



**Australian Government**  
**Department of Industry,  
Innovation and Science**

**Anti-Dumping  
Commission**

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*CUSTOMS ACT 1901 – PART XV B*

**FINAL REPORT NO. 502**

**ACCELERATED REVIEW**

**OF THE DUMPING DUTY NOTICE AND COUNTERVAILING  
DUTY NOTICE APPLYING TO**

**GRINDING BALLS EXPORTED TO AUSTRALIA FROM THE  
PEOPLE'S REPUBLIC OF CHINA**

**BY**

**GROWTH STEEL GRINDING BALLS (SUZHOU) CO LTD**

**18 March 2019**

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### ABBREVIATIONS

accelerated review period	1 October 2017 to 30 September 2018
ADN	Anti-Dumping Notice
China	the People's Republic of China
CTM	cost to make
CTMS	cost to make and sell
Dumping Duty Act	Customs Tariff (Anti-Dumping) Act 1975
EPR	[the Anti-Dumping Commission's] electronic public record
ICD	interim countervailing duty
IDD	interim dumping duty
REQ	Response to Exporter Questionnaire
Growth Steel	Growth Steel Grinding Balls (Suzhou) Co Ltd
the Act	Customs Act 1901
the applicant	Growth Steel Grinding Balls (Suzhou) Co Ltd
the Minister	Minister for Industry, Science and Technology
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
the goods	the goods the subject of the accelerated review (also referred to as the goods under consideration)
The Manual	Anti-Dumping Commission Dumping and Subsidy Manual (November 2018)
the notices	the dumping duty notice and countervailing duty notice
VAT	value added tax

## 1. SUMMARY AND RECOMMENDATION

### 1.1 Background

This report has been prepared in response to an application under section 269ZF of the *Customs Act 1901* (the Act)<sup>1</sup> lodged by Growth Steel Grinding Balls (Suzhou) Co Ltd (Growth Steel or the applicant) seeking an accelerated review of the dumping duty notice and countervailing duty notice ('the notices')<sup>2</sup> in respect of Grinding Balls (or 'the goods') exported to Australia from the People's Republic of China (China) in so far as the notices affect Growth Steel. The notices were implemented following Anti-Dumping and Countervailing Investigation 316. Further details on this investigation can be found on the Anti-Dumping Commission Website at [adcommission.gov.au](http://adcommission.gov.au).

This report sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) is basing his recommendations to the Minister for Industry, Science and Technology (the Minister).<sup>3</sup>

### 1.2 Application of law to facts

Division 6 of Part XVB provides for eligible parties to apply for an accelerated review. This Division, among other matters:

- sets out the procedures to be followed and the matters to be considered by the Commissioner in conducting accelerated reviews for the purpose of making a report to the Minister; and
- empowers the Minister, after consideration of such reports, to leave the notices unchanged, or to declare that the notices have effect with regard to the applicant as if different variable factors had been specified.

Subsection 269ZE(1) sets out that a new exporter may apply for an accelerated review. A new exporter is defined in subsection 269T(1) as an exporter who did not export such goods to Australia at any time during the investigation period in relation to the application for the notices.

### 1.3 Recommendation

The Commissioner of the Anti-Dumping Commission (the Commissioner) recommends, in accordance with s. 269ZG(1)(a) of the *Customs Act 1901* (the Act), that the notices remain unaltered so far as it affects Growth Steel.

If the Minister accepts this recommendation, to give effect to the decision, the Minister must declare (by signing the notice at **Non-Confidential Attachment 1**) that, for the purposes of the Act and the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act), the notices are to remain unchanged.

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<sup>1</sup> All legislative references in this report are to the *Customs Act 1901* unless otherwise specified.

<sup>2</sup> ADN 2016/90 and ADN 2016/91. Please also refer to EPR316 document Nos. 57 and 58.

<sup>3</sup> For the purposes of this decision the Minister for Industry, Science and Technology is the decision maker.

