

28 August 2017

The Director Investigations 3  
Anti-Dumping Commission  
GPO Box 2013  
CANBERRA ACT 2601

**Email:** [investigations3@adcommission.gov.au](mailto:investigations3@adcommission.gov.au)

Dear Director,

**PUBLIC RECORD**

**RE AR424 Consideration of application for Accelerated Exporter Review for Sino Sources Tech Co., Ltd and Tianjin Jianwei Tube Co., Ltd**

The following submission by Austube Mill Pty Ltd (**Austube Mills**) is in regard to the application for an Accelerated Exporter Review for Sino Sources Tech Co., Ltd (**Sino**) and Tianjin Jianwei Tube Co., Ltd (**Jianwei**).

**Background**

On the 5<sup>th</sup> of June 2017 Sino applied for an Accelerated review of measures (**the Application**). In a covering letter (EPR 424/01) to the Application Sino disclosed that it was:

*..... A manufacturer and new exporter of certain coated galvanised Steel Tubes from the People's Republic of China<sup>1</sup>*

The Application specified the product as follows:

*Hollow Structural Section (HSS) Conforming to grade of ASTM 678 Grade A or S355JR (Chinese Grade Q345B), manufactured by Sino Sources Tech Co., Ltd in China*

The Application listed the address of Sino as:

*Science and Technology Finance building, 18 Floors, Meiyuan Road No. 5, Xiqing District, Tianjin Chian.*

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<sup>1</sup> EPR 424/01 p.1

In the Application document (EPR 424/02) Sino further outline their status as a manufacturer:

*Sino Sources Tech Co., Ltd (Sino Sources Tech), a manufacturer and new exporter of certain coated galvanised Steel Tubes from the People's Republic of China, wish to confirm that our company did not export to Australia the subject or following goods during the original Investigation Period of 1 July 2010 to 30 June 2011. We also confirm that our company, until recently, has not exported to Australia similar or like Hollow Structural Steel products, since the foregoing date.<sup>2</sup>*

Following the Application a further Submission<sup>3</sup> was made on 10 July 2017 by Sino's representative (**Sino Submission of 10 July**) which seeks to reaffirm Sino's status as firstly an "**Affected Party**" and secondly an "**Exporter**".

A further Submission<sup>4</sup> was made on 10 August 2017 by Sino's representative (**Sino Submission of 10 August**) which discussed aspects of how export price and normal values should be determined.

Exporter Questionnaire Responses (**EQR**) for Sino<sup>5</sup> and Jianwei<sup>6</sup> were placed on record on the 15 August 2017.

#### **Austube Mills' Comments**

In **the Application** Sino initially claimed that it was a Manufacturer and Exporter of HSS. In the subsequent **Sino Submission of 10 July** this is clarified that Sino is in fact an Affected Party of the exported goods but the HSS was manufactured by another company Jianwei. The **Sino Submission of 10 July** at p.3 defines an Affected Party as '*a person who is directly concerned with the exportation to Australia of the goods to which the measures relate*'.

Austube Mills does not oppose Sino's claim that it is an *Affected Party*. Austube Mills strongly questions the claim by Sino that it is the *Exporter* of the goods. Austube Mills is of the view that the supporting documentation referenced by Sino, merely indicates that Sino is a vendor the role of which is outlined in the extract from the dumping and Subsidy Manual- April 2017 (**the Manual**) provided on P.6 of the **Sino Submission of 10 July**;

*A vendor may arrange the sale; set prices; cover warranty; prepare Customs and other paperwork; make shipping arrangements; pay the freight; **but still not be the exporter** for determining normal value under these guidelines. (emphasis added)*

The Manual goes on to state:

*Depending on the facts, the Commission considers that only in rare circumstances would an intermediary be found to be the exporter. Typically this will only occur where the intermediary has purchased the goods from the manufacturer; the manufacturer has no knowledge at all that the goods are destined for export to any*

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<sup>2</sup> EPR 424/02 p.2

<sup>3</sup> EPR 424/03

<sup>4</sup> EPR 424/07

<sup>5</sup> EPR 424/08

<sup>6</sup> EPR 424/09

*country; and the essential role of the intermediary is that of a distributor rather than a trader and because it is acting more like a distributor the intermediary would usually have its own inventory for all export sales.*

