



Australian Government
**Department of Industry,
Innovation and Science**

**Anti-Dumping
Commission**

PUBLIC RECORD

CUSTOMS ACT 1901 - PART XVB

**REPORT
NO. 319**

**ALLEGED DUMPING OF CHROME-PLATED STEEL BAR
EXPORTED FROM ITALY AND ROMANIA**

8 August 2016

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ABBREVIATIONS

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

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This report number 319 has been prepared in response to an application for a dumping duty notice by Milltech Pty Ltd (Milltech) in relation to its allegation that chrome bar exported to Australia from Italy and Romania at dumped prices has caused material injury to the Australian industry producing like goods.

1.2 Authority to make a decision

Division 2 of Part XVB of the *Customs Act 1901*¹ (the Act) describes, among other matters, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to the goods covered by an application under subsection 269TB(1) for the purpose of making a report to the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary).² Section 269TDA provides for when the Commissioner must terminate an investigation

1.3 Application

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

Having considered the application, the Commissioner decided not to reject the application and initiated an investigation into the alleged dumping of chrome bar from Italy and Romania on 10 November 2015.

Anti-Dumping Notice (ADN) No. 2015/130 provides further details relating to the initiation of the investigation and is available on the [public record](#).³

On 11 January 2016, the Commissioner published a Status Report on the [public record](#).⁴

1.4 Investigation timeline

1.4.1 Preliminary affirmative determination

The Commissioner made a preliminary affirmative determination (PAD) on 24 March 2016 and securities have applied to imports of chrome bar from Romania entered for home consumption on and after 30 March 2016.

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

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

³ See number 1 on the [public record](#).

⁴ See number 8 on the [public record](#).

1.4.2 Statement of essential facts

On 9 May 2016, the Commissioner published a Statement of Essential fact (SEF) in relation to its investigation into the alleged dumping of chrome bar exported to Australia from Italy and Romania. The SEF indicated that the Commissioner proposed to terminate the investigation subject to submissions received in response to the SEF. The SEF proposed to terminate this investigation on different grounds for imports from Romania and Italy.

1.4.3 Issues paper

On 15 July 2016, the Commission published an issues paper which outlined its reconsideration of the injury and causation analysis contained in the SEF and provided reasons why the Commissioner was satisfied, at that stage of the investigation, that chrome bar exported from Romania at dumped prices caused the Australian industry to suffer material injury.

1.5 The goods and like goods (Chapter 3)

The Commissioner considers that locally produced chrome bar is 'like' to the goods the subject of the application and is satisfied there is an Australian industry producing those like goods, Milltech.

1.6 Australian industry (Chapter 4)

The Commissioner has found that there is an Australian industry consisting of Milltech that produces like goods in Australia and those like goods were wholly manufactured in Australia.

1.7 Australian market (Chapter 5)

The Australian chrome bar market is supplied from local production by Milltech and by imports from several countries including Italy and Romania.

1.8 Dumping (Chapter 6)

The Commissioner's assessment shows that chrome bar has been exported to Australia from Romania in the investigation period at dumped prices where:

- the margin of dumping was not negligible; and
- the volume of dumped goods was not negligible.

The Commissioner's assessment of dumping margins for chrome bar exported from Romania is set out in Table 1:

ROMANIAN EXPORTER / MANUFACTURER	DUMPING MARGIN
<i>ASO Cromsteel</i>	22.4%
<i>Nimet srl</i>	35.3%
<i>All Other Romanian Exporters</i>	66.9%

Table 1: Dumping margins for exports from Romania

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The Commissioner has investigated alleged dumping of chrome bar from Italy and has found that chrome bar exported from Italy by Stelmi S.p.A (Stelmi) has not been at dumped prices and that the volume of dumped goods exported from Italy was negligible. As such, the Commissioner has terminated the investigation in so far as it relates to Stelmi (under subsection 269TDA(1)) and Italy (under subsection 269TDA(3)). This was reported in Termination Report 319, published on 3 August 2016, and available on the [public record](#).

1.9 Economic condition of the Australian industry (Chapter 7)

The Commission has found that Milltech has experienced injury in the forms of:

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

1.10 Has dumping caused material injury (Chapter 8)

Chrome bar has been exported to Australia from Romania by Cromsteel and Nimet at dumped prices and the dumping has caused material injury to the Australian industry producing like goods.

1.11 Will dumping and material injury continue (Chapter 9)

The Commissioner is satisfied that dumping and material injury will continue if dumping duties are not imposed on chrome bar exported to Australia from Romania.

1.12 Non-injurious price (Chapter 10)

The Commission has compared the non-injurious price (NIP) with the calculated normal values of Cromsteel and Nimet. The Commission has determined that the NIP exceeds the normal values of Cromsteel and Nimet. As a result, the NIP should not be the operative measure for exports of chrome bar from Romania.

1.13 Anti-dumping measures (Chapter 11)

The Commissioner recommends to the Parliamentary Secretary that a dumping duty notice be published in respect of chrome bar exported to Australia from Romania.

The Commissioner recommends that the method of working out the interim dumping duty payable be in accordance with the *ad valorem* duty method.

2 BACKGROUND

2.1 Application and initiation

The Commissioner initiated this dumping investigation on 10 November 2015 following receipt and consideration of an application from Milltech.

Milltech's application alleges that the Australian industry has suffered material injury caused by exports of chrome bar to Australia from Italy and Romania at dumped prices. Milltech alleges that the industry has been injured in the form of:

- Price effects:
 - price depression;
 - price suppression;
- Profit effects:
 - loss of profits; and
 - reduced profitability;
- Volume effects:
 - loss of sales volume;
 - reduced market share;
- Other economic factors:
 - decrease in capacity utilisation; and
 - decrease in employment.

Details on the initiation decision made by the Commissioner are available in Anti-Dumping Notice (ADN) 2015/130 and *Consideration Report 319*. Further details relating to Milltech application are available on the [public record](#).

2.2 Investigation and injury analysis periods

The Commission has set the following investigation and injury analysis periods in respect of this case:

- the investigation period ⁵ for the purpose of assessing dumping is 1 October 2014 to 30 September 2015; and
- the injury analysis period for the purpose of determining whether material injury to the Australian industry has been caused by exports of dumped chrome bar is from 1 July 2011.

2.3 Previous cases

There have been no previous investigations in Australia in relation to chrome bar.

⁵ Subsection 269T(1)

2.4 Preliminary affirmative determination

Following the publication of a Day 60 Status Report, the Commissioner was preliminarily satisfied (under subsection 269TD(1)(a)) that there appeared to be sufficient grounds for the publication of a dumping duty notice in respect of chrome bar exported to Australia from Romania. As such, the Commissioner made a PAD under subsection 269TD(1) on 24 March 2016.

Securities have applied to imports of chrome bar from Romania entered for home consumption on or after **30 March 2016**. A copy of the PAD is available on the [public record](#).⁶

2.5 Statement of Essential Facts

On 9 May 2016, the Commissioner published a SEF in relation to its investigation into the alleged dumping of chrome bar exported to Australia from Italy and Romania⁷. The SEF indicated that the Commissioner proposed to terminate the investigation subject to submissions received in response to the SEF. The SEF proposed to terminate this investigation on different grounds for imports from Romania and Italy.

In respect of Romania, the Commissioner proposed to terminate the investigation under subsection 269TDA(13) of the Act, subject to submissions received, on the basis that the injury to the Australian industry was negligible.

In the SEF, the Commissioner also indicated that he proposed to terminate the investigation in respect of the only Italian exporter that exported chrome bar to Australia in the investigation period, Stelmi S.p.A (Stelmi), under subsection 269TDA(1)(b)(i) of the Act on the basis of the finding that exports by Stelmi were not dumped. The SEF also indicated that the Commissioner proposed to terminate the investigation in respect of Italy under subsection 269TDA(3) of the Act on the basis that the volume of dumped goods exported from Italy to Australia is negligible (being less than 3 per cent of the total Australian import volume).

2.6 Issues paper

On 15 July 2016, the Commission published an issues paper that reconsidered its injury and causation analysis in the SEF and provided reasons why the Commissioner was satisfied, at that stage of the investigation, that chrome bar exported from Romania at dumped prices caused the Australian industry to suffer material injury.⁸

Following the publication of the issues paper, the Commission received three submissions by the due date or by approved extensions of time. Three submissions were received after this period, and the Commissioner has not had regard to these submissions.

⁶ See number 17 on the [public record](#).

⁷ The SEF was originally due to be placed on the public record by 28 February 2016. However, the Commissioner was granted an extension of time to publish the SEF by the then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry Innovation and Science. Further details are in ADN 2016/20.

⁸ The then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science granted the Commissioner an extension of time to provide the final report in order to allow the Commissioner to publish the issues paper and to allow sufficient time for interested parties to respond. Further details are in ADN 2016/64.

2.7 Submissions received from interested parties

The Commission has received submissions from interested parties during the course of the investigation. These submissions have been considered by the Commissioner in reaching the conclusions contained within this report. The submissions received are available on the [public record](#) and listed at **Public Attachment 1**.

3 THE GOODS AND LIKE GOODS

3.1 Legislative framework

In making his assessment of like goods, the Commissioner must firstly determine that the goods produced by the Australian industry are 'like' to the imported goods. Subsection 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.

An Australian industry can apply for relief from injury caused by dumped or subsidised imports even if the goods it produces are not identical to those imported. The industry must however, produce goods that are 'like' to the imported goods.

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.

3.2 The goods

The goods the subject of the application (the goods) are:

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

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

Goods excluded from this application include:

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

Further detail regarding this description (including products which are not the goods) can be found in the SEF, which is available on the [public record](#).

3.3 Tariff classification

After initiating the investigation and considering the goods description in the application the Commission identified the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

- Tariff subheading 7215.90.00 with statistical code 55
- Tariff subheading 7215.50.90 with statistical code 54
- Tariff subheading 7228.30.10 with statistical code 70
- Tariff subheading 7228.50.00 with statistical code 54
- Tariff subheading 7228.60.10 with statistical code 72
- Tariff subheading 7228.60.90 with statistical code 55.

3.3.1 Removal and addition of tariff subheadings

On 24 December 2014, the Commission received a submission from Valbruna Australia recommending that the Commission exclude tariff classification 7222.30.00 from the investigation for three reasons: the Australian industry does not use stainless steel to produce chrome bar; no chrome bar has been imported to Australia under that classification; and the investigation only relates to chrome bar made from alloy or non-alloy steel bar.⁹

The Commission has analysed claims made by Valbruna and decided to exclude tariff classification 7222.30.00 from the investigation.

The Commission found that there was a small amount of goods described as ‘chrome-plated bar’ imported to Australia under tariff classification 7222.30.00 during the injury analysis period, but not during the investigation period. All three exporters in this investigation manufacture chrome bar from stainless steel. However, this product is not exported to Australia and does not compete with the Australian industry.

During the investigation, the Commission found that goods imported under tariff classification 7228.50.00 (statistical code 54) also match the goods description. Therefore, the Commission has added this tariff classification to the list of tariff classifications as above.

ADN No. 2016/22 is available on the [public record](#) and provides advice on the removal of tariff classification 7222.30.00.

3.4 Like goods

Subsection 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.

⁹ See number 2 on the [public record](#).

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The Commission considers that Milltech produces goods that are 'like' to the goods under consideration for the following reasons:

- The primary physical characteristics of the goods and locally produced goods bear a close resemblance, conforming to a general standard regarding steel grades and meeting certain standards of production in a comparable range of sizes between 18 mm and 170 mm in diameter.
- The goods and locally produced goods are commercially alike as they are sold to common users who use chrome bar in the manufacture or service of hydraulic machinery, and directly compete in the same market.
- The goods and the locally produced goods are functionally alike as the range of end-uses are alike. End-uses include the manufacture and assembly of hydraulic cylinders.
- The goods and the locally produced goods are manufactured in a manner which is alike.

Further analysis of the goods and like goods is in the SEF and industry verification visit report which are available on the [public record](#).

Having regard to the above, the Commissioner is satisfied that the Australian industry produces 'like' goods to the goods the subject of the application, as defined in subsection 269T(1).

3.4.1 Submissions received in relation to like goods

On 11 January 2016, the Commission received a submission from Romanian exporter, Nimet, in relation to, *inter alia*, whether a model of chrome bar exported by Nimet to Australia can be classified as the goods, and hence used when calculating export price to determine a dumping margin.¹⁰

Nimet acknowledges that:

although the goods subject of the Application are not limited to those bars (as the Application covers all goods that have the physical characteristics listed in the Application), Nimet notes that Milltech has based its calculations of export prices based on estimated prices of 1045 and 4140 bars exported from Romania. Bars 1045 and 4140 are therefore relevant to Milltech's claim of alleged material injury.

In its submission, Nimet stated that it exported two models of chrome bar to Australia during the investigation period, based on steel grades C45E and 38MnVS6. Nimet considers grade C45E to be a direct substitute for grade 1045, which is manufactured by the Australian industry. Nimet claims that the chrome bar based on steel grade 38MnVS6 is not a direct substitute for chrome bars based on either the 1045 or 4140 steel grades as manufactured by Milltech. Nimet claims chrome bar produced from steel grade 38MnVS6 is not the goods as it has different chemical composition, different mechanical properties, and different end-uses to the grades produced by the Australian industry. It also claims that the selling price is higher than chrome bar made from 1045 steel and lower than 4140 chrome bars.

¹⁰ See document number 7 on the [public record](#).

3.4.2 The Commission's assessment

The Commission notes that the American Iron Steel Institute's (AISI) equivalent number for model 38MnVS6 is 1045V. This indicates it is a plain carbon steel – as is grade 1045. However, it does have different chemical composition and physical properties to grade 1045.

Chrome bar manufactured from different steel grades can have specialised end-uses depending on particular physical or chemical properties. However, the Commission notes that during visits to importers, importers suggested that different grades of chrome bar can be substituted in some circumstances, usually by using a higher grade of steel. Further, product specification sheets of specialised metal suppliers suggest that some end-uses for chrome bar are possible with different grades. The Commission notes that importers suggested that end-users would not normally substitute one grade of chrome bar for another, higher grade due to their higher costs.

As Nimet acknowledges, the goods description does not limit steel grades other than 1045 and 4140 from being considered like goods. Although Milltech does not manufacture chrome bar from 38MnVS6 grade steel, this does not mean Milltech is unable to manufacture it. The processes to produce chrome bar do not vary on the basis of steel grade.

The Commission considers that model 38MnVS6 meets the description of the goods. As such, the export of this grade can be used to calculate export prices. Further, the presence of this steel grade in the Australian market, given it can compete with products manufactured by Milltech as a substitute for grades 1045 and 4140 in some circumstances, means that those exports can be used when analysing injury to the Australian industry.

3.5 Finding

The Commissioner considers that locally produced chrome bars are like goods to the goods the subject of the application.

