



Anti-Dumping Commission
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Mr Cheng Ouyang
First Secretary
Economic & Commercial
Embassy of the People's Republic of China
15 Coronation Drive
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Dear Mr Cheng

REVIEW OF ANTI-DUMPING MEASURES – ALUMINIUM EXTRUSIONS

Thank you for the Position Paper dated 24 July 2014 presented on behalf of the Ministry of Commerce of the People's Republic of China. The Anti-Dumping Commission (the Commission) welcomes the views of the Government of China and encourages continued engagement of all interested parties to the transparent and open process to review the anti-dumping measures applying to aluminium extrusions at the request of a Chinese exporter.

The Commission notes that the Position Paper refers to Article 11.1 of the WTO Agreement on Subsidies and Countervailing Measures (SCM) and the requirement therein that a subsidy investigation be initiated only upon receipt of a written application or, if not upon an application, with sufficient evidence of the existence of a subsidy, injury and causal link.

The view expressed in the Position Paper is that the Anti-Dumping Commission has without warning commenced an investigation of 19 new subsidy programmes without a proper written application on behalf of the Australian industry. The Position Paper also states that the Commission has not invited the Government of China for consultations as required by Article 13.1 of the SCM after accepting an application under Article 11 and before initiating an investigation.

The Government of China is also concerned by the Commission's claimed disregard for its obligations under Article 22 of the SCM to provide adequate information on the subsidy practice or practices to be investigated.

The Commission notes that the review application lodged by the Chinese exporter, PanAsia Aluminium (China) Co Ltd, is not an application referred to in Article 11.1 of the SCM. Applications under Article 11.1 may only be made by or on behalf of the domestic industry and relate to the initial investigation of subsidy allegations, not the review of measures already in place. Indeed, the review of countervailing measures applying to aluminium extrusions exported from China is being conducted in accordance with the obligations established by Article 21.2 of the SCM. The

Commission notes that, pursuant to Article 21.4, the provisions of Article 12 of the SCM regarding evidence and procedure apply to this review.

The Commission does not consider that, in the circumstances, obligations arise under Articles 11 or 13 of the SCM. With respect to the obligations under Article 22 of the SCM, the Commission notes that those provisions apply to the initiation of reviews under Article 21. The Commission considers that the public notice published in *the Australian* newspaper on 12 June 2014 and ADN2014/46 comply with these obligations and demonstrate that the Commission is committed to ensuring that the review process is thorough, transparent and in full accordance with Australia's legislation and the SCM.

The Commission considers that a legitimate function of the review process is to not only determine if exports to Australia are no longer benefiting from certain subsidy programmes and remove the remedy in place for those programmes, but also to determine if exports are benefiting from varied or additional subsidy schemes. It is standard practice for the Commission to include in its review questionnaire, questions about any additional programmes that might benefit goods exported to Australia. This recognises that avenues of assistance offered to exporters can change over time while still having a detrimental impact on domestic industry of the importing country.

The Australian manufacturer of aluminium extrusions, Capral Limited, provided the Commission with information on specific programmes it claims have provided a benefit to Chinese exports of aluminium extrusions. In the Commission's view, Capral Limited provided sufficient evidence to justify these programmes being examined in the review of measures. It is now the purpose of this review to examine whether these programmes exist and whether they constitute countervailable subsidies in respect of aluminium extrusions exported to Australia.

I can assure you that the Commission has made no presumptions about the nominated schemes and seeks the assistance of Chinese exporters and the Government of China in assessing the status of these programmes and whether they meet the criteria of countervailable subsidies that can be considered as part of the review of the anti-dumping measures. I encourage the Government of China to complete the previously forwarded questionnaire so that the Commission can make its recommendations based on complete and accurate information.

Yours sincerely



Kerry Taylor
Director Operations 4
Anti-Dumping Commission

25 August 2014