**

#### Export Prices

Export prices for rebar exported to Australia by Habas were determined under paragraph 269TAB(1)(a) as the price paid by the importer less transport and other costs arising after exportation.

Ocean freight costs were inclusive of inland transport costs, and as inland transport costs have not been separately reported, export prices were calculated at the ex-works level.

Normal Values

For certain rebar models there were sufficient volumes of domestic sales that were arm's length transactions and at prices that were in the ordinary course of trade. For these models the prices paid in respect of domestic sales were suitable for assessing normal value under subsection 269TAC(1).

In relation to the other export models where there were insufficient sales of comparable domestic models, normal values were calculated pursuant to paragraph 269TAC(2)(c) and based on constructed costs and an amount for profit.

Adjustments

To ensure the comparability of normal values to export prices, the Commission considered adjustments were required pursuant to subsections 269TAC(8) and (9) as follows:

Adjustment type	Description
Specification adjustment	<b>Add or deduct</b> as required based on differences in prices of export models.

**Table 14 - Summary of adjustments (Habas)**

No adjustments for inland transport are required as export prices are calculated at the ex-works level and domestic sales are also ex-works.

Dumping Margin

The dumping margin has been assessed by comparing the weighted average export prices to the corresponding weighted average normal values for the investigation period.

The weighted average dumping margin in respect of rebar exported to Australia by Habas for the investigation period is **-1.7 per cent**.

**6.15 Uncooperative and all other dumping margins**

Subsection 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. The Act specifies that for uncooperative exporters, export prices are to be calculated under subsection 269TAB(3) and normal values are to be calculated under subsection 269TAC(6).

**6.15.1 Singapore**

The Commission has established that there was only one exporter of rebar from Singapore during the investigation period, being Natsteel. As Natsteel was the

only exporter, it is recommended that Natsteel’s dumping margin apply as an ‘All Other’ rate for Singapore.

### **6.15.2 Korea, Spain and Taiwan**

#### Export price

After having regard to all relevant information, the export prices for uncooperative exporters from Korea, Spain and Taiwan were established separately for each country in accordance with subsection 269TAB(3), using the lowest weighted average export price from the quarter of the investigation period with the greatest dumping margin from the cooperating exporters, excluding any part of that price that relates to post-exportation charges.

#### Normal values

After having regard to all relevant information, the normal values for uncooperative exporters from Korea, Spain and Taiwan were established separately for each country in accordance with subsection 269TAC(6), using the highest weighted average normal value from the quarter of the investigation period with the greatest dumping margin from the cooperating exporters,.

#### Dumping margin

The dumping margins for uncooperative exporters from Korea, Spain and Taiwan were established in accordance with paragraph 269TACB(2)(a), by comparing the weighted average export prices established under subsection 269TAB(3) with the weighted average normal values established under subsection 269TAC(6).

As a result, the dumping margins for uncooperative exporters are:

<b>Country</b>	<b>Dumping Margin</b>
Korea	14.3%
Singapore	6.6%
Spain	8.2%
Taiwan	8.9%

**Table 15 – Uncooperative and All Other Dumping Margins**

### **6.15.3 Malaysia, Turkey and Thailand**

Given the Commissioner’s proposed recommendation to terminate the investigation in relation to exporters from Malaysia, Turkey and Thailand, ‘Uncooperative and All Other’ dumping margins were not calculated in relation to Malaysia, Turkey and Thailand.

## **6.16 Volume of dumped imports**

Pursuant to subsection 269TDA(3), the Commissioner must terminate the investigation, in so far as it relates to a country, if satisfied that the total volume of goods that are dumped is a negligible volume. Subsection 269TDA(4) defines a negligible volume as less than 3 per cent of the total volume of goods imported into Australia over the investigation period if subsection 269TDA(5) does not apply.

Submissions<sup>29</sup> were received from the Steel Exporters Association of Turkey which submitted that imports from Turkey were negligible.

As outlined in chapter 5 of this report, the Commission determined the volume of imports in the Australian market. Based on this information, the Commission is satisfied that, when expressed as a percentage of the total imported volume of the goods, the volume of allegedly dumped goods from each of Korea, Spain, Singapore and Taiwan (excluding Power Steel) was greater than three per cent of the total import volume and is therefore not negligible.

The Commission is further satisfied that, when expressed as a percentage of the total imported volume of the goods, the volume of allegedly dumped goods from Turkey, Malaysia and Thailand was less than 3 per cent of the total import volume and is therefore negligible.

Subject to any submissions received in response to this SEF, the Commissioner proposes to terminate the investigation as it relates to exporters from Turkey, Malaysia and Thailand.

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<sup>29</sup> See record numbers 76, 52 and 11 on the public record.

## **7 ECONOMIC CONDITION OF THE INDUSTRY**

### **7.1 Finding**

Based on an analysis of the information contained in the application and information obtained and verified during this investigation, the Commissioner considers that OneSteel has experienced:

- loss of sales volumes;
- loss of market share;
- price suppression; and
- reduced profits and profitability.

### **7.2 Introduction and legislative framework**

Under section 269TG, one of the matters the Parliamentary Secretary must be satisfied of in order to publish a dumping duty notice is that, because of the dumping, material injury has been, or is being caused, or has been threatened to the Australian industry producing like goods.

This section outlines the Commission's analysis of the economic condition of the Australian industry and includes an assessment as to whether the industry has suffered injury.

### **7.3 Approach to injury analysis**

The Commission relied on OneSteel's verified data in performing its analysis regarding the economic condition of the Australian industry for the period 1 July 2010 to 30 June 2014 (referred to in this section as the injury analysis period). The verified data includes production, cost and sales data for rebar on a quarterly and annual basis for the injury analysis period.

The Commission has also included data from the ABF import database in its analysis where necessary. Some aspects of the ABF import data were verified through visits to exporters and importers.

The Commission's analysis of OneSteel's data relates only to domestic sales of rebar, unless noted otherwise. OneSteel's sales of imported rebar have been excluded from the injury analysis, despite not representing a materially significant proportion of the Australian rebar market.

Various submissions have been received in relation to OneSteel's claims of injury. Consideration of these submissions is discussed throughout this chapter and in chapter 8.

## 7.4 Commencement of Injury

OneSteel claimed in its application that material injury from the allegedly dumped rebar exports from Korea, Malaysia, Singapore, Spain, Taiwan, Thailand and Turkey commenced prior to 2010/11.

However, the Commission is only able to consider evidence presented for the period after 1 July 2010 in assessing the overall economic condition of the Australian industry. The Commission is also unable to draw any conclusions on allegations of dumping prior to the investigation period (1 July 2013 to 30 June 2014).

## 7.5 Volume effects

Figure 3 below illustrates OneSteel's domestic rebar sales during the injury analysis period.

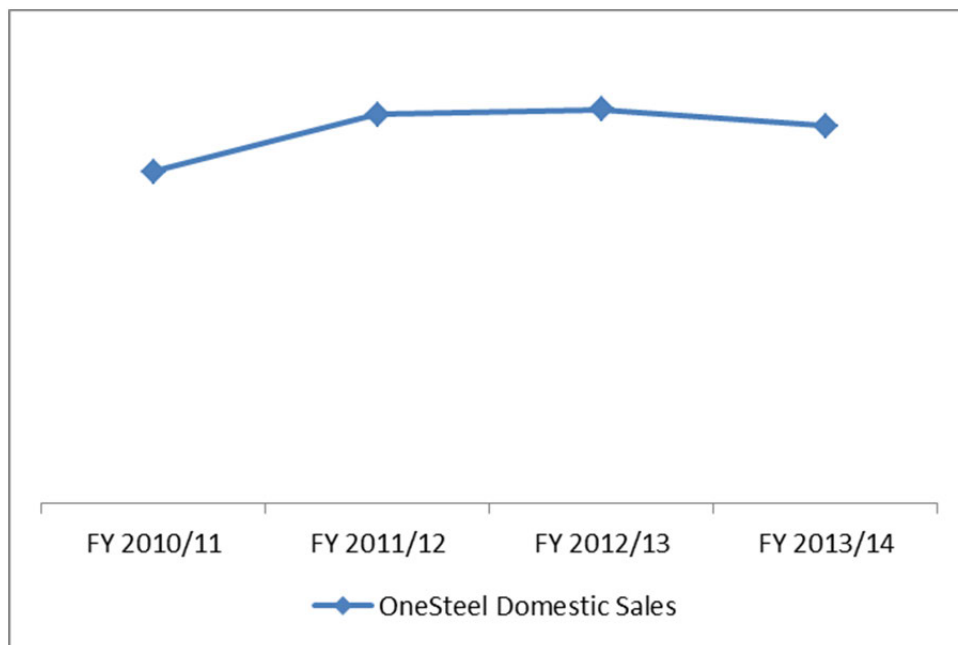


Figure 3: Australian Industry Sales (Tonnes)

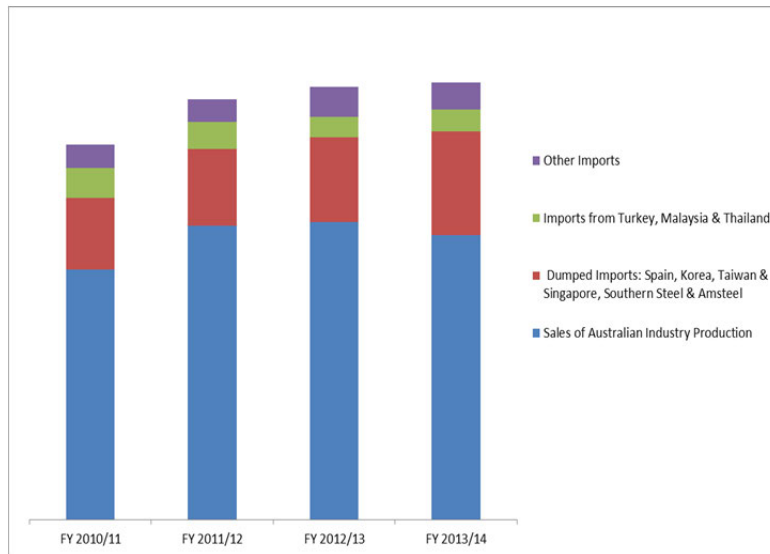
Figure 3<sup>30</sup> shows that OneSteel's domestic rebar sales volume increased during the 2011/12 and 2012/13 financial years, however, declined in the investigation period.

Figure 4 below illustrates the size of the Australian rebar market in terms of OneSteel's rebar sales and imports.<sup>31</sup>

<sup>30</sup> OneSteel's imported sales are excluded from this chart

<sup>31</sup> *ibid*





**Figure 4: Australian Market Size (Tonnes)**

Figure 4 illustrates that the Australian market has increased in size in each year, noting that the rate of growth has slowed over the injury analysis period. It is also noted that:

- sales of rebar in the Australian market increased in total by approximately 17 per cent over the injury analysis period. During the investigation period, the market grew by approximately 1 per cent compared to the previous year;
- OneSteel's domestic rebar sales increased between 2010/11 and 2012/13 before experiencing a decline in the investigation period of approximately 4 per cent compared to 2012/13. However, OneSteel's domestic rebar sales increased in total by approximately 14 per cent over the injury analysis period;
- imports from countries found to be dumping in chapter 6 (i.e. Spain, Korea, Singapore and Taiwan<sup>32</sup>) increased by approximately 45 per cent over the injury analysis period, with sales increasing consistently each year. Import volumes for these countries increased in the investigation period by approximately 22 per cent from the previous year;
- imports from countries considered not to be dumping in chapter 6 (i.e. Malaysia<sup>33</sup>, Turkey and Thailand) declined by approximately 26 per cent over the injury analysis period, but increased in the investigation period by approximately 8 per cent from the previous year; and

<sup>32</sup> Exports from Power Steel were considered to have not been dumped. These exports have been excluded from the dumped volumes.

<sup>33</sup> Dumping is considered to have occurred in relation to Malaysian exporters Amsteel and Southern Steel. However, no dumping has been considered to have occurred in relation Ann Joo Steel. The volume of exports considered to be dumped from Malaysia is negligible. All Malaysian exports are included in the not dumped volume.

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- imports from countries not subject to the investigation increased by approximately 12 per cent over the injury analysis period, but declined in the investigation period by approximately 12 per cent from the previous year.

### 7.5.1 Market share

Figure 5 below illustrates market shares of the Australian rebar market since July 2010.

