

**PUBLIC RECORD**



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

**Anti-Dumping  
Commission**

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***CUSTOMS ACT 1901 - PART XVB***

**CONSIDERATION REPORT NO. 520**

**CONSIDERATION OF AN APPLICATION FOR  
REVIEW OF ANTI-DUMPING MEASURES**

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

**July 2019**

# TABLE OF CONTENTS

<b>TABLE OF CONTENTS</b> .....	<b>2</b>
<b>ABBREVIATIONS</b> .....	<b>3</b>
<b>1 SUMMARY AND RECOMMENDATION</b> .....	<b>4</b>
<b>1.1 Background</b> .....	<b>4</b>
<b>1.2 Legislative background</b> .....	<b>4</b>
<b>1.3 Findings and conclusions</b> .....	<b>4</b>
<b>1.4 Recommendation</b> .....	<b>5</b>
<b>2 BACKGROUND</b> .....	<b>6</b>
<b>2.1 The goods subject to measures</b> .....	<b>6</b>
2.1.1 Tariff classification .....	6
<b>2.2 History of the measures</b> .....	<b>6</b>
<b>2.3 Existing anti-dumping measures</b> .....	<b>7</b>
<b>2.4 The current application</b> .....	<b>8</b>
<b>3 CONSIDERATION OF THE APPLICATION</b> .....	<b>9</b>
<b>3.1 Legislative background</b> .....	<b>9</b>
<b>3.2 Assessment of the application — compliance with section 269ZB</b> .....	<b>9</b>
<b>3.3 Variable factors</b> .....	<b>10</b>
3.3.1 Normal value.....	10
3.3.2 Export price.....	10
3.3.3 Non-injurious price .....	11
3.3.4 Countervailable subsidy .....	11
<b>3.4 The Commission’s assessment</b> .....	<b>11</b>
<b>3.5 Assessment of application — compliance with sections 269ZB and 269ZC</b> .....	<b>12</b>
<b>4 CONCLUSIONS AND RECOMMENDATIONS</b> .....	<b>13</b>
<b>ATTACHMENTS</b> .....	<b>14</b>

## ABBREVIATIONS

Abbreviation	Full title
the Act	the <i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
China	the People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
EPR	electronic public record
the goods	the goods to which the anti-dumping measures apply, being certain grinding balls
ICD	interim countervailing duty
IDD	interim dumping duty
the Minister	the Minister for Industry, Science and Technology
Molycop	Commonwealth Steel Company Pty Ltd trading as Molycop
NIP	non-injurious price
the Notices	collectively, the dumping duty and countervailing duty notices applying to grinding balls
REP 316	<i>Anti-Dumping Commission Report No. 316</i>
SBB	Platts Steel Prices

# 1 SUMMARY AND RECOMMENDATION

## 1.1 Background

This report provides the results of the consideration by the Anti-Dumping Commission (the Commission) of an application lodged by Commonwealth Steel Company Pty Ltd trading as Molycop (Molycop) for a review in respect of the anti-dumping measures applying to exports of grinding balls (the goods) from the People's Republic of China (China).

Molycop considers that it is appropriate to review the anti-dumping measures as they affect exporters of the goods generally. Molycop claims that the variable factors (being export price, normal value and amount of countervailable subsidy received) relevant to the taking of the anti-dumping measures have changed.

## 1.2 Legislative background

Division 5 of Part XVB of the *Customs Act 1901* (the Act)<sup>1</sup> sets out, among other things, the procedures to be followed by the Commissioner of the Anti-Dumping Commission (the Commissioner) in dealing with an application for a review of measures.

Division 5 empowers the Commissioner to reject or not reject an application for a review of anti-dumping measures. If the Commissioner does not reject an application, he is required to publish a notice indicating that he is proposing to review the anti-dumping measures covered by the application.

