



Australian Government
**Department of Industry, Science,
Energy and Resources**

PUBLIC RECORD

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

STATEMENT OF ESSENTIAL FACTS NO. 568

**INQUIRY INTO THE CONTINUATION
OF ANTI-DUMPING MEASURES APPLYING TO
CHROME-PLATED STEEL BAR
EXPORTED TO AUSTRALIA FROM ROMANIA**

9 June 2021

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ABBREVIATIONS

ABF	Australian Border Force
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
chrome bars, or “the goods”	chrome-plated steel bars the subject of the application
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
Cromsteel	ASO Cromsteel Industries S.A.
CTMS	cost to make and sell
CY	calendar year
the Direction	<i>Customs (Extensions of Time and Non-cooperation) Direction 2015</i>
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
EPR	electronic public record
FY	financial year
IDD	interim dumping duty
inquiry period	1 October 2019 to 30 September 2020
the Manual	<i>Dumping and Subsidy Manual</i>
MCC	model control code
the measures	the anti-dumping measures currently applicable to exports of chrome bars to Australia from Romania that are due to expire on 7 September 2021
Milltech	Milltech Pty Ltd
the Minister	the Minister for Industry, Science and Technology
NIP	non-injurious price
REP 319	<i>Anti-Dumping Commission Report No. 319</i>
SEF	statement of essential facts
USP	unsuppressed selling price

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This statement of essential facts (SEF) concerns an inquiry into whether the continuation of the anti-dumping measures, in the form of a dumping duty notice published on 7 September 2016 applying to chrome-plated steel bars (chrome bars or “the goods”) exported to Australia from Romania (the measures), is justified.

The measures currently applicable to exports of the goods to Australia from Romania are due to expire on 7 September 2021.¹

The present inquiry was initiated on 2 December 2020, following the consideration by the Commissioner of the Anti-Dumping Commission (the Commissioner) of the application lodged by Milltech Pty Ltd (Milltech) under section 269ZHC of the *Customs Act 1901* (the Act)² seeking the continuation of the measures. The Commissioner established an inquiry period of 1 October 2019 to 30 September 2020 (the inquiry period) for this continuation inquiry.

This SEF sets out the findings and conclusions on which the Commissioner proposes to base his recommendations to the Minister for Industry, Science and Technology (the Minister). The Anti-Dumping Commission (the Commission) has prepared this report to support the Commissioner’s consideration of the inquiry, pursuant to the Commission’s function specified in section 269SMD.

1.2 Legislative framework

Division 6A of Part XVB of the Act sets out, among other things, the procedures to be followed by the Commissioner in dealing with an application for the continuation of anti-dumping measures.

Section 269ZHE(1) requires that the Commissioner publish a SEF on which he proposes to base his recommendations to the Minister concerning the continuation of the measures. Section 269ZHE(2) requires that in doing so the Commissioner must have regard to the application and any submissions received within 37 days of the initiation of the inquiry, and may have regard to any other matters that he considers relevant.

Section 269ZHF(1) provides that the Commissioner must, after conducting his inquiry, give the Minister a report recommending that the relevant notice:

- remain unaltered;
- cease to apply to a particular exporter or to a particular kind of goods;
- have effect in relation to a particular exporter or to exporters generally as if different variable factors had been ascertained; or
- expire on the specified expiry day.

¹ On and from 8 September 2021, if not continued, the measures would no longer apply.

² All legislative references in this report are to the *Customs Act 1901*, unless otherwise stated.

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Pursuant to section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of the measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent.

1.3 Preliminary findings and proposed recommendation

The Commissioner proposes to recommend that the Minister secures the continuation of the dumping duty notice applying to chrome bars exported to Australia from Romania, and have effect in relation to exporters generally as if different variable factors had been ascertained. The Commissioner proposes to recommend that chrome bars exported from Romania be subject to the rate of measures shown in Table 1.

Country	Exporter	Interim dumping duty (IDD)	Form of measures
Romania	All exporters	66.9%	Ad valorem

Table 1: Proposed measures resulting from this inquiry

1.4 Responding to this SEF

This SEF sets out the essential facts on which the Commissioner proposes to base his final recommendations to the Minister. This SEF represents an important stage in the inquiry. It informs interested parties of the facts established and allows them to make submissions in response to the SEF. It is important to note that the SEF may not represent the final views of the Commissioner.

Interested parties are invited to make submissions to the Commissioner in response to the SEF within 20 days of the SEF being placed on the public record. The due date to lodge written submissions in response to this SEF is **29 June 2021**.

The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Minister.³

Submissions may be provided by email to investigations1@adcommission.gov.au.

Alternatively, interested parties may post submissions to:

Director, Investigations Unit 1
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the Public Record. Information in relation to making submissions is available on the Commission website, www.adcommission.gov.au.

³ Section 269ZHF(4).

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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 electronic public record (EPR) is available via the Commission's website. Interested parties should read this SEF in conjunction with other documents on the public record.

1.5 Final report

The Commissioner's final report and recommendations must be provided to the Minister within 155 days after the publication of a notice under section 269ZHD(4) or such longer period as is allowed.⁴

The final report will include recommendations, including whether the relevant notice:

- remain unaltered;
- cease to apply to a particular exporter or to a particular kind of goods;
- have effect in relation to a particular exporter or to exporters generally as if different variable factors had been ascertained; or
- expire on the specified expiry day.

An extension of time to publish the SEF and for the provision of the Commissioner's final report and recommendations to the Minister were previously granted under section 269ZHI(3).⁵ The current due date for the final report is **30 July 2021**.

⁴ Section 269ZHF(1). On 14 January 2017 the powers and functions of the Minister under section 269ZHI were delegated to the Commissioner, see Anti-Dumping Notice No. 2017/10.

⁵ [EPR 568, document no. 3](#) refers.

2 BACKGROUND

2.1 Initiation

The Commissioner initiated this inquiry on 2 December 2020, following his consideration of an application lodged by Milltech seeking continuation of the measures relating to chrome bars exported to Australia from Romania. Anti-Dumping Notice (ADN) No. 2020/137 sets out the Commissioner’s reasons for initiating this inquiry.⁶

2.2 Current anti-dumping measures

On 7 September 2016, the then Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science imposed the measures on the goods following consideration of *Anti-Dumping Commission Report No. 319* (REP 319).

The measures currently applying to chrome bars exported to Australia from Romania are set out in Table 2.

Country	Exporter	IDD	Form of measures
Romania	S.C Nimet S.R.L	35.3%	Ad Valorem
	ASO Cromsteel Industries S.A.	22.4%	Ad Valorem
	All other exporters	66.9%	Ad Valorem

Table 2: Current measures applying to chrome bars

2.2.1 Other cases

There have been no cases in relation to the operation of the measures applying to chrome bars exported to Australia from Romania since the measures were imposed.

2.3 Conduct of this inquiry

2.3.1 Australian industry

The Commissioner is satisfied that the Australian industry for this inquiry, Milltech, is the person specified under section 269ZHB(1)(b)(i), being that it lodged the application under section 269TB that resulted in the current measures.

Milltech is the sole manufacturer of the goods in Australia, and provided financial data to the Commission in support of its application for the continuation of the measures. The Commission conducted a virtual verification of the information and data provided by Milltech. The report in relation to this verification is available on the EPR.⁷

⁶ EPR 568, document [no. 2](#) refers.

⁷ EPR 568, document [no. 4](#) refers.

2.3.2 Importers

At the time of initiation, the Commission examined the Australian Border Force (ABF) import database and identified a very small volume of what appeared to be the goods exported from Romania during the inquiry period (as was noted in ADN No. 2020/137).

The Commission contacted the relevant importer and invited it to participate in the inquiry. However, the importer subsequently advised that the relevant consignments had been incorrectly declared, providing drawings and technical specifications to substantiate its claims. The Commission was satisfied that the evidence showed that the consignments did not include goods the subject of this inquiry.

The Commission is therefore satisfied that the goods have not been exported to Australia from Romania during the inquiry period.

As a result, the Commission invited all importers listed in REP 319 and in the application to complete an importer questionnaire. A copy of the importer questionnaire was also placed on the EPR for completion by interested parties.

The Commission did not receive any responses to the importer questionnaire.

