



**Australian Government**  
**Department of Industry, Science,  
Energy and Resources**

**Anti-Dumping  
Commission**

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*CUSTOMS ACT 1901 - PART XV B*

# **FINAL REPORT NO. 533**

**ACCELERATED REVIEW**

**OF THE DUMPING DUTY NOTICE  
AND COUNTERVAILING DUTY NOTICE APPLYING TO  
CERTAIN GRINDING BALLS EXPORTED FROM  
THE PEOPLE'S REPUBLIC OF CHINA**

**BY**

**GROWTH STEEL GRINDING BALL (SUZHOU) CO., LTD**

**8 February 2020**

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### ABBREVIATIONS

accelerated review period	1 July 2018 to 30 June 2019
the Act	<i>Customs Act 1901</i>
the applicant	Growth Steel Grinding Ball (Suzhou) Co., Ltd., or 'Growth Steel'
ADN	Anti-Dumping Notice
China	the People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
EPR	electronic public record
the goods	the goods the subject of the accelerated review (also referred to as the goods under consideration)
ICD	interim countervailing duty
IDD	interim dumping duty
the Manual	the <i>Dumping and Subsidy Manual</i>
the Minister	the Minister for Industry, Science and Technology
the notices	collectively, the dumping duty notice and countervailing duty notice applying to the goods
NIP	non-injurious price
OCOT	ordinary course of trade
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>

## 1 SUMMARY AND RECOMMENDATION

### 1.1 Background

This Accelerated Review No. 533 has been conducted in response to an application under section 269ZF of the *Customs Act 1901* (the Act)<sup>1</sup> from Growth Steel Grinding Ball (Suzhou) Co., Ltd. (Growth Steel). Growth Steel has applied for an accelerated review of the dumping duty notice and countervailing duty notice (the notices) in respect of certain grinding balls (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.

Growth Steel did not export the goods to Australia during the period that is the subject of the original investigation (as set out in *Anti-Dumping Commission Report No. 316*) and is therefore a ‘new exporter’ as defined in section 269T(1).

### 1.2 Application of law to facts

Division 6 of Part XVB of the Act provides for eligible parties to apply for an accelerated review. Amongst other matters, Division 6:

- sets out the procedures to be followed and the matters to be considered by the Commissioner of the Anti-Dumping Commission (the Commissioner) when conducting accelerated reviews, for the purpose of making a report to the Minister for Industry, Science and Technology (the Minister); and
- provides for the Minister, after consideration of the Commissioner’s report, to leave the notice unchanged, or to declare that the notice has effect with regard to the applicant, as if different variable factors had been specified.<sup>2</sup>

Section 269ZE(1) sets out that a new exporter may apply for an accelerated review. A new exporter is defined, in section 269T(1), as an exporter who did not export the relevant goods to Australia at any time during the investigation period in relation to the application for the notice (in this case, the original investigation period being from 1 October 2014 to 30 September 2015).

### 1.3 Findings and recommendation

Based on all relevant and available information, the Commissioner is not satisfied that there is sufficient and relevant information to calculate specific variable factors (and therefore an individual dumping duty or countervailing duty rate) for grinding balls exported to Australia by Growth Steel.

Accordingly, pursuant to section 269ZG(1), the Commissioner recommends that the notices remain unaltered. The effect of this accelerated review is that exports of grinding balls to Australia by Growth Steel will continue to be subject to the ‘all other exporters’ rate of 103.6 per cent, which is the fixed component of duty. An additional amount of variable

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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> Section 269T(4D) sets out the variable factors relevant to the determination of duty payable under the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) on particular goods being the subject of a dumping duty notice or countervailing duty notice.

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duty may be incurred if the export price per unit is below the (confidential) ascertained export price per unit.

### 1.4 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 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 from the application include stainless steel balls, precision balls that have been machined and/or polished, and ball bearings.

#### 1.4.1 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>3</sup>	Other

Table 1: Tariff classifications of the goods

#### 1.4.2 Like goods

Section 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.*

The definition of like goods is relevant in the context of this accelerated review in determining the normal value of goods exported to Australia, the non-injurious price (NIP) and the goods subject to the dumping duty notice and the countervailing duty notice. The Anti-Dumping Commission (the Commission) uses the framework outlined in Chapter 2 of the *Dumping and Subsidy Manual* (the Manual) for assessing like goods.<sup>4</sup>

### 1.5 Accelerated review process

If a dumping duty notice 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>

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<sup>3</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>4</sup> Available on the Commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au)

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

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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>

Under section 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 fixed.

Following the Minister's decision, a notice is published on the Commission's website advising of the decision.