Subsection 269ZC(4) provides that the Commissioner, if he decides to not reject the application, may recommend to the Minister for Industry, Science and Technology (the Minister) that the review be extended to include any additional matters.<sup>2</sup>

## 1.3 Findings and conclusions

Based on the findings outlined in this report the Commission is satisfied that:

- the application complies with subsections 269ZB(1) and (2); and
- there appear to be reasonable grounds for asserting that at least one of the variable factors relevant to the taking of anti-dumping measures have changed.

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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> For example, if the change in variable factors affects all exporters, it may be recommended that the review is extended to include all exporters.

## 1.4 Recommendation

The Commission recommends that the Commissioner not reject the application for the reasons outlined in Chapter 3 of this report, and initiate a review into the anti-dumping measures applying to grinding balls exported from China to Australia.

As the Commission is satisfied that there are reasonable grounds to establish that there has been a change in the variable factors<sup>3</sup> referred to in subsection 269ZC(2), it recommends that the Commissioner not reject the application under subsection 269ZC(1), and inform the applicant, by notice in writing, accordingly.

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<sup>3</sup> As defined in subsections 269T(4D) and (4E), the variable factors are export price, normal value, countervailable subsidy amount received and non-injurious price.

## 2 BACKGROUND

### 2.1 The goods subject to measures

The goods that are the subject of this application are:

Ferrous grinding balls, whether or not containing alloys, cast or forged, with diameters in the range 22 mm to 170 mm (inclusive).

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.

Goods excluded include stainless steel balls, precision balls that have been machined and/or polished, and ball bearings.

#### 2.1.1 Tariff classification

The goods are classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

Tariff code	Statistical code	Description
7325.91.00	26	Grinding balls and similar articles for mills
7326.11.00	29	Grinding balls and similar articles for mills
7326.90.90	60 <sup>4</sup>	Other

Table 1: Tariff classifications of the goods

### 2.2 History of the measures

*Anti-Dumping Commission Report No. 316* (REP 316) set out the Commissioner's findings and recommendations following an application from Donhad Pty Ltd and Molycop alleging the dumping and subsidisation of grinding balls exported to Australia from China.<sup>5</sup>

On 10 September 2016, the findings and recommendations in REP 316 were accepted by the relevant Minister and a dumping duty notice and a countervailing duty notice (collectively, the Notices) applying to certain grinding balls exported to Australia from China were published.<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> EPR 316, document 67 (ADN No. 2018/10).

<sup>6</sup> ADN Nos. 2016/90 and 2016/91 refer.

As a result of the Notices, all exports of grinding balls from China are subject to interim dumping duty (IDD) while all exports of grinding balls from China are subject to interim countervailing duty (ICD) except for grinding balls exported by:

- Jiangsu Yute Grinding International Co., Ltd;
- Changsu Longte Grinding Ball Co., Ltd;
- Jiangsu CP Xingcheng Special Steel Co., Ltd; and
- Hebei Goldpro New Materials Co., Ltd.

Certain aspects of the findings in REP 316 were reinvestigated following an Anti-Dumping Review Panel (ADRP) review. The ADRP ultimately recommended that the reviewable decision be affirmed.<sup>7</sup>

Further information regarding the measures on grinding balls is also available on the Commission’s electronic public record (EPR).<sup>8</sup>

### 2.3 Existing anti-dumping measures

Based on the original investigation and in subsequent reviews, the anti-dumping measures have been imposed for five years, unless revoked earlier. The measures for grinding balls from China are in place until 9 September 2021. The details of the anti-dumping measures are summarised below:

Exporter	Interim duties applicable	Dumping Duty Method	Combined fixed rate of IDD and ICD
Changshu Longte Grinding Ball Co. Ltd	IDD only	Combination method <sup>9</sup>	3.0%
Hebei Goldpro New Material Technology Co. Ltd	IDD only	Combination method	51.5%
Jiangsu CP Xingcheng Special Steel Co. Ltd	IDD only	Combination method	20.6%
Jiangsu Yute Grinding International Co. Ltd	IDD only	Combination method	43.3%
Anhui Sanfang New Material Technology Co. Ltd <sup>10</sup>	IDD and ICD	Floor price	0%
All other exporters	IDD and ICD	Combination method	103.6% <sup>11</sup>