## **1.4 Findings and conclusions**

After considering the application and making further inquiries, the Commissioner is not satisfied that there is sufficient information to calculate exporter specific variable factors (and therefore individual dumping duty and countervailing duty rates) for grinding balls exported to Australia by Growth Steel.

Accordingly, the Commissioner recommends that the notices remain unchanged. .

The effect of this accelerated review is that exports of goods to Australia by Growth Steel will remain subject to the “all other exporters” rate of 103.6 per cent, which is the combined components of dumping and countervailing duty.

## **2. BACKGROUND**

### **2.1 The goods subject to measures**

The goods subject to anti-dumping measures (the goods), in the form of a dumping duty notice and a countervailing duty notice (the notices), are outlined in the table below.

<b>Full description of the goods the subject of the application</b>
Ferrous grinding balls, whether or not containing alloys, cast or forged, with diameters in the range 22mm to 170mm (inclusive).
<b>Further information</b>
<p>The goods covered include all ferrous grinding balls, typically used for the comminution of metalliferous ores, meeting the above description of the goods regardless of the particular grade or alloy content.</p> <p>Goods excluded include stainless steel balls, precision balls that have been machined and/or polished, and ball bearings.</p>
<b>Tariff classification</b>
<p>The goods are generally, but not exclusively, classified to the following tariff classifications in Schedule 3 of the <i>Customs Tariff Act 1995</i>:</p> <ul style="list-style-type: none"> <li>• Tariff subheading 7325.91.00 stat code 26;</li> <li>• Tariff subheading 7326.11.00 stat code 29; and</li> <li>• Tariff subheading 7326.90.90 stat code 60.<sup>4</sup></li> </ul>

Further details on the goods and existing measures is available on the Dumping Commodity Register on the Anti-Dumping Commission's website ([www.adcommission.gov.au](http://www.adcommission.gov.au)).

### **2.2 Accelerated review process**

If a dumping duty notice and/or a countervailing duty notice has been published in respect of certain goods, a new exporter may request an accelerated review of that notice as it affects that particular exporter.<sup>5</sup>

If an application for an accelerated review of a dumping duty notice or countervailing duty notice is received and not rejected, the Commissioner has up to 100 days after the application is lodged to inquire and report to the Minister on the accelerated review.<sup>6</sup>

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<sup>4</sup> The Australian Bureau of Statistics changed the statistical code from 59 to 60 on 1 January 2017. For further information see Department of Immigration and Border Protection Notice 2016/43 (<https://www.homeaffairs.gov.au/Customsnotices/Documents/2016-43.pdf>).

<sup>5</sup> Subsection 269ZE(1).

<sup>6</sup> Subsection 269ZG(2).

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Under subsection 269ZG(1), the Commissioner must, after considering the application and making such inquiries as the Commissioner deems appropriate, recommend to the Minister that the dumping duty notice and/or countervailing duty notice:

- remain unaltered; or
- be altered so as to apply to the applicant as if different variable factors had been ascertained.

After considering the recommendation of the Commissioner and the reasons for the recommendation, the Minister must publish a notice on the Commission's website advising of their decision (269ZG(3)).

### 2.3 Existing measures

The following dumping and subsidy notices apply to goods exported from China and entered for home consumption on or after 10 September 2016.

Exporter	Finish	Measure	Effective Rate of Duty	Ascertained Export Price	Export Terms
Changshu Longte Grinding Ball Co. Ltd  Supplied directly or through:  Compania Electro Metalurgica S.A.	All types	IDD	3.0%	Confidential	FOB, cash
Hebei Goldpro New Material Technology Co. Ltd	All types	IDD	51.5%	Confidential	FOB, cash
Jiangsu CP Xingcheng Special Steel Co. Ltd  Supplied directly or through:  Jiangyin Xingcheng Special Steel Works Co. Ltd	All types	IDD	20.6%	Confidential	FOB, cash
Jiangsu Yute Grinding International Co. Ltd	All types	IDD	43.3%	Confidential	FOB, cash
Anhui Sanfang New Material Technology Co. Ltd	All types	IDD – Floor Price	N/A	Confidential	FOB, cash
All other Exporters	All Types	IDD and ICD	103.6%	Confidential	FOB, cash

## Table 1 Existing measures

Further details of the measures in place on exports of Grinding Balls from China are available in the *Dumping Commodity Register* on the electronic public record (EPR).

