



CUSTOMS ACT 1901 - PART XVB

**REPORT
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**

19 October 2015

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ABBREVIATIONS

Abbreviation / short form	Full reference
ABF	Australian Border Force
ACRS	Australasian Certification Authority for Reinforcing and Structural Steels
ADA	Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
ADN	Anti-Dumping Notice
Amsteel	Amsteel Mills Sdn Bhd
Ann Joo Steel	Ann Joo Steel Berhad
ARC	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
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
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
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

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SEF	Statement of essential facts
SG&A	Selling, general and administrative
Southern Steel	Southern Steel Berhad
Stemcor	Stemcor Australia Pty Ltd
TCO	Tariff Concession Order
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 Minister	the Minister for Industry, Innovation and Science
the Parliamentary Secretary	Parliamentary Secretary to the Minister for Industry, Innovation and Science
the Regulations	<i>Customs (International Obligations) Regulation 2015</i>
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 report (REP 264) 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)¹ 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 caused material injury to the Australian industry producing like goods.

REP 264 sets out the facts on which the Commissioner has based his recommendations to the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary).²

1.2 Recommendations to the Parliamentary Secretary

The Commissioner recommends to the Parliamentary Secretary that a dumping duty notice be published in respect of rebar exported to Australia by all exporters from Korea, Singapore, Spain and Taiwan (with the exception of Power Steel Co. Ltd (Power Steel)).

If the Parliamentary Secretary accepts this recommendation, to give effect to the decision, the Parliamentary Secretary must sign the relevant notices and schedules under subsections 269TG(1) and 269TG(2) of the *Customs Act 1901* (the Act)³, and section 8 of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act).

1.3 Application of law to facts

1.3.1 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 an application for the publication of a dumping duty notice, for the purpose of making a report to the Parliamentary Secretary.

1.3.2 Application

On 8 August 2014, OneSteel lodged an application requesting that the Parliamentary Secretary publish a dumping duty notice in respect of rebar

¹ Refer to the full description of the goods in Section 3 of this report.

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

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

exported to Australia from Korea, Malaysia, Singapore, Spain, Taiwan, Thailand and Turkey (collectively referred to as the nominated countries).

1.3.3 Initiation of investigation (Section 2.1)

After examining the application and further supporting information provided by OneSteel, the Commissioner was satisfied of the matters set out in subsection 269TC(1). Consequently, 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.

1.3.4 Preliminary affirmative determination (Section 2.3)

The Commissioner made a preliminary affirmative determination (PAD)⁴ on 13 March 2015. *PAD Report No. 264* (PAD 264) contains details of the decision and is available on the public record.⁵

To prevent material injury to the Australian industry occurring while the investigation continued, securities were required to be 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. The level of securities was revised on 6 May 2015 and 4 September 2015.

1.3.5 Statement of essential facts (Section 2.4)

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 essential facts (SEF) on which he proposes to base recommendations in relation to the application.⁶

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 are available in Anti-Dumping Notice (ADN) Nos. 2015/13, 2015/39 and 2015/81.⁷ The third and final extension required the Commissioner to publish the SEF on or before 2 September 2015. *Statement of Essential Facts No. 264* (SEF 264) was placed on the public record on 2 September 2015.

1.3.6 Submissions by interested parties (Sections 2.4.2 and 2.4.4)

The Anti-Dumping Commission (the Commission) received numerous submissions from interested parties during the course of the investigation. Submissions received prior to SEF 264 are listed in **Non-Confidential**

⁴ Subsection 269TD(1)

⁵ See number 26 on the public record

⁶ Subsection 269TDAA(1)

⁷ See numbers 18, 33 and 48 on the public record

Attachment 1. Submissions received following SEF 264 are listed in **Non-Confidential Attachment 2.**

1.3.7 Termination of part of the investigation (Section 2.5)

On 19 October 2015, the Commissioner terminated part of the investigation relating to rebar exported from Malaysia, Thailand, Turkey and Power Steel from Taiwan. *Termination Report No. 264* (TER 264) sets out the reasons for the termination and is available on the public record.

1.4 Findings and conclusions

The Commissioner has made the following findings and conclusions based on available and relevant information:

1.4.1 The goods and like goods (Chapter 3)

The Commission considers that locally produced rebar is like to the goods the subject of the investigation.

1.4.2 Australian industry (Chapter 4)

The Commission is satisfied there is an Australian industry producing 'like goods' to the goods the subject of the investigation.

1.4.3 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.

1.4.4 Dumping (Chapter 6)

Table 1 below summarises the Commission’s findings by country:

Country	Findings	Dumped Volume	Termination
Korea	<ul style="list-style-type: none"> Imports from Daehan Steel Co., Ltd (Daehan Steel) were at dumped prices. 	The volume of dumped goods from Korea was not negligible.	No
Malaysia	<ul style="list-style-type: none"> Imports from Ann Joo Steel Berhad (Ann Joo Steel) were not at dumped prices. Imports from Southern Steel Berhad (Southern Steel) were at dumped prices. Imports from Amsteel Mills Sdn Bhd (Amsteel Mills) were at dumped prices. 	The volume of dumped goods from Malaysia was negligible.	Yes – See TER 264
Singapore	<ul style="list-style-type: none"> Imports from Natsteel Holdings Pte Ltd (Natsteel) were at dumped prices. 	The volume of dumped goods from Singapore was not negligible.	No

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Spain	<ul style="list-style-type: none"> Imports from Compañía Española de Laminación, S.L (Celsa Barcelona) and Nervacero, S.A. (Celsa Nervacero) were at dumped prices. 	The volume of dumped goods from Spain was not negligible.	No
Taiwan	<ul style="list-style-type: none"> Imports from Wei Chih Steel Industrial Co., Ltd (Wei Chih) were at dumped prices. Imports from Power Steel were at dumped prices, but at negligible dumping margin. 	The volume of dumped goods from Taiwan was not negligible.	No, except for Power Steel – See TER 264
Thailand	<ul style="list-style-type: none"> Imports from Millcon Steel Public Company Limited (Millcon) were not at dumped prices. 	The volume of dumped goods from Thailand was negligible.	Yes – See TER 264
Turkey	<ul style="list-style-type: none"> Imports from Habas Sinai Ve Tibbi Gazlar Istihsal Endustri A.S (Habas) were not at dumped prices. 	The volume of dumped goods from Turkey was negligible.	Yes – See TER 264

Table 1 – Findings by Country

The dumping margins determined for all exporters are set out in Table 2 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	2.3%
	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	3.0%
	<i>All Other Exporters</i>	3.0%
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.	2.8%
	<i>Uncooperative and All Other Exporters</i>	6.8%
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 2 - Dumping margins

1.4.5 Economic condition of the Australian industry (Chapter 7)

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

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

1.4.6 Has dumping caused material injury? (Chapter 8)

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

1.4.7 Will dumping and material injury continue? (Chapter 9)

The Commissioner 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).

1.4.8 Non-injurious price (Chapter 10)

The Commission has calculated a non-injurious price (NIP) 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.

1.4.9 Recommended measures (Chapter 11)

The Commissioner recommends that dumping duties be applied to exporters from Korea, Singapore, Spain and Taiwan (except for Power Steel) at the full margin of dumping and be calculated based on the ad valorem duty method (i.e. as a percentage of the export price).

Recommended interim dumping duty rates are specified below.

Country	Exporter / Manufacturer	Interim dumping duty
Korea	Daehan Steel Co., Ltd	9.7%
	<i>Uncooperative and All Other Exporters</i>	14.3%
Singapore	Natsteel Holdings Pte Ltd	3.0%
	<i>All Other Exporters</i>	3.0%
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.	2.8%
	<i>Uncooperative and All Other Exporters (except Power Steel Co. Ltd)</i>	6.8%

Table 3 – Interim dumping duties – Korea, Singapore, Spain and Taiwan

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 alleged that the Australian industry 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 from OneSteel on two occasions 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 of the initiation of the investigation and is available on the public record.⁸

In respect of the investigation:

- the investigation period⁹ 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 and other relevant investigations

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

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 application by OneSteel. This investigation is ongoing. Further information on the initiation of this investigation is available in ADN 2015/82.¹⁰

⁸ See number 2 on the public record

⁹ Subsection 269T(1)

¹⁰ See number 2 on the public record for case 300

2.3 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 dumping duty notice in respect of rebar exported to Australia from the nominated countries. The Commissioner made a PAD¹¹ on 13 March 2015. PAD 264 contains details of the decision and is available on the public record.¹²

On 6 May 2015, an amendment was made to the securities in relation to exporters Ann Joo Steel, Celsa Barcelona and Celsa Nervacero. Further details of these amendments are outlined in ADN No. 2015/50.¹³

Securities were further amended on 4 September 2015 to reflect the preliminary findings made in SEF 264 and securities were no longer taken in relation to goods exported from Malaysia, Thailand, Turkey and Power Steel from Taiwan. Further details of these amendments are outlined in ADN No. 2015/107.¹⁴

To prevent material injury to the Australian industry occurring while the investigation continues, securities are continuing to be taken in respect of any interim dumping duty that may become payable in respect of rebar exported to Australia from Korea, Singapore, Spain and Taiwan (except Power Steel), entered for home consumption on or after 13 March 2015.

2.4 Statement of essential facts

2.4.1 Extensions of time for publishing the SEF

The public notice outlining initiation of this investigation advised that the SEF would be placed on the public record by 4 February 2015.

Pursuant to paragraph 269ZHI(1)(a), the Commissioner was granted three extensions. The details and reasons for the extensions are outlined in ADN Nos. 2015/13, 2015/39 and 2015/81. The last extension required the Commission to publish this SEF on or before 2 September 2015.

2.4.2 Submissions received prior to the publication of the SEF

The Commission received numerous submissions from interested parties during the course of the investigation. Submissions received prior to the publication of the SEF are listed in **Non-Confidential Attachment 1**.

In publishing the SEF, the Commissioner did not consider six submissions¹⁵ received from OneSteel, Habas and Wei Chih Steel in relation to dumping

¹¹ Subsection 269TD(1)

¹² See number 26 on the public record

¹³ See number 38 on the public record

¹⁴ See number 79 on the public record

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margin calculations for Habas, Power Steel, Wei Chih Steel, Ann Joo Steel, Daehan Steel and Southern Steel as to do so would have prevented the timely placement of the SEF on the public record¹⁶ These submissions have been considered as part of this final report.

2.4.3 Publication of SEF

The Commissioner published SEF 264 on 2 September 2015.¹⁷ In SEF 264, the Commissioner proposed 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);
- terminate the investigation so far as it related to rebar exported by Millcon from Thailand, Ann Joo Steel from Malaysia and Habas from Turkey, in accordance with subparagraph 269TDA(1)(b)(i) on the basis that no evidence was found that dumping had occurred;
- terminate the investigation so far as it related 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 related to exports of the goods from Malaysia, Thailand and Turkey in accordance with subsection 269TDA(3) on the basis that volumes of dumped goods from these countries were found to be negligible.

In preparing SEF 264, the Commissioner had regard to the application concerned, submissions concerning publication of a dumping duty notice that were received by the Commission within 40 days after the date of initiation of the investigation and other matters considered relevant.

Interested parties were invited to make submissions to the Commission in response to SEF 264 within 20 days of it being placed on the public record.

2.4.4 Submissions received after publication of SEF 264

After publication of SEF 264, the Commission received submissions from:

- Celsa Barcelona and Celsa Nervacero;
- Natsteel Holdings;
- Best Bar Pty Ltd (Best Bar);
- Wei Chih Steel
- Daehan Steel;
- OneSteel;
- the Trade Commission of Spain;

¹⁵ See numbers 67, 70, 72, 75, 77 and 80 on the public record.

¹⁶ Consistent with 269TDAA(3)

¹⁷ See number 78 on the public record

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- the Turkish Steel Importers Association;
- the European Commission; and
- Sanwa Pty Ltd (Sanwa).

The submissions are listed in **Non-Confidential Attachment 2**.

2.5 Termination of part of investigation

On 19 October 2015, the Commissioner:

- terminated the investigation so far as it related to rebar exported by Millcon from Thailand, Ann Joo Steel from Malaysia and Habas from Turkey, in accordance with subparagraph 269TDA(1)(b)(i) on the basis that no evidence was found that dumping had occurred;
- terminated the investigation so far as it related 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
- terminated the investigation so far as it related to exports of the goods from Malaysia, Thailand and Turkey in accordance with subsection 269TDA(3) on the basis that volumes of dumped goods were found to be negligible.

TER 264 sets out the Commissioner's termination decision and is available on the public record.

2.6 Report 264

In formulating REP 264, the Commissioner has had regard to:

- the application by OneSteel;
- submissions concerning publication of a dumping duty notice to which the Commissioner had regard to for the purpose of formulating SEF 264;
- SEF 264;
- submissions received prior to SEF 264 which were not considered in the preparation of SEF 264;
- submissions in response to SEF 264 received within 20 days after it was placed on the public record;
- TER 264; and
- other matters considered relevant.¹⁸

2.7 Public record

The public record contains non-confidential versions of submissions by interested parties, the non-confidential versions of the Commission's visit

¹⁸ Paragraph 269TEA(3)(b)

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reports and other publicly available documents. The public record is available on the Commission's website at www.adcommisison.gov.au.

Physical copies can be also viewed by request at the Commission's Melbourne office (phone 1300 884 159 to make an appointment).

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

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 the statistical codes applying to these tariff classifications have been modified subsequent to the initiation of this investigation. The relevant changes are noted in italics:

- 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 evidence of its accreditation.

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

3.6 Submissions from interested parties

3.6.1 Daehan Steel

Daehan Steel submitted¹⁹ that OneSteel does not possess the capability to produce 20mm diameter rebar coils and that it imports 20mm rebar from countries subject to the investigation. Daehan Steel requested that 20mm rebar be exempted on the basis that no directly competitive goods are produced by local industry.

3.6.2 Commission's consideration of Daehan Steel's submission

The Parliamentary Secretary may exempt goods under certain circumstances as prescribed under subsection 8(7) of the Dumping Duty Act.

Applications for exemption are generally made after imposition of the measures. However, in some cases the Commission has examined exemption requests during the course of the investigation and included its findings and recommendations in the final report to the relevant Ministerial decision-maker. The Commission's practise is generally not to review exemption requests as part of the investigation if to do so would prevent timely preparation of the final report to the Parliamentary Secretary.

In this instance, the Commission will not be considering exemption requests until after the Parliamentary Secretary's final decision has been published.

3.6.3 Celsa Barcelona and Celsa Nervacero submission

Celsa Barcelona and Celsa Nervacero (collectively referred to in sections of this report as Celsa) submitted that it supplied a particular type of imported rebar²⁰ to OneSteel which it did not sell to any other Australian customer.²¹

On this basis, Celsa considers that those sales could not have caused injury to OneSteel and similar to a past investigation into aluminium zinc coated steel,²² should be excluded from the scope of any notice.

3.6.4 Commission's consideration of Celsa's submission

Through verified data, the Commission has established that the product specified by Celsa was exported to Australia by at least one other exporter during the investigation period. Further, the Commission notes that rebar can

¹⁹ See number 88 on the public record

²⁰ Both OneSteel and Celsa have specified that the circumstances of this arrangement are commercial in confidence

²¹ See number 92 on the public record

²² See <http://www.adcommission.gov.au/cases/Documents/190ADN-2014-13CoatedSteel-updated.pdf>

be used in a variety of shapes (i.e. coil or straight) and diameters to provide the same required reinforcing solution.