**Table 2: Grinding balls anti-dumping measures**

<sup>7</sup> [ADRP notice 2016/47](#) refers. Changsu Longte Grinding Ball Co., Ltd has subsequently appealed certain grounds of ADRP decision to the Federal Court (NSD1586/2018). The Federal Court has reserved its decision.

<sup>8</sup> See [www.adcommission.gov.au](http://www.adcommission.gov.au).

<sup>9</sup> Combination of fixed and variable duty method.

<sup>10</sup> On 16 August 2018, the outcome of *Accelerated Review No. 476* was published concerning Anhui Sanfang New Material Technology Co., Ltd.; [ADN No. 2018/117](#) refers. As a result, IDD is only payable by Anhui Sanfang New Material Technology Co., Ltd where its export price is below its ascertained normal value; its ICD rate is 0 per cent.

<sup>11</sup> Effective rate of duty for ‘all other exporters’ includes 95.4 per cent in IDD and 8.2 per cent in ICD.

Further details of the measures in place on exports of grinding balls from China are available in the *Dumping Commodity Register* on the EPR.

## 2.4 The current application

On 28 June 2019, Molycop lodged an application requesting a review of the anti-dumping measures as they apply to all exports of certain grinding balls to Australia from China. Molycop claims that certain variable factors established in REP 316 have changed.

Molycop is the sole Australian manufacturer of the goods for sale in the domestic market. The Commission considers that Molycop falls within the definition of an “affected party” in subsection 269T(1) as Molycop represents the Australian industry. Accordingly, Molycop is eligible to lodge an application for a review of measures under subsection 269ZA(1).

The application is not precluded by subsection 269ZA(2), which provides that an application for review must not be lodged earlier than 12 months after the publication of a dumping duty notice or countervailing duty notice, or a notice declaring the outcome of the last review of such measures. No such notice was published within the twelve months preceding Molycop’s application.<sup>12</sup>

Pursuant to subsection 269ZC(1), the Commissioner must examine the application and, within 20 days after the lodgement date, decide whether to reject the application. The decision must be made no later than **18 July 2019**.

If the Commissioner is not satisfied, having regard to the application and to any other relevant information, of one or more matters referred to in subsection 269ZC(2), the Commissioner must reject the application.

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<sup>12</sup> The most recent notices were ADN No. 2016/90 and ADN No. 2016/91, published on 9 September 2016.



## **3 CONSIDERATION OF THE APPLICATION**

### **3.1 Legislative background**

Subsection 269ZB(1) requires that an application for review be in writing, be in a form approved by the Commissioner for the purposes of section 269ZB, contain such information as the form requires, be signed in the manner indicated by the form and be lodged in a manner approved under section 269SMS.

Without otherwise limiting the matters that the form requires to be included, subsection 269ZB(2) provides that an application must include:

- a description of the kind of goods to which the measures the subject of the application relate;
- a description of the measures the subject of the application;
- if the application is based on a change in variable factors, a statement of the opinion of the applicant concerning:
  - the variable factors relevant to the taking of the measures taken that have changed;
  - the amount by which each such factor has changed;
  - the information that establishes that amount; and
- if the application is based on circumstances that in the applicant's view indicate that anti-dumping measures are no longer warranted, evidence (in accordance with the form) of the circumstances.

Subsection 269ZC(2) specifies the matters that the Commissioner must consider in making a decision whether to reject an application. These matters are:

- that the application complies with section 269ZB; and
- that there appear to be reasonable grounds for asserting either, or both, of the following:
  - that the variable factors relevant to the taking of anti-dumping measures have changed;
  - that the anti-dumping measures are no longer warranted.