2.3.3 Exporters

Noting the above, there were no exporters of chrome bars to Australia from Romania during the inquiry period. The Commission therefore invited all exporters listed in REP 319 and in the application to complete an exporter questionnaire. A copy of the exporter questionnaire was also placed on the EPR for completion by interested parties.

The Commission did not receive any responses to the exporter questionnaire.

Section 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 considered to be relevant to the inquiry, within a period the Commissioner considered to be reasonable or where the Commissioner is satisfied that an exporter significantly impeded the inquiry.

The *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Direction) states at section 8 that the Commissioner must determine an exporter to be an uncooperative exporter, on the basis that no relevant information was provided in a reasonable period, if that exporter fails to provide a response or fails to request a longer period to do so within the legislated period.

After having regard to the Direction, the Commissioner determined that all exporters that did not provide a response to the exporter questionnaire or a completed preliminary information request, or which did not request a longer period to provide a response within the legislated period (being 37 days, concluding on 20 January 2021), are uncooperative exporters for the purposes of this inquiry.

2.3.4 Submissions

The Commission has not received any submissions from interested parties prior to publishing this SEF.

3 THE GOODS, LIKE GOODS AND THE AUSTRALIAN INDUSTRY

3.1 Preliminary findings

The Commissioner considers that the locally manufactured chrome bars are a like good to the goods subject to the measures. The Commissioner considers that there is an Australian industry, of which Milltech is the sole member, producing like goods, and that the like goods are wholly produced in Australia.

3.2 Legislative framework

In order to be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or recurrence of, dumping, the Commissioner firstly determines whether the goods produced by the Australian industry are “like” to the imported goods. Section 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.

The definition of like goods is relevant in the context of this inquiry in determining the normal value of goods exported to Australia, the non-injurious price (NIP) and the Australian industry. The Commission’s framework for assessing like goods is outlined in Chapter 2 of the *Dumping and Subsidy Manual* (the Manual).⁸

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- i. physical likeness;
- ii. commercial likeness;
- iii. functional likeness; and
- iv. production likeness.

The Commissioner must also consider whether the “like” goods are in fact produced in Australia. Section 269T(2) specifies that for goods to be regarded as being produced in Australia, they must be either wholly or partly manufactured in Australia. Under section 269T(3), in order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia. The following therefore establishes the scope of the Commission’s inquiry.

3.3 The goods

The goods the subject of anti-dumping measures, and therefore this inquiry, are:

⁸ Available on the Commission website at www.industry.gov.au/data-and-publications/dumping-and-subsidy-manual.

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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 18 mm to 170 mm.

Milltech (the applicant for the dumping duty notice) provided further details as follows:

Minimal prior or subsequent processing such as cutting, drilling or painting does not exclude chrome bars in the dimensions described above from coverage of the application.

The goods include:

- chrome bars manufactured using steel bars that are quenched and tempered, otherwise heat treated or induction hardened; and
- chrome bars manufactured using the following grades of steel bars (and any equivalent or materially similar international grades):
 - SAE/AISI 1045; and
 - SAE/AISI 4140.

3.3.1 Tariff classification of the goods

The goods are generally, but not exclusively, classified to the following tariff subheading of Schedule 3 to the *Customs Tariff Act 1995*:⁹

⁹ This tariff classification and statistical code may include goods that are both subject and not subject to the measures. The listing of this tariff classification and statistical code is for convenience or reference only and does not form part of the goods description. Please refer to the goods description for authoritative detail regarding goods subject to the measures.

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Tariff Subheading	Statistical Code	Description
7215		OTHER BARS AND RODS OF IRON OR NON-ALLOY STEEL:
7215.50		- Other, not further worked than cold-formed or cold-finished:
7215.50.90	54	--- Other
7215.90.00	55	- Other
7228		OTHER BARS AND RODS OF OTHER ALLOY STEEL; ANGLES, SHAPES AND SECTIONS, OF OTHER ALLOY STEEL; HOLLOW DRILL BARS AND RODS, OF ALLOY OR NON-ALLOY STEEL:
7228.30		- Other bars and rods, not further worked than hot-rolled, hot-drawn or extruded:
7228.30.10	70	--- Goods, as follows: a. of high alloy steel; b. "flattened circles" and "modified rectangles" as defined in Note 1(m) to Chapter 72
7228.50.00	54	- Other bars and rods, not further worked than cold-formed or cold-finished
7228.60		- Other bars and rods:
7228.60.10	72	--- Goods, as follows: a. of high alloy steel; b. "flattened circles" and "modified rectangles" as defined in Note 1(m) to Chapter 72
7228.60.90	55	--- Other

Table 3: Tariff classification

3.3.2 Model Control Codes

As announced in ADN No. 2018/128 published on 9 August 2018, the Commission has commenced using a model control code (MCC) structure for model matching when comparing export prices and normal values.¹⁰

The Commission proposed the MCC structure shown in Table 4 in order to identify key characteristics that was used to match models of the goods exported to Australia and like goods sold domestically in the country of export.

Item	Category	Subcategory	Identifier	Sales data	Cost data
1	Steel Grade	Carbon steel	C	Mandatory	Mandatory
		Alloy steel	A		
2	Chrome thickness	Expressed in microns (e.g. "25")	#	Mandatory	Mandatory
3	Hardening	None	N	Mandatory	Mandatory
		Induction	I		
4	Corrosion resistance	Expressed in hours (e.g. "200")	#	Mandatory	Mandatory
5	Diameter	Expressed in millimetres (e.g. "50")	#	Mandatory	Mandatory

Table 4: Proposed MCC structure

¹⁰ The basis for using a MCC structure and the Commission's practice is explained in [ADN No. 2018/128](#).

Due to the lack of cooperation from exporters in this inquiry, the Commission was not required to utilise the MCC structure.

3.4 Like goods

The following analysis outlines the Commission's assessment of whether the locally produced goods are identical to, or closely resemble, the goods the subject of the application and are therefore like goods. Due to the absence of exports of the goods to Australia from Romania during the inquiry period the Commission has relied on the application, REP 319 and publicly available information in the following analysis.

3.4.1 Physical likeness

The physical characteristics of the goods and locally produced goods are similar, notwithstanding variations in individual customer or technical specifications such as differences in chrome thickness, diameter and length.

3.4.2 Production likeness

The goods and locally produced goods are produced using the same raw material input, being processed steel bar, and similar manufacturing processes, including continuous chrome plating lines and immersion tank methods.

3.4.3 Commercial likeness

The goods and locally produced goods compete in similar market sectors, are substitutable and use similar distribution channels. Chrome bar is typically sold as an intermediate good by the manufacturer to distributors, who sell to the end users that manufacture hydraulic cylinders, machinery or machine components.

3.4.4 Functional likeness

The goods and locally produced goods can be considered functionally alike as they have similar end uses in hydraulics, machinery and machine components predominantly within the mining, agricultural and construction industries.

3.4.5 Conclusion - Like goods

The Commissioner is satisfied that the domestically produced goods are 'like goods' as defined in section 269T(1) to the goods under consideration.

3.5 Australian industry

Milltech was recognised as the sole manufacturer of chrome bars in the original investigation and the Commission has no evidence to suggest that there are other manufacturers of like goods in Australia, and no other parties have made submissions claiming the existence of other industry members. The Commission therefore considers that Milltech is the sole manufacturer of chrome bars in Australia.

Milltech produces chrome bars at its production facility in Laverton, Victoria and manufactures other processed steel bar products at two production facilities located in Tomago and Hexham in New South Wales.¹¹

3.6 Australian production

The main raw material, black steel, is sourced from Australian producers or imported, while chromic acid has all been imported from overseas. Since the original investigation, Milltech has continued to produce chrome bars. The company sells the goods to both end users and distributors.

