



**Australian Government**  
**Anti-Dumping Review Panel**

# **ADRP DECISION NO. 46**

CHROME-PLATED STEEL BAR  
EXPORTED FROM THE ITALIAN  
REPUBLIC AND ROMANIA

December 2016

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## Abbreviations

<b>Term</b>	<b>Meaning</b>
Act	<i>Customs Act 1901</i>
ADC	Anti-Dumping Commission
ADN	Anti-Dumping Notice
CTMS	Cost to Make and Sell
Commissioner	The Commissioner of the Anti-Dumping Commission
FOB	Free on board
GAAP	Generally accepted accounting principles
Italy	The Italian Republic
Milltech	Milltech Pty Ltd
Regulations	<i>Customs (International Obligations) Regulation 2015</i>
Stelmi	Stelmi S.p.A
Reviewable Decision	The decision of the Commissioner made on 3 August 2016 to terminate part of Investigation 319
SEF319	Statement of Essential Facts 319 dated 9 May 2016
TER319	Termination Report 319 dated August 2016

## Decision

On 3 August 2015 the Anti-Dumping Commissioner terminated that part of Investigation No. 319 into the dumping of chrome bar exported from the Italian Republic and Romania which related to chrome bar exported by Stelmi S.p.A and, more generally, chrome bar exported from Italy. The Commissioner did so by the publication of Anti-Dumping Notice 2016/69.

I affirm the Commissioner's decision pursuant to section 269ZZT(1)(a) of the *Customs Act 1901*.

My reasons are attached.

A handwritten signature in black ink, appearing to read 'S. Ellis', with a stylized flourish at the end.

Scott Ellis  
Anti-Dumping Review Panel Member  
Date: 19 December 2016

## Reasons for decision

### Summary

- 1 On 3 August 2016 the Anti-Dumping Commissioner (**Commissioner**) terminated that part of its investigation into the dumping of chrome bar as related to chrome bar exported by Stelmi S.p.A (**Stelmi**) from the Italian Republic (**Italy**), in substance because the Commissioner was satisfied Stelmi, which was the sole Italian exporter to Australia, did not dump chrome bar in Australia (**Reviewable Decision**). The Commisisoner found that there was a dumping margin of -6.7%.
- 2 Milltech Pty Ltd (**Milltech**), which was the Australian industry, applied for a review of that decision pursuant to s 269TDA of the Customs Act, 1901 (**Act**). Milltech asserted that the Commissioner's calculation of the dumping margin, and hence, the decision to terminate, were wrong. Milltech asserted that the Commissioner had not calculated the export price correctly. It also asserted that the Commissioner had failed to make necessary findings about Stelmi's financial records and accounting treatments. Milltech asserted that the Commissioner had failed to properly investigate and consider various items shown on Stelmi's annual returns, with the consequence that the cost to produce or manufacture under s 269TAAD was too low. It contended that the Commissioner should have calculated the normal value under s 269TAC(2)(c) of the Act, and that the Commissioner should not have used domestic sales to determine the normal value. Milltech also argued that Stelmi must have been dumping into Australia because the Australian prices for its goods were competitive with goods from Romania, when the Commisisoner found that Romanian goods were dumped and Romania was a lower cost producer than Italy.
- 3 I did not accept Milltech's contentions. The Commissioner was entitled to rely on Stelmi's records because they were audited and, on investigation, found to be reliable. It was appropriate for the Commissioner to determine the normal value for Stelmi by reference to sales in the ordinary course of trade under s 269TAC(1) of the Act. I did not accept that the various matters raised about Stelmi's accounts established that the calculation of the normal value was wrong. The argument comparing the dumping duty calculated for Stelmi with the dumping duty for the Romanian goods was not viable. Although there is limited information about inland transport and customs and port charges, I consider that those matters would not

have affected the dumping margin so substantially that the dumping margin of Stelmi's goods would have been more than 2%.

- 4 As a consequence, I concluded that the Reviewable Decision was the correct and preferable decision, and I affirmed it.

## Background

- 5 This review concerns the export of "chrome bar" from Italy and Romania to Australia. Chrome bar is steel bar which has been covered with a thin layer of chrome. It is typically used as pistons in hydraulic systems because the surface can be made very smooth.<sup>1</sup>

- 6 Milltech, which is the Australian industry, asserted that chrome bar was being dumped in Australia by exporters in Italy and Romania. Milltech applied for the imposition of dumping duties.<sup>2</sup> There is a number of Romanian exporters, but Stelmi is the only Italian exporter of chrome bar to Australia.