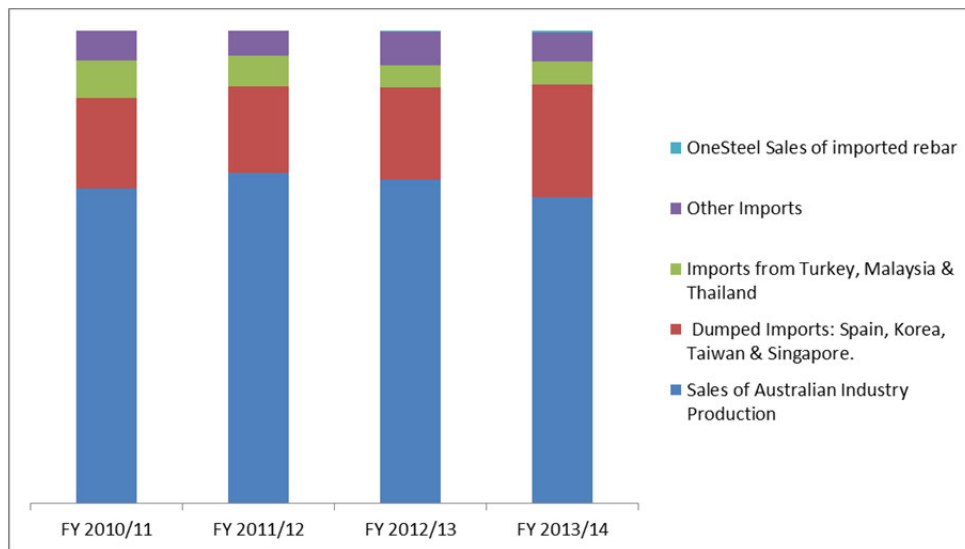


Figure 5: Australian Market Share

Figure 5<sup>34</sup> illustrates that:

- OneSteel's market share for rebar grew in 2011/12 before declining in 2012/13 and 2013/14. The decline in the 2013/14 year was greater than the decline in 2012/13. <sup>35</sup> OneSteel's market share fell by about 3.6 percentage points in 2013/14 and 2 percentage points in 2012/13;
- the market share for countries considered to be dumping in chapter 6 (i.e. Korea, Singapore, Spain and Taiwan<sup>36</sup>) fell in 2011/12 by approximately 1 percentage point, grew in 2012/13 by approximately 1 percentage point and increased in 2013/14 by approximately 4 percentage points. These countries account for almost a quarter of the Australian rebar market in 2013/14;

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<sup>34</sup> OneSteel's sales of imported rebar are included, but accounted for separately, in this chart for the purposes of estimating market size proportions.

<sup>35</sup> As outlined previously, OneSteel imported an immaterial volume of rebar which is sold on the Australian market. These sales have been excluded from the injury analysis.

<sup>36</sup> Exports from Power Steel were considered to have not been dumped. These exports have been excluded from the dumped volumes.

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- the market share for countries found not to be dumping in chapter 6 (i.e. Turkey, Malaysia<sup>37</sup>, and Thailand) fell by approximately 2 percentage points in 2011/12 and a further 1 percentage point in 2012/13, before stabilising in 2013/14;
- imports from countries not subject to the investigation fell from a 6 per cent to a 5 per cent market share in 2011/12, before increasing in 2012/13 to a 7 per cent share and falling again to a 6 per cent share in 2013/14.

Figure 5 also shows that whilst fluctuating over the injury analysis period, market shares between 2010/11 and 2013/14 have:

- declined for the Australian industry;
- increased for countries found to be dumping in chapter 6, i.e. Korea, Singapore, Spain and Taiwan;
- declined for countries found not to be dumping in chapter 5, i.e. Turkey, Malaysia and Thailand; and
- remained relatively static for all other countries not subject to the investigation.

### 7.5.2 Volume effects – the Commission’s conclusion

Various submissions were received in relation OneSteel’s claims of volume injury<sup>38</sup>. Submissions also questioned the Commission’s focus on the decline in sales volume in the investigation period and a perceived failure to consider the overall trend or increases in the prior years in the consideration report. These submissions further indicated that OneSteel’s sales volume/production level over the whole period had increased in absolute terms. One submission also contended that imports from the nominated countries were not significant. The Commission does not find these submissions detract from its findings in relation to volume injury.

The Commission also notes that the Manual specifies, in part, that:

*“...Anti-dumping or countervailing action is possible in cases where an industry has been expanding its market share, and the dumped or subsidised imports have slowed the rate of growth – a decline in growth may be as relevant as the movement from growth to decline”.*<sup>39</sup>

In the context of a growing market, the Commission is satisfied that the evidence outlined above supports OneSteel’s claim that it has experienced

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<sup>37</sup> Dumping is considered to have occurred in relation to Malaysian exporters Amsteel and Southern Steel. However, no dumping has been considered to have occurred in relation Ann Joo Steel. The volume of exports considered to be dumped from Malaysia is negligible. All Malaysian exports are included in the not dumped volume.

<sup>38</sup> See record numbers 5, 11, 10 and 9 on the public record

<sup>39</sup> Page 13 of the Manual

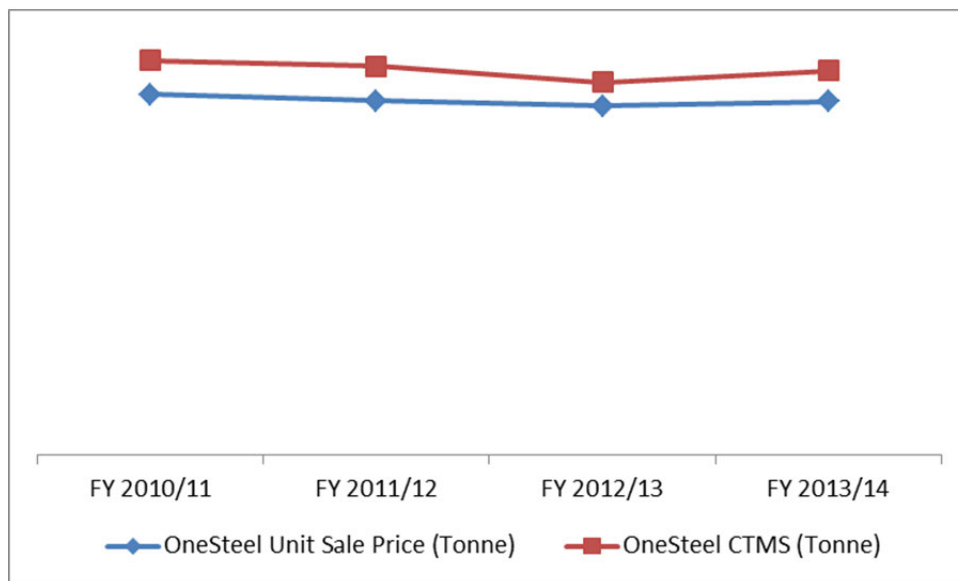
injury in the form of reduced sales volume and reduced market share for rebar in the Australian market.

## **7.6 Price effects**

### **7.6.1 Price suppression**

Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

Figure 6 below illustrates movements in OneSteel's unit CTMS and unit revenue for rebar during the injury analysis period.



**Figure 6 – OneSteel's Unit Revenue v Unit CTMS**

Figure 6 shows that:

- OneSteel's unit CTMS exceeded its unit revenue in each year of the injury analysis period;
- both unit CTMS and unit revenue declined between 2010/11 and 2012/13, before increasing in the investigation period; and
- the margin between unit CTMS and unit revenue declined in 2012/13 before widening in the investigation period.

The Commission considers that, although OneSteel has not sold rebar at a unit price exceeding its unit CTMS during the injury analysis period, OneSteel is a profit seeking entity that would normally strive to be profitable.

The Commission considers Figure 6 demonstrates that OneSteel has experienced price suppression during the investigation period, where the margin between unit CTMS and unit revenue increased.

Submissions received in relation to price effects

As mentioned in the Australian Industry report, a significant portion of OneSteel's sales are to related entities. Submissions<sup>40</sup> were received from interested parties regarding the appropriateness of using or considering OneSteel's related entity sales (commonly referred to as 'captive sales' in submissions) in the Commission's injury analysis.

OneSteel advised the Commission that prices to related entities were based on pricing to unrelated customers. Through verification, the Commission found that, at an aggregated level, OneSteel's related entities received prices below unrelated customers. OneSteel advised that the price difference reflected efficiencies from selling to related entities. The efficiency gains identified by OneSteel related to the fact that related entities were the largest customers in terms of volume and savings were made in relation to transactional costs. The Commission considers that OneSteel's explanation reasonably explained the price differential.

To further assess the arm's length nature of OneSteel's related entity sales, the Commission analysed OneSteel's sales to two large unrelated customers purchasing rebar in Queensland, Victoria and NSW. This analysis indicated that weighted average pricing to those customers followed a similar average weighted pricing trend to OneSteel's related entities over the investigation period. This analysis also identified that the average weighted pricing by OneSteel to the unrelated customers, at times, was at or below pricing to related entities.

On the basis of the above, the Commission is satisfied that OneSteel's sales to related entities are arm's length and are appropriate to include in the injury analysis.

Submissions were received in relation to OneSteel's raw material costs.<sup>41</sup> These submissions specified that a proportion of the primary raw materials used by OneSteel were sourced from related suppliers and it was open for OneSteel to set transfer prices which may not be reasonable for assessing OneSteel's CTMS. It was submitted that if OneSteel's transfer price for billet significantly exceeded equivalent international benchmark prices, the Commission should either find there was insufficient reliable information to make a finding on injury factors relating to costs or replace OneSteel's billet costs with an international benchmarked price. In one submission a graph was provided which sought to benchmark OneSteel's CTMS against movements in international billet prices.

OneSteel responded to this submission<sup>42</sup>, indicating that the benchmarking graph did not make appropriate adjustments for currency fluctuations and that

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<sup>40</sup> See for example 5 and 44 on the public record

<sup>41</sup> See numbers 4, 5, 6, 9 and 37 on the public record

<sup>42</sup> See number 8 on the public record

billet prices were not a suitable basis for comparison as these prices could be subject to dumping or subsidisation. No evidence was provided by OneSteel to establish that international billet prices were subject to dumping or subsidisation.

However, as mentioned in the Australian industry report, the Commission is satisfied that OneSteel's CTMS data was a reasonably complete, relevant and accurate reflection of the CTMS for rebar and was suitable for analysing the economic performance of its rebar operations from 1 July 2010 to 30 June 2014. During the Australian industry visit, the Commission undertook verification of OneSteel's raw material costs and where purchases involved a related supplier, the Commission verified that purchase prices were reasonably comparable to an appropriate market price.

The Commission also sought to compare OneSteel's billet costs against the international billet benchmarks data provided in the previously mentioned submission. This analysis, after adjusting for currency fluctuations and timing differences, indicated that OneSteel's billet costs moved in a similar pattern to the international billet prices from 2011 to 2013 with the only deviation in 2014, where OneSteel's billet costs decreased while international billet prices increased. The Commission notes that there may be various factors influencing international billet prices which may need to be accounted for in completing this analysis, however, the Commission has not been provided with any further evidence to quantify those influences.

#### **7.6.2 Price effects – the Commission's conclusion**

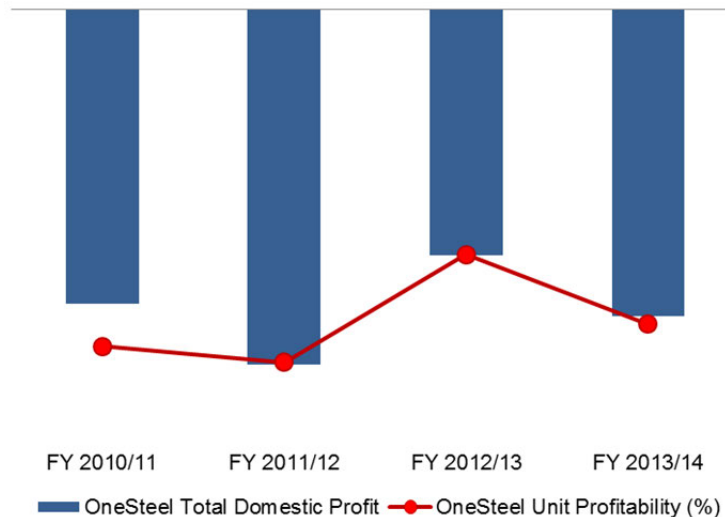
Based on the analysis outlined above and consideration of the submissions received, the Commission has found that the Australian industry has experienced injury in the form of price suppression.

### **7.7 Profit effects**

#### **7.7.1 Profits and profitability**

In its application OneSteel claimed that it was suffering injury in the form of reduced profit and profitability.

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**Figure 7 – OneSteel Profit and Unit Profitability**

Figure 7 above shows that for the four consecutive years of the injury analysis period, OneSteel was selling at a loss. Following a period of improvement in 2012/13, profit and profitability again deteriorated in the investigation period (in which dumping was found to have occurred).

### 7.7.2 Profit and profitability – the Commission’s assessment

The Commission considers that the Australian industry has suffered injury in the form of reduced profits and profitability.

## 7.8 Other injury factors

As part of its application, OneSteel provided Appendix A7 which provided details of other injury factors relating to asset levels, capital investment, revenue, return on investment, capacity, capacity utilisation, employment, productivity, closing stocks, cash flow measures and wages.

Whilst OneSteel has not claimed injury in relation to other injury factors, various submissions<sup>43</sup> questioned whether the Commission examined this data.

Consequentially, details of the other injury factors are briefly discussed below.

### Capital investment

OneSteel’s capital investment decreased in 2011/12, before increasing in 2012/13 and 2013/14.

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<sup>43</sup> See numbers 5, 6, 10 11 and 76 on the public record

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### Assets

The value of total assets decreased each year, however, the value of assets allocated to production of rebar increased between 2010/11 and 2012/13 before decreasing in 2013/14.

### Revenue

Revenue increased in 2011/12, but declined in 2012/13 and 2013/14. In relation sales of rebar, revenue increased in 2010/11 and 2012/13, before declining in 2013/14.

