2ND June 2016:

PUBLIC RECORD VERSION

Commissioner,
Anti-Dumping Commission,
Melbourne, 3000.
Via email: operations1@adcommission.gov.au

Dear Commissioner,

We write in response to the Commission’s (ADC) public record posting on the 27th May 2016 of its verification Assessments of dumping duty and subsidisation for the following two exporters captured by Investigation No 316 on steel grinding media/balls:-

- Jiangsu Yute Grinding International Co. (Yute)
- Hebei Goldpro New Materials Technology Co.Ltd (Goldpro)

The ADC preliminary assessments for the two exporters are as follows:

<table>
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<th>Exporter</th>
<th>Dumping Duty %</th>
<th>Subsidisation Countervailing %</th>
<th>Combined AD VALOREM RATE %</th>
<th>ADC BASIS For N.V. Construction</th>
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<tr>
<td>YUTE</td>
<td>43.3%</td>
<td>0% negligible</td>
<td>43.3%</td>
<td>269TAC (2) (c)</td>
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<tr>
<td>GOLDPRO</td>
<td>51.5%</td>
<td>0% negligible</td>
<td>51.5%</td>
<td>269TAC (2) (c)</td>
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We are acutely aware of the status quo requiring the ADC to report its final recommendations to the current Parliamentary Secretary by the 6th June 2016.

However as the representative of the two exporters we are obligated to submit the following reasons for rejecting the ADC’s methodology, calculations and views that have resulted in the above stated preliminary dumping duty margins.

We do not accept the above assessments as they are based on the ADC’s view that the Chinese market for steel grinding bars is a ‘particular market situation’ which we claim has not been evidenced and on the basis that only the Parliamentary Secretary can determine that there was a ‘particular market situation’ we need to submit this response for the public record. (*5.5 SEF 316)

By way of introduction, it needs to be understood that the two exporters in question only accounted for around 1% of the Australian market supply of 240,000 tonnes for the period 1st October 2014 to 30th September 2015 and the ADC’s assessments have now eliminated these two exporters from supplying the current and future Australian market for grinding balls, which, because of the generally known new and increasing demand generated by developing and expanding major iron ore operations such as the ‘SINO IRON ORE’ and the ‘ROY HILL’ iron ore project should only further increase in volume terms to around an estimated 300,000 tonnes p.a.
In our view, the essential flaw in the ADC’s methodology is, as expressed in SEF 316, the ADC’s prevailing ‘hold’ on a pre-disposed view that there was a ‘particular market situation’ in the Chinese market for steel grinding bars that caused the ADC to ignore both the actual costs and domestic sales of these two exporters for Normal Value considerations and calculations.

It needs to be stated that the relevant market in this investigation is the steel grinding bar market and in respect to these two exporters we believe Normal Values should have been constructed under subsection 269TAC (2) (c) and not on the basis of a mixture of external benchmarks.

In order for the ADC to ignore these exporters appropriately recorded costs and sales and thus have the evidence to support its view that a ‘particular market situation’ exists in relation to the Chinese market for steel grinding bars, the ADC needs to have evidenced that those costs and sales ‘do not permit a proper comparison’ and there is no apparent evidence that that these two exporters do not maintain generally accepted accounting records or that those records do not reasonably reflect factual cost and sales data.

As the ADC explained in SEF 316, when assessing if a ‘market situation’ exists, the ADC considers if governments directly or indirectly influence prices, and that influence can be through:

- Direct price regulation; or
- Indirect influence through policies that impact on the supply of the subject goods or the supply or price of major inputs used in the production of the subject goods.

This investigation involved both dumping and subsidisation.

There would appear to be no evidence that the GoC imposes floor or ceiling pricing mechanisms being direct price regulation on the steel grinding bar market which suggests the ADC relies on the GoC indirectly influencing the price or cost of inputs and that in our opinion would only be achieved by way of product specific GoC subsidisation.

