

November 5, 2020

SUBMITTED BY EMAIL

PUBLIC

SIMA Registry and Disclosure Unit
Anti-Dumping and Countervailing Directorate
Canada Border Services Agency
100 Metcalfe Street, 11th Floor
Ottawa, ON K1A 0L8

Dear Sir/Madam:

**RE: Concrete Reinforcing Bar 1
Request for Normal Value Review**

ICDAS Celik Enerji Tersane ve Ulasim Sanayi A.S.

We represent ArcelorMittal Long Products Canada G.P. (“**AMLPC**”), a domestic producer of concrete reinforcing bar (“**rebar**”) and participant in the Canada Border Services Agency’s (the “**CBSA**”) most recent normal value review into dumped rebar from Turkey (RB1 2018 UP ICDAS).

AMLPC has reviewed the public version of ICDAS Celik Enerji Tersane ve Ulasim Sanayi A.S. (“**ICDAS**”) normal value review (“**NVR**”) request, dated October 9, 2020. The CBSA should defer initiating NVRs (or re-investigations) for rebar until price, cost and demand volatility associated with the global pandemic have stabilized. ICDAS’ request appears to be designed to take advantage of the recent decline in prices and costs in order to secure low normal values before prices and costs increase as the global economy recovers from the COVID-19 pandemic.

In addition, we note that the CBSA Antidumping and Countervailing Duty Directorate is facing unprecedented circumstances and an extremely high workload involving proceedings with mandatory statutory deadlines in other priority proceedings under the *Special Import Measures Act* (“**SIMA**”). The Canadian government even passed extraordinary legislation to extend statutory timelines for various statutes, including SIMA. For example, the CBSA’s final determination in the *Corrosion-Resistant Steel 2* (NQ-2019-002) case was delayed by 4 months. NVRs are discretionary proceedings that should only be undertaken in appropriate circumstances, taking into consideration not only market factors, but also the availability of resources to conduct NVRs given the demands associated with other priority SIMA proceedings.



Access to the Confidential Record

AMLPC was not provided access to ICDAS' confidential normal value request. The principles of procedural fairness require that a party know the case to meet.¹ In all other SIMA proceedings, the CBSA balances this basic legal principle with the need to protect confidential business information by providing outside legal counsel that have submitted undertakings with exclusive access to the confidential record. In this case, however, the CBSA has declined to provide access to counsel with undertakings on the basis that there is no official proceeding underway.

The CBSA's refusal to provide counsel with the confidential normal value review request undermines the objective and purpose of making normal value requests fair and transparent by providing AMLPC with the ability to comment on such requests. The Rebar 1 Finding is for the benefit of the domestic industry and the domestic industry has an interest in any review of ICDAS' normal values. However, the domestic industry cannot comment on whether the facts warrant a normal value review when those facts are withheld. By depriving AMLPC's counsel access to the confidential version of ICDAS' normal value request, the CBSA has infringed on the domestic industry's right to procedural fairness.

Initiating would be contrary to the purpose of normal value reviews and SIMA

ICDAS seeks to have its normal values updated to reflect prices and/or costs at the bottom of the current economic downturn. With prices now increasing, ICDAS is hoping to use this process to gain a competitive advantage in the Canadian market. Any normal values issued to ICDAS based on depressed prices and costs would be outdated as soon as they are issued and provide ICDAS with normal values that would not reflect the prices and costs that are expected to prevail in 2021.

The purpose of NVRs is not to ensure that exporters from countries subject to SIMA findings have low-priced access to the Canadian market. Rather, the purpose is: "...to ensure effective enforcement of the Canadian International Trade Tribunal's (CITT) orders and findings".² Timing a NVR request to capture the bottom of the price cycle, at a time when current prices are rising, is patently inconsistent with this purpose.

¹ *Canadian Pacific Railway Company v. Canada (Attorney General)*, 2018 FCA 69 at para 56.

² *Re-investigation and Normal Value Review Policy – Special Import Measures Act (SIMA)*, Memorandum D14-1-8, Issued July 19, 2019, available online: <https://www.cbsa-asfc.gc.ca/publications/dm-md/d14/d14-1-8-eng.html> at para. 1.