### Research and development expenditure

OneSteel's research and development expenditure decreased in each year of the injury analysis period in relation to total company sales and sales of rebar.

### Return on investment

Return on investment fluctuated during the period between 2010/11 and 2013/14.

### Capacity

Capacity remained static during the period during the injury analysis period.

### Capacity utilisation

Overall, capacity utilisation improved in 2011/12, remained static in 2012/13, before declining in 2013/14. Capacity utilisation in relation to rebar improved in 2011/12 and 2012/13, before declining in 2013/14.

### Employment

Overall employment marginally increased in 2011/12, before declining in 2012/13 and 2013/14.

### Productivity

Productivity, measured as output in tonnes per hour, increased over the injury analysis period in relation to the Laverton based mills. Productivity in relation to OneSteel's Newcastle and Sydney mills remained static during the period.

### Closing stock held

Closing stock held increased in 2011/12 and 2012/13 and decreased during 2013/14.



Accounts receivable

Accounts receivable increased over the injury analysis period.

**7.8.1 Commission's assessment - other injury factors**

The Commission considers that the above information is inconclusive and does not find that OneSteel experienced injury in relation to the other injury factors.

**7.9 The Commissioner's assessment**

Based on the analysis detailed in this chapter, the Commissioner considers OneSteel has experienced injury in the form of:

- loss of sales volumes;
- loss of market share;
- price suppression; and
- reduced profits and profitability.

## 8 HAS DUMPING CAUSED MATERIAL INJURY?

### 8.1 The Commissioner's findings

The Commissioner has found that rebar exported to Australia from Korea, Singapore, Spain and Taiwan (except Power Steel) at dumped prices has caused material injury to the Australian industry producing like goods.

The Commission has analysed and assessed causation factors and submissions by interested parties and has determined that OneSteel has suffered material injury caused by dumped imports from Korea, Singapore, Spain and Taiwan (except Power Steel) in the form of:

- loss of sales volumes;
- loss of market share;
- price suppression; and
- reduced profits and profitability.

### 8.2 Introduction

As outlined in chapters 6 and 7, the Commission has established that during the investigation period, exports of rebar to Australia from Korea, Singapore, Spain and Taiwan (except Power Steel) were dumped and that the Australian industry has suffered injury.

Section 269TAE outlines the factors that the Parliamentary Secretary may take into account in determining whether, for the purposes of section 269TG, material injury to an Australian industry has been, or is being caused or threatened by the dumped goods.

This chapter examines whether exports of rebar to Australia from Korea, Singapore, Spain and Taiwan (except Power Steel) have caused material injury to the Australian industry producing like goods.

### 8.3 Dumping

The Commission has found that rebar exported to Australia from:

- Korea by Deahan Steel during the investigation period was dumped with a dumping margin of 9.7 per cent. The volume of dumped goods from Korea was not negligible;
- Singapore by NatSteel during the investigation period was dumped with a dumping margin of 6.6 per cent. The volume of dumped goods from Singapore was not negligible; and
- Spain by Celsa Barcelona and Celsa Nervacero during the investigation period was dumped with a dumping margin of 3.0 per cent. The volume of dumped goods from Spain was not negligible; and

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- Taiwan by Wei Chih Steel during the investigation period was dumped with a dumping margin of 4.7 per cent. The volume of dumped goods from Taiwan was not negligible.

As previously mentioned in this SEF, no dumping or negligible levels of dumping was identified in relation to Habas from Turkey, Ann Joo Steel from Malaysia, Power Steel from Taiwan and Millcon from Thailand.

### 8.4 Cumulative effects of exportations

Subsection 269TAE(2C) sets out the requirements for assessing the cumulative effects of goods exported to Australia from different countries. Where exports from more than one country are the subject of anti-dumping investigation lodged on the same day, the Parliamentary Secretary may cumulatively assess the effects of such imports if:

- the margin of dumping established for exporters in each country is not negligible; and
- the volume of imports from each country is not negligible; and
- cumulative assessment is appropriate having regard to the conditions of competition between the imported goods and the imported goods and like goods that are domestically produced.

As outlined in chapter 6, the Commission has established that the margin of dumping for exporters from Korea, Singapore, Spain and Taiwan (except Power Steel) was not negligible and that the volume of imports was not negligible.

#### Submissions received in relation to accumulation

Best Bar submitted<sup>44</sup> that the conditions of competition rendered it inappropriate to consider imports from Singapore in the accumulation of imports from other countries. Best Bar stated that it:

- was the only importer of rebar manufactured by Natsteel from Singapore during the investigation period and it only imported nominal amounts of rebar from one other exporter due to the technical requirements;
- does not compete with OneSteel directly in the (unprocessed) rebar market; and
- considers that OneSteel's pricing actively discouraged it from purchasing OneSteel's rebar given that it competes with OneSteel in the downstream market.

The Commission confirmed during its verification visit to Best Bar that it principally sourced its imported rebar from Singapore. It was also noted that Best Bar sold very little rebar in the same condition in which it was imported and that it operated cutting and bending operations at its production facilities which

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<sup>44</sup> See record number 44 on the public record

further processed rebar. The Commission also notes that sales information obtained from OneSteel indicated that Best Bar purchased rebar from OneSteel during the period of the investigation.

The Commission assessment is that, whilst OneSteel and Best Bar, are not actively competing in the Australian Market in relation to the sale of unprocessed rebar, the Commission considers that Natsteel, Singapore, and OneSteel are both competing in relation to the sale of unprocessed rebar in the Australian market.

It was also noted that a submission<sup>45</sup> was made in relation to 'Green Star' certified rebar which contended that this rebar product was not competing with other rebar. Based on the Commission's consideration of the information provided, which is discussed in section 8.6.2, there is insufficient evidence to support the claim that OneSteel's product and imported rebar are not competing on the basis of 'Green Star' certification.

#### Commission conclusion on accumulation

Overall, the conditions of competition between imported and domestically produced reinforcing steel bar are similar. The Commission has established that importers, some exporters and OneSteel were selling rebar predominantly into the same market segment during the investigation period. This has been verified during importer, exporter and Australian industry visits.

The Commission considers that, due to the degree of price sensitivity in the rebar market, price competition is a major condition of competition between the imported goods and the imported goods and the domestically produced goods. The Commission analysed the verified weighted average selling price of rebar sold by OneSteel and visited importers of goods from the nominated countries during the investigation period. Based on verified data, the Commission found that there was significant price competition between imported goods and also between the imported goods and the like domestic goods.

Furthermore, domestically produced and imported rebar can be directly substituted. The goods produced by all exporters and the Australian industry are alike, have similar specifications and common end-uses.

Evidence indicates that the importers' customers and in some circumstances exporters are directly competing with OneSteel's distribution network. It was observed that some importers were importing rebar from multiple countries and that customers were purchasing rebar from Australian industry and rebar sourced from exporters participating in this investigation.

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<sup>45</sup> See number 4 on the public record

The Commission considers the conditions of competition are such that it is appropriate to consider the cumulative effect of the dumped imports from Korea, Singapore, Spain and Taiwan.

#### **8.4.1 Submissions in relation to related party sales**

The Commission received submissions from various parties regarding OneSteel's claims of material injury in relation to related entity sales. Best Bar<sup>46</sup>, for example, questioned the materiality of OneSteel's claimed loss in sales volume. It also questioned where the decline in the claimed loss of sales volume occurred. It asked whether the reduction in sales volume could have occurred from OneSteel's fabrication arm, OneSteel Distribution, which Best Bar described as sales that are "captive production" and are "not subject to import competition".

Best Bar's submission made reference to the WTO Appellate body's decision in regard to *United States – Certain Hot Rolled Product from Japan*, and argued that OneSteel's captive sales, which significantly outweigh its independent sales, were shielded from import competition and therefore any claimed injury in regard to these sales cannot be attributed to dumping. The submission further specified that the Commission should investigate whether any decreased internal transfer price caused nothing more than a profit transfer.

A submission<sup>47</sup> was received from OneSteel, which submitted that Best Bar's referenced WTO appellate body's decision was not relevant to Australia and that the captive market provisions under the *US Tariff Act 1930* had no parallel provision under Australian legislation. OneSteel also disputed the assertion that its related party sales were effectively shielded from competition and that injury attributed to these sales could not be attributed to dumping.

As previously mentioned, the Commission's assessment is that sales to OneSteel's related entities are at arms length and that OneSteel and its related customers are competing in the same Australian market. The Commission has concluded that the analysis relating to volume, price, profit and profitability should be completed at the aggregated level in the Australian market for rebar. In certain circumstances the Commission will consider a segregated market analysis where injury may be examined in a market exposed sector and related back to the industry as a whole. However, in this case the Commission has not applied any segregated market analysis.

### **8.5 Volume effects**

As discussed in chapter 7, the Australian industry has experienced reduced sales volume and market share in the investigation period.

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<sup>46</sup> See record number 44 and 53 on the public record

<sup>47</sup> See record number 58 on the public record

### **8.5.1 Sales volumes**

As mentioned in section 7.5, the Commission's analysis identified during the investigation period that:

- the Australian rebar market grew by approximately 1 per cent;
- import volumes from the countries found to be dumping increased by approximately 22 per cent;<sup>48</sup>
- import volumes from the countries found not to be dumping increased by approximately 9 per cent;<sup>49</sup>
- import volumes from countries not subject to the investigation fell by approximately 12 per cent; and
- OneSteel's sale volumes fell by approximately 4 per cent.

It is also noted that in the context of overall volume during the investigation period, imports from the countries identified as dumping occupied a significantly larger portion of the market than imports from countries either found not to be dumping or not subject to this investigation. Import volumes from Spain, Korea, Singapore and Taiwan were 375 per cent greater than the imports from the countries found not to be dumping and 290 per cent greater than the imports from countries not subject to the investigation.

OneSteel provided a sales volume analysis relating to identified customer's sales between July 2012 and November 2014. This analysis identified gaps in these customers' sales. OneSteel specified that these significant gaps were indicative of the customers having purchased rebar from alternative sources. The Commission sought to identify where these clients were seeking their alternative supply from based on the import data available to the Commission. At this preliminary stage the Commission has been unable to sufficiently correlate these lost sales directly to the imports of rebar. However, the Commission will seek to finalise this analysis prior to the final report.

On this basis, the Commission considers that OneSteel's volume injury predominately resulted from increased dumped imports from Korea, Singapore, Spain and Taiwan (excluding Power Steel) during the investigation period.

### **8.5.2 Market share**

As mentioned in section 7.5, the Commission's analysis indicated that during the investigation period:

- OneSteel suffered a loss of 3.6 percentage points of market share;
- the market share for countries identified as dumping during the investigation period increased by approximately 4 percentage points;<sup>50</sup>

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<sup>48</sup> This 22 per cent excludes the imports from Malaysian exporters found to be dumping and Taiwanese imports from Power Steel who was found not to be dumping.

<sup>49</sup> Includes imports from Power Steel

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- the market share for countries found not to be dumping remained relatively static; and
- the market share for imports from countries not subject to the investigation decreased by approximately 1 percentage point.

Since the proportion of imports from countries not dumping remained static and the imports from other countries fell, the Commission considers that OneSteel's loss of market share is attributable to dumped imports from Korea, Singapore, Spain and Taiwan during the investigation period.

### 8.6 Price effects

The Commission considered the following factors in assessing price injury.

#### 8.6.1 Pricing in the Australian rebar market

The Commission considers that rebar is a commodity product, which means that the grades and sizes used in the market are commonly available and are interchangeable regardless of origin. As a result, price is one of the primary factors affecting purchasing decisions.

OneSteel stated that it negotiates monthly prices for rebar with customers, based on the delivered price of the imported products in the month that the imports are due to arrive at the customer's facility. The Commission accepts that as customers can purchase either from OneSteel or from an import supply source, import offers and movement in the price of import offers are used by customers to negotiate prices with OneSteel, and as such, in order to remain competitive, OneSteel is obliged to respond to the price of imported products.

In testing the OneSteel' import price parity model, the Commission looked at the pricing relationship between the import offers and OneSteel actual weighted average selling prices to two major consumers of rebar. The data, supported by direct quote and negotiation evidence confirms the need for OneSteel to respond to the imported price offers as illustrated by the following two charts.

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<sup>50</sup> Excludes the imports from Malaysian exporters found to be dumping and Taiwanese imports from Power Steel who was found not to be dumping.

