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PUBLIC RECORD VERSION –'Youfa' Group-Case No 419

12th March 2018

The Director,
Investigations 4,
Anti-Dumping Commission
Canberra, ACT 2601

By email: investigations4@adcommission.gov.au

Case No 419-Tianjin Youfa International Trade Co.Ltd. (YOUFA)

Dear Director,

I am writing in relation to the Commission's preliminary determination on the 'dumping' and 'subsidy' margins for the 'Youfa' Group.

Firstly, I would like to express the exporter's appreciation for the Commission's analysis of the their data which compared to other exporters of the subject goods is considered complex due to the 'Youfa' group's production and sales volumes of HSS being the largest in China and far in excess of all of the other selected and cooperating exporters combined.

'Youfa' does however have issues with the Commission's preliminary determinations on the normal values using the constructed cost method in accordance with s269TAC (2)(c)(i) with the primary issues being :-

- The Commission's 'Benchmark' uplifts of the HRC steel used to make the subject Australian sales with regard to Article 2.2 of the Anti-Dumping Agreement and in terms of fairness and transparency on price comparability;
- an appropriate adjustment for 'narrow strip' used to produce [redacted] to AS 1074 which reflect the conditions prevailing in the China market on the basis of fair comparison and with regard to the precedent set in Case 177 and ;
- the decision to impose a [redacted]' as an actual export cost vide s269TAC (9) in the normal value construction which is considered to be without specific authority and on the basis of the Commission's 'Benchmark' pricing and profit amount effectively results in 'double counting';
- the need for the Commission to undertake an analysis of the prevailing market conditions in China for the period July 2016 to June 2017 as required by s269TACC(4) and whilst the exercise may be difficult because of timing, the Commission, in terms of s269TAC(2)(c)(i) has a mandatory requirement to properly consider the comparative cost advantages the Chinese steel producers have over the foreign exporters 'Benchmark' steel costs, specifically in relation to China's unique use of 'narrow strip' to produce [redacted].

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'Youfa' therefore respectfully requests the Commission to reconsider the preliminary normal value determinations on the basis of the following reasons which 'Youfa' claims to be reasonable and appropriate factors and, which result in a lower normal value outcome.

1. **Legislation & Policy:**

1.1. Exporter Status:

As the Commission has previously determined, Tianjin Youfa International Trading Co.P/L (Youfa) is the exporter which is based on the following criteria and also on the finding in Case 379:-

'The Commission generally identifies the exporter as a principal in the transaction located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia, or;
a principal in the transaction , located in the country of export , that owns, or previously owned, but need not be the owner at the time the goods were shipped.'

Additionally, the Australian importer only deals with 'Youfa' on all matters relating to the sales transactions and clearly,'Youfa' is the exporter and not a 'trader' or an 'intermediary' in relation to the goods exported to Australia with the export price being determined under s269TAB(1)(a).

1.2. [redacted]:

For normal value determinations on the 'Youfa' Australian sales, the Commission has applied the construction cost methodology vide s269TAC(2)(c) (i) and (ii) which state the normal value shall be such amounts as the 'Minister' determines to be the cost of production in China plus the selling, administrative, general expenses **and profit** had those export sales been sold domestically. An amount of [redacted] profit has been determined on domestic sales of like goods in the OCOT.

Normal value in this circumstance is determined by the sum of the above plus the actual export expenses being adjustments in accordance with s269TAC (9).

As outlined in para 1.1, 'Youfa' is not a trader or an intermediary and the Commission's [redacted] for 'Youfa' is not an expense item, but clearly a [redacted], Youfa's '<u>all country</u>' export sales, and it's <u>domestic</u> sales of like goods. (A.5. refers)

The cost of production determined by the Commission has however been adapted to include uplifted Benchmark steel material input costs sourced from foreign markets that use Hot Rolled Coil (HRC) to produce HSS being HRC which is predominantly of a grade to produce non-circular goods (SHS/RHS) satisfying the Australian structural grade specification AS 1163.

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The relevant foreign producer/exporters in question are also known to use the higher priced Zinc coated steel to produce pre-galvanized SHS/RHS which 'Youfa' does not produce.

As stated previously, the preliminary normal value determined for 'Youfa' also includes a profit margin of [redacted] based on the 'Youfa' group domestic sales of like goods in the ordinary course of trade as required by s269TAC(5)(B) and the associated regulation 45(2).

