



**ANTI-DUMPING INVESTIGATION AGAINST IMPORTS OF STEEL REINFORCING BAR FROM SOUTH KOREA, MALAYSIA, SINGAPORE, SPAIN, TAIWAN, THAILAND AND TURKEY
WRITTEN SUBMISSION OF SPANISH GOVERNMENT ON THE STATEMENT OF ESSENTIAL FACTS (NR 264)**

On 2 September, the Australian Antidumping Commission disclosed the Statement of Essential Facts (hereinafter SEF) in relation to the antidumping investigation on imports of steel reinforcing bar from different countries, among them Spain, giving the interested parties the opportunity to make further submissions.

In this context, the Spanish Government would like to thank again the Australian authorities for this new opportunity and to submit additional comments. This new contribution fleshes out the written submission of the European Commission on behalf of the European Union, and the arguments put forward by the Spanish companies which are involved in this antidumping proceeding.

After having analyzed the SEF, the Government of Spain wishes to comment on the following aspects:

1. Lack of information:

As a general remark, we would like to stress the lack of information that has been disclosed in the SFS, making difficult, if not impossible, to carry out a proper assessment of the findings of the investigation. Moreover, although we understand that there is only one Australian rebar manufacturer, we believe that there has been a misuse of the confidentiality clause that hampers the legitimate right of parties to defend themselves.

This issue was already mentioned in our previous submission and we regret not having got any improvement on it.

2. Dumping:

The Spanish Government is pleased to see that the Normal value for the cooperating Spanish companies has been based on their own domestic sales of the like product sold in the ordinary course of trade.



Nevertheless, we are surprised to see in the Public Report of the Verification Visits of the Australian Commission (NR 071, dated 25.8.2015) that certain sales of the product under investigation, which are exclusively intended to be sold in the French market, have been considered as domestic sales. Even if those reinforcing bars were first sold to a Spanish buyer, it is clear from the information provided by the Spanish cooperating exporter that the final destination of those products was France, as they were manufactured under the French quality and technical standards, which are different from the Spanish ones. From our point of view, those sales should be excluded to establish the normal value since they were not earmarked for the Spanish market. Therefore, we hope that new evidences provided by the Spanish exporter will be accepted and the final margin of dumping for this exporter will be recalculated.

In respect to the all-others-dumping duties for the Spanish companies, we have noticed that the Australian authorities have used the highest margin of dumping estimated for the cooperating companies. Nevertheless, taking into account that the cooperating exporters represent the largest volume of the Spanish exports, we had expected that the all-others dumping duties would be established at the same level than the cooperating companies. In fact, this approach has been the one chosen by the Australian authority to calculate the all-others dumping duties for Singapore.

3. Imports:

If we look at the imports evolution, it is true the alleged dumped imports grew during the IAP, but it seems they follow a similar pace than the Australian market, that has grown 17%. Moreover, as we have not been provided with the local market share's figure during the IAP we are unable to assess the impact of these imports. However, according to table 5 of the SFE, we could say that the alleged dumped import's increase was at the expense of imports from other countries as Malaysia or Thailand, among others, which lost 26% along the mentioned period.

In relation to import prices, the unavailability of their trends hinders any attempt of serious presumed undercutting calculation. We are not even provided either with the exact figure in that range that would correspond to the Spanish exporters.

On the other hand, even the methodology to calculate the latter seems to us not acceptable, since importers' prices instead of exporters' prices are taken into account, the calculated amount for the undercutting, which ranges between 0.3 and 5.6, is not so significant.



4. Injury:

As we already stressed in our submission at the initiation of the anti-dumping investigation, we lack major indicators, and even those supplied in the SEF remain non-quantified, only general trends have been given. It makes very difficult, if not impossible to assess if material injury has taken place. Besides, given the high percentage of One Steel's (OS) captive sales, it would have been advisable to have provided separate figures (from captive and non-captive use).

The Australian Commission seems to base the existence of material injury only on three facts: plunging sales, market share reduction and prices' suppression, which is not enough. In this respect, we would like to remind the Australian authorities the Article 3.3.4. of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Determination of Injury"), which underlines the obligation "to include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments, or utilization of capacity; factor affecting local prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments. This list is not exhaustive, nor can one or several of these factors necessarily give decisive guidance".

