

TO:

Director Operations 3
Anti-Dumping Commission
GPO Box 1632
Melbourne VIC 3001

Dear Madam or Sir,

Application for Ministerial exemption of certain grinding balls under subsection 8(7) and subsection 10(8) of the Customs Tariff (Anti-Dumping) Act 1975 (the Act)

I. Applicant's details

Applicant's name: **Anhui Sanfang New Material Technology Co., Ltd. (Sanfang)**

Address: **Wangxi Park, Ningguo Economic and Technological Development Zone, Anhui Province**

Post code: **242300**

Type of entity: **Limited Liability Company**

II. Contact person

Full name: [REDACTED]

Position: [REDACTED]

Email address: [REDACTED]

Telephone number: [REDACTED]

Facsimile number: [REDACTED]

III. Authorised Representative

Full name of representative: **Jian Guan**

Organisation: **Beijing Globe-Law Law Firm**

Address: [REDACTED]
[REDACTED]

Email address: [REDACTED]

Telephone number: [REDACTED]

Please See Attachment A for the POA.

IV. The basis on which the applicant considers it is an interested party

An “interested party” is defined under Section 269T of the Act as including, amongst others, any person who is or is likely to be directly concerned with the importation or exportation into Australia of the goods the subject of the application; any person who has been or is likely to be directly concerned with the importation or exportation into Australia of like goods; and any person who is or is likely to be directly concerned with the production or manufacture of the goods the subject of the application or of like goods that have been, or are likely to be, exported to Australia. Sanfang is a manufacturer and exporter of the goods to which the anti-dumping and countervailing decisions relate, namely grinding balls, and is thus an “interested party” for the purposes of the Act and this application.

V. Known Interested Parties

Known importer and end-user

Company Name: [REDACTED]

Contact Name: [REDACTED]

Address: [REDACTED]

Phone: [REDACTED]

Fax: [REDACTED]

Email: [REDACTED]

Known Australian manufacturers

Company Name: [REDACTED]

Contact Name: [REDACTED]

Company and position: [REDACTED]

Address: [REDACTED]

Telephone: [REDACTED]

Facsimile: [REDACTED]

E-mail address: [REDACTED]

ABN: [REDACTED]

Company Name: [REDACTED]
[REDACTED]

Contact Name: [REDACTED]

Company and position: [REDACTED]

Address: [REDACTED]

Telephone: [REDACTED]

Facsimile: [REDACTED]

E-mail address: [REDACTED]

ABN: [REDACTED]

VI. Evidence that all known Australian producers have been contacted in writing and asked whether or not they support the exemption application

Please See **[Confidential] Attachment B** for the emails sent to both [REDACTED] and [REDACTED] in this regard.

VII. Details of anti-dumping measures applying to the goods the subject of this application

i. The goods covered by the measures and their tariff classification

The goods covered by the measures are ferrous grinding balls, whether or not containing alloys, cast or forged, with diameters in the range 22mm to 170mm (inclusive).

The goods included all ferrous grinding balls, typically used for the comminution of metalliferous ores, meeting the above description of the goods regardless of the particular grade or alloy content.

Goods excluded from the measures include stainless steel balls, precision balls that have been machined and/or polished, and ball bearings.

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

- Tariff subheading 7325.91.00 with statistical code 26;
- Tariff subheading 7326.11.00 with statistical code 29; and
- Tariff subheading 7326.90.90 with statistical code 59.

ii. The country specified

The People's Republic of China.

iii. Anti-Dumping Notice (ADN) numbers of the decisions and the date of publication

- A. Anti-Dumping Notice No. 2016/90
- B. Anti-Dumping Notice No. 2016/91

The decisions were published on 9 September 2016, as evidenced by the Anti-Dumping Commission website: <http://www.adcommission.gov.au/cases/Pages/CurrentCases/ADC-316.aspx>.

VIII. Legal basis the exemption is being sought

Sanfang seeks an exemption under the exemption category one, which is provided by subsection 8(7)(a) and 10(8)(a) of the Act, that

Like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.

IX. Reasons for seeking an exemption

i. Description of goods the exemption is being sought

The exemption sought by Sanfang is limited to the cast grinding balls satisfied the following descriptions.

- A. The cast grinding balls with chromium content equal or above 15%.
- B. The cast grinding balls with diameters between 25mm to 50mm (inclusive).
- C. The cast grinding balls satisfied the above descriptions are manufactured by and exported from the Applicant i.e. *Anhui Sanfang New Material Technology Co., Ltd.*, and [REDACTED]

ii. The conditions that provide grounds to make an exemption

- A. *The Commission has concluded that the cast grinding balls and forged grinding balls are functionally alike and substitutable across a range of end uses*

During the investigation, Sanfang raised its objection to impose anti-dumping measures on cast grinding balls, in particular the high chromium cast grinding balls, based on the following reasons:¹

- *the raw materials, production equipment and processes for cast grinding balls are totally different from forged grinding balls;*
- *neither of the two Australian applicants or the four cooperating Chinese exporters produce cast grinding balls, nor do they have any production equipment and machinery related to the production of cast grinding balls;*
- *cast grinding balls have significantly different chemical compositions than forged grinding balls; and*
- *cast grinding balls and forged grinding balls have different end uses such that cast grinding balls exported from China cannot be used as substitutes for domestically produced forged grinding balls.*