The chrome bars production was observed during the industry virtual verification as follows:

- **Production of bright bars by cold drawing:** Black steel is further processed into bright bars via cold drawing through a die to increase yield and tensile strength. This can be undertaken at all three of Milltech's production facilities. The ends of the bars are cut and these scraps are sold.
- **Hardening:** Bright bars may be hardened by:
 - quench and tempering at the Tomago facility; or
 - induction hardening at the Laverton facility.
- **Peeling:** Removal of surface defects prior to precision grinding. This can be undertaken at the Laverton or Hexham facilities.
- **Precision grinding:** Bright bars are precision ground to achieve a very fine surface finish and size tolerance using specialised computer controlled machines. This is undertaken at the Laverton facility.
- **Polishing (linishing):** Bright bars are polished to achieve a smooth finish. This is undertaken at the Laverton facility.
- **Chrome plating:** Bright bars are advanced and rotated through a continuous chrome plating line using copper rollers that rotate the bar via currents in the chromic acid solution. This process is undertaken in Laverton.
- **Final polishing (linishing):** Chrome bars receive a final polish by a linishing machine to achieve the final size and surface finish required.
- **Finished goods:** The polished chrome bar represents the finished good, prior to packaging, storage in the warehouse on racking, and despatch.
- **Scrap:** Scrap is produced during the peeling and grinding stages. All steel scrap is sold.
- **Packaging:** Finished goods are individually wrapped in cardboard tubes and bundled with flute wrapping. Depending on customer requirements, the chrome bar may be oiled for protection prior to packing.
- **Despatch:** Milltech arranges for despatch from the warehouse to the customer's location.

¹¹ EPR 568, document no. 4 refers.

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Based on the findings of the industry verification, the Commission is satisfied that there have been no substantive changes to Milltech's manufacturing processes in the period between the Australian industry verification in respect of REP 319 and this inquiry.

3.7 Conclusion – Australian industry

Based on the information obtained from the previous verification visits, the virtual verification in this inquiry and market intelligence, the Commissioner is satisfied that:

- the like goods were wholly manufactured in Australia;¹² and
- there is an Australian industry which produces like goods in Australia.¹³

¹² Section 269T(2) refers.

¹³ Section 269T(4) refers.

4 AUSTRALIAN MARKET

4.1 Preliminary finding

The Commission has found that the Australian market for chrome bars is supplied by the Australian industry and imports from other countries not subject to measures.

4.2 Approach to analysis

As discussed in Chapter 3, Milltech is the sole member of the Australian chrome bar industry. The analysis detailed in this chapter is based on verified financial information submitted by Milltech, import data from the ABF import database and information obtained in REP 319.

The period from 1 July 2012 has been examined for the purposes of analysing trends in the Australian market for chrome bars and for making observations with respect to the economic condition of the Australian market. The Commission's analysis of the Australian market for chrome bars is at **Confidential Attachment 1**.

4.3 Market characteristics

4.3.1 Market structure

The market for chrome bar in Australia is driven by three main segments:

- mining;
- agriculture; and
- construction.

Local production of chrome bars is supplemented by imports, with distributors and end-users engaging with a range of countries. Chrome bars are a commodity product, and, provided the goods meet the relevant Australian Standard and the grade requirements for the desired end use, there are limited ways in which suppliers can differentiate their offering beyond price and service.

4.3.2 Distribution

Milltech sells chrome bars primarily to steel distributors who supply to large end user in the hydraulic machinery industry. These distributors also import the goods from overseas. Millech also sells the goods to large original equipment manufacturers for hydraulic manufacturing, repairs and maintenance. Once the order is confirmed, chrome bars are despatched to customers from inventory which is held in Milltech's warehouse. Once sold, the chrome bars are transported to the customers.

4.4 Market size and drivers of demand

The Australian market for chrome bars is supplied by the Australian industry and imported goods. Figure 1 illustrates the size of the Australian market using Milltech's verified sales volumes and import data from the ABF import database for the financial year (FY) ending 30 June, from 2012 to 2020.

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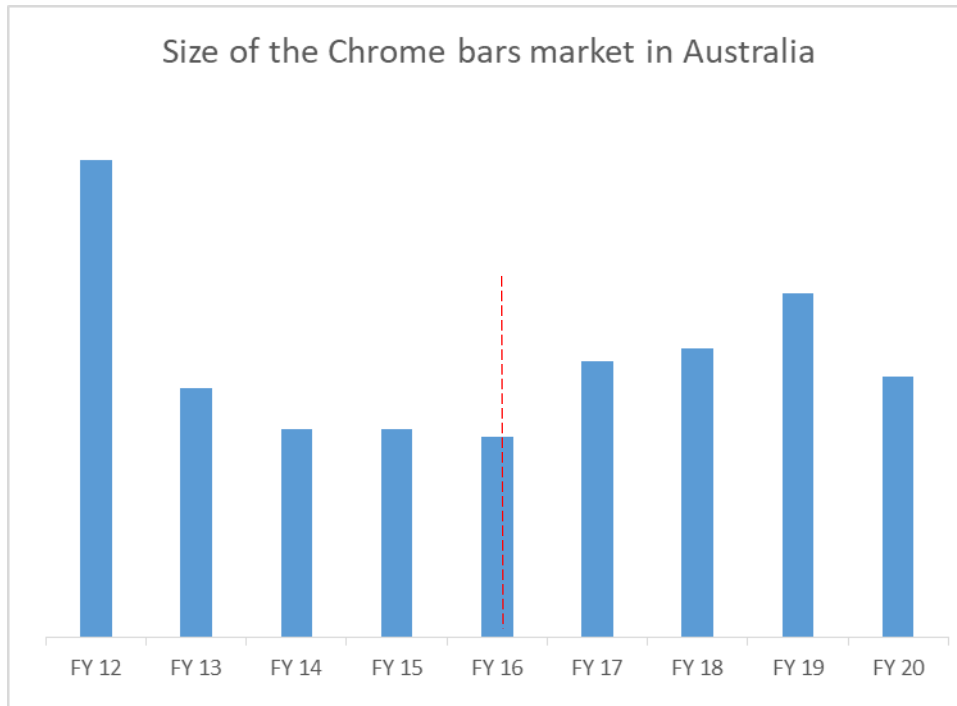


Figure 1: Size of the chrome bar market in Australia (the red line depicts the imposition of measures)

The Commission notes that the size of the Australian market for chrome bars has varied from year to year.

4.4.1 Demand and pricing

Milltech asserts during the industry verification that the market demand has been fairly stable since FY 2016 with some recent growth in the hydraulic industry from FY 2017 onwards due to the booming construction sector. There has been stable demand in the mining and agriculture sectors. Milltech further claims that the first six months of FY 2020 saw a decline in demand, but demand recovered in the latter part of FY 2020 and the market has been relatively stable since.

Milltech claims that the predominant demand driver of chrome bars is price and Australian customers are able to readily change supplier. Milltech indicated that its customers rely on import price offers to negotiate prices. The price of chrome bars in the market is driven by the price of the steel feed, which is influenced by global markets and, in particular, Chinese production and demand.

4.4.2 Demand outlook

In order to better understand the demand outlook of chrome bars, the Commission undertook desktop research to examine trends in the mining, agriculture and construction customer segments.

The Commission notes that investment in the mining sector has declined sharply since 2013. During the inquiry period, mining investment remained reasonably steady even with a slight decline as a share of GDP.

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Figure 2 below indicates the annual growth rate of private capital expenditure on machinery and equipment in all industries. Machinery and equipment includes construction equipment (excavators, backhoes), cranes, drills and other equipment that incorporates chrome bar, and therefore the Commission considers this a good proxy to indicate demand for the goods in the construction sector.