On this basis, the Commission considers that imported rebar of the type specified in Celsa's submission competes with OneSteel's sales of rebar and should not be excluded from the scope of the notice.

3.7 The Commissioner's assessment of like goods

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 grounds below.

3.7.1 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 in similar diameters. Whilst the indentations, ribs and grooves on the rebar may vary between mills, these variations do not significantly modify the performance characteristics of the rebar.

3.7.2 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.

3.7.3 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 further processing such as bending, welding and cutting. Locally produced and imported rebar are predominantly used to reinforce concrete and precast structures.

3.7.4 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.

3.7.5 The Commissioner's assessment

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 Commissioner has found there to be 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.²³ 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

²³ Paragraph 269TC(1)(b)

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- rod and/or bar mills situated in Laverton in Victoria, and in 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.²⁴

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 [a particular mill] 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.*

4.3.3 Product range

OneSteel manufactures a range of rebar at its Sydney, Laverton and Newcastle mills. Its rebar is manufactured via 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 grades, classified by minimum yield strength, being 500N and 250N.

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

²⁴ Two of OneSteel’s mills produce like goods via this method

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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 4 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 ²⁵	500N
Rebar Straight	12	250N

Table 4 – OneSteel grades and sizes²⁶

4.4 Submissions from interested parties

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

4.5 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 producers of rebar in Australia and no submissions or other information has been received to indicate that there are 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. This industry solely consists of OneSteel.

²⁵ 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".

²⁶ 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 sells rebar 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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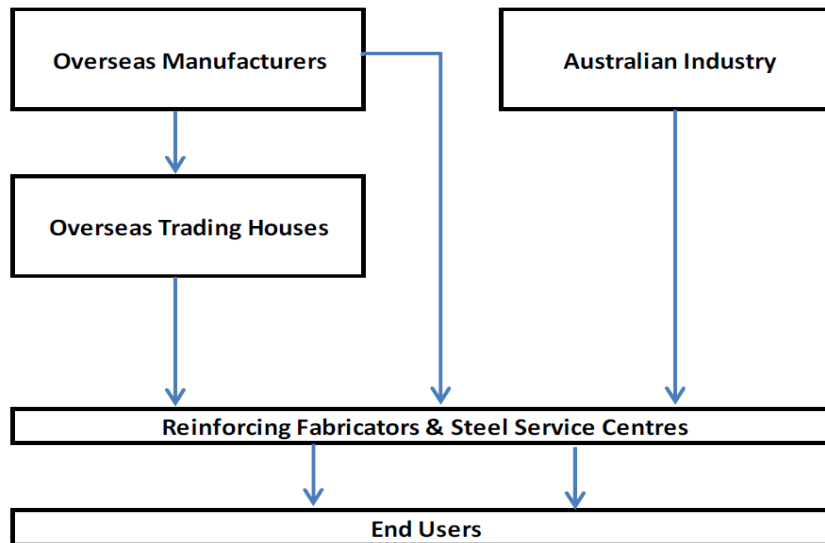


Figure 1 – Australian Supply Chain for Rebar

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. OneSteel imports small volumes of rebar.

5.4 Demand variability

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

- commercial;
- residential; 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
- its own 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 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. A large percentage of the 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 below.

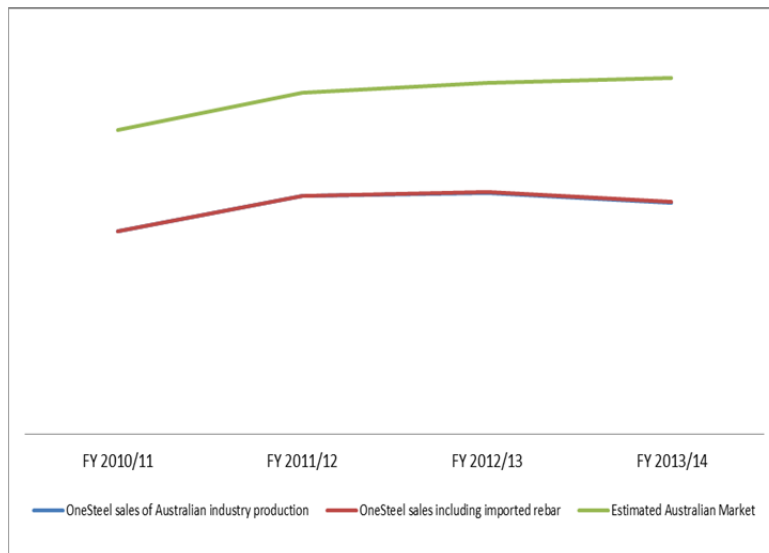


Figure 2 – Australian Rebar Market and Australian Industry Sales (Tonnes)

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 the 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 the ABF import database and identified 35 importers of rebar in the investigation period.

The Commission undertook verification visits of four importers accounting for approximately 66 per cent of total imports over the investigation period:²⁷

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

²⁷ Visit reports for the above importers can be found on the public record.

5.7 Submissions from interested parties

Daehan Steel submitted²⁸ that OneSteel's imports of rebar should be included in the Australian market analysis and attributed to the Australian industry's market share and volume. The Commission confirms that Figure 2 above includes OneSteel's imports of rebar.

5.8 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.

²⁸ See number 88 on the public record

6 DUMPING INVESTIGATION

6.1 Findings

Table 5 below summarises the Commission’s dumping findings in relation to rebar exported to Australia during the investigation period from each of the nominated countries:

Country	Findings	Dumped Volume
Korea	<ul style="list-style-type: none"> • Imports from Daehan Steel were at dumped prices. 	The volume of dumped goods from Korea was not negligible.
Malaysia	<ul style="list-style-type: none"> • Imports from Ann Joo Steel were not at dumped prices. • Imports from Southern Steel were at dumped prices. • Imports Amsteel Mills were at dumped prices. 	The volume of dumped goods from Malaysia was negligible.
Singapore	<ul style="list-style-type: none"> • Imports from Natsteel were at dumped prices. 	The volume of dumped goods from Singapore was not negligible.
Spain	<ul style="list-style-type: none"> • Imports from Celsa Barcelona and Celsa Nervacero were at dumped prices. 	The volume of dumped goods from Spain was not negligible.
Taiwan	<ul style="list-style-type: none"> • Imports from Wei Chih were at dumped prices. • Imports from Power Steel were at dumped prices but the dumping margin was less than two per cent and therefore negligible. 	The volume of dumped goods from Taiwan was not negligible.
Thailand	<ul style="list-style-type: none"> • Imports from Millcon were not at dumped prices. 	The volume of dumped goods from Thailand was negligible.
Turkey	<ul style="list-style-type: none"> • Imports from Habas were not at dumped prices. 	The volume of dumped goods from Turkey was negligible.

Table 5 – Findings by Country

6.2 Summary of dumping margins

Dumping margins are summarised in Table 6 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	2.3%
	Ann Joo Steel Berhad	-0.3%
	Southern Steel Berhad	4.7%

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	<i>Uncooperative and All Other Exporters</i>	Not Applicable
Singapore	Natsteel Holdings Pte Ltd	3.0%
	<i>All Other Exporters</i>	3.0%
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.	2.8%
	<i>Uncooperative and All Other Exporters</i>	6.8%
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 6 – Dumping margins

The Commission's calculations of export price, NIP, 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.

Dumping margins are determined under section 269TACB.

6.4 Model matching

On 4 March 2015, the Commission published Issues Paper No. 2015/01²⁹ outlining its proposed criteria for the purpose of identifying which models sold in each exporter's domestic market most closely resemble the physical and technical characteristics of the exported models (also referred to as model matching).

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 criteria. Submissions were received from two interested parties.

²⁹ See number 24 on the public record

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OneSteel in a submission³⁰ 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 resembled the Australian Standard's G500N characteristics;
- the form of the rebar (rebar straight or rebar coil) was an important model matching criteria;
- 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 adjustments to the normal value under subsections 269TAC(8) and (9) 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 submitted³¹ 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/mm². 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 submission³² was received from OneSteel indicating that it did not agree with Habas' views in relation to minimum yield strength.

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. This generally included minimum yield strength, shape and diameter, but not carbon content.

In a submission dated 22 September 2015,³³ OneSteel requested further disclosure of the specific domestic grades used for the purposes of establishing normal values. Table 7 below lists the domestic grades used for each exporter (where applicable) in establishing normal values where the exporter has either consented to disclosure of the information and/or has not provided reasons why this information is commercial in confidence.

³⁰ See number 27 on the public record

³¹ See numbers 28 and 47 on the public record

³² See number 36 on the public record

³³ See number 87 on the public record

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Country	Exporter / Manufacturer	Additional data
Korea	Daehan Steel	Held to be commercially confidential information
Malaysia	Amsteel Mills	Not Applicable - Constructed normal value
	Ann Joo Steel	MS 146: 2006 - Grade 500
	Southern Steel	AS/NZS4671 - Grade 500N MS 146 : 2006 - Grade 500
Singapore	Natsteel	Not Applicable - Constructed normal value
Spain	Celsa Barcelona	UNE 36065:2011 B500SD and other non-Spanish standard rebar produced with a minimum 500 grade yield strength.
	Celsa Nervacero	UNE 36065:2011 B500SD and other non-Spanish standard rebar produced with a minimum 500 grade yield strength
Taiwan	Power Steel	Not Applicable - Constructed normal value
	Wei Chih	Not Applicable - Constructed normal value
Thailand	Millcon	Not Applicable - Constructed normal value
Turkey	Habas	Held to be commercially confidential information Not applicable where a constructed normal value was applied

Table 7 – Grades used for normal values

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 exporters.

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

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- 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 each exporter during the investigation period. For example, based on data available to the Commission, both Turkey and Korea each separately constituted between 3 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 is satisfied that the data is reasonably accurate, relevant, complete and without material deficiency. This data was used to calculate dumping margins.

OneSteel³⁴ disagreed with the Commission's decision not to conduct in country verification visits to all cooperating exporters and made submissions to this effect.

Non-confidential exporter questionnaire responses, verification visit reports and dumping margin reports for each of the cooperating exporters are available on the public record and provide additional detail to the discussion below. The visit reports should be read in conjunction with this report.

³⁴ See numbers 45 and 87 on the public record

6.6 Uncooperative exporters

Subsection 269T(1) provides that an exporter is 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 that did not provide information sought by the Commissioner in the exporter questionnaire are considered uncooperative exporters for the purposes of this investigation. Dumping margins for uncooperative exporters are outlined at section 6.14.

6.7 Singapore

6.7.1 Natsteel

Export Prices

Export prices for sales of rebar to Australia by Natsteel were established under paragraph 269TAB(1)(a) as the price paid by the importer to the exporter less transport and other costs arising after exportation.³⁵

OneSteel submission

A submission was received from OneSteel in relation to Natsteel's export sales, where the following issues were raised:³⁶

- Clarification of export sales - OneSteel urged the Commission to verify that Natsteel's domestic sales were in fact sold for domestic consumption in Singapore; and
- Relationship between exporter and importer - OneSteel contended that there were inconsistencies between Natsteel's exporter visit report and Best Bar's importer visit report. OneSteel submitted that the Commission did not appear to have given due consideration to the relationship between Natsteel and Best Bar. OneSteel further contended that the Commission did not test Best Bar's profitability regarding sales into the Australian market. OneSteel argued that these inconsistencies support a

³⁵ The Commission notes that for all cooperative exporters except Daehan Steel at 6.8.1, export prices have 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.

³⁶ See number 82 on the public record

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view that the conditions under paragraph 269TAA(1)(c) have been satisfied and that sales by Best Bar should not be considered arms length transactions.

The Commission's assessment of OneSteel's submission

The Commission has reviewed the sales information provided by Natsteel and is satisfied that all sales relevant to the investigation period were correctly categorised.

The Commission further notes its conclusions in Best Bar's visit report which explains that, while Best Bar's profitability was not assessed on a transaction by transaction basis, profitability was assessed at an aggregated level using Best Bar's profit and loss statement for the investigation period. The Commission was satisfied that Best Bar's rebar business was profitable during the investigation period. The Commission found no other evidence to suggest that Natsteel and Best Bar did not deal at arms length in terms of subsection 269TAA(1). For this reason, the Commission is satisfied that Best Bar and Natsteel dealt with each other at arms length.

Normal Values

The Commission found that during the investigation period, Natsteel self-manufactured rebar for export to Australia and the domestic market and also imported rebar to satisfy domestic demand. In Natsteel's accounting system, imported and self-manufactured rebar were assigned the same product code. As a result, Natsteel was unable to identify exactly which domestic sales involved imported or self-manufactured rebar.

As a result, the Commission was unable to determine the exact volume of goods sold in the ordinary course of trade. On this basis, the Commission considered that prices paid in respect of domestic sales were unsuitable in establishing normal values pursuant to subsection 269TAC(1).

The Commission instead established normal values for exported models under paragraph 269TAC(2)(c) using the relevant costs and an amount for profit.

Natsteel and OneSteel both made submissions following the publication of SEF 264.³⁷

Natsteel submission

Natsteel submitted that the dumping margin calculated by the Commission was based on a misapplication of law which resulted in an incorrect level of profit for the purposes of constructing normal values.

³⁷ See numbers 82, 87 and 91 on the public record

Natsteel noted that the Commission calculated a profit under paragraph 45(3)(c) of the *Customs (International Obligations) Regulation 2015* (the Regulations). This provision allow for the calculation of profit using any “reasonable method having regard to all relevant information”.

Natsteel contended that it was not open for the Commission to determine a profit under paragraph 45(3)(c) of the Regulations as this paragraph is bounded by subsection 45(4) of the Regulations which effectively operates to cap the profit applied at the level of profit normally realised by other exporters or producers on sales of goods of the same general category in the domestic market of the country of export.

Natsteel contended that, as the only producer of rebar in Singapore, no cap can be ascertained; therefore there can be no application of paragraph 45(3)(c) of the Regulations.³⁸ Accordingly, in Natsteel’s view a zero rate of profit should be applied in the determination of its constructed normal value.

OneSteel submission

- Ordinary course of trade - OneSteel contends that Natsteel’s costs do not reflect the actual costs to produce rebar in Singapore due to the inclusion of imported rebar in its costs. OneSteel proposed that the Commission should determine normal values for Natsteel under subsection 269TAC(6) using information contained in its application;
- Like goods clarification - OneSteel submitted that Natsteel had misrepresented all of its domestic sales as being of equal equivalence to the requirements of the Australian Standard and requested that the Commission re-examine Natsteel’s domestic sales to assess whether they do in fact meet the requirements of the Australian Standard; and
- Selling, general and administrative (SG&A) expenses - OneSteel expressed concern regarding the nature of Natsteel’s sales mix in Singapore, suggesting that the SG&A expenses associated with sales of the goods may not have been appropriately differentiated from the SG&A expenses associated with sales of further processed bars. OneSteel urged the Commission to reassess the allocation of Natsteel’s SG&A expenses.

The Commission’s assessment of Natsteel and OneSteel’s submissions

The Commission notes that in constructing the normal values for Natsteel, the relevance of OneSteel’s submission regarding domestic sales of like goods is diminished. However, the Commission reiterates its findings detailed in Natsteel’s visit report, which explained that based on the Commission’s analysis of mill test certificates, rebar products sold in Natsteel’s domestic market met the requirements of the Australian Standard and were therefore like goods for the purposes of the investigation.

