INVESTIGATION 316

ALLEGED DUMPING AND SUBSIDISATION OF
GRINDING BALLS
EXPORTED FROM
THE PEOPLE’S REPUBLIC OF CHINA

VERIFICATION REPORT - IMPORTER

CITIC PACIFIC MINING MANAGEMENT PTY LTD
(CPM)

THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED THEREIN
WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT
THE FINAL POSITION OF THE ANTI-DUMPING COMMISSION

February 2016
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## ABBREVIATIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>ABF</td>
<td>Australian Border Force</td>
</tr>
<tr>
<td>the Act</td>
<td><em>Customs Act 1901</em></td>
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<tr>
<td>ADN</td>
<td>Anti-Dumping Notice</td>
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<td>**</td>
<td>**</td>
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<tr>
<td>the applicants</td>
<td>Donhad Pty Ltd and Commonwealth Steel Company Pty Ltd (trading as Moly-Cop)</td>
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<tr>
<td>AUD</td>
<td>Australian dollars</td>
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<tr>
<td>China</td>
<td>People’s Republic of China</td>
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<tr>
<td>CIF</td>
<td>Cost, insurance and freight</td>
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<tr>
<td>CPM</td>
<td>CITIC Pacific Mining Management Pty Ltd</td>
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<tr>
<td>Commission</td>
<td>Anti-Dumping Commission</td>
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<tr>
<td>Commissioner</td>
<td>Anti-Dumping Commissioner</td>
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<tr>
<td>FOB</td>
<td>Free on board</td>
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<td>**</td>
<td>**</td>
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<tr>
<td>the goods</td>
<td>the goods the subject of the application (also referred to as the goods under consideration or GUC)</td>
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<td>**</td>
<td>**</td>
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<tr>
<td>PAD</td>
<td>Preliminary affirmative determination</td>
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<td>**</td>
<td>**</td>
</tr>
<tr>
<td>the Parliamentary Secretary</td>
<td>the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science</td>
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<tr>
<td>SEF</td>
<td>Statement of essential facts</td>
</tr>
<tr>
<td>USD</td>
<td>United States dollars</td>
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<td>**</td>
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</table>
1 BACKGROUND AND PURPOSE

1.1 Background

On 5 October 2015, Commonwealth Steel Company Pty Ltd (trading as Moly-Cop) and Donhad Pty Ltd (the applicants) lodged an application requesting that the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary)\(^1\) publish a dumping duty notice and a countervailing duty notice in respect of grinding balls exported to Australia from the People’s Republic of China (China).

The applicants provided further information and data in support of the application on 23 October 2015. As a result, the Anti-Dumping Commission (the Commission) restarted the 20 day period for considering the application in accordance with subsection 269TC(2A) of the *Customs Act 1901* (the Act).\(^2\)

The applicants allege that the Australian industry suffered material injury caused by grinding balls exported to Australia from China at dumped and subsidised prices. The applicants allege that the industry has been injured through:

- Lost sales volume;
- Price depression;
- Price suppression;
- Loss of profits;
- Reduced profitability;
- Reduced revenues;
- Reduced return on investment;
- Reduced capacity utilisation; and
- Reduced employment.

On 17 November 2015, the Commissioner of the Anti-Dumping Commission (the Commissioner), decided not to reject the application and initiated an investigation. Notification of this decision was published in Anti-Dumping Notice (ADN) No. 2015/132 on the Commission’s electronic public record.

There has been no previous dumping or subsidisation investigations in relation to grinding balls in Australia.

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\(^1\) On 23 December 2014, the then Minister for Industry and Science delegated his powers and functions under Part XVB of the *Customs Act 1901* to the Parliamentary Secretary to the Minister for Industry and Science. On 20 September 2015, the Department of Industry and Science became the Department of Industry, Innovation and Science. The titles of the Minister and Parliamentary Secretary also changed to the Minister for Industry, Innovation and Science, and the Parliamentary Secretary to the Minister for Industry, Innovation and Science. On 20 September 2015, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Science.

\(^2\) All legislative references in this report are to the *Customs Act 1901* unless otherwise specified.
1.2 Purpose of verification

Based on the volume of CITIC Pacific Mining Management Pty Ltd’s (CPM) imports relative to the total import volume during the investigation period, a decision was made not to conduct an on-site verification visit.

Whilst a decision was made not to conduct an on-site verification visit, an analysis of the importer questionnaire response provided by CPM was completed.

The purpose of the analysis was to:

- confirm that CPM is the importer of grinding balls attributed to it within the Australian Border Force (ABF) import database and obtain information to assist in establishing the identity of the exporter(s) of the grinding balls;
- verify information on imports of grinding balls to assist in the determination of export prices and import volumes;
- establish whether the purchases of grinding balls were arms-length transactions; and
- establish post-exportation costs.