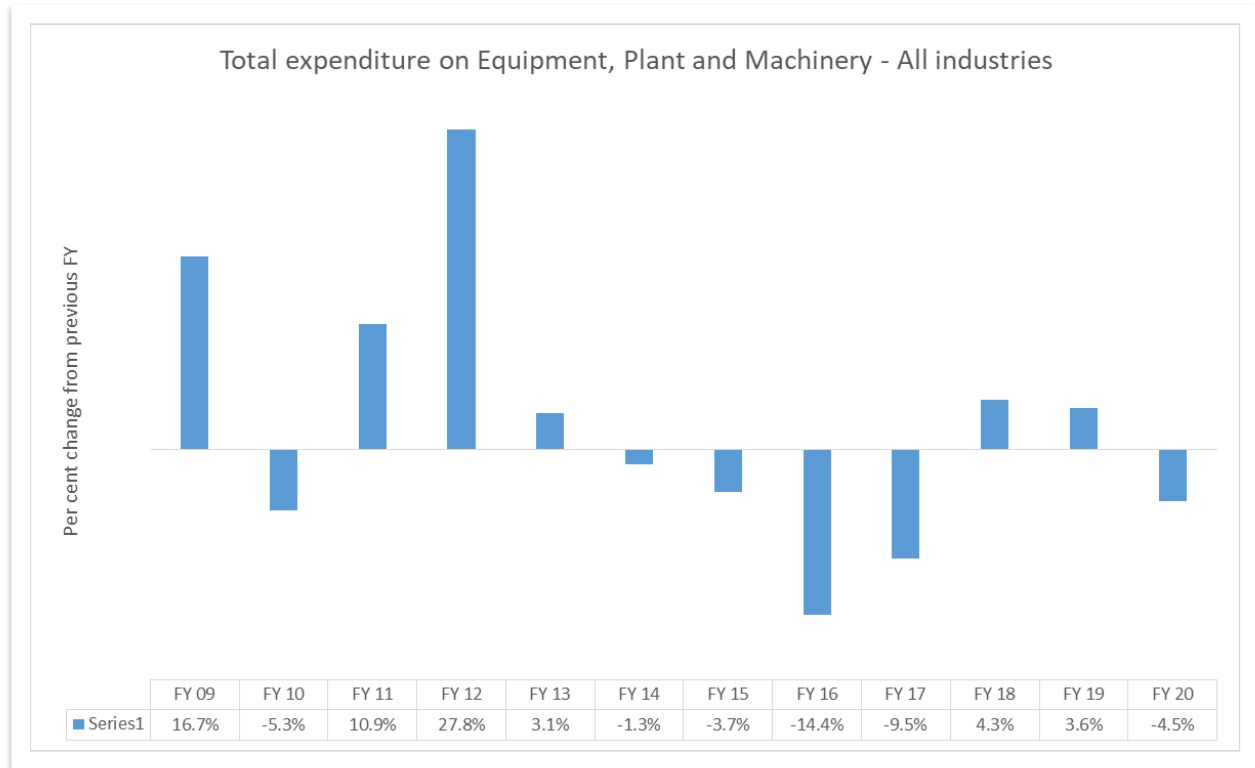


Figure 2: Private capital expenditure on machinery and equipment – all industries in Australia
(Source: IBS world and Australian Bureau of Statistics)¹⁴

The Commission considers there is a correlation between the higher levels of investment in machinery and equipment and the expansion of the chrome bars market in FYs 2018 and 2019.

Figure 3 suggests that the main industries using hydraulic machinery (and therefore demand for chrome bars) will likely expand over most of the next 5 years.

¹⁴ Australian Bureau of Statistics, actual expenditure series A124792413T refers.

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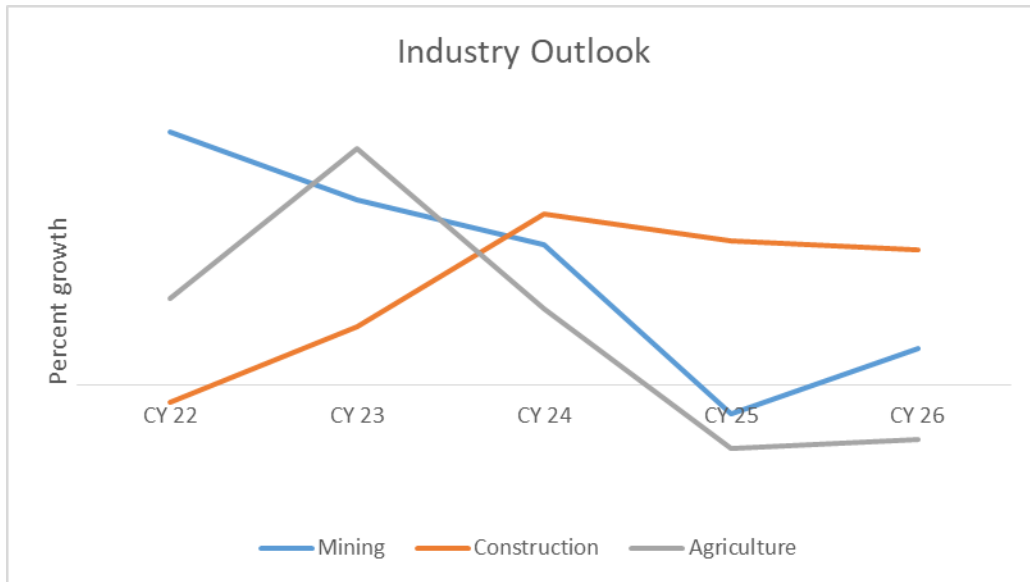


Figure 3: Industry outlook per calendar year (CY) ending 31 December
(Source: IBISWorld Industry outlook)¹⁵

¹⁵ IBISWorld Industry Outlook documents F3411, C2461 and F3419 refer; www.ibisworld.com

5 ECONOMIC CONDITION OF THE AUSTRALIAN INDUSTRY

5.1 Approach to analysis

The Commission has examined the Australian market and the economic condition of the Australian industry prior to and post the imposition of the measures.

The analysis detailed in this chapter is based on verified financial information submitted by Milltech, data from the ABF import database and information obtained from REP 319.

The Commission has assessed the economic condition of the Australian industry from FY 2012 to FY 2020 using the information provided by Milltech in this inquiry and also during REP 319. The data and analysis on which the Commission has relied to assess the economic position of the Australian industry is at **Confidential Attachment 2**.

Consideration of whether the expiration of the measures would lead, or would be likely to lead, to a continuation of, or recurrence of, material injury caused by dumping is discussed in Chapter 6 of this report.

5.2 Findings in original investigation

In REP 319 the Commissioner found that, during the investigation period, the Australian industry had experienced injury in the form of:

- price depression;
- price suppression;
- reduced sales volumes;
- reduced profits;
- reduced profitability;
- reduced revenue;
- reduced capacity utilisation; and
- reduced employment.

5.3 Volume effects

5.3.1 Sales volume

Figure 4 illustrates the Australian industry's total Australian sales volume for chrome bars from FY 2012 onwards.

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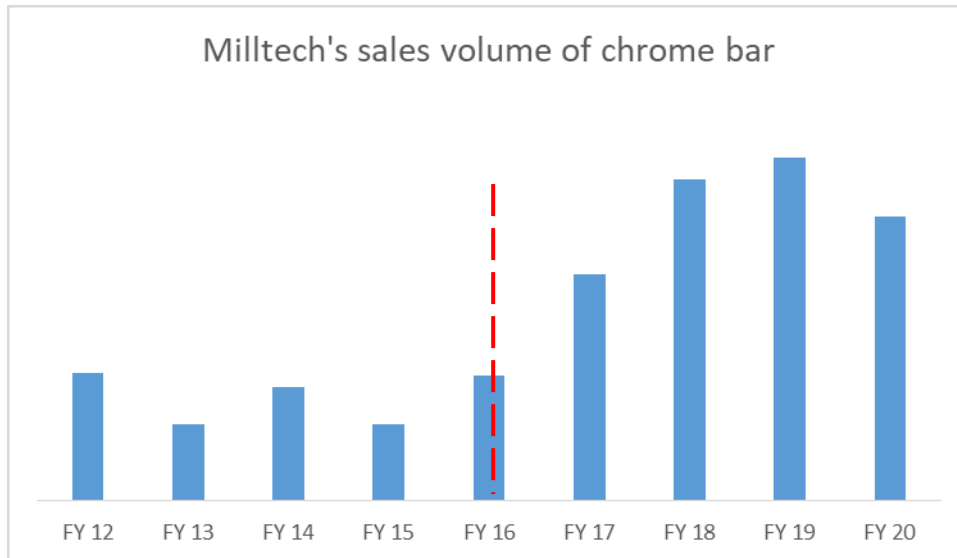


Figure 4: Milltech domestic sales volume of chrome bars (red line depicts the imposition of measures)

Since the measures were imposed on 7 September 2016, domestic sales of chrome bars have increased significantly, coinciding with a reduction in the volume of imports from Romania.

5.3.2 Market share

Figure 5 shows the estimated changes in the Australian market share between Milltech and imported goods during the period from FY 2012. Since the imposition of the measures, Milltech's market share has increased and remained relatively stable during the last five years.

