

17 October 2017

The Director Investigations 4
Anti-Dumping Commission
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Dear Director,

PUBLIC FILE

ERP419/19: Exporter Questionnaire Response (EQR) Tianjin Youfa Steel Pipe Group Co Ltd (“Tianjin Youfa”) - Request for Public disclosure of supplier list regarding non-State Invested Enterprises

This submission refers to the EQR for Tianjin Youfa in relation to the classification of Coil suppliers as non-State Invested Enterprises.

Austube Mills notes that in the Exporter Questionnaire, Program 20 is defined as “Hot Rolled Coil steel provided by Government at less than fair market value”

Government influence over the provision of coil at less than fair market value can be in the form of:

1. Public Bodies - Hot Rolled Coil provided by State Owned Enterprises (SOE) or State Invested Enterprises (SIE). Austube Mills notes that in REP 177 the terms SOE and SIE were taken to both be Public Bodies and the terms used interchangeably¹.
2. Private Bodies Entrusted or Directed to undertake the function of a Public Body – Hot Rolled Coil provided by bodies where ‘entrustment’ occurs.

With regard to Public Bodies being SOEs and SIEs the Chinese Exporter Questionnaire in Part I-4 asks the exporter, Tianjin Youfa, whether there were any purchases from SOE/SIE’s. Given potential ambiguity over what is and is not a SOE/SIE Austube Mills requests that the list of Coil Suppliers be made public so that an open and transparent assessment of the List of suppliers can be agreed as to the level, if any, of Government ownership. The reason for this disclosure is as follows.

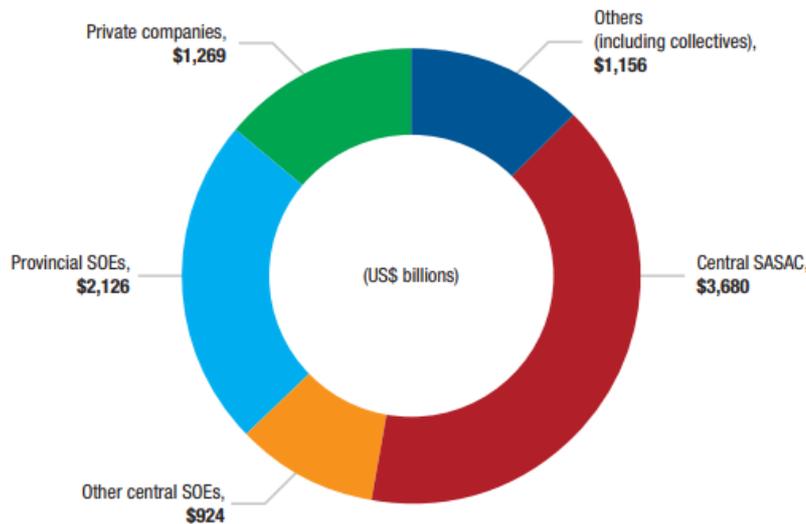
Austube Mills notes that Government ownership must be considered at all levels of Government including Central SASAC (State-owned Assets Supervision and Administration Commission of the State Council), Central Government of China (GOC) and Provincial Governments. The following Chart² highlights the percentage revenue of China’s Top 500

¹ REP177 p.11

² Attachment 1: 2016 Report to Congress of the U.S.-China Economic and Security Review Commission at p. 4.

firms by Ownership 2013. Clearly Provincial investment in SIE is significant and must be considered in addition to Central SASAC and Central GOC investment.

FIGURE 6: REVENUE OF CHINA'S TOP 500 FIRMS BY OWNERSHIP, 2013



Source: U.S.-China Economic and Security Review Commission, *Hearing on China's Shifting Economic Realities and Implications for the United States*, written testimony of Paul Hubbard, February 24, 2016.

Austube Mills further notes that China's National Bureau of Statistics (NBS) reports its industrial and investment statistics based on classifications according to official registration statistics, as well as a broader principle of control. Classification based on the 'control' concept captures not only the wholly state-owned enterprises that come under the direct jurisdiction of SASAC, but also their publicly-listed and unlisted subsidiaries. Unfortunately, there is not yet a classification from the NBS that tracks the scope of 'mixed ownerships' enterprises that reflects the extent of state ownership.

State-Owned Enterprise (SOE) is wholly state-owned, non-corporate entity that is registered according to the Administration of the Registration of Enterprise Legal Persons. Effectively, this includes the enterprises that are directly administered by the State-owned Assets Supervision and Administration Commission (SASAC) at the central or provincial levels (Hubbard and Williams 2016). But it does not include their wholly or partially owned corporate subsidiaries, including any publicly listed subsidiaries.

A limited liability corporation (LLC) is registered in accordance with the Regulations for the Administration of Company Registration and has between two and fifty shareholders. There are wholly state-owned LLCs, in which the only investors are SOEs (in the strict terms defined above) or agencies, and other LLCs – which may include any degree of ownership by the state less than 100 per cent. A company limited by shares (a limited liability company) is also registered according to the Regulations for the Administration of Company Registration, and may have any number of shareholders.³

³ Attachment 2 - EABER Working Paper 120 Hubbard at p.3

The Commission must therefore not accept the Provisions for the Classification of Types of Enterprise Registration as jointly issued by the National Statistics Bureau and the State Administration for Industry and Commerce as evidence of whether Hot Rolled Coil suppliers are SOE/SIEs. The reason for this is that the classification system is only based on greater than 50% ownership as highlighted by the following excerpt:

The classification of an enterprise as privately-controlled does not imply an absence of state participation. And enterprises may have a controlling private shareholder, with minority SOE shareholdings, in which case it might be better thought as a mixed ownership enterprise (Scissors 2016). The starkest example of mixed ownership would be a privately-controlled enterprise in which the state has a 49 per cent share, but could include much more subtle configurations. An SOE (or its subsidiary) might have taken a non-controlling equity stake in a publicly-listed non-state company. It could also include the case where a formerly state-owned enterprise has been partially privatized, but in which the state retains some small shareholding. The definition of 'state-owned and state controlled' is also non-cumulative – for example, company A might be 49 per cent state-owned and 51 per cent owned by a private shareholder, in which case it is classified as private controlled. Suppose they create a new company, company B in which company A holds a 51 per cent stake, with the remaining 49 per cent owned by wholly state-owned enterprise B. In this case, company C is not “state controlled” because its controlling parent is not state-controlled. Nevertheless, the state would remain the ultimate beneficial owner of almost three quarters of company C.⁴

The Commission must therefore confirm the Ownership structure for the each of the Coil suppliers by assessing whether there is any government investment in the Coil producer either directly or through other SIEs.

Summary

To enable a full and transparent assessment of whether each of the suppliers are in fact SIE/SOE enterprises Austube Mills requests the immediate disclosure by Tianjin Youfa of the list of Coil suppliers provided in *Annex I-4-1 Narrow Steel Strip price from SIE and Private Company*. Austube Mills notes that China's NBS official registration classification for industrial and investment statistics is not suitable for determining the status as an SIE due to the exclusion of partially owned Private Bodies.

In the absence of full disclosure Austube Mills requests that the Commission seek from Tianjin Youfa complete shareholder listings of each of the Steel suppliers provided to the Commission to positively confirm that the entities are not in fact SIEs.

In the absence of either of the above, Austube Mills requests that the Commission treat all Coil producers as SIEs unless positively verified as having no Government ownership, entrustment or direction to undertake the work of a public body.

FOR AND ON BEHALF OF AUSTUBE MILLS PTY LTD

⁴ Attachment 2 - EABER Working Paper 120 Hubbard at p.10