³⁸ Consistent with Report of the Appellate Body – EC Bed Linen - WT/DS141/AB/R

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In relation to OneSteel's contention that Natsteel's cost data is unreliable and cannot be used for the purposes of constructing normal values, the Commission reaffirms the findings detailed in Natsteel's visit report. Specifically, the Commission notes that whilst Natsteel was unable to differentiate in its accounting system which domestic sales involved imported or self-manufactured rebar, the Commission was satisfied, pursuant to subsection 43(2) of the Regulations, that the cost information gathered at the verification visit reasonably reflected competitive market costs associated with the manufacture of like goods and could therefore be relied upon to establish constructed normal values for comparison with export prices. The Commission was further satisfied that Natsteel's SG&A expenses were appropriately allocated.

In response to Natsteel's submission, the Commission has revisited the methodology used to establish the profit relevant to Natsteel's constructed normal values having regard to the Regulations and the Commission's *Dumping and Subsidy Manual* (the Manual).

As previously mentioned, the Commission could not be satisfied which of Natsteel's domestic sales were sold in the ordinary course of trade, and accordingly was unable to rely on subsection 45(2) of the Regulations to accurately determine the amount of profit to be used in constructing normal values.

Notwithstanding, the Commission considers that paragraph 45(3)(a) of the Regulations can be relied upon to establish an amount of profit from the 'same general category of goods'.

In this regard, the Commission has identified the actual profits realised by Natsteel by comparing the verified domestic selling prices of its rebar, regardless of whether it was imported or manufactured, to the verified cost to make and sell (CTMS) of self-manufactured rebar which, as detailed above, reasonably reflect competitive market costs. In this instance, the Commission considers that all domestic sales of rebar, whether imported or self-manufactured, can be included in the same general category of goods, because Natsteel's pricing strategy, as detailed in the Natsteel visit report, is the same for both imported and self-manufactured rebar.

In calculating profit, the Commission included only domestic sales to the same level of trade as export sales, eliminating the need for a level of trade adjustment consistent with the Manual.³⁹

³⁹ Consistent with the *Dumping and Subsidy Manual* at page 64

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsection 269TAC(9).⁴⁰

Adjustment type	Description
Domestic inland freight	Deduct the actual domestic inland freight cost
Domestic credit terms	Deduct the actual costs of domestic credit
Export inland freight and handling	Add the actual export inland freight and handling cost
Export container stuffing	Add the actual cost of export container stuffing
Export certification cost	Add the actual cost of export certification
Export credit	Add the actual cost of export credit

Table 8 - Summary of adjustments (Natsteel)

OneSteel submission

OneSteel made a submission relating to adjustments to Natsteel’s normal value.

OneSteel noted that the Commission afforded Natsteel an adjustment to its CTMS to “normalise” production costs during the investigation period to counter the effects on the company’s production costs following an upgrade to its finger shaft and rolling mill. OneSteel submitted that the “normalisation adjustment” failed the threshold requirement of an adjustment under the Act because it did not affect price comparability. OneSteel contended that the adjustment should be refused.

OneSteel also noted that Natsteel sells rebar domestically on a theoretical weight basis whereas its export sales are on an actual weight basis. OneSteel contended that if a conservative rolling tolerance was applied it would be reasonable to expect a three per cent differential between theoretical and actual weight sales and on that basis contended that an upward adjustment to normal values of approximately three per cent is required.

⁴⁰ Adjustments to costs for certain models sold by exporters detailed in this report pursuant to subsection 269TAC(9) were made to ensure the comparability of normal values to export prices where the normal value was ascertained under paragraph 269TAC(2)(c).

The Commission's assessment of OneSteel's submission

The Commission notes that the normalisation adjustment afforded to Natsteel, and discussed at section 7.2.3 of the Natsteel visit report, is an adjustment to Natsteel's cost to make and is not an adjustment to Natsteel's normal value as contended by OneSteel. The Commission remains satisfied that Natsteel provided sufficient evidence to support its claims.

The Commission notes that OneSteel's claims for an upwards adjustment to Natsteel's normal values is based on the differences in allowable mass tolerances prescribed in the relevant standards. As set out in the Manual, due allowance adjustments may only be made for differences in physical characteristics where the differences can be quantified and supported by verifiable evidence. The Commission has not been provided with any verifiable evidence supporting this adjustment. In the absence of such information, the Commission has no positive evidence to substantiate OneSteel's claim that Natsteel produces rebar towards the lower end of the allowable mass tolerances and that an adjustment should be made to account for differences in mass tolerances allowable under the relevant standards.

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).

Following the change to the methodology to determine profit for Natsteel, the weighted average product dumping margin for the goods exported to Australia by Natsteel for the investigation period is **3.0 per cent**.

6.8 Korea

6.8.1 Daehan Steel

Export Prices

During the investigation period it was established that the goods sold by Daehan Steel have been exported to Australia otherwise than by the importer; that the goods have not been purchased by the importer from the exporter; and that the purchases of the goods were arms' length transactions.

Therefore, export prices for sales of rebar to Australia by Daehan Steel were determined under paragraph 269TAB(1)(c) being a price determined having regard to all the circumstances of the exportation.

Normal Values

Normal values for all exported models were determined under subsection 269TAC(1) based on domestic sales of comparable models in the ordinary course of trade.⁴¹

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsection 269TAC(8) as follows.⁴²

Adjustment type	Description
Domestic credit	Deduct a weighted average calculated cost of domestic credit.
Domestic technical support	Deduct a weighted average calculated cost of technical support.
Domestic inland freight	Deduct a weighted average cost of inland freight.
Domestic inventory carrying cost	Deduct a weighted average calculated inventory carrying cost.
Export inland freight	Add a weighted average export inland freight cost.
Export credit	Add a weighted average calculated cost of domestic credit.
Export handling charges	Add a weighted average export handling charge.

Table 9 - Summary of adjustments (Daehan Steel)

Submissions by OneSteel

OneSteel provided a submission in relation to Daehan Steel's verification visit report, in which the following matters were raised.⁴³

⁴¹ Normal values for certain models by exporters detailed in this report calculated pursuant to subsection 269TAC(1) were based on the findings that sufficient volumes of like goods sold in the ordinary course of trade for home consumption in the country of export existed in sales that were arms length transactions by the relevant exporter.

⁴² Adjustments to normal values for certain models determined under subsection 269TAC(1) for exporters detailed in this report were made under subsection 269TAC(8) to ensure the comparability of normal values to export prices, where domestic and export sales:

- related to sales occurring at different times; or
- were not in respect of identical goods; or
- were modified in different ways by taxes or the terms or circumstances of the sales to which they related.

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- Disclosure of grade comparisons – OneSteel requested details of the domestic grades used for model matching purposes. The Commission confirms that the relevant grades were equivalent to the Australian Standard;
- Clarification of the treatment of barter sales – OneSteel queried whether barter sales determined not to be in the ordinary course of trade were excluded from normal value calculations. OneSteel also queried whether costs of ‘domestic credit’ and ‘technical support’ for domestic barter sales were included in the calculation of adjustments. The Commission is satisfied that barter sales have been excluded from normal value and adjustment calculations;
- Adjustment for technical support – OneSteel urged the Commission to reconsider whether an adjustment for technical support is justified. The Commission notes that Daehan Steel was able to identify the specific costs associated with the technical support and the visit team was able to verify that those costs related only to domestic sales. Upon review, the Commission is satisfied with the level of evidence provided by Daehan Steel, the methodology applied for the allocation of this adjustment and the visit team’s verification of this adjustment;
- Adjustment for inventory carrying cost – OneSteel urged the Commission to reconsider whether an adjustment for inventory carrying costs is justified. The adjustment for inventory cost was based on the opportunity costs involved with holding inventory. The adjustment sought by Daehan Steel was revised downwards by the visit team based on the evidence provided. Upon review, the Commission is satisfied with the level of evidence provided by Daehan Steel, the methodology applied for the calculation of this adjustment and visit team’s verification of this adjustment;
- Rebar straights vs lengths – OneSteel noted that Daehan Steel sold only rebar in coils to Australia during the investigation period and requested clarification of whether rebar straight sales were included in the determination of normal values. The Commission is satisfied that Daehan Steel’s rebar straights were excluded from normal value calculations;
- Export sales to Australia – OneSteel noted that export prices were determined under paragraph 269TAB(1)(c) having regard to the circumstances of the exportation. OneSteel sought clarification as to whether an upwards adjustment was made to normal value for fees or commissions paid to intermediaries. The Commission confirmed that no commissions or fees were incurred by Daehan Steel; and
- Level of trade – OneSteel queried whether domestic and export sales were fairly compared at the same level of trade. The Commission has reviewed the treatment of level of trade differences and is satisfied with the approach taken. Analysis of the limited data available did not identify significant pricing variations for differing levels of trade.

⁴³ See number 80 on the public record. Daehan Steel made a further submission in relation to OneSteel’s submission; see number 86 on the public record.

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 the goods exported to Australia by Daehan Steel for the investigation period is **9.7 per cent**.

6.9 Malaysia

6.9.1 OneSteel Submission

OneSteel submitted⁴⁴ that it disagreed with the Commission's decision not to undertake a verification visit to Malaysian exporters and that any reasonableness tests of export price, domestic sales and cost data could not have been satisfactorily conducted without having visited at least one Malaysian exporter.

Specifically, OneSteel raised concerns about the consistency of certain costs allocated between all products and like goods in Ann Joo Steel's questionnaire response and questioned the absence of any commentary in relation to the reliability of Southern Steel's costs.

OneSteel further contended that Ann Joo Steel, Amsteel and Southern Steel could not be considered to be cooperative exporters because the Commission did not undertake a verification visit to verify their information.

OneSteel concludes that, in the absence of a verification visit, the information provided cannot be considered reliable and that the Commission has incorrectly determined normal values under 269TAC(1), because the exporters' sales cannot be confirmed to be in the ordinary course of trade in the absence of full verification of the cost information.

6.9.2 Commission's consideration of OneSteel's submission

As outlined previously, the Commission's decision not to undertake a verification visit to Malaysian exporters was based on the relatively low volume of exports during the investigation period. Notwithstanding, the Commission was satisfied that Ann Joo Steel, Amsteel and Southern Steel's data was reasonably accurate, relevant, complete and without material deficiency. Further, Ann Joo Steel, Amsteel and Southern Steel responded to requests to clarify or provide further information in relation to their exporter questionnaire responses during the course of the Commission completing dumping margin reports.

⁴⁴ See number 67 on the public record

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The Commission also considers that the particular method of verification of an exporter's data is not a relevant to a consideration as to whether an exporter is uncooperative, which is a defined term in subsection 269T(1) (as referred to in section 6.6 of this report).

On this basis, the Commission considers that Ann Joo Steel, Amsteel Mills and Southern Steel are cooperative exporters and remains satisfied that each of the questionnaire responses are accurate, relevant and complete for the purposes of determining export prices, normal values, adjustments and dumping margins.

6.9.3 Amsteel Mills

Export Prices

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

Normal Values

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

Normal values for rebar coils were determined under paragraph 269TAC(2)(c) using the relevant costs and an amount for profit.⁴⁵

Subsequent to SEF 264, the Commission made a correction to Amsteel Mill's normal values to account for a minor calculation error.

Adjustments

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

Adjustment type	Description
Domestic ocean freight	Deduct an amount for ocean freight of domestic sales
Domestic marine insurance	Deduct an amount for marine insurance of domestic sales
Domestic inland transport	Deduct an amount for domestic inland transport costs.
Domestic handling expenses	Deduct amount domestic sales handling expenses.

⁴⁵ For all exporters other than Natsteel, normal values for certain models established under paragraph 269TAC(2)(c) were based on the findings, pursuant to subparagraph 269TAC(2)(a)(i), that there was an absence or low volume of sales of like goods sold in the ordinary course of trade for home consumption in the country of export in sales that were arms length transactions by the exporter.

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Domestic cost of credit	Deduct an amount for the cost of credit to domestic customers.
Domestic commissions	Deduct an amount for domestic commission.
Export commission	Deduct an amount for export commission in determining FOB export price.
Export inland transport	Add an amount for export inland transport costs.
Export handling	Add an amount for export handling costs.

Table 10 - 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 Mills for the investigation period is **2.3 per cent**.

6.9.4 Ann Joo Steel

Export Prices

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

Normal Values

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

Adjustments

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

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

Table 11 - 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**.

6.9.5 Southern Steel

Export Prices

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

Normal Values

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

Adjustments

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

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

Table 12 - 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**.

6.10 Spain

6.10.1 Celsa Barcelona and Celsa Nervacero

Whilst 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 had regard to subsection 269TAA(4). The Act does not specifically provide for the collapsing of entities for the purpose of calculating a single dumping margin and the term 'exporter' is not defined. Therefore, the 'collapsing' of related exporters is an administrative practice of the Commission. Subsection 269TAA(4) deems that parties should be associates of each other 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 per cent 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.

As outlined above, although the Act does not specifically address the collapsing of associated entities the Commission will do so where circumstances warrant. The main purpose of collapsing is to protect the integrity of any anti-dumping

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measures. This practice accords with international practice and with WTO jurisprudence which is relevant to the application of Australia's anti-dumping laws.

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*.⁴⁶

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 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.

Celsa submission

Celsa submitted that they did not believe that the Australian law had the flexibility to enable the Commission to introduce the principle established under WTO law in relation to collapsing entities.

Celsa further submitted that it continued to disagree with the Commission's decision to collapse the dumping margin calculation for both companies with each *“...having separate and geographically distant production facilities, different costs, different accounting systems and different production methods”*.

The Commission remains satisfied that Celsa Barcelona and Celsa Nervacero should be treated as associates, and therefore has determined a single dumping margin for both.

⁴⁶ WT/DS312/R

Export Prices

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

Normal Values

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

Celsa submission

A submission⁴⁷ was received from Celsa after the publication of SEF 264. This submission contested the Commission's decision to include domestic sales of rebar manufactured to the French standard in its normal value calculations. Celsa contended that French standard rebar could not be used in Spain, that it was not destined for 'home consumption' in Spain and that its inclusion did not permit a proper comparison between normal values and export prices. A submission was also received from the Spanish Government on the same issue.⁴⁸

Celsa's submission further specified that:

- sales of French standard rebar are not direct exports by Celsa, but were sales to customers in Spain who were processors or resellers themselves;
- under Spanish law non-standard rebar cannot be used in construction works in Spain; and
- the pricing for French standard rebar was different to Spanish standard rebar.

The submission provided evidence in relation to the differing tax treatment of a customer where the goods were destined for France and that this tax treatment applied irrespective whether or not the goods were modified prior to export. Celsa consider the Spanish customer to be an 'intermediary service supplier' for sales of the goods to France and that this status applied irrespective of whether or not further processes were applied to the product before sending to France. The submission contends that Article 2.1 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (ADA)*, in the context of normal value, uses the words "*destined for consumption in the exporting country*" and that the word "*destined*" connotes an end point.

⁴⁷ See number 92 on the public record

⁴⁸ See number 85 on the public record

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It was further contended that the French standard rebar was sold at a price that was not reflective of domestic market conditions, and thus those sales should not be considered to be in the ordinary course of sales for normal value purposes. It was argued that their inclusion in the normal value did not allow for the fair comparison as required by the ADA.