4 THE AUSTRALIAN INDUSTRY

4.1 Legislative framework

The Commissioner must be satisfied that the 'like' goods are produced in Australia. Subsection 269T(2) specifies that goods are not to be taken to have been produced in Australia unless the goods were wholly or partly manufactured in Australia. Subsection 269T(3) further specifies that the goods shall not be taken to have been partly manufactured in Australia unless at least one substantial process in the manufacture of the goods was carried out in Australia.

4.2 Australian industry

4.2.1 Corporate, organisational and ownership structure

Milltech is a manufacturer of processed steel bars, which includes bright, alloy and chrome bars. Milltech processes bars in a number of different ways, including drawing, peeling, polishing, precision grinding, quenching and tempering, induction hardening and chrome plating. Milltech sells bars at each of these processing stages. Milltech is the Australian producer of like goods to the goods the subject of this application.

Milltech is an Australian proprietary company that commenced trading in 1992. The trading name Milltech Martin Bright Pty Ltd is also used in relation to the manufacture and sale of the goods.

Milltech operates three manufacturing facilities: two in New South Wales, in Tomago and Hexham, and one in Laverton, Victoria. Milltech's facility in Tomago was established in 2001 and is the head office. The Hexham facility was established in 2004. In 2008, Milltech acquired Martin Bright Steels, which extended its manufacturing capabilities.

4.2.2 Production process

Milltech's production process occurs over its three facilities described above. The production process is outlined below.

- *Drawing* – Bars are cold drawn through a die to produce a round, square or hexagonal cross-section. During this process, the ends of the bars are cut and these scraps are sold for recycling.
- *Quenching and tempering (heat treatment)* – Certain bars are heated to a necessary temperature before being rapidly cooled to change the crystalline structure of the steel. To reduce the brittleness resulting from the heat treatment, the bars are tempered through re-heating to a specified temperature before being cooled in a controlled manner.
- *Peeling* – Bars are peeled to enhance dimensional accuracy and to remove surface defects resulting from the hot rolling process. This process is a prerequisite for precision grinding.

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- *Induction hardening* – Bars may be induction hardened to enhance surface hardness and impact resistance, which is required for certain applications including hydraulics in mining equipment.
- *Precision grinding* – Some bars may be precision ground to achieve a very fine surface finish and size tolerance. Specialised computer controlled bar grinding machines achieve the fine tolerances required. This process is a prerequisite for chrome plating.
- *Polishing (linishing)* – Bars are polished to achieve a smooth finish prior to the application of chrome plating.
- *Chrome plating* – Bars are advanced and rotated through a continuous chrome plating line. The bar exits the line fully plated. Milltech also carries out chrome plating using the conventional immersion tank process; however, this is being phased out with the introduction of continuous chrome plating line technology.
- *Final polishing* – Chrome plated bars receive a final polish by a linishing machine to achieve the exact final size and surface finish required.
- *Oiling and packaging* – Chrome plated bars are individually packed in cardboard tubes. Depending on customer requirements, chrome-plated bars are given a coating of protective oil before packaging. This ensures that the finish of the bars is protected during distribution.

4.3 Finding

The Commission has found that there is an Australian industry consisting of Milltech that produces like goods in Australia and those like goods were wholly manufactured in Australia.

5 AUSTRALIAN MARKET

5.1 Introduction

The Commission has found that the Australian market for chrome bar is supplied by the Australian industry and imports from other countries including Italy and Romania. The Commission estimates that the size of the Australian market during the investigation period was approximately 1,300 tonnes.

5.2 Market structure

5.2.1 Australian industry

The Commission conducted a verification visit to Milltech and is satisfied that there is an Australian industry producing like goods which comprises one Australian producer, Milltech.

A second Australian manufacturer of chrome bar, Martensite, operated for part of the investigation period. Martensite ceased trading in February 2015.

The Commission has had regard to the information verified at the visit to Milltech, as well as the matters discussed in the visit report, in preparing this final report. The report on the visit by the Commission to Milltech includes further information on its market practices and is available on the public record at [public record](#).¹¹

5.2.2 Importers

Following the initiation of this investigation, the Commission identified the importers of chrome bar from Italy and Romania. Four of these importers were considered to be 'major' importers based on volume and accounted for 84 per cent of imports of chrome bar from Italy and Romania during the investigation period. These four importers were sent importer questionnaires.

The Commission received responses from the following importers:

- Van Leeuwen Pipe and Tube (Australia) Pty Ltd (Van Leeuwen)
- Interlloy Pty Ltd (Interlloy);
- Sanwa Pty Ltd (Sanwa); and
- Nordon Cylinders.

The data submitted by Van Leeuwen, Interlloy and Sanwa has been verified by the Commission in terms of its relevance, completeness and accuracy. Van Leeuwen, Interlloy and Sanwa cooperated with the investigation and provided their internal records and source documents for their import and sales transactions.

The importer verification reports are available on the [public record](#).¹²

¹¹ See number 12 on the [public record](#).

¹² See numbers 10, 11 and 14 on the [public record](#).

5.2.3 Market distribution

Chrome bar is typically sold as an intermediate good used in the manufacturing or servicing of hydraulic cylinders, machinery or machine components.

The Commission has found that Milltech primarily sells chrome bar to distributors. These distributors may also purchase imported chrome bar to sell to end-users. End-users use the chrome bar in the manufacture of hydraulic cylinders, machinery or machine components. Importers of chrome bar are usually distributors and generally sell to end-users.

Milltech sells their chrome bar to distributors who supply all states and territories in Australia.

Further information on market distribution is available in the visit report to Milltech which is available on the [public record](#).

5.2.4 Demand variability

The Commission has found that demand for chrome is driven by the hydraulic cylinder business across a range of industries, including:

- mining;
- agricultural;
- construction; and
- automotive.

Finished hydraulic cylinders, consisting of a chrome bar and tube, have also affected demand for chrome bar in the Australian market. This is examined in section 8.8.2 below.

5.2.5 Price sensitivity

The Commission has analysed information collected from the Australian industry and importers and found that the Australian chrome bar market is price sensitive. The Commission has found that during the investigation period, Milltech increased the frequency by which it changed its prices for chrome bar, when compared with the period prior to the investigation period. Milltech claims it has done so in response to changing market conditions due to price competition from chrome bar exported from Romania and Italy at dumped prices. Some examples of Milltech's price negotiations over the investigation period are listed in a confidential submission, which is at **Confidential Attachment 1**.

During the course of the investigation, some importers claimed that there is no single or select group of countries or companies that are setting the price for chrome bar. Rather, the whole market is driving the price down. According to these importers, no entity is willing to set prices that are excessively higher or lower than prevailing prices.

The Commission has found that price is the major factor influencing purchasing decisions, but other factors are present as well. These other factors include quality, the range of models available (including steel grade and diameters) and the ability to purchase complementary products like tube also affect whether importers choose Australian chrome bar or imported chrome bar.

Milltech has indicated to the Commission that there is no annual cycle of demand in the chrome bar market. The Commission has found no trend in annual sales of chrome bar that indicate varying levels of demand throughout the year.

The Commission has found that in a market of this small size, sales to a single customer can represent significantly high proportions of volumes and values of the market, and therefore, these sales can have a significant impact on market dynamics.

5.3 Market size

The size of the market for chrome bar and the volume of Australian industry sales for the financial years 2012 to 2015 are shown in Figure 1.

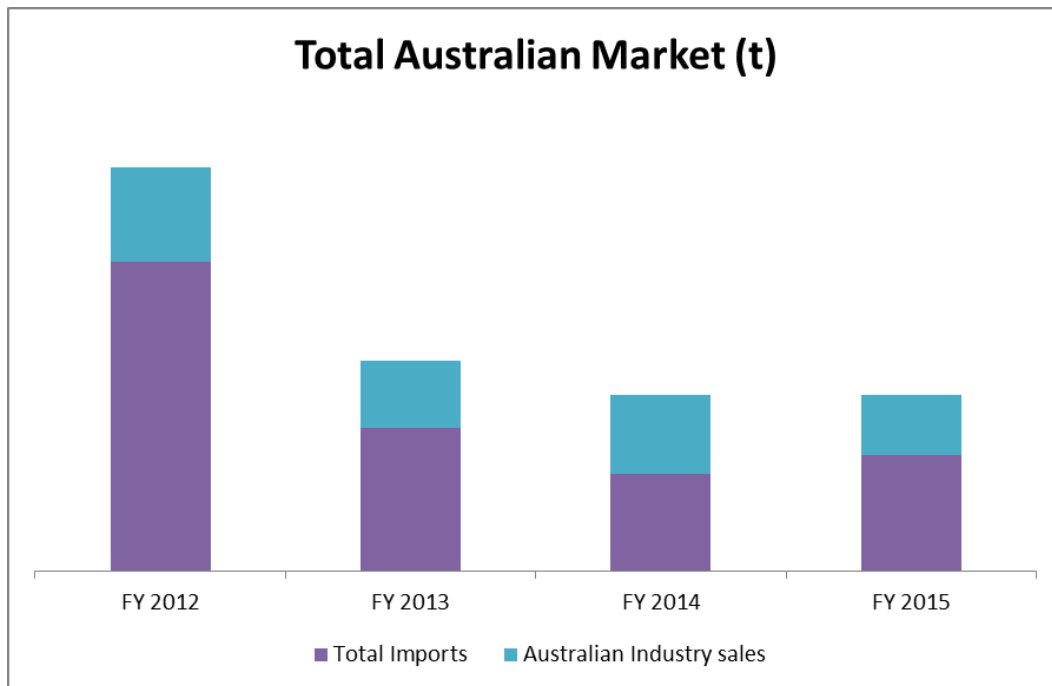


Figure 1: Size of chrome bar market in Australia
(Source: DIBP import data and verified data provided by Milltech)

The Commission has analysed data from the Department of Immigration and Border Protection’s (DIBP) import database and verified data from importers and exporters and the Australian industry. The Commission has found that from FY2012 to FY2013, the size of the domestic market for chrome bars fell markedly and subsequently remained smaller, but stable over the remainder of the injury analysis period. In its submission in response to the SEF, as well as in its application and during the visit by the Commission, Milltech claimed any price and volume effects as a result of falling investment in the mining sector were offset by demand from other industries.

The Commission considers that two factors could have caused this decline. One is the fall in investment in major capital equipment in the mining sector. The other is an increase in the importation of finished hydraulic cylinders, of which chrome bar is one component. Both of these issues will be considered in more detail in the causation chapter of this report (Chapter 8).

6 DUMPING INVESTIGATION

6.1 Introduction

In order to determine whether dumping has occurred, the export price and normal value of the goods must be compared.¹³ Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of goods are determined under section 269TAB and section 269TAC respectively.

6.2 Findings

The Commissioner has found that chrome bar exported to Australia from Romania by:

- Cromsteel; and
- Nimet

was at dumped prices during the investigation period. The Commissioner has also found that the volume of dumped goods was not negligible during the investigation period.

The Commissioner has investigated alleged dumping of chrome bar from Italy and has found that chrome bar exported from Italy by Stelmi S.p.A (Stelmi) has not been at dumped prices and that the volume of dumped goods exported from Italy was negligible. As such, the Commissioner has terminated the investigation in so far as it relates to Stelmi (under subsection 269TDA(1)) and Italy (under subsection 269TDA(3)). This was reported in Termination Report 319, published on 3 August 2016, and available on the [public record](#).

6.3 Exporters

The Commission identified and contacted all exporters from Italy and Romania which export chrome bar to Australia, matching the goods description and the relevant tariff subheadings.

The Commission identified the following exporters of chrome bar:

- Cromsteel
- Nimet, and
- Stelmi.

The first two exporters are from Romania and the last exporter is from Italy. The Commission invited each exporter to complete an exporter questionnaire which requested information necessary to determine whether goods were exported at dumped prices. The Commission received questionnaire responses from all three exporters and responses were assessed as being substantially complete.

These exporters have cooperated with the investigation.

¹³ Subsection 269TACB(1).

PUBLIC RECORD

There were no uncooperative exporters in relation to this investigation. The Commission found no other Italian or Romanian exporters that exported chrome bar to Australia during the investigation period.

The Commission has verified the data submitted by these exporters and visited Cromsteel, Nimet and Stelmi. The verification reports for each of the cooperating exporters are available on the [public record](#).¹⁴

Individual dumping margins have been calculated using verified information for each of the cooperating exporters.

6.4 State aid in Romania

In its application, Milltech alleged that Romanian exporters may be eligible for state aid programs that may distort its normal value. The Commission included questions on state aid in the exporter questionnaires sent to Romanian exporters. In responses to the questionnaire, Cromsteel and Nimet explained that they were not eligible for any state run programs.

The Commission, at its verification visits to the two exporters, confirmed that the state aid programs as described by the Australian industry were not relevant to the chrome bar investigation.

The Commission also sent a questionnaire to the Romanian Government concerning state aid programs. The Romanian Government has not provided a response to the Commission.

6.5 Model matching

For certain goods, there may be different models or grades of the product. The Commission undertakes model matching analysis to determine the different model types, and uses these models when calculating prices. In this investigation, for each exporter, the Commission applied model matching criteria based on steel grade, whether the product is induction hardened, length, diameter, and chromium thickness. The Commission applied the most appropriate criteria depending on the specific circumstances of each exporter. The Commission notes that the most important criterion for the purposes of model matching was the steel grade of chrome bar.

¹⁴ See numbers 19, 20 and 21 on the [public record](#).

6.6 Dumping margin calculations

6.6.1 Cromsteel

6.6.1.1 Export price

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

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

Therefore, the export price is the price paid or payable by the importer, other than amounts which represent a charge in respect of transport and other costs arising after exportation of the goods.

6.6.1.2 Normal value

For models where there were sufficient sales in the ordinary course of trade, the Commission determined that normal value be calculated under subsection 269TAC(1), using the price paid or payable for like goods sold in the ordinary course of trade (OCOT) for home consumption in Romania, in sales that are arm's length transactions by Cromsteel.

For these models, in accordance with subsection 269TAC(8), the Commission considers that certain adjustments are necessary to ensure fair comparison of normal values with export prices, including adjustments for physical differences where exact model matches have not been found.

However, for models where there are insufficient sales in the ordinary course of trade, in accordance with subsection 269TAC(2)(a)(i), and there are no reasonable adjustments to ensure fair comparison of normal values with export prices, the normal value cannot be ascertained under subsection 269TAC(1). For these models, the normal value was determined using a constructed method, as permitted under subsection 269TAC(2)(c).

As required by subsections 269TAC(5A) and 269TAC(5B), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the costs of production or manufacture, the selling, general and administrative (SG&A) costs and profit were established in accordance with sections 43, 44 and 45 of the *Customs (International Obligations) Regulation 2015* (the Regulation), respectively.