## 2.4 The current review

On 6 December 2018, Growth Steel lodged an application for an accelerated review of the notices applying to the goods exported to Australia from China in so far as those notices affect Growth Steel.

### 2.4.1 New exporter status

Section 269ZE(1) outlines the circumstances in which a new exporter may seek an accelerated review.

A new exporter is defined in subsection 269T(1) as an exporter who did not export the goods to Australia during the investigation period in relation to the original application for anti-dumping and/or countervailing measures.

To fall within the definition of a new exporter, the period within which the applicant must not have exported the goods to Australia is 1 October 2014 to 30 September 2015 (the investigation period for the original investigation).<sup>7</sup>

In order to establish the applicant's status as a new exporter, the Commission assessed the data available in the original investigation and conducted a search of the Department of Home Affairs' import database. The Commission's examination did not reveal the applicant as being a supplier of the goods during the investigation period for the original investigation.

The Commission also sought to establish that the applicant was not related to an exporter whose exports were examined in relation to the application for publication of the notice.<sup>8</sup> After an examination of available information and the Department of Home Affairs' import database, the Commission found no evidence that the applicant, under its current or any former names, was related to an exporter whose exports were examined during the original investigation period.

#### 2.4.1.1 Submissions regarding new exporter status

No submissions were received regarding Growth Steel's application for an accelerated review.

#### 2.4.1.2 The Commission's findings

As noted above, in order to establish the applicant's status as a new exporter the Commission assessed the data available in the original investigation and conducted a search of the Department of Home Affairs' import database.

The Commission is satisfied that Growth Steel is a new exporter for the purposes of this accelerated review.

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<sup>7</sup> <https://www.adcommission.gov.au/cases/Pages/CurrentCases/EPR-316.aspx>

<sup>8</sup> Subsection 269ZE(2)(b).



## 2.4.2 Commissioner's assessment of application

The Commissioner considered the application to determine if it was made in accordance with sections 269ZE and 269ZF. The Commissioner was satisfied that:

- the circumstances in which an accelerated review can be sought under subsection 269ZE(1) were satisfied;
- the conditions for rejection under subsection 269ZE(2) were not satisfied; and
- the application satisfied the requirements of subsection 269ZF(1).

Accordingly, the Commissioner did not reject the application. The commencement of this accelerated review was notified in ADN No. 2019/03, published on 2 January 2019 and made available on the Commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

ADN No. 2019/03 advised that the Commissioner's recommendation would be made in a report on or before 18 March 2019.

For the purposes of the accelerated review, the period examined is 1 October 2017 to 30 September 2018 (herein referred to as the accelerated review period).

## 2.5 Exporter questionnaire response

### 2.5.1 Growth Steel's exporter questionnaire response

Upon commencement of the accelerated review, the Commission sent an exporter questionnaire to Growth Steel to complete.

On 17 January 2019 Growth Steel submitted its response to the exporter questionnaire.

On 1 February 2019 the Commission wrote to Growth Steel requesting additional information and advising of deficiencies that the Commission felt could be quickly and easily rectified in a further response. The identified deficiencies and additional information requested related to the Commission's requirement for:

- more detailed information regarding internal product codes
- detailed third country actual cost to make and sell data for all quarters
- Clarification and further information regarding the raw material purchases listing
- An upward costs reconciliation
- clarification regarding applicable VAT rebates

On 14 February 2019, the Growth Steel submitted its follow up response to the request for further information and notice of deficiencies.

A review of the follow up response identified a number of remaining deficiencies that had not been fully or properly addressed, the implications of which are outlined further in this report.

### 2.5.2 Exporter questionnaire verification

The Commission conducted a desktop review of the information and data provided in Growth Steel's response to the exporter questionnaire.