Austube Mills contend that no evidence has been provided that supports that the manufacturer Jianwei had **no knowledge at all** that the goods were destined for export to **any country**. It is implausible to suggest that for a large order of specialised galvanised RHS of a limited size and thickness for a major infrastructure project the manufacturer was not consulted on aspects of the product including minimum and maximum strength, applicable standards, ductility, dimensions or questions of capacity to supply, lead time to supply, etc. It would be also unusual for an EPCM (Engineering, Procurement, Construction and Management) contractor to not inspect the production facility for a major order and merely accept ex-stock product from a Chinese distributor.

Austube Mills further questions the motivation for Sino to be classified as the Exporter rather than Jianwei. The possible scenarios/motivations that the Commission may want to explore are:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] **[Confidential - two circumstances that make Jianwei ineligible for an Accelerated Review]**

Austube Mills also highlights certain irregularities that the Commission may wish to clarify with the vendor being:

- that the *ASTM 678 Grade A or S355JR*<sup>7</sup> are not to Austube Mills knowledge HSS applicable grades and would have no relevance to the HSS in question;
- the address for Sino in the Application of “*Science and Technology Finance building, 18 Floors, Meiyuan Road No. 5, Xiqing District, Tianjin Chian*”<sup>8</sup> is different to the address in the exporter questionnaire address of “*No 307, Tianhai Incubator, Jinghai Economic Development Zone, Tianjin City.*”<sup>9</sup>

Austube Mills further highlights the excessive redaction of the EQR’s for Sino<sup>10</sup> and Jianwei<sup>11</sup>. The use of the word ‘LIMITED’ provides no summary containing sufficient detail to permit a reasonable understanding of the substance of the information deleted or blacked out. This excessive level of redaction prevents Australia Industry from commenting on the majority of the claims made by Sino and Jianwei and is at odds with the Commission’s guidelines on *How to make a Submission 2013*.

*All redacted or deleted text in documentation provided for the public record must be accompanied by a summary that contains sufficient detail to allow a reasonable understanding of the substance of the information. This may be done by providing bracketed text following any redacted text. That is, sections or text of a confidential nature contained in documents provided for the public record may be blank or blacked out. However, it is a requirement that, to enable interested parties to obtain a reasonable understanding of the substance of information in public file documents, every deletion (or blacked out text) be followed by a bracketed summary containing sufficient detail to permit a reasonable understanding of the substance of the*

<sup>7</sup> EPR 424/01 p.1  
<sup>8</sup> EPR 424/01 p.1  
<sup>9</sup> EPR 424/08 P. 8  
<sup>10</sup> EPR 424/08  
<sup>11</sup> EPR 424/09

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*information deleted or blacked out. For example: a. Management accounts can be extracted for individual operation segments, global business units, value centres, etc. Accounts can be [REDACTED] [Explanation of cost allocation] NB: If such an explanation is not provided Customs and Border Protection may disregard the information in the submission.*

## Conclusion

Austube Mills strongly opposes the determination or granting of 'Exporter' status to Sino on the basis that Sino acted in the capacity of a vendor not a manufacturer.

It is implausible that Jianwei manufactured RHS with no knowledge that the product was intended for export to any country, let alone Australia. This product was not merely an impulsive purchase but a significant supply contract for a major infrastructure project. If accepted this accelerated review would create a precedent whereby any distributor of steel product could class themselves as an exporter merely by claiming that the manufacturer has no knowledge of the product destination and create a mechanism by which Chinese manufacturers could circumvent measures.

If Jianwei are ineligible for an Accelerated Review they should have applied to be part of the recently initiated *Review Inquiry No. 419*. In the event that Jianwei participates in any Review, Austube Mills requests that Jianwei be considered a high risk manufacturer and/or exporter and that the Commission undertake a full and thorough onsite verification to confirm that Jianwei is in fact a *bona fide* manufacturer of HSS the subject of the sought Accelerated Review.

The other option available to Jianwei and their importer is to apply for a duty assessment to obtain a refund of any interim dumping duties that are collected in excess of the final dumping duty.

FOR AND ON BEHALF OF AUSTRALIAN PRODUCER AUSTUBE MILLS PTY LTD