7 August 2019

# Submission in respect of Continuation Inquiry No. 517

**Deep Drawn Stainless Steel Sinks**
**Exported to Australia from the People's Republic of China**
**ADN 2019/86**

Dear Sir or Madam

We thank you for the opportunity to offer input on this topic and make note of our strong objection to the continuation of these measures.

Milena was not approached during the original investigation and the damage done by the Measures to our local manufacturing has been substantial and devastating. Milena products have been manufactured in Australia since 1976. Originally we produced everything in Australia and it was only when supply issues (mostly relating to the price of Nickel) became untenable that we stopped pressing our own Stainless Steel tubs here. We have however always continued local production of our injection-moulded plastic cabinets and plastic tubs.

The biggest disaster with the original investigation was that it failed to recognize the damage it could and did do to our locally made products.

The pretence that using MEPS data or the subsequent use of PLATTS data relating to North America and Europe was a fair and reasonable approach for establishing "Normal Value" is also mindboggling. It is well know that China is the largest producer of Steel in the World and in fact currently produces and uses more Steel than the rest of the World combined. It is also well known that China has benefitted from the availability of cheap energy and minerals … purchased from Australia!!! The further pretence that Oliveri needs protection based on some of the highest prices in the World while they are in fact buying the same Asian Stainless Steel that the Chinese Exporters are using is perhaps not criminal, is probably immoral but is most certainly opportunistic. If Oliveri wants to claim that they can't purchase Stainless Steel at the same price as the Chinese Exporters then it is time for them to present some proof of this claim.

Attached are some specific points that we wish considered. They cover the damage caused to Milena by the Measures and also highlight a multitude of reasons why a Continuation is neither desirable or correct. In fact I am firmly of the opinion that the original Measures have been proven to be so ill-advised that some remedial measures are probably deserved to try correct the damage caused.

Yours sincerely,

[redacted]

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# 1. DAMAGE DONE TO MILENA

Prior to the Measures Milena's best seller was our 45L Cabinet & SS Tubs – the Stainless Steel tub being a Component added to our locally made cabinet and packaging. The cabinet is specifically made for the tub and conversely the tub is specifically made for the cabinet – neither functions without the other.

(STC-45MS)

(CONTOUR-45SS)

We always had to compete against some imported products but were able to be competitive and maintained a substantial market share.

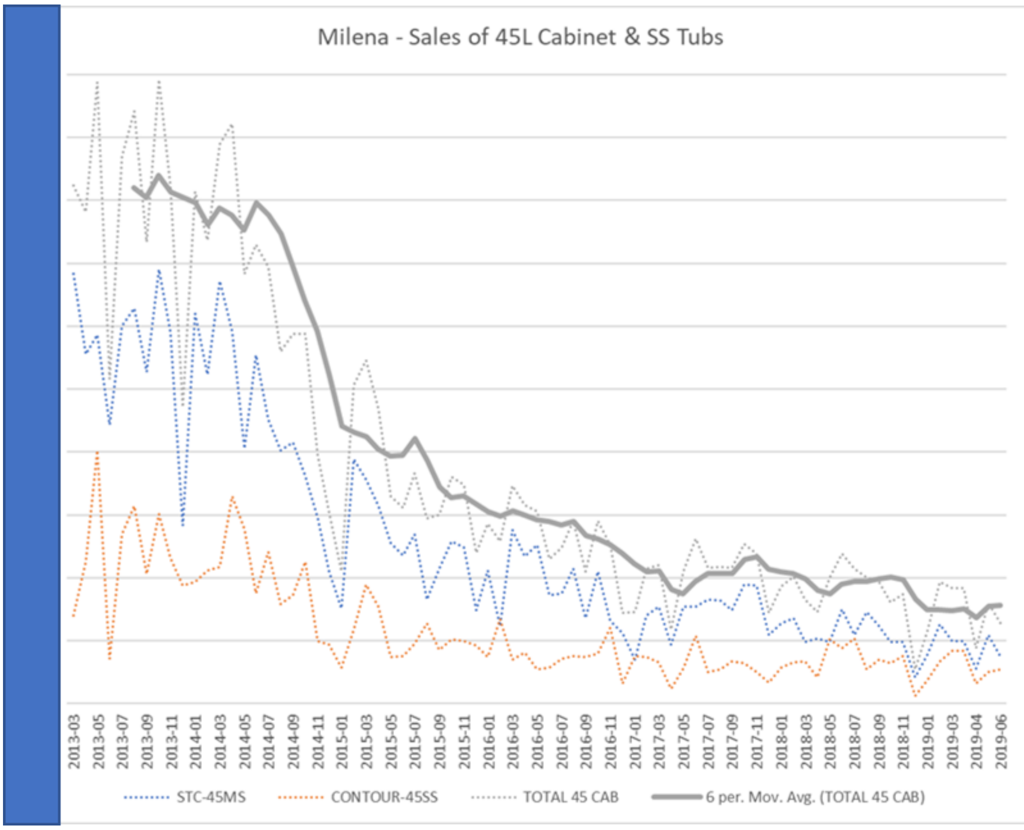
Then the Measures were introduced and we were confronted with Fully Imported Products similar to ours being Exempt!!!

