

Report No. 167

Investigation into the alleged circumvention of the anti-dumping duty on flat rolled products of iron or non-alloy steel, painted varnished or coated with plastic (colour coated steel products) originating in or imported from Australia, through imports from Malaysia

The International Trade Administration Commission of South Africa herewith presents its
**Report No. 167. INVESTIGATION INTO THE ALLEGED CIRCUMVENTION OF THE
ANTI- DUMPING DUTY OF FLAT ROLLED PRODUCTS OF IRON OR NON- ALLOY
STEEL, PAINTED VARNISHED OR COATED WITH PLASTIC (COLOUR COATED
STEEL PRODUCTS) ORIGINATING IN OR IMPORTED FROM AUSTRALIA,
THROUGH IMPORTS FROM MALAYSIA: FINAL DETERMINATION**



**Ms N.P. MAIMELA
CHIEF COMMISSIONER**

PRETORIA

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INVESTIGATION INTO THE ALLEGED CIRCUMVENTION OF THE ANTI-DUMPING DUTY OF FLAT ROLLED PRODUCTS OF IRON OR NON-ALLOY STEEL, PAINTED VARNISHED OR COATED WITH PLASTIC (COLOUR COATED STEEL PRODUCTS) ORIGINATING IN OR IMPORTED FROM AUSTRALIA, THROUGH IMPORTS FROM MALAYSIA: FINAL DETERMINATION

SYNOPSIS

The International Trade Administration Commission (Commission) initiated an investigation into the alleged dumping of Flat Rolled Products of Iron or Non-alloy Steel, painted, varnished or coated with plastic (colour coated steel products) originating in or exported from Australia through Notice No.24042 in *Government Gazette* No.2942. Final anti-dumping duties were imposed on 4 April 2004 through Notice No R440 in *Government Gazette* No. 26226.

Subsequently, the Commission received an anti-dumping circumvention application on 7 June 2005 from Mittal Steel SA Ltd (Applicant), formally known as Iscor Ltd, which claimed that the importers are now importing the subject products from a related company, Blue Scope Steel in Malaysia. On 15 June 2005, the Commission initiated the investigation, which was published in *Government Gazette* No. 27685 by Notice No. 946.

The Applicant alleged that the export of the subject products through Malaysia constituted circumvention. Circumvention is addressed in section 60.1(b) of the Anti-Dumping Regulations (ADR) in that the remedial effects of the anti-dumping are being undermined through country -hopping as defined in section 60.8 of the ADR.

The Commission sent out an "essential facts" letter to interested parties on 16 November 2005, communicating the Commission's preliminary determination to terminate the investigation, since the Commission found that there was no price

disadvantage to the Applicant. Interested parties were invited to comment on the "essential facts" letter and the Commission considered all comments received before making its final determination.

After considering all parties' comments and representations in respect of the preliminary findings as contained in the essential facts letter, the Commission made a final determination to recommend to the Minister of Trade and Industry to terminate the investigation.

1 APPLICATION AND PROCEDURE

- 1.1 This investigation has been conducted in accordance with the International Trade Administration Act, 2002, the World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, 1994 (the Anti-Dumping Agreement) and the International Trade Administration Commission Anti-Dumping Regulations (ADR).
- 1.2 The application was lodged by Mittal Steel SA Ltd, (the Applicant), being the major manufacturer of the like product in the SACU.
- 1.3 On 1 June 2005 the application was accepted by the Commission as being properly documented in accordance with Article 5.2 of the Anti-Dumping Agreement. The trade representative of the country concerned was advised accordingly.
- 1.4 The investigation was initiated through Notice No. 27685 in Government Gazette No. 946 on 15 June 2005.
- 1.5 The information submitted by the exporter, Blue Scope Steel Malaysia was verified during 27 to 29 October 2005. The only importer, Blue Scope Steel SA (Pty) Ltd responded to the Commission's importers questionnaire.
- 1.6 On 16 November 2005, after considering the information submitted by the exporter and importer, the Commission made a preliminary determination that the subject product was being dumped into the SACU market and thereby causing material injury to the SACU industry. However, the Commission decided not to impose provisional payments because the Applicant suffered no price disadvantage.
- 1.7 On 2 December 2005 a essential facts letter was forwarded to all interested parties and on 29 March 2006, after considering the information submitted by the

Applicant, the exporter and the importer, the Commission made a final determination that the subject product was being dumped into the SACU market and thereby causing material injury to the SACU industry. However, the Commission decided not to recommend the imposition anti-dumping duties, because the Applicant suffered no price disadvantage.

1.8 The investigation period for dumping is from 1 January 2003 to 31 December 2003. The injury investigation involves evaluation of data for the period 1 January 1999 to 31 December 2002.

1.9 The SACU industry consists of one producer:

- (a) Mittal Steel Limited (Applicant), and
- (b) HH Robertson

1.10 The following exporter/manufacturer responded to the Commission's exporters questionnaire:

- (a) Blue Scope Steel Limited, formerly BHP Steel Limited ("Blue Scope Steel Malaysia").