It was also argued that the treatment of these sales was contrary to cases in which the Commission had previously identified the manufacturer as the exporter of the goods in circumstances where the exporter was aware that the goods would be exported and that the goods were manufactured to the specifications of the ultimate purchaser in the country of export.⁴⁹

Celsa also argued that sales of an exporter can be export sales even though they were made in the domestic market of the manufacturer and were not exported by the manufacturer. In this regard, the companies referenced the former Australian Customs and Border Protection Service's decision in relation to the investigation into the alleged dumping of linear low density polyethylene from Canada and the USA.⁵⁰

Celsa also made reference to the European Commission's findings in relation to an anti-dumping investigation into polyester staple fibres from India and Korea and the WTO panel decision on the interpretation of the wording of Article 2.1 of the ADA in *EC - Salmon (Norway)*.⁵¹

Commission's assessment of Celsa's submission

Subsection 269TAC(1) of the Act specifies that normal value "*...is the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export....*"

The verification report for Celsa considered, in the context of subsection 269TAC(1), that 'home consumption', occurred when the rebar underwent some form of transformation or alteration, such that it is 'consumed'.

The verification team further identified that the majority of the sales of this non-Spanish standard rebar were to customers categorised as 'constructors, cut and benders, pre-fabricators, welding companies and resellers'. The verification team at the time of the visit was not in possession of any evidence to indicate that the domestic purchasers of non-Spanish standard rebar exported the rebar outside of Spain without alteration. As part of Celsa's submission, no further evidence was submitted to establish that the rebar was exported by the customers in the same condition as it was purchased.

⁴⁹ Reference is made to Hot Rolled Plate Steel exported from the People's Republic of China and Korea, investigation no. 198

⁵⁰ Reference is made to investigation no. 146

⁵¹ WT/DS337/R

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The previous Australian anti-dumping investigations referred to in Celsa's submission can be factually distinguished from the circumstances in this particular case. In the referenced Hot Rolled Plate Steel case it was noted that the goods were exported to Australia without alteration. In the referenced low density polyethylene case it was identified that the goods were repackaged into smaller containers prior to export, however, the properties of the goods were not altered or modified beyond the repackaging.

Having considered Celsa submission, the Commission considers in the context of subsection 269TAC(1) that:

- 'home consumption' has occurred at the point at which the rebar underwent some form of transformation (including cutting, bending, shaping, welding and pre-fabrication works);
- once transformed the goods are transformed and are no longer 'like goods'; and
- in accordance with the Manual, the Commission considers these sales can be in the ordinary course of trade.

Adjustments

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

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

Table 13 - Summary of adjustments (Celsa Barcelona and Celsa Nervacero)

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 product dumping margin for rebar exported by Celsa Barcelona and Celsa Nervacero for the investigation period is **3.0 per cent**.

6.11 Taiwan

6.11.1 Verification of information

OneSteel made a submission in relation to the verification of Wei Chih's data⁵² and expressed its concern about a number of inconsistencies identified at the verification visit. OneSteel stated that these inconsistencies may demonstrate attempts by Wei Chih to exclude relevant sales. The Commission has reviewed OneSteel's submission and Wei Chih's data. Based on the immateriality of the discrepancies identified and the sales reconciliation completed by the verification team, the Commission does not believe that Wei Chih intentionally excluded relevant sales transactions.

6.11.2 Wei Chih Steel

Export Prices

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

Normal Values

Normal values for all exported models were calculated pursuant to paragraph 269TAC(2)(c) using the relevant costs and an amount for profit.

Wei Chih submission

Two submissions were received from Wei Chih in relation to its verification visit report.⁵³ In both of these submissions Wei Chih disputed the Commission's determination of profit in constructing its normal values.

In particular, Wei Chih submitted that:

⁵² See number 70 on the public record

⁵³ See numbers 75 and 89 on the public record

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- it was not appropriate to apply a profit based on a small and unrepresentative proportion of sales where the level of trade for export sales differed to the substantial portion of its domestic sales;
- the profitable sales were not in the ordinary course of trade;
- its profitable sales, in the context of every other (unprofitable) transaction line, were not in the usual circumstance;
- a zero profit margin should be applied; and
- the Commission had not appropriately considered the delivery terms of the profitable sales when calculating the profit margin.

Commission's consideration of Wei Chih's submission

The Commission notes that the profit applied in constructing normal values for Wei Chih was determined in accordance with subsection 45(2) of the Regulations.

Subsection 45(2) of the Regulations specifies that the Commission must, if reasonably practicable, work out the amount of profit by using data relating to the production and sale of like goods by the exporter in the ordinary course of trade. Subsection 45(2) of the Regulations does not specify a minimum volume requirement.

The Manual at section 7.2 identifies that, although sales may be profitable, there may be situations that cause profitable sales to have not been made in the ordinary course of trade. However, those situations include sample sales, promotional sales made at special prices, end of season sales, low quality sales, or sales in other unusual circumstances. The Commission does not consider the above circumstances apply to Wei Chih.

In relation to Wei Chih's submission concerning the delivery terms of the profitable sales, the Commission has adjusted the CTMS to account for these delivery costs. Consequently, the profit margin applied to the constructed normal has been reduced and the dumping margin has been recalculated.

OneSteel submission

OneSteel requested greater transparency in relation to the dumping margin calculations and queried which domestic grades were used for model matching purposes. OneSteel queried whether domestic price premiums had been taken into consideration in determining Wei Chih's normal values.

OneSteel also queried whether the Commission had appropriately assessed which production methods (i.e. water quenching route versus micro alloying) were employed by Wei Chih in verifying costs and identified the possible need for an adjustment to normal values to account for the differences in production methods employed for domestic and export sales.

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Commission's consideration of OneSteel's submission

The Commission notes that normal values for Wei Chih were constructed using the cost to make of the exported goods and an amount for SG&A and profit on the assumption that the exported good was sold on the domestic market.

Given that normal values were constructed, adjustments for differing grades and production methods are not necessary.

Adjustments

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

Adjustment type	Description
Domestic credit	Deduct an amount for domestic credit costs.
Export inland freight	Add an amount for export inland freight.
Export handling charges	Add an amount for export handling charges.
Export commissions	Add an amount for export commissions.
Adjustment for difference in weight basis of sales	Deduct a calculated amount from normal value for export shipments invoiced using theoretical weight.

Table 14 - Summary of adjustments (Wei Chih Steel)

Wei Chih submission

Wei Chih in its submissions of 28 August and 22 September 2015 contended that the Commission had applied an insufficient adjustment to account for the differing weight basis on which domestic sales and some export sales to Australia were based.

Wei Chih submitted that that the Commission should have applied a higher as was identified in eight sales samples taken by the verification team, including a weight adjustment factor to both theoretical and actual weight based sales. Wei Chih submitted that the eight samples provided a reasonable representation of the factual reality of the weight adjustment factor.

Commission's consideration of Wei Chih Steel's submission

The Commission has reviewed Wei Chih's submissions and the evidence it provided during the course of the investigation. This evidence included information and documentation provided by Wei Chih prior to the verification visit in an e-mail dated 5 May 2015.

It is noted that the eight sampled transactions referred to by Wei Chih were selected by the verification team for the purposes of assessing the reasonableness of Wei Chih initial claims in seeking an adjustment and not for the purpose of calculating the adjustment itself.

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The verification visit team's calculations identified that the actual weights were less than the invoiced weights on both theoretical and actual weight sales. The Commission considered that the most appropriate adjustment to apply was the net difference identified between the calculations on actual weight and theoretical weight based sales. The Commission considered that this provided a consistent basis for the calculations and allowed for variation between the calculated actual weight and the invoiced actual weight on actual weight based sales.

The adjustment factor applied was consistent with Wei Chih's adjustment claim in the e-mail sent by the company on 5 May 2015 and was also consistent with discussions held during Wei Chih's verification visit.

It is noted that Wei Chih provided further evidence beyond the eight sampled transactions subsequent to its verification visit to support its claims of a higher adjustment. This evidence included:

- a letter from its General Manager, which provided little probative value to support a higher adjustment;
- additional invoices and test certificates similar to the eight sampled transactions for the purpose of verifying the reasonableness of the weight adjustment originally claimed. These additional invoices do not provide an alternative basis for determining a higher adjustment other than the basis previously applied by the verification visit team; and
- an e-mail evidencing negotiations dating back to 2011, which is outside the period of the investigation.

The Commission considers that the evidence provided by Wei Chih is insufficient to alter the weight tolerance adjustment applied for the visit report and SEF 264.

OneSteel submission

OneSteel sought clarification as to whether the theoretical weight adjustment had only been applied to theoretical weight based sales, which the Commission confirms was the case.

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 **2.8 per cent**.

6.11.3 Power Steel

Export Prices

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

Normal Values

Normal values for all exported models were calculated pursuant to 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 made adjustments pursuant to subsection 269TAC(9) as follows:

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

Table 15 - Summary of adjustments (Power 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 Power Steel for the investigation period is **1.3 per cent**.

6.12 Thailand

6.12.1 Millcon

Export Prices

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

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Normal Values

For certain rebar models, normal values were determined under subsection 269TAC(1) based on domestic sales of comparable models in the ordinary course of trade.

For one rebar model, the normal value was calculated pursuant to 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 made adjustments pursuant to subsections 269TAC(8) and (9) as follows:

Adjustment type	Deduction/addition
Domestic inland freight	Deduct an amount for domestic inland transport costs
Export inland transport	Add an amount for export inland transport costs
Export handling and other	Add an amount for export handling costs
Credit terms	Deduct an amount for domestic credit costs

Table 16 - Summary of adjustments (Millcon)

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 in respect of rebar exported to Australia by Millcon for the investigation period is **0.0 percent**.

6.13 Turkey

6.13.1 Habaş

Export Prices

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

Normal Values

For certain rebar models, normal values were determined under subsection 269TAC(1) based on domestic sales of comparable models in the ordinary course of trade.

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In relation to the other export models, normal values were calculated pursuant to 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 made adjustments pursuant to subsections 269TAC(8) and (9) as follows:

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

Table 17 - Summary of adjustments (Habas)

Further to OneSteel's request for further clarification, a specification adjustment was made to normal values based on an identified pricing differential between different grade models exported to Australia by Habas. Rebar models with a minimum yield strength of 500 MPa were used for the purposes of model matching.⁵⁴

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

6.14 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).

6.14.1 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.

⁵⁴ Reference is made to a submission by OneSteel, number 72 on the public record

6.14.2 Korea, Spain and Taiwan

Export price

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

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).

Subsequent to the publication of SEF 264 a submission from the Spanish Government⁵⁵ suggested that Spain’s “uncooperative exporters and all other rate” should be established at the same rate as the cooperating Spanish companies, consistent with the approach taken in relation to Singapore. The Commission notes that there were other exports to Australia from Spain during the investigation period, whereas in contrast it was identified that there was only one rebar exporter of the goods from Singapore during the investigation period.

The dumping margins for uncooperative exporters and all other exporters are:

Country	Dumping Margin
Korea	14.3%
Singapore	3.0%
Spain	8.2%
Taiwan	6.8%

Table 18 – Uncooperative and All Other Dumping Margins

⁵⁵ See number 85 on the public record

6.14.3 Malaysia, Turkey and Thailand

Given that the Commissioner terminated the investigation in relation to all exporters from Malaysia, Turkey and Thailand, an 'uncooperative and all other' dumping margin was not calculated for these countries.

6.15 Volume of dumped imports

Pursuant to subsection 269TDA(3), the Commissioner must terminate an 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) (aggregation of volumes of dumped goods) does not apply.

As outlined in chapter 5 of this report, the Commission has determined the imported volume of goods 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 was greater than three per cent of the total import volume and is therefore not negligible.⁵⁶

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

As outlined in TER 264, 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 Turkey, Malaysia and Thailand was less than 3 per cent of the total import volume and subsection 269TDA(5) does not apply. The volume of dumped goods from Turkey, Malaysia and Thailand is therefore negligible.

⁵⁶ Pursuant to paragraph 269TDA(6)(a), the fact that Power Steel's dumping margin is less than 2 per cent does not prevent its exports from being taken into account for the purposes of subsection 269TDA(3).

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.

In the SEF's injury analysis, OneSteel's sales of imported rebar were excluded from the injury analysis, despite not representing a materially significant proportion of the Australian rebar market. Daehan Steel⁵⁷ submitted that for the purposes of analysing movements in volume and market share further information should be provided in relation to OneSteel's sales of imported rebar. The Commission has presented this information in section 5.5 and 7.4 of this report. Daehan Steel also submitted that relevant adjustments should be made to import volumes and unit selling prices for rebar sold on a theoretical weight

⁵⁷ See number 88 on the public record

basis. For the purposes of the injury analysis adjustments to volume and pricing have been made for theoretical weight based sales.

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

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 conclusions on allegations of dumping prior to the investigation period (1 July 2013 to 30 June 2014).

7.4 Volume effects

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

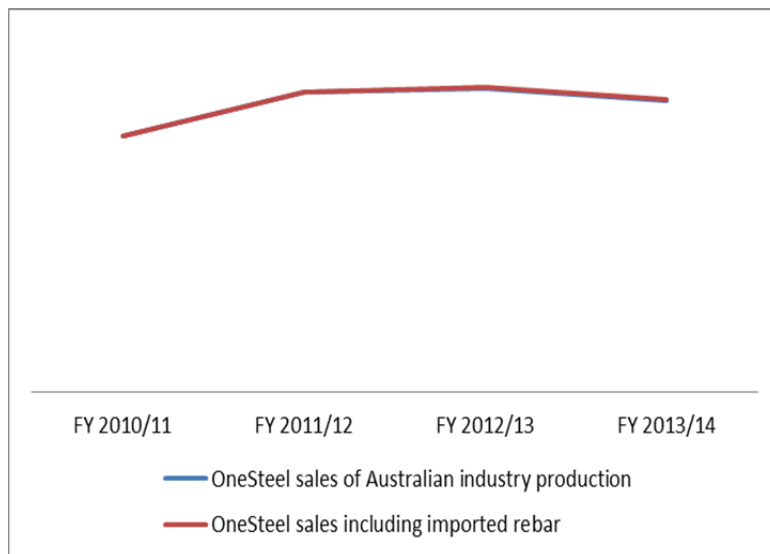


Figure 3: Australian Industry Sales (Tonnes)

Figure 3 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.

