



Australian Government
Department of Industry,
Innovation and Science

Anti-Dumping Commission

Anti-Dumping Commission
Level 35 / 55 Collins Street
Melbourne VIC 3000
Australia

██████████
Sales Manager
Tong Heer Aluminium Industries Sdn Bhd
Plot 17-A Jalan Perusahaan
Prai Industrial Estate Phase 4
13600 Prai Penang MALAYSIA

via email: ██████████

INVESTIGATION INTO THE ALLEGED DUMPING AND SUBSIDISATION OF ALUMINIUM EXTRUSIONS FROM MALAYSIA AND VIETNAM

Dear ██████████

Following receipt of Tong Heer Aluminium Industries Sdn Bhd's (Tong Heer) exporter questionnaire response of 22 September 2016, the Anti-Dumping Commission (the Commission) has assessed Tong Heer's exporter questionnaire to determine whether it is sufficient.

Pursuant to subsection 6(b) of the *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Direction):

- Tong Heer has provided a response within the legislated period;
- Tong Heer's response contains deficiencies that could not, in my view, be quickly and easily rectified in a further response; and
- I consider a further response may be relevant and necessary to the proper conduct of the case.

Based on the above, the purpose of this letter is to notify Tong Heer of the deficiencies identified at Attachment A.

As per the Explanatory Statement to the Direction, in determining whether or not to provide further time for a party to provide a supplementary response, I may consider – amongst other things – the nature and scope of the deficiencies, the obligation to conduct cases in a timely and efficient manner and to avoid unnecessary delays, and the specific obligations imposed under the *Customs Act 1901* (the Act) in relation to considering parties' responses.

In this instance, I consider that:

- the nature and scope of Tong Heer's deficiencies are extensive. The information provided by Tong Heer in its questionnaire response is not complete, relevant and accurate such that it is capable of verification. As a result, the Commission is unable to reliably determine an individual dumping

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and subsidy margin for Tong Heer based on the information it has provided;
and

- Based on Tong Heer's response to date, further time to provide a supplementary response would significantly impede the proper conduct of this case in a timely and efficient manner. In this regard, it is noted that a supplementary response may affect my ability to consider and make a preliminary affirmative determination by day 60 of the investigation where I am satisfied that the requisite grounds exist. For this investigation, day 60 is 17 October 2016.

As a result the above, for the purposes of this investigation, Tong Heer will be considered an uncooperative exporter and I will rely on all other relevant information available in making recommendations and findings in relation to Tong Heer.

If you would like to discuss any of the matters raised in this letter, please contact the case manager on (03) 8539 2418 or email operations3@adcommission.gov.au.

Yours sincerely



Dale Seymour
Commissioner
Anti-Dumping Commission

28 September 2016

EXPORTER QUESTIONNAIRE RESPONSE

ALUMINIUM EXTRUSIONS EXPORTED FROM MALAYSIA AND VIETNAM

Tong Heer Aluminium Industries Sdn Bhd – DEFICIENCY LIST

QUESTION	Issue
A-1	Factory address not provided.
A-3	No response has been provided for questions A-3.4, A-3.5, A-3.6, A-3.8, A-3.9 and A-3.10. A copy of the internal organisation chart and annual report has not been provided.
A-4	No response has been provided for questions A-4.3, A-4.4, A-4.5, A-4.6 and A-4.7. A copy of the chart of accounts and internal management reports has not been provided.
A-5	Tong Heer has completed Appendix A-5, however it has not provided audited financial statements as required by question A-4.3. As a result, the Commission is unable to conduct a comparison of Tong Heer's Appendices with the audited financial statements.
A-6	Tong Heer has completed Appendix A-6, however it has not provided audited financial statements as required by question A-4.3. As a result, the Commission is unable to conduct a comparison of Tong Heer's Appendices with the audited financial statements.
B-1	The customer listed in response to B-1 do not reconcile with the importers obtained in the Australian Border Force import database which brings into question the accuracy, relevance and completeness of the information provided.
B-2	No response has been provided in relation to this question. Details of forward orders have not been provided.
B-3	No response has been provided in relation to this question.
B-8	No response has been provided in relation to this question.

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QUESTION	Issue
B-9	No response has been provided in relation to this question. No source documents in relation to two shipments provided as required by B-9.
D-1	No response has been provided in relation to this question.
D-2	No response has been provided in relation to this question.
D-3	No response has been provided in relation to this question.
D-4	The sales data in Appendix D-4 does not include customer names.
D-5	No response has been provided in relation to this question.
D-6	No response has been provided in relation to this question.
D-7	No response has been provided in relation to this question. No source documents in relation to two sales provided as required by B-9.
E-1	No response has been provided for questions E-1.7 and E-1.8.
E-2	No response has been provided in relation to this question.
E-3	No response has been provided in relation to this question.
F-2	No response has been provided in relation to this question.
G-1	No response has been provided in relation to this question.

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QUESTION	Issue
G-4	No response has been provided in relation to this question.
G-5	No response has been provided in relation to this question.
H-1	No response has been provided in relation to this question. No copies of income tax returns provided.
H-2	No response has been provided in relation to this question.
Exporter Declaration	The questionnaire response was not accompanied with a signed declaration.
Public Record version of questionnaire	No public record version of the exporter questionnaire has been provided.