It is accepted that the Commission can make necessary adjustments to the constructed domestic prices *where normal value is calculated using costs so that the normal value is properly compared to the export price in accordance with s269TAC(9).*

The constructed normal value in this instance includes a calculated profit margin of [redacted] on domestic sales and as required, it also includes **actual** export expenses such as *packing, handling, cartage, non- refundable VAT costs.* It should not include any of the [redacted] ([redacted]) derived from all of the exporter's sales being sales to Australia, all other countries ,and the exporter's own domestic sales, as this would then require an adjustment to the [redacted] as the respective [redacted] clearly affect price comparability.

Given the Commission's uplifted Benchmark HRC costs sourced from foreign exporters and the inclusion of a [redacted] profit margin, 'Youfa' claims that since it is the exporter ,the Commission's imposition of a [redacted] as an export expense adjustment is without specific authority and given the Commission' s normal value construction this has effectively resulted in double counting.

Whilst the inclusion of a [redacted] in 'Youfa's' constructed normal value is obviously not an actual export expense in that it can only be deemed to be [redacted] based on total export and domestic sales derived from submitted A.5 .data, 'Youfa's 'claim on double counting is also considered to be fairly based on the fact that the Commission has uplifted the actual Hot rolled Coil (HRC) steel input costs by way of 'Benchmark' HRC prices sourced from foreign markets which 'Youfa' understands are most likely the HRC prices obtained from the Korean pipe producer, 'Kukje', and the selected Taiwan pipe producers FEMCO, Ursine & Shin Yang.

It is reasonable to claim therefore that if the selected exporters ' Benchmark' HRC data from the foreign countries in question did include any [redacted] on their HRC purchases, the Commission's uplifted HRC costs for 'Youfa' would factually account for any such margin in respect to 'Youfa's' constructed cost to make and sell etc., and this would also result in double counting. Also, in terms of price comparability generally, it would be most unlikely that the respective Australian sales of HSS or the Commission's determined normal values on those sales by the selected foreign 'Benchmark' exporters would include any [redacted]

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'Youfa' submits that factually, any addition to the 'Youfa' constructed normal value by way of the [redacted] results in double counting as not only is the [redacted] not an actual export expense, it may also have been included by the Commission's uplifted 'Benchmark' steel costs and the requirement to include a [redacted] profit margin certainly suggests double counting would occur if the [redacted] was included.

2. STEEL PRICE DIFFERENTIALS:

2.1. 'Youfa' Factuals:

Based on known data, the relevant steel material input for the production of HSS is 'universally' HRC except for China which is unique in that it uses 'narrow strip' to produce mainly CHS non - structural grade product.

With regard to the Australian sales, the facts are:-

- '[redacted] was the only '[redacted] to produce RHS to the Australian structural grade specification AS 1163 which was produced from HRC;
- [redacted] was the only '[redacted] to produce the HDG CHS to the Australian non-structural grade specification AS 1074 which was produced from 'narrow strip'.

2.2. Australian Sales data:

Table No 1:

Product 'type'	Export Tonnes	RMB –FOB Values- Export prices	RMB-FOB Per tonne Export prices
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]

2.3. '[redacted]'-RHS [redacted].

On the basis that the Commission has adapted the 'Youfa' steel material input costs by uplifting the actual costs by applying 'Benchmark' HRC data from foreign export markets, 'Youfa' considers it instructive to analyse the [redacted] steel material purchases, production and sales data for the goods described as RHS [redacted] .The following Table No 3 demonstrates the cost differences on the '[redacted] steel material costs.

TABLE No 3:
'[redacted] Steel Material Purchases & RHS [redacted] data:

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#	[redacted]	Sept	Dec	March	June	Totals
1	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
2	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
3	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
4	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
5	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
6	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
7	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
8	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

2.4. Conclusions:

- Production ex 'narrow strip' [redacted] production ex HRC.
- Cost of 'narrow strip' significantly less than HRC cost by [redacted]
- These factors obviously impacted the Actual cost to make RHS [redacted] for Australia.
- Cost to make RHS [redacted] ex HRC had to be higher than [redacted].