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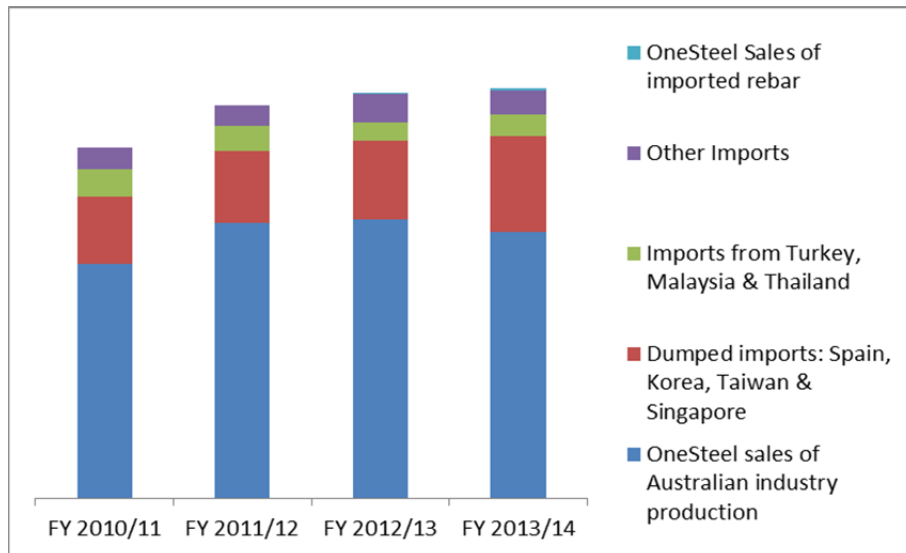


Figure 4: Australian market size (Tonnes)

Figure 4 illustrates that the Australian market has increased in size in each year, noting that the rate of growth slowed as the injury analysis period progressed. 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 1.2 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 4.3 per cent compared to 2012/13. However, OneSteel's domestic rebar sales increased in total by approximately 13.8 per cent over the injury analysis period;
- OneSteel sales of imported rebar increased in years 2012/13 and 2013/14. However it should be noted that these sales constitute less than 1 per cent of OneSteel's domestic rebar sales;⁵⁸
- imports from countries found to be dumping in chapter 6 (i.e. Spain, Korea, Singapore and Taiwan⁵⁹) increased by approximately 42 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 20.5 per cent from the previous year;

⁵⁸ OneSteel's sales of imported rebar are included, but accounted for separately in this chart.

⁵⁹ Exports from Power Steel were not dumped. These exports have been excluded from the dumped volumes for injury assessment. The import volumes from Power Steel have been revised from those specified in SEF 264 and import volumes have been adjusted (where applicable) for sales completed on a theoretical basis.

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- imports from countries considered not to be dumping in chapter 6 (i.e. Malaysia⁶⁰, Turkey and Thailand) declined by approximately 23 per cent over the injury analysis period, but increased in the investigation period by approximately 15.8 per cent from the previous year. On a proportional basis, imports from the countries identified to be dumping were approximately 4.5 times greater than those considered not to be dumping during the investigation period; and
- imports from countries not subject to the investigation increased by approximately 12.5 per cent over the injury analysis period, but declined in the investigation period by approximately 12 per cent from the previous year.

7.4.1 Market share

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

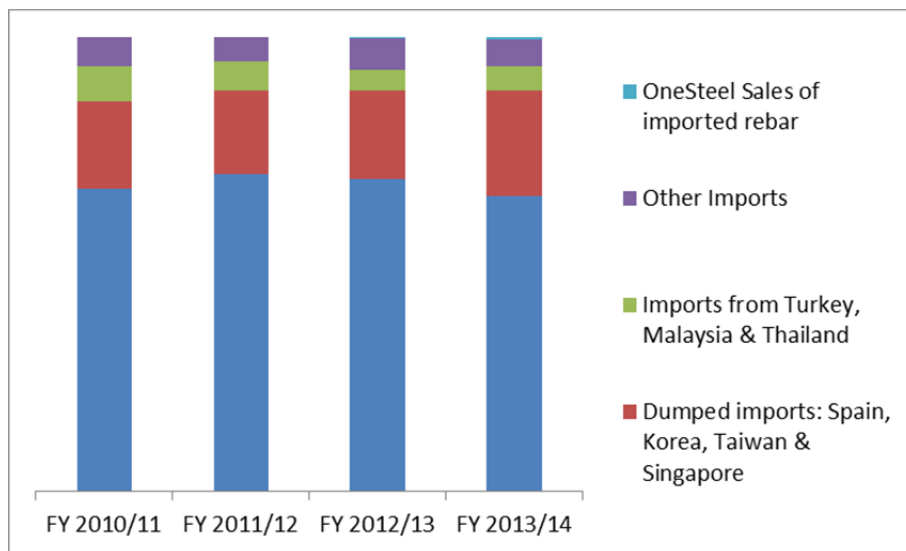


Figure 5: Australian Market Share

Figure 5⁶¹ illustrates that:

- OneSteel's market share 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 2012/13.⁶² OneSteel's market share fell by about 3.7 percentage points in 2013/14 and 1.2 percentage points in 2012/13;

⁶⁰ Dumping was found in relation to Malaysian exporters Amsteel and Southern Steel. However, no dumping was found in relation to Ann Joo Steel. The volume of exports considered to be dumped from Malaysia is negligible. All Malaysian exports are therefore included as undumped volumes.

⁶¹ OneSteel's sales of imported rebar are included, but accounted for separately in this chart for the purposes of estimating market size proportions.

⁶² As outlined previously, OneSteel imported an immaterial volume of rebar which is sold on the Australian market.

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- OneSteel's market share from its imported rebar sales increased in 2012/13 and 2013/14. However, it should be noted that these sales constituted significantly less than 1 per cent of the total rebar market in each of those years;
- the market share for countries considered to be dumping in chapter 6 (i.e. Korea, Singapore, Spain and Taiwan⁶³) fell in 2011/12 by approximately 1 percentage point, grew in 2012/13 by approximately 1.3 percentage points and increased in 2013/14 by approximately 3.7 percentage points. These countries accounted for almost a quarter of the Australian rebar market in 2013/14;
- the market share for countries found not to be dumping in chapter 6 (i.e. Turkey, Malaysia⁶⁴ and Thailand) fell by approximately 1.4 percentage points in 2011/12 and a further 1.9 percentage points in 2012/13, before stabilising in 2013/14 with a 0.7 of a percentage point growth. These countries constituted approximately 5 per cent of the market during the investigation period; and
- imports from countries not subject to the investigation fell from a 6 per cent market share to a 5 per cent market share in 2011/12, before increasing in 2012/13 to a 7 per cent market share and falling again to a 6 per cent market share in 2013/14.

In summary, Figure 5 demonstrates 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.

7.4.2 Submissions received prior to publication of SEF

Various submissions were received in relation to OneSteel's claims of volume injury⁶⁵ prior to the publication of the SEF. Submissions 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

⁶³ Exports from Power Steel were not dumped. These exports have been excluded from the dumped volumes. The import volumes from Power Steel have been revised from those specified in SEF 264 and all import volumes have been adjusted (where applicable) for sales completed on a theoretical basis.

⁶⁴ Dumping was found for Malaysian exporters Amsteel and Southern Steel. However, no dumping was found in relation Ann Joo Steel. The volume of exports considered to be dumped from Malaysia is negligible. All Malaysian exports are included in the undumped volume.

⁶⁵ See numbers 5, 9, 10 and 11 on the public record

in absolute terms. One submission also contended that imports from the nominated countries were not significant.

7.4.3 Submissions received after publication of the SEF

Natsteel submitted⁶⁶ that any volume injury suffered by OneSteel could not be attributed to imports of its exports of rebar and requested that the Commission differentiate between wholesale sales and retail sales in its injury analysis.

The Commission notes that other submissions received from Best Bar (Natsteel's sole Australian customer) and OneSteel discuss the circumstances surrounding Best Bar's decision to no longer source rebar from OneSteel. Whilst there is some disagreement between the parties, a significant factor in Best Bar's decision to cease purchasing from OneSteel, was in relation to price. In this instance, the Commission considers that this provides evidence that OneSteel lost sales from Natsteel based on price competition from imports. The Commission considers that a separate injury separate analysis sought by Natsteel is not necessary in the circumstances.

7.4.4 Volume effects – the Commission's conclusion

The Commission considers that the submissions received do not 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".⁶⁷

In the context of a growing market, the Commission is satisfied that the evidence outlined above supports OneSteel's claim that it has experienced injury in the form of reduced sales volume and reduced market share for rebar in the Australian market.

7.5 Price effects

7.5.1 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.

⁶⁶ See number 91 on the public record

⁶⁷ Page 13 of the Manual

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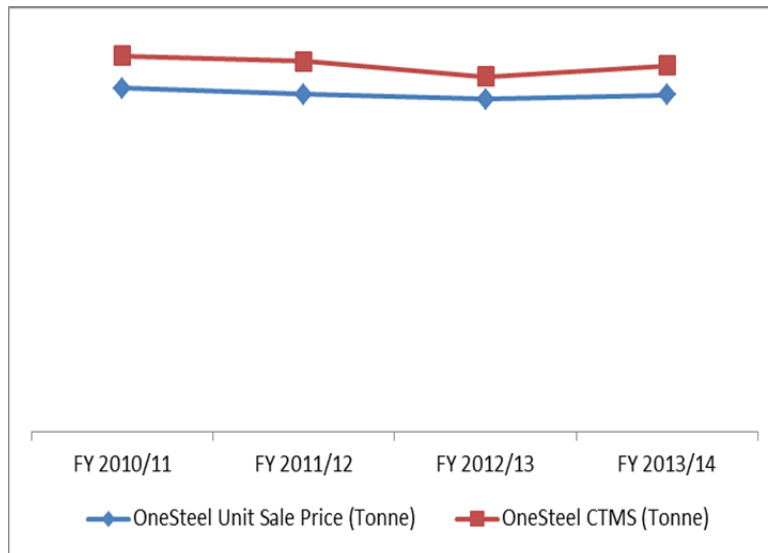


Figure 6 – OneSteel’s Unit Revenue v Unit CTMS

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.

7.5.2 Submissions received in relation to price effects prior to SEF

As mentioned in the Australian Industry visit report, a significant portion of OneSteel’s sales are to related entities. Submissions⁶⁸ were received from interested parties regarding the appropriateness of using or considering OneSteel’s related entity sales (commonly referred to as ‘captive sales’) 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

⁶⁸ For example 5 and 44 on the public record

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unrelated customers. OneSteel advised that the price difference reflected efficiencies associated with 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 arms 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 the 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.

Although there is nothing to preclude a sectoral analysis of an industry and/or market if it yields a better understanding of the effects of imports, the Commission considers that the WTO agreements do not permit an injury finding to be made on less than the whole domestic industry (or at least 'those of them whose collective output of the like product constitutes a major proportion of the domestic production of the like product').⁶⁹ Whether a sectoral analysis is warranted in an investigation can only be determined by the circumstances of the case.

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.⁷⁰ 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 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 submission⁷¹, indicating that the benchmarking graph did not make appropriate adjustments for currency fluctuations and that billet prices were not a suitable basis for comparison as these prices could be

⁶⁹ As per the WTO panel report *Mexico - Anti Dumping Investigation of High Fructose Corn Syrup (HFCS) from the United States*

⁷⁰ See numbers 4, 5, 6, 9 and 37 on the public record

⁷¹ See number 8 on the public record

subject to dumping or subsidisation. No evidence was provided by OneSteel to establish that international billet prices were subject to dumping or subsidisation.

Regardless, as mentioned in the Australian industry visit 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.

7.5.3 Submissions received in relation to price effects following the SEF

Following publication of the SEF, Daehan Steel⁷² submitted that *"...whilst it may be correct that the applicant would 'normally strive to be profitable', Daehan submits that the structure of the applicants operations does not reflect normal circumstances that would necessarily require it to strive for profitability within its rebar manufacturing business"*.

Daehan Steel further submitted that as an integrated producer, processor and distributor there was ability for OneSteel to shift profits. In Daehan Steel's view the Commission's preliminary findings in relation to the arms length nature of related party sales was limited and did not take into account 'real bargaining'.

7.5.4 Price effects – the Commissioner's conclusion

The Commission's examination established that OneSteel's pricing to related entities was comparable to pricing to unrelated parties. Further, OneSteel's prices to its related entities are based on negotiated pricing with unrelated parties. The Commission considers that OneSteel is dealing at arms length with its related entities.⁷³

⁷² See number 88 on the public record

⁷³ In terms of subsection 269TAA(1)

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.

7.6 Profit effects

7.6.1 Profits and profitability

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

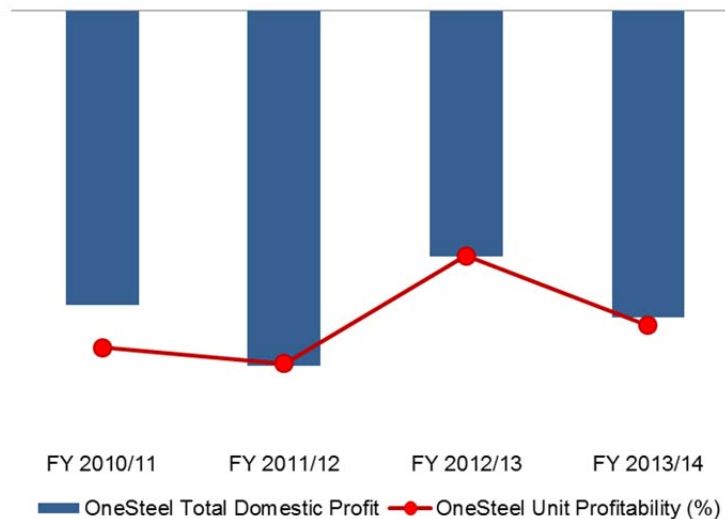


Figure 7 – OneSteel Profit and Unit Profitability

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).

7.6.2 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.

7.7 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.

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Whilst OneSteel has not claimed injury in relation to other injury factors, various submissions⁷⁴ submitted that the Commission had failed to adequately disclose and evaluate all relevant factors specified under article 3.4 of the WTO Anti-dumping Agreement.

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.

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 to 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 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.

⁷⁴ See numbers 5, 6, 10 11, 76, 83, 85 and 88 on the public record

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.

7.7.1 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.

7.8 The Commissioner's assessment

Based on the analysis detailed in this chapter, the Commissioner considers OneSteel 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 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 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 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 investigations 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.

8.3.1 Submissions received regarding accumulation prior to SEF

Best Bar submitted⁷⁵ that the conditions of competition rendered it inappropriate to consider imports from Singapore in the accumulation of imports with 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 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 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 further processed rebar. The Commission also notes that sales information obtained from OneSteel indicated that Best Bar purchased rebar from OneSteel during the investigation period.

The Commission's assessment is that, whilst OneSteel and Best Bar are not directly competing with each other in the Australian market in relation to the sale of unprocessed rebar, the Commission considers that OneSteel and Natsteel are competing in relation to the sale of unprocessed rebar in the Australian market.

A submission⁷⁶ was received, which contended that 'Green Star' certified rebar was not competing with other types of rebar. Based on the Commission's consideration of the information provided, as discussed further in sections 8.5.4 and 8.5.5, there is insufficient evidence to support this claim.

8.3.2 Submissions received regarding accumulation post SEF

Following publication of SEF 264, a further submission was received from Best Bar⁷⁷ disagreeing with the Commission's proposed decision to cumulate the effect of imports of rebar from Singapore with the imports from Korea, Spain and Taiwan and that the Commission had failed to adequately consider the information provided in its earlier submission. Best Bar contended that it was the only importer that operated as a fabricator. However, the Commission's enquiries have identified that exporters in two of the other three countries identified as dumping sold rebar to other fabricators or processors of rebar. A

⁷⁵ See number 44 on the public record

⁷⁶ See number 4 on the public record

⁷⁷ See number 90 on the public record

portion of the other fabricator importers of rebar also purchased rebar directly from OneSteel during the investigation period.