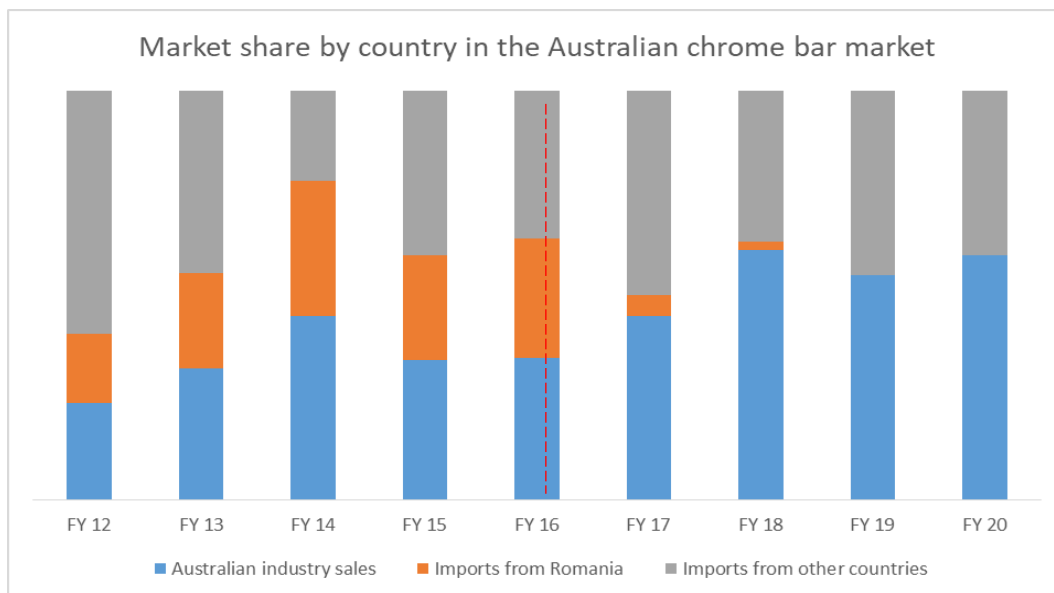


Figure 5: Market share by source in the Australian chrome bar market (red line depicts the imposition of measures)

The Commission also notes that export volumes from Romania show a quick decline in FY 2017, the year immediately following the imposition of measures. At the same time, the Australian industry's market share increased significantly. There have been no exports of the goods from Romania to Australia since FY 2018.

5.4 Price effects

Price depression occurs when a company, for some reason, lowers its prices. 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 shows the trends in Milltech’s unit price and cost to make and sell (CTMS) for domestic sales from FY 2012. The prices have been rising at a faster rate than costs, therefore margins are also improving, particularly in the period after the imposition of the measures.

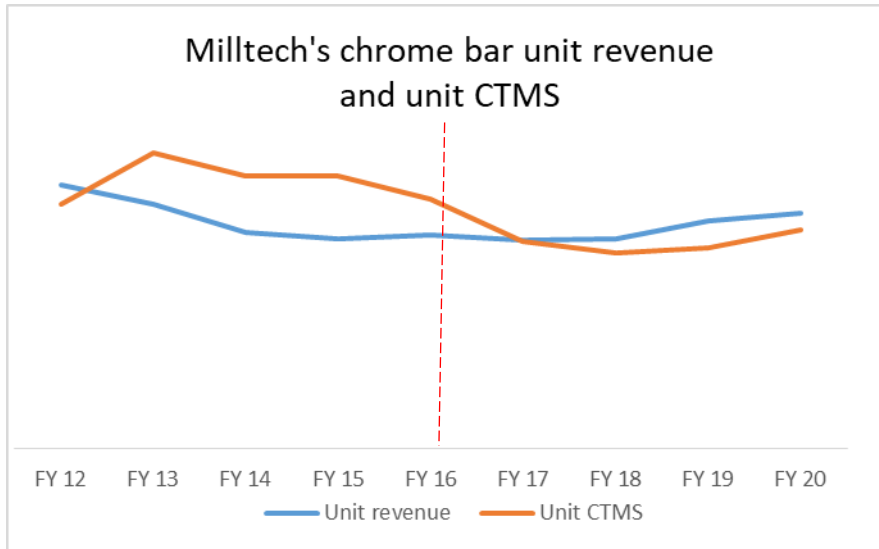


Figure 6: Unit revenue and unit CTMS (red line depicts the imposition of measures)

5.5 Profits and profitability

Milltech’s profit and profitability from FY 2012 onwards is shown in Figure 7.

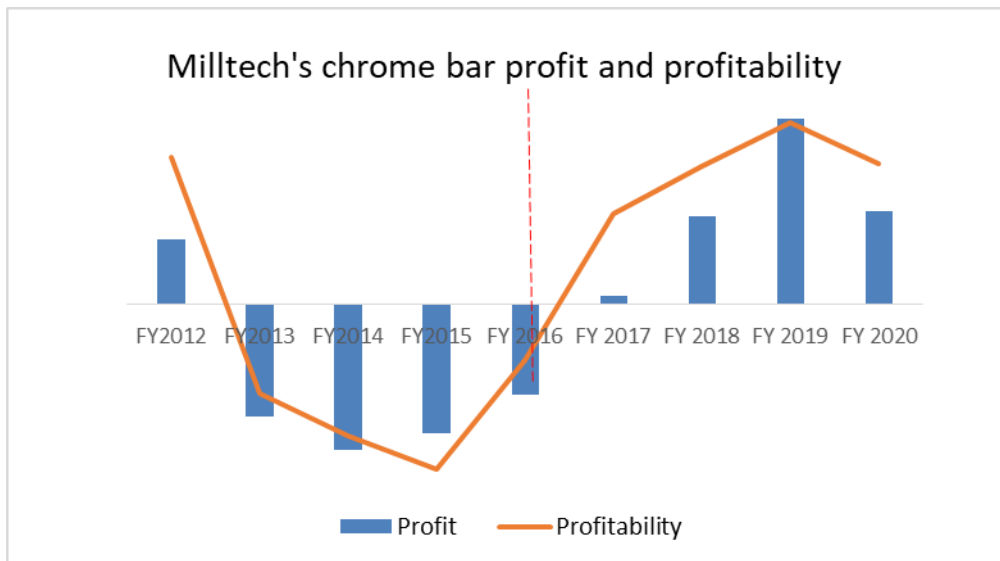


Figure 7: Milltech’s chrome bar profit and profitability (red line depicts the imposition of measures)

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Milltech's profit and profitability were largely negative before FY 2016, around the time the current measures were imposed. In the period following the imposition of the measures, a significant improvement in Milltech's profit and profitability can be observed.

5.6 Other economic factors

Milltech provided information on a range of other economic factors to underpin the data and claims submitted in its application for this continuation inquiry. A summary of these economic factors and the calculation of an index for each of these factors is at **Confidential Attachment 2**.

Index of other economic factors	FY 16	FY 17	FY 18	FY 19	FY 20
Assets (\$)	100	115	137	147	131
Capital investment (\$)	100	96	88	79	70
Research and Development Expense (\$)	100	100	100	100	100
Revenue (\$)	100	132	160	187	135
Return on investment (%)	100	138	109	128	101
Capacity (tonnes)	100	100	100	100	100
Actual production (tonnes)	100	140	163	164	122
Capacity utilisation (%)	100	140	163	164	122
Employment (persons)	100	113	124	139	139
Productivity (tonnes per shift)	100	124	131	118	88
Stock / inventory (closing stock tonnes)	100	119	179	235	287
Cash flow (receivables turnover)	100	130	135	114	74
Wages (\$)	100	122	142	162	159
Average wage (\$ per full time employee)	100	108	115	117	115

Table 5: Index of other factors

Since the imposition of measures following FY 2016, Milltech has experienced improvements in the majority of factors listed at Table 5.

6 LIKELIHOOD THAT DUMPING AND MATERIAL INJURY WILL CONTINUE OR RECUR

6.1 Preliminary findings

The Commissioner is satisfied that the expiration of the measures on chrome bars exported from Romania to Australia would be likely to lead to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent.

6.2 Legislative framework

In accordance with section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent.

The Commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation. This view has been supported by the Anti-Dumping Review Panel, which noted that the Commission must consider what will happen in the future should a certain event, being the expiry of the measures, occur.¹⁶ However, the Commissioner's conclusions and recommendation must be based on facts. The Commission also notes the *Ministerial Direction on Material Injury 2012* and its application to the Commission's consideration of claims of threatened material injury in this inquiry.¹⁷

6.3 Australian industry claims

In its application¹⁸ Milltech claims, among other things, that:

- it is the sole Australian industry member producing like goods;
- the market for the goods remains highly price sensitive, with import price offers impacting on Milltech's prices;
- the exportation of chrome bars from Romania has continued since the measures were imposed, possibly through third countries;
- these goods have been exported at dumped prices;
- the imported chrome bars have been sold at prices which undercut the Australian industry's prices;
- the Australian market size has increased since the measures were imposed;
- imports of the goods displace sales by Milltech, thereby reducing its market share;
- this has contributed to a decline in Milltech's production and sales volume in the FY 2020, which has resulted in a reduced profit outcome; and

¹⁶ Anti-Dumping Review Panel *Report No. 44*.

¹⁷ ADN No. [2012/024](#) refers

¹⁸ EPR 568, document no. 1.

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- in the absence of the measures, exporters from Romania would reduce their export prices in order to achieve greater export volumes, leading to a continuation of the material injury being experienced by Milltech and the potential for its exit from the market.

As part of its application, Milltech referred to the data reported for the goods in the Commission's TRINDEX to demonstrate that exporters from Romania continue to export the goods to Australia.¹⁹

6.4 Will exports continue or recur?

During the course of this inquiry, the Commission found that several factors will impact on the likelihood that chrome bars will be exported to Australia from Romania. The following is an assessment of these factors.

6.4.1 Export volumes and impact of measures

The Commission has found that exports of the goods from Romania gradually decreased following the imposition of the measures, ceasing entirely in CY 2019. As such, there were no exports of the goods from Romania during the inquiry period, shown in Figure 8.

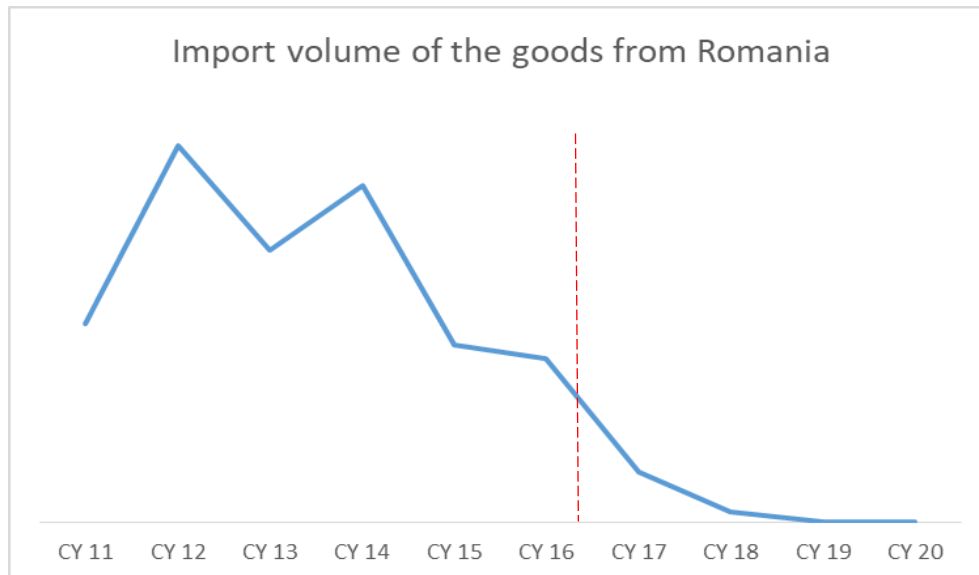


Figure 8: Import volume of the goods from Romania (red line depicts the imposition of measures)

6.4.2 Shipping of chrome bars through third countries

Milltech asserts that the goods may be manufactured in Romania and exported to Australia through other countries, such as Italy. These assertions are largely based on the acquisition of an Italian manufacturer, Stelmi Italia S.P.A., by the ASO Group which owns ASO Cromsteel Industries S.A. (Cromsteel), an exporter of the goods during the original investigation period.

¹⁹ The Trade Remedy Index, available at the Commission [website](#).

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The Commission has examined Milltech’s assertions. The limited evidence provided by Milltech does not support its claim that the goods have been produced in Romania and shipped from Italy. There is no other information before the Commission (such as the ABF import database, noting that the country of origin of the goods must also be declared) which would substantiate Milltech’s claims.

6.4.3 Maintenance of distribution links

The Commission notes there have been changes in the behaviour of importers since the measures were imposed.

A major importer who previously imported the goods from both Italy and Romania reduced and then ceased its imports from Romania and increased its import volume from other countries. More detail on the Commission’s understanding of the relationships between the importer and relevant exporters of chrome bars is included in **Confidential Attachment 3**.

The upshot of this analysis is that it is easy for this importer (and likely others) to adjust its supply chains to obtain chrome bars from Romania should the measures expire.

6.4.4 Export volumes

The Commission conducted an analysis of available information from the ABF import database.

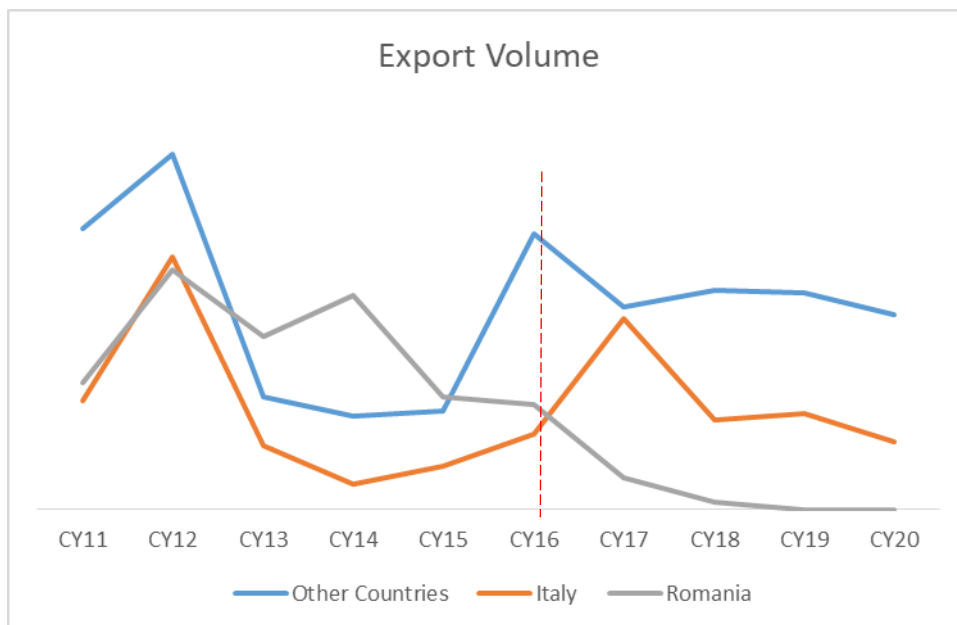


Figure 9: Export volumes to Australia from Romania, Italy and all other countries
(red line depicts the imposition of measures)

Figure 9 shows that since the imposition of the measures, while import volumes from Romania declined and then stopped, imports of chrome bars from countries not subject to the measures continued.

The Commission further notes that major suppliers of chrome bars in Europe have a wide network of manufacturing facilities and export these goods to Australia, through the same or similar importers/distributors that were active prior to the imposition of the measures and which continued to be active during the inquiry period.

6.4.5 Conclusion – will exports recur?

During the original investigation the Commission identified one major importer of the goods from Romania to Australia. The Commission noted that this importer imported a significant volume of the goods from Romania, with the balance supplied from Italy. For this importer, the goods from these two countries were closely aligned in price.

Following the imposition of the measures, the Commission observed a trend that this importer imported less from Romania and increased its imports from Italy. The Commission notes that the pricing of chrome bar imported from Italy remained similar. The Commission therefore considers that it is reasonable to conclude that the importer's decision as to where to obtain supply of chrome bar was largely based on price.

On the basis of the above information, the Commission has been unable to identify any other reason than the price of the goods from Romania being more expensive (due to the operation of the measures) to explain why the importer reduced its import volumes from Romania. This is likely to be the case for all Australian importers of the goods from Romania.

The Commission notes that there has been no contrary evidence provided by any other party nor any positive evidence indicating that exports are not likely (i.e. a closure of the exporter's operations, a repositioning of the exporter's marketing to certain countries (not Australia) or general market trends). The Commission therefore considers that exports to Australia from Romania are likely to recur in the absence of the measures.