1.3 Investigation process and timeframes

The investigation process and timeframes are as follows.

- The investigation period is 1 October 2014 to 30 September 2015.
- The injury analysis period is from 1 July 2011 for the purpose of analysing the condition of the Australian industry.
- A preliminary affirmative determination (PAD) may be made no earlier than day 60 of the investigation (16 January 2016) and provisional measures may be imposed at the time of the PAD or at any time after the PAD has been made.

Where a PAD is not made 60 days after initiation of the investigation, the Customs (Preliminary Affirmative Determinations) Direction 2015 directs the Commissioner to publish a status report providing reasons why a PAD was not made. A status report was published on 18 January 2016.

- The statement of essential facts (SEF) for the investigation is due to be placed on the public record by 7 March 2016 or such later date as the Parliamentary Secretary allows.

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3 If a due date in this report falls on a weekend or public holiday in Victoria, the effective due date will be the following business day
Following receipt and consideration of submissions made in response to the SEF, the Commissioner will provide his final report and recommendations to the Parliamentary Secretary. This final report is due no later than 20 April 2016.
2 THE GOODS

2.1 Description

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

Ferrous grinding balls, whether or not containing alloys, cast or forged, with
diameters in the range 22mm to 170mm (inclusive).

The applicants provided further details as follows:

The goods covered by this application include 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 this application include stainless steel balls, precision balls
that have been machined and/or polished, and ball bearings.

2.2 Tariff classification

The goods are classified to the following tariff subheadings in Schedule 3 to the Customs
Tariff Act 1995:

• 7325.91.00 (statistical code 26); and
• 7326.11.00 (statistical code 29).

The goods exported from China prior to 20 December 2015 were subject to a 4 per cent
rate of general duty. 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 duty. From 1
January 2016 the rate of duty applicable to the goods is 1.7 per cent, and from 1 January
2017 the goods will be free of duty.
3 COMPANY DETAILS

3.1 Company background

CPM is a wholly-owned subsidiary CITIC Limited. CITIC Limited is listed on the Hong Kong Stock Exchange and has subsidiaries operating across the globe, in sectors including financial services, resources and energy, manufacturing, engineering contracting, real estate and infrastructure.

CPM was established to manage the construction and operation of the Sino Iron project, an integrated mining, processing and port operation that will secure a long term stable source of quality materials for Chinese steel mills, including special steel mills owned and operated by the group.

CPM stated that it is a relatively new company with its current focus on the completion of construction and commissioning of Sino Iron, and the ramp up of production. CPM noted that as it transitions to full operation, its systems, practices and processes – including procurement – will undergo regular review and refinement, to ensure the best business outcomes are delivered. CPM advised that this includes ongoing trials to source the optimal grinding media for the plant.

3.2 Relationship with suppliers

CPM advised that it currently imports 100 per cent of its grinding balls and that it has utilised various suppliers over the life of the project. CPM advised that CPM and the two entities are both subsidiaries of CITIC Limited, however the corporate relationship between the two entities does not influence the price CPM pays for grinding balls.

3.3 Like goods

CPM advised that at the initial stage of the Sino Iron project’s development, its technical team recommended the use of high chrome grinding media. CPM has subsequently commenced trialling forged grinding media, with a view to identifying the most suitable specification for grinding media.

CPM advised it would consider inviting Australian industry, as well as other suitably-qualified suppliers, for participation in future tenders relating to both cast and forged grinding media.
4 AUSTRALIAN MARKET

4.1 General

CPM stated that grinding media (including the goods under consideration) is a critical stock item for the continued operation of the Sino Iron project.

As outlined above, CPM have utilised various suppliers of grinding media over the life of the project to date. CPM advised the key considerations in the purchasing decision are timeliness and security of supply, the quantity and quality of product required to best meet the needs of the project, and price.

CPM advised that [Company Name] was first engaged for the supply of 2,000 tonnes of grinding media in 2011. Donhad and [Company Name] were shortlisted and invited to submit a quote for the initial supply of grinding media. CPM awarded the contract for the supply of 2,000 tonnes of grinding media to [Company Name] as they were considered best placed to meet CPM’s requirements at the time, taking into consideration the surface hardness, centre hardness and durability of grinding media, as well as unit price.