³ See e.g. *Gypsum Board*, GC-2016-001, Statement of Reasons (January 19, 2017), at para 37; *Caps, Lids and Jars*, PB-95-001, Statement of Reasons (February 26, 1996).



Updating normal values to capture a period of extremely low pricing is also inconsistent with the purpose of SIMA. The Tribunal has consistently held that “the object and purpose of SIMA is to protect domestic industries from injury caused or threatened by the dumping or subsidizing of foreign goods”.³ The evidence described in and attached to this letter demonstrates that updating normal values at this time would result in normal values below prevailing market prices. This would expose the domestic industry to injury rather than protecting it.

The global and Turkish rebar prices have been in a state of flux

The global coronavirus pandemic, and corresponding economic downturn, have affected rebar pricing and demand in every market.

In its public submissions, ICDAS notes that its current normal values are based on its sales and cost data for April and May 2018. ICDAS provides its average domestic selling price and average raw material cost for June 2018 and August 2020.⁴ ICDAS also compares its current normal values to its August 2020 domestic selling prices.⁵ All of this information has been redacted from the public version and therefore counsel is unable to comment on ICDAS’ reported prices and costs.

These submissions therefore compare CRU and MetalBulletin pricing from this same period and through early October 2020. AMLPC notes that ICDAS did not provide monthly or even quarterly price data; it appears to have only provided pricing for two data points (June 2018 and August 2020). Further, despite requesting a normal value request in mid-October, it did not provide more recent September 2020 pricing.

⁴ ICDAS public representations in its request for a normal value review (October 9, 2020) at Tables 1, 2.

⁵ *Ibid.*, at Table 3.



Table 1 below reports MetalBulletin prices for rebar for various markets:

Table 1
MetalBulletin Rebar – Domestic Rebar Markets (US\$/MT)⁶

US\$/MT	China	CIS export	Egypt	Northern Europe	Southern Europe	Turkey	Singapore import
Q1 2018	[
Q2 2018							
Q3 2018							
Q4 2018							
Q1 2019							
Q2 2019							
Q3 2019							
Q4 2019							
Q1 2020							
Q2 2020							
Q3 2020]

⁶ Confidential Attachment 1: MetalBulletin pricing for rebar. All prices are domestic unless indicated otherwise. Turkish data is only available as of August 2018 due to a change in MetalBulletin's pricing methodology. China is the average price for China East and China North.



Table 2 below reports CRU's prices for rebar, both past and forecast. Note there is no pricing available for Turkey and no forecast pricing available for Italy, Spain and the United Kingdom.

Table 2
CRU Long Products Market Outlook September 2020 – Rebar
(US\$/MT)⁷

US\$/MT	2018				2019				2020				2021			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
US Midwest	[
Germany																
Italy																
Spain																
UK																
China																
Asia																
UAE]

Tables 1 and 2 above report that global and European rebar [].

⁷ Confidential Attachment 2: CRU Long Products Market Outlook (September 2020), Tables S42 and S43. Prices for Q3 2020 to Q4 2021 are forecast.



Table 3 below summarizes the average rebar price declines between Q3 2018 (Turkish domestic pricing is only available as of August 2018) and Q3 2020 to capture a similar period as reported by ICDAS:

Table 3
Rebar price declines from Q3 2018 to Q3 2020⁸

Rebar prices	% change Q3 2018 vs Q3 2020
MetalBulletin	
China average	[
CIS export	
Egypt	
Northern Europe	
Southern Europe	
Turkey	
Singapore import	
CRU	
US Midwest	
Germany	
China	
Asia	
UAE]

MetalBulletin and CRU report the average rebar price decline between Q3 2018 and Q3 2020 was []% in all markets and []% for Turkey.



In most markets, economic recovery began in Q3 2020 and remains ongoing. As reported at Table 2, CRU forecasts rebar prices to stabilize over the Q1 2021 to Q4 2021 period.