Further analysis is available at **Confidential Attachment 3**.

6.5 Are the exports likely to be dumped?

In assessing the likelihood of whether dumping will continue or recur, a number of factors are relevant as outlined in the Manual. The Manual provides that the inquiry may gather facts relevant to whether dumping will resume, such as exporters' margins, the volume of exports before and after the measures were imposed, the effect of the measures, the level of dumping compared with the level of measures, and any change in those measures (i.e. as a result of a review of measures).²⁰ As per the Manual, the relevance of each factor will vary depending on the nature of the goods being examined and the market into which the goods are being sold. No one factor can necessarily provide decisive guidance. The following analysis therefore examines a range of factors that the Commission considers are relevant to this inquiry.

6.5.1 Historical dumping margins

The Commission has found the following dumping margins for chrome bars exported to Australia from Romania in REP 319

Country	Exporter	IDD
Romania	S.C Nimet S.R.L	35.3%
	Cromsteel	22.4%
	All other exporters	66.9%

²⁰ The Manual, p. 176 refers.

Table 6: Dumping margins from REP 319

6.5.2 Analysis of dumping margins

As provided for in section 269TACAB(1), for uncooperative exporters, the export price and normal value are calculated in accordance with section 269TAB(3) and section 269TAC(6) respectively by having regard to all relevant information.

As noted above, there were no exports from Romania during the inquiry period and no cooperation from any interested parties. The Commission therefore considers that the most relevant information is that which was last obtained from the cooperating exporters from Romania and verified by the Commission in the course of preparing REP 319. REP 319 had regard to the highest weighted average normal value and the lowest weighted average export price of those established in the investigation period, and established a dumping margin of 66.9 per cent for the uncooperative and all other exporters.

In the absence of other evidence, the Commission considers this methodology to also be relevant to the inquiry period. Noting that the cost of steel billet is a significant proportion of the CTMS of chrome bars, the Commission has indexed the ascertained normal value and ascertained export price established in REP 319 for uncooperative exporters by reference to movements in the Southeast Asia and Latin America steel billet price reported by S&P Global to establish the variable factors relevant to the inquiry period. Using this methodology, the Commission has established a dumping margin of 66.9 per cent.

Separately, the Commission examined the prices of chrome bars exported from Romania in prior years, as reported in the ABF import database. The actual export prices of the goods from Romania imported between CY 2016 and CY 2018, when compared to the indexed normal values for the corresponding period using the methodology described above, were also likely to have been at dumped prices.

Taken together, the Commission considers the pricing behaviour exhibited by Romanian exporters of the goods indicates that dumping is a likely pricing strategy in the absence of the measures. The calculations can be found in **Confidential Attachment 4**.

6.5.3 Conclusion – likelihood of dumping

Based on actual exports to Australia from Romania in the three years following the imposition of the measures, the Commission has determined that these were likely to have been exported at dumped prices. Moreover, the volume of exports in the first year following the imposition of the measures was comparable to the volume of imports prior to the imposition of the measures.

The Commission considers that determining a dumping margin on the basis of exports following the imposition of measures is reasonably representative of the volume and pricing that would likely occur if the measures were allowed to expire. The Commission also notes that when the goods were previously exported to Australia from Romania, they were dumped with significant dumping margins.

There has been no contrary evidence provided by any other party and there is no other evidence indicating that any exports likely to be exported following the expiration of measures would be priced differently. There is no evidence of any change in pricing strategies, distribution arrangements or general market trends that would cast doubt on this conclusion.

The Commission therefore considers it is likely that, should exports of chrome bars from Romania to Australia recur, they are likely to be at dumped prices in the absence of the measures.

6.6 Is material injury likely to continue or recur?

The *Ministerial Direction on Material Injury* provides that injury from dumping need not be the sole cause of injury to the industry, where injury caused by dumping is material in degree. It further provides that the materiality of injury caused by a given degree of dumping can be judged differently, depending on the economic condition of the Australian industry suffering the injury. In considering the circumstances of each case, the Commission must consider whether an industry that at one point in time is healthy and could shrug off the effects of the presence of dumped products in the market, could at another time, weakened by other events, suffer material injury from the same amount and degree of dumping.

6.6.1 Volume effects

The Commission has analysed the market share at chapter 5 prior to and immediately following imposition of the measures. Following imposition of the measures, the Australian industry experienced a significant increase in sales volume. At the same time, export volumes from Romania decreased significantly, with no exports from FY 2019 onwards. The Australian industry almost completely absorbed the volume of chrome bar previously supplied by exporters from Romania in FY 2018.

6.6.2 Price effects

The market for the goods remains highly price sensitive with import price offers acting as a reference point for price negotiations between importers and other parties in the Australian market. As can be seen in Figure 6 in Chapter 5, immediately following the imposition of the measures, the Australian industry experienced a significant increase in unit sales revenue. Milltech also experienced significant increases in profit and profitability at the same time.

6.6.3 Price undercutting

Price undercutting occurs when the imported goods are sold at prices below those of the Australian manufactured like goods. As detailed in REP 319, the Commission found that Romanian exports of chrome bars were the lowest priced in the market at the time.

As there were no exports of the goods from Romania during the inquiry period, the Commission has had regard to an estimated Romanian export price using the methodology described in chapter 6.5.2, then added estimates (based on REP 319) for ocean freight, marine insurance, importation costs, importer selling, general and administrative expenses, and an amount for importer profit. The Commission considers this approach gives the best available estimate of the price at which the goods exported from Romania would enter the Australian chrome bar market in the absence of the measures.

The Commission then compared these estimated delivered export prices with Milltech's selling prices during the inquiry period. Using this approach, the Commission estimated that chrome bar from Romania would likely have been, on average, 11 per cent lower than Milltech's prices. The Commission's analysis is in **Confidential Attachment 3**.

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Based on the industry verification, the Commission has established that Milltech's customers rely on import prices to negotiate price. Noting the apparent difference between the prices of the dumped goods and Milltech's own sales in REP 318 and the difference shown in the above analysis, the Commission considers it likely that, in the absence of the measures, Milltech's customers would make reference to the price of chrome bars from Romania to negotiate better prices. This would in turn put pressure on Milltech to reduce its prices, impacting materially on its profit and profitability.

6.6.4 Imports of the goods from countries not subject to measures

The Commission examined the volume of chrome bars exported to Australia from countries that were not subject to measures. As depicted in Figure 5, countries other than Romania have exported a significant volume of the goods to Australia but with a relatively stable share of the market. Exports from these other countries have not materially increased since the imposition of the measures.

Figure 10 further demonstrates that over the CYs from 2011 to 2020, Romania and Italy were the major players for chrome bars exported to Australia. Romania's average price was the lowest among the average prices of all other countries.

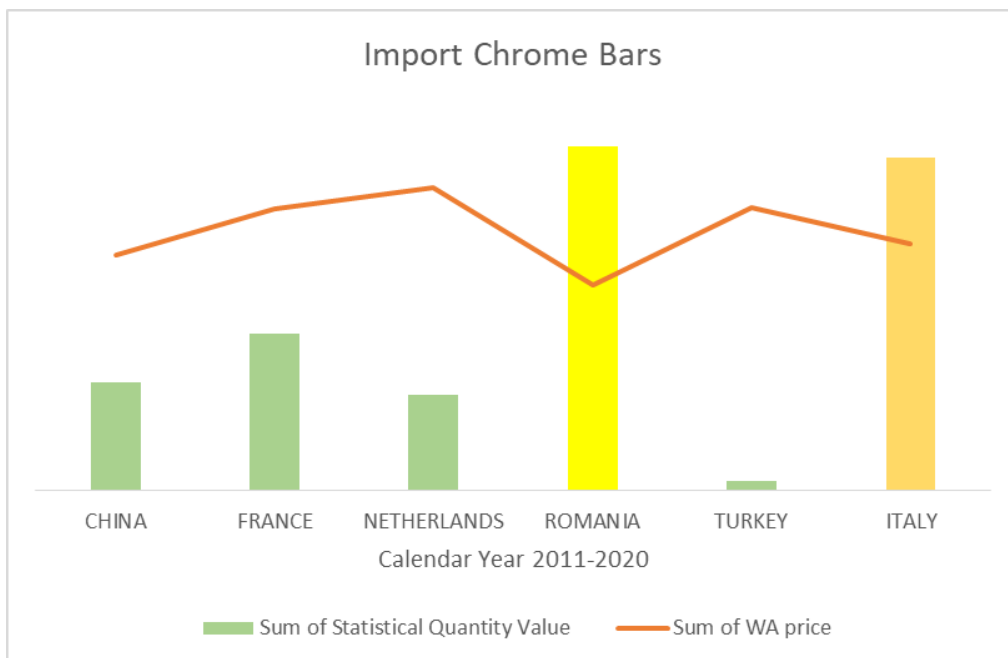


Figure 10: Major import from CY 2011-2020 Quantity vs price

6.6.5 The likelihood of material injury continuing or recurring

In the original investigation, the Commission found that the Australian industry suffered injury in the form of:

- price depression;
- price suppression;
- reduced sales volumes;
- reduced profits;
- reduced profitability;
- reduced revenue;
- reduced capacity utilisation; and
- reduced employment.

