

## **ATTACHMENT A**

The Commissioner of the Anti-Dumping Commission (the Commissioner) provides the following clarifying comments as requested by the ADRP member following a teleconference held between Commission staff and the ADRP member on 26 August 2016.

### **1. The Commissioner's assessment of the pass-through of benefits by upstream suppliers of grinding bar**

The Commission notes that Program 1 relates to the alleged provision of steel billet at less than adequate remuneration. To assess any benefit in relation to steel billet, the Commission sought information regarding the purchases of grinding bar and steel billet by Chinese exporters of grinding balls.

Through an exporter questionnaire, the Commission requested that Chinese exporters of grinding balls provide details of (among other things):

- all grinding bar and steel billet purchases;
- the supplier of the grinding bar or steel billet;
- whether that grinding bar or steel billet supplier was a State Owned Enterprise (SOE);
- where the supplier of grinding bar or steel billet was not the producer of the grinding bar or steel billet, details of the producer of the grinding bar or steel billet; and
- whether that producer of grinding bar or steel billet was a SOE.

Following an assessment of four exporter questionnaire responses received, and on-site verification in the case of Changshu Longte Grinding Ball Co., Ltd (Longte) and Jiangsu XP Xingcheng Special Steel Co., Ltd (Xingcheng), the Commission established, as outlined in *Termination Report No. 316* (TER 316), that the cooperating exporters of grinding balls purchased only grinding bar (noting that there is no alleged subsidy program in relation to grinding bar, only steel billet).

In some instances the supplier of grinding bar was also the producer of that grinding bar. In other instances, the supplier of grinding bar purchased that grinding bar from a trader or producer of grinding bar. In some instances, the trader or producer of the grinding bar was a SOE. Whilst some of the purchases of grinding bar involved SOEs, from the information available, the Commission did not identify any direct or indirect purchases of steel billet from an SOE by the cooperating exporters. This was the intended meaning of the first paragraph in section 4.6.1 at page 18 of TER 316.

At a practical level, the Commission considered whether it was possible to assess, either based on the information available or through the provision of further information, the pass-through of benefits received in relation to steel billet upstream from the exporters of grinding balls, noting the following:

- the applicants alleged that steel billet had been supplied at less than adequate remuneration, however, as detailed above, the Commission

found no evidence that steel billet had been supplied by SOEs either directly or indirectly to the exporters of grinding balls;

- Longte and Xingcheng, the producers of approximately 85 per cent of the grinding balls exported to Australia, were subject to on-site verification. The verifications teams were satisfied that both exporters had transitioned to being fully integrated producers of grinding balls by the end of the investigation period, thus having little or no reliance on grinding bar or steel billet purchases from unrelated parties going forward. The integrated related parties producing and supplying their grinding bar requirements were not SOEs;
- the Commission's Dumping and Subsidy Manual highlights the fact that moving up the supply chain to examine the pass-through of subsidies more than one level becomes more complex and it also becomes less likely that subsidies, if found to exist, would have a significant effect on the cost of manufacturing the final exported product;
- verification of the upstream supply chain of the cooperating exporters would have necessitated the preparation of further questionnaires to the input suppliers as well as a further questionnaire to the Government of China (GOC),<sup>1</sup> which would have required a significant extension to the investigation;
- given the finding of a particular market situation as outlined in the *Statement of Essential Facts No. 316* and consequent construction of exporters' normal values, dumping margins were effectively calculated having adjusted grinding bar costs to reflect a competitive market cost. As a result, the Commission notes that any alleged upstream benefit for steel billet is likely to have been captured in the dumping margins, given the adjustment applied to exporters' records was at the grinding bar level, which fully counteracts any distortion caused by direct and indirect influences of the GOC in relation to steel billet upstream from the grinding ball exporters. A finding that steel billet had been provided at less than adequate remuneration would have required a reduction in the dumping margins to eliminate the effect of double counting the benefit received, e.g. the combined dumping and countervailing margin may have remained the same; and
- at page 110 of the Manual, the Commission's policy is stated as follows: *"In other cases where an applicant requests an investigation into an upstream subsidy more than one level removed from the goods under consideration it will face an onus to demonstrate the significance of those subsidies."* The Commission does not consider that the applicant has demonstrated the significance of any alleged upstream subsidy in relation to steel billet.