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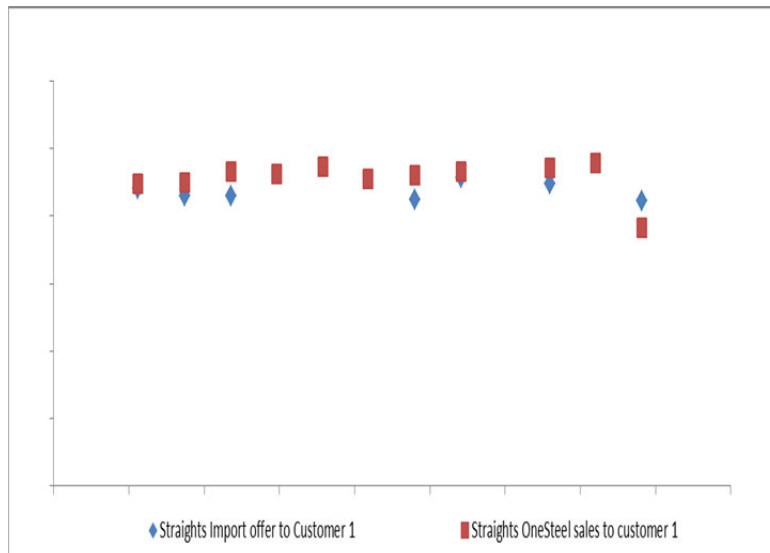


Figure 8 - Import price parity model - Pricing over investigation period - Straights

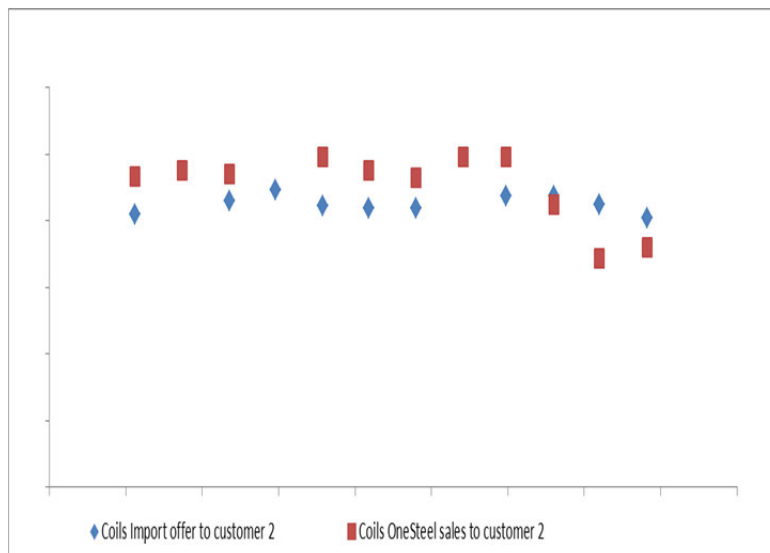


Figure 9 - Import price parity model - Pricing over investigation period - Coil

Accordingly, the Commission is satisfied that the price of imports is the key determinant of OneSteel's selling price. Taking into account price sensitivity in the Australian rebar market, it is likely that dumped prices will directly cause price injury resulting in reduced profits.

### 8.6.2 Size of dumping margins

Subparagraph 269TAE(1)(aa) requires the Parliamentary Secretary to have regard to the size of each of the dumping margins, worked out in respect of goods of that kind that have been exported to Australia.

The dumping margins outlined in chapter 6, ranging between 3 per cent and 9.7 per cent, are not negligible (i.e. are above 2 per cent). The Commission



considers that the magnitude of dumping provided exporters with the ability to offer rebar at lower prices than would otherwise have been the case and forced OneSteel to lower its prices in a price sensitive market.

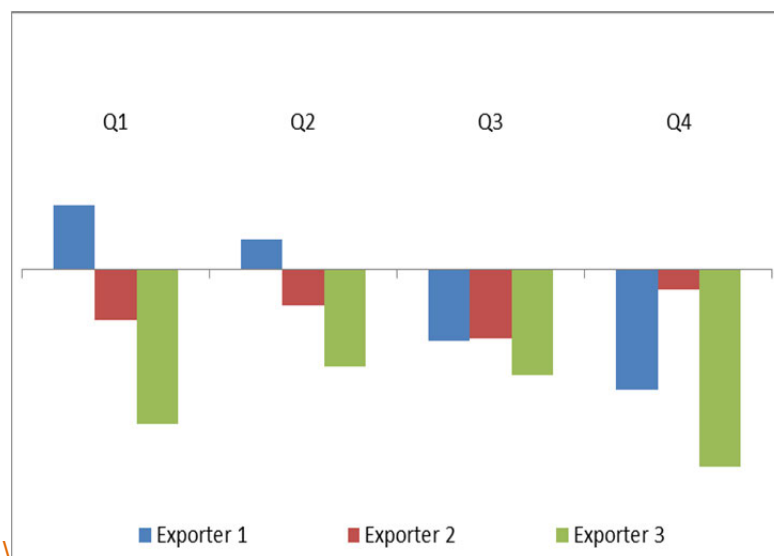
**8.6.3 Undercutting**

Price undercutting occurs when imported goods are sold at a price below that of the Australian produced like goods. For the purposes of the SEF, the Commission has undertaken an analysis of price undercutting based on verified sales data sourced from four cooperating importers and OneSteel as part of the investigation. OneSteel supplied verified sales data and market intelligence regarding competitive import price offers it alleges undercut its prices.

In comparing the sales data of the four cooperating importers with OneSteel’s sales data, the Commission found that the weighted average selling price per tonne for imported goods over the investigation period ranged between 0.3 per cent and 5.6 per cent lower than OneSteel’s weighted average price per tonne.

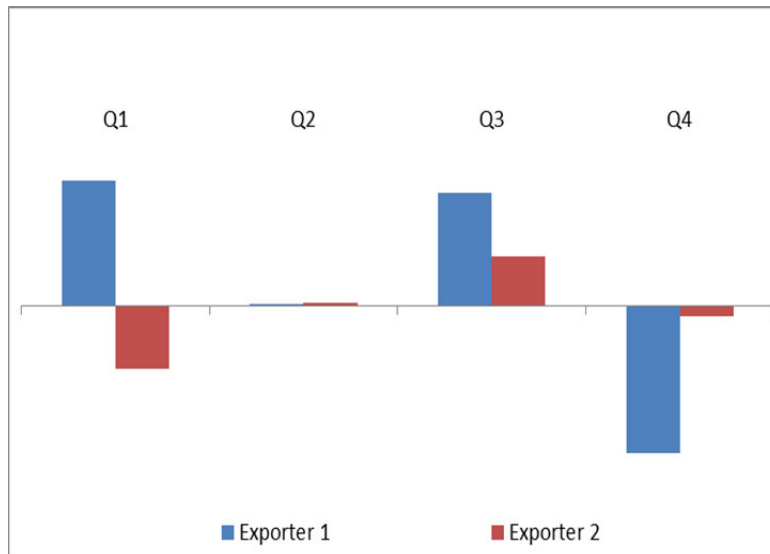
An analysis of the investigation period data on a quarterly basis showed undercutting by importers in the range of 2.6 per cent above and 9.4 percent below OneSteel weighted average prices per tonne. Of the four quarters in the investigation period, the weighted average prices of the four importers were below those of OneSteel on 14 of 16 occasions.

The Commission compared the weighted average selling prices of goods originating from exporters found to be dumping during the investigation period with OneSteel’s weighted average prices for rebar coil and rebar straights separately over the investigation period. Given that not all countries export both rebar coils and rebar straights to Australia, the Commission was not in possession of data for all four countries found to be dumping for both rebar straights and rebar coils, however, the analysis below in Figures 10 and 11 covers exporters in Korea, Spain, Singapore and Taiwan. The levels of undercutting depicted below are expressed in terms of value.



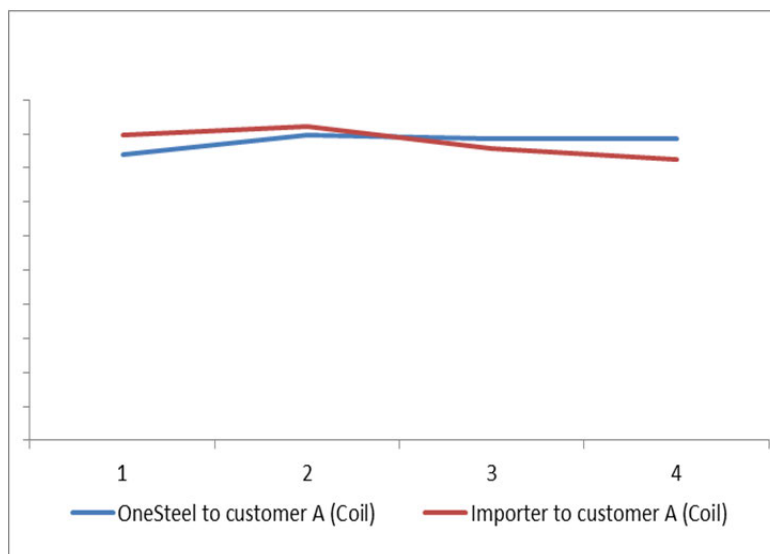
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**Figure 10 - Undercutting values - importer sales of dumped goods Coils - Investigation Period**

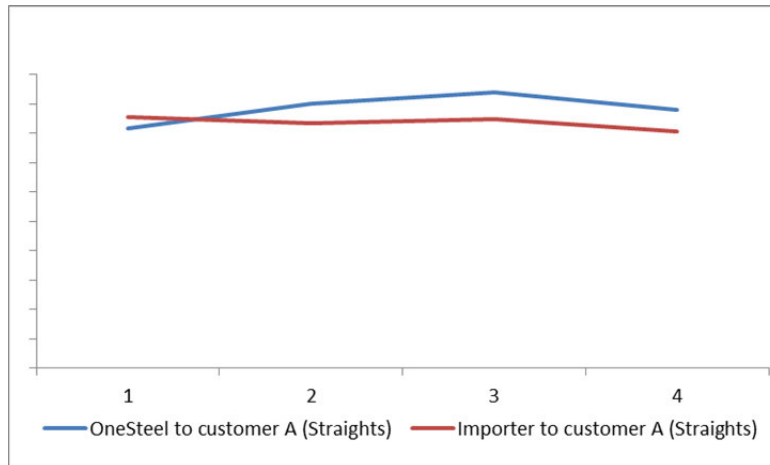


**Figure 11 Undercutting values - importer sales of dumped goods Straights - Investigation Period**

To understand the relationship between the market pricing of dumped goods and the OneSteel pricing, the Commission compared the weighted average selling prices of goods on a quarterly basis over the investigation period for a single large customer purchasing rebar from both OneSteel and importers selling dumped goods. Imports of rebar coils were found to be undercutting OneSteel's prices in 2 of 4 of the quarters, whilst imports of rebar straights were found to be undercutting OneSteel's prices in 3 of 4 quarters in the investigation period. This analysis is depicted in Figures 12 and 13 below.



**Figure 12 – Coils market pricing - dumped goods vs OneSteel**



**Figure 13 – Straights market pricing - dumped goods vs OneSteel**

Submissions received in relation to the approach to undercutting analysis

A submission was received from Daehan Steel and Stemcor<sup>51</sup> submitting that a number of factors needed to be taken into consideration in relation to the Commission's undercutting analysis. OneSteel responded to Daehan's submission.<sup>52</sup> The factors raised include:

Differences in production processes

It was submitted that Daehan used a more efficient Tempcore manufacturing process whereas OneSteel used a more costly micro alloying production process for some of its rebar products. Daehan submitted that an adjustment should be made for those more costly OneSteel products. OneSteel responded indicating that some of the product claimed to be manufactured by a more expressive micro alloying process was incorrect. OneSteel submitted that the pricing for rebar coil was not determined by the costs of production and it was unable to achieve a price premium for these additional costs. The Commission's assessment is that OneSteel uses multiple methods to manufacture rebar and that the available evidence indicates that import pricing offers are the key price influence based on OneSteel's import price parity model rather than the cost differences in the production methods employed by OneSteel.

Green Star certification

It was submitted that OneSteel's sales of Green Star Certified rebar coil should be excluded from the undercutting analysis as Daehan

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<sup>51</sup> See number 4 on the public record

<sup>52</sup> See number 8 on the public record

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rebar does not compete with this product and cannot be substituted for Green star rated products. A copy of an e-mail was provided to support this concern. It was also submitted that there was a \$40 to \$50 per MT premium for Green Star rebar. No evidence was provided to support this stated premium. OneSteel subsequently submitted that it was not able to secure a premium based on the Green Star rating. It was also noted from the Commission's analysis indicated that the same common customers were purchasing rebar coil form both OneSteel and Daehan. The Commission considers that there is insufficient evidence to support that Green Star product should be excluded from the undercutting analysis.

### Coil weights

Daehan and Stemcor submitted that a price adjustment should be made on the basis that Daehan's lighter weight coils were less preferred due to more frequent change over downtime. In support of its submission an e-mail was provided which discussed the additional costs of lighter coils for a potential Daehan customer. It was also submitted that heavier weighted coils incur an additional \$75m/t in production costs at the OneSteel facilities where it is manufactured. In response OneSteel disputed the additional cost figure quoted and specified that it did not differentiate pricing based on the facility where the goods were manufactured. The Commission considers that the evidence provided is insufficient to support the argument there is an actual price difference in the Australian market based on the rebar coil weight.

### Coil diameters

Daehan and Stemcor submitted that Daehan's imported 20mm rebar should be excluded from the price undercutting analysis due to OneSteel not manufacturing this model. It is noted that Commission has excluded OneSteel's sales of 20 mm rebar from the injury analysis and undercutting analysis. However, it was noted that in Daehan's exporter questionnaire, the Commission identified that the export sales of 20 mm rebar accounted for a small proportion of the total rebar coil exported by Daehan and pricing analysis at the FOB level for these exports did not identify any pricing differential between 12, 16 and 20 mm exported rebar when it was sold on the same invoice. On this basis, the Commission considers that the inclusion of these sales would have immaterial impact on the undercutting analysis.