The cost of production was calculated under subsection 43(2) of the Regulation, using the exporter's records, and subsections 43(2)(a) and (b) of the Regulation have been met.

Selling, general and administrative (SG&A) costs were calculated under subsection 44(2) of the Regulation, using the exporter's records, and subsections 44(2)(a) and (b) of the Regulation have been met

The amount of profit was worked out under subsection 45(2) using the data relating to the production and sale of like goods by the exporter of the goods in the OCOT.

6.6.1.3 Adjustments

When the normal value was calculated under subsection 269TAC(1), the Commission made the following adjustments to ensure the comparability of normal values to export prices, pursuant to subsection 269TAC(8).¹⁵ These adjustments are:¹⁶

Adjustment type	Deduction/addition
Specification adjustment	Add / subtract amount for specification adjustment to normal value of surrogate models
Export commissions	Add costs relating to commissions paid on exports
Domestic credit	Deduct cost of extending credit to domestic customers

6.6.1.4 Dumping margin

The Commission, in determining the dumping margin, compared the weighted average of monthly export prices over the whole of the investigation period with the weighted average of monthly corresponding normal values over the whole of that period, in accordance with subsection 269TACB(2)(a).

The weighted average product dumping margin for chrome bar exported to Australia by Cromsteel for the investigation period is **22.4 per cent**.

Cromsteel’s dumping margin calculations are at **Confidential Appendix 1**.

6.6.2 Nimet

6.6.2.1 Export price

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

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

Therefore, the export price is the price paid or payable by the importer, other than amounts which represent a charge in respect of transport and other costs arising after exportation of the goods.

When conducting verification of Nimet, the Commission determined that it was appropriate to conduct dumping margin calculations on an ex-works (EXW) basis, taking into account the difficulty in separating inland freight from the cost, insurance and freight (CIF) prices.

¹⁵ No adjustments under 269TAC(9) were required.

¹⁶ Where the normal value was calculated under subsection 269TAC(2)(c), no adjustments under 269TAC(9) were required.

6.6.2.2 Normal Value

The Commission found that for three models exported to Australia, there were sufficient volumes of domestic sales by Nimet of chrome bar that were arm's length transactions and at prices that were in the OCOT for home consumption in Romania. The Commission has determined that the prices paid in respect of domestic sales of chrome bar for those models are suitable for assessing normal value under subsection 269TAC(1).

The Commission does not consider that these domestic selling prices require any adjustment under subsection 269TAC(8) to ensure proper comparison with export prices.

When calculating normal values under subsection 269TAC(1), the Commission noted there was one instance where no sales were recorded for a particular model in a particular quarter, and so the Commission did not possess a weighted average normal value for the exported Australian model in this circumstance. In this case, the weighted average normal value from the later quarter has been used as the base for the normal value, with a timing adjustment applied based on the difference between quarters for a similar model sold domestically.

For the remaining models, the Commission has constructed normal values in accordance with paragraph 269TAC(2)(c). To construct the normal value for each quarter, the Commission has used:

- the weighted average cost to make (CTM) for Australian export sales; plus
- SG&A applicable to goods sold domestically; plus
- profit on domestic sales made in the OCOT (see verification visit report on the [public record](#)).

As required by subsections 269TAC(5A) and 269TAC(5B), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the costs of production or manufacture, the SG&A costs and profit were established in accordance with sections 43, 44 and 45 of the Regulation, respectively.

The cost of production was calculated under subsection 43(2) of the Regulation, using the exporter's records, and subsections 43(2)(a) and (b) of the Regulation have been met.

SG&A costs were calculated under subsection 44(2) of the Regulation, using the exporter's records, and subsections 44(2)(a) and (b) of the Regulation have been met.

The amount of profit was worked out under subsection 45(2) using the data relating to the production and sale of like goods by the exporter of the goods in the OCOT.

In constructing normal values under subsection 269TAC(2)(c), the Commission considered that no adjustment under subsection 269TAC(9) is necessary to ensure a fair comparison with EXW export prices.

6.6.2.3 Submissions received in relation to Nimet's normal value

On 11 January 2016, Nimet provided a submission¹⁷ to the Commission in relation to how normal values are calculated. Nimet submitted that normal values of the goods must be calculated on sales to a third country rather than domestic sales. This is because Nimet claims it sells a low volume of like goods in Romania, and considers the Romanian market to be unsuitable as a basis for calculating normal values. Nimet restated this claim in a submission in response to the issues paper on 2 August 2016.

Nimet claims that the goods it produces are for the purpose of sales to European and non-European markets. They are not produced for the purpose of Romanian domestic sales. Nimet claims only small quantities of goods are left on stock and are made available for domestic sales. These sales are made mainly to Romanian businesses that use small length bars for hydraulic cylinder repairs.

In its submission of 2 August 2016, Nimet claimed that it was not consulted on the method for determining models, especially in regard to diameters, which Nimet claims is not suitable for fair comparison.

6.6.2.4 The Commission's assessment

The Commission is satisfied that the sales data included in the domestic sales listing is complete, relevant and accurate, and can be used for assessing normal value under subsection 269TAC(1) for three models exported to Australia. For the remaining models, it is recommended that normal value be constructed under paragraph 269TAC(2)(c).

Subsection 269TAC(3A) provides that there is no requirement to consider third country sales (under subsection 269TAC(2)(d)) before working out the normal value of goods under subsection 269TAC(2)(c). Therefore, where the conditions of subsection 269TAC(2)(a)(i) have been met, the normal value can be constructed under paragraph 269TAC(2)(c). In doing this, an amount for profit will usually be included.¹⁸

Given the Commission considers all models of chrome bar exported to Australia to be like goods, as discussed in chapter 3.5.2, the Commission therefore considers there to be sufficient volume to calculate a normal value.

The Commission calculated the profitability of domestic sales of like goods by comparing the selling price of chrome bar with the corresponding quarterly CTMS.¹⁹ In calculating the profit percentage, the Commission only included domestic sales made in the OCOT.

In regard to Nimet's claim it was not consulted in regard to model matching characteristics, the Commission notes that this issue was discussed at the verification visit. Nimet had visibility of the model matching criteria, and was shown all calculations in regard to normal value, export price and other adjustments.

6.6.2.5 Dumping margin

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

¹⁷ See number 7 on the public record.

¹⁸ In accordance with section 45 of the *Customs (International Obligations) Regulation 2015*.

¹⁹ Subsection 45(2) of the *Customs (International Obligations) Regulation 2015* refers.

The weighted average product dumping margin for chrome bar exported to Australia by Nimet for the investigation period is **35.3 per cent**.

Nimet's dumping margin calculations are at **Confidential Appendix 2**.

6.6.3 All other exporters dumping margin

The Commission did not find evidence of any other exporters of chrome bar from Romania or Italy to Australia during the investigation period. However, the Commission has calculated a rate for all other exporters from Romania because the investigation relates to exports of chrome bar from Romania rather than exports of chrome bar by specific Romanian exporters.

For all other Romanian exporters, as sufficient information is not available to enable the export price to be ascertained under the preceding subsections, the Commission has determined an export price pursuant to subsection 269TAB(3) after having regard to all relevant information. Specifically, the Commission has used the lowest of the weighted average export prices of those that were established for cooperating exporters in the investigation period.

For all other Romanian exporters, as sufficient information is not available to enable the normal value to be ascertained under the preceding subsections, the Commission has determined normal value for all other exporters pursuant to subsection 269TAC(6) after having regard to all relevant information. Specifically, the Commission has used the highest of the weighted average normal values of those that were established for the cooperating exporters in the investigation period.

The dumping margin for all other exporters from Romania is **66.9 per cent**.

These calculations are at **Confidential Appendix 3**.

6.7 Volume of dumped imports

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

Using the DIBP import database and having regard to the information collected and verified from the importers and exporters, the Commission determined the volume of imports in the Australian market. Based on this information, the Commission is satisfied that, when expressed as a percentage of the total Australian import volume of the goods, the volume of allegedly dumped goods from Romania was greater than three per cent of the total import volume and is therefore not negligible. The volume of dumped goods exported from Italy, when expressed as a percentage of the total Australian import volume, is zero per cent and is therefore negligible.

6.8 Findings

The Commissioner has assessed that chrome bar exported to Australia from Romania by Cromsteel and Nimet were at dumped prices during the investigation period. The Commissioner has also found that the volume of dumped goods was not negligible during the investigation period.

PUBLIC RECORD

A summary of the Commission's assessment of dumping margins is set out in Table 2.

EXPORTER / MANUFACTURER	DUMPING MARGIN
<i>ASO Cromsteel</i>	22.4%
<i>Nimet srl</i>	35.3%
<i>All Other Romanian Exporters</i>	66.9%

Table 2: Dumping margins

7 ECONOMIC CONDITION OF THE INDUSTRY

7.1 Introduction

Milltech claimed in its application that material injury from the allegedly dumped chrome bar exports from Italy and Romania commenced in late 2012. At the initiation of this investigation, the injury analysis period was set to start from July 2011 in order to gain an understanding of the longer term trends in the chrome bar market.

The investigation period was set from 1 October 2014 to 30 September 2015.

7.1.1 Injury findings from the PAD and SEF

In the PAD, the Commissioner made a preliminary finding that Milltech has experienced injury in the form of: reduced sales volume; price effects and profit effects and that this injury was material.

In the SEF, the Commission found that during the investigation period, Milltech has experienced injury in the forms of:

- price suppression;
- loss of profits; and
- reduced profitability.

However, the Commissioner did not find that when these factors were considered together, the injury was material in degree and greater than that likely to occur in the normal ebb and flow of business.

The Commission received one submission in response to the SEF with respect to injury.

7.1.2 Injury findings from the issues paper

In its submission in response to the SEF, Milltech claimed that the Commission's injury analysis has been too narrow in scope, as it appears to have focused exclusively on movements and trends of economic indicators within the investigation period only, and did not compare those indicators to trends across the injury analysis period, which commenced on 1 July 2011.

In the issues paper, which reconsidered the Commission's approach on injury and causation, the Commission has found that the Australian industry has suffered injury in the forms of:

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

and that this injury was material in degree.

7.2 Approach to injury analysis

Under section 269TG, one of the matters the Parliamentary Secretary must be satisfied of in order to publish a dumping duty notice is that the Australian industry producing chrome bar has been materially injured as a result of the dumped goods. This chapter examines Milltech's allegations of injury and the following chapter examines the issues of whether injury has been caused by the dumped goods.

In considering allegations of injury the Commission first examines the economic condition of the Australian industry over the injury analysis period from 1 July 2011. The purpose of the injury period is to allow the Commission to identify and examine longer trends in the market for chrome bar which in turn assist the Commission in its examination of whether material injury has occurred over the investigation period from 1 October 2014.

In the analysis that follows, the Commission has examined a range of injury indicators over the period from 1 July 2011 to 30 September 2015. The charts shown below in relation to the injury indicators are set out in relation to five periods – FY2012; FY2013; FY2014; FY2015 and the investigation period. The last two periods contain data overlap in that they both contain data for the quarters ending December 2014; March 2015; and June 2015.²⁰

The Commission has included data from the DIBP import database in its analysis where necessary. Some aspects of the DIBP import data were verified through visits to exporters and importers.

7.3 Price effects

Figure 2 shows the Commission's injury analysis in respect to price. It indicates that Milltech's weighted average net unit prices have declined over the first four years of the injury analysis period, but then increased slightly in the investigation period. Figure 1 also demonstrates that Milltech's unit costs to make and sell per tonne have fluctuated over the injury analysis period – increasing sharply at the start of the injury analysis period before declining in FY2013 and then slowly rising again over the remainder of the injury analysis period and the investigation period. In FY2013, Milltech incurred a negative margin between prices and costs that increased over the remainder of the injury analysis period.

²⁰ The Milltech data was only available in quarters for the period from July 2014 to September 2015. The absence of quarterly data prior to this period prevented the Commission from examining four one-year periods that end with the investigation period. In these circumstances, the Commission has retained its analysis of four consecutive financial years and then provided an additional one-year observation for each injury indicator that is measured specifically for the investigation period.

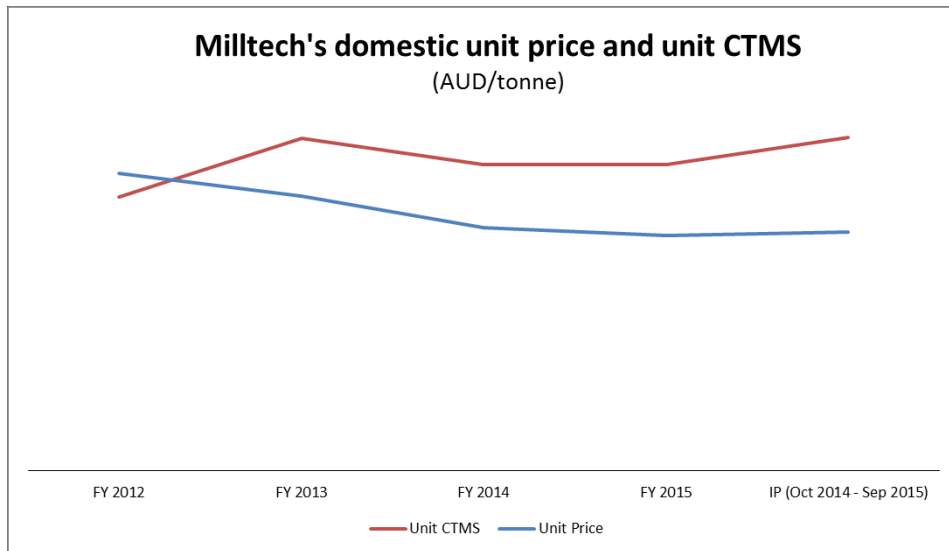


Figure 2: Milltech’s unit selling price and unit cost to make and sell for chrome bars
(Source: verified data provided by Milltech)

In considering the price indicators in the context of the entire injury analysis period, the Commission has found that Milltech has experienced price depression. Further, the Commission has found that since FY2012, the margin between unit price and unit cost to make and sell has become negative and the gap has increased slightly. As such, the Australian industry has suffered price suppression.

The Commission considers that Milltech has suffered injury in the forms of price depression and price suppression.

7.4 Volume effects

Figure 3 shows the Commission’s injury analysis in respect of sales volumes. It indicates that Milltech’s sales volumes fluctuated, in a downward trend, over the injury analysis period.

