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23 December 2014

Director Operations 1  
Anti-Dumping Commission  
1010 La Trobe Street  
Melbourne VIC 3008

### **Dumping investigation – Rod in coils exported from Indonesia**

Dear Director,

This submission is made by PT Gunung Raja Paksi (GRP) in response to the Anti-Dumping Commission's (the Commission) remote exporter verification report. This submission outlines GRP's comments and concerns regarding the Commission's:

- determination of export price in accordance with s.269TAB of the Customs Act 1901 (the Act),
- determination of normal value in accordance with s.269TAC of the Act, and
- determination of a dumping margin in accordance with s.269TACB of the Act.

#### **Determination of export price**

##### 1. Conversion of currency

The Commission has established an export price for GRP's exports during the investigation period denominated in the currency of the exported goods, being [REDACTED]. This is inconsistent with the requirements of the Act and the Commission's longstanding practice of converting the export sales into the denominated currency of domestic sales.

Section 269TAF(1) states that:

*If, for the purposes of this Part, comparison of export prices of goods exported to Australia and corresponding normal values of like goods requires a conversion of currencies, that conversion subject to subsection (2), is to be made using the rate of exchange on the date of the transaction or agreement that, in the opinion of the Minister, best establishes the material terms of the sale of the exported goods. [emphasis added]*

It is clear then that s.269TAF requires the Minister to convert the currency of the exported goods into a common currency to allow a comparison with corresponding normal values. It has been the Commission's practice to convert the currency of the export goods into the currency denominated on the domestic market.

However in this case, the Commission has converted the currency of domestic sales (Indonesian Rupiah) into the currency of the exported goods. In converting the Rupiah denominated domestic sales into [REDACTED], the Commission appears to have used the rate of exchange on the date of the transaction that best establishes the material terms of sale of the domestic goods. This is clearly not consistent with the requirements of s.269TAF(1).

GRP requests the Commission to recalculate its export prices by ensuring a proper conversion of currency of the exported goods, using a rate of exchange on the date of the transaction that best establishes the material terms of sale of the exported goods.

## 2. Date of sale of the exported goods

In the remote exporter verification report, the Commission states that:

[REDACTED]

GRP considers that this cursory assessment by the Commission of the date that best establishes the material terms of sale is inconsistent with its own policy and practice.

The Commission's Dumping and Subsidy Manual provides clear guidance on establishing the date of sale for the purposes of determining export price and normal values. It states:

*In establishing the date of sale, the Commission will normally use the date of invoice as it best reflects the material terms of sale. For the goods exported, the date of invoice also usually approximates the shipment date.*

*Where a claim is made that an exporter claims a date other than the date of invoice better reflects the date of sale, the Commission will examine the evidence provided.*

*For such a claim to succeed it would first be necessary to demonstrate that the material terms of sale were, in fact, established by this other date. In doing so, the evidence would have to address whether price and quantity were subject to any continuing negotiation between the buyer and the seller after the claimed contract date.*

*This arises because there can be circumstances where an exporter and importer agree on price and quantity and make a sales agreement to that effect, but this may not establish the*

*date on which terms were finally agreed upon because an element of informality continues, and conditions can be changed.*

*Any claim for an adjustment would need to substantively address:*

- whether, why, and to what degree, the considerations in determining price differed between export and domestic sales;*
- whether the materials cost differ at the time of subsequent invoicing of that export sale (compared to domestic sale invoices in the same invoice month of that export sale) having regard to factors such as the production schedules for domestic and export; lead times for purchasing main input materials;*
- whether contracts were entered into for the materials purchases; and*
- materials inventory valuation.*

*Using the contract date for export sale is most likely to have application in situations where the production process takes a long time - for example manufacturing items of heavy capital equipment, causing delivery to occur well after the sale had taken place.*

In the absence of an on-site verification visit which would have allowed the Commission to properly consider and examine information relevant to the determination of the date of sale, the Commission appears to have ignored its own guidance on establishing the material terms of sale.

GRP requests the Commission to reassess the appropriate date of sale of the exported goods in line with its stated policy and practices.

### **Determination of normal value**

#### 1. Cost of goods

In the remote exporter verification report, the Commission states:

[REDACTED]

GRP considers that the Commission has erred in determining the cost of the goods for the purposes of determining whether domestic sales of like goods were sold in the ordinary course of trade. Section 269TAAD of the Act provides that the cost of goods is to be worked out by adding the amounts determined by the Minister to be the cost of production and the administrative, selling and general costs. It further states that these amounts 'must be worked out in such manner, and taking account of such factors, as the regulations provide in respect of those purposes.'

Regulation 180 (Reg. 180) sets out the manner in which the Minister must work out an amount to be the cost of production of like goods in the country of export for the purposes of s.269TAAD(4)(a). Reg. 180 requires that the Minister must work out the amount of the cost of production using the information set out in the exporter's records, where the exporter:

- a) keeps records relating to the like goods, and
- b) the records are:
  - i) are in accordance with generally accepted accounting principles in the country of export; and
  - ii) reasonably reflect competitive market costs associated with the production or manufacture of like goods.

Therefore, where the above conditions are met by the exporter and its records, the Minister is clearly obliged to use information as kept in the exporter's records.

In calculating a revised billet cost from GRP's COGS worksheet, it is evident that the Commission has inadvertently overlooked the impact of [REDACTED] and [REDACTED] generated from the wire rod production process. The Commission has information presented by GRP (refer to worksheet 'Mutasi BRJ 2013') which shows the volume of [REDACTED] and [REDACTED] generated from the wire rod production lines. All [REDACTED] and [REDACTED] generated from production is [REDACTED] by GRP and [REDACTED].

GRP considers it reasonable to allocate [REDACTED] to the costs of production as they relate directly to the production of like goods. Alternatively, the [REDACTED] [REDACTED] generated by the wire rod production could be included and added to the total volume of goods used to calculate the quarterly unit cost of billet.

GRP notes that the treatment and allocation of [REDACTED] has been accepted by the Commission in its determination of the cost of production of like goods by the Taiwanese exporter, Quintain Steel Co. Ltd. in this current investigation.

Therefore, GRP requests the Commission to re-assess and re-calculate the cost of the goods taking into account [REDACTED] and [REDACTED] generated from the production of wire rod. GRP is able to provide the Commission with further information relating to its sales of [REDACTED] and [REDACTED] to satisfy it that these are relevant to the costs of production of wire rod.

Following a revision of the cost to make and sell, GRP requests the Commission to re-assess whether domestic sales of like goods are sold in the ordinary course of trade.

## 2. Date of sale of like goods

As explained earlier, GRP considers that the Commission has not properly determined the material terms of sale of the exported goods by taking into account relevant factors outlined in the Commission's Dumping and Subsidy Manual.

The Commission appears to have followed the same approach to the determination of date of sale for like goods. By doing so, the Commission has excluded a significant volume of domestic sales that were sold during the investigation period from its normal value considerations.

GRP requests the Commission to reconsider the issue of date of sale of like goods consistent with its stated policy and practice.

**Conclusion**

GRP requests the Commission to reconsider and reassess the issues outlined in this submission before finalising its determination of export price, normal value and the product dumping margin. The Commission's decision to conduct a remote verification has clearly hampered GRP's opportunity to explain its costing information and accounting records, and to present additional supporting information.

Yours sincerely

John Bracic