



CUSTOMS ACT 1901 - PART XVB

TERMINATION OF PART OF AN INVESTIGATION

TERMINATION REPORT

TER 319

**ALLEGED DUMPING OF CHROME BAR
EXPORTED FROM ITALY**

August 2016

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ABBREVIATIONS

\$	Australian Dollar
ADN	Anti-Dumping Notice
CIF	Cost, insurance and freight
CTMS	Cost to make and sell
DCS	Developing countries
DIBP	Department of Immigration and Border Protection
EXW	Ex works
FIS	Free into store
FOB	Free on board
Milltech	Milltech Pty Ltd
Minister	Minister for Industry, Innovation and Science
Ministerial Direction	<i>Ministerial Direction on Material Injury 2012</i>
OCOT	Ordinary course of trade
PAD	Preliminary Affirmative Determination
SEF	Statement of Essential Facts
SG&A	Selling, general and administrative costs
Stelmi	Stelmi S.p.A.
the Act	<i>Customs Act 1901</i>
the applicant	Milltech Pty Ltd; also Milltech
the Commission	Anti-Dumping Commission
the Commissioner	Commissioner of the Anti-Dumping Commission
the goods	the goods, the subject of the application (also referred to as the goods under consideration or GUC). In this case, chrome-plated steel bar.
the Guidelines	<i>Guidelines on the Application of the Form of Dumping Duty November 2013</i>
the Manual	<i>Dumping and Subsidy Manual November 2015</i>
the Parliamentary Secretary	The Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>

1 INTRODUCTION AND FINDINGS

1.1 Introduction

This report has been prepared as part of investigation number 319 into allegations by Milltech Pty Ltd (Milltech) that chrome plated steel bar (chrome bar – the goods) exported to Australia at dumped prices from Italy and Romania, has caused material injury to the Australian industry producing like goods.

This report sets out the Commissioner of the Anti-Dumping Commission's (the Commissioner) reasons to terminate the investigation in respect of chrome bar exported to Australia from Italy.

1.2 The Commissioner's findings

The Commissioner has investigated alleged dumping of chrome bar from Italy and has found that chrome bar exported from Italy has not been at dumped prices. To determine whether chrome bar exported from Italy has been dumped, the Commission compares the export price of Italian chrome bar sold into Australia with the normal value, which is typically the selling price of chrome bar sold in Italy. The difference between the normal value and the export price is known as the dumping margin. If the dumping margin is found to be below two per cent, it is considered negligible and the Commissioner must terminate the investigation.

The Commission's assessment of dumping margins for chrome bar exported from Italy is outlined in Table 1.

Italian exporter	Dumping Margin
<i>Stelmi S.p.A</i>	-6.7%

Table 1: Dumping margins for exports from Italy

1.3 The Commissioner's decision

In respect of *Stelmi S.p.A* (*Stelmi*), the Commissioner is terminating the investigation under subsection 269TDA(1) on the basis of the Commission's finding that exports by *Stelmi* were not dumped (subsection 269TDA(1)(b)(i)).

The Commissioner is terminating the investigation in so far as it relates to Italy under subsection 269TDA(3) of the *Customs Act 1901*¹ on the basis that the volume of dumped goods exported from Italy is negligible.

1.4 Authority to make decision

Division 2 of Part XVB describes, among other matters, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to the goods covered by an application for the purpose of making a report to the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary

¹ All legislative references in this report are to the *Customs Act 1901*, unless otherwise stated.

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to the Minister for Industry, Innovation and Science (the Parliamentary Secretary).² Section 269TDA describes the circumstances in which the Commissioner must terminate an investigation.

1.5 Public record

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. The [public record](#) is available on the Commission's website at www.adcommission.gov.au.

This report should be read in conjunction with documents on the [public record](#).

² The Minister for Industry, Innovation and Science has delegated responsibility with respect to anti-dumping matters to the Parliamentary Secretary, and accordingly, the Parliamentary Secretary is the relevant decision maker. On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science.

2 BACKGROUND

2.1 Application

On 16 October 2015, Milltech lodged an application requesting that the then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science publish a dumping duty notice in respect of chrome bar exported to Australia from Italy and Romania.

Milltech alleges that the Australian industry has suffered material injury caused by chrome bars exported to Australia from Italy and Romania at dumped prices.

2.2 Initiation

The Commissioner, on 10 November 2015, initiated investigation number 319. Public notification of the initiation of the investigation was published in Anti-Dumping Notice (ADN) No. 2015/130 which is available on the [public record](#).

2.3 Statement of Essential Facts

On 9 May 2016, the Commissioner published his statement of essential facts (SEF). In the SEF, the Commissioner proposed to terminate the investigation based on the findings that are set out in the SEF and subject to any submissions received in response to it.