Having regard to the above factors, the Commission did not consider it was practicable to examine any pass-through of benefits received in relation to the supply of steel billet to the exporters of grinding balls.

---

<sup>1</sup> 18.3 of the Dumping and Subsidy Manual

## **2. The Commissioner's determination that the provision of electricity by the Government of China was not at less than adequate remuneration**

The Commission notes the ADRP's comments that when subsection 269TACC(3)(d) of the Act is examined it is subject to subsection 269TACC(4) which requires an assessment in relation to less than adequate remuneration programs to be made in the context of prevailing market conditions.

In regards to the prevailing market conditions, the Commission noted in TER 316 that it accepted Moly-Cop's claims that:

*electricity prices are set by the NDRC (the National Development and Reform Commission) on the basis of a procedure that includes cost investigation, expert appraisal, public hearings, and final price determination and publication... The final price reflects purchasing costs, transmission costs and losses, and government surcharges. The prices are differentiated by province depending on the local situation and policy objectives pursued in the various provinces. They are set for different end-user categories (e.g. residential, industrial users).*

The Commission is of the view that there is not a national market for electricity in China, that is, the NDRC does not set a benchmark electricity price for China from which a provincial rate is then struck.

In keeping with the approach taken in *Review of Measures 248 – Aluminium Extrusions exported from China (REP 248)*, the Commission obtained electricity tables for the provinces where each of the cooperating exporters were located (Jiangsu and Hebei).<sup>2</sup> The electricity charges differed across these two provinces, as would be expected given electricity pricing reflects a number of variables, many of which would differ in relation to the mix of electricity generation from province to province as well as transmission costs.

The Commission examined electricity tables for additional provinces in China however this simply evidenced the existence of multiple electricity markets, rather than providing any framework for assessing the extent of GOC involvement, if any, in the pricing of electricity.

Without cooperation from the GOC, particularly in relation to the factors of price differentiation depending on the local situation or policy objectives in the particular provinces, as referenced by the NDRC, the Commission has no reasonable basis to recommend to the Minister to make a finding about the degree of Government intervention in the pricing of electricity from one province to the next. A similar finding was made in REP 248.

The Commission notes that Moly-Cop did not provide evidence as part of the investigation to substantiate its claims that electricity was being supplied at less than adequate remuneration on a regionally specific basis. Moly-Cop's

---

<sup>2</sup> The Commission has provided you with NDRC Decision No. 978 and electricity tables for Jiangsu and Hebei provinces for 2014 and 2015.

application for ADRP review refers to evidence provided in submission 5 on the public record at page 8, however the only references here are to the NDRC Decision No. 40 (2005). Moly-Cop's application does not include a comparison of the electricity rates of the relevant provinces with benchmark prices elsewhere in China.

The Commission does not dispute Moly-Cop's claims that preferential electricity pricing between provinces, if found to be a financial contribution by a government conferring a benefit, can be specific to all producers in a particular region.

However, Moly-Cop's application infers that due to non-cooperation of the GOC, the Commissioner is obliged to assess the electricity program as regionally specific. The Commission disagrees with this point, because (as outlined in TER 316), the differences in tariff rates could equally be explained by other market forces.

In conclusion, the Commission has no evidence to substantiate Moly-Cop's claims that a benefit in the form of financial contribution conferring a benefit from the GOC has been received by exporters of grinding balls in relation to electricity. E.g. the different electricity rates between provinces could not be linked by positive evidence (e.g. by way of document, legislation, decree etc.) to any particular influence of the GOC.

Please also note that dot point 5 at response 1 above applies equally to this program, e.g. any benefit found in relation to electricity would be eliminated from the dumping margin due to the need to remove any double counting of benefit.