We were forced to pass on an increase to cover the cost of the Dumping Duty and almost immediately the floodgates opened with a number of our previously loyal customers either buying fully imported units from suppliers who had already gone that way or in many cases becoming importers themselves.

The number of imported cabinets and tubs in this segment exploded.

……

The effect on Milena Sales of 45L Cabinets with SS Tubs was cataclysmic.



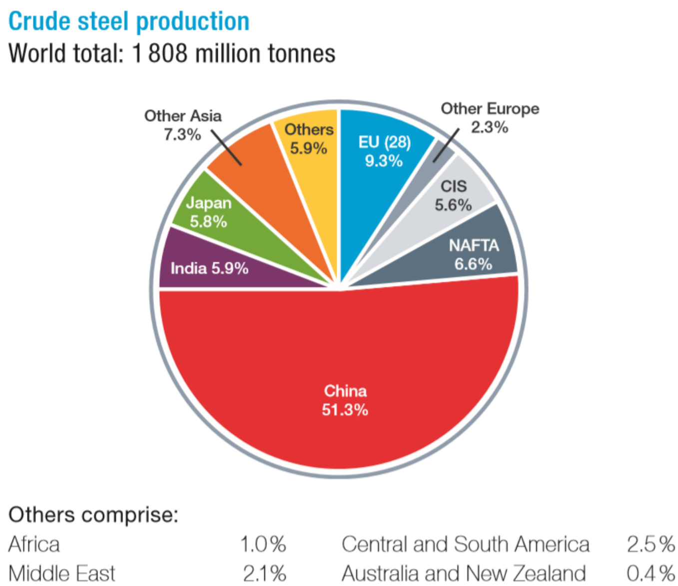

Oliveri would not have benefitted from this change at all as their products are not the same.

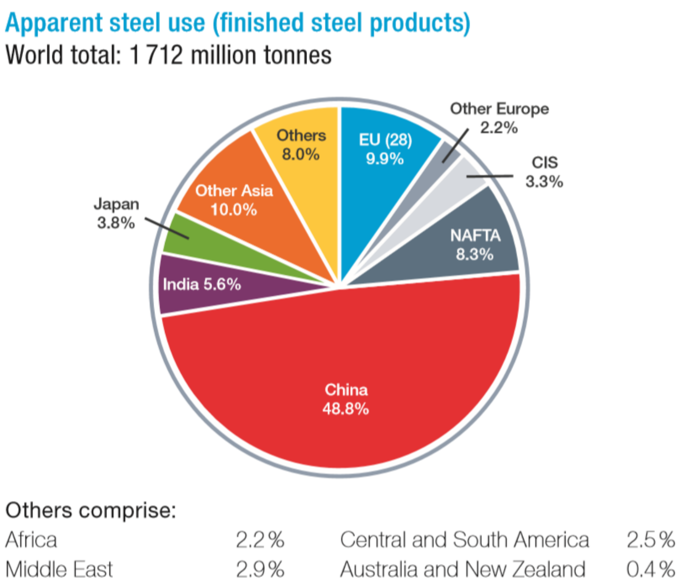
# 2. STAINLESS STEEL PRODUCTION

## 2.A. Global Steel Position

First it is necessary to note that China is not only the biggest producer of Steel in the World but also the biggest user and in both cases … by far. The World Steel Association (worldsteel) has published the 2019 edition of World Steel in Figures (https://www.worldsteel.org/en/dam/jcr:96d7a585-e6b2-4d63-b943-4cd9ab621a91/World%2520Steel%2520in%2520Figures%25202019.pdf).

This shows (page 15) that in 2018:




It is also worth noting that Australia exported by far the highest amount of Iron Ore that went into this production (in 2017 - 872.8 Million Tonnes as compared to the next highest being Brazil at 383.5 Million Tonnes – see page 20).