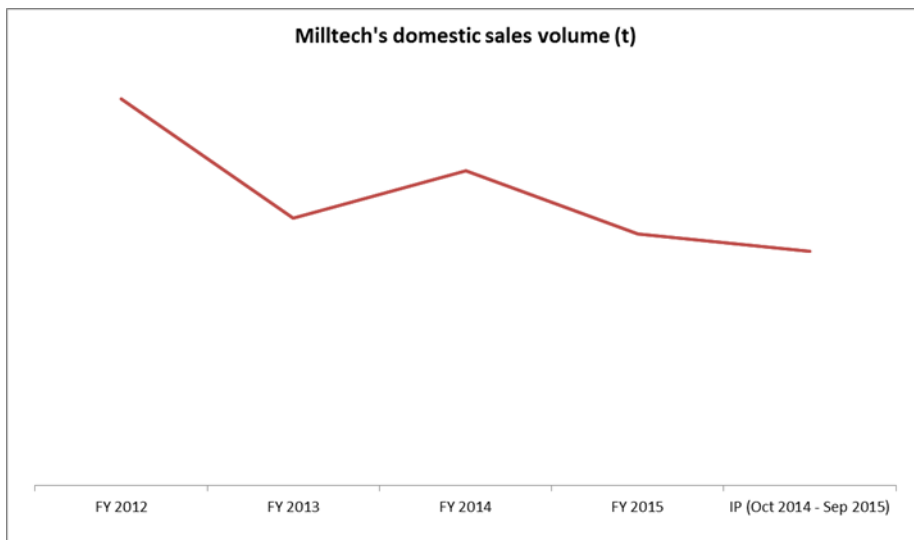


Figure 3: Milltech’s sales of chrome bars by volume
(Source: verified data provided by Milltech)

In considering the sales volume indicator in the context of the entire injury analysis period, the Commission has found that Milltech's total sales volume for the investigation period was lower than in any other year during the injury analysis period.

As such, the Commission considers that Milltech has suffered injury in the form of reduced sales volumes.

7.5 Market share

Figure 4 shows the Commission's injury analysis in respect to market share. This graph includes data from Milltech and another commercial manufacturer of chrome bar, Martensite Pty Ltd. Martensite ceased trading in February 2015. Figure 3 indicates that the Australian industry's market share grew from FY2012 to FY2014, and, while it declined thereafter, its market share remained higher than at the beginning of the injury analysis period. Milltech's market share reflected the trend of the Australian industry as a whole.

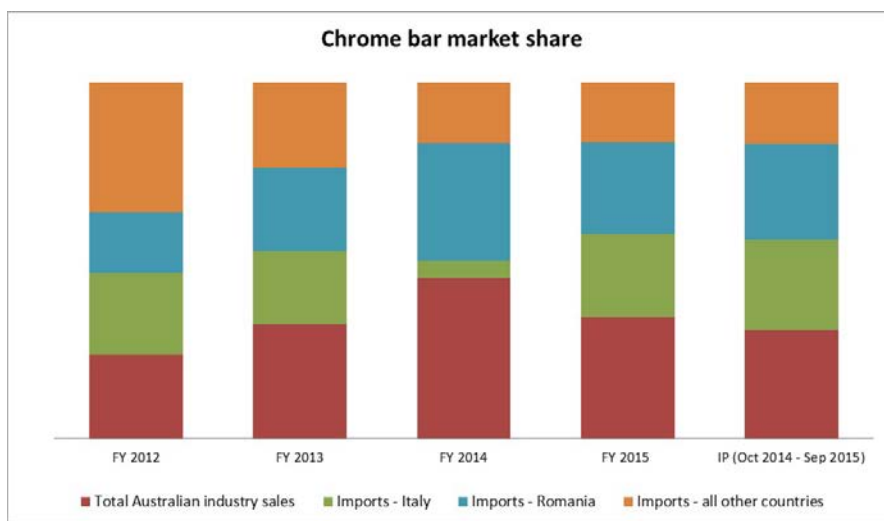


Figure 4: Australian chrome bar market shares by volume
(Source: verified data provided by Milltech, importers, exporters and DIBP data)

The Commission is satisfied that, in the context of the entire injury analysis period, the Australian industry has not suffered injury in the form of lost market share.

7.6 Profits and profitability

In its submission in response to the SEF, Milltech claims that, in determining the materiality of the profit and profitability injury that it has suffered, it is useful to quantify the cumulative loss in the investigation period. During the investigation period, Milltech made a cumulative loss of approximately \$450,000.²¹

The Commission concurs that Milltech did suffer a cumulative loss in relation to its sales of chrome bar in the investigation period.

²¹ This figure derives from the Commission's injury analysis, but is referenced in Milltech's confidential submission in response to the SEF. Milltech has provided the Commission permission to make this figure public.

PUBLIC RECORD

Figure 5 shows the Commission's injury analysis in respect to profit. It indicates that Milltech made a profit on its sales of chrome bar in FY2012 and then it incurred a loss in FY2013 and all subsequent years in the injury analysis period. The amounts of Milltech's yearly losses decreased from FY2014 to FY2015, but in the investigation period, Milltech experienced its largest loss for the whole injury analysis period.

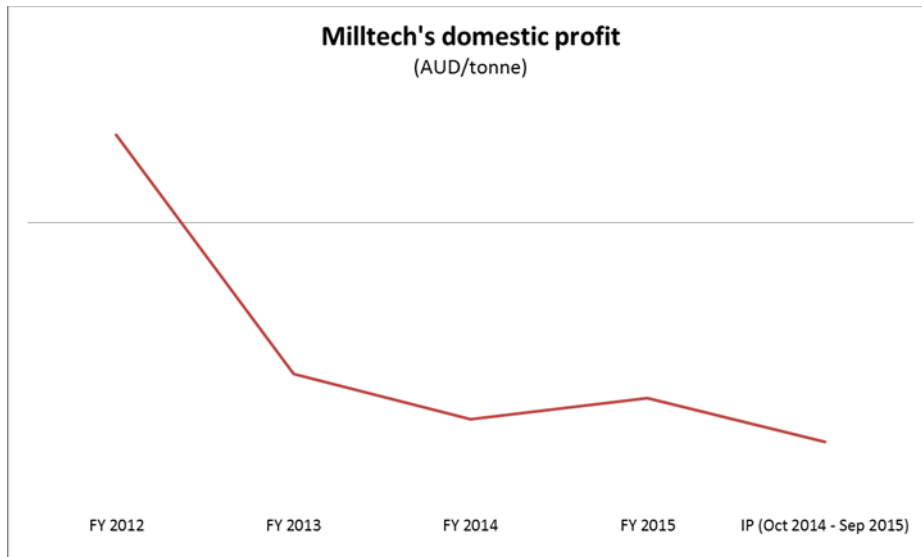


Figure 5: Milltech's profit for chrome bars
(Source: verified data provided by Milltech)

Figure 6 shows the Commission's injury analysis in respect of profitability (unit profit measured as a percentage of unit revenue). It indicates that Milltech had a positive profitability rate in FY2012 and then it incurred a negative rate in FY2013 and the negative rate increased in all subsequent years in the injury analysis period.

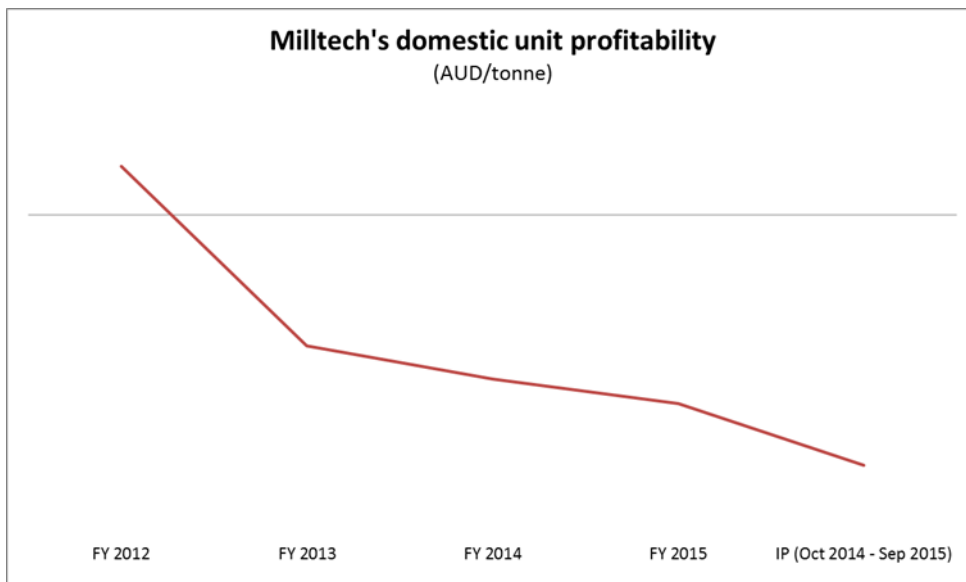


Figure 6: Milltech's unit profitability
(Source: verified data provided by Milltech)

The Commission considers that Milltech has suffered injury in the forms of reduced profits and reduced profitability.

7.7 Other economic factors

The Commission has considered the following economic indicators in addition to the injury factors above.²²

7.7.1 Revenue

Figure 7 shows the Commission's injury analysis in respect of revenue. It indicates that Milltech's revenue from sales of like goods has generally been in decline since FY2012.

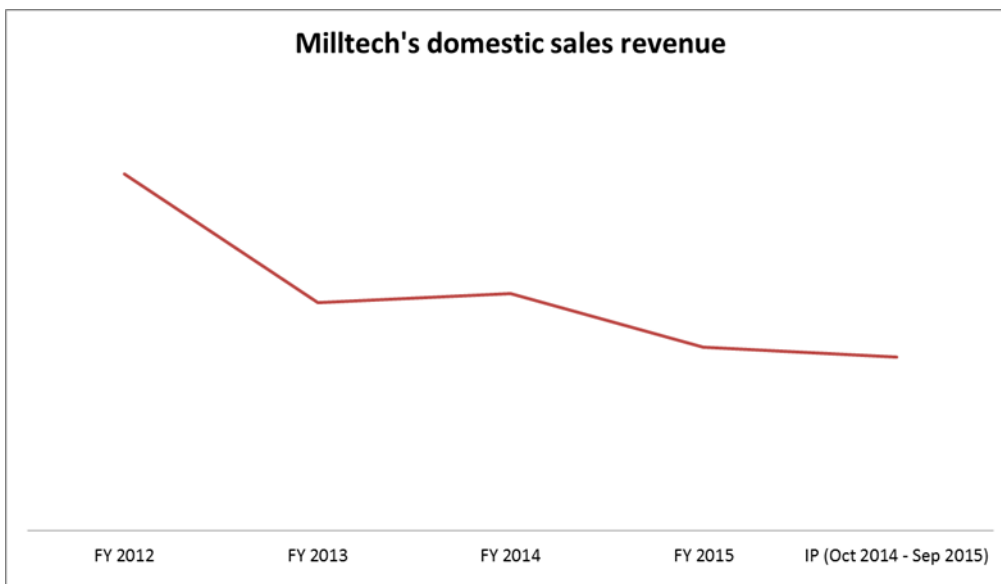


Figure 7: Milltech's revenue of like goods
(Source: Verified data from Milltech)

The Commission considers that Milltech has suffered injury in the form of reduced revenue.

7.7.2 Capacity utilisation

The Commission notes that capacity utilisation declined during the injury analysis period. Due to Milltech investing in its continuous chroming technology, Milltech's capacity for chrome bar production increased.²³ However, production volumes have not correspondingly increased as sales volumes have fallen. Milltech claimed in its submission that low capacity utilisation is a significant indicator of injury as the company made a significant investment, but low sales volumes have prevented a reasonable capacity utilisation of the chrome bar plant.

Figure 8 indicates that Milltech's utilisation of production capacity to produce like goods decreased from FY2012, but remained relatively stable since that time.

²² Milltech provided the Commission with data on a financial year basis only in respect of employment and capacity utilisation. All data provided by Milltech has been verified by the Commission.

²³ In 2013, Milltech purchased the first continuous chroming line to replace immersion tanks for chroming. Milltech purchased a second continuous chroming line in 2015.

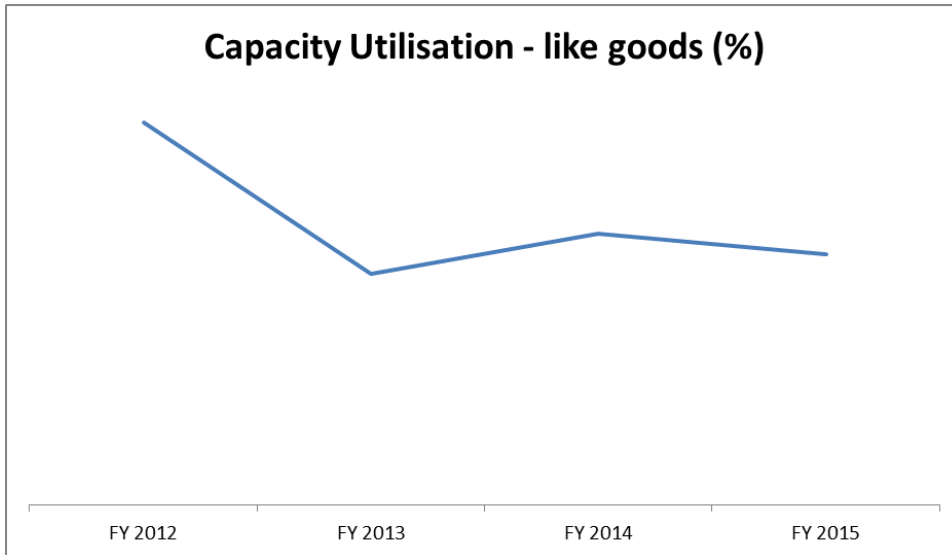


Figure 8: Milltech’s capacity utilisation
(Source: Verified data from Milltech)

The Commission considers that Milltech has suffered injury in the form of reduced capacity utilisation.

7.7.3 Employment

Figure 9 indicates that the number of people Milltech employs in the production of like goods has declined over the injury analysis period.

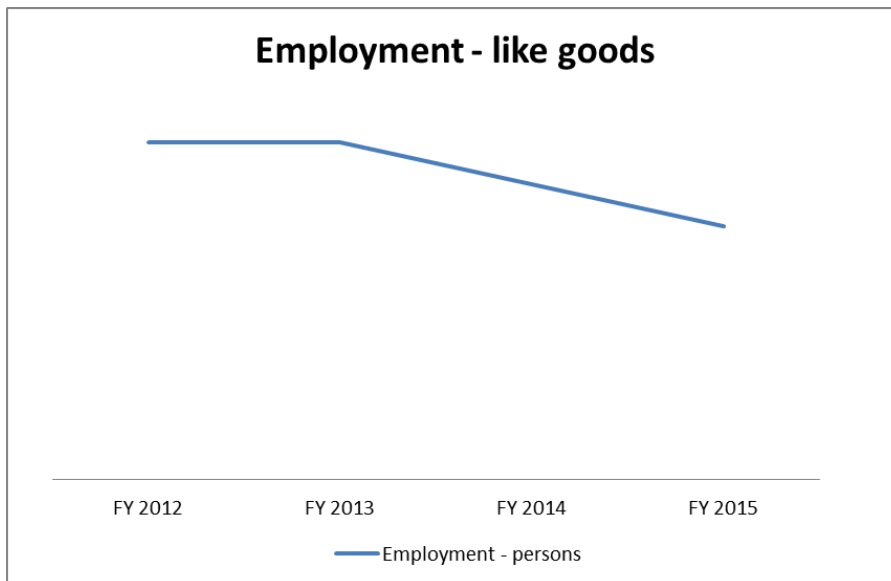


Figure 9: Milltech’s employment level producing like goods
(Source: Verified data from Milltech)

The Commission considers that the Australian industry has suffered injury in the form of reduced employment.