### Impact of transportation costs

Daehan and Stemcor submitted that the Commission's undercutting analysis should be completed at an ex works level because of significant variations in transport costs.

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The Commission has noted that a very significant portion of OneSteel's sales are to sites in Victoria, New South Wales and Queensland. On this basis the Commission considers that transport costs are unlikely to have a significant impact on the undercutting analysis completed.

### Inventory and Storage

Daehan and Stemcor submitted that it was appropriate to adjust for the additional expenses incurred by OneSteel in its rebar coil operations relating to inventory holdings.

As previously mentioned, the Commission's analysis indicates that OneSteel predominately competes on price and that inventory costs are unlikely to be a material consideration in relation to pricing.

### Currency fluctuations

Daehan and Stemcor submitted that it was important for the Commission to ensure that OneSteel's price comparisons properly accounted for movements in currency. The Commission confirms that OneSteel's import pricing party model takes into consideration currency fluctuations.

Further, currency fluctuations have been accounted for in the Commission's import pricing analysis.

### OneSteel Price List

Daehan and Stemcor submitted that its price undercutting analysis should be based on net selling prices and OneSteel's price lists should be disregarded.

The Commission has based its undercutting analysis on OneSteel's net selling prices and OneSteel's pricing lists have not been used in the undercutting analysis.

#### **8.6.4 Price suppression**

OneSteel claimed that it was forced to maintain reduced prices in response to price pressures from dumped imports of rebar from the nominated countries.

Price suppression in terms of Article 3.2 of the World Trade Organization Anti-Dumping Agreement, occurs where price increases for a domestic industry's products, which otherwise would have occurred, have been prevented to a significant degree. As specified in the Manual at page 15, in determining whether price suppression has occurred the Commission may complete a comparison of prices with costs and/or assess whether the prices for the Australian industry would have been higher in the absence of dumping.

As mentioned in section 7.6.1, the Commission's analysis shows that throughout the injury analysis period, OneSteel's CTMS exceeded its selling prices of the goods and that during the investigation period, the margin between unit revenue and unit costs increased.

The Commission considers that, without the presence of dumping, it is likely that OneSteel as a profit seeking entity would be more likely to maintain pricing at levels necessary to recover at least its CTMS. The market for rebar is highly price sensitive, and the Commission is satisfied that during the investigation period, in the absence of dumping, prices achieved in the market, including OneSteel's, would have been higher.

#### Submissions received in relation to price suppression

The Commission received submissions<sup>53</sup> relating to OneSteel's claim of price suppression. Best Bar submitted that OneSteel's claims of price suppression are inconsistent with the statement in its application which read "sought to hold market share at the expense of price".<sup>54</sup> Best Bar reasoned that OneSteel's primary consideration is to maintain production volume for rebar rather than seeking profit. In addition, Best Bar disagreed with OneSteel's inclusion of its rebar pricing to related entities because they are not subject to import pricing pressures.

As previously mentioned, the Commission's analysis of pricing between independent and related entities indicates that OneSteel's price to related entities is subject to import pricing pressures. In addition, the available information indicates that OneSteel's pricing is sensitive to import offers in the Australian rebar market.

## **8.7 Profit effects**

The Australian industry has experienced deterioration in its volume, profit and profitability.

### **8.7.1 Reduced profit and profitability**

The Commission has established that dumped imports have caused injury in the form of price suppression. The Commission has also established that OneSteel has experienced reduced sales volume and reduced market share as a result of dumped imports.

The price suppression caused by dumping has resulted in lower profitability for OneSteel. The lower profitability combined with reduced sales volume has resulted in reduced profits for OneSteel.

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<sup>53</sup> See number 44 on the public record

<sup>54</sup> See number 44 on the public record at page13

The Commission received submissions relating to OneSteel's claim of reduced profit and profitability. The Steel Exporters' Association of Turkey submitted that overall profit and profitability during the injury period increased in financial year 2013/14 when compared to financial year 2010/11. It argued that OneSteel's claimed loss of profits and profitability is not significant and therefore could not amount to a claim for material injury.<sup>55</sup>

As outlined below at section 8.11, the Commission considers that OneSteel has suffered material injury in the form of reduced profit and profitability due to dumped imports.

## **8.8 Other injury factors**

No other injury factors were claimed by OneSteel. Regardless, the Commission reviewed the data provided by OneSteel in its application. The Commission considers that Appendix A7 data provided by OneSteel in its application is inconclusive on whether any other injury factors have occurred or, if they have occurred, whether they were caused by dumping, or caused by other factors.

## **8.9 Injury caused by factors other than dumping**

### **8.9.1 Introduction**

Subsection 269TAE(2A) requires the Parliamentary Secretary to consider whether injury to an industry is being caused or threatened by factors other than the exportation of the goods. This provision contains a list of factors that the Parliamentary Secretary may have regard to when considering whether injury is being caused by factors other than exportation of the goods, but it is not an exhaustive list.

During the investigation the Commission either determined or was informed by interested parties of the following possible causes of injury:

- un-dumped goods;
- imports from other countries not subject to the investigation;
- factors specific to the Australian economy;
- initiation of the carbon tax;
- Australian dollar;
- efficiency of operations and internal decision making;
- exports by OneSteel;
- restrictive trade practices of Australian producers; and
- sources of billet and cost of billet.

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<sup>55</sup> See number 11 on the public record at page 15

### **8.9.2 Un-dumped goods**

Under paragraph 269TAE(2A)(a), consideration may be given to whether un-dumped goods were a cause of injury to the Australian industry.

The Commission has found that imports from Ann Joo Steel in Malaysia, Power Steel in Taiwan, Millcon in Thailand and Habas in Turkey were not at dumped prices or were dumped at negligible dumping margins.

As detailed above, the Commission considers that rebar is a commodity product and therefore price is one of the primary factors affecting purchasing decisions.

As mentioned in chapter 7, overall imports from Turkey, Malaysia and Thailand increased in the investigation period by approximately 8 per cent from the previous year. However, the Commission notes that on a country by country basis during the investigation period, import volumes from Malaysia and Thailand fell, whereas the import volumes from Turkey increased over the same period.

In relation to imports from Turkey, the Commission's undercutting analysis indicates that Turkey's pricing did not undercut OneSteel's quarterly average weighted pricing until the final quarter of the investigation period and that over the whole investigation period its weighted average price for rebar straights only undercut OneSteel's pricing for rebar straights by approximately 1 per cent. It is also noted that Turkey, whilst it increased its import volume in the investigation period, its imports only constituted 1 per cent of the Australian rebar market in this period.

The Commission considers that the circumstances specified above indicate imports of rebar from Malaysia, Thailand and Turkey are unlikely to have influenced the overall market prices.

### **8.9.3 Effect of imports from other countries not subject to investigation**

Information from the ABF import database shows that for the investigation period approximately 83 per cent of rebar imported into Australia came from the countries under investigation, 11 per cent was imported from New Zealand, and six per cent from other countries. A submission on behalf of the Steel Exporters Association from Turkey queried whether imports from New Zealand and the China had taken market share during the investigation period.

As previously mentioned in chapter 7, imports from countries not subject to the investigation fell from a 6 per cent to a 5 per cent market share in 2011/12, before increasing in 2012/13 to a 7 per cent share and falling again to a 6 per cent share in the investigation period. In relation to imports from China, it was noted that volumes fell during the investigation period. Whilst New Zealand imports increased during the investigation period, the increase was less than 1 percentage of market share.



The Commission considers that the volume from exporters not subject to the investigation, when compared to the import volumes of countries found to be dumping, were insufficient to have had a material influence on prices for rebar.

#### **8.9.4 Factors specific to the Australian economy**

Based on the analysis of OneSteel's sales data and ABF import data, there was year on year growth in the Australian market from financial year 2010/11 to financial year 2013/14. However from financial year 2012/13 to financial year 2013/14 the growth rate declined to 1 per cent compared to 4 per cent and 10 per cent in the two years prior.

Some submissions<sup>56</sup> stated that the Australian rebar market had contracted, was weak or that OneSteel's injury was due to the regular ebb and flow of business. However, no evidence was provided to support this conclusion beyond making references to comments made in the 2013 Annual report for OneSteel's parent company Arrium. The Commission considers that the rebar market has been growing, albeit at a declining rate.

Other economic factors specified in submissions included high labour costs, taxation and energy costs were factors injuring Australian industry. However, no specific evidence was provided to substantiate these claims.

#### **8.9.5 Inefficiency of operations and internal decision making**

Submissions<sup>57</sup> were received indicating that the cause of OneSteel's ongoing unprofitability was due to OneSteel's internal decisions in relation to steelmaking costs, structural problems and an "unbalanced business model".<sup>58</sup> For example, NatSteel submitted that OneSteel is using the anti-dumping system to deflect attention from the "real problems" that it faces. NatSteel describes OneSteel as an "inefficient, long term loss-making business" and that it has focused investment on its resources segment rather than the efficiency of its steelmaking segment.<sup>59</sup>

Submissions also claim that OneSteel was suffering from structural problems, high labour costs, high energy costs, inefficient production practices and over capacity, rather than problems caused by dumped imports.

The Commission was not provided with any specific documentary evidence to support these assertions. Therefore, the Commission has regarded these submissions as speculative in nature.

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<sup>56</sup> See numbers 9, 10, 11 37 and 52 on the public record

<sup>57</sup> See numbers 5, 37 and 52 on the public record

<sup>58</sup> Ibid.

<sup>59</sup> Ibid.

### **8.9.6 Restrictive trade practices of Australian industry**

A submission<sup>60</sup> from Natsteel questioned the implications of OneSteel's pricing to related entities, the pricing differential with unrelated customers, the potential for OneSteel to use information gained from sales to assist its downstream processing and the profitability of OneSteel Distribution. The submission made reference to subsection 269TAE(2A) and the consideration whether injury as being caused by *".....restrictive trade practices of, and competition between foreign and Australian producers of like goods."*

The submission also questioned OneSteel's market power in relation to holding a very substantial share of the rebar market and its use of that market power in relation to its pricing to independent customers and placing of onerous volume supply requirements on independent customers. The submission stated that if OneSteel was preventing open competition in the market place and is not setting its prices equally and on a market basis, then true price observations were not available to the Commission.

As mentioned previously, the Commission is satisfied that OneSteel's sales to related entities are at arms length and that pricing to these customers is based on pricing to unrelated customers.

Based on the information provided in the submission, the Commission is unable to draw any conclusion that injury to OneSteel is being caused or threatened by the alleged restrictive trade practices.

### **8.9.7 High Australian dollar**

The Commission received submissions<sup>61</sup> asserting that the high Australian dollar contributed to OneSteel's alleged injury, indicating that the high Australian dollar is a key factor that made locally produced rebar less price competitive against imported rebar.

Some submissions referenced quotes from Arrium Limited Annual Report for 2013 to support their assertions. However, the 2012/13 financial year is not within the investigation period and as such, the Commission has not had regard to these assertions.

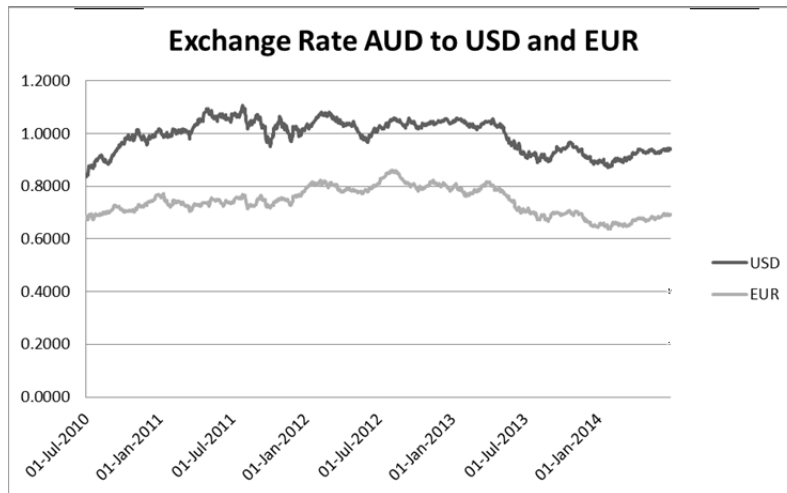
Below, Figure 14 shows the historical exchange rates obtained from the Reserve Bank of Australia against the US dollar and the Euro.

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<sup>60</sup> See number 37 on the public record

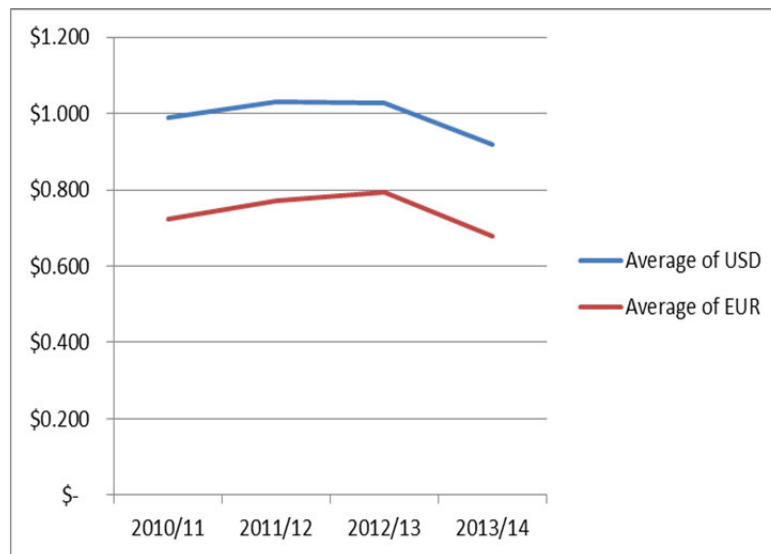
<sup>61</sup> See numbers 9, 10 and 11 on the public record

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**Figure 14 – Exchange rate movements during the injury analysis period (daily)**

With regard to the Australia dollar, the Commission's analysis has found that, contrary to the views presented, the Australian dollar depreciated during the investigation period. Figure 15 below, shows that during the investigation period (2013/14), the average Australia dollar fell approximately 7 per cent against the US dollar and approximately 6.5 per cent against the Euro when compared to the previous year.