- 7 An investigation was initiated.<sup>3</sup> The investigation resulted in the imposition of dumping duties on chrome bar from Romania.<sup>4</sup> However, the Commissioner concluded that chrome bar exported from Italy by Stelmi was not dumped. The Commissioner terminated the investigation in respect of goods exported by Stelmi pursuant to s 269TDA(1)(b)(i) of the Act.<sup>5</sup> The Commissioner also concluded that the volume of dumped goods exported from Italy as a whole was negligible and terminated the investigation in respect of chrome bar exported by Italy pursuant to

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<sup>1</sup> A more detailed description of the goods is:

- 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;
  - chrome plating of any thickness;
  - lengths not greater than 8 metres; and
  - diameters in the range of 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.

See SEF319.

<sup>2</sup> Application dated 9 November 2015.

<sup>3</sup> Investigation 319. ADN 2015/130, 10 November 2015.

<sup>4</sup> Notice dated 6 September 2016 (EPR 40).

<sup>5</sup> On 3 August 2016, by ADN 2016/69.

s 269TDA(3) of the Act.<sup>6</sup> The ADC's reasons are set out in Termination Report 319 (TER319).

8 Milltech seeks review of the Reviewable Decision under s 269ZZN(b) of the Act, as it is entitled to do.<sup>7</sup>

9 The Senior Member of the panel directed that I conduct the review.

10 Section 269TDA(1) requires the Commissioner to terminate an investigation against a particular exporter if it is satisfied that the dumping margin is less than 2%. The Commissioner concluded that the dumping margin for Stelmi's goods was -6.7% (i.e. that the export price of Stelmi's goods was 6.7% higher than the normal value).

11 In conducting a review, the Panel must consider whether the Commissioner's decision to terminate was the correct and preferable decision. The Panel's review under Part XVB of the Act is just that, a review. It is not a reinvestigation.

12 The decision to terminate under s 269TDA(1) will not be the correct and preferable decision if the Panel concludes that, as a matter of fact, the dumping margin was more than 2%. Alternatively, the Panel may conclude that the relevant material does not establish that the margin was less than 2%, so that the ADC should not have been positively satisfied that Stelmi's dumping margin was less than 2%.

13 In conducting the review, the Panel may have regard only to information that was before the ADC when the Reviewable Decision was made<sup>8</sup> and to information received during a conference under s 269ZZRA of the Act.

14 The effect of revoking a decision to terminate the investigation is that the Commissioner must then publish a further statement of essential facts and continue with the investigation.<sup>9</sup>

15 I requested that Milltech attend a conference pursuant to s 269ZZRA, which took place on 6 October 2016. During that conference I obtained information about Ground D of the application. That information has informed my discussion of ground D of the application.

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<sup>6</sup> See SEF at p26.

<sup>7</sup> Under s 269ZZO. By application dated 2 September 2016.

<sup>8</sup> Section 269ZZT(4).

<sup>9</sup> See s 269ZZT.

## The issues

- 16 It is convenient to deal with the matters raised by Milltech in the following order:
- (a) failure to properly take into account Stelmi's losses;
  - (b) comparison with the Romanian goods;
  - (c) failure to make express findings required by Regs 43 and 44 of the *Customs (International Obligations) Regulations 2015 (Regulations)*;
  - (d) failure to properly take into account various aspects of Stelmi's financial statements; and
  - (e) failure to properly calculate the export price.

### Failure to properly take losses into account

- 17 Milltech said that the Commissioner's determination of the normal value was incorrect and not in accordance with the requirements of the Act.
- 18 The Commissioner determined the normal value by reference to the "price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arm's length transactions...". This is the default method for calculating the normal value under s 269TAC(1) of the Act.
- 19 Milltech contended that the magnitude of Stelmi's losses meant that the normal price should have been determined on the alternative basis of the cost of production or manufacture plus an allowance from profit, in accordance with s 269TAC(2)(c).<sup>10</sup>
- 20 Stelmi had an operating loss of €2.444.million in 2014 and €1.572 million in 2015.<sup>11</sup> The losses were on total production of approximately €31 million in 2014 and €27.1 million in 2015.<sup>12</sup> Milltech referred to the statement in the 2014 Financial Statement that competition in the market had forced it to sell below cost. Milltech said that the magnitude of Stelmi's losses "were difficult to reconcile with the negative dumping margin calculated by" the Commissioner".

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<sup>10</sup> Application at p14.

<sup>11</sup> Financial Statement for 2015, at p8 (EPR 30).