In 2011, four companies, including Donhad and Moly-Cop were invited to participate in a competitive tender process for the supply of 4,000 tonnes of grinding media. CPM again awarded the contract to [Company Name], based on:

- The overall price from [Company Name] being more competitive than an alternate offer from [Company Name];
- The bids from Donhad and Moly-Cop being evaluated as unacceptable on technical grounds, as they did not meet the required specifications for high chrome balls;
- The quality of [Company Name] grinding media comparing favourably to [Company Name] (a higher wear coefficient and superior surface and centre hardness); and
- [Company Name] demonstrating they had the capacity and capability to deliver the grinding media within the timeframe required.

CPM provided a technical specifications extract from its tender evaluation summary for this tender. This is contained at Confidential Attachment GOODS 1.

In 2014, CPM purchased an additional 6,000 tonnes of grinding media from [Company Name] as per its normal stock replenishment process.

CPM advised that the project is still under development, and expected consumption of grinding media this year will be 15,000 to 20,000 tonnes. CPM estimates that once the project reaches full capacity, approximately 55,000 tonnes of grinding media will be consumed each year.

To ensure security of long term supply of a critical consumable, CPM has undertaken trials of grinding media from various suppliers. CPM advised that its technical team had initially favoured the use of high chrome balls, however it has subsequently commenced trialling forged grinding balls. CPM advised that the ultimate objective is to identify the most suitable specification of grinding media in terms of size, chemical composition,
hardness and wear rate that meet its operational need, and also to identify the most cost-effective grinding media consumption rate (kg/ton) for the ball mill.

CPM advised that these considerations are reflected in its current supply arrangements, with [redacted] identified as being a leader in differentiated solutions against wear. Similarly, [redacted] has been a leader in the manufacture of special steel in China, possessing research and development capability which CPM believes will assist it in achieving the most suitable specification for the project. [redacted] grinding media has been identified as a suitable substitute, as a result of CPM’s continued trial process.

4.2 Sales

As CPM is solely an end user of the imported goods, it was not necessary for CPM to complete Part C of the importer questionnaire, which asked for details of grinding ball sales.
5 IMPORTS

5.1 Volume of trade

In its exporter questionnaire response, CPM identified CPM as a purchaser of grinding balls during the investigation period, however the ABF import database indicated that while the goods were ordered during the investigation period they were not entered for home consumption until after the end of the investigation period. A total of 1,370 tonnes of grinding balls under the relevant tariff subheadings were imported by CPM.

5.2 Order process and price

5.2.1 Order process

CPM advised that it maintains a certain level of stock for grinding media required for the continued operation of the plant. These items are catalogued in CPM’s system as stock items against a pre-qualified supplier, and a requirement will be generated for stock replenishment once the stock level falls below the pre-determined reorder point.

When the goods arrive in Australia at Pilbara ports including Port Hedland and Port Dampier they are transported to the mining site, where they are stored until required.

5.2.2 Price

As outlined in in section 4.1 above, CPM undertakes a tender process for its supply of grinding balls.

CPM advised that security of supply, price and sourcing of a product which best meets the projects needs are the key considerations in selecting a supplier.

CPM noted that in the 2011 tender, Donhad and Moly-Cop were evaluated as being unacceptable on technical grounds, not on the grounds of price.

5.3 Forward orders

Part B of CPM’s importer questionnaire listed the following forward orders:

<table>
<thead>
<tr>
<th>Supplier</th>
<th>Shipping Terms</th>
<th>Expected Arrival</th>
<th>Quantity</th>
<th>Description</th>
<th>Unit Price USD/T</th>
</tr>
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5.4 Verification of imports

The Commission selected two shipments which were identified in Part B of the importer questionnaire (Confidential Appendix 1 refers) and asked CPM to provide the following source documents:

Grinding Balls – Importer Verification Report – CPM
PUBLIC RECORD

- commercial invoices;
- packing lists;
- overseas freight invoices;
- purchase orders;
- bills of lading; and
- Customs broker and domestic freight invoices.

CPM provided all the source documents requested, except for overseas freight invoices. CPM advised that due to late arrival of the goods it is in negotiation with its logistics company, and as such an invoice has not been issued. CPM did however provide the commercial proposal provided by its logistics company for the transport of grinding media, and the Commission has used this as the basis for the overseas freight costs detailed below.

For each shipment, the source documents provided were used to cross-check the listed quantity, invoice value, insurance, exchange rate, customs duty, importation costs, expenses to Part B of the importer questionnaire. The Commission was able to reconcile the shipment number, quantity, value, and price and delivery terms for the selected shipments with the data in the source documents. The documents provided are contained at Confidential Attachment IMP1.