**Figure 15: Exchange Rate movements during the injury analysis period (yearly)**

The Commission is of the view that the decline in the Australia dollar during investigation period is likely to have reduced any potential adverse impact of a high Australian dollar to OneSteel.

### **8.9.8 Initiation of the carbon pricing scheme**

The Commission received submissions<sup>62</sup> contending that the initiation of the 'carbon tax' in July 2012 had negatively affected OneSteel.

This submission was reliant on remarks by OneSteel's management that were made prior to the implementation of the 'carbon tax'. Further, the comments are speculative in nature as it only addresses potential management and business issues. As there is an absence of evidence surrounding the actual impact of the 'carbon tax' on OneSteel's performance, the Commission has not had regard to this contention.

### **8.9.9 Cost of billet**

The Commission undertook analysis of OneSteel's billet costs, including analysis of the source of the billet. This analysis indicated that billet, whilst fluctuating for operational reasons; was predominately sourced via the EAF route and that billet costs had reduced between 2011/12 and 2013/14.

As previously mentioned in section 7.6.1, OneSteel's billet costs have reduced in a similar pattern to international billet prices.

### **8.9.10 Export sales by OneSteel**

A submission<sup>63</sup> was received which queried the significant increase in export sales by OneSteel during the injury analysis period.

Given the small proportion of export sales, the Commission considers that the export performance of OneSteel is not a material factor in the injury identified.

## **8.10 The Commissioner's assessment**

Various submissions were received questioning whether injury suffered by OneSteel was material or whether the injury was caused by the alleged dumping.<sup>64</sup>

### Materiality

The 2012 Ministerial Direction on material injury specifies that material injury is injury which is not immaterial, insubstantial or insignificant and that the injury must be greater than that what is likely to occur in the normal ebb and flow of business. The direction also recognised that there may be circumstances where dumping may still result in injury where it has caused the rate of an industry's growth to slow, without causing it to contract, or where an industry suffers a loss of market share in a growing market, without a decline in profits.

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<sup>62</sup> See numbers 10 and 76 on the public record

<sup>63</sup> See number 10 on the public record

<sup>64</sup> See numbers 5, 9 and 11 on the public record

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In the context of a growing Australian rebar market, the Commissioner considers that the injury suffered by OneSteel is greater than factors involving the mere ebb and flow of business. It is noted that OneSteel has suffered lost sales volume and market share in a growing market. Further, it is observed that the suppression identified during the investigation period has further compounded the lack of profitability. When considered as a whole, these factors have adversely impacted on OneSteel's capacity to achieve a profit in relation to rebar.

The Commission having assessed the circumstances and the totality of the injury is of the view that the injury has had a consequential impact on the Australian industry. Therefore, the Commission considers the injury to be material.

### Causation

As previously discussed, the Commission is satisfied that rebar is a commodity product and the market is highly price sensitive. In this environment, OneSteel must negotiate its pricing offers within the context of import price offers. As such the Commission considers that the amount of injury suffered by OneSteel may be directly attributable to dumped exports in increased volumes and is reflective of the individual dumping margins.

In order to differentiate the effects of dumping from the effects of other factors that may have caused material injury, the Commission has examined what effect dumping had particularly on price.

The Commission found positive evidence of undercutting involving each of the exporters where dumping has been identified in relation to Korea, Singapore, Spain and Taiwan.

Given that OneSteel establishes its selling prices into the market on the basis of the price of imports, the Commission's assessment is that prices are lower than they otherwise may have been had rebar not been exported to Australia at dumped prices. This assessment leads the Commission to conclude that dumping, in and of itself, has caused material injury to OneSteel.

Furthermore, domestically produced rebar can be directly substituted with the exported rebar and evidence indicates that the importers' customers are directly competing with OneSteel's distribution network. The goods are alike, have similar specifications and end-uses, and compete in the same markets. This has been verified during importer, exporter and Australian industry visits.

### **8.11 Conclusion – has dumping caused material injury**

Based on the information submitted in the application and verified data collected in respect of rebar, the Commissioner is satisfied that the dumping of rebar

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exported to Australia from Korea, Singapore, Spain and Taiwan (except Power Steel) caused material injury to the Australian industry producing like goods.

## **9 WILL DUMPING AND MATERIAL INJURY CONTINUE?**

### **9.1 Finding**

The Commissioner has found that exports of rebar from Korea, Singapore, Spain and Taiwan (except Power Steel) in the future may be at dumped prices, and that continued dumping may cause further material injury to the Australian industry.

### **9.2 Introduction**

Pursuant to subsection 269TG(2), where the Parliamentary Secretary is satisfied that material injury to an Australian industry producing like goods has been caused by dumping, measures may be imposed on future exports of like goods if the Parliamentary Secretary is satisfied that the dumping and material injury may continue.

### **9.3 The Commissioner's assessment**

#### **9.3.1 Will dumping and material injury continue?**

As outlined at section 6, the Commission has found that rebar exported from Korea, Singapore, Spain and Taiwan (except for Power Steel) was at dumped prices.

The Commission has analysed data from the ABF import database for the nominated countries subsequent to initiation of the investigation to 30 June 2015. During this period, the Commission's analysis indicates that on a monthly basis, imports from the nominated countries have fallen by approximately 60 per cent. Similarly, import volumes from Korea, Singapore, Spain and Taiwan have fallen approximately 63 per cent in the same period.

Based on the data, the Commission considers that the initiation of the rebar investigation may have temporarily caused some exporters and importers to change their behaviour. The Commission has no other information identifying any other reasons for this reduction in imports from the nominated countries.

The Commission does not consider the behaviour observed in the rebar market since the initiation of the investigation to be reflective of typical market conditions, such that it would render the imposition of measures unnecessary.

A submission<sup>65</sup> was received, citing Arrium's 2013 Annual Report, which argued that OneSteel expects its economic performance to improve in the future and that on this basis the injury grounds for OneSteel's application may not exist in the future. The Commission was not provided with any evidence to support this assertion beyond reference to the Arrium's 2013 Annual Report.

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<sup>65</sup> See number 9 on the public record

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A submission<sup>66</sup> from NatSteel referenced various comments made by Arrium and OneSteel in relation to improving performance and, in the context of factors such as a reducing Australian dollar, submitted that Arrium was reporting improving performance and prospects. However, the Commission considers that these comments were not specific to the manufacture of rebar by OneSteel and, therefore, no conclusions can be drawn from this information as to whether continued dumping will cause further material injury to the Australian industry.

### **9.3.2 Conclusion - Will material injury continue?**

The Commission has reviewed the Australian industry's performance over the injury analysis period and has made a finding that rebar exported at dumped prices from Korea, Singapore, Spain and Taiwan (except Power Steel) has caused material injury to the Australian industry.

The Commission considers that the continuation of price competition from dumped imports is likely to have a continuing adverse impact on the Australian industry.

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<sup>66</sup> See number 37 on the public record



## 10 NON-INJURIOUS PRICE

### 10.1 Preliminary Determination

The Commission has preliminarily assessed that the NIP can be determined by setting the unsuppressed selling price (USP) equal to the exporter's normal values, on the basis that the injury caused by dumping is due to OneSteel's matching of import prices.

### 10.2 Introduction

Duties may be applied where it is established that dumped imports have caused or threatened to cause material injury to the Australian industry producing like goods. The level of dumping duty imposed by the Parliamentary Secretary cannot exceed the margin of dumping, but the Parliamentary Secretary must have regard to the desirability of fixing a lesser amount of duty if the NIP is less than the normal value of the goods.<sup>67</sup>

Pursuant to subsection 8(5BAA) of the *Customs Tariff (Anti-Dumping) Act 1975*, the Parliamentary Secretary is not required to have regard to the desirability of fixing a lesser amount of duty in certain circumstances. However, this does not limit the Parliamentary Secretary from having regard to fixing a lesser level of duty if considered reasonable in the circumstances.

The lesser duty provision is given effect through the calculation of a NIP. Section 269TACA identifies the NIP of the goods exported to Australia as the minimum price necessary to remove the injury caused by dumping.

Anti-dumping duties are based on free-on-board (FOB) prices in the country of export. Therefore a NIP is calculated in FOB terms for the country of export.

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the USP.

The Commission's preferred approach to establishing the USP observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry CTMS plus profit; or
- selling prices of un-dumped imports.

Having calculated the USP, the Commission then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another

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<sup>67</sup> Subsection 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975*.

point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

### **10.3 Submissions received**

#### **10.3.1 Australian industry**

OneSteel submitted that the Commission should recommend to the Parliamentary Secretary that the NIP for each exporter be set at a level that is equal to the relevant exporter's normal value. On this basis, the NIP would not exceed a level of injury unaffected from dumping.

Based on the findings in the established in Report 240 (rod in coil), OneSteel submitted that it is unlikely to be able satisfy the Commission that historic prices are unaffected by dumping or establish what is an appropriate level of profit to be applied to its CTMS for rebar in the investigation period.

OneSteel stated that it establishes pricing for rebar relative to landed import prices. Following the imposition of any measures, OneSteel advised that it will continue to base prices on import prices.

No other submissions were received from interested parties regarding the method for determining a USP.

### **10.4 The Commissioner's assessment**

In considering the most appropriate methodology, the Commission considered the previously mentioned hierarchy for establishing the USP.

In relation to using the Australian industries selling prices at a time unaffected by dumping, it was noted that OneSteel stated in its application "...that material injury from the dumped rebar exports from Korea, Malaysia, Singapore, Spain, Taiwan, Thailand and Turkey commenced prior to 2010/11". While claims made about the existence of dumping preceding the investigation cannot be substantiated, the Commission is not satisfied that using historical sales data is a suitable method for calculating the USP.

The Commission has considered whether it would be appropriate to establish an USP based on constructed industry prices. However, as noted by OneSteel, it would be unable to establish a profit level to the Commission's satisfaction in constructing an USP.

The Commission does not consider that the price from other countries in the Australian market is a suitable basis for a USP because, due to the level of price sensitivity in the market, it cannot determine whether those countries are also impacted by the dumped imports of the exporters found to be dumping.

In the absence of a suitable method of determining the USP, the Commissioner

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has considered an alternative approach to establishing the NIP.

As highlighted earlier in this report, OneSteel's prices are set based on benchmarked import prices plus a local premium to account for the benefits of local supply.

The Commissioner is of the view that in a market unaffected by dumping, it is reasonable to expect that OneSteel would continue to set its prices with regard to benchmarked import prices. In this case, as the price of imports would be higher at least by the dumping margins found, it would be expected that OneSteel's prices would also be higher by at least the percentage of the dumping margins found.

Accordingly, the Commission considers that the NIP for each exporter is a price equal to the respective normal value. This redresses the effects of dumping without redressing the effects of any other factors influencing price.

As the NIP is set at the same price as the normal value and is not less than the normal value, the Parliamentary Secretary is not required to have regard to the lesser duty rule.

## 11 PROPOSED FORM OF MEASURES

### 11.1 Preliminary finding

The Commissioner proposes to recommend to the Parliamentary Secretary that a dumping duty notice be published in respect of rebar exported to Australia by exporters from Korea, Singapore, Spain and Taiwan (except Power Steel).

Based on information available at this stage of the investigation, the Commissioner recommends that interim dumping duties be calculated based on the ad valorem duty method.

### 11.2 Form of measures available

The forms of duty available when implementing measures are prescribed in *Customs Tariff (Anti-Dumping) Regulation 2013* and include:

- combination of fixed and variable duty method (combination duty method);
- floor price duty method;
- fixed duty method (\$X per tonne); or
- ad valorem duty method (percentage of the export price).

For the purposes of PAD 264 (and the subsequent amendment of securities), the Commissioner implemented securities in the form of an ad valorem duty method.

### 11.3 Submissions received

#### 11.3.1 OneSteel submission

In a submission dated 10 August 2015<sup>68</sup>, OneSteel submitted that the Commissioner should, in providing a report to the Parliamentary Secretary, recommend measures in the form of a combination duty method on the basis that exporters are likely to be motivated to circumvent the intended effect of the measures by further reducing export prices in a price sensitive market.

OneSteel consider the combination duty method is the most effective form of duty in addressing circumvention behaviour. OneSteel highlighted that the ad valorem duty method is susceptible to circumvention in a falling market in which it characterises as a situation where:

- demand is typically softer;

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<sup>68</sup> See record number 65 on the public record

- excess capacity arises; and
- aggressive pricing occurs.