7.7.4 Other factors

In support of its claims of material injury, Milltech completed Confidential Appendix A7 (other injury factors) for each of the financial years from 2011 to 2015.

PUBLIC RECORD

Milltech did not claim injury on all factors listed in this appendix. However, the Commission has analysed all factors listed and found:

- The value of assets increased from FY2011 to FY2015.
- Return on investments increased.
- Capacity remained constant throughout the period.
- Stock value decreased.
- Wages for like goods decreased.

7.8 Submissions received in respect to economic condition of the industry

On 27 July 2016, the European Commission (EC) lodged a submission that claimed, *inter alia*, that the Commission has not analysed all relevant economic factors in respect to injury, in accordance with Article 3.4 of the World Trade Organisation's Anti-Dumping Agreement.

The EC also claimed that the Commission's analysis of economic data is not presented in a meaningful way, and is not transparent.

7.8.1 The Commission's assessment

In undertaking its injury analysis, the Commission has assessed the applicant's injury claims against a wide range of relevant economic factors, as listed above.

The Commission's standard practice in all investigations has been to analyse data provided by interested parties with graphs that use minimal detail to protect commercially sensitive information.

7.9 Findings

The Commissioner has found that the Australian industry has 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.

The Commissioner considers that the number of factors in which the industry has suffered injury, when considered together, is not immaterial, insubstantial or insignificant and, as such, is material in degree and greater than that likely to occur in the normal ebb and flow of business.

8 HAS DUMPING CAUSED MATERIAL INJURY?

8.1 Introduction

While the Commission has observed that the Australian industry has suffered injury in the forms of price depression, price suppression, reduced sales volume, reduced capacity utilisation, reduced employment, reduced sales revenue, reduced profits and reduced profitability, the Commissioner is unable to make recommendations to the Parliamentary Secretary that measures be imposed until he is satisfied that material injury has been caused by the dumped goods exported from Romania.

Subsection 269TAE(1) of the Act outlines the factors that the Parliamentary Secretary may take into account in determining whether material injury to an Australian industry has been, or is being, caused or threatened by dumped exports to Australia.

The Commission has analysed the following factors in assessing the causal link between the dumped imports from Romania and injury suffered by the Australian industry:

- size of the dumping margins;
- price undercutting;
- price effects,
- volume effects;
- profit effects, and;
- other possible causes of injury.

8.2 Size of the dumping margins

Subsection 269TAE(1)(aa) of the Act provides that the Parliamentary Secretary may have regard to the size of each of the dumping margins, worked out in respect of goods of that kind that have been exported to Australia. If the dumping margins are at two per cent or below, they are considered negligible and the Commissioner is required to terminate the investigation.

The Commissioner’s assessment of dumping margins for chrome bar exported from Romania is set out in Table 1:

ROMANIAN EXPORTER / MANUFACTURER	DUMPING MARGIN
<i>ASO Cromsteel</i>	22.4%
<i>Nimet srl</i>	35.3%
<i>All Other Romanian Exporters</i>	66.9%

Table 1: Dumping margins for exports from Romania

These dumping margins are above two per cent and, as such, are not negligible.

The Commission considers that the magnitude of dumping provided exporters with the ability to offer chrome bar at lower prices than would otherwise have been the case, and that this enabled importers of chrome bar to have a competitive advantage in terms of price compared to the Australian industry. The lower prices offered by exporters became apparent through the Commission’s price undercutting analysis, outlined below.

8.3 Price undercutting

The Commission conducted price undercutting analysis to determine whether dumped chrome bar exported from Romania undercut the Australian industry's prices. The Commission has undertaken this analysis on the selling price of chrome bar occurring under similar terms and conditions of sales. The Commission's price undercutting analysis is a major component in its broader causation analysis.

As a first step, the Commission compared Milltech's chrome bar prices to prices of chrome bar exported from Romania which have been found to be dumped. This step can determine whether Milltech's chrome bar prices have been undercut by dumped imports.

The Commission then compared Milltech's prices with both undumped imports from Italy and imports from other countries. This analysis can assist in determining whether the Romanian exporters are price setters in the market, or whether Milltech's prices were undercut by other competitors.

Finally, the Commission then compared Romania's prices to Milltech's prices by factoring in the respective dumping margins for each Romanian exporter. This involved adding the dumping margins to the weighted average prices. This would assist in determining the significance of the competitive advantage on price that has been afforded to importers of the Romanian goods because of the dumping.

The Commission's methodology for analysing price undercutting aims to compare verified selling prices of importers to selling prices achieved by the Australian industry under the same conditions. Milltech and the importers of the goods from Romania sell on different levels of trade (such as free on board (FOB) or free into store (FIS)). Some of these importers undertake further processing of chrome bar, by cutting it to specified lengths, rather than selling just by weight or diameter. Milltech's customers are distributors, and these distributors may also be importers of the goods from Italy and Romania. The distributors then sell the Australian or imported chrome bar to end-users.

The Commission accounted for different grades of chrome bar when conducting price undercutting analysis. The Commission compared the two main grades of chrome bar (1045 and 4140) as well as other models to minimise the potential for any price differences that may distort price comparisons, such as those resulting from different product mixes. The Commission notes that, in addition to steel grade, the product characteristic of induction hardening also influences the price.

8.3.1 Comparison of Cromsteel's prices to Milltech

The Commission compared Milltech's prices to the prices of chrome bar from the major Romanian exporter over the investigation period, Cromsteel. Cromsteel exports accounted for the majority of Romanian imports of chrome bar by volume over the investigation period. Milltech's chrome bar sales are at the FIS level, and so the Commission adjusted Cromsteel's prices to be at the same level of trade as Milltech. The Commission used verified data from Romanian exporters and verified data from importers to derive prices of imported chrome bar to the FIS level.

Cromsteel and Milltech did not sell chrome bar during every month of the investigation period. Therefore, this comparison analysis concentrates on the common months of sale over the investigation period.

The Commission's analysis demonstrated that selected grades and models of chrome bar sold by Cromsteel to common customers undercut Milltech by significant margins in all months that both companies sold comparable products during the investigation period. This analysis is contained in **Confidential Appendix 4**.

8.3.2 Comparison of Nimet's prices to Milltech and Cromsteel

The Commission also conducted price undercutting analysis by the second Romanian exporter, Nimet.

As with the above analysis, the Commission compared Milltech's prices and Nimet's prices at the same level of trade. The Commission used verified data from Nimet, but it did not have any verified data from importers. There were no common customers between Milltech and Nimet.

The Commission's analysis found that over the investigation period, Milltech's prices for each steel grade of chrome bar were undercut by Nimet, although Nimet's imports of chrome bar into the Australian market was small in terms of volume.

8.3.3 Comparison of Italian and other exporters to Romanian and Milltech prices

The Commission also analysed price undercutting by other exporters of chrome bar in the market. The analysis was conducted in two stages. The Commission compared the prices of all exporters of chrome bar within the investigation period to determine the lowest price in the market.

Using DIBP data, and verified data from Italian and Romanian exporters, the Commission compared prices of imported goods at FOB level from all major exporting countries during the investigation period.

Figure 10 indicates that in three of four quarters in the investigation period, the FOB prices of chrome bar – for all exporters and all grades – exported from Romania were lower than those from all other countries. The Commission also found that the weighted average FOB prices of chrome bar exported from Romania for the entire investigation period were lower than those from all other countries. This analysis indicates that the Romanian exports were generally the lowest export prices in the investigation period and, when taking into account the magnitude of the undercutting and the market share of those goods in Australia, it is likely that the prices of the dumped goods from Romania influenced the prevailing market prices in Australia in the investigation period.

PUBLIC RECORD

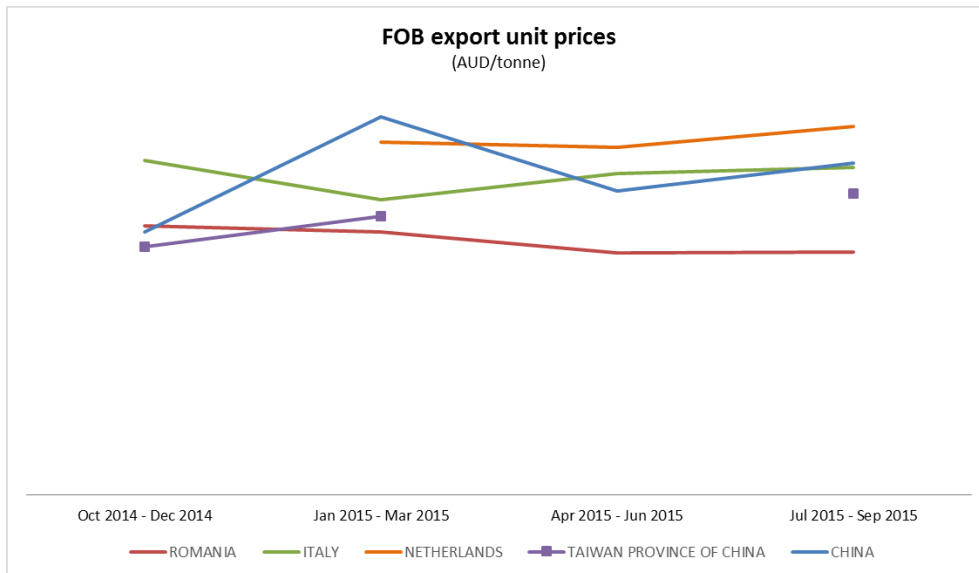


Figure 10: Comparison of imported chrome bar prices
 (Source: DIBP data base, verified data from Stelmi, Cromsteel and Nimet)

8.3.4 Comparison of Italian and Romanian prices with Australian prices

The Commission compared Romanian and Italian chrome bar prices in Australia to Milltech’s prices over the investigation period. This comparison of quarterly weighted average prices for the two main grades of steel – 4140 and 1045 – are shown in Figures 11 and 12 respectively.

The Commission found there was consistent undercutting of Milltech’s prices by Stelmi over the investigation period.

The Commission also found that Cromsteel's prices were consistently lower than those of both Milltech and Stelmi from Italy apart from one exception for 1045 grade steel in the first quarter of the investigation period. Sales by Nimet only occurred in two quarters of the investigation period. Nimet’s prices undercut Milltech’s in both of those quarters.

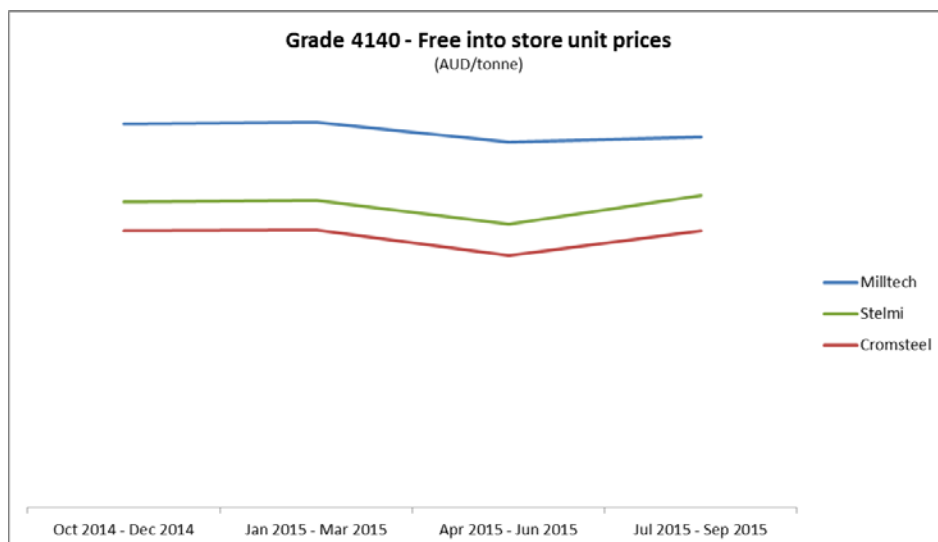


Figure 11: Comparison of free into store unit prices for 1045 grade steel chrome bar
 (Source: verified data provided by Milltech, importers and Cromsteel)

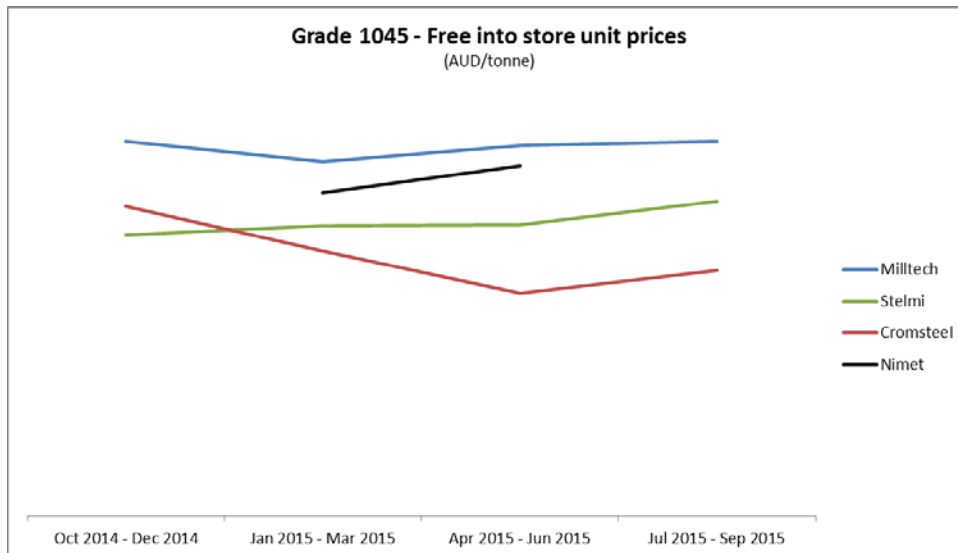


Figure 12: Comparison of free into store unit prices for 4140 grade steel chrome bar (Source: verified data provided by Milltech, importers, Nimet and Cromsteel)

8.3.5 Findings

The Commission has found that chrome bar exported from Romania at dumped prices was, in all cases except for one grade in one quarter, the cheapest in the Australian market during the investigation period and undercut Milltech’s prices across all grades and models in the investigation period. The Commission considers that the price differential between chrome bar exported from Romania at dumped prices, and all other chrome bar sold in the Australian market, has allowed importers of Romanian chrome bar to be price setters and to influence the prevailing market prices in Australia.