5.4.1 Shipment costs

CPM’s imports are invoiced at FOB. The weighted average marine insurance and overseas freight are outlined below:

<table>
<thead>
<tr>
<th>Description</th>
<th>Weighted average cost (AUD/T)</th>
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<tbody>
<tr>
<td>Overseas freight</td>
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<tr>
<td>Marine insurance</td>
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</table>

5.4.2 Post exportation costs

Based on evidence provided by CPM, the Commission calculated the following post exportation costs:

<table>
<thead>
<tr>
<th>Description</th>
<th>Weighted average cost (AUD/T)</th>
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<tbody>
<tr>
<td>Customs entry fee, brokers free etc.</td>
<td></td>
</tr>
<tr>
<td>Port services charge</td>
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<tr>
<td>Duty (4% of FOB)</td>
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<tr>
<td>Transport</td>
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</table>

5.5 Export prices for selected shipments

Based on verified data from the selected shipments, the Commission calculated the following weighted average export price for grinding balls over the investigation period at free on board (FOB) terms:

Grinding Balls – Importer Verification Report – CPM
## PUBLIC RECORD

<table>
<thead>
<tr>
<th>Supplier</th>
<th>Quantity</th>
<th>Description</th>
<th>FOB Unit Price AUD/T</th>
<th>FOB Unit Price USD/T</th>
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Grinding Balls – Importer Verification Report – CPM
6 WHO IS THE IMPORTER AND EXPORTER

6.1 Who is the importer?

The Commission reviewed the documents provided in respect of the selected shipments, noting that CPM:

- is named as the customer on purchase orders and supplier invoices;
- is named as the consignee on the bills of lading; and
- pays for delivery to its premises, where it is consumed.

The Commission considers CPM to be the beneficial owner of the goods at the time of importation, and therefore the importer.

6.2 Who is the exporter?

The Commission will generally identify the exporter as:

- a principle in the transaction, located in the country of export from where the goods were shipped, who gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or their own vehicle for delivery to Australia; or
- a principle in the transaction, located in the country of export, who owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

It is common for traders and other intermediaries to play a role in the exportation of the goods. These parties will typically provide services such as arranging transportation, conducting price negotiations, arrange contacts with the producer, etc.

In such cases, the trader typically acts as an intermediary who, although one of the principles, is essentially a facilitator in the sale and shipment of the goods on behalf of the manufacturer. Typically the manufacturer as a principle who knowingly sent the goods for export to any destination will be the exporter.

Therefore, depending on the facts, the Commission considers that only in rare circumstances would an intermediary be found to be the exporter. Typically this will occur where the manufacturer has no knowledge that the goods are destined for export to any country and the essential role of the intermediary is that of a distributor rather than a trader.

Subject to further inquiries, the Commission is satisfied that [Redacted] can be considered the exporter of grinding balls imported by CPM. To the Commission’s knowledge, [Redacted] are the principles in the country of export, which manufactured the goods and gave up the goods for shipment directly to CPM.
7 ARMS LENGTH

In determining export prices under paragraph 269TAB(1)(a) and normal values under subsection 269TAC(1), the Act requires that the relevant sales are arm's length transactions.

Section 269TAA outlines the circumstances in which the price paid or payable shall not be treated as arm's length. These are where:

- there is any consideration payable for in respect of the goods other than price;
- the price is influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; and
- in the opinion of the Parliamentary Secretary, the buyer, or an associate of the buyer, will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

The Commission reviewed the documentation for the selected shipments and did not find any evidence, in respect of the purchase of grinding balls, that:

- there is any consideration payable for or in respect of the goods other than price;
- the price was influenced by a commercial or other relationship between CPM or an associate of CPM, and its supplier or an associate of the supplier; and/or
- CPM or an associate of CPM was directly or indirectly reimbursed, compensated or otherwise received a benefit for or in respect of the whole or any part of the price.

Subject to further investigation, at this stage the Commission is satisfied that import transactions between CPM and its suppliers are at arm's length in terms of section 269TAA.
8 RECOMMENDATIONS

The visit team is of the opinion that, for the goods imported by CPM from [redacted]:

- the goods have been exported to Australia otherwise than by the importer;
- the goods have been purchased by the importer from the exporter; and
- the purchases of the goods by the importer were arm’s length transactions.

Subject to further inquiries with the exporter, the visit team recommends that the export price for grinding balls imported by CPM from [redacted] can be established under paragraph 269TAB(1)(a), using the invoiced price, less deductions to the FOB level.
## 9 APPENDICES AND ATTACHMENTS

<table>
<thead>
<tr>
<th>Confidential Appendix 1</th>
<th>Verification team’s importation calculations (Part B of import questionnaire)</th>
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</thead>
<tbody>
<tr>
<td>Confidential Attachment GOODS 1</td>
<td>Extract from tender evaluation summary – technical specifications</td>
</tr>
<tr>
<td>Confidential Attachment IMP 1</td>
<td>Importation source documents</td>
</tr>
</tbody>
</table>