So even without adding in the other Asian nations it is clear that NAFTA and the EU can not be considered as being anywhere near comparable to China in any way.

## 2.B. Chinese Advantages

Besides the obvious advantage of size and ease of access to supply from Australia (of both raw materials and energy - thermal coal) China also has some other advantages. This includes having technology and supplies which give it a competitive advantage.

One of these is Nickel Pig Iron which allows for much cheaper manufacture of Stainless Steel.

Some articles on the subject include:

- https://born2invest.com/articles/nickel-pig-iron-cheaper-alternative/
- https://www.theglobeandmail.com/report-on-business/industry-news/energy-and-resources/a-breakthrough-in-china-branother-blow-for-sudbury/article4099122/

Even Australian companies are on board.

- https://www.australianmining.com.au/news/nickel-mines-increases-pig-iron-plant-interest-to-60-for-us70m/

### 2.C. Price of Electricity

Electricity is a major input in the manufacturing of Stainless Steel.

Finding accurate and current information on this is difficult but there is some information available from the likes of:

- http://energyusecalculator.com/global_electricity_prices.htm

| Country/Territory | US cents/kWh | As of |
|---|---|---|
| China | 5-14 | 2016 |
| EUROPEAN COUNTRIES | | |
| France | 19.23 | 2015 |
| Germany | 33.76 | 2015 |
| Italy | 28 | 2015 |
| Netherlands | 28.89 | 2011 |
| Sweden | 21.5 | 2015 |
| NORTH AMERICAN COUNTRIES | | |
| Canada | 8-16 | 2016 |
| United States | 12.7 | 2017 |

- https://en.wikipedia.org/wiki/Electricity_pricing

| **Country/territory** | **US cents/kWh** | **Date** |
|---|---|---|
| China | 4 to 4.5 | 2014 |
| EUROPEAN COUNTRIES | | |
| France | 19.39 | Nov 1, 2011 |
| Germany | 35.00 | Mar 1, 2017 |
| Italy | 28.39 | Nov 1, 2011 |
| Netherlands | 28.89 | Nov 1, 2011 |
| Sweden | 8.33 | Feb 3, 2015 |
| NORTH AMERICAN COUNTRIES | | |
| Canada, Ontario | 14.6 | 2017-2018 |
| United States | 8 to 17 ; 37[c] 43[c] | Sep 1, 2012 |

What is clear is that the price in China is substantially cheaper than the price in the EU and North America.

### 2.A. North America (US & Canada) and EU

It is worth noting that these countries all do manufacture Stainless Steel while Australia does not. As such some level of Protectionism is to be expected and can be understood but this should have absolutely no relevance in Australia.

## 3. NO "PROOF" OF DUMPING

In REP238 there was no "smoking gun" discovered.

- REP 238 6.9 - page 42
  - *"… the Commission's view is that 304 SS CRC (also supplied in sheet form) prices in China are affected by GOC influences in the iron and steel industry, and hence do not reasonably reflect competitive market costs, and should be replaced by a competitive market substitute."*

## 3.A. Chinese Government "Influences"

It is very emotive to use terms like this but besides being potentially just a guise for Racism and Xenophobia it is also not fair in the context of Stainless Steel manufacturing.

As an example - our Chinese Exporter has been buying Stainless Steel produced by a company called Zhangjiagang Pohang Stainless Steel Co., Ltd. (ZPSS), which is a professional manufacturer of stainless steel.

With just a small amount of investigating one quickly discovers that ZPSS is a Sino-Foreign Joint Venture jointly established by Jiangsu Shagang Group (a Private company, NOT a SIE) and POSCO (a Korean company).