<sup>12</sup> Financial Statement for 2015 at p6 (EPR 30).

- 21 It does not follow from the fact that an exporter has made losses, even substantial losses, that the Commission may abandon the use of s 269TAC(1). The use of sales in the ordinary course of trade to determine the normal value is mandated by s 269TAC(1), unless the number of relevant sales is “low”, within s 269TAC(2)(a)(i), or there is a “market situation” within s 269TAC(2)(a)(ii) (and there was no suggestion of a “market situation”.) Under s 269TAAAD of the Act, sales are not in the ordinary course of trade if more than 20% of the goods are sold for an extended period of time at less than the cost of the goods. Regulations 43 and 44 provide guidelines about calculating the cost of production or manufacture of goods. Where goods are sold in substantial quantities at less than the cost of production or manufacture, remaining sales which are initially profitable and those which provide for recovery of costs are still treated as sales in the ordinary course of trade.
- 22 Section 269TAC(14) provides<sup>13</sup> that there is a low volume of sales if the volume of relevant domestic sales is less than 5% of the volume of export sales to Australia by the exporter.
- 23 Exports to Australia were only about [REDACTED] of Stelmi’s domestic sales of the goods. There would only have been a “low volume” of sales if less than [REDACTED] of the domestic sales were in the ordinary course of trade.
- 24 The combined effect of s 269TAC(1), (2) and (14) is that s 269TAC(1) would have required that the normal value be determined using sales in the ordinary course of trade even if [REDACTED] of Stelmi’s domestic sales were *not* in the ordinary course of trade within s 269TAAAD. A company which was losing money on [REDACTED] of its sales could readily incur losses of the magnitude identified by Stelmi.<sup>14</sup> The existence of such extensive losses does not mean that the normal value should not be determined in accordance with s 269TAC(1) of the Act.
- 25 Further, most of Stelmi’s sales of the goods under consideration were exports to countries other than Australia. All those export transactions could have been sales at a loss, without impacting on whether the Commission was required to determine the normal value on the basis of domestic sales in the ordinary course of trade.

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<sup>13</sup> Subject to an exception which is presently irrelevant.

<sup>14</sup> The Panel does not suggest that Stelmi was losing money on [REDACTED] % of its sales.

- 26 Consequently, it does not follow from the existence of substantial losses that sales of the goods to Australia will be dumped. Dumping might well have occurred if Stelmi's sales to Australia were as unprofitable as the business as a whole appears to be. However, the documents provided by Stelmi indicate that its exports to Australia were [REDACTED]
- 27 Milltech submitted in the application and in a submission responding to the SEF319, that the Commissioner's officers should have done more to get a breakdown of profitability between Stelmi's different product lines.<sup>15</sup> The Commissioner responded to Milltech's submission in TER319 by saying that Stelmi's accounts did not attribute the losses between particular product lines, so it was not possible for the Commissioner to identify the extent to which sales of the goods contributed to Stelmi's overall losses. I do not think that the investigation would have been significantly assisted by obtaining the further information suggested by Milltech. The profitability of an exporter's other products does not determine the normal value of the goods under consideration.

### Comparison with Romanian goods

- 28 At page 14 of its application for review, Milltech said:

The Stelmi [financial statements] highlight that Romania and the other eastern countries are low cost countries. Milltech questions how Stelmi can be a loss making company yet have a negative dumping margin to Cromsteel, who are a profitable company as per their accounts. Stelmi and Cromsteel compete in the same domestic markets yet Stelmi has a -6.7 margin and Cromsteel has a margin of 23%.

- 29 This argument was also presented in Ground D of the application as a table, the thrust of which can be expressed as follows:
- (a) the Romanian and Italian goods competed in the Italian market;
  - (b) as a consequence, the normal value of Stelmi's goods can be no higher than the Romanian normal value;
  - (c) Romanian goods were found to have been dumped into Australia. The dumping margin for Cromsteel was 22.4% (ie the export price was less than

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<sup>15</sup> EPR 28.

Cromsteel's normal value). The ADC determined that Nimet S.R.L, the other cooperative Romanian exporter, had a dumping margin of 35.3%;

- (d) Stelmi's goods were price competitive with Romanian goods in the Australian market; and
- (e) Consequently, the difference between Stelmi's normal value and its export price cannot have been negative. The difference must be about the same as the Romanian dumping margin.

