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14 December 2016

The Director – Operations 4  
Anti-Dumping Commission  
Level 35, 55 Collins Street  
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**INVESTIGATION 355: STEEL SHELVING UNITS FROM THE PEOPLE'S REPUBLIC OF CHINA**  
**Submission by the Australian industry – Response to Claims by**  
**The Government of China (GOC) and Geelong Holdings Limited (Geelong)**

Dear Director,

Summit Select Pty Ltd (Summit), the sole Australian industry member to the above investigation, wishes to lodge this submission in response to certain claims raised by the GOC in its Government Questionnaire Response (GQR), and claims raised by Geelong in a submission dated 21 October 2016.

**1. GOC CLAIMS THAT THERE IS NO MARKET SITUATION AND STEEL RAW MATERIALS REFLECT REASONABLY COMPETITIVE MARKET COSTS**

The GOC's position in its GQR appears to be that there is no market situation in the Chinese domestic market for steel shelving units and that steel raw material costs incurred by exporters of the goods should be considered reasonable for the purposes of determining the cost to make and sell steel shelving units<sup>1</sup>. Summit strongly disagrees with these assertions by the GOC. Available evidence supports a finding that there has been significant GOC influence in the Chinese iron steel industry, and these influences have created a market situation in the Chinese steel shelving market (if such a market exists in any significant volumes) and rendered purchase prices of steel raw materials in China not reasonably reflective of competitive market costs for those materials. These claims are discussed in more detail below.

**1.1 Existence of a market situation and suitability of sales-based normal values**

It should be noted that it is Summit's position that:

1. it is unlikely that there are sufficient volume of domestic sales of like goods in the ordinary course of trade (OCOT) by the Chinese exporters of the goods for determining the normal value under s.269TAC(1) of the *Customs Act 1901* (the Act) (in which case a market situation finding is not relevant for determining the normal value); and
2. even if there are sufficient volumes of domestic sales in OCOT, GOC influences have created a situation that has rendered sales of like goods on the domestic market unsuitable for determining the normal value under s.269TAC(1) of the Act<sup>2</sup> (i.e. a 'market situation').

<sup>1</sup> GOC Government Questionnaire Response, page 21

<sup>2</sup> Summit application, page 48

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Whether points 1. or 2. above apply, Summit submits that normal value should be determined in accordance with s.269TAC(2)(c) of the Act based on cost to make and sell plus profit, after taking into account whether costs used in the manufacture of those products in China are not reasonably reflective of competitive markets costs for the purpose of Regulation 43 of the *Customs (International Obligations) Regulation 2015* (the Regulations) . This is discussed further below.

### 1.1.1 What is a market situation?

The Act does not define the term 'situation in the market' for the purposes of s.269TAC(2)(a)(ii), nor does it indicate the particular circumstances or factors that would satisfy the Minister that a 'situation in the market' (or a 'market situation') exists.

Summit notes that the Commission considers that:

*..... a 'market situation' assessment involves an examination of factors which may affect the interaction of supply and demand in a sector, industry or market, to the extent that prices and costs in that market can no longer be viewed as being established under normal market principles. In assessing a 'market situation', the Commission considers that governments can directly or indirectly influence domestic prices through the imposition of restrictions on how prices are charged for a product. This influence can be through:*

- 1. direct price regulation (floor or ceiling pricing mechanisms); or*
- 2. indirect influence through policies that impact on the supply of the subject goods or the supply or price of major inputs used in (sic) the production of the subject goods.*

*The influence of a government does not, in itself, establish the existence of a 'market situation'. In assessing whether a 'market situation' exists, the Commission needs to examine both:*

- 1. the effect such influence has on the market; and*
- 2. the extent to which domestic prices are distorted and unsuitable for proper comparison with corresponding export prices.*

*The Commission considers that, in the context of this analysis, evidence of government policies and programs that specifically or indirectly flow to the relevant market under consideration may have an effect on domestic commerce with respect to the goods. The Commission holds that this information is relevant to the analysis of whether factors exist which can be characterised as a 'market situation' for the purposes of subsection 269TAC(2)(a)(ii).<sup>3</sup>*

As is clear from the above (and from a number of cases previously examined by the Commission), a market situation can be created where government influences on the supply or price or major raw materials exists, if that influence has effected the market and distorted domestic prices of the like goods.

Summit submits that:

- there is GOC influence in the Chinese iron and steel industry;
- this influence has distorted the cost of hot dip zinc coated (galvanised) steel coils and hot-rolled coil (HRC), which are the key steel raw materials for the goods; and
- this distorted raw material cost has similarly distorted the selling prices of like goods such that these prices are not reasonable for normal values determined under s 269 TAC(1).

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<sup>3</sup> Report 316 – Grinding Balls, pages 83-84

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### 1.1.2 Has the GOC influenced the prices of galvanised steel and HRC in China?