- Looking at Zhangjiagang Pohang Stainless Steel Co., Ltd. (ZPSS)
  - http://www.zpss.com/english/about/about01.asp
    - Zhangjiagang Pohang Stainless Steel Co., Ltd. (ZPSS) is a professional manufacturer of stainless steel. It is a Sino-Foreign Joint Venture jointly established by Jiangsu ShaGang Group and POSCO, Korea. Situated in the Economic Development Zone along the Yangtze River of Zhangjiagang, Jiangsu province, it is east of Shanghai, west of Nanjing, and southwards connecting with Suzhou and Wuxi. ZPSS has access to convenient transportation.
- Looking at Jiangsu Shagang Group
  - http://www.sha-steel.com/eng/index.html
    - Jiangsu Shagang Group is one of the Superking-sized National Industrial Enterprises, the Largest Private Steel Enterprise in China, and its headquarters is located in Zhangjiagang City, Jiangsu Province.
  - https://www.steelonthenet.com/kb/history-shagang.html
    - **History of Shagang Group**
      **Shagang Group**, a Chinese national industrial enterprise, is headquartered in Zhangjiagang City, Jiangsu Province, China. In 2016, Shagang Group produced ~33 million tonnes of liquid steel, ranking it the 6th largest steelmaker in the world.
      The **timeline** below covers the **history** of the firm.
      **1975:** Jiangsu Shagang Group Co incorporated in 1975.
      **2001:** Acquisition of Thyssen Dortmund works for Euro 30m.
      **2006:** Buys 90.5% of Jiangsu Huai Steel for 2 bn yuan.
      **2007:** Shagang acquires 80% of Yongxing Steel Company Ltd.
      **2007:** Shagang purchases 25% of Jiangsu Yonggang Group Co.
      **2007:** Shagang takes control of Xinrui Special Steel Co Ltd.
      **2007:** Acquires 90% stake in Australian Bulk Minerals (ABM).
      **2008:** Shagang fails in bid to acquire Namisa iron ore stake in Brazil.
      **2009:** Talk of Shagang's desire for overseas listing/strategic partner.
      **2012:** Shagang ranks first in China's list of top non-state 500 firms.
      **2012:** Talk of link-up with Baosteel to create 80 mt/yr giant.
      **2012:** Signs agreement for merger with scrap supplier Fengli Group.
      **2013:** Shagang sets up new international headquarters in Singapore.
      **2014:** Plans issue of short term financing bond worth CNY 2 billion.
      **2015:** Sell 55% stake in Shenzhen-listed Jiangsu Shagang Group Co.
      **2016:** Shagang commissions first Castrip® production facility in China.
      **2018:** Jiangsu Shagang ordered to review environmental performance.

This is clear evidence that the free market is alive and well in China and perhaps it is not China that has the problem with Government Interference and Protectionism.

# 4. USING A BENCHMARK

## 4.A. What the Legislation says

In REP 238 on page 208 it was noted:

*USE OF EXTERNAL BENCHMARKS - DS257*

*Key elements of the Appellate Body's findings in the DS257 dispute are outlined below:*

*…an investigating authority may use a benchmark other than private prices of the goods in question in the country of provision, when it has been established that those private prices are distorted, because of the predominant role of the government in the market as a provider of the same or similar goods. When an investigating authority resorts, in such a situation, to a benchmark other than private prices in the country of provision, the benchmark chosen must, nevertheless, relate or refer to, or be connected with, the prevailing market conditions in that country, and must reflect price, quality, availability, marketability, transportation and other conditions of purchase or sale, as required by Article 14(d).*

*…an external benchmark can only be used in situations where the 'predominant role of the government in the market [is] as a provider of the same or similar goods' and where the government distorts the prices of those goods in the market by reason of its predominance. Even then, a benchmark may only be used which relates or refers to, or is connected with the prevailing market conditions in that country and which reflects price, quality, availability, marketability, transportation and other conditions of purchase or sale as required by Article 14(d).*

Noting the information provided in 2. and 3. above It appears clear that the use of data relating to North America and Europe (MEPS and later PLATTS) as the basis for a benchmark is and was not only not fair but actually contrary to the rules.

## 4.B. Donald Trump's US Tariffs

A recent article that appeared in the Nikkei Asian Review on 30/07/2019 is worth noting.

https://asia.nikkei.com/Business/Markets/Commodities/Asia-awash-in-Chinese-steel-as-Trump-tariffs-wall-off-US

The article highlighted the effects of the Trump Administration 25% tariffs on imported steel which came into effect in March 2018.

The existence of these tariffs now permanently renders any talk of using North American pricing as part of a benchmark ludicrous and unacceptable. Their market is now permanently skewed and no longer part of a fair and competitive global market.

# 5. USING AN AVERAGE AS A "COMPETITIVE MARKET COSTS SUBSTITUTE"

The logic of using an average to determine a "competitive market costs substitute" evades me.

Markets are supposed to be competitive and by definition this means that the lowest possible price is the desirable goal. To say that an average is representative of a competitive market is patently incorrect. The lowest price is actually the correct representative of a competitive market. So if one was going to choose a substitute it would be the lowest "comparable" price not the average.

