CGT LAW
CUSTOMS AND GLOBAL TRADE

10 June 2021

Director, Investigations Unit 1
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601

Your ref: SEF 569
Matter no: 2021008

By email: investigations1@adcommission.gov.au

Dear Director

Statement of Essential Facts 569 – Grinding Balls from China

We act for Jiangsu Yute Grinding International Co. Ltd (**Yute**). We make this submission to address issues raised by Molycop in its submission dated 7 June 2021.

Exports from the port of Vitoria, Brazil

Molycop argues that the Latin American export billet price at the free on board level published by S&P Global (Platts) (**LA Export Price**) is an inappropriate benchmark for many reasons. One of those reasons is the claim that the LA Export Price only relates to exports from Vitoria, Brazil. It has put forward an attachment it claims is confidential in support of this claim. The document is the S&P Global Platts extract, Specifications Guide, Steel ferrous scrap, ferroalloys and noble alloys, May 2020 (**Platts May 2020 Specifications**").

Attached is the S&P Global Platts Specifications Guide, Global Steel, Ferrous Scrap, Ferroalloys and Noble Alloys, June 2021 (**Platts June 2021 Specifications**). This is a publicly available document and does not contain any information available only by subscription. We assume that the Platts May 2020 Specifications is an earlier version of this document and there is no reason why it should remain confidential.

The Platts June 2021 Specification clearly sets out that the LA Export Price is based on "Latin American Ports" and not a single port. The ADC should make its own inquiries with S&P Platts before accepting the claims of Molycop on this issue.

Regardless of whether the LA Export Price looks at a single port or multiple ports the following points are important:

1. The LA Export Price is based on a monthly volume of 20,000 – 50,000 mt. This is a very significant volume.
2. Brazil is by far the largest Latin American producer of steel. Brazilian prices will have the largest impact on Latin American steel prices, accounting for more than half of the Latin American steel production.
3. The location of the port of Vitoria means that export prices from that port are more likely to be influenced by Mexican, Canadian and US steel prices and less influenced by Chinese prices. This will be particularly so given that the US is the world's largest importer of steel and has

placed large tariffs on the importation of Chinese steel. The US is Brazil's largest steel export market. In exporting to the US, Brazil will not be competing against Chinese steel but rather against US, Canadian and Mexican produced steel. This makes export prices from the Port of Vitora an appropriate measure.

4. Molycop did not have concerns with a single country based benchmark when it advocated for the MEPS monthly US$/T domestic ex-works billet price for Mexico to be used as the benchmark in Investigation 316.

Type of steel

While Molycop has made submissions regarding the suitability of the LA Export Price based on the type of steel the subject of the index, it has not demonstrated that the LA Export Price is not a suitable component of an adequate benchmark for the steel input costs of Chinese manufacturers. The price of special grinding bar quality material will depend on the specifications to which it is produced. This will be dictated by intended end use of the product. In the circumstances, the likelihood of an objective benchmark being available is low.

In assessing the claims of Molycop regarding special bar quality material it is important to note that the special bar quality material used to produce grinding bars can be cheaper than special quality bar material used for other applications. For instance, special bar quality used to produce ball bearings will be much more expensive than bar used to produce grinding balls.

The main attribute of special bar quality material used for grinding bar is the ferroalloys used in the production of the material. The ADC has noted in previous investigations that it is aware that the LA Export Price of grade ASTM 36. This has been accounted for by the ferroalloys adjustment applied to the LA Export Price. This adjustment was developed by the Australian industry.

Despite the claims of Molycop, the LA Benchmark remains a suitable benchmark.

Use of Molycop selected data

Whatever concerns Molycop has with the use of the adjusted LA Benchmark, the use of objective data based on a large volume of exports is much more reliable than a benchmark based on purchases selected by Molycop from its affiliate companies.

The conflict of interest inherent in Molycop selecting the data to comprise the benchmark is self-evident. Molycop cannot prove dumping by reference to Chinese exports to Australia being at a price less than the Chinese domestic sale price. Rather, it can only try establish dumping by constructing a normal value that is as low as possible. To do so it is motivated to identify the highest possible steel billet prices to use as a benchmark price.

To be confident that the prices provided were not selective, or represent issues unique to the single buyer, the ADC would need to review all purchases by the relevant company during the review period (not only those selected by Molycop), verify the accuracy of the information provided and compare those prices to the verified purchases by parties unrelated to the Molycop affiliate company. Verifying purchases by a non-Molycop buyer would be necessary for the ADC to verify that the Molycop selected prices were not affected by factors unique to the Molycop affiliate company.

Need for any alternative benchmark to comply with WTO law

As noted in our previous submission, the use of the LA Benchmark has been approved by the Anti-Dumping Review Panel and the Federal Court. For this reason Yute has not challenged the legality under Australian law of using the LA Benchmark. If the ADC adopts a different benchmark, it is of course necessary that the benchmark is applied in accordance with Australia's obligations under article 2.2 of the Agreement on Implementation of Article VI of the General Agreement on Tariff and Trade 1994 (**Dumping Agreement**).

Specifically, the ADC will need to demonstrate how any Molycop affiliate's purchase data has been adjusted to reflect or represent the costs of production in China. As set out in Panel Report, EU-Cost Adjustment Methodologies II (Russia) as para 7.129:

"*Article 2.2 requires investigating authorities to calculate the costs of production 'in the country of origin' and, according to Article 2.2.1.1, this obligation 'normally' requires the use of the records of the investigated companies provided that the two conditions set out in this provision are met. We consider that, to the extent an investigating authority bases its calculations on information other than that reflected in the records of the investigated companies, it will be required to ensure that adjustments, if necessary, are made in order to arrive at the cost of production 'in the country of origin'*"

Please let us know if you have any questions regarding the issues raised in this letter.

Yours faithfully
CGT Law

Russell Wiese
Director

Contact:
D +61 3 9844 4328
M +61 431 646 488
E rwiese@cgtlaw.com.au