

Our client wish to submit the following comments on the dumping margin and subsidy margin calculation:

I. Submission on dumping margin

The dumping margin established in the verification report is much higher than the level established in PDA. After checking the spreadsheet provided by the Commission, our client finds that the high dumping margin established for Grand in the verification report is largely due to the unreasonable methodology applied and some calculation errors therein.

I.1 Unreasonable methodology

In the PAD, the Commission's preliminary view is that stainless steel prices in China are affected by the GOC influences in the iron and steel industry, and hence do not reasonably reflect competitive market costs, and should be replaced by MEPS International (MEPS) world composite price ([OMIT]% uplift in the verification report).

Our client respectfully disagrees with the findings of the Commission and submits that, 1) the methodology of replacement of the cost of raw materials of the good under the considerate by the cost from third party, infringed the provisions of the WTO Anti-dumping Agreement (hereinafter as ADA); 2) the issue of the affected stainless steel price in China, if any, should be taken into considerate in subsidisation investigation, instead of in the dumping investigation.

China and Australia are both parties to the ADA. Article 2.2 and 2.2.1 of the ADA provides that:

*2.2 When there are **no sales of the like product in the ordinary course of trade in the domestic market** of the exporting country or when, because of **the particular market situation** or **the low volume of the sales in the domestic market** of the exporting country, such sales do not permit a proper comparison, the margin of dumping shall be determined by comparison with a comparable price of the like product when exported to an appropriate third country, provided that this price is representative, or with the **cost of production in the country of origin** plus a reasonable amount for administrative, selling and general costs and for profits.*

*2.2.1 "For the purpose of paragraph 2, **costs shall normally be calculated on the basis of records kept by the exporter or producer under investigation**, provided that such records are in accordance with the generally accepted accounting principles of the exporting country and **reasonably reflect the costs associated with the production and sale of the product under considerate...**"*

According to Article 2.2 of the ADA, in case of 1) no sales of like products in domestic market, or 2) particular market condition exist, or 3) the low volume of the sales in the domestic market of the exporting country, the normal value shall be established either on the

comparable and representative price of the like product when exported to an appropriate third country, or on the constructed price.

The Article 2.2.1 makes it quite clear that the constructed normal value shall be based on the actual records of cost of production kept by the exporting producer in the country of origin, on the conditions that 1) such records are in accordance with the GAAP of the exporting country and 2) reasonably reflect the costs associated with the production and sale of the product under considerate.

Since the Commission fully satisfied that Grand's records of cost of production is complete and relevant, and is in line with the GAAP of China, the normal value for the Australian sales which have no identical in domestic market shall be constructed on the basis of the actual record kept by Grand.

With respect to "particular market condition", our client respectfully submits that, first of all, the "particular market condition", strictly speaking, refer to the market of the product under considerate. Whether certain market of the raw materials of the product under considerate is particular or not, is irrelevant. The logic that particular market situation exist in one market of the major raw material of the product under considerate, the particular market condition will certainly exist in the market of the product under considerate, is untenable. Secondly, even if the Commission determined that particular market condition in the domestic market of the deep drawn stainless steel sink of China exist, the Commission may apply either the third country sale of like product, or construct the normal value of the product under considerate based on the real record of the exporters. The ADA never entitles the authority to replace the cost of the raw materials of the product under considerate, in the name of "particular market situation", or "do-not-reasonably-reflect –competitive-market-costs"

On the basis of the forgoing, the Commission's practice to replace the cost of material of the product under considerate by the price of MEPS, is obviously against the requirements of ADA.

It is further submitted that, in such an investigation into alleged dumping and subsidisation, the issue of the influences of GOC in raw material of the product under considerate, shall be more suitably discussed in the frame work of subsidisation, rather than an issue in dumping.

1.2 Calculation errors

In the DM calculation spreadsheets, Grand finds some substantial calculation errors which artificially amplify the dumping margin.

1.2.1. The sufficiency test is wrong

In the verification report, the Commission provides that “there were [OMIT] out of [OMIT] export models of deep drawn stainless steel sinks that were also sold on the domestic market. Out of the [OMIT] models, we found [OMIT] models with sufficient volumes of domestic sales. This equates to 48% of the volume of export sales during the investigation period that has sufficient volumes of identical models sold on the domestic market.”