1.11 The following SACU importers responded to the Commissions questionnaires:

- (a) Blue Scope Steel SA (Pty) Ltd.

2. PRODUCTS, TARIFF CLASSIFICATION AND DUTIES

2.1 IMPORTED PRODUCTS

2.1.1 Description

The subject product is described as:

Flat-rolled products of iron or non-alloy steel, painted, varnished or coated with plastic.

2.1.2 Country of origin/export

The subject product is exported from Malaysia.

2.1.3 Tariff classification

The subject product is currently classifiable as follows:

Tariff Heading	Description	Duty	SADC	EU
7210.70	Flat-rolled products of Iron or Non Alloy Steel, of a width of 600mm or more, clad, plated or coated: Painted, varnished or coated with plastics.	Free	Free	Free
7212.40	Flat-rolled products of Iron or Non Alloy Steel, of a width of less than 600mm, clad, plated or coated: Painted, varnished or coated with plastics.	Free	Free	Free

An anti-dumping duty of 79% was imposed against colour coated steel originating in or exported from Australia on 4 April 2004.

2.3 LIKE PRODUCTS ANALYSIS

In determining the likeness of products, the Commission uses the following criteria:

Table 2.3: Like product determination

	Imported product	SACU product
Raw materials	The raw materials used in the imported product are steel substrates covered with aluminum and zinc before it is painted.	The applicant uses a steel substrate covered with zinc before it is painted.
Physical appearance	Same physical appearance	Same physical appearance
Tariff classification	7210.70 & 7212.40	7210.70 & 7212.40
Production process	Same production process	Same production process
Application or end use	Used for packaging, including food packaging. Typically used in the packaging of dry groceries, tea, detergents, cereals, motor vehicle parts, personal care products, confectionery, etc.	Used for packaging, including food packaging. Typically used in the packaging of dry groceries, tea, detergents, cereals, motor vehicle parts, personal care products, confectionery, etc.
Substitutability	Are direct substitutes	Are direct substitutes

Taking the above into consideration, the Commission made a final determination that the SACU product and the imported product are “like products”, for purposes of comparison in this investigation, in terms of Article 2.6 of the Anti-Dumping Agreement.

3. SACU INDUSTRY

3.1 INDUSTRY STANDING

The applicant provided information with regard to the support and/or opposition to the application. The Commission wrote a letter to the only other manufacturer HH Roberson requesting its production and sales figures during the investigation period. The following table is based on the actual production volumes for the total domestic industry:

Manufacturer	Production volume- Applicant	Production volume - Neutral
Applicant:	80%	
Other manufacturers 1.HH Robertson		20%
Total SACU	80%	20%

In the dumping investigation against Australia, HH Robertson was neutral, as it coats imported flat rolled steel on behalf of importers. Based on the information the application was supported by 80 % of the SACU industry. It was evident that the application was supported by domestic producers whose collective output constitutes more than 25 per cent of the total production of the like product produced by the domestic industry and more than 50 per cent of the total production of the like product produced by those expressing an opinion on the application.

The Commission made a final determination that the Applicant has industry standing.

4. DUMPING

4 METHODOLOGY IN THIS INVESTIGATION FOR MALAYSIA

4.1 Type of economy

Malaysia is considered to be a country with a free market economy and therefore the definition of section 1(1) of the ITA Act applies.

4.2 Normal value for Blue Scope Steel Malaysia (Exporter)

The exporter, BlueScope Steel Malaysia Sdn Bhd, is controlled directly or indirectly by BlueScope Steel Ltd (Australia), which is also its major shareholder.

- The exporter sells in the domestic market in Malaysia to BlueScope Lysaght Malaysia Sdn Bhd and BlueScope Lysaght Sabah Sdn Bhd, entities that, during the period of investigation and currently are directly or indirectly controlled by BlueScope Steel Ltd (Australia).
- The Lysaght entities purchase COLORBOND® in coil form and alter such material by processing it into roofing and walling sheeting and/or installing it.
- The non-related customers of the exporter in Malaysia also purchase the subject product in coil form and processing such material into roofing and walling sheeting and/or installing it.

The sales of the product to the Lysaght entities were excluded because they were to related parties and the product is not resold by such entities in the condition in which it is sold to such entities by the exporter as contemplated in regulation 9.1(b) of the Anti-Dumping Regulation ("ADR").

The Exporter provided all its domestic sales of the subject product in volume and value for the investigation period.

The normal value with regard to all sales to independent buyers in Malaysia was

calculated.

4.2.1 Adjustments to normal value

The Commission allowed the following adjustments to the normal value namely, rebate values/ton, delivery charges/ton, packaging costs/ton, payment costs/ton and selling and administrative expenses (SG&A).

4.2.2 Export price

The export price was calculated using the weighted average export price/ton to SACU.