Whilst it was identified that Best Bar had purchased rebar from OneSteel and that a supply agreement had previously been in place, Best Bar contended that the prices offered by OneSteel increased significantly prior to the investigation which prevented Best Bar from being able to compete against those entities in the downstream market (including OneSteel's related entities). In an earlier submission⁷⁸, OneSteel contended that it was not unfairly or un-competitively pricing its products to Best Bar. A pricing analysis was provided by OneSteel identifying pricing to various customers, including Best Bar. OneSteel's pricing lists were provided by Best Bar during a verification visit. The Commission's analysis of the information provided by the parties identified that pricing to Best Bar was consistent with the Commission's analysis of pricing between OneSteel's related and unrelated customers, but on a weighted average basis the differences were less than weighted average differences identified for all unrelated customers.

8.3.3 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 (traders/distributors), 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 rebar is a commodity like product and, 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.

⁷⁸ See number 55 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.

8.3.4 Submissions in relation to OneSteel's related entity sales

Submissions received prior to SEF 264

The Commission received submissions from various interested parties regarding OneSteel's claims of material injury in relation to related entity sales. Best Bar⁷⁹ 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 allowed for a profit transfer.

A submission⁸⁰ was received from OneSteel which stated that Best Bar's referenced WTO appellate body's decision was not relevant to Australia because the captive market provisions under the *US Tariff Act 1930* have no parallel provision under Australian legislation. OneSteel also disputed the assertion that its related entity sales were shielded from import competition and that injury attributed to these sales could not be attributed to dumping.

Submissions received following publication of SEF 264

Best Bar⁸¹ submitted that the sales and market share analysis should include analysis of sales to OneSteel's related entities as well as to unrelated customers. Best Bar submitted that OneSteel's related entity sales formed part of the Australian industry producing like goods, that these sales were sheltered from import competition and that the materiality of the injury should be considered in the context of the performance of the whole Australian industry including those sales to related entities. Best Bar questioned whether a reduction in OneSteel's sales to its related entities could be attributed to dumping or whether such sales volume reductions were due to other factors.

⁷⁹ See numbers 44 and 53 on the public record

⁸⁰ See number 58 on the public record

⁸¹ See number 90 on the public record

Commission conclusion on related entity sales

As previously mentioned, the Commission's assessment is that sales to OneSteel's related entities are arm's length, that OneSteel and its related entities are competing in the same Australian market and sales to related entities were not sheltered from import competition. 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.

8.4 Volume effects

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

8.4.1 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 1.2 per cent;
- import volumes from the countries found to be dumping increased by approximately 20.5 per cent;⁸²
- import volumes from the countries found not to be dumping increased by approximately 15.8 per cent;⁸³
- import volumes from countries not subject to the investigation fell by approximately 12 per cent; and
- OneSteel's sale volumes fell by approximately 4.3 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 approximately 4.5⁸⁴ times greater than the imports from the countries found not to be dumping and approximately 3.8⁸⁵ times 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 significant gaps in these customers' sales. OneSteel specified that these gaps

⁸² 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.

⁸³ Includes imports from Power Steel

⁸⁴ Weights have been adjusted for exporters who export on a theoretical weight basis

⁸⁵ Weights have been adjusted for exporters who export on a theoretical weight basis

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. Given that the very specific nature of the alleged lost sales (i.e. specific diameters, etc.), the Commission was not able to verify whether these lost sales were replaced with imported rebar. The Commission is unable to place any weight in relation to this evidence provided by OneSteel.

During the course of the investigation information was provided by both OneSteel and Best Bar in relation to the supply of rebar by OneSteel to Best Bar. As previously discussed, this information indicates that Best Bar reduced its purchase of rebar from OneSteel and that a significant determinant in this reduction was the rebar prices offered by OneSteel to Best Bar. It is noted that Best Bar is the sole importer of rebar from Singapore.

Submissions⁸⁶ queried whether increased sales from the exporters identified as dumping could be attributed to lost sales from other countries. However, given the relative size of the market shares held by other countries, dumped rebar cannot be solely attributed to lost sales in this portion of the market.

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.

8.4.2 Market share

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

- OneSteel suffered a loss of 3.7 percentage points of market share;
- the market share for countries identified as dumping during the investigation period increased by approximately 3.7 percentage points;⁸⁷
- the market share for countries found not to be dumping marginally increased; 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.

8.5 Price effects

The Commission considered the following factors in assessing price injury.

⁸⁶ See number 83 and 85 on the public record

⁸⁷ Excludes the imports from Malaysian exporters found to be dumping and Taiwanese imports from Power Steel who was found not to be dumping.

8.5.1 Pricing in the Australian rebar market

The Commission considers that rebar is a commodity like 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 OneSteel’s 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.

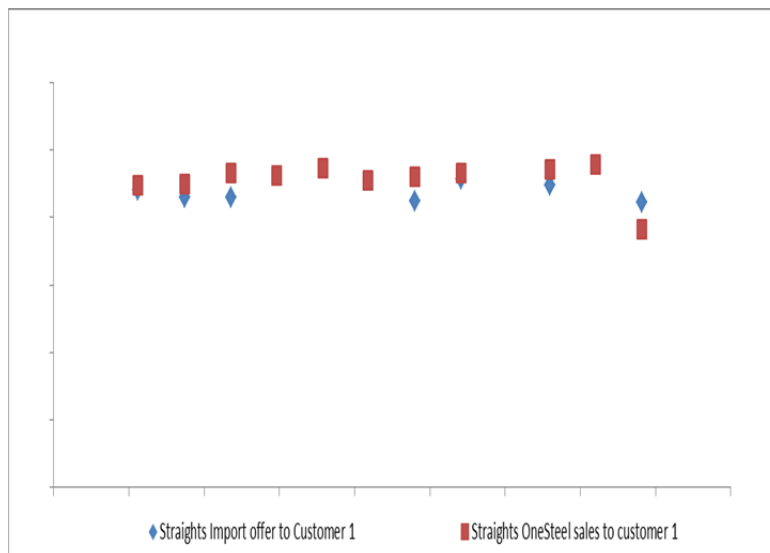


Figure 8 - Import price parity model - Pricing over investigation period - Straights

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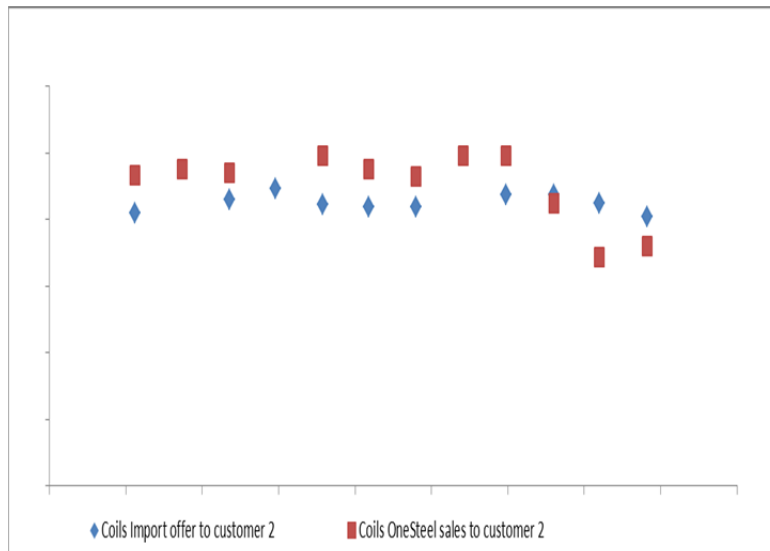


Figure 9 - Import price parity model - Pricing over investigation period - Coil

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.

8.5.2 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 2.8 per cent and 14.3 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.

8.5.3 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 final report, 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.

An analysis of the investigation period data on a monthly basis weighted across all rebar showed undercutting by importers in the range of 4.9 per cent above and 11.5 percent below OneSteel's weighted average prices per tonne.

The Commission compared the weighted average selling prices of goods originating from exporters found to be dumping during the investigation period

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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.

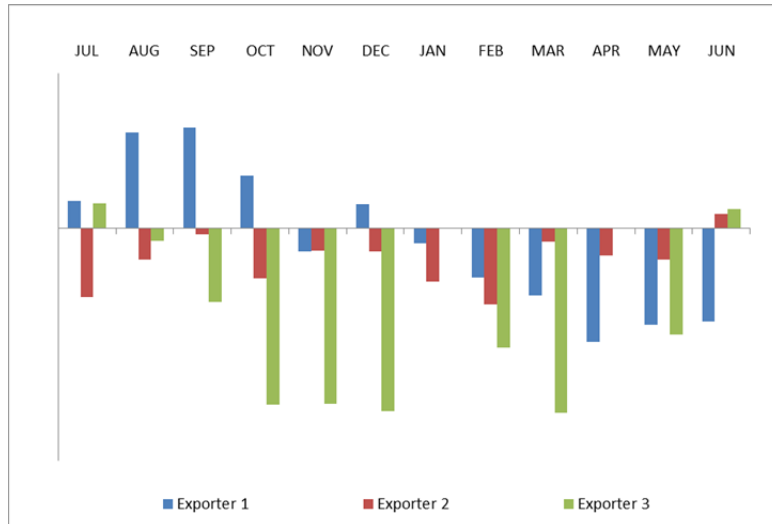


Figure 10 - Undercutting values - importer sales of dumped rebar coils

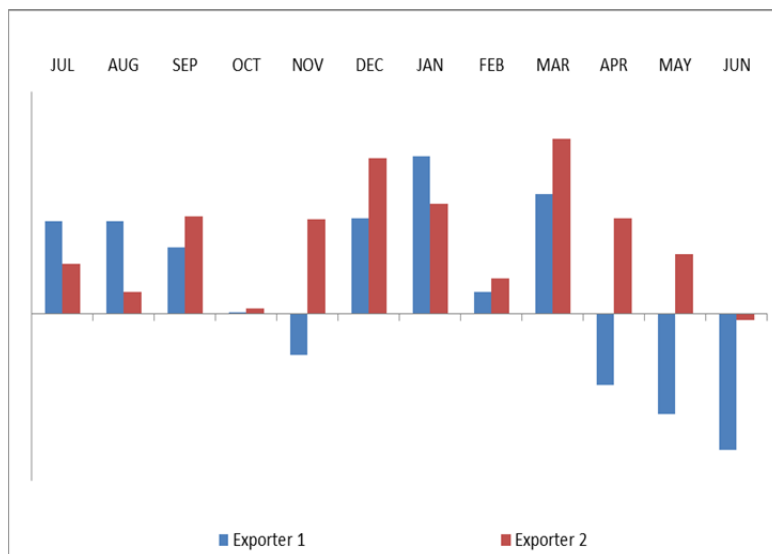


Figure 11 Undercutting values - importer sales of dumped rebar straights⁸⁸

To understand the relationship between the market pricing of dumped goods and the OneSteel pricing, the Commission compared the weighted average

⁸⁸ Where applicable, values have been adjusted to account for sale made on a theoretical weight basis.

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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.

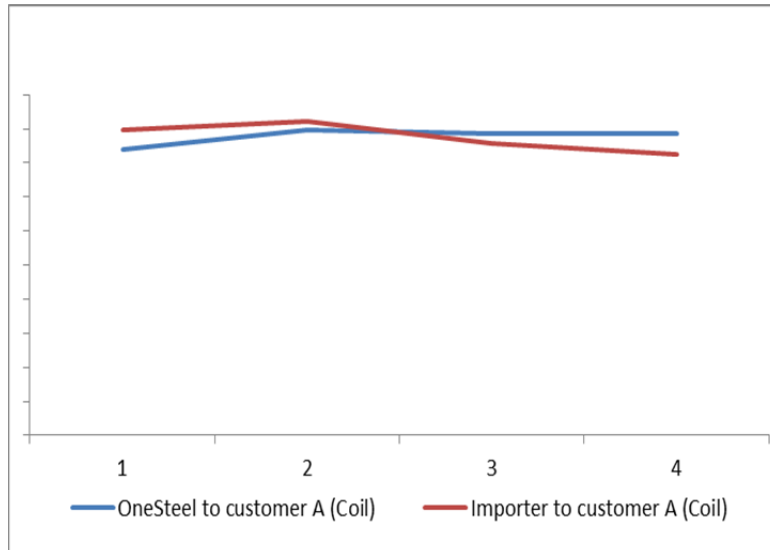


Figure 12 – Coils market pricing - dumped goods vs OneSteel

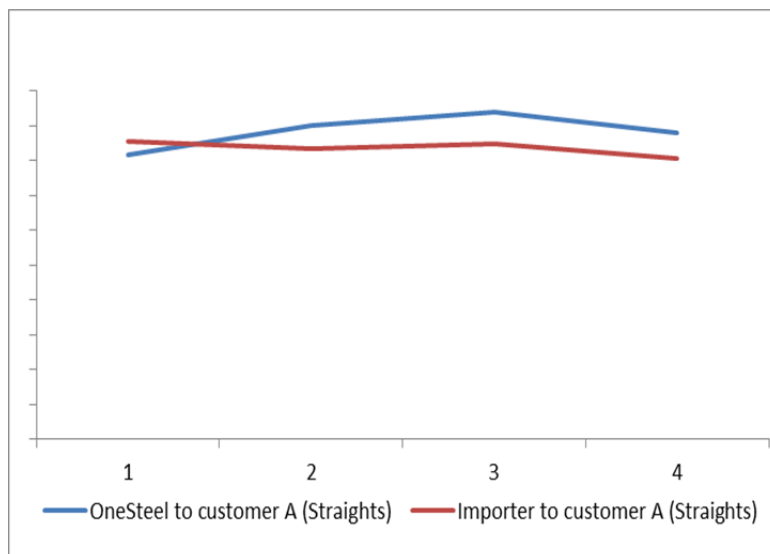


Figure 13 – Straights market pricing - dumped goods vs OneSteel

8.5.4 Submissions received in relation to undercutting prior to SEF

A submission was received from Daehan Steel and Stemcor⁸⁹ indicating that a number of factors needed to be taken into consideration in relation to the

⁸⁹ See number 4 on the public record

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Commission's undercutting analysis. OneSteel responded to Daehan Steel's submission.⁹⁰ The factors raised include:

Differences in production processes

It was submitted that Daehan Steel used a more efficient Tempcore manufacturing process whereas OneSteel used a more costly micro alloying production process for some of its rebar products. Daehan Steel 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 Steel 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 from both OneSteel and Daehan Steel. The Commission considers that there is insufficient evidence to support a conclusion that Green Star product should be excluded from the undercutting analysis.

Coil weights

Daehan Steel and Stemcor submitted that a price adjustment should be made on the basis that Daehan Steel'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 Steel 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

⁹⁰ See number 8 on the public record

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provided is insufficient to support the claim that there is an actual price difference in the Australian market based on the rebar coil weight.

Coil diameters

Daehan Steel and Stemcor submitted that Daehan Steel's imported 20mm rebar should be excluded from the price undercutting analysis due to OneSteel not manufacturing this model. It is noted that the Commission has excluded OneSteel's sales of 20 mm rebar coil from the undercutting analysis. However, it was noted that in Daehan Steel'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 Steel 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 an immaterial impact on the undercutting analysis.

Impact of transportation costs

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

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 Steel 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 Steel 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 Steel 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 verified net selling prices and OneSteel's pricing lists have not been used in the undercutting analysis.

8.5.5 Submissions received in relation to undercutting post SEF

Daehan Steel submitted⁹¹ that the price undercutting analysis should be completed on a monthly basis which was consistent with the applicant's method of negotiating and setting prices and, that those adjustments must be made for imported rebar which is sold on a theoretical weight basis. The Commission has adjusted the undercutting analysis in relation to both of these matters.