As far as the drawn sink of Grand concerned, a simple fact is that the physical characters of the sink sold in Chinese market and in Australian market are quite different. Furthermore, the domestic sale volume of the drawn sink in domestic market is very limited. The figure of 48% is therefore highly suspicious. After checking the spreadsheet of “Appendix 3.1 - Dom sales”, Grand finds an apparent mistake of the Commission in calculating the export quantity. The export quantity of the [OMIT] models is only [OMIT]? Obviously, there are [OMIT] lines of transaction while the export quantity is [OMIT] PCs. The true story shall be modified as follow:

“There were [OMIT] out of [OMIT] export models of deep drawn stainless steel sinks that were also sold on the domestic market. Out of the 54 models, we found [OMIT] models with sufficient volumes of domestic sales. This equates to [OMIT] % of the volume of export sales during the investigation period that has sufficient volumes of identical models sold on the domestic market.”

1.2.2. The formula for calculating the non-refundable VAT (8%) is wrong

In the “Appendix 4-5 - NV and DM”, the Commission applied an upwards adjustment of 8% to the normal value. However, the calculation formula applied is wrong. The formula the Commission used is:

Non-refundable VAT adjustment=

Constructed FOB value/(1-8%) –Constructed FOB value

As a matter of fact, during the POI, the VAT rate for sale of the subject goods in domestic market is 17% while the export of the subject goods was subject to refund of VAT of 9%. The export VAT refund is calculated based on the FOB export price. In this issue, the Commission make two mistakes. First of all, the non-refundable VAT shall be adjusted on the actual FOB value, rather than on the constructed FOB value (after added profit of [OMIT] %); secondly, the adjustment formula shall be FOB value multiply 8% directly.

1.2.3. The triple count of add unit accessories cost

In the “Appendix 4-5 - NV and DM”, the Commission applied an adjustment of unit ancillary cost to the normal value. It is submitted that such adjustment is triple count of the ancillary cost. All sales of the sink in domestic market are accompanied by basic accessories, just like the export sale. Therefore, the domestic sale price always includes the price of the accessories. It is noted that the Commission firstly added two

times of the unit of the accessory cost into the domestic sale price (in Appendix 3.1 - Dom sales). After that, in the "Appendix 4-5 - NV and DM", the Commission added in Column "AV" for the third time of the cost of accessories cost. It is submitted that the two times of accessories cost exceedingly added in the domestic sales shall be removed.

I.2.4. The upwards adjustment for this difference of export sale and domestic sale is double count

In the "Appendix 4-5 - NV and DM", the Commission applied an upwards adjustment of RMB [OMIT] of export sale adjustment to the normal value. It is submitted that the difference of the export sale and domestic sale include the inland freight, port charges and customs fees, which were reported correspondingly in the column "AM", "AN" and "AR". In the Column "AW" (Add Export inland transport adjustment), The Commission has applied an adjustment accordingly. Therefore, the adjustment of RMB [OMIT] in the Column "AX" is apparently double count.

It is further submitted that the "Add Export inland transport adjustment" in Column "AW" itself is excessive adjustment. As Grand explained during the verification, during the POI, Grand sold the product under considerate in domestic market in two delivery terms, picking up in the factory of Grand by the customers, or delivering to the appointed place of the customers. Since most of the customers are located within or nearby the Zhuhai City, and the sale volume of each transaction is limited; Grand always arranges the delivery by its own car and charge no inland freight from the customer. The cost of delivery is therefore recorded as some general items ([OMIT] Please see the **Annex 1** attached [OMIT]). This files has been filed as one of the Verification Exhibits) of the selling expense which can not accurately link to the certain transaction. During the verification, Grand explained such situation of that it is difficult to quantify such inland freight in domestic sales. In the domestic sales list, Grand can only report two inland freights which are supported by inland freight invoices. Therefore, it is submitted that Column "AW" shall exclude the value of Column "AM" (inland freight). As a matter of fact, the unit inland freight occurred in domestic sale is much higher than the freight occurred in export, since the distance from the Grand to the Zhuhai Port is less than 40 km.

I.2.5. the profit ratio used for constructing the normal value is unreasonable

The export sales to Australia which the same model is not sold in domestic market, the Commission constructed a FOB value with an added profit of [OMIT]%. The added profit is so high that beyond the knowledge of all of people. In fact, the overall profit based on the PL statement of Grand in 2013 and 2012 are [OMIT]% and [OMIT]% separately. No producer in this industry can expect to achieve such superior profit. Such profit rate is obviously unreasonable.