### 1.6 Existing measures

Based on the original investigation and subsequent reviews, the current anti-dumping measures applying to grinding balls exported from China are as follows:

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>7</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>8</sup>	IDD and ICD	Floor price	0%
All other exporters	IDD and ICD	Combination method	103.6%

**Table 2: Grinding balls anti-dumping 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) at [www.adcommission.gov.au](http://www.adcommission.gov.au)

### 1.7 Notification and participation

On 31 October 2019, Growth Steel lodged an application for an accelerated review of the notices applying to certain grinding balls exported to Australia from China, in so far as the notices affect Growth Steel.

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

<sup>7</sup> Combination of fixed and variable duty method.

<sup>8</sup> On 16 August 2018, the outcome of *Accelerated Review No. 476* was published concerning Anhui Sanfang New Material Technology Co., Ltd.; [Anti-Dumping Notice 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.

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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 section 269ZE(1) were satisfied;
- the conditions for rejection under section 269ZE(2) were not satisfied; and
- the application satisfied the requirements of section 269ZF(1).

Accordingly, the Commissioner did not reject the application. The commencement of this accelerated review was notified in Anti-Dumping Notice (ADN) No. 2019/142. The ADN was published on 21 November 2019 and made available on the public record on the Commission's website.<sup>9</sup>

ADN No. 2019/142 advised that the Commissioner's recommendation will be made in a report on or before **8 February 2020**.

For the purposes of the accelerated review, the period examined is 1 July 2018 to 30 June 2019 (the accelerated review period).

### 1.8 Exporter questionnaire response

#### 1.8.1 Growth Steel's exporter questionnaire response

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

On 6 December 2019, the Commission received a completed exporter questionnaire response from Growth Steel. A non-confidential version of this response is available on the public record.<sup>10</sup>

### 1.9 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)

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<sup>9</sup> Section 2.6 refers.

<sup>10</sup> Document No. 4 on the public record refers.

## **2 EXPORT PRICE**

### **2.1 Findings**

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 section 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>11</sup>
- the price in Australia less prescribed deductions;<sup>12</sup> or
- the price having regard to all the circumstances of the exportation.<sup>13</sup>

The Commission considered whether an export price could be determined under section 269TAB(3), for the purposes of this accelerated review, having regard to all relevant information.

In particular, for the purpose of determining duty payable, the Commission considered whether sufficient and relevant information existed to establish an export price by determining the export price as equal to an amount determined to be the normal value.

For the reasons outlined below in Chapter 3, after having regard to all relevant information, the Commissioner was not satisfied that this approach was appropriate, given the circumstances of this accelerated review.

Notwithstanding that a new exporter, for the purposes of an accelerated review, does not need to have exported the goods to Australia, for this specific case, the Commission is satisfied that an export price of the goods could not be calculated.

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<sup>11</sup> Section 269TAB(1)(a).

<sup>12</sup> Section 269TAB(1)(b).

<sup>13</sup> Section 269TAB(1)(c).



### **3 NORMAL VALUE**

#### **3.1 Findings**

The Commission has concluded that, having regard to the circumstances of this accelerated review, it is not sufficiently informed to determine a normal value for grinding balls exported by Growth Steel.

In the absence of an appropriate normal value, the Commission has been unable to establish a dumping duty rate (or countervailing duty rate) for the purpose of this accelerated review.

#### **3.2 The Commission's assessment of normal value**

The information provided to the Commission established that Growth Steel did not export the goods to Australia during the accelerated review period. Nor did Growth Steel sell the goods within its own domestic market. Growth Steel exported the goods to third countries and the goods were sold solely to related entities/parties of Growth Steel in those countries.

In assessing normal value for Growth Steel, the Commission considered that:

- the normal value could not be established under section 269TAC(1) because Growth Steel did not sell like goods in the ordinary course of trade (OCOT) for home consumption in the domestic market;
- it was not reasonable for the Commission to construct a normal value, pursuant to section 269TAC(2)(c), because there was no information relating to the cost of producing the goods exported to Australia;
- it was not possible to calculate a normal value based on comparable third country sales under section 269TAC(2)(d), consistent with the Commission's operational practice as set out in Chapter 10.3 of the Manual. The Commission could not select a third country with similar volumes (and nature) of trade from the country of export to Australia (Growth Steel has never exported the goods to Australia, and from the evidence provided, the Commission could not ascertain whether its sales to related parties in third countries were arms length);
- it was not appropriate to calculate a normal value under section 269TAC(6) of the Act, having regard to all relevant information, as the Commission does not have any reliable or verified information concerning comparable selling prices and / or production costs of other exporters during the accelerated review period, and there is no other information before the Commission which would be relevant for this task.

The Commission was, therefore, unable to establish a normal value for the purpose of this accelerated review.

## **4 COUNTERAVAILABLE SUBSIDIES**

### **4.1 Findings**

The Commission has found that Growth Steel received subsidies during the accelerated review period under two programs deemed to be countervailable in this review.