On 15 July 2016, the Commissioner published an issues paper (Issues Paper 2016/02), which provided a reconsideration of the Commissioner's proposal in the SEF to terminate the investigation against Romania. In the issues paper, the Commissioner did not depart from the proposal in the SEF to terminate the investigation in so far as it relates to Stelmi and Italy.

The SEF, ADN 2016/20 and Issues Paper 2016/02 is available on the [public record](#). This report should be read in conjunction with those documents.

2.4 Submissions received from interested parties

The Commission has received a number of submissions from interested parties during the course of the investigation. Each submission has been considered by the Commission in the conduct of this investigation.

The Commission received one submission in respect of Stelmi's dumping margin calculation, which was from Milltech.

The submissions received are listed in **Non-Confidential Attachment 1**.

3 THE GOODS

3.1 The goods under consideration

The goods which are the subject of the investigation are:

Chromium plated circular solid steel bars (chrome bars) that have all of the following characteristics:

- *circular cross section;*
- *made from alloy or non-alloy steel bar;*
- *chrome plating of any thickness;*
- *lengths not greater than 8 metres; and*
- *diameters in the range 18mm to 170mm.*

Goods excluded from this application include:

- *chromium plated steel bars with oval or flattened circle cross sections; and*
- *hollow or tubular chrome plated bars;*

Further information on the goods can be found in the industry visit report and in SEF 319 which are available on the [public record](#).

4 DUMPING INVESTIGATION

4.1 Introduction

Dumping occurs when a product from one country is exported to another country at a price less than its normal value.

To determine whether dumping has occurred the Commission compared the export price with the normal value to determine a dumping margin. If the dumping margin is below two per cent, it is considered negligible and the Commissioner is required to terminate the investigation.

The export price and normal value of goods are determined under section 269TAB and section 269TAC respectively. Termination provisions are set out in section 269TDA.

4.2 The Commissioner's findings

The Commission has investigated alleged dumping of chrome bar from Italy by Stelmi, the only exporter of chrome bar from Italy during the investigation period (1 October 2014 to 30 September 2015) and has found that chrome bar exported from Italy has not been at dumped prices.

Italian exporter	Dumping Margin
<i>Stelmi S.p.A</i>	-6.7%

Table 2: Dumping margins for exports from Italy

4.3 Dumping margin calculations for Stelmi

4.3.1 Export price

The Commission has relied on data provided by Stelmi and has calculated export prices under subsection 269TAB(1)(a) as the goods:

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

The Commission calculated export prices at ex works terms, as it was not possible to accurately identify inland transport cost from the expenses incurred for goods shipped on cost, insurance and freight terms.

4.3.2 Normal value

The Commission used Stelmi's domestic sales data to calculate a normal value, being the price paid or payable for like goods sold in the ordinary course of trade (OCOT) for home consumption in Italy, in sales that are arm's length transactions by Stelmi, pursuant to subsection 269TAC(1).

4.3.2.1 Adjustments

To ensure the comparability of normal values to export prices, the Commission considers that following adjustments to the normal value are required for maintaining price comparability pursuant to subsection 269TAC(8):

Adjustment Type	Deduction/addition
Export packaging charges	Add cost of export packaging charges
Domestic credit charges	Subtract cost of domestic credit
Export credit charges	Add cost of export credit
Specification adjustment	Add / subtract amount for specification adjustment to normal value of surrogate models

Table 3: Adjustments to normal value

4.3.3 Dumping margin

Following the necessary adjustments, the Commission compared the weighted average of quarterly export prices over the whole of the investigation period with the weighted average of quarterly corresponding normal values over the whole of that period, in accordance with subsection 269TACB(2)(a).

The weighted average product dumping margin for chrome bar exported to Australia by Stelmi for the investigation period is **-6.7 per cent**. Under subsection 269TDA(1), if the Commissioner is satisfied that there has been no dumping by an exporter, the Commissioner must terminate the investigation so far as it relates to that exporter.

Further details regarding the dumping margin calculations for Stelmi are at **Confidential Appendix 1** and in the Commission's visit report for Stelmi, which is located on the [public record](#).

4.4 Volume of dumped imports

The Commission has also considered the volume of dumped Italian exports of chrome bar during the investigation period.

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

The volume of dumped goods exported from Italy, when expressed as a percentage of the total Australian import volume, is zero per cent and is therefore negligible. Accordingly, the Commissioner must also terminate the investigation in relation to Italy under subsection 269TDA(3) of the Act.