The highly profit ratio calculated shall be contributed by the factors as follows:

- The domestic market of sink is a secondary market of Grand. The sale volume is quite limited. As indicated in the turnover spreadsheet of Grand (see Exhibit A-6 of the exporter questionnaire response), in the year of 2013, the turnover of the product under considerate in domestic market merely account [OMIT]%¹ of the overall turnover of the product under considerate. The small sales volume lead to two things, 1) the sale in domestic market are at random, in price, delivery term and revenue recognition(some sale of the sink with additional accessories required, besides the standard accessories, the salesman disproportionate the sale income of the total value of sink and the additional accessories on the price of sink only);2) any improper transaction may greatly affect the average profit ratio of the profitable sales;
- As discussed in section I.2.4, the delivery term of most of the domestic sales are in random and the inland freight occurred are not deducted from the profit calculation due to the abnormal market situation;
- The allocation method of SG&A is unreasonable. Grand stated in the verification that it calculated selling, general and administrative (SG&A) expenses as an amount per unit based on expenses in its profit and loss statement. However, the Commission insist that it advised to allocate the expenses to domestic and export sales on a pro rata basis by revenue before calculating an SG&A amount per unit. Such approach is unreasonable to Grand. In the domestic market of Grand, the major product is [OMIT] which is not the product under considerate. The unit price of the[OMIT] is twice or much higher than the price of drawn sink. At the same time, [OMIT]are purchased from unrelated third party, and [OMIT] are purchased as a semi-finished good from unrelated third party and then resold after simple processing. Therefore, in fact, the SG&A accrued for [OMIT] are much less than those of drawn sink. The allocation method of SG&A used by the Commission amplify the really unit SG&A of the deep drawn sink sold domestically.
- Overtime compensation shall be recalculated in the calculation of the target profit. During the verification, Grand stated that in 2013, it paid RMB [OMIT] to staff in compensation arising from an industrial dispute regarding overtime payments during the period from January 2008 to June 2013. However, Grand advised that this payment was booked to labour costs ledger over 5 months between August and December 2013. Therefore, an adjustment was required to labour costs to remove the

¹ Among which, as a matter of fact, most of sale of sink in domestic market are actually business with trading companies which will be exported to overseas markets (Grand has no idea on the final markets but being sure that the final market of these sales are overseas due to the physical characters of the sink they purchased).

compensation payments. The Commission consider this to be a conservative but reasonable allocation. Grand then recalculated the labour cost per unit of stainless steel weight with the compensation allocation deducted and applied this rate in the CTMS spreadsheet. Therefore, such compensation shall be included in the labour cost for the purpose of calculation of target profit.

On the basis of the forgoing, Grand respectfully submits that the Commission to disregard the profit ratio established, due to the deficient and low representation of the sale of the drawn sink in domestic market. The possible solution may be to use the profit ratio of other sampled exporter which is more representative in domestic market, such as Primy.

1.2.6. The target profit rate shall be calculated on the condition that the uplift of the cost of stainless steel added

Without prejudice to the submission discussed above, our client respectfully submits that the target profit rate shall be based on the condition that uplift of the cost of stainless steel added in the calculation.

Since the target profit is established for the purpose of constructed normal value, which [OMIT]% of the uplift of cost of stainless steel is added, in the calculation of the target profit, the same adjustment shall also make. It is impossible for Grand to acquire such high profit when the cost of stainless steel is uplifted substantially.

II. Submission on subsidy margin

Our client considers that the Commission failed to demonstrate that the purchase of cold-rolled stainless steel from the parent company constitute a subsidy.

During the verification, Grand has explained that Grand purchases stainless steel from its parent company, [OMIT]. The unit price is more expensive than the normal market prices. The Commission undertook an analysis of Grand's stainless steel purchases based on its spreadsheet of all stainless steel purchases and found that the unit price of stainless steel from [OMIT] was higher than purchases, in the same month, from the unrelated supplier. It seems that the Commission determines the purchase from GDML constitutes a subsidy only because [OMIT] is a state-owned company, regardless the purchase value is much higher than the unrelated private suppliers.

It is submitted a subsidy shall be deemed to exist only if a benefit is thereby conferred. Our client notes that the Commission did not calculate subsidy to the two of other sampled exporters who purchase the stainless steel from private suppliers. Does that