Daehan Steel further submitted that the Commission has not conducted sufficient enquiries into its allegations that Green Star certified rebar attracts a premium. In its original submission Daehan Steel claimed that rebar with a Green Star rating is not substitutable with rebar which does not have a Green Star rating and that there was a \$40-\$50 premium per tonne. No evidence was provided to support the assertion that Green Star certified rebar attracted the quoted premium. Copies of e-mails from fabricators were provided as evidence supporting that these products could not be mixed.

Daehan Steel has not provided any evidence to substantiate or explain the basis on which it established there was a price premium. In both a submission⁹² and in discussions during the Australian industry visit, OneSteel stated that it is unable to achieve a premium for having Green Star certification.

Whilst there are minimum Green Star rebar sourcing requirements for end users to obtain Green Star credits, these would only be applicable to end users who were seeking to obtain these certification points. In other circumstances, there would be no 'barrier' to substituting rebar from alternative sources. The Commission's analysis of sales data from importers and OneSteel established that rebar coils were being sourced from both Daehan Steel and OneSteel by common customers. Further, from the sales data provided by OneSteel it was not possible to identify which rebar sales are ultimately being installed into a building project where the end user is seeking to claim Green Star credits.

Daehan Steel reiterated that OneSteel's prices are set based on benchmarked import prices and it seeks to achieve a higher price based on a proposition to its customers of the benefits of local supply. Daehan Steel submitted that the Commission must properly consider and examine the impact of OneSteel's

⁹¹ See number 88 on the public record

⁹² See number 8 on the public record

ability to obtain a price premium on the degree of undercutting. OneSteel provided information on how it seeks to negotiate pricing with its customers based on import offers. Given the nature of how OneSteel seeks to negotiate pricing with each of its customers, the Commission is unable to identify a specific value or amount of a premium that can be obtained by OneSteel. It is noted that any higher price negotiated is not based on a higher grade rebar product, but reflects OneSteel's attempts to negotiate the best possible pricing with its customers while arguing the benefits of local supply to its customers.

Submissions⁹³ queried the use of importers' prices for the purposes of the undercutting analysis. The undercutting analysis completed in this report is consistent with the Commission's standard methodology of establishing import prices into the Australian market.

8.5.6 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 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.

8.5.7 Submissions received in relation to price suppression prior to SEF

The Commission received submissions⁹⁴ 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

⁹³ See number 83 and 85 on the public record

⁹⁴ See number 44 on the public record

market share at the expense of price”.⁹⁵ 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 evidence indicates that OneSteel’s pricing is sensitive to import offers in the Australian rebar market.

8.5.8 Submissions received regarding price suppression post SEF

Natsteel submitted⁹⁶ that price injury could not be attributed to exports from Singapore. Natsteel stated that the lowest prices in the market would have the greatest pricing effect on OneSteel’s prices, not the volume of imports. In this regard, Natsteel highlighted the pricing from other countries found not to be dumping, e.g. Malaysia, Turkey and Thailand as provided by OneSteel in its application. Natsteel concluded that this data evidenced that Malaysian, Turkish and Thai prices were lower than Natsteel’s prices. Based on import pricing data obtained by the Commission from exporters and importers, the Commission has identified that Natsteel prices were lower than prices over a three month period for two of the other countries in this period (pricing for the third country was not available for this period). On this basis, the Commission concludes that for certain months of the investigation period, Natsteel’s prices were not higher than exporters found not to be dumping.

Daehan Steel submitted that the Commission should undertake the analysis preferred by the Productivity Commission⁹⁷ and highlighted three specific circumstances outlined by the Productivity Commission where it considered anti-dumping measures would not be effective in removing injury to an applicant industry. These criteria were:

- *The imposition of measures equivalent to the assessed dumping margin (or the benefit from a countervailable subsidy) would result in an import price still well below local suppliers’ costs to make and sell.*
- *‘Like goods’ could be readily obtained from an un-dumped source at a comparable price, meaning that the imposition of measures would simply lead to substitution into un-dumped imports with little or no benefit for competing local suppliers.*
- *Dumped or subsidised imports may be a contributing factor to the material injury being experienced by a local industry, but are not the major cause.*

⁹⁵ See number 44 on the public record

⁹⁶ See number 91 on the public record

⁹⁷ Productivity Commission Inquiry Report No. 482.

Daehan Steel highlighted that it considered that these circumstances were applicable in this case and warranted closer examination. The Commission notes that a discussion as to the effectiveness of anti-dumping measures in removing material injury is a separate and unrelated discussion to whether dumping has caused material injury or not.

8.5.9 Commission's assessment on price effects

The Commission notes that the findings in *EC - Salmon (Norway)*⁹⁸ in respect of Article 3.2 of the ADA. Article 3.2 provides that the investigating authorities shall consider whether there has been a significant price undercutting or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. Article 3.2 indicates that a finding of significant price undercutting is not necessary to a finding that dumped imports have had an effect on prices. Although the price undercutting analysis detailed in this chapter does not demonstrate consistent undercutting for every month of the investigation period, based on evidence of the degree of price sensitivity in the rebar market, OneSteel's matching of import prices and the price suppression found, the Commission is satisfied that the imported goods have had a significant effect on OneSteel's prices. The Commission also took into account market intelligence evidence provided by OneSteel which, despite not being used in the price undercutting analysis, provided examples that OneSteel faced pressure to lower its prices in order to compete with imported goods.

8.6 Profit effects

8.6.1 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 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.

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.⁹⁹ Further submissions¹⁰⁰ were received

⁹⁸ WT/DS337/R

⁹⁹ See number 11 on the public record

¹⁰⁰ For instance see number 85 on the public record

questioning the trend in OneSteel's profitability and profit in the context of the profit improvement between 2011/12 and 2012/13. These submissions questioned whether there were other reasons which would better explain changes in OneSteel's profitability. As noted, OneSteel's profitability and profit reduced during the investigation period which correlates with the price suppression and reduced sales volume during the investigation period.

As outlined below at section 8.9, the Commission considers that OneSteel has suffered material injury in the form of reduced profit and profitability due to dumped imports.

8.7 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 as to whether any other injury factors have occurred or, if they have occurred, whether they were caused by dumping, or caused by other factors.

8.8 Injury caused by factors other than dumping

8.8.1 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.

8.8.2 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.

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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 like product and therefore price is one of the primary factors affecting purchasing decisions.

As mentioned in chapter 7, the overall volume of imports from Turkey, Malaysia and Thailand increased in the investigation period by approximately 16 per cent from the previous year. However, the Commission notes that during the investigation period on a country by country basis, 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 Turkish prices 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 whilst Turkish imports increased in import volumes in the investigation period, its imports only occupied a 1 per cent market share in this period. The Commission considers that the circumstances specified above indicate that imports of rebar from Malaysia, Thailand and Turkey are unlikely to have influenced the overall market prices.

8.8.3 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 nominated countries, 11 per cent was imported from New Zealand, and six per cent was from other countries. A submission on behalf of the Steel Exporters Association from Turkey queried whether imports from New Zealand and 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 import 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.

8.8.4 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 1.2 per cent compared to 3.1 per cent and 12 per cent in the two years prior.

Some submissions¹⁰¹ stated that the Australian rebar market had contracted, was weak or that OneSteel's injury should be considered as 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. The Commission therefore cannot place any weight on the argument that inefficiency of operations within OneSteel's rebar business has caused injury rather than dumped imports.

8.8.5 Inefficiency of operations and internal decision making

Submissions¹⁰² 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". 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 on investment in its resources segment rather than the efficiency of its steelmaking segment.

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 any evidence to support assertions that OneSteel is operating an inefficient business. The Commission therefore cannot place any weight on the argument that inefficiency of operations within OneSteel's rebar business has caused injury rather than dumped imports.

¹⁰¹ See numbers 9, 10, 11, 37 and 52 on the public record

¹⁰² See numbers 5, 37 and 52 on the public record

8.8.6 Restrictive trade practices of Australian industry

A submission¹⁰³ 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 and its use of that market power in relation to its pricing and onerous volume supply requirements to 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 arm's 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.

8.8.7 High Australian dollar

The Commission received submissions¹⁰⁴ 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.

¹⁰³ See number 37 on the public record

¹⁰⁴ See numbers 9, 10 and 11 on the public record

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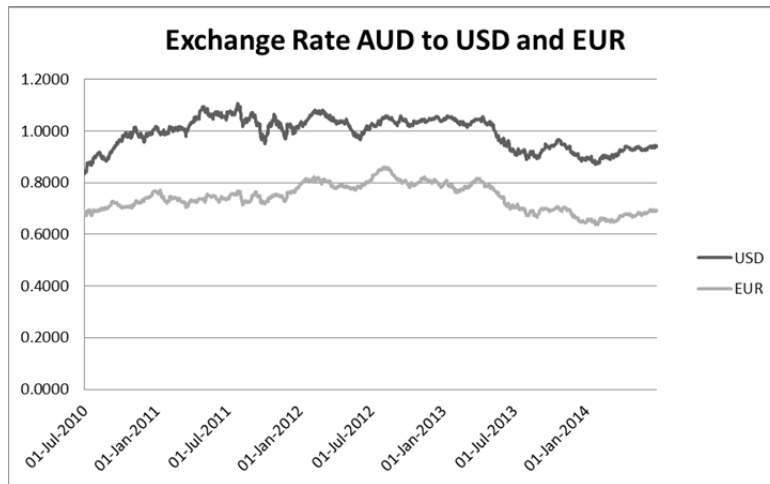


Figure 14 – Exchange rate movements during the injury analysis period (daily)

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 compared to the previous year.

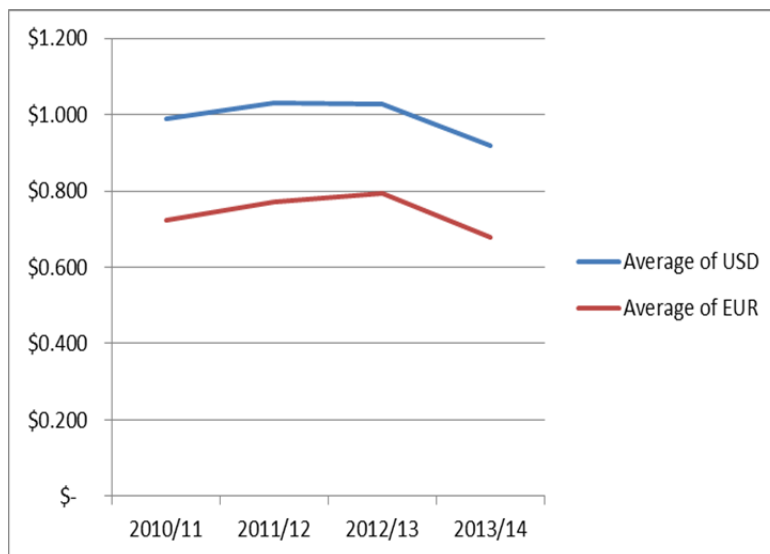


Figure 15: Exchange Rate movements during the injury analysis period (yearly)

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.

8.8.8 Initiation of the carbon pricing scheme

The Commission received submissions¹⁰⁵ contending that the initiation of the 'carbon tax' in July 2012 had negatively affected OneSteel.

These submissions were reliant on remarks by OneSteel's management that were made prior to the implementation of the 'carbon tax', which was implemented 12 months prior to the commencement of the investigation period. 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 is unable to draw any conclusion on this contention.

8.8.9 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 7.5.1, OneSteel's billet costs have reduced in a similar pattern to international billet prices.

8.8.10 Export sales by OneSteel

A submission¹⁰⁶ 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.

8.9 The Commissioner's assessment

8.9.1 Materiality

Various submissions were received questioning whether injury suffered by OneSteel was material or whether the injury was caused by the alleged dumping.¹⁰⁷

The *2012 Ministerial Direction on Material Injury*¹⁰⁸ 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

¹⁰⁵ See numbers 10 and 76 on the public record

¹⁰⁶ See number 10 on the public record

¹⁰⁷ See numbers 5, 9 and 11 on the public record

¹⁰⁸ <http://adcommission.gov.au/adsystem/referencematerial/Documents/ACDN2012-24.pdf>

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.

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.

Having assessed the circumstances and the totality of the evidence of volume, price and profit effects collectively and not in isolation, the Commission is of the view that the injury to the Australian industry from dumping is material.

8.9.2 Causation

As previously discussed, the Commission is satisfied that rebar is a commodity like 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 can 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.

8.10 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 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 in 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 this 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.

9.3.2 Submissions from interested parties

A submission¹⁰⁹ 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

¹⁰⁹ See number 9 on the public record

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.

A submission¹¹⁰ 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.

A submission from Wei Chih¹¹¹ subsequent to publication of SEF 264 stated that the Commission has no evidence that its exports will continue to be dumped, in particular because it has not exported to Australia since September 2014. The Commission notes that Wei Chih's exporter questionnaire response indicates that it was not operating at full capacity during the investigation period. Wei Chih could readily begin exporting to Australia in the future. The Commission does not consider that Wei Chih's drop in exports from September 2014 alters its assessment that dumping and material injury will continue.

9.3.3 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.

¹¹⁰ See number 37 on the public record

¹¹¹ See number 89 on the public record

10 NON-INJURIOUS PRICE

10.1 Finding

The Commission has 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.¹¹²

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 where the imposition of interim duty can not exceed the 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

¹¹² 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 the Commission's *Final Report No. 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.

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In the absence of a suitable method of determining the USP, the Commissioner 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 lesser duty rule will have no practical application.

11 ANTI-DUMPING MEASURES

11.1 Findings

The Commissioner recommends to the Parliamentary Secretary that:

- a dumping duty notice be published in respect of rebar exported to Australia by Korea, Singapore, Spain and Taiwan (except for Power Steel); and
- the interim dumping duty imposed as a result of the notice be based on the ad valorem duty method (e.g. as a percentage of the export price).

11.2 Form of measures available

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

- combination of fixed and variable duty method (combination method);
- floor price duty method;
- fixed duty method (\$X per tonne); or
- *ad valorem* duty method (i.e. a percentage of the export price).¹¹³

In PAD 264 and SEF 264, the Commission preliminarily determined that securities should be collected subject to the ad valorem method.

11.3 Submissions received before SEF 264

11.3.1 OneSteel submission

In a submission dated 10 August 2015,¹¹⁴ 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;
- excess capacity arises; and
- aggressive pricing occurs.

¹¹³ Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013*

¹¹⁴ See number 65 on the public record

OneSteel cited the House of Representatives Agriculture and Industry Committee (the Committee) Inquiry into Anti-Circumvention Activities¹¹⁵ 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 2015¹¹⁶, Daehan Steel rejected OneSteel's views regarding the imposition of a combination duty method. Daehan Steel stated 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 minimum floor prices on some rebar exports; whilst other rebar exports to Australia (e.g. goods not subject to measures) are free of such price effects.