The Commission acknowledged that there were some variations in production process and chemical composition such that forged and cast grinding balls performed differently in end use applications. But the Commission, nevertheless, concluded based on the evidence obtain during

¹ Page 16 of the Final Report No. 316. Available at Available at <http://www.adcommission.gov.au/cases/EPR%20301%20%20350/EPR%20316/054%20-%20Final%20Report%20316.pdf>

the investigation that cast grinding balls and forged grinding balls were functionally alike and substitutable across a range of end uses.²

B. The cast grinding balls are not produced by Australian manufacturers

The goods covered by the measures include both forged grinding balls (FGBs) and cast grinding balls (CGBs). But as the Anti-dumping Commission has acknowledged in its Final Report No.316³ that both [REDACTED] and [REDACTED] are manufacturers of FGBs, rather than CGBs.

This is further supported by [REDACTED] official website, which provides the following:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]⁴

Besides, the official website of [REDACTED] also mentions that:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]⁵

Thus, Australian manufacturers do not produce CGBs, including the goods subject to the application for exemption.

C. The Australian manufacturers have no capacity to produce cast grinding balls

The Australian manufacturers only have the capacity to product FGBs, and such capacity cannot shift to produce CGBs.

First, FGBs and CGBs use different raw materials. Materials used in the production of FGBs are grinding bars made from steel billets, while CGBs are made from scrap steels and alloys such as ferrochrome.

Second, the production processes and technologies used are different between FGBs and CGBs. The production for CGBs are to firstly melt the scrap steels and alloys in high temperature, and

² Page 17 of the Final Report No. 316.

³ Page 16 of the Final Report No. 316.

[REDACTED]

then to be directly cast into shape. FGBs are basically made from grinding bars as raw materials by forging or rolling. In addition, the quenching technology for CGBs is more sophisticated than FGBs, which is a know-how and a key step for the quality control of CGBs.

Third, due to the completely different production processes and technologies, the production equipment used to manufacture CGBs and FGBs are different. The major equipment for FGBs are heating furnace and forging or rolling machine, while the major equipment for CGBs are electric furnace and casting machine. These two types of production equipment are not interchangeable. It means that the casting production lines cannot produce FGBs, and that the forging production equipment cannot produce CGBs.

In light of the above, the Australian manufacturers do not have the capacity to manufacture the cast grinding balls, including the goods subject to the application for exemption, at all.

D. The “goods subject to the application for exemption” cannot be offered by the Australian manufacturers on equal terms under like conditions having regard to the custom and usage of trade

First, according to [REDACTED] verification report, the custom and usage of trade for grinding balls is to [REDACTED]
[REDACTED]
[REDACTED]⁶

Second, [REDACTED] has a particular mining condition, i.e. [REDACTED]. Please see **[Confidential] Attachment C** for the Trial Usage Report which mentions the [REDACTED] iron ore lump. This particular mining condition determines [REDACTED] operational need. Technically, [REDACTED]
[REDACTED]

Third, the “goods subject to the application for exemption” have [REDACTED], thus [REDACTED]. This can be proved by the inspection reports as attached **[Confidential] Attachment D** for the Test Reports of four typical types of “goods subject to the application for exemption”, i.e. cast grinding balls with diameters of [REDACTED] and [REDACTED] respectively, and the [REDACTED] content of around [REDACTED] and [REDACTED] for each size. In all four samples, the [REDACTED] is higher than [REDACTED]

⁶ [REDACTED]
[REDACTED]

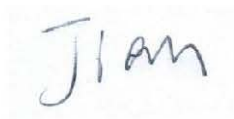
Fourth, [REDACTED] trial use of Sanfang's high chromium cast grinding balls or "goods subject to the application for exemption" has concluded that Sanfang's goods can meet its operation need and substantially lower [REDACTED] grinding cost. Please see [Confidential] Attachment C for the Trial Usage Report in detailed assessment made by [REDACTED] regarding the trial use of Sanfang's high chromium cast grinding balls.

Finally, [REDACTED] and [REDACTED] forged grinding balls have been tested by [REDACTED] and cannot be accepted for technical reasons. Please see [Confidential] Attachment E for [REDACTED] [REDACTED]

iii. Whether an attempt has been made to purchase the product for which the exemption is being made, or a substitute product, from Australian producers

Both [REDACTED] and [REDACTED] products have been evaluated by [REDACTED] and their products are not acceptable for technical reasons. Please see [Confidential] Attachment E for [REDACTED]

Yours faithfully,



Jian Guan
Senior Partner

LIST OF ATTACHMENTS

| | |
|---------------------|-------------------------------|
| Attachment A | POA |
| Attachment B | Email to [REDACTED] |
| Attachment B | Email to [REDACTED] |
| Attachment C | Trial Usage Report_CN |
| Attachment C | Trial Usage Report_EN |
| Attachment D | Test Report [REDACTED] |
| Attachment D | Test Report [REDACTED] |
| Attachment D | Test Report [REDACTED] |
| Attachment D | Test Report [REDACTED] |
| Attachment E | [REDACTED] |