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Anti-Dumping Commission
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July 17, 2025

PUBLIC RECORD

Dear Sirs,

Re: Investigation 644 into Interchangeable bolted clipping system brackets from China; Submission of Comments on Statement of Essential Facts; Our client: Ningbo Fenghui Metal Products Co., Ltd. ("Fenghui") and Cixi Guanhaiwei Qinyan Hardware Factory ("Qinyan")

Ningbo Fenghui Metal Products Co., Ltd. ("Fenghui") and Cixi Guanhaiwei Qinyan Hardware Factory ("Qinyan") have reviewed the Commission's Statement of Essential Facts dated 27 June 2025 ("SEF 644") and provide with respect the following comments in response for the consideration of the Commission.

I. The Commission errs in concluding Fenghui instead of Qinyan as exporter

We note that the Commission maintains its conclusion in the Preliminary Affirmative Determination that Fenghui instead of Qinyan as exporter in the SEF 644. We respectfully disagree with the determination due to the following reasons as claimed in our comments to the Preliminary Affirmative Determination dated 23 May 2025:

1. Qinyan is the manufacturer and Fenghui is the trader

The *Dumping and Subsidy Manual* (Manual) states that "**Typically the manufacturer, as a principal,** and who knowingly sent the goods for export to any destination, will be the exporter".

Clearly, in the present case, Qinyan is the manufacturer of the goods, while it is not the case for

Fenghui. Qinyan is responsible for the whole manufacturing process, including procuring the raw material, hiring workers, organizing the manufacturing and sell the final products to the Australia importer via Fenghui.

2. Qinyan knows the products will be sold to Australia

Again, the *Dumping and Subsidy Manual* (Manual) states that "Typically the manufacturer, as a principal, and **who knowingly sent the goods for export to any destination, will be the exporter".**

In the present case, Qinyan knows the goods will be sold to Australia. Though Qinyan does not directly enter into contract with ACP, Qinyan packages the final products, and on the cover of package, it indicates that ACP is an Australian company, and therefore, Qinyan knows the goods will be sold to Australia.

3. Only in the rare circumstances, an intermediary would be found to be the exporter

We note *Dumping and Subsidy Manual* (Manual) states that

> *Depending on the facts, the Commission considers that only in rare circumstances would an intermediary be found to be the exporter. Typically this will only occur where the intermediary has purchased the goods from the manufacturer; the manufacturer has no knowledge at all 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 and because it is acting more like a distributor the intermediary would usually have its own inventory for all export sales.*

We understand that it shall only occurs in the rare circumstance instead of a common rule to conclude an intermediary as exporter. The commission shall be more cautious to do so especially under the situation where the commission has to construct the normal value, since it is absurd to some extent to construct a intermediary's normal value since there is no cost of **production or manufacturing** available since the intermediary does not conduct any production or manufacturing by itself while we understand it is mandatory to construct the normal value based on **cost of production**, expenses and profit.

However, we note that in the SEF, the Commission did not provide analysis on our above reasons, but just said in conclusion "the commission considers that this is insufficient to conclude that Qinyan is the principal in the export transaction."

Therefore, we request with respect the Commission to again consider our reasons above, and conclude **both Qianyan and Fenghui are the exporters** and can obtain its own dumping margin.

II. The Commission errs in calculating Fenghui's normal value

Taking as step back, even if assuming Fenghui is the exporter as Commission finds, we are of the view that Commission errs in calculating the normal value of Fenghui in various respects.

1. Commission errs in double counting SG&A and profit of both Qinyan and Fenghui

We note that the Commission still considers the normal value has been based on the following information:

- *the cost of production of the goods in China, having regard to Qinyan's cost of production, plus Qinyan's selling, general and administrative (SG&A) expenses and profit on its sales of the goods to the exporter of the goods (Fenghui), plus*
- *Fenghui's profit on all its domestic sales in China during the investigation period (being the profit that Fenghui was likely to achieve had it sold brackets for domestic consumption in China), plus an amount for its SG&A and other adjustments to ensure that the normal value is properly comparable to the export price.*

Even if assuming Fenghui instead of Qinyan as "exporter", we see no reason why the Commission shall double counts SG&A and profit of both Qinyan and Fenghui.

In the SEF, the Commission considers that "the sum of Qinyan's cost of production of the goods, plus its profit margin and SG&A on those goods, is equivalent to the price of the goods sold by Qinyan to Fenghui." If the Commission just wants to get the price of the goods sold by Qinyan to Fenghui, the Commission shall directly use the accurate price of the goods sold by Qinyan to Fenghui which has been already provided to the Commission, rather than constructing the price.