OneSteel cited the House of Representatives Agriculture and Industry Committee (the Committee) Inquiry into Anti-Circumvention Activities<sup>69</sup> which recommended:

*.....that the Minister, in imposing any anti-dumping duties, should use a combination of duties in preference to a single duty. This should be the default position in each case, unless it can be demonstrated by the Minister that a single duty is more suitable than a combination.*

OneSteel acknowledged that in some limited circumstances, the amount of interim dumping duties collected under the combination duty method can exceed what is necessary, however highlighted that importers have the option of applying for a duty assessment to have any overpaid duty refunded.

### **11.3.2 Daehan Steel submission**

In a submission dated 27 August 2015<sup>70</sup>, Daehan Steel rejected OneSteel's views regarding the imposition of a combination duty method. Daehan Steel state that OneSteel provided no explanation as to how the imposition of a combination duty method is at all relevant to any of the defined forms of circumvention activities.

Daehan Steel went further to say:

*“An exporter subject to interim dumping duties that simply lowers its export price cannot in any way be considered a circumvention activity as defined. Whilst the applicant continually refers to the avoidance of the intended effect of duty, it is important to note that s. 269ZDBBA(5A) of the Act, which deals with the avoidance of the intended effect of duty as a circumvention activity, relates to an importer selling the imported goods in Australia without increasing the price commensurate with the total amount of duty payable. It does not relate to an exporter reducing its export prices.”*

Daehan Steel agreed with OneSteel that the Australian rebar market is price sensitive; however contended that the Commission should recommend an ad valorem duty method. In its view the ad valorem duty method is less intrusive to preventing competition. It highlighted that the rebar market consists of a mix of dumped and un-dumped goods. In its view, the combination duty method would impede legitimate competition between various sources of supply by imposing

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<sup>69</sup> *Circumvention: closing the loopholes Inquiry into Australia's anti-circumvention framework in relation to anti-dumping measures*, House of Representatives Standing Committee on Agriculture and Industry, May 2015

<sup>70</sup> See number 74 on the public record

minimum floor prices on some rebar exports; whilst other rebar exports to Australia (e.g. goods not subject to measures) are free of any such price effects.

Daehan Steel stated that the measures should only remove the injurious effects of dumping and must not go further than is necessary to do so. Daehan Steel considers OneSteel's claim that "*the intended effect of anti-dumping measures is to ensure export prices are non-injurious to the affected Australian industry*" is flawed and contrary to the fundamental principles underpinning international and domestic anti-dumping frameworks.

Finally, Daehan Steel stated that given the large range of rebar products and corresponding prices subject to investigation, and the inability of the Parliamentary Secretary to impose different measures for different product categories,<sup>71</sup> the ad valorem duty method also provides the most reasonable balance between remedying the effects of dumping whilst ensuring fair and proper competition in the Australian rebar market.

## **11.4 Commissioner's assessment**

### **11.4.1 Background**

The Commission acknowledges the Committee's recommendations, noting that the Government is yet to formally respond to those recommendations. Regardless, the Commission notes that in making its recommendations, the Committee qualified its recommendations to adopt the combination duty method as a default position by indicating that other forms of measures would be acceptable if shown to be more appropriate in the circumstances.

In this regard, the Commission in considering which form of measures to recommend, has had full regard to its published *Guidelines on the Application of the Form of Dumping Duty November 2013*<sup>72</sup> (the Guidelines), relevant factors in the rebar market and submissions received from interested parties.

The Guidelines set out issues to be considered when determining the form of duties. It is important to note that the various forms of dumping duty available all have the purpose of removing the injurious effects of the dumping. However, in achieving this purpose certain forms of duty will better suit particular circumstances more so than other forms of duty. The Guidelines list the key advantages and disadvantages of each form of duty.

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<sup>71</sup> In *PanAsia Aluminium (China) Limited v Attorney-General of the Commonwealth* [2013] FCA 870, the Federal Court ruled that dumping duty and countervailing duty notices cannot impose different variable factors for each finish of aluminium extrusion.

<sup>72</sup> Available at

<http://adcommission.gov.au/accessadsystem/Documents/Forms%20and%20Guidelines/Guidelinesofdumpingduty-November2013.pdf>

#### **11.4.2 Combination duty method**

The Combination duty method is considered appropriate where circumvention behaviour is likely (particularly because of related party dealings), where complex company structures exist between related parties, and where there has been a proven case of price manipulation in the market.

A recent example of the Commission applying the combination duty method for these reasons was in the investigation into the dumping of Quenched and Tempered steel plate to Australia from Finland, Japan and Sweden in Final Report No. 234.<sup>73</sup> The Parliamentary Secretary accepted the Commissioner's recommendations that a combination duty method be imposed for imports from Sweden on the basis that:

*“The combination method is suitable where there are complex company structures involving related parties (as is the case for SSAB Emea from Sweden – refer to Section 6.6.1).*

*The Commission through its importer and exporter visits established that export sales transactions within the SSAB group were not arms' length as defined by the Act. It's pricing in Australia resulted in SSAB Australia making a loss for the investigation period as confirmed in its 2013 Financial Statements lodged with the Australian Securities and Investments Commission.*

*The Commission considers the combination method is suitable for exports from Sweden and notes that that importers of Swedish Q&T steel plate can apply for a refund of any additional duty incurred, through the duty assessment process.”*

Conversely, the combination duty method is less suitable in situations where there are many model types of the goods under consideration which exhibit a large price differential or where a falling market exists. Where markets are falling, the combination method can be less desirable because the ascertained export price (which acts as a floor price) is set using historical data obtained in the original investigation period. In a market where prices fluctuate, the ascertained export price can quickly become out of date, however remains as a basis for calculating duty. For this reason, whilst delivering the protective effect, in a falling market, the combination duty method can have adverse effects on downstream industries and can lead to increased reviews.

#### **11.4.3 Ad valorem duty method**

The ad valorem duty method is one of the simplest and easiest forms to administer when delivering the intended protective effect, is common in other

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<sup>73</sup> It is relevant to note that the combination duty method was applied in REP No. 234 despite the fact there was found to be a falling market and varying unit prices between different models.

jurisdictions, is similar to other types of Customs duties, is advantageous where there are many models or types and is suitable where the market prices of goods fluctuate over time. The ad valorem duty method may also require fewer duty assessments and reviews than other duty methods.

Conversely, the ad valorem duty method has a potential disadvantage in that export prices might be lowered to avoid the effects of the duty. In this regard, if evidence of such circumvention exists, an anti-circumvention inquiry can investigate these situations, noting that other forms of measures are also susceptible to circumvention.<sup>74</sup>

#### **11.4.4 Factors taken into consideration for the SEF**

The Commission has weighed up the following factors in determining which duty method is the most appropriate in the circumstances.

##### *Circumvention*

The Commission notes that currently, none of the cooperating exporters from the nominated countries are related to their importers. Through exporter and importer visits and examination of questionnaire responses, the Commission found that all sales of rebar from the nominated countries were conducted at arm's length and that there was no evidence of:

- any consideration in respect of the goods other than their price;
- price being influenced by a commercial or any other relationship between buyer and seller; and
- any direct or indirect reimbursement or compensation in respect of, the whole or part of the price.

As a result, for all cooperating exporters, export prices were determined under paragraph 269TAB(1)(a) using arm's length invoice prices less any other costs occurring after exportation. The Commission considers that exporters dealing at arm's length with importers are less likely to be commercially motivated to lower export prices. Exporters who are related to the importer, or are part of the same corporate entity, on the other hand, are more likely to lower export prices.

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<sup>74</sup> For example, reference is made to Anti-Circumvention Inquiry No. 241, the key outcome of which determined that exports of certain aluminium extrusions (subject to anti-dumping measures) from PanAsia Aluminium (China) Co., Ltd were being sold by Australian importers at a price which was not commensurate with the total amount of duty payable. Similarly, an application was received by Bisalloy Steels Pty Ltd (Anti-Circumvention Inquiry No. 306 – which is still ongoing) alleging that Quenched and Tempered steel plate exported to Australia from Sweden is being sold by an Australian importer at a price which is not commensurate with the total amount of duty payable. In both instances, the combination duty method was the applicable form of measures.



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Further to the above, has been put forward by OneSteel, to establish that circumvention behaviour to avoid securities implemented as part of the PAD (imposed as an ad valorem duty method) has occurred.

The Commission has examined the ABF import database to assess the impact of the investigation and securities subsequent to the PAD. It is noted that the PAD was first implemented in 13 March 2015, approximately 5.5 months prior to the SEF. After factoring in a typical lead time of 1-2 months to exclude orders of goods likely to have been placed prior to the PAD, the Commission considers there is around 3-4 months of import data to assess the impact of the PAD.

The Commission's preliminary analysis indicates that since initiation of the investigation, there has been a noticeable reduction in import volumes from all nominated countries. Import volumes fell further after the publication of the PAD.

Based on this preliminary analysis, the Commission considers that the initiation of the investigation and the imposition of the PAD may have temporarily caused some exporters and importers to change their behaviour. The Commission has no other information explaining the reduction in import volumes from the nominated countries. The Commission considers this provides support that the ad valorem duty method has so far been an effective measure in this instance.

The Commission intends to conduct a more thorough analysis of price effects and whether potential circumvention activities have occurred to avoid the intended effect of the securities (imposed as an ad valorem duty method) in preparing the final report and recommendations to the Parliamentary Secretary.

### *Market for rebar*

The Commission considers that rebar is a commodity product where the price is largely determined by factors such as demand and supply. Price is also impacted by the costs of raw material inputs. In relation to rebar, the most significant cost component is scrap metal. In this regard, global indicators of scrap metal costs are trending downwards as depicted in Figure 16 below:

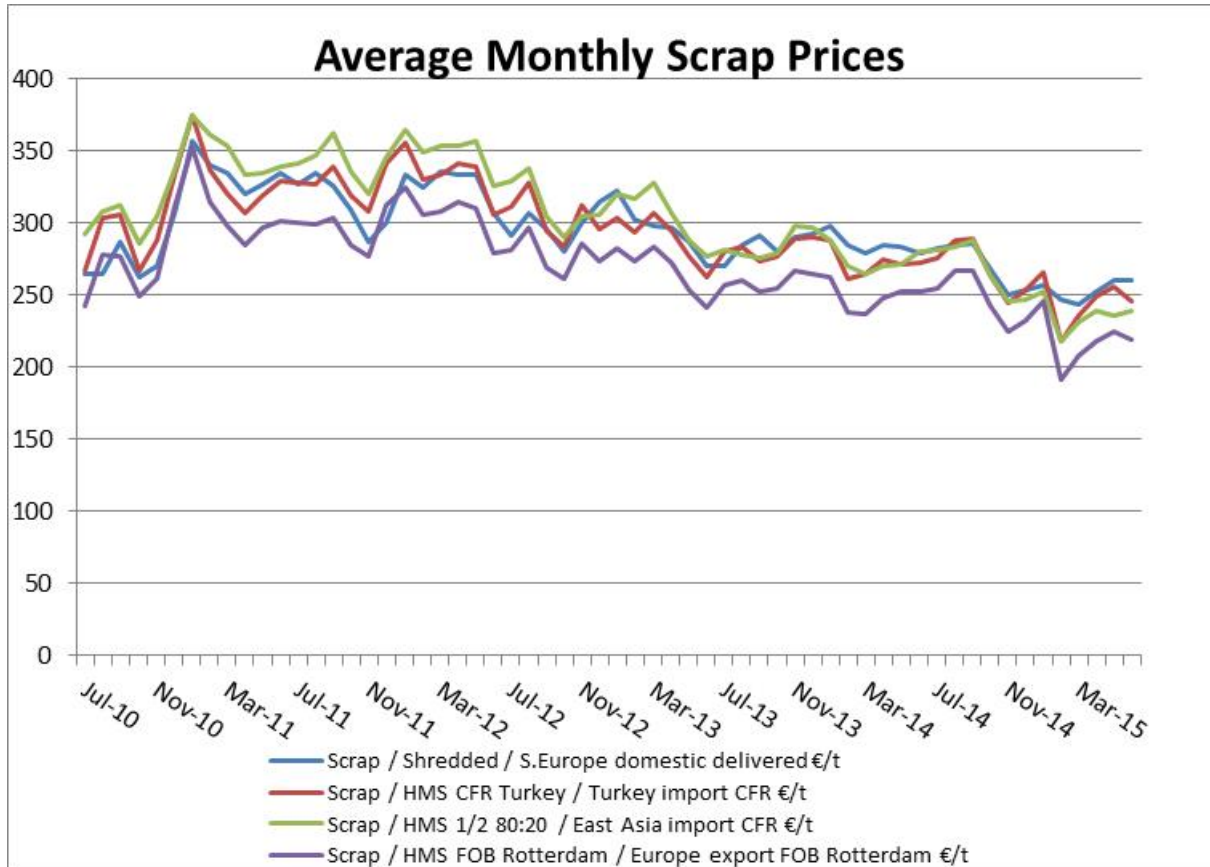


Figure 16: International Scrap Benchmark Prices – July 2010 to June 2015

Consistent with the movement in scrap prices, analysis of export prices as declared in the ABF import database from all countries (dumped and un-dumped sources) indicate that prices of rebar are also trending downwards.