[redacted] ADC uplift based on the [redacted]

2.5. Submission:

- ADC uplifts for Australian sales of RHS [redacted] be adjusted downwards by % cost difference for HRC ([redacted]) and that the Scrap Values resulting from the yield factor be valued commensurate with the uplifted input costs .
- **Table No 4 follows:**

Table No 4: RMB/t values:

Identifier Source reference	Sept	Dec	March	June	I.P
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]					
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]					
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

2.6. Other Significant feature-'[redacted]' HRC pricing:

Of [redacted] tonnes of HRC purchases, [redacted] tonnes were purchased ex [redacted] at prices higher than the prices paid for HRC supplied by [redacted] indicating that there was [redacted] obtained from [redacted].

3. Narrow Strip Factor:

3.1. 'Narrow strip' is unique to the China producer of HSS and does not command the price premium of the higher grade and higher quality HRC used to produce the structural grade RHS for Australian sales by either [redacted]' or the foreign exporters whose HRC data has been used to adapt upwardly, the 'Youfa' production costs.

3.2. Fair Comparison & Precedent :

Significantly therefore, it is respectfully submitted that 'Youfa's' use of 'narrow strip' to produce non-structural grade CHS cannot be compared to the HRC used by those pipe producers in the foreign exporter markets that produce structural grade RHS. They are considered to be two separate products and in terms of fair comparison on hot rolled steel materials used to produce those two 'product models', the 'Youfa' 'narrow strip' used to produce the AS 1074 [redacted] is a very different product to the HRC used to produce the AS 1163 [redacted] and more specifically the 'narrow strip' material is completely different to the HRC used by any 'Benchmark' foreign selected exporters of HSS.

3.3. Precedent:

The Commission's [redacted] outlining the preliminary determination on 'dumping' and 'subsidy' for 'Youfa' stated , inter alia,-

*'{T}he ADC further considered that it was appropriate to replace HRC costs using a benchmarking method similar to that followed in Investigation 177 and Reviews 265,(*sic) *and 266".*

As the Commission is aware, Investigation No 177 was the original investigation based on the 12 month period July 2010 to June 2011, which in the context of any analysis of the prevailing market for this current 'review period' may be irrelevant but in respect to the issue of steel 'narrow strip' used by China pipe producers, and specifically by 'Youfa', it is considered very relevant.

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It is also fair and reasonable to expect that a company which has obvious purchasing and pricing power such as the 'Youfa' group should not be penalised because of those very tangible assets and since the Chinese steel market per se is now circa 900 million tonnes it is also reasonable to claim that it is a competitive market on supply of both HRC and the unique 'narrow strip'.

3.4. Report No 177, page 259 stated, inter alia:-

"{T}he use of narrow strip is unique to the Chinese market amongst the countries/region investigated and thus no reliable external data was available ....to arrive at a narrow strip adjustment."

"Consequently ....has calculated this adjustment as the quarterly verified average difference between HRC and/or narrow strip purchase prices in China by the cooperating Chinese exporters".

"It is noted that this adjustment has been made with reference to internal prices of narrow strip in China and is reflective of the prevailing market conditions for the price difference between HRC and narrow strip in China."

3.5. Demonstrated cost differences:

Table No 3 detailed the cost differences in the HRC and 'narrow strip' purchased by the [redacted]. (Line # 3 of Table No 3 details RMB cost /tonne)

[redacted] was the only '[redacted]h to produce [redacted] for Australian sales from CHS produced from 'narrow strip' by [redacted].

Table No 6 (page 8) details the purchases of 'narrow strip' by [redacted]

Conclusion as per **Table No 5** is that the WAV purchase prices for 'narrow strip' by [redacted] is consistent with the WAV purchase prices for 'narrow strip' by the [redacted]

Table No 5: Price Comparisons on 'narrow strip'/RMB/t

Source Reference	Sept	Dec	March	June	I.P.	Comment
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

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TABLE No 6:

[redacted]	Sept 16	Dec 16	March 17	June 17	Totals
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

3.6. Submission:

Given the fact that the prices paid for 'narrow strip' by the [redacted] as detailed in Table No 5 are consistent over the 4 quarters of the I.P., and on the basis that 'narrow strip' is unique to China as determined in report 177, the steel input cost for the production of [redacted] should be adjusted to reflect the lower input cost of 'narrow strip' to produce [redacted].

That adjustment should be in accordance with line # 8 of Table No 3 on page 5 and the Scrap Value adjustment should be commensurate with the uplifted values.

Table No 8, page 9, details claimed input costs of 'narrow strip' for [redacted].

3.7. Current ADC apparent 'adjustments' for 'narrow strip' on [redacted]

Table No 7: RMB/t

Reference	Sept	Dec	March	June
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Table No 8:
Claimed input costs for [redacted] using 'narrow strip'.