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As the source of the lowest priced chrome bars in the market, the Commission considers that Romanian exporters hold a significant price advantage over other market participants. As a result, the Commission considers that the price of the goods exported from Romania would likely have a depressive effect on prices across the market generally, including those achieved by Milltech in the absence of the measures.

The evidence outlined above highlights that following the imposition of measures in September 2016, Milltech significantly increased its share in the domestic market for chrome bars, which coincided with a reduction in the volume of imports of the goods and the subsequent absence of imports from Romania. This increased domestic sales volume resulted in material increases in profit and profitability for Milltech.

The Commission considers that if the measures were to expire, the recurrence of dumped exports from Romania would put downward pressure on prices in the Australian market such that the Australian industry would experience material injury, i.e. injury that is not immaterial, insubstantial or insignificant.

6.7 Conclusion

The Commission is satisfied that the expiration of the measures would lead, or would be likely to lead, to a recurrence of the dumping and the material injury that the measures are intended to prevent.

7 NON-INJURIOUS PRICE AND LESSER DUTY RULE

7.1 Non-injurious price

The NIP is defined in section 269TACA as “the minimum price necessary to prevent the injury, or a recurrence of the injury” caused by the dumped goods, the subject of a dumping duty notice. The Commission will generally derive the NIP from an unsuppressed selling price (USP).

7.2 Legislative framework

Under section 8(5) of the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act), the Minister must specify a method for calculating the IDD payable. In doing so, the Minister must, if the NIP is less than the normal value, have regard to the desirability of specifying a method of calculating the IDD such that the sum of the IDD payable and the ascertained export price is not greater than the NIP (lesser duty rule).

The NIP is defined in section 269TACA(a) as the minimum price necessary to prevent the injury or a recurrence of the injury caused by the dumping.

Under section 8(5BAA) of the Dumping Duty Act, the Minister is not required to have regard to the desirability of fixing a lesser amount of duty where the Minister is satisfied that one or more of the following circumstances exist:

- (a) the normal value of the goods was not ascertained under section 269TAC(1) because of the operation of section 269TAC(2)(a)(ii);
- (b) there is an Australian industry in respect of like goods that consists of at least two small-medium enterprises, whether or not that industry consists of other enterprises.

Neither of the above circumstances apply in the context of this inquiry.

7.3 Assessment of NIP

The USP is a selling price that the Australian industry could reasonably achieve in the market in the absence of dumped imports.²¹

The Commission’s preferred approach to establishing the USP for the goods is set out in chapter 24 of the Manual, which sets out the following methods:

- industry selling prices at a time unaffected by dumping;
- constructed Australian industry price based on the industry’s CTMS, plus an amount for profit; or
- use relevant and comparable selling prices of undumped imports.

Having calculated the USP, the Commission then calculates a NIP by deducting the costs incurred in getting the goods from the export Free on Board point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include

²¹ The Manual, page 137.

overseas freight, insurance, into store costs and amounts for importer expenses and profit.

7.4 Commission's approach and assessment

Based on the information before it, the Commission considers that the Australian industry was not affected by dumping during the inquiry period.

As there were no exports from Romania during the inquiry period and no other evidence of dumping, the Commission has used the Australian industry selling prices in the inquiry period as the basis for the USP as these were achieved in a market unaffected by dumping. The Commission then made deductions to the USP for transport and handling charges to establish a NIP at Free on Board terms.

The Commission found that the NIP has changed since it was last ascertained.

The Commission's calculation of the NIP is contained in **Confidential Attachment 3**.

7.5 Lesser duty rule

Where the Minister is required to determine the IDD, section 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act) applies.

Sections 8(5B) and 8(5BA) of the Dumping Duty Act require the Minister, in determining the IDD payable, to have regard to the 'lesser duty rule'. In relation to a dumping duty notice, the lesser duty rule requires consideration of whether the NIP is less than the normal value of the goods. However, pursuant to sections 8(5BAA) and 8(5BAAA) of the Dumping Duty Act, the Minister is not required to have regard to the lesser duty rule where one or more of the following circumstances apply:

- a) the normal value of the goods was not ascertained under section 269TAC(1) because of the operation of section 269TAC(2)(a)(ii); and/or
- b) there is an Australian industry in respect of like goods that consists of at least two small-medium enterprises, whether or not that industry consists of other enterprises.

None of these circumstances apply in the case of this inquiry, and therefore the Minister must consider the desirability of applying a lesser amount of duty. In this instance, the NIP is not lower than the ascertained normal value, and therefore it is not the operative measure.

8 FORMS OF DUTY

8.1 Preliminary findings

The Commission is proposing to recommend that the Minister continue the collection of anti-dumping duties on Romania using the ad valorem duty method.

8.2 Legislative framework

Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013*, in accordance with section 8(5BB) of the Dumping Duty Act, prescribes the methods for working out the amount of interim dumping duty payable on goods the subject of a notice under section 269TG.

The forms of duty available to the Minister when imposing anti-dumping measures are:

- fixed duty method (e.g. \$X per tonne);
- floor price duty method;
- combination of fixed and variable duty method (combination duty method); or
- ad valorem duty method (i.e. a percentage of the export price).²²

8.3 Consideration of form of measures

The various forms of dumping duty all have the purpose of removing the injurious effects of dumping. However, in achieving this purpose, certain forms of duty will better suit particular circumstances more so than others. In considering which form of duty to recommend to the Minister, the Commissioner will have regard to the *Guidelines on the Application of Forms of Dumping Duty*²³ and relevant factors in the market for the goods.

Relevantly, key considerations for imposing a combination method where there are complex company structures with related parties and where circumvention of measures is likely.

On the other hand, an ad valorem duty method has an advantage where there are many models or types, however, has a potential disadvantage in that export prices might be lowered to avoid the effects of this duty.

8.4 The Commission's assessment

The Commission notes that the current measures are in the form of an ad valorem duty. The original investigation also found, due to the variance of chrome bar grades, that other forms of duty, especially the combination duty, are disadvantageous, as multiple ascertained export prices cannot be set for different grades. As there was no cooperation from Romanian exporters during this inquiry, and no submissions received from any interested parties, the Commission considers that the circumstances of chrome bars exported from Romania remain the same and the ad valorem duty method continues to be the most appropriate form of duty.

²² Section 5 of the *Customs Tariff (Anti- Dumping) Regulation 2013*.

²³ Available on the Commission website.

9 PROPOSED RECOMMENDATION TO MINISTER

On the basis of the reasons contained in this report, and in accordance with section 269ZHF(2), the Commissioner is satisfied that the expiration of the measures applying to chrome bars exported to Australia from Romania would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and material injury that the measures are intended to prevent.

As such, the Commissioner proposes to recommend that the Minister:

- secure the continuation of the dumping duty notice applying to chrome bars exported to Australia from Romania. If the Minister were to accept the Commissioner’s proposed recommendation, the dumping duty notice in respect of chrome bars exported from Romania would continue for another five years; and
- the notice would have effect in relation to exporters generally as if different variable factors had been ascertained (Table 7 refers).

Country	Exporter	IDD
Romania	All exporters	66.9%

Table 7: Dumping margins resulting from this inquiry

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10 ATTACHMENTS

Confidential Attachment 1	Australia chrome bars market analysis
Confidential Attachment 2	Economic condition of the Australian industry
Confidential Attachment 3	Injury analysis
Confidential Attachment 4	Dumping margin analysis