30 Milltech's argument depends on the assertion that Stelmi was competitive on price with Romanian exporters in the Australian market. Milltech's calculation of the deductive export price in its application appeared to depend on price information contained in an email [REDACTED], a date outside the investigation period. The email suggested that the Stelmi's prices matched the Romanian exporters.

31 However, it appears that Stelmi was [REDACTED]  
[REDACTED]

32 During the exporter visit, the ADC representatives were informed that Stelmi [REDACTED]  
[REDACTED]. Apparently, [REDACTED] told Stelmi that it was [REDACTED]  
[REDACTED] than its Romanian competitors. Stelmi told [REDACTED] that [REDACTED]  
[REDACTED]  
[REDACTED]

33 Another importer, Van Leeuwen Pipe and Tube Australia Pty Ltd indicated that it only purchased chrome bar from Cromsteel because Cromsteel "offers quality chrome bar for a competitive price", which I read as suggesting that Cromsteel was cheaper than Stelmi.<sup>16</sup>

34 On the other hand, another importer, Sanwa Pty Ltd (**Sanwa**), indicated that it purchased exclusively from Stelmi. Sanwa said that it (or its customer) preferred to buy from Stelmi because [REDACTED]  
[REDACTED] and Stelmi's product had superior test results to the goods sourced from other suppliers.<sup>17</sup> Information derived from Sanwa indicates

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<sup>16</sup> Visit Report (EPR 11) at page 9.

<sup>17</sup> At p9 of the Visit Report (EPR 14).

that the export prices for goods imported by Sanwa from Stelmi were [REDACTED].  
About [REDACTED] of Stelmi's Australian sales were made to Sanwa. Further, some of Stelmi's direct sales to its other Australian customers [REDACTED].  
[REDACTED] The export price to Sanwa was [REDACTED] the deductive export price relied on by Milltech in its original application, and apparently [REDACTED] [REDACTED] and Van Leeuwen obtained from Cromsteel.

- 35 More fundamentally, the Commissioner's calculation of the normal value for Stelmi's goods is based on more and more reliable information than that used by Milltech, specifically, the information obtained by the ADC through the investigation process. Stelmi provided the ADC with audited financial records. The ADC verified those records in accordance with its standard practices and using primary documentation. It was satisfied that records provided by Stelmi were complete and accurate. Stelmi's records were a sound starting point for the Commissioner's calculation of the normal value and export price.
- 36 I am not persuaded by this argument that the Reviewable Decision was not the correct and proper decision.

### Failure to make express findings

- 37 Milltech complained that the Commissioner had not made a number of express findings which, it contended, were required by Regs 43 and 44.

#### *Generally accepted accounting principles/competitive market costs*

- 38 Milltech complained that there was no express finding in terms of Reg 43(2)(b) in SEF319 or TER319 that Stelmi's accounts were in accordance with generally accepted accounting principles in the country of export and that they reasonably reflect competitive market costs.
- 39 It is true that neither SEF319 nor TER319 contains an express finding along these lines. However, Reg 43(2) does not require an express finding to be made in order for Stelmi's financial records to be used in determining production costs.
- 40 In the present case, Stelmi's accounts were audited, as Milltech knew. The translation of the accounts provided by Milltech to the ADC under cover of its letter

to the ADC on 25 July 2016 states that this is the case.<sup>18</sup> In general, one of the functions of an auditor is to confirm that accounts are kept in accordance with generally accepted accounting standards. At item 5 of its response to the Exporter Questionnaire,<sup>19</sup> Stelmi states that its accounting practice is “compliant with Italian Law and its Principles”. The ADC investigation team was informed by Stelmi representatives that the accounts were audited and considered the reliability and status of Stelmi’s records. The Commissioner was clearly entitled to use Stelmi’s accounts.

41 I note, however, that Reg 43(2) has limited impact. If the accounts are kept in accordance with these principles, they must be “used”. Reg 43(2) does not require the Minister to adopt them holus-bolus. The Minister has a discretion to disregard information which he or she considers is not reliable. It is also apparent that an exporter’s financial records may be extensive and require analysis and judgment to interpret. Reg 43(2) does not preclude the Commissioner considering records which are not prepared in accordance with generally accepted accounting principles, but which are otherwise reliable or taking such records into account to the extent that they are reliable. In any event, during the site visit the investigators checked that the information provided by Stelmi was comprehensive and reliable.

*Regulation 44: administrative, selling and general costs*

42 Regulation 44 deals with the determination of the amount of administrative, selling and general costs associated with the sale of like goods in the country of export.