MetalBulletin also reported that Turkish rebar prices []⁹ In particular, Turkey's rebar price was []. Pricing rose US\$[]/MT or []% from [] alone.¹⁰

The basis of ICDAS' normal value review request is that there was a downward trend in the price of rebar. The recent price volatility []

], but current forecasts are that the price of rebar is in a state of recovery.¹¹ It is unreasonable to recalculate prospective normal values in the middle of a pandemic induced economic upheaval, particularly when recovery is underway. Any new normal value calculated today would most likely need to be reviewed at the end of the pandemic once rebar markets have normalized. Initiating a review now would result in a waste of CBSA resources and unnecessary costs to all parties.

Further, the domestic industry objects to calculating prospective normal values based on Q2 or Q3 2020 pricing, costs and profits. These quarters were the bottom of an unprecedented economic downturn and an anomaly. It would undermine the objective of SIMA to permit exporters to take advantage of unprecedented economic turmoil by allowing them to set prospective normal values based on the lowest market pricing and costs during a pandemic induced economic downturn.

Depreciation of the Turkish Lira

In the event that CBSA initiates a NVR, AMLPC submits that any normal values for ICDAS should continue to be calculated in U.S. dollars (rather than in Turkish lira).

The Turkish lira depreciated rapidly and significantly in 2017 and 2018, as noted by the CITT in its Safeguard Inquiry.¹² In the NVR that concluded in December 2018 (when ICDAS' normal values were last updated), the CBSA established normal values in U.S. dollars: "The information

⁹ Confidential Attachment 1: MetalBulletin pricing for rebar at p. 2.

¹⁰ Confidential Attachment 1: MetalBulletin pricing for rebar at p. 2.

¹¹ Confidential Attachment 1: MetalBulletin pricing for rebar at p. 2; Confidential Attachment 2: CRU Long Products Market Outlook (September 2020), Table S42.

¹² *Certain Steel Goods*, Safeguard Inquiry No. GC-2018-001 (April 3, 2019) at p. 56, 57, 64. The Tribunal stated: "The information on the record indicates that the Turkish lira lost 7.2 percent of its value versus the Canadian dollar in 2016, followed by a further 23.3 percent decline in 2017 and finally another 32.3 percent decline in 2018."



on the record shows a volatile exchange rate for the Turkish Lira and high levels of inflation in Turkey. To address these factors the CBSA issued the normal values to ICDAS in U.S. Dollars.”¹³

The Turkish Lira continued to depreciate in 2019 and 2020.¹⁴ From January 2019 to September 2020, the Lira depreciated a further 29%, with the majority of the decrease occurring this year (drop of 21% from January to September 2020).

ICDAS normal values were last updated based on sales and cost data from April and May 2018. At that time, the value of the Turkish Lira was TRY 0.3025 to the Canadian dollar. In September 2020, the Turkish Lira is only 0.1750, a decrease of 42%. The value of the Turkish Lira is currently at a 4-year low.¹⁵

For these reasons, any new normal values for Turkish exporters must be established in U.S. dollars (not Turkish lira).

NVRs are a means to address outdated normal values. The elapsed time since values were last issued is a stated consideration in CBSA’s normal value review policy.¹⁶ However, CBSA should also consider the substantive question of whether updated normal values are likely to be more or less representative of present and near-term market conditions. Where holding a review would likely increase rather than narrow the gap between those values and prevailing prices, CBSA should decline to initiate a review. Conducting a NVR at this time will increase the gap between prospective normal values and prospective Turkish prices and costs. In other words, if CBSA were to initiate a NVR, it would be introducing rather than addressing a distortion in the market by providing ICDAS with normal values tied to an irregular pricing and costing event.

Conclusion

From time-to-time it is necessary to update prospective normal values. However, it is not appropriate to do so in the middle of a global economic downturn, when the period of investigation will include an abnormally low-priced quarter and where the proposed period of investigation is forecast to precede an immediate economic recovery. Instead, it is most appropriate to defer the normal value review until such time that markets and prices stabilize.

¹³ *Concrete Reinforcing Bar*, Notice of Conclusion of Normal Value Review, RB1 2018 UP ICDAS (December 18, 2018).