The Commission has also found that when the amount of dumping margin is added to the price of chrome bar exported to Australia from Romania, the price in Australia of chrome bar exported from Romania in many instances would not have undercut Milltech’s prices. This analysis indicates that the magnitude of the dumping margin was a significant factor in allowing the dumped goods to be sold in Australia at prices that undercut Milltech’s prices and that exerted significant downward pressure on Milltech prices.

Further details of the Commission’s price undercutting analysis are at **Confidential Appendix 4**.

8.4 Price effects

The Commission has found that Milltech has suffered injury in the form of price depression and price suppression.

As noted above in chapter 5.2.5, the Commission has found that the Australian chrome bar market is price sensitive with price being an important, but not the only, factor affecting purchase decisions. These other factors include quality, the range of models available (including steel grade and diameters) and the ability to purchase complementary products like tube also affect whether importers choose Australian chrome bar or imported chrome bar.

PUBLIC RECORD

Milltech has asserted and provided evidence that import price offers and movements in the price of import offers are used by buyers to negotiate prices with Milltech. This was verified during the Australian industry visit by the Commission. The Commission has found that buyers of chrome bar can make purchases either from the Australian industry or from overseas, and can switch suppliers easily. The Commission has also found that end-users can purchase chrome bar from Australian and imported sources simultaneously.

On 26 April 2016, Milltech provided a submission concerning price effects in the chrome bar market. Milltech made similar comments in its submission in response to the SEF. Both submissions provided examples of price negotiations between Milltech and its customers, highlighting how Milltech's prices have been undercut during the investigation period. The evidence highlights how Milltech's prices have been influenced by Romanian prices. The submission supports the claim that Milltech was responding to price competition by reducing its own prices. Milltech's examples are listed at **Confidential Attachment 1**.

As shown in figure 13 below, the Commission found that Milltech's unit price has remained steady throughout the investigation period. While prices have remained steady throughout the investigation period, they still remain lower than unit cost throughout the investigation period. This indicates that during the period, Milltech suffered injury in the form of price suppression.

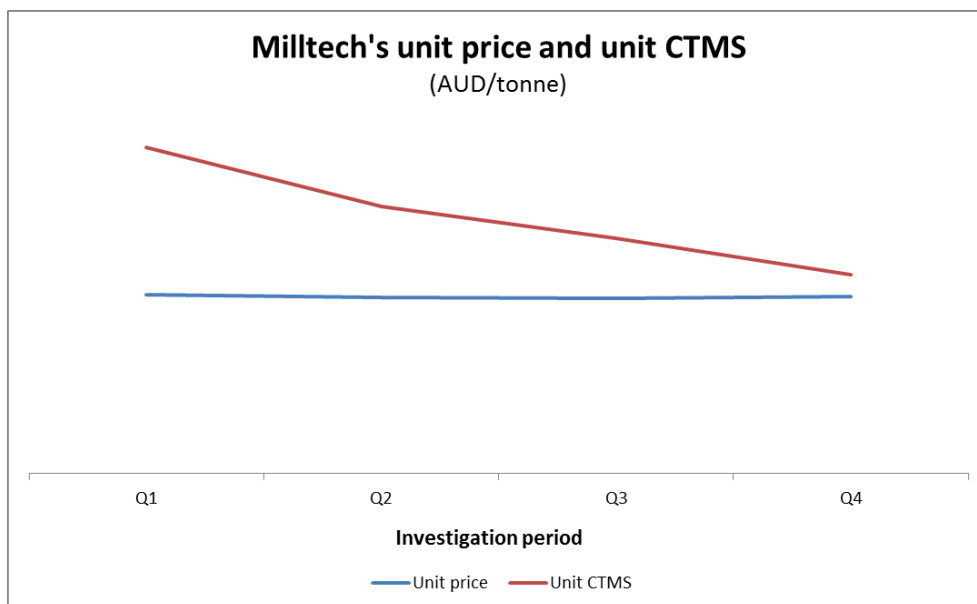


Figure 13: Milltech's unit price and CTMS over the investigation period
(Source: verified data provided by Milltech)

The Commission considers that Milltech was forced to respond to price undercutting from dumped imports from Romania by maintaining low and suppressed prices in order to remain competitive and to maintain sales and production levels. Further, the Commission considers that Milltech would have been able to increase its prices in the absence of competition from chrome bar exported from Romania at dumped prices. This supports the finding that Milltech suffered injury caused by dumping in the form of price suppression.

PUBLIC RECORD

In regard to price depression, Milltech's submissions included evidence that when negotiating sales with a major customer, its sales prices declined over a 12 month period for long-term orders. Milltech provided evidence of one sale that occurred before the investigation period, and one that occurred within the investigation period, noting Milltech was not able to maintain its prices between the two points in time.

The Commission also notes that Milltech's prices have been trending downwards since the beginning of the injury analysis period. The Commission cannot determine whether dumping occurred prior to the investigation period. However, in the context of the longer term trend of falling prices, the Commission considers it reasonable to find that Milltech was forced to respond to price undercutting and price pressure from dumped imports from Romania by lowering its prices in the investigation period, relative to earlier years. The Commission also considers it reasonable to find that Milltech was forced to maintain those depressed prices throughout the investigation period in order to remain competitive and to maintain sales volume and production levels.

The Commission has found that chrome bar exported from Romania at dumped prices that undercut and exerted downward pressure on Milltech's prices caused Milltech to suffer injury in the form of price depression and price suppression.

8.4.1 Submissions received in relation to price effects

On 2 August 2016, Nimet lodged a submission that claimed, *inter alia*, that the Commission's price undercutting analysis demonstrates that Nimet was not a price setter in the market, and provided examples of Australian customers requesting lower prices from Nimet.

Nimet further claimed that the price of chrome bar was affected by downward trend in global steel prices. Steel is the main raw material used in the production of chrome bar. The lower steel price led to lower chrome bar prices, and therefore this caused injury to Milltech in the form of price depression and suppression.

8.4.2 The Commission's assessment

As stated in chapter 8.3.2 above, the Commission's price undercutting analysis found that over the investigation period, Milltech's prices of chrome bar were undercut by Nimet, although Nimet's imports of chrome bar into the Australian market was small in terms of volume.

The Commission's analysis included comparing all Nimet's chrome bar sales in Australia and comparing prices across the investigation period. As stated in chapter 3.4.2, the Commission considers that Nimet's other grade of chrome bar exported to Australia is substitutable for the like goods and competes in the same market. The customers of both Nimet and Milltech are distributors, as noted in chapter 5.2.3. These distributors then on-sell to end-users, which have the choice of purchasing imported or locally manufactured chrome bar. The price undercutting analysis is in **Confidential Appendix 4**.

PUBLIC RECORD

The Commission notes that global steel prices have been trending downward, and this affected the chrome bar market, including pricing. However, the falling steel price would affect all market players. Although the Commission does not have access to historic price information of exporters prior to the investigation period, the Commission considers it reasonable that Nimet's prices, along with prices for Cromsteel and Stelmi, would be expected to show a downwards trend over the injury analysis period similar to that of the Australian industry. Though the Commission considers that lower steel prices affected chrome bar prices, this does not preclude that chrome bar exported from Romania at dumped prices to still undercut Milltech's prices and cause injury.

8.5 Volume effects

The Commission found that Milltech's sales volumes increased during the investigation period. This trend is demonstrated in Figure 14.

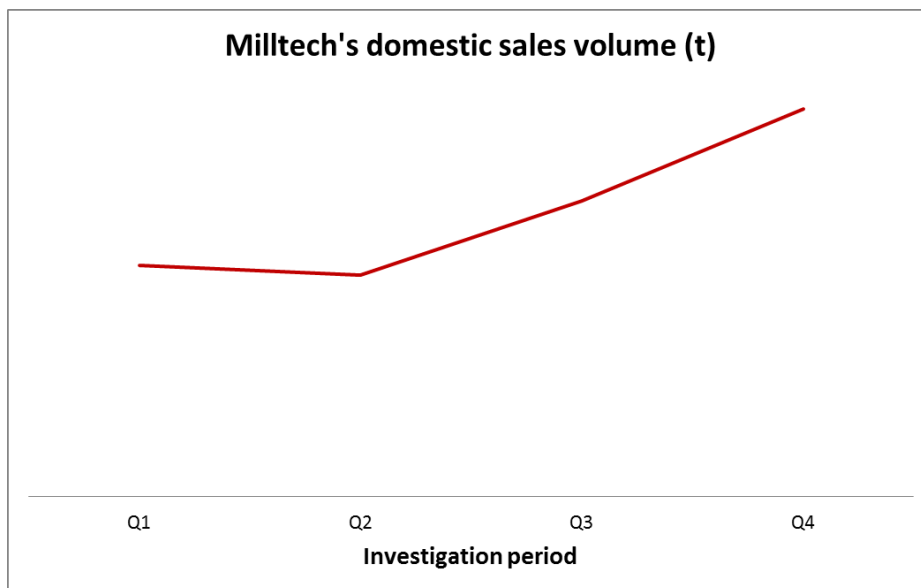


Figure 14: Milltech's sales volumes over the investigation period
(Source: verified data provided by Milltech)

In its submission in response to the SEF, Milltech claimed that in order to realise the levels of sales volumes that it has been able to achieve during this period, it has been forced to heavily reduce its prices of chrome bar, so as to be competitive on price with imports.

The Commission considers that it is reasonable to attribute the improvement in sales volume during the investigation period to two factors. The first factor is Milltech's need and willingness to maintain lower prices in order to compete with dumped chrome bar that was undercutting its prices. If Milltech increased its prices, it would have had lower sales and thereby would have also lost market share. Secondly, the other Australian manufacturer of chrome bar ceased trading in February 2015, which is the second quarter of the investigation period. The Commission considers it reasonable to attribute some of the increase in sales after this time to Milltech gaining sales from its former competitor.

The Commission considers that the exports of chrome bar from Romania at dumped prices have caused Milltech to lose some sales volume, despite Milltech increasing its sales volumes in the investigation period as a result of maintaining lower prices.

Therefore, the Commission considers Milltech experienced injury in the form of reduced sales volumes.

8.6 Profit effects

The Commission notes that Milltech’s profit and profitability declined sharply from FY2012 to FY2013, as demonstrated by Figures 4 and 5. This decline in profit and profitability is correlated with the fall in the size of the chrome bar market over the same period. The Commission considers it reasonable to consider that this fall in the market was also a cause of the injury in profit and profitability. This analysis is expanded below in the ‘Other causes of injury section’.

While profit and profitability declined over the injury analysis period, the SEF observed that Milltech’s profit and profitability increased during the investigation period, though still remained negative. These trends are shown in Figures 15 and 16.



Figure 15: Milltech’s profit for like goods over the investigation period
(Source: verified data provided by Milltech)

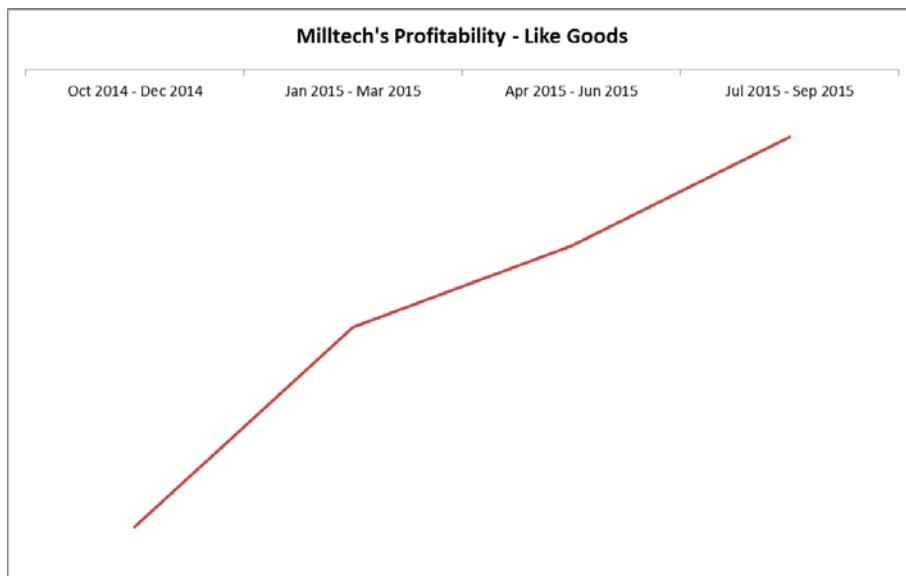


Figure 16: Milltech’s unit profitability for like goods over the investigation period
(Source: verified data provided by Milltech)

PUBLIC RECORD

The Commission has established above that the dumping allowed the Romanian goods to undercut, and to exert downward pressure on, Milltech's prices such that Milltech experienced price depression and price suppression caused by that dumping. The Commission has also established above that dumping has caused Milltech to experience reduced sales volumes. As a consequence, these adverse price and volume effects caused by dumping have also caused Milltech to experience reduced profits and profitability, which can also be attributed to the dumping.

The Commission notes that a significant reason for Milltech's improving profit and profitability indicators during the investigation period was the company's reduction of costs. Milltech's costs for chrome bar fell significantly during the investigation period. This was because of the installation and operation of its two continuous chroming lines. Milltech made significant capital investments in new chroming technology despite a falling market. Milltech claims that it attempted to improve efficiency and reduce costs, while also improving productivity. The Commission verified these claims at the industry visit, and noted that costs reduced significantly once both continuous chroming plants were operational.

However, Milltech's unit CTMS remains on an upward trend in the context of the entire injury analysis period, as demonstrated in Figure 1, and the CTMS in the investigation period is not below unit price, meaning Milltech is unable to make a profit.

The Commission considers that the exports of chrome bar from Romania at dumped prices have caused Milltech to experience injury in the forms of reduced profit and profitability.

8.7 Other relevant economic factors

As explained in section 7.7 of this report and based on the causation analysis outlined above, the Commission has found that in addition to the injury outlined above, the Australian industry has experienced injury forms of reduced:

- revenue;
- capacity utilisation; and
- employment.

The Commissioner considers that this injury has been caused by chrome bar exported from Romania at dumped prices. The injury suffered by Milltech in the form of price and profit effects has had a negative impact on Milltech's decisions in respect of other economic factors, including staffing levels and revenue generation.

8.8 Injury caused by factors other than dumping

8.8.1 Undumped Italian imports

The Commission has found in its price undercutting analysis that the Italian exporter, Stelmi's, prices undercut those of Milltech, but not by as much as both Romanian exporters' prices. This was despite the finding that Stelmi's exports of chrome bar to Australia were not dumped during the investigation period.