The ADC’s reliance on this indirect influence is confirmed in A2 12.of SEF 316, which in respect to GoC influence, the ADC ‘holds’ that:

- ‘This influence has occurred through the following mechanisms.
  - GoC directives, subsidy programs and involvements in strategic enterprises.
  - Taxation arrangements ,including value add taxes and export rebates.’

The ADC however found that any subsidisation in respect to these two exporters to be negligible and we can only conclude that the ADC’s view that a ‘market situation’ can still be considered in the absence of actionable subsidisation to be incongruous.
The ADC’s methodology in this investigation can only be viewed as being protectionist and whilst that may open the way for the ADC to treat the relevant Chinese market as a ‘market situation’ that, in our opinion cannot apply in this case by virtue of Australia having acknowledged China as an equal WTO trading partner by recognising that country’s ‘full market economy status’ - reference para 2 of the Memorandum of Understanding between Australia’s DFAT and China’s Ministry of Commerce on the ‘Australia China Free Trade Agreement’ (CHAFTA).

We do understand that the existence of CHAFTA does not negate Australia imposing measures to remedy any injury attributable to ‘dumping’ but the relevance of our opinion is the understanding that the Parliamentary Secretary needs to determine that a ‘market situation’ existed in respect to the relevant product market of steel grinding bars.

We therefore submit that the Normal Values advised to these exporters via the public record assessments of 27th May 2016 should have been constructed in accordance with their respective costs and not by a combination of third party reference prices.

For example our constructed Normal Value for ‘YUTE’ is detailed on the confidential attachment No 1 which resulted in the following dumping duty margin:

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Notes:
1. YUTE only exported sizes (SIZES)
2. YUTE did not export any ‘balls’ (SIZES)
3. YUTE only exported (PERIOD)
4. YUTE domestic sales comprised sizes;

The ADC justifies its reasoning for ignoring the actual costs and sales data of the two exporter/producers on the basis that the Government of China (GoC) did not respond to its questionnaire and because of that the ADC has relied on the best information available, and thus what we believe is an inappropriate reliance on an engineered mixture of:

- An ADC’s ‘pick’ of a third country’s ‘reported’ benchmark export prices for steel billets by a reporting service without any actual movement expenses, profit margins, transaction evidence or market/country destinations;
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- Applying arbitrary uplifts for alloy inputs based on a reporting service’s information;

- Using conversion costs supplied by the applicant Molycop which is a scrap based producer of the GUC and not, as are the Chinese producers of the steel used in grinding bars; and

- Imposing a deemed profit rate on their domestic sales in lieu of the exporters actual domestic profit realisations.

With respect to the use of third country steel billet export prices, the ADC has effectively treated steel grinding bars as ‘like goods’ to products of other ADC investigations, namely deformed bars of INV No 300 and wire rod in coil of INV No 301, but the salient issue is simply the fact the ADC has no evidence in relation to the relevant market of steel grinding bars being a ‘particular market situation’, and as such the Parliamentary Secretary has no evidential basis for accepting the presumed ADC’s final recommendations on this investigation.

The ADC has also relied on the fact the GoC did not respond to its questionnaire and as such the ADC ‘had limited contemporaneous information upon which to make its assessment although clearly, the ADC did rely on previous, but never-the-less contemporaneous, investigations, namely Nos 300 (deformed bar) and 301 (wire rod in coil) and in that regard the ADC had received a most detailed submission from the GoC on the 12th April 2016 being in response to the ADC Investigation No 331 on ‘wire rod in coils’.

Whilst INV 331 is about subsidisation we maintain that it is relevant to this investigation on both ‘dumping’ and subsidisation’.

Given that GoC response was received on the 12th April 2016 it has to be relevant to this investigation and should, in our opinion, have been taken into consideration for the ADC’s SEF 316 of 21st April 2016.

We also believe the GoC’S response to INV 331 should have been considered in the ADC’s more recent considerations including the assessments on these two exporters which were placed on the public record on 27th May 2016 and on behalf of the two exporters, ‘YUTE’ and ‘GOLDPRO’ we thank the ADC for its consideration and request that the public record version of this document be placed on the ADC website.

Please contact the writer for any clarification.

Regards,

M J Howard