Customs Act 1901

Customs (Preliminary Affirmative Determinations) Direction 2015

Grinding Balls

Exported from the People’s Republic of China

Investigation No. 316 into Alleged Dumping and Subsidisation

Day 60 Status Report

Introduction

The purpose of this Status Report is to set out the reasons why I, Dale Seymour, the Commissioner of the Anti-Dumping Commission (Commissioner), have not made a preliminary affirmative determination (PAD) under subsection 269TD(1) of the Customs Act 1901 (the Act)\(^1\) on 16 January 2016\(^2\), being 60 days after the initiation of the investigation into the alleged dumping and subsidisation of grinding balls (the goods) exported to Australia from the People’s Republic of China (China).

This report and the findings contained herein reflect the status of the investigation at day 60. My findings may change as a result of further information, submissions, analysis or verification. Accordingly, I, at any time from day 60 onwards during the investigation, may make a PAD if I am satisfied of the requirements set out in subsection 269TD(1).

Background

On 17 November 2015, I initiated an investigation into the alleged dumping and subsidisation of grinding balls exported to Australia from China following an application by Commonwealth Steel Company Pty Ltd (trading as Moly-Cop) and Donhad Pty Ltd (the applicants) under section 269TB. Further details can be found in the public notice published on 17 November 2015, refer to Anti-Dumping Notice (ADN) No. 2015/132 at www.adcommission.gov.au.\(^3\)

Under subsection 269TD(1), I may make a PAD at any time, not earlier than 60 days after I initiate an investigation for the publication of a dumping duty or countervailing duty notice, if I am satisfied that:

- there appears to be sufficient grounds for the publication of such a notice; or

---

\(^1\) All legislative references are to the Customs Act 1901, unless otherwise stated.

\(^2\) As this is a Saturday, the effective due date is the following business day, 18 January 2016.

\(^3\) It is noted that, subsequent to the publication of ADN No. 2015/132, on 20 December 2015, the China Australia Free Trade Agreement came into force at which time the goods became subject to a reduced rate of 3.3 per cent Customs duty. From 1 January 2016, the rate of Customs duty applicable to the goods will further reduce to 1.7 per cent, and from 1 January 2017 the goods will be free of Customs duty.
it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods.

In accordance with the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction), 60 days after the initiation of such an investigation I must either make a PAD or provide a Status Report outlining the reasons why I have not made a PAD.

**Reasons**

In deciding whether to make a PAD on day 60 of this investigation, I have, in accordance with subsection 269TD(2), had regard to:

- the application;
- submissions received by 29 December 2015 concerning publication of a dumping duty notice and a countervailing duty notice in response to the initiation of the investigation; and
- any other matters that I considered relevant.

Based on the above information considered at day 60 of the investigation, I am not making a PAD because I am not satisfied that, under subsection 269TD(1)(a), there appears to be sufficient grounds for the publication of a dumping duty or a countervailing duty notice.

**Dumping**

The Anti-Dumping Commission (the Commission) has undertaken a preliminary analysis of all exporter questionnaire responses received to date, as submitted by:

- Changshu Longte Grinding Ball Co., Ltd;
- Jiangsu CP Xingcheng Special Steel Co., Ltd;
- Hebei Goldpro New Materials Technology Co., Ltd; and
- Jiangsu Yute Grinding International Co., Ltd.

Having regard to the *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Customs Direction), in relation to this investigation, the legislated period for lodging a response to the exporter questionnaire has expired. Therefore, I must determine all exporters who did not provide a response or request a longer period to provide a response within the legislated period to be:

- under subsection 8(b) of the Customs Direction, uncooperative exporters pursuant to subsection 269T(1), and
- under subsection 9(b) of the Customs Direction, non-cooperative entities pursuant to section 269TAACA

on the basis that no relevant information was provided in a reasonable period.

Based on the Commission’s preliminary analysis, having regard to the size of the preliminary dumping margins found\(^4\) and the volume of dumped goods with a dumping margin exceeding two per cent (above negligible levels in accordance with section 269TDA), I am not satisfied that there appears to be sufficient grounds to establish that the goods exported to Australia have caused material injury to the Australian industry producing like goods.

\(^4\) Subsection 269TAE(1)(aa)
For the purposes of the Commission’s preliminary analysis, export prices were determined under subsection 269TAB(1)(a) as the price paid by the importer to the exporter less transport and other costs arising after exportation. Normal values for the majority of models were determined under subsection 269TAC(1) based on domestic sales of comparable models in the ordinary course of trade in sales that are arms length transactions. Normal values for the remaining models were established under subsection 269TAC(2)(c) on the basis that there was an absence or low volume of sales of like goods in the market of the country of export that would be relevant for the purpose of determining a price under subsection 269TAC(1) (subsection 269TAC(2)(a)(i)).

It is noted that the application includes an allegation that there is a situation in the Chinese grinding balls market that renders domestic sales unsuitable for determining normal values under subsection 269TAC(1), i.e. that a 'market situation' exists under subsection 269TAC(2)(a)(ii). As a result, the applicants consider that all normal values should be determined under subsection 269TAC(2)(c). The Commission is yet to complete its market situation assessment.

The Commission has sought further information relevant to this assessment (and to the countervailing investigation), as part of Issues Paper No. 2016/01, also published on the Commission’s website at www.adcommission.gov.au on 18 January 2016.

**Countervailing**

The Commission is yet to fully complete its preliminary consideration of whether exporters were in receipt of countervailable subsidies in respect of grinding balls exported to Australia from China during the investigation period.

The Commission notes that, subsequent to initiation of the investigation, the applicants identified a further 16 potentially countervailable subsidy programs that the Commission considers warrant investigation. In response to these new allegations, the Commission has provided supplementary questionnaires to the Government of China and exporters who, as named above, provided an exporter questionnaire response. The due date for supplementary questionnaire responses is 27 January 2016, which occurs after the making of this report. Additionally, as noted above, the Commission has requested further information relevant to the determination of countervailable subsidies as part of Issues Paper No. 2016/01.

Therefore, based on the above, at the time of making this report, I am unable to fully establish that the goods have been exported to Australia at subsidised prices.

**Other considerations**

*Relevant matters – subsection 269TD(2)(b)*

In accordance with the PAD Direction and for the purposes of subsection 269TD(2)(b), I have considered the desirability of providing relief to an injured Australian industry as quickly as possible, where warranted. I have decided it is not warranted to make a PAD because there are currently insufficient grounds to establish that:

- goods exported to Australia have been subsidised (at above negligible levels in accordance with section 269TDA); and
dumped and subsidised goods exported to Australia have caused material injury to the Australian industry producing like goods.

Reconsideration of making a PAD – section 269TDAA

After publishing this report, I must reconsider whether to make a PAD at least once prior to the publication of the Statement of Essential Facts (SEF) required under section 269TDAA. The SEF is due to be published on 7 March 2016. Prior to the publication or in the SEF, I will advise whether I made a PAD subsequent to this Status Report and the reasons for my decision.

Anti-Dumping Commission Contact

Enquiries about this report may be directed to the case manager on telephone number 03 8539 2437, fax number +61 3 8539 2499 or at operations3@adcommission.gov.au.

Dale Seymour
Commissioner
Anti-Dumping Commission

18 January 2016