PUBLIC RECORD

The Commission has also found that Stelmi's market share for chrome bar remained stable in FY2012 and FY2013. It contracted sharply in FY2014, and then recovered in FY2015.²⁴

In addition to the price undercutting finding, the Commission considers that there are two other reasons that may explain Stelmi's performance in the Australian market. First, importers often have a preference to purchase chrome bar from suppliers that can also supply the tubes with which chrome bar is used in the manufacture of hydraulic and pneumatic equipment. This allows importers to reduce their freight and importation costs per unit of chrome bar and provides them with a competitive advantage over the Australian industry which does not supply the tubes.

Second, both Milltech and some importers acknowledged that Italian chrome bar is of good quality, and is often superior in quality to Romanian chrome bar. The Commission has not received any submissions concerning the quality of chrome bar from respective manufacturers. However, the perceived quality of Stelmi's chrome bar at a low price is likely to have contributed to it maintaining significant volumes and market share during the investigation period.

The Commission considers that chrome bar exported from Italy at undumped prices is a secondary factor influencing prices in the Australian chrome bar market when compared to the impact of dumped chrome bar from Romania, which undercut all other suppliers, including Stelmi from Italy. The Commission considers that undumped chrome bar from Italy may have contributed to the injury experienced by the Australian industry.

8.8.2 Declining market for chrome bar

The Commission notes that the size of the market for chrome bar has fallen significantly in volume terms from FY2012 to FY2013, then fell slightly again in FY2014 before stabilising in FY2015. The chrome bar market is shown at Figure 17 below.

²⁴ See section 6.4.2 of the SEF

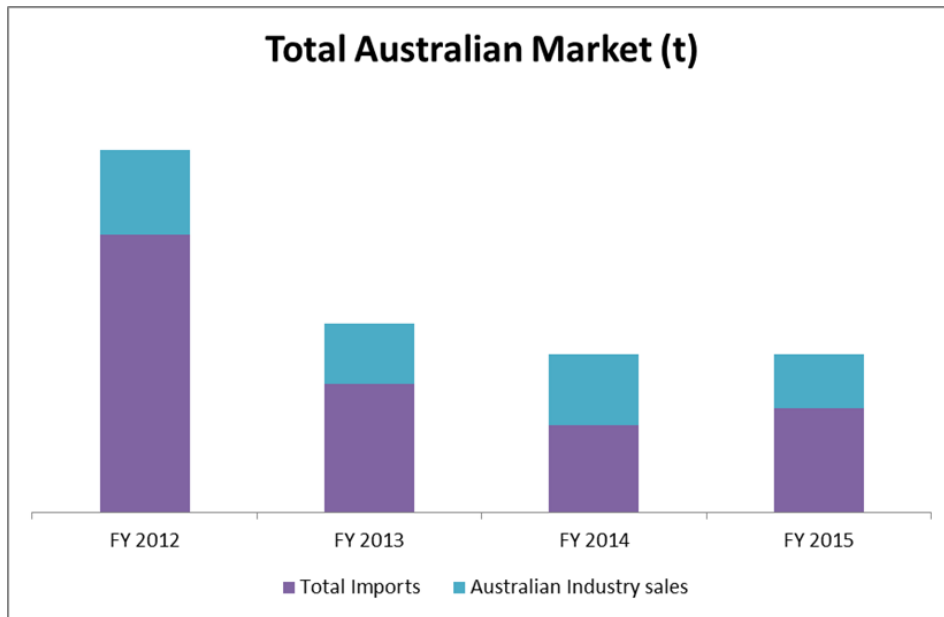


Figure 17: Size of the chrome bar market
 (Source: DIBP import data and verified data provided by Milltech)

The Commission identified two factors that likely caused the decline in the chrome bar market. These were imports of finished hydraulic cylinders, and the downturn in capital investment in the mining sector.

Finished hydraulic cylinders

During visits to importers of chrome bar, the Commission noted that importers indicated that the market for fully assembled hydraulic cylinders is one of the factors responsible for the decline in the size of the Australian chrome bar market. Chrome bar is one component of a hydraulic cylinder, the other being a tube. The Commission has found that end-users are able to source hydraulic cylinders direct from overseas at cheaper prices than purchasing bar and tube from distributors in Australia.

Milltech contended in its submission in response to the SEF that sales of chrome bar exported from Romania at dumped prices are the main source of the injury that it has experienced. Milltech acknowledged that other factors, such as the importation of finished hydraulic cylinders may have contributed to the market downturn for chrome bar.

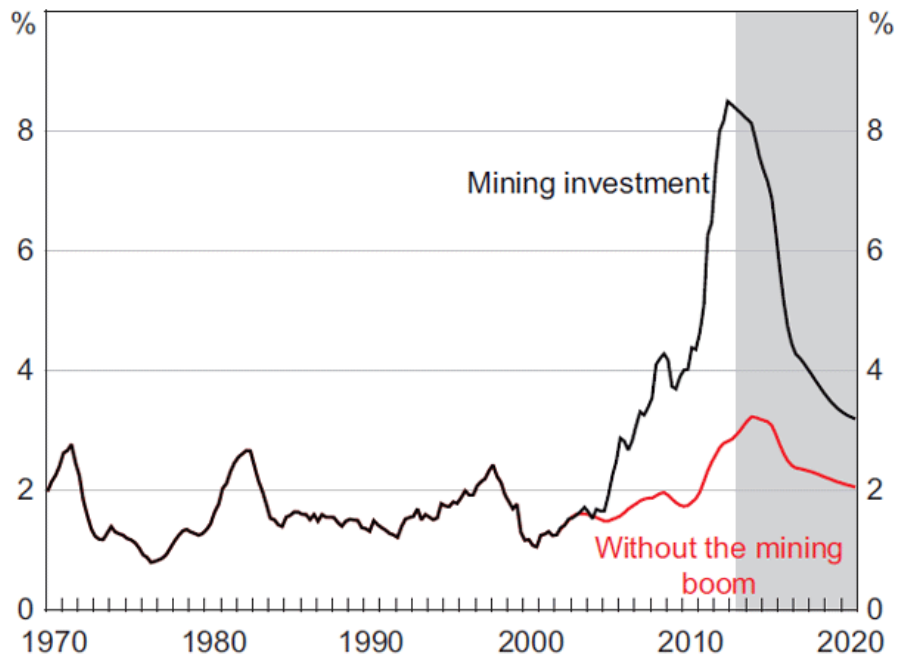
The Commission has not been able to obtain sufficient information about the hydraulic cylinder market in Australia to determine whether this issue has, or has not, caused injury to Milltech. There have been no submissions made to the Commission concerning the performance of the hydraulic cylinder market or its impact on the chrome bar market. As such, the Commission is unable to assess whether and to what degree any injury was caused by imports of fully assembled hydraulic cylinders.

Investment in the mining sector

With regard to the mining sector, investment in the mining sector declined sharply since 2013. This is reflected in Figure 18, which is a Reserve Bank of Australia analysis of total investment in Australia’s mining sector.

Mining Investment

Per cent of trend GDP



Source: Downes, Hanslow and Tulip (2014)

Figure 18: Mining investment in Australia
(Source: Reserve Bank of Australia)

Figure 19 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. In 2012-13, after significant growth the previous year, machinery and equipment expenditure contracted, and then contracted sharply in 2013-14. The Commission considers there is a correlation between the lower levels of investment in machinery and equipment and the contraction of the chrome bar market.

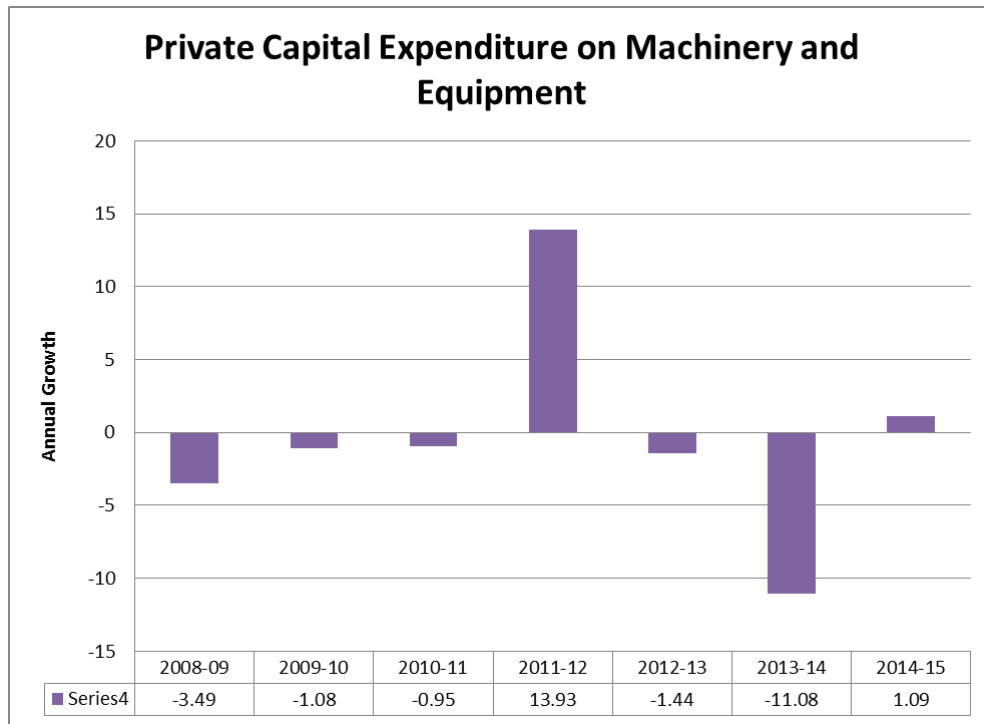


Figure 19: Private capital expenditure on machinery and equipment – all industries in Australia
 (Source: IBISWorld and Australian Bureau of Statistics)

In its submission in response to the SEF, as well as in its application and during the visit by the Commission, Milltech claimed any price and volume effects as a result of falling investment in the mining sector were offset by demand from other industries. The only evidence Milltech provided to substantiate its claim was a Reserve Bank of Australia chart of private non-mining investment. However, using this graph, the Commission notes that non-mining investment in machinery and equipment since 2012, according to the graph, is showing a downwards trend. This does not conclusively support Milltech’s claim that it has been able to make up sales lost due to the mining downturn by turning to other industrial sectors.

Other industries, while not in a downturn as defined by the RBA, have reduced investment in capital equipment and machinery. This may have also contributed to reduced demand and lower prices in the chrome bar market. Conversely, if demand for chrome bar in the Australian market had remained steady, it is reasonable to assume that if all other factors, including dumping, were constant, prices of chrome bar achieved by Milltech and importers may have been higher than otherwise. Neither scenario precludes the possibility that price undercutting by dumped chrome bar from Romania results in Milltech achieving lower prices, volumes, profitability and profits because of dumping.

8.8.3 Other submissions received in respect to other causes of injury

On 27 July 2016, the EC lodged a submission that claimed that the decline in the market for chrome bar in Australia is the main cause of injury to Milltech, and therefore caused injury in the form of reduced sales volume, revenue, employment, profitability, capacity utilisation, and price suppression and depression.

In its submission, the EC produced a graph that showed chrome bar consumption, Milltech’s turnover, capacity utilisation and employment levels. The EC claimed that the fall in consumption was the main driver of injury in the other factors.

PUBLIC RECORD

Nimet's submission of 2 August 2016 made similar claims to the EC about the decline in the chrome bar market and that this was the major cause of injury to Milltech in the form of sales volume, profit and profitability.

Nimet's submission of 2 August 2016 also claimed that Nimet provides complementary products that gives Nimet a competitive advantage. These include manufacturing and selling tubes – which Milltech does not manufacture – and bar with a diameter less than 18 mm. This means that Nimet's customers can order these products and reduce transport and shipping costs, as well as being able to offer a greater range of complementary products.

8.8.4 The Commission's assessment

The Commission notes that there is a correlation between some injury factors and the decline in the market from FY2012. However, the Commission notes that while Milltech's revenue and capacity utilisation initially fell in line with consumption, both showed a slight recovery, while consumption remained steady.

In chapter 8.9 below, the Commission finds that the fall in the market was a contributing cause of injury to Milltech. The Commission notes Milltech's economic performance was weakened by the fall in the chrome bar market from 2012. However, this does not mean that dumping did not also cause injury. The Commission's price undercutting analysis demonstrates that chrome bar exported from Romania at dumped prices significantly undercut Milltech's prices leading to injury in the form of price effects, volume effects and profit effects.

The *Ministerial Direction on Material Injury 2012* states that an industry which 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. The Commission concludes that while the falling market for chrome bar did injure Milltech, this does not preclude dumped chrome bar exported from Romania also causing material injury to the Australian industry.

The EC claimed that the Australian industry's decision to increase production capacity in the context of falling market is 'erroneous' and 'might' have contributed to its injury. Nimet made similar claims about Milltech's installation of two continuous chroming lines. The Commission has found that the increased production capacity was the result of the installation of two continuous chroming plants, which increased efficiency and reduced fixed and variable costs. Milltech's stated aim was to reduce its costs through advanced technological processes, and this had the added benefit of increasing capacity.

The EC further claimed that the Commission's price undercutting analysis is flawed because there is no appropriate adjustment to account for the alleged low quality of Romanian goods. The Commission notes that no interested party made any submissions that provided evidence in respect of quality of chrome bar. The Commission found that Romanian and Australian chrome bar compete in the same market for the same customers, and both local and imported chrome bar can be used by the same end-users.

In regard to Nimet's claim about complementary products it offers and that this provides a competitive advantage to Milltech, the Commission notes that some importers stated that these complementary products were a factor when making purchasing decisions. However, this factor is just one of several factors that importers use when making purchasing decisions, with price and quality also important. Given that price is a major factor in making purchasing decisions, a lower price for chrome bar, together with the ability to buy complementary products, would be attractive to distributors of chrome bar. Although complementary products do provide Nimet, and other exporters, a competitive advantage, the Commission's price undercutting analysis demonstrates that Romanian chrome bar, including from Nimet, has a price advantage due to dumping in the Australian market.

8.9 Findings

The Commission has found that:

- the Australian industry has suffered injury in the forms of:
 - price depression
 - price suppression;
 - reduced sales volume;
 - reduced profitability;
 - reduced profits.
 - reduced sales revenue;
 - reduced capacity utilisation; and
 - reduced employment;
- all chrome bar exported to Australia from Romania in the investigation period was at dumped prices where:
 - the margins of dumping were not negligible; and
 - the volume of dumped goods was not negligible;
- chrome bar exported from Romania at dumped prices undercut the Australian industry's prices;
- the NIP exceeds the export prices of Cromsteel and Nimet; and
- other factors including undumped goods from Italy and the declining market for chrome bar may have caused injury to the Australian industry.

The Commissioner notes that the chrome bar market declined significantly during the injury analysis period and this caused injury to the Australian industry.