The Commission sought to determine whether prices in the rebar market have declined following the investigation period. In this respect it is noted that the Commission is currently investigating an allegation by OneSteel that rebar exported from China to Australia is being dumped (Case No. 300). The investigation period for Case No. 300 is 1 July 2014 to 1 July 2015 (12 months following the investigation period for this investigation) and the Commission is in possession of verified data from OneSteel and unverified data from importers for that period. Information provided by OneSteel in Case No. 300 includes free into store price offers from the nominated countries. A preliminary analysis of the price offers show that prices from dumped and un-dumped goods from the nominated countries have continued to decline subsequent to the investigation period for this investigation.

Based on the above, there are indications that the market for rebar is falling. As outlined previously, the combination duty method can be less suitable in a falling market because downstream industries can be affected in an environment of genuinely falling prices due to the impacts of demand and supply.

*Other considerations*

The Commission also notes that should measures be imposed there will be presence of dumped and un-dumped imported sources of supply in the rebar market. In a falling market, the imposition of duties under a combination duty method, because of the potential greater effect on users when compared to the ad valorem method, is likely to motivate importers to switch between sources of imported supply. This was confirmed at importer visits, for example, in its importer visit report<sup>75</sup>, Sanwa advised:

*“... that it provided an alternative supply source to Australian distributors of steel products who were unable to directly purchase steel products from OneSteel or who were looking for more than one source of supply”; and*

*“... that if measures were imposed prices will obviously rise and most likely importers may look to access rebar from other Asian countries including most obviously China.”*

Lastly, the Commission is aware that there are noticeable price differences between rebar straights and rebar coils. These price differences mean that a single floor price for both types, which would be required if a combination duty was implemented, is less meaningful.

**11.4.5 Conclusion**

The Commission recognises OneSteel’s concerns and the recommendations of the Committee. However, based on the evidence available and preliminary analysis of the Commission, the Commissioner is not satisfied that there should be a shift from the use of an ad valorem duty method as applied for the PAD to a combination duty method in publishing a dumping duty notice.

The Commission will further examine data from the ABF import database post PAD and price offers post the investigation period in providing a final recommendation to the Parliamentary Secretary.

Interested parties are invited to make further submissions (with evidence as applicable to demonstrate claims) on the most appropriate form of measures, within 20 days of the SEF. The Commissioner will have regard to those submissions in making a final recommendation to the Parliamentary Secretary.

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<sup>75</sup> See number 56 on the public record

## 12 REVISION TO SECURITIES

### 12.1 Current provisional securities

On 13 March 2015, the Commissioner made a PAD and required that securities be taken pursuant to section 42 in respect of the goods exported to Australia from Korea, Malaysia, Singapore, Spain, Taiwan, Thailand and Turkey.

On 6 May 2015, an amendment to the securities was made in relation to exporters Ann Joo Steel, Celsa Spain and Celsa Nervacero. As at 6 May 2015, the securities were as follows:

Country	Exporter / Manufacturer	Preliminary dumping margin
Korea	Daehan Steel Co., Ltd	17.6%
	<i>Uncooperative and All Other Exporters</i>	25.5%
Malaysia	Amsteel Mills Sdn Bhd	17.9%
	Southern Steel Berhad	4.5%
	Ann Joo Steel Berhad	0.0%
	<i>Uncooperative and All Other Exporters</i>	24.9%
Singapore	Natsteel Holdings Pte Ltd	5.0%
	<i>Uncooperative and All Other Exporters</i>	9.7%
Spain	Compañía Española de Laminación, S.L	5.1%
	Nervacero, S.A.	4.3%
	<i>Uncooperative and All Other Exporters</i>	11.8%
Taiwan	Power Steel Co., Ltd	6.7%
	Wei Chih Steel Industrial Co., Ltd.	23.2%
	<i>Uncooperative and All Other Exporters</i>	24.9%
Thailand	Millcon Steel Public Company Limited	2.2%
	<i>Uncooperative and All Other Exporters</i>	3.8%
Turkey	Habas Sinai Ve Tibbi Gazlar Istihsal Endustri A.S.	4.7%
	<i>Uncooperative and All Other Exporters</i>	8.2%

Table 16: Preliminary provisional measures summary – 6 May 2015

### 12.2 Amended provisional securities as part of this SEF

At section 6, the Commission outlined the relevant legislative provisions used to determine export prices, normal values and dumping margins for all relevant exporters. Following verification of requested information, the Commission has determined dumping margins which are revised from those previously published on 13 March 2015 and 6 May 2015.

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The Commission considers that it is appropriate to amend the securities to reflect the updated dumping margins. As a result, exports by Malaysia, Thailand and Turkey will no longer be subject to securities.

The ABF will require and take securities under section 42 in respect of interim duty that may become payable. Securities will apply in respect of imports of rebar exported from Korea, Singapore, Spain and Taiwan (except Power Steel) and entered for home consumption on or after 4 September 2015.

The revised securities will be imposed at the rates specified in the below table.

Country	Exporter / Manufacturer	Dumping margin
Korea	Daehan Steel Co., Ltd	9.7%
	<i>Uncooperative and All Other Exporters</i>	14.3%
Singapore	Natsteel Holdings Pte Ltd	6.6%
	<i>Uncooperative and All Other Exporters</i>	6.6%
Spain	Compañía Española de Laminación, S.L	3.0%
	Nervacero, S.A.	3.0%
	<i>Uncooperative and All Other Exporters</i>	8.2%
Taiwan	Wei Chih Steel Industrial Co., Ltd.	4.7%
	<i>Uncooperative and All Other Exporters</i>	8.9%

**Table 17 - Preliminary measures summary – Revised for SEF**

On 4 September 2015, the Commission will published a public notice in *The Australian* newspaper and publish ADN No. 2015/107 on the public record, advising interested parties of the amendments to the securities.

**13 APPENDICES AND ATTACHMENTS**

<b>Confidential Appendix 1</b>	Preliminary calculations of export price, normal value and dumping margins
<b>Confidential Appendix 2</b>	NIP calculations
<b>Attachment 1</b>	List of submissions

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**Appendix 1**

<b>Date Received</b>	<b>Submission from</b>	<b>Submission Title</b>	<b>EPR No.</b>
21 October 2014	J Bracic & Associates on behalf of Daehan Steel Co., Ltd and Stemcor Australia Pty Ltd	Investigation into Steel Reinforcing Bar exported from the Republic of Korea	4
25 November 2014	Directorate-General For Trade, European Commission	Written submission of the European Commission on the Consideration Report No 264	5
26 November 2014	Trade Commission of Spain	Allegations of the Spanish government on the initiation of the anti-dumping investigation against imports into Australia of steel reinforcing bar exported from the Republic of Korea, Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand and the Republic of turkey	6
26 December 2014	Corrs Chambers Westgarth on behalf of Istanbul Mineral & Metals Exporters Association (	Steel Reinforcing Bar – Submission for injury defence	7
2 December 2014	OneSteel Manufacturing Pty Ltd	Investigation into Reinforcing Bar exported from Korea, Malaysia, Singapore, Spain, Taiwan, Thailand and Turkey	8
5 December 2014	Tay & Partners on behalf of Amsteel Mills Sdn Bhd	Investigation into the alleged Dumping of Steel reinforcing bar Exported from the Republic of Korea, Malaysia, Singapore, Spain Taiwan, the Kingdom of Thailand and the Republic of Turkey (Case No. 264)	9
17 December	Directorate General of Exports, Ministry of Economy, Republic of	Views of Turkey regarding the anti - dumping investigation initiated by	10

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<b>Date Received</b>	<b>Submission from</b>	<b>Submission Title</b>	<b>EPR No.</b>
2014	Turkey	Australia against steel reinforcing bar imports from the Republic of Korea, Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand and the Republic of Turkey.	
17 December 2015	Trade Resources Company on behalf of Steel Exporters' Association of Turkey.	Dumping Investigation – Steel Reinforcing Bar – Further submission on material Injury	11
19 March 2015	OneSteel Manufacturing Pty Ltd	Investigation into steel Reinforcing ng Bar exported to Australia from the Republic of Korea, Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand and the Republic of Turkey – response to Issues Paper 2015/01	27
19 March 2015	Habas Sinai Ve Tibbi Gazlar Istihsal Endustrisi AS	Comments on the proposed product matching criteria in the issues list	28
23 March 2015	J Bracic & Associates on behalf of Power Steel Co., Ltd (PSCO)	Submission made in response to the Commissioner's recent decision to publish a preliminary affirmative determination and impose provisional measures applying to exports of steel reinforcing bar exported by PSCO from Taiwan	29
23 March 2015	J Bracic & Associates on behalf of Daehan Steel Co., Ltd.	Submission made in response to the Commissioner's recent decision to publish a preliminary affirmative determination and impose provisional measures applying to exports of steel	30



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<b>Date Received</b>	<b>Submission from</b>	<b>Submission Title</b>	<b>EPR No.</b>
		reinforcing bar exported by Daehan from Korea.	
22 April 2015	OneSteel Manufacturing Pty Ltd	Investigation into Steel Reinforcing Bar exported to Australia from the Republic of Korea, Malaysia, Singapore, Spain Taiwan, the Kingdom of Thailand and the Republic of Turkey	36
14 April 2015	Moulis Legal on behalf of NatSteel Holdings Pte Ltd	Submission regarding the injury allegations of OneSteel Manufacturing Pty Limited	37
29 May 2015	OneSteel Manufacturing Pty Ltd	Submission regarding the response to the NatSteel Holding Pte Ltd (Natsteel)	41
14 May 2015	J Bracic & Associates on behalf of Power Steel Co., Ltd	Investigation into Steel Reinforcing Bar exported from Taiwan – Power Steel Co., Ltd	42
20 May 2015	OneSteel Manufacturing Pty Ltd	Investigation into Reinforcing Bar exported from Korea, Malaysia, Singapore, Spain, Taiwan, Thailand and Turkey – Verification of exporter data	45
3 June 2015	Moulis Legal on behalf of Best Bar Ltd	Submission regarding OneSteel's allegations of injury and its causation	44
16 June 2015	OneSteel Manufacturing Pty Ltd	Investigation into Reinforcing Bar exported from Korea, Malaysia, Singapore, Spain, Taiwan, Thailand and Turkey – Verification of exporter data	45
29 June 2015	J Bracic & Associates on behalf of Daehan Steel Co., Ltd	Submission in response to the investigation into the alleged dumping of steel reinforcing bar (rebar) from	46

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<b>Date Received</b>	<b>Submission from</b>	<b>Submission Title</b>	<b>EPR No.</b>
		the Republic of Korea.	
22 June 2015	Habas Sinai Ve Tibbi Gazlar Istihsal Endustrisi AS	Comments of Turkish exporter Habas Sinai Ve Tibbi Gazlar Istihsal Endustrisi A.S. in response to OneSteel meeting dated June 2 with The Commission in relation to exporters situated in Turkey, Malaysia and Taiwan	47
26 June 2015	OneSteel Manufacturing Pty Ltd	Dumping Investigation No. 264, Reinforcing Bar exported from Korea, Malaysia, Singapore, Spain, Taiwan, Thailand and Turkey – submission of Best Bar Pty Ltd ( 3 June 2015)	51
2 June 2015	Steel Exporters' Association of Turkey	Comments of the steel exporters Association of Turkey on the preliminary affirmative determination in the Anti Dumping investigation concerning steel reinforcing bar	52
3 July 2015	Moulis Legal on behalf of Best Bar Pty Ltd		53
15 July 2015	OneSteel Manufacturing Pty Ltd	Submission regarding the response to Best Bar Pty Ltd	58
10 August 2015	OneSteel Manufacturing Pty Ltd	Investigation into Steel Reinforcing Bar exported to Australia from the Republic of Korea, Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand and the Republic of Turkey – Form of measures and proposed unsuppressed selling price	65

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<b>Date Received</b>	<b>Submission from</b>	<b>Submission Title</b>	<b>EPR No.</b>
21 August 2015	OneSteel Manufacturing Pty Ltd	Investigation into Steel Reinforcing Bar – Wei Chih Steel Industrial Co., Ltd Exporter visit report and Power Steel Co., Ltd Dumping Margin Calculation	70
24 August 2015	OneSteel Manufacturing Pty Ltd	Investigation into Steel Reinforcing Bar Case 264- Habas Sinai Ve Tibbi Gazlar Istihsal Endustri A.S Dumping Margin Calculation	72
27 August 2015	J Bracic & Associates on behalf of Daehan Steel., Ltd	Investigation into Steel Reinforcing Bar exported from the Republic of Korea	74
28 August 2015	Wei Chih Steel Industrial Co Ltd	In response to methodology applied to Wei Chih dumping margins	75
26 June 2015	Republic of Turkey Ministry of Economy Directorate General of Exports	Views of Turkey on preliminary findings regarding the Anti-Dumping investigation initiated by Australia against steel reinforcing bar imports from, Inter Alia, Turkey	76
31 August 2015	Corrs Chambers Westgarth on behalf of Habas Sinai Ve Tibbi Gaziar Istihsal Endustri A.S.	With reference to submission dated 24 August from OneSteel Manufacturing Pty Ltd in relation the dumping margin calculation report for Habas Sinai Ve Tibbi Gaziar Istihsal Endustri A.S.	77