43 Milltech complained that there had not been an express statement on the record that the Commissioner was satisfied with the matters relating to the administrative, selling and general costs. Again, I do not consider that the Commissioner was obliged to make an express statement to this effect on the record. The Commissioner considered Stelmi’s treatment of depreciation for operational purposes (which was different from the treatment of depreciation for tax purposes) and found it to be reasonable.<sup>20</sup> It reflected the amounts put aside in reserves to

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<sup>18</sup> EPR 29 and 30 (English Translation). See also Visit Report at section 3.1 (EPR 21).

<sup>19</sup> EPR 9.

<sup>20</sup> Confidential Attachment at 18.

fund the replacement of equipment. The Commission was entitled to accept depreciation on this basis.

- 44 Milltech also argued <sup>21</sup> that the depreciation, amortization and AS&G expenses could not be verified without information about other products manufactured by Stelmi. I do not accept this. The Commissioner could be satisfied if it was apparent that Stelmi had applied reasonable, long standing accounting practices to depreciation of the equipment, which is what happened here.

#### Failure to properly take into account aspects of Stelmi's financial statements

- 45 Milltech contended that the Commissioner had failed to properly take into account various specific aspects of Stelmi's affairs, as revealed by its 2014 and 2015 financial statements.

#### *Related party financial support*

- 46 Milltech asserted that the ADC had failed to properly take into account the financial assistance provided by shareholders of Stelmi and that this vitiated the Commissioner's calculation of the cost of manufacture, and hence the normal value.
- 47 The support identified by Milltech was:
- (a) Lebogest Spa (**Lebogest**), which was Stelmi's largest shareholder, "covered" Stelmi's 2014 losses of €2.444 million;
  - (b) Lebogest made a capital contribution of €1.548 million;<sup>22</sup>
  - (c) Lebogest gave an undertaking, noted in the 2014 Financial Statements, to support Stelmi for a further 12 months;
  - (d) Lebogest provided an additional €600,000 financing, which was used to pay instalments of loans to banks. (The 2014 financial statements go on to state that Lebogest waived repayment of that amount in May 2015 and the loan was converted into capital reserve)<sup>23</sup>; and

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<sup>21</sup> At page 16 of the application.

<sup>22</sup> At page 25/62 of the 2014 Financial Statements. The translations of Stelmi's financial statements has multiple page numberings. I have adopted the numbering in the top right hand corner of the page. The version of the 2014 accounts, which was part of Milltech's original application, was not complete.

<sup>23</sup> At p46/76 of the 2015 Financial Statements.

(e) Another shareholder, MG Equity Securities Companies SpA (**MG**) renounced the sum of €574,000 during the 2015 calendar year, which was identified as a loan and interest.<sup>24</sup>

48 Contributions by shareholders to the capital of a company are one way for a company to get money. When a contribution is made to the capital, there is no ongoing interest charge which might impact on the cost of production or manufacture. Expenses incurred by shareholders in providing capital are a matter for them and does not affect the cost to produce or manufacture. Lebogest's contributions to the capital of Stelmi does not result in additional financing costs for Stelmi. This applies to the contributions to capital which Lebogest made on account of Stelmi's interest expenses.

49 The transaction in relation to MG's loan suggest that interest on that loan was recorded in Stelmi's accounts and hence formed a small part of Stelmi's financing costs. Interest paid to MG is unlikely to be material because Stelmi had bank borrowings of €16.939 million at the end of 2015.

50 The matters referred to by Milltech do not persuade me that the financing costs were not adequately reflected in the records relied upon by the Commissioner in determining the normal value. I also note that financing costs were a relatively small component of the costs of production or manufacture. By far the largest component of the costs was raw materials.

*Related party transactions: lease*

51 Milltech contended that Stelmi's related party transactions should have been examined and tested by the Commission as to whether they represented market costs.

52 Milltech referred specifically to a figure of €1,309,465 for the annual rent paid by the company to a shareholder of Stelmi, Stelmi Italy MG Equity Securities Spa. The

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<sup>24</sup> Milltech's application referred to the forgiveness of two loans, one for €469,000 and the other for €574,000. It appears likely that there was only a single loan, which was referred to twice, in slightly different terms. Both references in the 2015 financial statement are to the same shareholder. One reference (at p29/62) is to a loan of €469,000. The other (at p35/62) is to a loan and interest of €574,000. The 2015 statement of assets and liabilities (page 6/62) records a single shareholder loan of €469,000.

transaction was disclosed in the 2014 Financial Reports which Milltech included in its application. There was a similar entry in the 2015 Financial Statement.