4.5 Submissions received

The Commission received one submission in respect to Stelmi's dumping margin calculation. On 25 July 2016, Milltech lodged a submission that stated that Milltech disagreed with the Commission's findings in respect of Italian exports.

Milltech claimed that Stelmi has been unprofitable, and has sustained losses from 2013 to 2015. Milltech included a copy of Stelmi's 2015 financial statement, which shows a loss of €1.29 million for that year. Milltech claimed that such a loss is difficult to reconcile with the negative dumping margin calculated by the Commission. Milltech also highlighted a statement from Stelmi's 2014 financial statement that included a note that stated the company has been forced to sell below cost.

4.5.1 The Commission's assessment

The Commission notes that Stelmi manufactures and sells a range of products related to chrome bar and tubes. Some of these products are not like goods to the chrome bar subject to the Commission's investigation. These excluded goods include stainless steel chrome bar, and tube-related products.

Stelmi's income statements from 2014 and 2015 provide an overall income statement that includes sales of all goods in all markets. There is no differentiating sales between products or markets. The Commission is unable to determine whether Stelmi's sales for all products are unprofitable, or whether sales in the domestic or export markets in which it sells chrome bar are also unprofitable.

Similarly, the note in Stelmi's 2014 financial statement states that Stelmi faces 'fierce competition' from Eastern (European) countries that have forced the company to sell below cost. The Commission notes that this statement does not indicate which sales are affected, and whether Stelmi's sales to Australia are included. It is not clear which product lines are loss-making.

The Commission notes that a dumping margin is the comparison between the normal value and the export price. A negative dumping margin can occur when the normal value – that is, the price of like goods sold in the ordinary course of trade in the exporter's domestic market – is less than export price to Australia. The Commission conducted its calculations of normal value for Stelmi in accordance with legislative requirements outlined above and in the verification visit report. The OCOT test eliminates certain unprofitable sales from the dumping margin calculations, and then tests whether there are sufficient sales in OCOT sold at arm's length. The Commission found sufficient sales in OCOT to calculate a normal value.

Milltech's argument assumes that Stelmi's Australian sales are unprofitable. The Commission requires positive evidence when making a determination. Given Stelmi's financial statements do not indicate what products are loss making nor in which markets Stelmi is sustaining losses, the Commission cannot verify Milltech's claims. The Commission, during its verification visit, analysed export sales and domestic sales to determine export prices and normal value and was satisfied that sales were arm's length and could be used to determine a normal value.

The Commission remains satisfied of its calculations of the dumping margin in respect to Stelmi.

5 TERMINATION OF PART OF THE INVESTIGATION

Under subsection 269TDA(1)(b)(i), if the Commissioner is satisfied that there has been no dumping by an exporter, the Commissioner must terminate the investigation so far as it relates to that exporter. The Commissioner is satisfied that the goods exported by Stelmi in the investigation period were not dumped. Therefore, the Commissioner must terminate the investigation so far as it relates to chrome bar exported by Stelmi.

In relation to Italy, the Commissioner must terminate the investigation under subsection 269TDA(3) on the basis that the volume of dumped goods exported from Italy to Australia is negligible (being less than 3 per cent of the total Australian import volume) ³. This is because, based on the Commission's finding that exports from Stelmi were not dumped, and that there were no other exporters of chrome bar from Italy during the investigation period, the volume of dumped goods from Italy is zero. Therefore, the volume of dumped goods exported from Italy, when expressed as a percentage of the total Australian import volume, is zero per cent which is less than three per cent. The Commissioner therefore must terminate the investigation so far as it relates to Italy under subsection 269TDA(3).

³ Subsection 269TDA(4).

6 APPENDICES AND ATTACHMENTS

Confidential Appendix 1	Dumping calculations for Stelmi
Non-Confidential Attachment 1	List of submissions relating to Investigation 319

PUBLIC RECORD

NON-CONFIDENTIAL ATTACHMENT 1 – INTERESTED PARTY SUBMISSIONS

Public Record No.	Title of Submission	Party Making Submission	Date Published
5	Tariff classifications	Valbrunna Australia	5 January 2016
7	Submission to the Anti-Dumping Commission	Nimet srl	11 January 2016
23	Response to the Van Leeuwen Visit Report	Milltech Pty Ltd	27 April 2016
25	Response to SEF 319	Milltech Pty Ltd	31 May 2016
28	Response to Issues Paper 2016/02	Milltech Pty Ltd	25 July 2016
31	Response to Issues Paper 2016/02	European Commission	27 July 2016
32	Response to European Commission submission	Milltech Pty Ltd	2 August 2016
33	Response to Issues Paper 2016/02	Nimet srl	2 August 2016
34	Response to Nimet submission	Milltech Pty Ltd	2 August 2016