Summit's position that the GOC has influenced the prices of galvanised steel and HRC used in the manufacture of the goods has been informed by findings and reports by the Commission and its predecessor, the Australian Customs and Border Protection Service (ACBPS).

In particular, there have been findings that **the GOC has exerted numerous influences on the Chinese iron and steel industry which have substantially distorted competitive market conditions** in each of the following investigations:

- 177 and 203 – Hollow Structural Sections;
- 190a – Zinc Coated Steel & Aluminium Coated Steel;
- 198 – Hot Rolled Plate Steel;
- 238 – Deep Drawn Stainless Steel Sinks;
- 300 – Steel Reinforcing Bar;
- 301 – Rod in Coil; and
- 316 – Grinding Balls.

Summit notes the findings in the grinding balls report relate to a recent investigation period, 1 October 2014 to 30 September 2015<sup>4</sup>.

Summit also notes that for each of the above-named investigations, with the exception of the investigation of deep drawn stainless steel sinks, the Commission determined that these GOC influences created a market situation in the Chinese market of steel shelving units.

With regard to the deep drawn stainless steel sinks investigation, although the Commission determined that there was not a market situation<sup>5</sup> the Commissioner did find that:

*304 SS CRC (also supplied in sheet form) prices in China are affected by GOC influences in the iron and steel industry, and hence do not reasonably reflect competitive market costs, and should be replaced by a competitive market substitute.*<sup>6</sup> [Emphasis added]

Summit considers it is particularly important to note that, in investigation 190A, ACBPS established that significant GOC influences have impacted the domestic market for galvanised steel and that a market situation resulted in China in relation to that product, which itself is a major raw material for steel shelving units. Summit submits that a finding that a market situation exists in relation to galvanised steel directly supports its assertions that GOC influences have distorted the domestic prices of galvanised steel incurred by steel shelving unit exporters.

Summit also refers to the Analysis of Steel and Aluminium Markets Report to the Commissioner of the Anti-Dumping Commission, dated August 2016, which states that:

*"The Anti-Dumping Commission's (The commission's) analysis has found evidence of market interventions and trade restrictions that influence market behaviours and decision-making by producers in Asian steel and aluminium markets in ways that diverge from competitive market behaviours and normal commercial decisions."*<sup>7</sup>

.....

*"While Asian governments have announced policies to reduce overcapacity and rationalise their steel and aluminium industries, a number of factors suggest that the process of structural adjustment is likely to be prolonged. For example, the Chinese Government's desire for a 'soft landing' for the*

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<sup>4</sup> Report 316 – Grinding Balls

<sup>5</sup> Report 238, page 40

<sup>6</sup> Report 238, page 42

<sup>7</sup> Analysis of Steel and Aluminium Markets Report, page 5

***economy has resulted in the continuation of policies that have contributed to overcapacity, excess production and large stockpiles***<sup>8</sup> [emphasis added].

The abovementioned numerous findings by the Commission and ACBPS validate Summit's view that the GOC influence in Chinese iron and steel sector is significant and ongoing, and has distorted competitive market conditions for a wide range of steel products, including HRC and galvanised steel.

1.1.2 Does the GOC influence on HRC and galvanised steel input prices render selling prices of like goods not suitable for determining normal values?

As outlined above, Summit considers that there are numerous ongoing interventions by the GOC in the Chinese iron and steel industry. These influences have been such that they have distorted input prices of the raw materials (galvanised steel and HRC) that are incurred by the Chinese exporters of the goods. Given that up to 40% of the cost to manufacture the goods and like goods is represented by these steel raw materials, these input price distortions would logically significantly alter the cost to make and sell those goods on the domestic market which would logically impact the selling price. Summit's position is that selling prices of like goods in China is substantially different to what prices would have been in the absence of these interventions by the GOC.

1.1.3 Other GOC influences on domestic prices of steel shelving units

Summit notes that there also direct GOC influences in the steel shelving market that contribute to a market situation that makes domestic selling prices of those goods not being suitable for normal values under s.269TAC(1).

In its application, Summit provided information on subsidy programs found by the United States Department of Commerce (USDOC) to have been received by Chinese manufacturers of boltless steel shelving. Summit noted that the boltless steel shelving investigated by the USDOC are a sub-set of the scope of the goods under investigation by the Commission. Summit further noted that it considers that the Chinese exporters of the boltless units also manufacture bolted units and that the Chinese exporters of the boltless units to the United States (investigated by the USDOC) are likely to have exported the goods subject to this investigation to Australia.

Receipt of subsidies by the Chinese exporters would also logically lower the cost to make and sell like goods on the domestic market and this would further influence the domestic selling prices of like goods such that the prices would be substantially different to what they would have been in the absence of GOC interventions.