¹⁴ Public Attachment 3: Bank of Canada monthly average exchanges rates for 2017-present (2016 data not available) and XE.com graph of exchange rate between TRY and CAD for 2016-present.

¹⁵ *Ibid.*, p. 2.

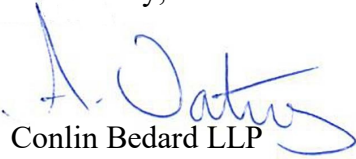
¹⁶ *Ibid.*, at para. 12(b).



Further, the high work-load currently facing CBSA involving SIMA proceedings with mandatory timelines must be taken into consideration given priority at this time. We submit that CBSA should decline to initiate a NVR at this time.

If the CBSA chooses to initiate a normal value review at this time, it should expect that the domestic industry will insist on a subsequent review once prices have normalized following the economic downturn.

Yours truly,



Conlin Bedard LLP



List of Attachments

Attachment	Description
Confidential Attachment 1	MetalBulletin pricing for rebar
Confidential Attachment 2	CRU Long Products Market Outlook (September 2020)
Public Attachment 3	Bank of Canada monthly average exchanges rates for 2017-present (2016 data not available) and XE.com graph of exchange rate between TRY and CAD for 2016-present

Concrete Reinforcing Bar 1
Request for Normal Value Review
CDAS Celik Enerji Tersane ve Ulasim Sanayi A.S.

Public Summary of Confidential Attachment 1

Confidential Attachment 1 contains
rebar pricing from MetalBulletin which
is subject to copyright restrictions.

PUBLIC

**Public Summary of
Confidential Attachment 2**

Confidential Attachment 2 contains pricing from CRU Long Products Market Outlook (September 2020) which is subject to copyright restrictions.

PUBLIC

Public Attachment 3

TERMS AND CONDITIONS

<https://www.bankofcanada.ca/terms/>

NAME

Monthly exchange rates

DESCRIPTION

Monthly average exchange rates - published by 16:30 ET on the last business day of each month. All Bank of Canada exchange rates are indicative rates only.

date	FXMTRYCAD
2017-01-01	0.3512
2017-02-01	0.3577
2017-03-01	0.3646
2017-04-01	0.3681
2017-05-01	0.3816
2017-06-01	0.3778
2017-07-01	0.3563
2017-08-01	0.3596
2017-09-01	0.3534
2017-10-01	0.3427
2017-11-01	0.3280
2017-12-01	0.3325
2018-01-01	0.3296
2018-02-01	0.3324
2018-03-01	0.3326
2018-04-01	0.3133
2018-05-01	0.2917
2018-06-01	0.2836
2018-07-01	0.2750
2018-08-01	0.2203
2018-09-01	0.2070
2018-10-01	0.2244
2018-11-01	0.2466
2018-12-01	0.2524
2019-01-01	0.2479
2019-02-01	0.2503
2019-03-01	0.2442
2019-04-01	0.2323
2019-05-01	0.2228
2019-06-01	0.2289
2019-07-01	0.2313
2019-08-01	0.2349
2019-09-01	0.2322
2019-10-01	0.2280
2019-11-01	0.2306
2019-12-01	0.2251
2020-01-01	0.2208
2020-02-01	0.2189
2020-03-01	0.2199
2020-04-01	0.2048
2020-05-01	0.2016
2020-06-01	0.1987
2020-07-01	0.1962
2020-08-01	0.1813
2020-09-01	0.1750

PUBLIC

For more information, visit www.xe.com

With this convenient tool you can review market history and analyze rate trends for any currency pair. All charts are interactive, use mid-market rates, and are available for up to a 10 year time period.

To see a currency chart, select your two currencies, choose a time frame, and click to view.

 TRY - Turkish Lira

 CAD - Canadian Dollar

[VIEW CHART](#)

XE Currency Charts: TRY to CAD

30 Oct 2015 00:00 UTC - 28 Oct 2020 00:30 UTC TRY/CAD close:0.16095 low:0.16071 high:0.48043



[Transfer from TRY to CAD](#)

[Set rate alerts for TRY to CAD](#)