- 53 A related party transaction will not necessarily be above or below market value. Ordinarily, one would expect a transaction with a shareholder to be subject to particular scrutiny to prevent other shareholders being disadvantaged by the transaction. The extract from Stelmi's Financial Statement quoted by Milltech<sup>25</sup> says that the transactions are at arm's length. This assertion is credible, given that the accounts were audited. In any event, the rent is far from nominal. It is nearly A\$2 million a year. The Commissioner was entitled to take the transaction at face value. The ADC was not required to go out and get an independent valuation, or the like.

#### *Energy Rebate*

- 54 Milltech pointed to references in Stelmi's financial records to what Milltech described as an energy rebate. The passage from the 2015 Financial Statement to which reference was made<sup>26</sup> speaks of an increase in accrued income attributable to credit facilities granted to companies with strong energy demand. The amount of the increase in accrued income during the 2015 calendar year was €50,000. This sum is not material, given that Stelmi's total production during the same period was €27.103 million.

#### *Peeling machine*

- 55 Milltech referred to statements in the 2014 Financial Statement which identified a possible tax benefit associated with the purchase of a "peeler and accessories" for €1.5 million. Milltech contended that the tax benefit should have been examined. I do not agree. Tax benefits generally go to the overall profit or loss of the business. The application of s 269TAAD is not directed to the overall profits of the business, but the cost of production or manufacture, which the Commission considered.

#### Failure to properly calculate the export price

- 56 Milltech asserted that there were errors in the ADC's determination of the export price.

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<sup>25</sup> At page 9 of the application.

<sup>26</sup> At page 10.

- 57 The default mechanism for calculating the “export price” is the purchase price in arm’s length purchases, excluding that part of the price which represents a charge in respect of the transport of the goods or other matters arising after exportation.<sup>27</sup> The transport and other post-export charges are generally excluded from the export price by using a “free on board” or “FOB” price, that is the price payable for goods when they are loaded on to the ship bound for Australia. Under an FOB sale, the vendor is responsible for the costs of transport to the place of export but not thereafter.
- 58 The application said that “Milltech does not consider that it may be correct to simply deduct the transportation charges from the freight provider for all the post ex-works costs associated with the goods shipped on cost, insurance and freight terms.”
- 59 This was not what the Commissioner did in respect of the bulk of Stelmi’s export sales. Stelmi’s export sales to Australia were mainly on an “ex-works” basis. Stelmi’s default terms of sale for its domestic sales were ex works as well, so the comparison between the normal value and the export price was, for most transactions, a like for like comparison.
- 60 A minority of Stelmi’s export sales were on a CIF basis, which, of course included a component in respect of port fees and marine transport incurred in getting the goods to Australia. Stelmi used a freight forwarder for its CIF sales. It appears that the freight forwarder did not provide separate charges in respect of inland and international freight or in respect of port charges. The Commissioner’s treatment of these sales does not appear to have differentiated between international freight and inland transport to the place of export. No deduction appears to have been made for port charges.
- 61 I do not consider that any inadequacy in the calculation of the export price would not have had the effect that the dumping margin changed from a margin of -6.7 to one that was more than 2%. As I said, only a minority of sales were CIF sales. Inland transport and port charges were a relatively small part of the export price of the CIF sales.

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<sup>27</sup> Section 269TAB(1).

62 Milltech also asserted that a deduction from the export price should have been made on account of Stelmi's margin on that part of the CIF price which related to overseas transport. It does not appear that Stelmi charged a margin on the CIF component of CIF sales (which, it will be recalled, made up only a minority of its export sales).

### Other matters

63 Milltech complained that there was no information about currency conversion. It appears that domestic and export sales were denominated in Euros. No conversion was necessary for the dumping calculation.

64 The EPR did not include a formal translation of Stelmi's records. Although a formal translation of the accounts was not provided, it appears that the verification team worked through the accounts with Stelmi representatives during the verification process, which is normal in an investigation. During that process the verification team was provided with information about the meaning of key terms in the accounts.

65 Part of Milltech's difficulty with the Reviewable Decision may have been that important aspects of the investigation were confidential from it and it could not know every aspect of the dumping margin calculation. The same difficulty arises with this decision. However, the Act requires that the Commission and the Panel do not disclose confidential information provided to it by all parties, including, of course, the applicant.

### Conclusion

66 For the reasons given above, I consider that the Reviewable Decision was the correct and preferable decision.



Scott Ellis  
Anti-Dumping Review Panel Member  
Date: 19 December 2016