While the Commission chooses to use the construction method, we recall that under s 269TAC(2)(c), the normal value is to be the sum of (a) the cost of production or manufacture in the country of export; and (b) on the assumption that the goods had been sold on the country of export, the administrative, selling and general costs associated with the sale and the profit on the sale.

Therefore, we are of the view Commission shall not double count for twice for both Fenghui's SG&A and profit, and Qinyan's SG&A and profit, when constructing. Instead, we think that the commission shall only include once for the administrative, selling and general costs associated with the sale and the profit on the sale. Especially, since the Commission does not consider Qinyan as an exporter, we do not think there is any ground for SG&A and profit of Qinyan shall be considered. And only Qinyan's cost for making shall be considered, and therefore, the formula of calculation of normal value of Fenghui shall be the below:

Normal value (Fenghui)= Cost to Make (Qinyan)+ SG&A (Fenghui) + profit (Fenghui).

2. Commission errs in calculating Fenghui's profit by just using domestic sales profit since its domestic sales is not in the same trade level with the export sales to Australia

As explained in the previous occasions as well as during the verification, almost all Fenghui's products, whether produced or sold, are mainly destined to Australia. Regarding Fenghui's export to Australia, Fenghui sold the pipe clips and brackets to two distributors in Australia with long-term relationship while the subject pipe clips and brackets are only sold to one distributor in Australia. The Australian distributor is very familiar with the goods and the price is determined based on the market price in Australia, the cost and a reasonable profit, otherwise the Australian distributor will purchase the goods from local suppliers in Australia rather than imported the goods from Fenghui. The price that Fenghui offered to the Australian distributor is the wholesale price in order to maintain the long-term business.

In contrast, the domestic customers are mostly end users which produce container houses destined to Australia. All those domestic sales are retails sales at a very high price (sometimes even 10 times than its purchase cost) because the purchase volume is very small and these products are low-value parts in the finished decorated container house, and the buyers didn't care such small cost. It makes sense for the domestic buyers to purchase from Fenghui rather than import from Australia considering the purchase cost, the import cost including the import tariff, the transportation cost and the transportation time. It is noted that each sale in the domestic market was very small and almost all those products are finally destined to Australia. Mostly, the domestic customers used the products to assemble into other large products destined to Australia. Please note that almost all the products sold by Fenghui are only used in Australia.

Article 2.4 of the ADA requires that due allowance be made for differences which affect "price comparability" including differences in levels of trade. Thus, it is not fair to just use the profit for domestic sales for retail purpose when constructing the normal value, while the export sales to Australia are for distributors and the difference in levels of trade are obviously shown to have affected price.

In addition, even if the commission decides to **using domestic sales profit** (which we disagree, and suggest the Commission to use another listed company's profit margin as elaborated further below), we are of the view that the Commission shall use the profit for sales to [**CONFIDENTIAL TEXT DELETED – Client Name**] in Excel file "SEF 644 - Fenghui - Appendix 3A - Profit on Fenghui's sales of all products in the domestic market" which is [**CONFIDENTIAL TEXT DELETED –Percentage**], as [**CONFIDENTIAL TEXT DELETED – Client Information**] which is more approximate to the trade level "distributor".

3. The Commission errs in calculating Fenghui's profit when constructing its normal value

In this regard, we recall that Manual states:

Where profit cannot be determined under Regulation 45(2), for example because sales of like goods are not in the ordinary course of trade, Regulation 45(3) sets out three other methods to determine profit. They are:

- *identify the actual amounts realised by the exporter or producer from the sale of the same general category of goods in the domestic market of the country of export—Regulation 45(3)(a); or*
- *identify the weighted average of the actual amounts realised by other exporters or producers from the sale of like goods in the domestic market of the country of export—Regulation 45(3)(b); or*
- *subject to Regulation 45(4), use any other reasonable method and have regard to all relevant information—Regulation 45(3)(c).*

Any of these three alternatives can be used as there is no hierarchy.

In order to provide the relevant information, we have conducted the necessary research from public domain. We note that the product concerned is metal product. In China, metal manufacturing industry falls within the category of No. C3359 categorized by State Statistics Bureau of China, which includes products of metal accessories for construction (e.g. scaffolding fasteners, metal slides), metal products for safety protection (e.g. fire doors and windows) and metal products for building safety not listed. We have searched all listed company in Chinese stock Exchange and found below 9 companies. And their name and gross profit margins are as the below.