As an example:

Let's assume that someone has accused China of Dumping and sets about "proving" it using benchmark pricing for North America and the EU.

| Period | North America | EU | Average NA & EU | China | Dumping |
|---|---|---|---|---|---|
| Quarter 1 | 2500 | 2200 | 2350 | 2300 | 2% |
| Quarter 2 | 2300 | 2500 | 2400 | 2200 | 8% |
| Quarter 3 | 3000 | 2200 | 2600 | 2400 | 8% |
| Quarter 4 | 2600 | 2100 | 2350 | 2200 | 6% |

Now they argue that China is Dumping every single Quarter as their price is always lower than the Average.

This is obviously incorrect and in fact the correct answer would be that they never dumped.

If one had to choose an indicator of a fair competitive market price it would not be the average but rather the lowest price from the comparable market. Further noting that we are talking about Global markets with lag effect so one would also need to use longer periods that allow for shipping times, pre-purchasing of raw materials, etc…

So using the example a fair substitute for evaluating the market during the year in question would actually be 2100 (being the EU price in Quarter 4) and China was never below this and as such was never guilty of Dumping.

# 6. EX-WORKS VS LANDED - FREIGHT COST EFFECTS

Just in case Oliveri decides to try get clever and presents Ex-Works pricing in China versus Landed price in Australia as some sort of "proof" that they can't buy Stainless Steel at the same price it is important to note.

This is not proof of Dumping but rather proof of accepted and appropriate market forces.

When they buy Landed Stainless Steel it has all the costs associated with freight added. When we buy Stainless Steel tubs from China we still have all the costs of freight going onto the cost before we can sell the product.

It doesn't take a lot to realise that the volume of a container of flat Stainless Steel Sheet or even Rolled Coil is substantially less than the volume of already made tubs. I suspect it would be easy to show that the ratio would be at least 1 to 4. So for every 1 container of unprocessed stock they would be importing it will take at least 4 containers to bring in the equivalent amount of material as already made tubs.

So the imported Stainless Steel tubs may be able to take full advantage of Ex-Works prices but Oliveri can buy the same Stainless Steel and while they have to pay the associated costs to get it here they then have the benefit of not shipping the volume associated with finished product.

# 7. COUNTERVAILABLE SUBSIDIES

Our Chinese supplier has only been found “guilty” of receiving an advantage through Subsidy Program 8 (Tax preference available to companies that operate at a small profit).

Because they are a small company and didn’t make a lot of profit rather than paying the full rate of 25% they only had to pay tax at 15%. This program is not limited just to the Stainless Steel industry but available to all businesses in China.

The benefit only caused an uplift of 0.02% so is probably barely worth mentioning …

But …. perhaps in the interest of fairness before we discard this as being insignificant we should be asking how is this dissimilar to the tax concessions we have for Small Businesses in Australia?

# 8. NATIONAL INTEREST

I am aware from previous meetings with the ADC that Australia’s National Interest is not a factor considered by the ADC. That however does not mean that I should find this position acceptable or not raise it as a matter of concern.

China is by far our largest Trading Partner with over 214 Billion A$ in Trade. The US comes a distant third with less than 74 Billion A$ in Trade. (https://dfat.gov.au/trade/resources/trade-at-a-glance/Pages/default.aspx)

What makes this even more notable is that in the case of China there is a huge Trade Surplus in favour of Australia with Exports from Australia at over 136 Billion A$ and Imports under 79 Billion A$. Whereas in the case of the US the opposite is true and Exports were only just over 23 Billion A$ and Imports were well over 50 Billion A$.

As previously noted this is largely due to our Iron Ore and Coal exports … which were used by China to produce the steel that Oliveri claims is Dumped.

For us to treat our major Trading Partner the way that we have is just … embarrassing (the other words that immediately came to mind to describe this behaviour are just too disturbing to even write down).

Oliveri masquerades as a champion of Australian manufacturing asking for protection from the Chinese yet is a mass importer itself with a large part … if not the majority … of its products being imported. Worryingly this is not viewed in the same light … perhaps as the majority of their imported products appear to be coming from Europe … which doesn’t even rank in our Top Ten Trading Partners.

# 9. PROTECTION OF LOCAL PRODUCTS

If the ADC was to make the mistake of going down the route of Protectionism in the same way the US has then Milena should in fact be first in line for being given due protection.

Unlike Oliveri which has protested and been given protection on the basis of Stainless Steel … but is in fact buying the same Stainless Steel they are complaining about.

Milena manufactures a range of “like product” entirely in Australia – and has been for over 40 years.

These are tubs that are made from plastic (imported from the US) and Injection-Moulded right here in Australia.


All these products are negatively affected by the “Dumped” Stainless Steel the likes of Oliveri are using.