Given the short timelines available to complete an accelerated review (100 days) and due to the material deficiencies identified with the initial response and follow up

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response, the Commission has not undertaken a detailed verification of the data and has not compiled or published a verification report.

### **2.6 Public record**

There is no legislative requirement for the Commissioner to maintain a public record for accelerated reviews. However, in the interests of ensuring this process is conducted in an open and transparent manner, a public record for this accelerated review has been maintained and is accessible on the Commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

### **3. CIRCUMSTANCES OF GROWTH STEEL'S PRODUCTION AND SALE OF LIKE GOODS**

#### **3.1.1 Status as a manufacturer**

Growth Steel provided marketing brochures, data on production volumes, third country sales data, and details of standard cost to make and sell in its REQ. Based on the information that Growth Steel provided, the Commission is satisfied that Growth Steel is a manufacturer of Grinding Balls.

#### **3.1.2 Like goods**

Subsection 269T(1) defines like goods as:

*goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.*

Growth Steel did not export the goods to Australia during the review period and Growth Steel did not sell the goods into their Chinese domestic market. In order to assess whether the goods it produces ought to be considered "like", the Commission has reviewed information supplied regarding Growth Steel's third country sales.

An examination of Growth Steel's third country sales submission found that those goods were:

- produced using a manufacturing process typically associated with production of grinding balls.
- in the size range specified in the goods description; and
- were not goods described as being excluded from the goods description.

In the Commission's view, the products sold into third country markets either were identical or had characteristics that would closely resemble the goods that Growth Steel would likely export to Australia. Accordingly, the Commission is satisfied that the goods produced by Growth Steel for sale are "like goods".

## **4. ASSESSMENT OF VARIABLE FACTORS**

### **4.1 Findings**

On the basis of Growth Steel's REQ and the Commission's review of information in the REQ, the Commissioner is satisfied that Growth Steel is a manufacturer of the goods and like goods. The Commissioner is however, unable to determine if the variable factors insofar as they affect Growth Steel, have changed.

Due to a lack of reliable information provided by the applicant, the Commission considers the most relevant and reliable information to be the normal value as stated on the notice. Accordingly, under 269TAC(6) the Commission concludes there is not enough information that would warrant a change in the notice.

### **4.2 Export price**

The Commission has found that Growth Steel did not export the goods to Australia during the accelerated review period. As such, the export price of the goods cannot be determined under subsection 269TAB(1).

Specifically, sufficient information is not available to determine the export price of the goods using:

- the price paid or payable by the importer;<sup>9</sup>
- the price in Australia less prescribed deductions;<sup>10</sup> or
- the price having regard to all the circumstances of the exportation.<sup>11</sup>

The Commission would generally have sought to determine an export price under subsection 269TAB(3) having regard to all relevant information and may have considered it appropriate to determine the ascertained export price to be the same amount as that determined to be the normal value for the purposes of this accelerated review.

However, for the same reasons that that the Commission has been unable to establish an ascertained normal value (see 3.4 below), the Commission has been unable to establish an ascertained export price.

### **4.3 Normal value**

#### **4.3.1 Findings**

Due to the absence of sufficient and reliable data, the Commissioner has concluded that it is not appropriate, having regard to the circumstances of this accelerated review, to determine a normal value for grinding balls in the domestic market for Growth Steel.

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<sup>9</sup> Subsection 269TAB(1)(a).

<sup>10</sup> Subsection 269TAB(1)(b).

<sup>11</sup> Subsection 269TAB(1)(c).

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The Commission has previously found that a particular market situation in the Chinese domestic steel market exists with regards to grinding balls.<sup>12</sup> The applicant has made no submissions that the particular market situation has changed and the Commission remains of the view that a particular market situation continues. On this basis, the normal value for Growth Steel would have been established in accordance with subsection 269TAC(2)(c), using the constructed normal value method, with relevant adjustments being made to the normal value to ensure comparability to the export price of Growth Steels future exports to Australia.

269TAC(2)(c) requires the Commission to calculate such amount as the Minister determines to be the cost of production or manufacture of the goods in the country of export.