As noted in the *Ministerial Direction on Material Injury 2012*, an industry that at one point in time is healthy and could shrug off the effects of the presence of dumped goods in the market, could at another time, weakened by other events, suffer material injury from the same amount of dumping.

Notwithstanding that the decline in the chrome bar market – which may have been caused by a decline in investment in the mining sector or competition from imported finished hydraulic cylinders – has caused injury to Milltech, the Commission found that chrome bar exported from Romania at dumped prices undercut the Australian industry's prices, and caused injury to Milltech.

PUBLIC RECORD

Dumped chrome bar from Romania allowed price undercutting and exerted downward price pressure which in turn prevented the Australian industry achieving and maintaining prices to cover its cost to make and sell chrome bar. The Commissioner considers that, in some instances, the Australian industry has been unable to match prices of the dumped product and has therefore lost sales volume and revenue. Additionally, customers of the Australian industry have used prices of chrome bar from Romania to negotiate lower prices from the Australian industry. These factors have led to reduced volumes and prices and consequently reduced profits and profitability.

As a result, the Australian industry suffered injury caused by dumping in the forms of price depression, price suppression, reduced sales volume, reduced profitability, reduced revenue and reduced utilisation of production capacity and failure to make a profit on the production and sale of chrome bar. The cumulative loss of profit over the investigation period was \$450,000.

The Commissioner considers that these injury factors and their magnitude, are such that when considered together, are material in degree and greater than that likely to occur in the normal ebb and flow of business.

The other possible causes of injury discussed above highlight how the Australian industry has experienced injury that was caused by factors other than dumped goods exported from Romania. The Commissioner acknowledges that these other factors may have caused injury to the Australian industry. However, the Commissioner notes that the *Ministerial Direction on Material Injury 2012* states that dumping need not be the sole cause of injury to the industry, and therefore considers that aside from those other causes, dumped goods exported from Romania were of a volume and price which, in isolation, caused material injury to the Australian industry.

The Commissioner therefore considers that chrome bar exported from Romania at dumped prices caused the Australian industry to suffer material injury.

9 WILL DUMPING AND MATERIAL INJURY CONTINUE?

The Commission is of the view that exports of chrome bar from Romania in future may be at dumped prices, and that continued dumping would cause further material injury to the Australian industry.

Pursuant to subsection 269TG(2), where the Parliamentary Secretary is satisfied that material injury to an Australian industry producing like goods has been caused by dumping, anti-dumping measures may be imposed on future exports of like goods if the Parliamentary Secretary is satisfied that the dumping and material injury may continue.

The Commission's dumping analysis found dumping margins between 22.4 per cent and 66.9 per cent for chrome bar from Romania during the investigation period.

The Commission notes that forward orders exist for exports from Romania and that the chrome bar exported from Romania has a significant market share and influence in the Australian market.

Further, the Commission has reviewed the Australian industry's performance over the injury analysis period and has made a finding that chrome bar exported at dumped prices from Romania has caused material injury to the Australian industry.

The Commission considers that the continuation of price competition from dumped imports from Romania is likely to have a continuing adverse impact on the Australian industry in terms of causing adverse price, volume and profit effects.

Based on the available evidence, the Commission considers that exports of chrome bar from Romania in the future will be at dumped prices and that continued dumping is likely to cause further material injury to the Australian industry.

10 NON-INJURIOUS PRICE

10.1 Final assessment of NIP

The Commission has not received any submissions from interested parties in relation to the non-injurious price (NIP). The NIP is relevant to subsection 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975* which requires consideration of the desirability of fixing a lesser amount of duty if sufficient to remove injury to the Australian industry (the lesser duty rule). The Commission also utilises the NIP as an additional test to establish whether there is a causal link between the alleged dumping and material injury by comparing the NIP to the weighted average export prices, as set out below.

The Commission has found that the NIP can be determined by setting the unsuppressed selling price (USP) equal to Milltech's cost to make and sell during the investigation period, uplifted by profit from Milltech for the FY2012 period, a period claimed by the Australian industry to be unaffected by dumping. In order to calculate the NIP, the Commission has deducted from the USP amounts for overseas freight, insurance, port charges, Customs charges and duty, into store costs, an importer selling general and administrative expense, and an amount for importer profit.

The Commission has compared the NIP with the calculated weighted average normal values of Cromsteel and Nimet, which have been found to be dumping. The Commission has determined that the NIP exceeds the normal values of Cromsteel and Nimet. As a result, the NIP should not be the operative measure for exports of chrome bar from Romania, and regard should not be had to the lesser duty rule.

The Commission has also compared the NIP with the calculated weighted average export prices of Cromsteel and Nimet. The Commission has determined that the NIP exceeds the export prices of Cromsteel and Nimet. This finding supports the conclusion that dumped chrome bar exported to Australia from Romania has caused material injury to the Australian industry.

11 ANTI-DUMPING MEASURES

11.1 Discussion

The methods that the Parliamentary Secretary may use to work out the amount of dumping duty are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013*. They are:

- Combination of fixed and variable duty method;
- Floor price duty method;
- Fixed duty method (\$X per tonne); and
- Ad valorem duty method (i.e. a percentage of the export price).²⁵

11.2 Forms of duty

In considering which form of duty to recommend to the Parliamentary Secretary, the Commissioner has had regard to the published *Guidelines on the Application of Forms of Dumping Duty November 2013*²⁶ (the Guidelines) and relevant factors in the chrome bar market.

Fixed duty method

A fixed duty method operates to collect a fixed amount of duty – regardless of the actual export price of the goods. The fixed duty is determined when the Parliamentary Secretary exercises powers to ascertain an amount for the export price and the normal value.

Floor price duty method

The floor price duty method sets a ‘floor’ – for example, a normal value of \$100 per tonne – and duty is collected when the actual export price is less than that normal value of \$100 per tonne. The floor price is either the normal value or the non-injurious price, whichever becomes applicable under the duty collection system.

This duty method does not use an ascertained export price as a form of ‘floor price’ as occurs with the combination and fixed duty methods.

Ad valorem duty method

The *ad valorem* duty method is one of the simplest and easiest forms to administer when delivering the intended protective effect. It is duty applied as a proportion of the actual export price of the goods.

Combination duty method

The combination duty comprises two elements: the ‘fixed’ element and the ‘variable’ duty element.

²⁵ Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013*

²⁶ Available at <http://adcommission.gov.au/accessadssystem/Documents/Forms%20and%20Guidelines/Guidelineformsdumpingduty-November2013.pdf>

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The fixed element is determined when the Parliamentary Secretary exercises powers to 'ascertain' an amount (i.e. set a value) for the export price and the normal value. This may take the form of either a fixed duty or an *ad valorem* on the ascertained export price.

The variable component stems from a feature of this form of duty whereby, having ascertained the export price for the purposes of imposing the dumping duty, if the actual export price of the shipment is lower than the ascertained export price, the variable component works to collect an additional duty amount (i.e. the difference between the ascertained export price and the actual export price). It is called a 'variable' element because the amount of duty collected varies according to the extent the actual export price is beneath the ascertained export price.

11.3 The Commissioner's consideration

The proposed measures are recommended to be taken as an amount worked out in accordance with the *ad valorem* duty method. Duties will be imposed in relation to the goods exported to Australia from Romania at the rates specified in Table 1 of dumping margins in this final report.

The Commissioner has had regard to the Guidelines and notes the following:

- chrome bar is prone to significant price variations over time as steel prices and demand for chrome bar fluctuate; and
- chrome bar has several different models depending on steel grade, chromium thickness and diameter. This means there is significant price variation between models.

Further, the variance of chrome bar grades means that other forms of duty, especially the combination duty, are disadvantageous, as multiple ascertained export prices cannot be set for different grades.²⁷

Further, under the *ad valorem* duty method, as described in the Guidelines, export prices may be lowered by exporters to avoid the effects of the duty. This is less relevant in this investigation given the size of the dumping margins, the cost to the exporters to lower prices by amounts equivalent to the magnitude of the dumping margins to avoid the duty are considered to be prohibitive.

11.4 Proposed measures

The Commissioner recommends that interim dumping duties be calculated using the *ad valorem* duty method. The duty will be an amount calculated at the full dumping margins.

²⁷ Where the Parliamentary Secretary publishes a dumping duty notice, that notice must include a statement of the ascertained normal value, ascertained export price and non-injurious price of the goods. The notice cannot specify different variable factors for different subsets of the goods. This reflects the Federal Court of Australia decision in *Panasia Aluminium (China) Limited v Attorney-General of the Commonwealth* [2013] FCA 870.

12 RECOMMENDATIONS

12.1 Recommendation

The Commissioner is satisfied that the dumping of chrome bar exported to Australia from Romania has caused material injury to the Australian industry producing like goods.

The Commissioner recommends that the Parliamentary Secretary be satisfied:

- in accordance with subsection 269TAC(2)(a)(i), the normal value of certain models of the goods exported to Australia from Romania by Cromsteel and Nimet cannot be ascertained under subsection 269TAC(1) because of a low volume of sales of like goods in Romania that would be relevant for the purpose of determining a price under subsection 269TAC(1);
- in accordance with subsection 269TAB(3), sufficient information has not been furnished and is not available to enable the export price of the goods exported to Australia from Romania by 'all other' exporters to be ascertained under subsection 269TAB(1)(a), (b), or (c);
- in accordance with subsection 269TAC(6), sufficient information has not been furnished and is not available to enable the normal value of goods exported to Australia from Romania by 'all other' exporters to be ascertained under the preceding subsections of section 269TAC (other than subsection 269TAC(5D));
- in accordance with subsection 269TG(1), the amount of the export price of the goods exported to Australia from Romania is less than the amount of the normal value of like goods and because of that, material injury to the Australian industry producing like goods has been, and is being caused; and
- in accordance with subsection 269TG(2) the amount of the export price of like goods exported to Australia from Romania is less than the amount of the normal value of those goods and the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods and because of that, material injury to the Australian industry producing like goods has been, or is being caused.

The Commissioner recommends that the Parliamentary Secretary determine:

- being satisfied that subsection 269TAB(1)(a) applies, that the export price of goods exported to Australia from Romania by Cromsteel and Nimet is the price paid or payable for the goods by the importer, other than any part of that price that represents a change in respect of any other matter arising after exportation as set out in **Confidential Appendix 1** and **Confidential Appendix 2**;
- in accordance with subsection 269TAB(3), having regard to all relevant information, that the export price for all other exporters is as set out in **Confidential Appendix 3**;

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- in accordance with subsection 269TAC(1), being satisfied that certain models of like goods are sold in the ordinary course of trade for home consumption in Romania in sales that are arms length transactions by Cromsteel and Nimet, that the normal value of certain models of the goods exported to Australia from Romania is the price paid or payable for like goods as set out in **Confidential Appendix 1** and **Confidential Appendix 2**;
- in accordance with subsection 269TAC(2)(c), that the normal value of certain models of the goods exported from Romania is the sum of:
 - the cost of production or manufacture of the goods in Romania as set out in **Confidential Appendix 1** and **Confidential Appendix 2**, and
 - on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in Romania, the administrative, selling and general costs associated with the sale and the profit on that sale as set out in **Confidential Appendix 1** and **Confidential Appendix 2**,

and that no adjustments were required under subsection 269TAC(9) to ensure that the normal value of the goods so ascertained is properly comparable with the export price of the goods;

- in accordance with subsection 269TAC(6), having regard to all relevant information, that the normal values for all other exporters is as set out in **Confidential Appendix 3**;
- having applied subsection 269TACB(2)(a) and in accordance with subsections 269TACB(1) and (4), that the goods exported to Australia from Romania are taken to have been dumped, and the dumping margins for Cromsteel and Nimet and all other exporters in respect of those goods is the difference between the weighted average export prices of goods the subject of the application over the whole of the investigation period and the weighted average of corresponding normal values over the whole of that period as set out in **Confidential Appendix 1**, **Confidential Appendix 2** and **Confidential Appendix 3**; and
- in accordance with subsection 8(5) of the Dumping Duty Act, that the interim dumping duty payable in respect of the goods exported to Australia from Romania is an amount which will be worked out in accordance with the *ad valorem* method pursuant to subsection 5(7) of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

The Commissioner recommends that the Parliamentary Secretary direct:

- in accordance with subsection 269TAC(8), that, as the normal value of certain models of the goods exported to Australia by Cromsteel is the price paid or payable for like goods sold in Romania, the normal value be adjusted for specified differences between like goods sold in Romania and export sales, as set out in **Confidential Appendix 1**.

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The Commissioner recommends that the Parliamentary Secretary declare:

- in accordance with subsection 269TG(1), by public notice, that section 8 of the Dumping Duty Act applies to (subject to section 269TN):
 - the goods exported from Romania; and
 - like goods that were exported to Australia from Romania after the Commissioner made a PAD under section 269TD on 24 March 2016 but before publication of the public notice; and
- in accordance with subsection 269TG(2), by public notice, that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia from Romania by Cromsteel and Nimet after the date of publication of the notice.

The Commissioner recommends the Parliamentary Secretary not have regard:

- in accordance with subsection 8(5B)(b) of the Dumping Duty Act, to the desirability of specifying a method such that the sum of amounts outlined in subsection 8(5B)(c) and (d) of the Dumping Duty Act do not exceed the non-injurious price, in light of the findings at chapter 10 that the non-injurious price of goods of that kind as ascertained or last ascertained is greater than the normal value of goods of that kind as so ascertained or last so ascertained, and noting that in such circumstances the Parliamentary Secretary is not required to have regard to the desirability of fixing a lesser rate of duty.

13 APPENDICES AND ATTACHMENTS

Confidential Appendix 1	Cromsteel dumping margin calculation
Confidential Appendix 2	Nimet dumping margin calculation
Confidential Appendix 3	All other exporters dumping margin calculation
Confidential Appendix 4	Price undercutting analysis
Public Attachment 1	List of submissions received by the Commission
Confidential Attachment 1	Milltech's price negotiations

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PUBLIC ATTACHMENT 1 – INTERESTED PARTY SUBMISSIONS

Public Record No.	Title of Submission	Party Making Submission	Date Published
5	Tariff classifications	Valbruna Australia	5 January 2016
7	Submission to the Anti-Dumping Commission	Nimet srl	11 January 2016
23	Response to the Van Leeuwen Visit Report	Milltech Pty Ltd	27 April 2016
25	Response to SEF 319	Milltech Pty Ltd	31 May 2016
28	Response to Issues Paper 2016/02	Milltech Pty Ltd	25 July 2016
31	Response to Issues Paper 2016/02	European Commission	27 July 2016
32	Response to European Commission submission	Milltech Pty Ltd	2 August 2016
33	Response to Issues Paper 2016/02	Nimet srl	2 August 2016
34	Response to Nimet submission	Milltech Pty Ltd	2 August 2016
35	Response to Milltech submission	Nimet srl	3 August 2016