### **3.2 Assessment of the application — compliance with section 269ZB**

When considering the requirements of subsections 269ZB(1) and (2), the Commission notes that the application submitted by Molycop:

- is in writing;
- is in the approved form (*Form B602 – application for a review of measures*), and contains such information as the form requires (including evidence to support the amount by which the different variable factors, where applicable, have changed since anti-dumping measures were last imposed, and information on the causes of the change and whether those causes are likely to persist);
- is signed in the manner required by the form;

- was lodged in a manner approved under section 269SMS, being by email to the Commission's nominated email address (as nominated in the Commissioner's instrument made under section 269SMS);
- provides a description of the kind of goods to which the anti-dumping measures the subject of the application relate;
- provides a description of the anti-dumping measures the subject of the application; and
- includes a statement of the opinion of the applicant concerning the variable factors relevant to the taking of the anti-dumping measures that have changed, the amount by which each factor has changed, and the information that establishes that amount.

The Commission is satisfied that Molycop has satisfied the requirements of subsections 269ZB(1) and (2).

### **3.3 Variable factors**

To comply with subsection 269ZB(2)(c), the applicant must provide information to establish that, in the applicant's opinion, one or more of the variable factors have changed. The applicant does not have to provide information to establish that all the variable factors have changed.

In its application, Molycop claims there has been a material change in the variable factors (i.e. export price, normal value and amount of countervailable subsidy received) since the measures were originally imposed.

#### **3.3.1 Normal value**

Molycop claims that pricing for grinding balls' raw material for the twelve months ending 31 March 2019 were 11.8 per cent higher than the prices recorded during the investigation period in REP 316 (i.e. October 2014 to September 2015). To support this claim, Molycop provided a copy of the published Latin American export billet prices between 1 October 2014 and 31 March 2019.

Molycop claims that the increase in raw material costs may result in a higher normal value than those previously calculated in REP 316. Molycop claims that, as such, there appears to be reasonable grounds for asserting that the normal value relevant to the taking of anti-dumping measures has changed.

#### **3.3.2 Export price**

Molycop claims that the export prices for grinding balls exported to Australia have increased. To support this claim, Molycop provided calculations using importation data from the Australian Bureau of Statistics, which showed a 29.2 per cent increase between the investigation period in REP 316 and the twelve-month period ending 31 March 2019.

### **3.3.3 Non-injurious price**

Molycop did not make any claims in its application in relation to whether the non-injurious price had changed since the anti-dumping measure in place.

The Commission notes that the NIP is not the operative measure due to the presence of a market situation as explained in REP 316.

### **3.3.4 Countervailable subsidy**

Molycop alleges that countervailable subsidies received in respect of grinding balls exported to Australia from China has changed since the measures were imposed. Molycop does not present any relevant information regarding the status of the programs in REP 316 that were identified as countervailable.

The Commission notes that, as subsidy margins are expressed as a proportion of the export price, the change in the export price would also be likely to impact the subsidy margins.