¹¹⁵ *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

¹¹⁶ See number 74 on the public record

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,¹¹⁷ 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 Submissions received in response to SEF 264

11.4.1 Sanwa Pty Ltd

In its 15 September 2015¹¹⁸ submission in response to SEF 264, Sanwa puts forward its views which support the imposition of the ad valorem form of duties by raising the following points:

- import prices of steel have reduced in line with the reduction in the prices of iron ore and scrap worldwide;
- import prices have fallen by more than the combined effect of a lowering Australian dollar and imposition of anti-dumping duties;
- floor prices representative of a particular point in time do not reflect subsequent reductions in the cost of steel making and therefore maintain prices at artificially high levels;
- the imposition of a floor price is only relevant in markets which exhibit static prices, whereas the market for rebar in contrast is not static;
- rebar pricing is volatile as it is a 'commodity like' product; and
- setting a floor price in a declining market allows for price gouging or profiteering which impacts on downstream product users.

11.4.2 OneSteel submission

OneSteel made a submission on 22 September 2015¹¹⁹ reiterating its position that the combination method is the most effective form of measures. The key points raised by OneSteel in its submission are summarised below:

¹¹⁷ 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.

¹¹⁸ See number 81 on the public record

¹¹⁹ See number 87 on the public record

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- in its view, the Commission has a preference for the ad valorem method because it is perceived to be the 'simplest and easiest' to administer;
- the combination method is the best aligned to the prospective anti-dumping collection system operating in Australia and if the combination method is imposed in falling market an importer may apply for a duty assessment to secure the refund of duty which has been overpaid;
- convenience to importers has been prioritised ahead of the importance of applying a remedy to ensure the injurious effects of dumping;
- a combination method gives importers and exporters a guide of an export price in which to trade with certainty;
- the combination method provides a built in disincentive to reduce export prices to avoid duties and reduces the incentive to use 'difficult to detect, off invoice' discounts and rebates;
- in times of over-capacity of steel making, exporters will be inclined to reduce export prices to maintain sales and production volumes and prevent reductions in plant utilisation rates;
- the ad valorem form of duties encourages exporters to reduce export prices to minimise or avoid duty payable, in particular when the dumping margin for a given exporter is relatively low (e.g. 2 to 5 per cent);
- OneSteel reiterates that the combination form of measures is preferred by the Committee.

11.4.3 Trade Commission of Spain

The Trade Commission of Spain submitted that the form of measures proposed in SEF 264 is appropriate in downward trending markets where there is no evidence of circumvention.

11.5 Commissioner's assessment

11.5.1 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*¹²⁰ (the Guidelines), relevant factors in the rebar market and submissions received from interested parties.

¹²⁰ Available at

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

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.

11.5.2 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. 234.¹²¹ 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,

¹²¹ 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.

in a falling market, the combination duty method can have adverse effects on downstream industries and can lead to increased reviews.

11.5.3 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 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.¹²²

11.5.4 Factors taken into consideration by the Commission

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

¹²² 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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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.

Further to the above, no evidence 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. As foreshadowed in SEF 264, the Commission also conducted further analysis of price effects and whether potential circumvention activities had occurred to avoid the intended effect of the securities (imposed as an ad valorem duty method) prior to preparing the final recommendations to the Parliamentary Secretary.

The Commission's analysis concludes that since the initiation of the investigation and the imposition of the PAD, some exporters and importers have changed their behaviour in terms of reductions in import volumes. The Commission has no other information explaining the reduction in import volumes from the nominated countries. The Commission considers this to be an indicator that the ad valorem duty method has so far been effective. The Commission's further analysis of ABF import data which sought to identify the presence of circumvention behaviour was also inconclusive.

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:

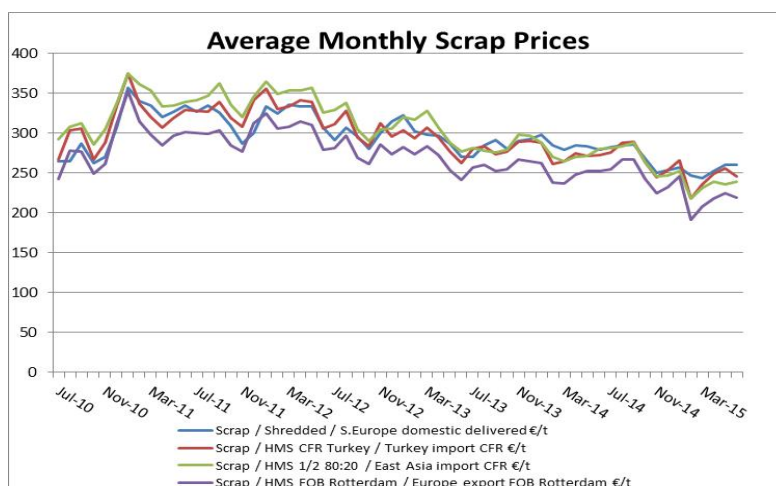


Figure 16: International Scrap Benchmark Prices – July 2010 to June 2015

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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. 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. The analysis of price offers indicates that prices from dumped and un-dumped goods from the nominated countries 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.

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 report¹²³, Sanwa advised:

“... 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.

11.5.5 Conclusion

The Commission recognises OneSteel's concerns and the recommendations of the Committee. However, based on the evidence available the Commissioner is satisfied that the ad valorem duty method is the most appropriate form of measure in the circumstances.

¹²³ See number 56 on the public record

11.6 Retrospective measures

When considering the publication of a dumping duty notice, the Parliamentary Secretary may, pursuant to subsection 269TN(3), issue a retrospective notice if:

- within 90 days after the entry of the goods for home consumption security has been taken under section 42; or
- within these 90 days the ABF had the right to require and take securities.

In this case, the Parliamentary Secretary must consider that material injury, arising from dumping, has been caused to Australian industry by the importation during a short period of large quantities of goods of the same kind, and that publication of a retrospective notice is necessary to prevent the serious undermining of the remedial effect of the dumping duty that will become payable upon publication of the dumping duty notice.

In applying subsection 269TN(3) to the goods, the Commission has considered whether:

- the importer knew, or ought to have known, that the amount of the export price of the goods was less than the normal value of the goods and that by reason thereof material injury would be caused to an Australian industry; or
- the goods are of a kind the exportation of which to Australia on a number of occasions has caused, or, but for the publication of a notice under section 269TG in respect of goods of that kind, would have caused, material injury to an Australian industry by reason of the amount of the export price of the goods exported being less than the normal value of the goods exported.

The Commission has not found any evidence to indicate that either of these grounds existed in relation to rebar exported to Australia from Korea, Singapore, Spain and Taiwan. The Commissioner does not recommend that a retrospective notice be applied in respect of rebar.

12 RECOMMENDATIONS

The Commissioner is satisfied that the dumping of rebar exported to Australia from Korea, Singapore, Spain and Taiwan (except for Power Steel) has caused material injury to the Australian industry producing like goods.

The Commissioner recommends that the Parliamentary Secretary impose:

- anti-dumping measures in the form of an ad valorem duty on rebar exported to Australia from the following countries and exporters/manufacturers listed in Table 19 below:

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	3.0%
	<i>All Other Exporters</i>	3.0%
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.	2.8%
	<i>Uncooperative and All Other Exporters (except for Power Steel Co. Ltd)</i>	6.8%

Table 19 - Recommended measures

The Commissioner recommends that the Parliamentary Secretary be satisfied:

- in accordance with subsection 269TAB(3), that sufficient information has not been furnished, or is not available, to enable the export price of rebar exported to Australia by the category of “uncooperative and all other exporters” and “all other exporters” from Korea, Singapore, Spain and Taiwan to be determined under paragraphs 269TAB(1)(a), (b), or (c);
- in accordance with sub paragraph. 269TAC(2)(a)(i), that because of the absence, or low volume, of sales of like goods in the market of the country of export that would be relevant for the purposes of determining normal value under section 269TAC(1), the normal value of goods exported to Australia cannot be determined under subsection 269TAC(1) in relation to all exports from Natsteel and Wei Chih;
- in accordance with subsection 269TAC(6), sufficient information has not been furnished or is not available to enable the normal value of goods to be ascertained under subsections 269TAC(1), (2), (5C) or (5D) for the category

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‘uncooperative and all other’ and ‘all other’ exporters from Korea, Singapore, Spain and Taiwan;

- in accordance with subsection 269TAE(2C), that the effects of the dumped exportation of goods to Australia can be assessed cumulatively from Korea, Singapore, Spain and Taiwan (except for Power Steel), having had regard to:
 - the conditions of competition between those goods; and
 - the conditions of competition between those goods and like goods that are domestically produced;
- in accordance with subsection 269TG(1) the amount of the export price of the goods exported to Australia from Korea, Singapore, Spain and Taiwan (except for Power Steel) is less than the amount of the normal value of like goods and because of that, material injury to the Australian industry producing like goods has been, or is being caused; and
- in accordance with subsection 269TG(2) the amount of the export price of like goods exported to Australia from Korea, Singapore, Spain and Taiwan (except for Power Steel) is less than the amount of the normal value of those goods and the export price of like goods that may be exported to Australia from Korea, Singapore, Spain and Taiwan (except for Power Steel) in the future may be less than the normal value of the goods and because of that, material injury to the Australian industry producing like goods has been, or is being caused or is threatened.

The Commissioner recommends that the Parliamentary Secretary determine:

- in accordance with paragraph 269TAB(1)(c), the export prices for certain exports by Daehan Steel Co., Ltd be calculated having regard to all the circumstances of the exportation;
- in accordance with subsection 269TAB(3), the export prices for the categories of “uncooperative and all other exporters” and “all other exporters” of rebar exported to Australia from Korea, Singapore, Spain and Taiwan be determined having regard to all relevant information;
- in accordance with paragraph 269TAC(2)(c), the cost of production or manufacture of the goods in the country of export, and the administrative, selling and general costs associated with the sale and the profit on that sale;
- in accordance with subsection 269TAC(6), the normal values for the categories of “uncooperative and all other exporters” and “all other exporters” of rebar exported to Australia from Korea, Singapore, Spain and Taiwan be determined having regard to all relevant information;

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- in accordance with subsection 269TACB(1) by comparison of 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, that exports of the goods from Korea, Singapore, Spain and Taiwan (except for Power Steel) were dumped.

The Commissioner recommends that the Parliamentary Secretary direct:

- in accordance with subsection 269TAC(8), the price paid or payable for like goods sold in Korea and Spain be taken to be such a price adjusted for differences between domestic and export sales to ensure a fair comparison; and
- in accordance with subsection 269TAC(9), the price paid or payable for like goods sold in Singapore and Taiwan (except for Power Steel) be taken to be such a price adjusted for differences between domestic and export sales to ensure a fair comparison.

The Commissioner recommends that the Parliamentary Secretary compare:

- in accordance with paragraph 269TACB(2)(a), the weighted average of export prices of the goods over the whole of the investigation period with the weighted average of corresponding normal values of like goods over the whole of that period in relation to Korea, Spain, Singapore and Taiwan (except for Power Steel).

The Commissioner recommends that the Parliamentary Secretary declare:

- in accordance with subsection 269TG(1), by public notice, that section 8 of the Dumping Duty Act applies to:
 - the goods exported by all exporters from Korea, Singapore, Spain and Taiwan (except for Power Steel) to the extent permitted by section 269TN; and
 - like goods that were exported to Australia by all exporters from Korea, Singapore, Spain and Taiwan (except for Power Steel) after the Commissioner made a PAD under section 269TD on 13 March 2015 but before publication of the notice, to the extent permitted by section 269TN¹²⁴; and
- in accordance with subsection 269TG(2), by public notice, that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia by all exporters from Korea, Singapore, Spain and Taiwan (except for Power Steel) after the date of publication of the notice.

¹²⁴ Securities taken in relation to PAD 264 published on 13 March 2015 were amended on 6 May 2015 in relation to Ann Joo Steel, Celsa Barcelona and Celsa Nervacero (ADN 2015/50 refers) and further amended on 4 September 2015 to reflect the findings contained in SEF 264 (ADN 2015/107 refers).

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The Commissioner recommends the Parliamentary Secretary have regard:

- in accordance with subsection 8(5B) of the Dumping Duty Act, to the desirability of fixing a lesser amount of duty than the dumping margins found, noting the findings at chapter 10 that the lesser duty rule has no practical application because the NIP has been set equal to the exporter's normal values.

13 APPENDICES AND ATTACHMENTS

Confidential Appendix 1	Calculations of export price, NIP, normal value and dumping margins
Non-Confidential Attachment 1	List of submissions received on or prior to 2 September 2015
Non-Confidential Attachment 2	List of submissions received after 2 September 2015
Non-Confidential Attachment 3	Public Notice – declaration under subsections 269 TG(1) and (2) of the Act
Non-Confidential Attachment 4	Public Notice – declaration under subsection 8(5) of the Dumping Duty Act

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ATTACHMENT 1

Date Received	Submission from	Submission Title	EPR No.
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 2014	Directorate General of Exports, Ministry of Economy, Republic of Turkey	Views of Turkey regarding the anti - dumping investigation initiated by Australia against steel reinforcing bar imports from the Republic of Korea, Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand and the Republic of Turkey.	10
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	27

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Date Received	Submission from	Submission Title	EPR No.
		Korea, Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand and the Republic of Turkey – response to Issues Paper 2015/01	
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 reinforcing bar exported by Daehan from Korea.	30
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	44

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Date Received	Submission from	Submission Title	EPR No.
		and its causation	
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 the Republic of Korea.	46
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 meting 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
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	70

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Date Received	Submission from	Submission Title	EPR No.
		Calculation	
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
24 August 2014	OneSteel Manufacturing Pty Ltd	Investigation into Steel Reinforcing Bar –Daehan Steel Co., Ltd Exporter Visit Report	80

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ATTACHMENT 2

Date Received	Submission from	Submission Title	EPR No.
15/9/2015	SANWA	Combination / Ad valorem duty	81
21/9/2015	OneSteel Manufacturing	Exporter visit report for Natsteel Holding Pte Ltd and importer visit report for Best Bar Pty Ltd and Natsteel Australia Pty Ltd	82
21/9/2015	European Commission	Written submission of the European commission on the Statement of Essential Facts No. 264	83
21/9/2015	Turkish Steel Importers Association	Written submission on the Statement of Essential Facts 264	84
22/9/2015	Trade commission of Spain	Written submission on the Statement of Essential Facts 264	85
22/9/2015	John Bracic on behalf of Daehan Steel Co., Ltd.	Submission is made in response to the Investigation into Steel Reinforcing Bar exported from the Republic of Korea.	86
22/9/2015	OneSteel Manufacturing	Submission is made in response to the Statement of Essential Facts 264 regarding countries not visited during the case.	87
22/9/2015	John Bracic on behalf of Daehan Steel Co., Ltd	Submission is made in relation to Statement of Essential Facts 264 for Steel Reinforcing Bar exported from the Republic of Korea	88
22/9/2015	Staughtons Trade Advisory Group Pty Ltd on behalf of Wei Chih Steel Industrial Co., Ltd.	Submission made by Wei Chih Steel of Taiwan in response to the Commission's SEF 264	89
23/9/2015	Moulis Legal on behalf of Best Bar Pty Ltd	Submission into alleged dumping of reinforcing bar from Singapore Comments on Statement of Essential Facts No. 264	90
23/9/2015	Moulis Legal on behalf of Natsteel Holding Pte Ltd	Submission of alleged dumping of reinforcing bar from Singapore Comments regarding Statement of Essential Facts No. 264	91
23/9/2015	Moulis Legal on behalf of Compania Espanola de Laminacion and Nervacero, S.A.	Submission of Investigation concerning the alleged dumping of rebar	92