Due to an absence of reliable cost information, the Commission is unable to establish a normal value under the requirements of 269TAC(2)(c). Specifically due to, the following identified issues:

- Growth Steel had originally supplied “standard cost” data for one quarter only and was asked to supply actual data for all four quarters on an actual cost basis.
  - the company failed to supply actual cost data, instead supplying standard cost data with an unexplained adjustment notionally based on a single quarter’s actuals.
- the company had originally supplied the third country CTM data with the cost elements being constructed using hard coded calculations without explanation as to the meaning of each element of the construction. The Commission requested that Growth Steel explain what each variable in the calculations represented and how the variables might reconcile back to source documents (financial reports, trial balance etc)
  - the company failed to supply an explanation of what these calculation variables were or how they would be evidenced back to the financial accounts.
- the company had originally supplied an incomplete “upward cost” spreadsheet and was asked to resubmit a revised, complete cost reconciliation.
  - the company supplied a revised version of the upward costs worksheet, however the Commission was unable to reconcile the CTM in the upward costs worksheet for the investigation period to the detailed CTM data supplied.
- in addition a number of other discrepancies and omission have been identified which prevent the Commission from being able to rely on the information supplied in order to construct a normal value, including:
  - Growth Steel had supplied 3<sup>rd</sup> country CTM data for five grinding ball models, however the company supplied third country sales listing showed that the company had made sales of 8 models. Therefore the Commission did not have CTM data for three models with which to construct normal value.
  - Growth Steel supplied an average actual third quarter cost per KG used to calculate the “other costs” component (as a balancing number) of the CTM which appears to be significantly higher than any of the standard costs

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<sup>12</sup> REP 316 – Grinding balls – China – Section 1.8 – Particular market situation- A2.19.

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supplied. The Commission does not consider such a calculation to be a true reflection of actual costs.

- the Commission was unable to match the production volumes by model to the sales volumes by models to within a reasonable variance with some sales volumes being significantly higher than production volumes of the same model and vice versa.

### 4.3.2 Constructed normal value

In accordance with subsection 269TAC(3A), the Minister is not required to consider working out the normal value of goods under subsection 269TAC(2)(d) before working out the normal value of goods under subsection 269TAC(2)(c). Where subsection 269TAC(1) is not available, the Commission's policy preference, as outlined at chapter 10 of the Commission's *Dumping and Subsidy Manual* (the Manual), is in the first instance, to construct normal values under subsection 269TAC(2)(c), when cost data of exporters is available.

As noted at 4.4.1 above, the Commission was unable to construct normal value under 269TAC(2)(c). In addition, it is not possible to calculate a normal value based on comparable third country sales under 269TAC(2)(d) for reasons consistent with Chapter 10.3 of the Dumping and Subsidies Manual.

In determining whether a third country was appropriate, the Commission found that the volume of trade from the country of export to the selected third country is not comparable to the volume of trade to the country of export to Australia.

Consequently, the Commission concluded that it is unable to construct a normal value for Growth Steel produced and sold grinding balls.

## **5. COUNTERAVAILABLE SUBSIDIES**

Subsection 269TACD(1) specifies that the amount of countervailable subsidy received in respect of the goods is to be expressed as an amount determined by the Minister. In relation to the notices, the countervailable subsidies are expressed as a percentage of export price and a measure of the quantity of the goods.

In the absence of reliable export price and normal value and with insufficient information regarding any subsidies received, the Commission was unable to calculate dumping or subsidy margins specific to Growth Steel.

The findings outlined above at sections 3.3 and 3.4 prevent the calculation of a subsidy margin

## **6. PROPOSED RECOMMENDATIONS**

The Commissioner recommends that the Minister considers the findings set out in this report and if in agreement, sign the attached notice at Attachment 1 to declare: In accordance with subsection 269ZG(3)(a), for the purposes of the Act and the Dumping Duty Act the notices remain unchanged.



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### 7. APPENDICES

Non- Confidential Appendix 1

**ADN 2019/38 – Public Notice**