Even the reasoning based on the three mentioned considerations is, in our view, not correct, for the following reasons:

- Plunging of sales: sales did not drop, they only followed the consumption trend throughout the Injury Analysis Period (IAP). Their development was mainly positive as consumption increases by 17% and Domestic Sales experience a 14% uptick.
- Market share reduction: it seems OS lost some market share, but we are not provided with the exact figure and in our opinion, cannot explain only by itself the presumed injury. We suspect it must have not been significant as it is not even mentioned in the SEF. Nevertheless, as we have mentioned above, it looks clear that imports from the alleged dumping countries have grown at the expense of third countries, not of the Australian producer.
- Prices' suppression: the Australian authorities posit the price suppression only because sales' incomes are under costs. Although, this is not normal in a business-oriented enterprise, this gap has been rather constant during the IAP without any link with the import's trend. Moreover, as there is no information on imports' prices it is not possible to assess how these ones could have affected domestic prices.



On the other hand, concerning captive sales, it seems OS declares selling at the same price both to its group's companies and to third local companies, which again looks odd, as there are always scale-economies in sales among companies belonging to the same group (stock facilities, logistics, etc...).

In addition, an analysis of the other economic indicators that have considered in in SFE, shows a fluctuant development which, from our point of view, is normal in business cycles, and do not imply a material injury only by themselves.

In particular, concerning profitability, it has registered negative values even before the imports increased, which for us is a clear symptom of OS's lack of competitiveness and so, internal structural problems.

5. Causality:

In our view there is a clear a lack of correlation between imports and economic indicators' developments (profitability, income from sales, etc...). In this sense, we observe that in the period 2011-2012, imports' market share decrease and in spite of OS' profitability felt. Between 2012 and 2013, imports strengthen but, at the same time, this is the period when OS improves both its production capacity use and profitability (still negative, but improving). Moreover, OS's profitability has been higher in the IP period (2013-2014), when it supposed that alleged dumped increased more, than at the beginning of the IAP.

This is why we are convinced there are other reasons that explain better the situation currently experienced by OS than alleged dumped imports.

In this sense, it is surprising the continuous gap between domestic prices and internal costs thorough the IAP independently of imports' trend. From our point of view this is a clear signal of the highly probable competitiveness problem of OS. Moreover, it is said that the company barely exports anything, which in our opinion is a sign of external weakness based on lack of competitiveness.

In this respect, the Australian Commission seems to ask the interested parties for further evidence that would show the structural weaknesses of OS, but we understand this should be provided and analyzed by the Australian authorities, as the burden of proof in this investigation lies in the investigating authorities at the origin of the complaint.

We also reckon some other parameters as raw material decreasing international prices and consequent lower prices of the manufactured rebar have not been properly taken into account by the Australian authorities and they are, in our opinion, highly relevant in this case.



Moreover, the Australian Commission considers that imports from other countries not involved in dumped practices did not affect the OS' situation. However, at the same time, the SEF mentions that the Commission is currently carrying out an antidumping investigation on reinforced rebar exported from China, one of the Australian suppliers during the same analysis period than the present investigation. This new development makes us doubt if Chinese imports may have not affected OS' performance during the injury analysis period currently under discussion.

Finally, if imports were at the origin of the OS' situation we wonder why the Australian rebar producer did not submit an antidumping complaint before the one that resulted in the current proceeding.

6. Form of measures

On the cases you could indeed prove real dumping, material injury and causal link, we would agree with the Australian Commission on the chosen form of antidumping duties. We understand that ad valorem duties are more suitable than the combination duty method in a downward market trend with no circumvention evidences.

7. Conclusion:

After careful analysis of your SEF, we reckon the figures and facts you provide cannot explain a material injury brought about by alleged dumped prices of the European rebar.

In our view, a clear lack of competitiveness of the Australian producer would explain the situation currently experienced by OS.

The Government of Spain is confident the Australian authorities will take into account the Spanish remarks of this new submission and is convinced the Australian authorities will comply with the WTO rules all along the next steps.