

26 October 2016

Dale Seymour  
Commissioner  
Anti-Dumping Commission  
Level 35/55 Collins Street  
Melbourne VIC 3001

**By Email**

**NON-CONFIDENTIAL — FOR PUBLIC RECORD**

Dear Mr Seymour

**Exporter's response by PMAA on behalf of Press Metal Berhad regarding ADC Case No 362 Investigation into the alleged dumping and subsidisation of certain aluminium extrusions exported from Malaysia and the Socialist Republic of Vietnam**

We act for PMAA in this matter.

We refer to your deficiency advice letter on 13 October 2016 (the **Deficiencies Advice Letter**) and PMB's response to the Deficiencies Advice Letter of 19 October 2016 (the **Deficiencies Advice Response**) in respect of the application by Capral Limited (**Capral**) under s 269TB(1) of the *Customs Act 1901* (Cth) (**Customs Act**) for the publication of dumping and/or countervailing duty notices in respect of aluminium extrusions<sup>1</sup> exported to Australia from Malaysia and the Socialist Republic of Vietnam (the **Application**). We further refer to the Commissioner's Notice of a Preliminary Affirmative Determination and Imposition of Securities published on 17 October 2016 (**PAD**).

In its Deficiencies Advice Response provided on behalf of PMB, PMAA referred to further explanation it would provide to the Commission, detailing how the revised documentation provided on 19 October 2016 affects the calculation of normal value and export price. This explanation is set out in this letter.

In particular, we seek to highlight how PMB's Deficiencies Advice Response addresses the following points:

- the appropriate determination of export price;
- the appropriate determination of normal value; and
- the appropriate dumping margin.

From the outset, PMAA has fully cooperated with the Commission to provide accurate and reliable evidence which addresses the deficiencies set out in Attachment A of the Deficiencies Advice Letter. Using these revised values for the determination of export price and normal value, PMAA's view is that the actual dumping margin should be negative, meaning that no securities should be imposed on PMB's exports.

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<sup>1</sup> Classified as tariff subheadings 7604.10.00, 7604.21.00, 7604.29.00, 7608.10.00, 7608.20.00, 7610.10.00 and 7610.90.00 statistical code 26 of Schedule 3 to the *Customs Tariff Act 1995* (Cth).

## **1 Determination of Export Price**

### **1.1 Constructed value used for export price in PAD is inappropriate**

In the PAD, the Commissioner stated that as a result of identified deficiencies in PMB's exporter questionnaire responses, the Commissioner considered the responses to be unreliable for establishing export price. Consequently, the Commissioner determined PMB's export price under section 269TAB(3) of the Customs Act. For this purpose, the Commissioner used the export price in relation to PMB's exports as declared in the Australian Border Force's import database for the investigation period, calculated at free on board (**FOB**) terms.

PMAA submits that PMB's revised weighted export price, as provided in Confidential Annexure A, should be used to determine the export price under section 269TAB(1)(a). PMB's revised weighted export price is [REDACTED] [*Weighted export price*] for the Period of Investigation.

### **1.2 Revised export price is reliable**

PMAA submits that the revised export prices resolve the deficiency issues referred to by the Commission, and are accurate and reliable.

As such, PMB's revised export prices should replace the constructed value used by the Commissioner in the PAD.

## **2 Determination of Normal Value**

### **2.1 Constructed value used for normal value in PAD is inappropriate**

The Commissioner determined in the PAD that PMB's export questionnaire responses for establishing normal value were unreliable, and consequently determined PMB's normal value under s269TAC(6) of the Customs Act. The Commissioner calculated PMB's normal value to be equal to the highest weighted average normal value of other selected exporters from Malaysia.

While PMAA and PMB have not been provided with the Commissioner's constructed normal value for PMB, PMAA submits that this figure would in any case be grossly inflated, as some manufacturers that completed Exporter Questionnaires or otherwise provided responses to the Commission purchase aluminium directly from PMB. Utilising these figures for the calculation of normal value would essentially result in double-counting the actual normal value.

PMAA submits that PMB's revised normal value figures, provided in the Confidential Annexures to this letter, should be used to determine the normal value under section 269TAC(1). PMB's revised weighted normal value is therefore:

- [REDACTED] [*Normal value calculated by reference to domestic sales' prices*] (if calculated by reference to PMB's domestic sales);<sup>2</sup> or
- [REDACTED] [*Normal value calculated using constructed method*] (if calculated using the constructed method, based on the Cost to Make and Sell), for the Period of Investigation.<sup>3</sup>

### **2.2 Revised normal value is reliable**

PMAA submits that the revised normal values resolve the deficiency issues referred to by the Commission, and are accurate and reliable.

As such, PMB's revised normal value figures should replace the constructed value used by the Commissioner in the PAD. PMAA submits that as the normal values calculated by reference to

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<sup>2</sup> See Confidential Annexure A.

<sup>3</sup> See Confidential Annexure B.

PMB's domestic sales and by reference to the Cost to Make and Sell are very similar, it makes no submissions in relation to which normal value the Commission decides to adopt. Using either methodology, the revised normal value is below the revised export price.

### 3 Applicable Dumping Margin

PMAA requests that the Commissioner revise the dumping margin calculated for PMB's exports of the relevant goods during the investigation period on the basis of the revised export price and normal values provided above and at Confidential Annexures A and B. PMAA submits that these figures reflect the true export price and normal values of the relevant goods.

PMAA submits that, using the revised export price and normal value figures for the calculation of the dumping margin would result in:

- a negative dumping margin of minus 2.37% (if normal value is calculated by reference to PMB's domestic sales), or
- a negative dumping margin of minus 3.16%(if normal value is calculated using the constructed method).<sup>4</sup>

These figures clearly indicate that no dumping has occurred. To continue to impose securities while the actual export price and normal value figures indicate that PMB is not engaging in dumping would be unjust, and would inappropriately stifle competition during this investigation. PMAA therefore requests that the Commission cancel the securities imposed on PMB's exports.

PMAA would be happy to provide further information if it would assist the Commission's ongoing investigation.

Yours sincerely



**Louise Jenkins**  
Partner  
Allens  
Louise.Jenkins@allens.com.au  
T +61 3 9613 8785

**Freya Dinshaw**  
Associate  
Allens  
Freya.Dinshaw@allens.com.au  
T +61 3 9613 8295

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<sup>4</sup> This dumping margin is derived using the Commissioner's approach in the PAD, that is, by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period, in accordance with section 269TACB(2)(a).