The profit margin of relevant listed companies in metal industry in Year 2023

No	Name	Main business	Gross profit margin	Note
1.	CITIC Metal Co., Ltd	Trade and processing of industrial metals such as copper and aluminum.	2.37%	Chinese market; Page 23 of 2023 Annual Report
2.	Taiyuan Iron & Steel (Group) Co., Ltd.	Stainless steel and ordinary steel processing	0.49%	Chinese market; Page 14 of 2023 Annual Report
3.	Shanghai Baosteel Packaging Co., Ltd	Metal packaging for food and beverages (e.g. cans)	8.09%	Chinese market; Page 15 of 2023 Annual Report
4.	Jia Mei Packaging Co., Ltd.	Metal two-piece cans with matching easy-to-open lids.	14.15%	Page 17 of 2023 Annual Report

5.	Shengxing Group Co., Ltd.	Metal cans and caps.	12.74%	Chinese market; Page 18 of 2023 Annual Report
6.	Aorui Jin Packaging Co., Ltd.	The overall solution of metal packaging	16.31%	Chinese market; Page 30 of 2023 Annual Report
7.	Safewin Technology Co., Ltd.	Wire rope for elevator and wire rope for lifting.	11.55%，	Chinese market; Page 20 of 2023 Annual Report
8.	Dongfang Tower Co., Ltd.	Steel structures (e.g. transmission towers) and potash fertilizers.	11.91%	Chinese market Page 22 of 2023 Annual Report
9.	China International Marine Containers (Group) Co., Ltd	Containers and logistics equipment	13.77%	Page 30 of 2023 Annual Report

Among above, we are of the view that it is most appropriate for the commission to use the gross profit rate for Chinese market of CITIC Metal Co., Ltd for Year 2023 which is 2.37%, since its main business are more relevant. We note that the Commission has dismissed the request to use CITIC metal in the SEF 644. Nevertheless, even if the commission considers it is not reasonable to use the gross profit rate for Chinese market of CITIC Metal Co., Ltd for Year 2023, we are of the view that the Commission may choose any of the above profit rate for another company that is more appropriate. In this regard, we hereby provide the Annual Report of all the companies above for Year 2023 in Exhibit 1.

4. The Commission errs in using abnormal profit rate [CONFIDENTIAL TEXT DELETED - Percentage] for Qinyan

Even if the Commission decides to stick to the previous position of double counting both Qinyan and Fenghui's profit, which we strongly disagree, we think it is not appropriate to use the abnormal profit [**CONFIDENTIAL TEXT DELETED - Percentage**] for Qinyan. The goods sold by Qinyan to Fenghui during the investigation period were all destined for Australia and not for the domestic market. Qinyan's profit on its sales of the goods to the exporter of the goods (Fenghui) is not proper to be used for constructing the normal value. The commission shall use the reasonable profit rate for domestic sales to construct the normal value.

Taking a step back, even if assuming the commission may use Qinyan's profit on its sales of the goods to Fenghui when constructing the normal value, we are of the view the commission shall delete the sale of [**CONFIDENTIAL TEXT DELETED – Name of Product and Invoice Number**], as this sale is unusual. It is obvious to see that the unit price of the product [**CONFIDENTIAL TEXT DELETED – Name of Product**] for this sale is [**CONFIDENTIAL TEXT DELETED – Sales Price**] and the unit price of the product [**CONFIDENTIAL TEXT DELETED – Name of Product**] for other sales is [**CONFIDENTIAL TEXT DELETED – Sales Price**]. The reason for this unusual price is that this is the first time for Qinyan to produce this model and Fenghui agreed to accept this unusual price in gratitude for Qinyan's good effort in supplying products in time and for supporting Qinyan as a newly established enterprise, which is not based on the product reason or the market reason. Since this sale does not happen in the normal trade situation, we request the Commission with respect to delete this sale accordingly.

5. Conclusion

For the above reasons, we consider that the dumping margin for Fenghui is significantly overstated. We respectfully request that the Commission reconsider whether the normal value is properly comparable to the export price.

The Commission is kindly requested to consider our above comments when making the Statement of Essential Facts and the Final Determination. Should the Commission have any further questions, we are pleased to provide any clarifications.

Sincerely yours,

Jiang Liyong
Gaopeng & Partners
On behalf of
Ningbo Fenghui Metal Products Co., Ltd. & Cixi Guanhaiwei Qinyan Hardware Factory