4.2.3 Adjustments to export price

The Commission allowed the following adjustments to the export price namely, delivery charges/ton, packaging cost and payment costs/ton.

4.2.4 Dumping margin

The dumping margin is the margin by which the normal value exceeds the export price after allowance has been made for any differences affecting comparability.

Since the Exporter sold to a related Company in SACU, the constructed export price is based on the sales of the subject product by the importer to the first independent buyer in SACU where the allocation of the total profit realised by the both the importer and exporter is based on all the cost incurred by the importer and cost of production of the exporter, yielding a dumping margin.

4.2.5 SUMMARY – DUMPING

The Commission made a final determination that the subject product originating in Malaysia is being dumped.

5 MATERIAL INJURY

5.1 Assessment

Article 62.2 provide that if an “anti-circumvention complaint is lodged with the Commission prior to or within one year of the publication of the Commission’s final determination, the SACU industry shall not be required to update its injury information. The Applicant lodged the application within one year of the publication.

In the Australian investigation the Commission determined that material injury was experienced on imports originating in or exported from Australia on colour coated steel products.

The Commission confirmed that the applicant and therefore the SACU Industry was suffering material injury.

6. CIRCUMVENTION

6.1 Country hopping

The ADR stipulates specific provisions and procedures to be followed with regard to country hopping. This application was lodged within the provisions stipulated by the ADR.

The following table shows the import volumes from Malaysia:

Table 6.1

Period	1999	2000	2001	2002	2003	2004	2005 Jan/ Feb
Imports	Tonnes	Tonnes	Tonnes	Tonnes	Tonnes	Tonnes	Tonnes
Australia	41	2 610	16 450	13 790	3 306	8 182	15
Malaysia	0	0	0	0	10 110	3 547	114
Other countries	7 268	12 916	25 876	21 876	23 564	30 959	2776
Total	9 308	12 916	25 876	21 876	23 564	30 959	2905

This table indicates that there was a switch from Australia to Malaysia in 2003, after the initiation of the anti-dumping investigation. The imports from Malaysia grew from 0 in 2002 to 10110 tons in 2003.

The anti-dumping investigation against Australia was initiated on 15 November 2002, whereafter imports originating in Malaysia commenced in March 2003. Imports from Malaysia and Australia of the subject product were 13 415 tons (57% of total imports) in 2003 and 11 730 tons (38% of total imports) in 2004.

The Commission made a final determination that country hopping was taking place.

8 SUMMARY OF FINDINGS

8.1 Dumping

It was found that the subject product originating in or imported from Australia through imports from Malaysia was imported at dumped prices to the SACU market.

8.2 Material injury

The Commission made a final determination to confirm that the Applicant suffered material injury.

8.3 Price disadvantage

However, the Commission made a final determination that the Applicant suffered no price disadvantage on the imports from Malaysia when the landed cost of the imported product is compared with the un-suppressed ex-factory selling price of the Applicant.

8 FINAL ANTI-DUMPING DUTIES

8.1 Calculation of final duties

In accordance with Article 9.1 of the Anti-Dumping Agreement, the final duties should be less than the dumping margin if such lesser amount would be adequate to remove the injury to the domestic industry. The final duties should therefore not be more than the amount of the price disadvantage experienced by the SACU industry. If this is lower than the dumping margin it can be considered to be the amount required to prevent further injury to the SACU industry during the investigation as a result of the further importation of the subject product at the dumping margins that were found by the Commission.

8.2 Price disadvantage

The price disadvantage is the extent to which the price of the imported product (landed cost) is lower than the unsuppressed ex-factory selling price of the SACU product.

Section 17 of the Anti-Dumping Regulations state that " the Commission shall consider applying the lesser duty rule if both the corresponding importer and exporter have cooperated fully.". In this investigation both the Importer and Exporter cooperated fully.

The Applicant's unsuppressed selling price and a reasonable profit and the landed costs of imports from Malaysia for 2003 was used to calculate the price disadvantage. The imported product was sold as indent sales by the importer Blue Scope SA (Pty) Ltd to down-stream industries. The landed cost was calculated on all costs incurred at the SACU harbour plus a profit realized to the first independent buyer.

The Commission made a final determination that the Applicant was not experiencing a price disadvantage as a result of the imports from Malaysia.

9 RECOMMENDATION

The Commission made a final determination that:

- circumvention of the anti-dumping duty in the form of country hopping was taking place;
- dumping of the colour coated steel originating in or exported from Malaysia was taking place; and
- the Applicant was suffering material injury; but
- that the Applicant did not experience a price disadvantage with regard to the imports from Malaysia.

The Commission therefore decided to recommend to the Minister of Trade and Industry that the investigation on circumvention on Flat Rolled Products of Iron or Non-alloy Steel, painted, varnished or coated with plastic (colour coated steel products) originating in or exported from Australia through exports from Malaysia, be terminated.