1.1.4 Conclusion on market situation

Noting the above, it is clear that GOC involvement in the Chinese domestic iron and steel industry has 'materially' distorted competitive market conditions, in terms of key steel raw material inputs used in the manufacture of steel shelving units.

**1.2 Calculation of normal values using reasonable market costs**

As outlined above, it is Summit's position that normal values for like goods should be constructed under s.269TAC(2)(c) (whether this be due to absence of sufficient sales or a market situation if there are sales). Summit notes that, when constructing normal values, according to Regulation 43(2), if costs recorded by the exporters reasonably reflect competitive market costs to manufacture steel shelving units, the Commission should construct normal values using costs as incurred. However, conversely, if the costs recorded by the exporter do not reasonably represent competitive market costs, they should not be used but rather a surrogate cost can be used.

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<sup>8</sup> Analysis of Steel and Aluminium Markets Report, page 9

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Summit contends that the costs of galvanised steel and HRC incurred by the Chinese exporters of the goods do not reasonably reflect competitive market costs due to the GOC influences on the steel industry as outlined above (refer section 1.1).

Summit requests the Commission to assess the costs of galvanised steel and HRC incurred by the Chinese exporters to ensure that the costs of manufacture incurred by exporters of the goods reasonably reflect competitive market costs when constructing normal values. In addition Summit requests the Commission revise the galvanised steel or HRC costs with an uplift for competitive market costs.

### 1.3 Calculation of normal values if a market situation is not determined

Summit submits that, in the unlikely event the Commission were to find that there are domestic sales of like goods in China and a market situation does not exist that renders selling prices of like goods unreasonable for determining normal value:

- the significant GOC influences on steel raw material prices mean that costs used in the manufacture of the goods and like goods should still be considered to be not reasonably reflective of competitive market costs for the purposes of Regulation 43(2), and should be replaced with a reasonably competitive market substitute (as discussed above in section in 1.2); and
- ordinary course of trade tests on those domestic sales to identify transactions in OCOT for use in determining s.269TAC(1) normal values should be conducted using exporters' cost to make and sell after applying this cost replacement.

## 2. GOC CLAIMS THAT EXAMINATION OF THE HRC AND GALVANISED STEEL INDUSTRY IS OUTSIDE THE SCOPE OF THIS INVESTIGATION

The GQR appears to claim that the Commission should not be asking questions regarding, or investigating the Chinese steel industry generally, stating that 'any connection between the shelving industry and the steel industry is remote at best'<sup>9</sup> or that investigation of the Chinese HRC and/or galvanised steel industries is 'inappropriate' and outside the scope of the above investigation.

As is evident from the above discussion, contrary to GOC claims that HRC and galvanised steel are irrelevant to look at for this investigation, it is Summit's position that addressing GOC influences on input prices of steel raw materials that are incurred by the exporters of the goods are necessary and relevant considerations.

As discussed above (at Section 1.1.1) ACBPS has made findings of GOC influences on HRC and galvanised steel and the impact these influences ultimately have on costs incurred by exporters of the goods and domestic selling prices of like goods by those exporters.

Summit submits that GOC influences on HRC and galvanised steel are highly relevant to this investigation and any claims otherwise should be dismissed.

## 3. GOODS DESCRIPTION AND EXCLUDED GOODS

Summit notes that the Geelong submission of 21 October 2016 claims that Summit's previous submissions have been unclear regarding 'industrial shelving' (particularly heavy duty commercial shelves). Specifically, Geelong appears to claim that the status of shelves with a weight loading of exactly 200 kg weight is unclear (asserting that exactly 200kg shelves appear to be excluded by Summit). Geelong then asserts that the reduced priced Romak shelves (referred to by Summit in its submissions of 30 September 2016 and 31 October 2016) have a 200kg weight loading and are excluded goods.

Summit disagrees that there should be any confusion about the status of 200kg weight loading shelves. In its submission of 30 September 2016, Summit stated that

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<sup>9</sup> GOC Government Questionnaire Response, page 11

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*Summit considers over 200kg weight loading per shelf to be a reasonable and accurate identifier of shelving units that are heavy duty commercial shelves, and is a limit that would be generally accepted by market players [emphasis added].*

Summit's position is that over 200kg are considered to be heavy duty commercial shelves and hence 'industrial shelving' that is excluded from its application. Conversely, shelves with a weight loading of exactly 200kg and less are not considered to be 'industrial shelving'. Summit considers this was clearly articulated and Geelong has misunderstood/incorrectly contextualised Summit's comments in relation to weight loading.

I trust the above information is of use to the Commission and other interested parties to the investigation. Please do not hesitate to contact me should you require further information.

Kind regards

A handwritten signature in black ink, appearing to read 'Janice Riley', with a horizontal line above the first few letters and a long, sweeping underline.

**Janice Riley**  
Executive Director