RMB/t

#	Source Reference	Sept	Dec	March	June	I.P.
1	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
2	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
3	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
4	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
5	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
6	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
7	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Notes:

1. Line # 1 is ADC uplifted cost of 'narrow strip' used to make [redacted]
2. Line # 2 is ADC uplifted adjusted 'narrow strip' cost to make [redacted]
3. Line # 3 is the apparent ADC adjusted cost difference for the lower cost 'narrow strip'.
4. Line # 4 is the ADC uplifted, adjusted, CTM for [redacted]
5. Line # 5 is an adjustment to Line # 4 CTM due to Scrap Value being in line with uplift values.
6. Line # 6 is the claimed cost adjustment from Line # 5 of Table No 3, page 5.
7. Line # 7 is the claimed CTM for [redacted].

4. Normal Value Submission on Constructed Cost basis:

- The values on Line # 7 should be considered for determining normal values for the [redacted] on the basis of fair comparison and actual prices paid by 'Youfa'.
- Table No 9 that follows is 'Youfa's adjusted constructed cost Normal Value calculation for the [redacted] sales to Australia which represented the [redacted] –refer Table No 1.

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Table No 9: Normal Value Calculation for [redacted] produced by [redacted].
RMB/T (rounded)

Subject item	Sept	Dec	March	June	I.P.
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Note: [redacted] not included as it is not considered to be an export expense.

4.1 Claimed Summary of Australian Sales Dumping Duty margins:

Product type	Export Tonnes	RMB NV	RMB FOB	Negative Dumping Amount	Positive Dumping Amount
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
[redacted]	[redacted]	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Conclusion: [redacted] Dumping Duty Amount of [redacted]

Notes:
1. [redacted] based on claimed adjustment for 'narrow strip'-refer Table No 8.
2. [redacted] has no adjustment for claimed reduced uplift –refer Table No 4.
3. [redacted] not included in constructed Normal Value.

5. Benchmark Pricing and Transparency:

The Oxford English dictionary defines 'Benchmark' as:
'A standard or point of reference against which things may be compared and implies a reference point that is transparent ,reliable, authoritative, and productive of fair comparisons'.

It is submitted that the need and entitlement for transparency on the Commission's 'Benchmark' HRC prices should dictate the use of published HRC pricing data for the East Asia region which as the Commission is fully aware is available from third party reporting services such as S & P Global/Platts. Australia's only HRC producer, Bluescope Steel, refers to that source for East Asia HRC prices in its FY 17 Financial Results presentation of 21st August 2017 (page 64) being for the same period of time as this review period and which are stated to be US$ 419/t for IH FY 17 and US$ 474 for 2H FY 17 and which should reasonably reflect competitive market costs.

The Bluescope document referred to also provides detailed calculations on the East Asia HRC 'SPREAD' which is the HRC price less the cost of 1.5t of iron ore fines and 0.7t of hard coking coal, and given the costs of iron ore and coking coal are published commodity prices that the Chinese steel makers would need to pay, this data would be the basis for determining the comparative advantages Chinese steel makers have over foreign steel makers.

Also, in considering the Commission's Benchmark uplifted HRC prices for 'Youfa', it should be noted that HRC ex China is not subject to any measures by the Commission whilst HRC imported from Korea, and Taiwan which have been subject to recent measures (EPR 404) were found to have been non-dumped with relevant exporters having negative dumping margins including :-

- Korean exporters: POSCO (- 25.7%), 'Hyundai' (-1.0%)
- Taiwan exporters: 'China Steel' (-1.8%) 'Chung Hung'(-2.6%) 'Shang Chen (-9.2%)

On the basis that the Korean and Taiwan exporters of HSS are included in this review it is reasonable to claim that they would have sourced their respective HRC requirements from the above mentioned HRC producers all of which had negative dumping margins for year 2016 and which not only indicates that their domestic HRC prices should be consistent with those reported by S & P Global/Platts, but given their negative dumping margins, their respective export prices would have been higher than their respective domestic prices.Clearly, for reasons of commercial confidentiality, the Commission is not prepared to disclose the benchmark HRC prices sourced from specific exporters which for reasons of transparency means published third party regional HRC prices should be used.

'Youfa' respectfully requests the Commission's consideration on this response and reserves the option to make any further submission on matters affecting the interim dumping and subsidy margin calculations.

Sincerely,

[redacted].