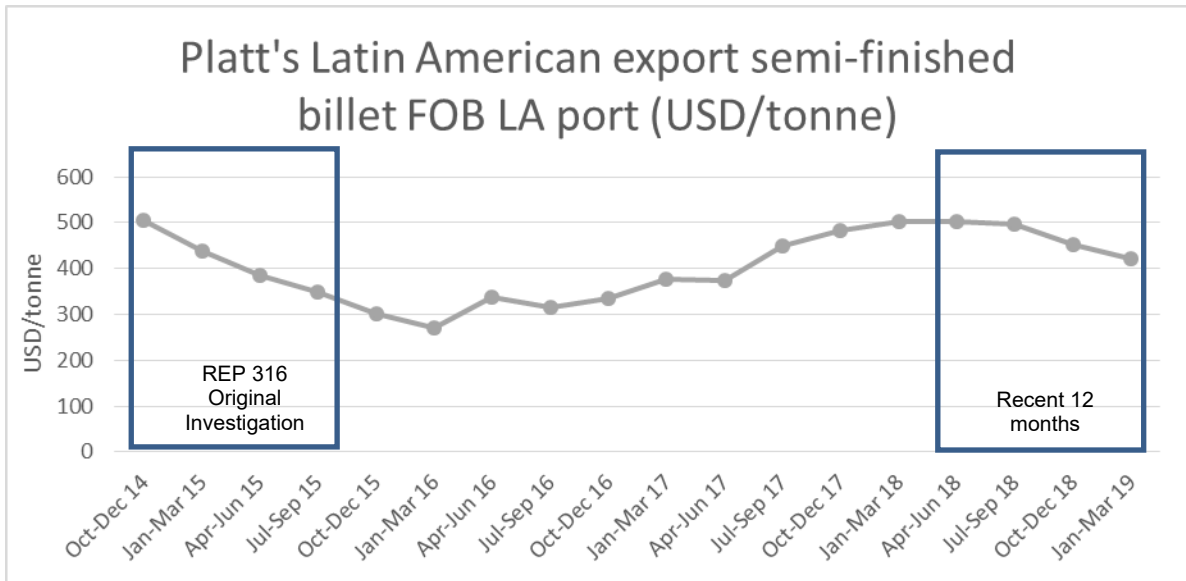
## **3.4 The Commission's assessment**

The Commission has reviewed the data provided by Molycop and has found that it supports its statement that the normal value and export price have increased since the variable factors were ascertained.

In REP 316, due to the significant influence of the Government of China and its impact on prices in the iron and steel industry and the grinding balls market in China, the Commission constructed normal values by reference to a benchmark. One key element that contributed to this benchmark was a monthly Latin American export billet price at Free on Board terms published by Platts Steel Prices (SBB).

The Commission has compared the SBB Latin American export billet prices reported during the original investigation period (October 2014 to September 2015) and the 12 months period ending 31 March 2019.

The Commission's analysis is shown in Figure 1.



**Figure 1: Latin American export billet prices**  
Source: SBB

The Commission has also examined the Australian Border Force import database to test Molycop’s claims. The analysis suggests that export prices have increased since the variable factors were last ascertained.

The Commission’s analysis is outlined at **Confidential Attachment 1**.

Although Molycop has not provided any evidence supporting a change in countervailing subsidy and NIP, in accordance with subsection 269T(4E), the Commission considers it necessary to review all relevant variable factors, including the amount of countervailable subsidy received and the NIP.

### **3.5 Assessment of application — compliance with sections 269ZB and 269ZC**

Based on the Commission’s analysis in section 3.3, the Commission is satisfied that the application complies with subsections 269ZB(1) and (2). In addition, there appear to be reasonable grounds for Molycop to assert under subsection 269ZC(2)(b)(i) that at least one of the variable factors relevant to the taking of the anti-dumping measures have changed.

Based on this assessment, the Commission considers that the Commissioner must not reject the application pursuant to subsection 269ZC(1) as it is satisfied of the matters referred to in subsection 269ZC(2).

## **4 CONCLUSIONS AND RECOMMENDATIONS**

The Commission has considered the application in accordance with sections 269ZB and 269ZC. On the basis of the information provided in this application, and other relevant information as detailed in this report, the Commission is satisfied, that:

- the application complies with section 269ZB; and
- there appear to be reasonable grounds for asserting that at least one of the variable factors relevant to the taking of the anti-dumping measures have changed.

The Commission recommends that:

- the Commissioner not reject the application for a review of the variable factors and initiate a review into the current anti-dumping measures, being the dumping duty and countervailing duty notice as it affects exporters of the goods generally; and
- that the period from 1 July 2018 to 30 June 2019 be examined for the purpose of reviewing the variable factors.

## ATTACHMENTS

**Confidential Attachment 1**

The Commission's variable factor analysis