Because the Commission was unable to calculate an export price, the Commission was also unable to calculate a countervailable subsidy margin for this review.

### **4.2 Relevant legislation**

Section 269T provides a definition of a ‘subsidy’ for the purposes of the Commission’s assessment in relation to countervailable subsidies. ‘[C]ountervailable subsidy’ is also further defined in section 269TAAC.

Sections 269TACC and 269TACD relate to determinations by the Minister as to whether a benefit has been conferred by a financial contribution or price support, and the amount of this benefit. Generally, the existence of a benefit is determined by comparison of costs with a benchmarked market price for the respective cost. If the alleged benefit relates to tax revenue foregone, the existence of a benefit is determined by comparing the actual tax rate applied to the tax rates of the country in question.

Section 269ZG requires the Commissioner to make such inquiries as the Commissioner thinks appropriate in order to make a recommendation to:

- leave the notice unaltered; or
- alter the notice, so as to apply the newly determined variable factors.

The Commissioner is required to set out reasoning for the recommendation.

### **4.3 Programs reviewed**

The Commission examined subsidy programs, as part of this review, including the programs determined to be countervailable in the original investigation relating to grinding balls exported to Australia from China<sup>14</sup> and two new programs identified in this review.

### **4.4 The Commission’s assessment of countervailable subsidies**

The Commission has relied on information provided by Growth Steel in assessing the subsidy programs. The Commission’s findings are summarised below.

#### **4.4.1 Special support funds for industrial economic development in the Suzhou High-Tech Zone 2016**

Growth Steel reported receiving a grant under this program. This program supports enterprises in the city of Suzhou to invest in technological transformation, high-tech equipment and the development of internet-based manufacturing.

The Commission examined Growth Steel’s non-operating income account ledger and proof of payment. These documents indicated that Growth Steel received funds under this program in 2017 from the Chinese national treasury payment centre of the Suzhou High-Tech Zone.

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<sup>14</sup> See REP 316 and ADN 2016/91.

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Although Growth Steel received the grant under this program before the review period, the Commission considers that the grant received under this program would appropriately be amortised over a period of time, including the review period. The Commission has made this consideration having regard to the public body's description of this program and the long-term nature of the improvements to Growth Steel's manufacturing processes described in associated information provided by Growth Steel.

### **4.4.2 Special fund for business development 2018**

Growth Steel reported receiving a grant under this program. This program supports businesses within the Jiangsu province seeking financial assistance for specific projects upon application.

The Commission examined Growth Steel's non-operating income account ledger and proof of payment. These documents indicated that Growth Steel received funds under this program within the review period in 2019 from the Chinese national treasury payment centre of the Suzhou High-Tech Zone.

### **4.4.3 Calculation of a countervailable subsidy margin**

As discussed above, in section 2.1, the Commission was unable to calculate an export price. Accordingly, the Commission was also unable to determine how much of the countervailable subsidy would be properly attributable to Growth Steel's potential future exports to Australia.

## **5 CONCLUSION**

### **5.1 Findings regarding a dumping margin**

As the Commission has been unable to establish an export price or normal value of the goods, in accordance with the legislation, there is no way to calculate a dumping margin for the purpose of ascertaining variable factors for this accelerated review.

### **5.2 Findings regarding countervailable subsidies**

As the Commission has been unable to establish an export price for the goods, the Commission is also unable to ascertain the amount of subsidies that would be attributable to the goods for the purpose of reviewing variable factors for this accelerated review.

### **5.3 Effect of the accelerated review**

If the Minister accepts the recommendations in this report, in respect of grinding balls exported by Growth Steel to Australia from China, Growth Steel will remain subject to the dumping duties that were imposed in the original dumping duty notice at the rate applicable to 'all other exporters'.

The Commission notes that if the Minister accepts the recommendations in this report, Growth Steel will be eligible to seek another accelerated review at a later date.

## **6 RECOMMENDATIONS**

The Commissioner recommends that the Minister consider this report, and if in agreement with its findings, sign the attached notice (**Non-Confidential Attachment 1**) to **declare**:

- under section 269ZG(3)(a) of the Act and the Dumping Duty Act, the original dumping duty notice and countervailing duty notice is to remain unchanged.

The Commissioner recommends that the Minister **be satisfied** that:

- in accordance with section 269TAB, sufficient information is not available to enable export prices for grinding balls to Australia from China by Growth Steel to be determined;
- in accordance with section 269TAC, sufficient information is not available to enable the normal value of goods exported to Australia to be determined; and
- in accordance with section 269TACD, sufficient information is not available to ascertain an amount of countervailable subsidy received in respect of grinding balls to Australia from China by Growth Steel.

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### 7 ATTACHMENTS

Non-Confidential Attachment 1	Notice of decision
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