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Page: 1/9

23 April 2018

Mr Tim King
Investigations 3
Anti-Dumping Commission
Level 35, 55 Collins Street
MELBOURNE VIC 3000

Dear Mr King,

RCR International Pty Ltd (RCR)
Investigation into the alleged dumping of certain aluminium extrusions exported to Australia from the People's Republic of China by Guangdong Jiangsheng Aluminium Co., Ltd and Guangdong Zhongya Aluminium Company Ltd; and the Kingdom of Thailand
NON CONFIDENTIAL VERSION

We refer to the above investigation and the Questionnaire submitted by G James Extrusion Co Pty Ltd (published on the Electronic Public Record on 23 March 2018).

In response to the Questionnaire we are instructed to make the following Submission.

For the purposes of this Submission all defined terms have the meaning set out in the attached Schedule of Definitions.

1 Commercial and Functional Likeness

- 1.1 The RCR Submissions stated, among other things, that the Goods are not "like goods" to the RCR Goods within the meaning set out in section 2 of the Manual as they do not bear a commercial or functional likeness to the RCR Goods.
- 1.2 As discussed in the RCR Submissions, section 2 of the Manual provides that the relevant considerations in determining the commercial and functional likeness of goods are as follows:

Commercial likeness

Commercial likeness refers to attributes identifiable from market behaviour.

- *Are the goods directly competitive in the market? e.g. do the goods compete in the same market sector? Within a market sector, are the goods similarly positioned?*

RIGBY COOKE LAWYERS

Our ref: ATH:20172476

Letter to: Mr Tim King
Anti-Dumping Commission

Your ref:

Page: 2/9

- *To what extent are participants in the supply chain willing to switch between sources of the goods and like goods? e.g. willingness of participants to switch between sources may suggest commercial interchangeability.*
- *How does price competition influence consumption? e.g. close price competition may indicate product differentiation is not recognised by the market.*
- *Are the distribution channels the same? How similar is the packaging used? Does different packaging reveal significant differences in the goods, or highlight different market sectors?*

Functional likeness

Functional likeness refers to end-use. End-use will not of itself establish like goods, but may provide support to the assessment of physical and commercial likeness.

- *Do the goods have the same end use? To what extent are the two products functionally substitutable? e.g. both a shovel and an earthmoving machine can move earth.*
- *To what extent are the goods capable of performing the same, or similar functions? e.g. an earthmoving machine is capable of moving earth more rapidly than a shovel.*
- *Do the goods have differential quality? Quality claims can be subjective. Objective evidence has higher probative value e.g. by standards, or the extent consumers are willing to use the goods to perform the required functions.*
- *Is consumer preference likely to change in the future? Consider consumer behaviour in other markets/ countries?*

1.3 The RCR Goods do not compete directly with the G James Goods and are not in the same market sector as the G James Goods. The RCR Goods are targeted at the DIY and DIFM markets and are supplied to retail customers through hardware retailers such as [REDACTED] [hardware store retailers] and others.

1.4 G James has listed, at A-4 of the Questionnaire, the industries and customer channels relevant to the G James Goods. G James has specified the following industries and customer channels in the Questionnaire:

RIGBY COOKE LAWYERS

Our ref: ATH:20172476

Letter to: Mr Tim King
Anti-Dumping Commission

Your ref:

Page:

3/9

Industry	Customer Channel
Transport	Light road transport
Construction – commercial	Heavy road transport
Construction – residential	Rail transport
Construction – Housing	Marine transport
Manufacturing	Air transport
Mining & Energy	Furniture
Agriculture	Hospitality
Government	Industrial
Education	Civil
Distributors	Architectural
General/other	Machinery/Plant/Equipment
	Operations
	Public Utilities
	Federal Government
	State Government
	Local Government
	Tertiary Education
	Secondary Education
	Primary Education
	Distributors/Resellers/Systems
	Glaziers – Replacements
	Glaziers – Shopfronts
	Glaziers – Facades
	Glaziers – Windows and Doors

RIGBY COOKE LAWYERS

Our ref: ATH:20172476

Letter to: Mr Tim King
Anti-Dumping Commission

Your ref:

Page: 4/9

Industry	Customer Channel
	Shower screen manufacturer/installer Balustrades/Pool Fencing Fabricators – Aluminium Windows Fabricators – PVC windows Fabricators – Timber windows Architect Builder – Multi Residential Builder – Single Dwelling Builder – Renovation Maintenance Interior Designer Owner/Builder Internal fit outs Shopfronts Internal Partitioning Glass Merchants Graphics Windscreen Manufacturer/Installer Signage Manufacturer/Installer Other

- 1.8 The above list of customer channels are not customer channels in which RCR operates. They are generally large commercial and industry customer channels which, given their nature and the industries in which those customers operate, are likely to require custom cut and finished goods which are manufactured to exacting specifications for use in specific projects and for custom end uses.
- 1.9 Further, “general/other” and “other” are non-specific, catch-all categories which do not provide insight into G James’ customer channels. Based on the customer channels listed in the Questionnaire we submit that the “general/other” and “other” categories

RIGBY COOKE LAWYERS

Our ref: ATH:20172476

Letter to: Mr Tim King
Anti-Dumping Commission

Your ref:

Page: 5/9

should not be interpreted broadly as including all consumers of aluminium extrusions and should instead be interpreted based on G James' actual customer base.

- 1.10 As discussed above and in the RCR Submissions, RCR does not supply to large industry or commercial customers. RCR's target markets are DIY and DIFM retail customers who source the RCR Goods from hardware retailers such as [redacted] [hardware store retailer], among others.
- 1.11 The RCR Goods are standard generic profiles intended to be used in "handyman" at-home projects. As set out in the RCR Submissions the RCR Goods are not customised to an end use and are not suitable for use in commercial projects.
- 1.12 G James in its Questionnaire, does not identify a customer channel or market in which it operates which coincides with RCR's target market. Further, the RCR Goods are not suitable for custom end uses which are likely to be required in the above customer channels. Accordingly, we submit that the G James Goods cannot be found to bear a commercial or functional likeness to the RCR Goods and so cannot be considered "like goods".

2 Response from the Australian Industry

- 2.1 We have observed that there has been little engagement from the Australian industry and Australian producers of the Goods in the Investigation. We submit that the lack of engagement indicates generally that there is little concern in the Australian industry in relation to dumping of the Goods. This lack of concern suggests that it is unlikely that material injury is in fact being suffered by the Australian industry as a whole.
- 2.2 Submissions and questionnaires to the Investigation have not been submitted by members of the Australian industry other than those submitted by Capral and G James. Submissions and questionnaires have however been received from a number of Thai and Chinese exporters and Australian importers. It does not appear that members of the Australian industry, other than Capral, consider there to be a dumping issue in relation to the Goods or that material injury is being suffered by them. This supports RCR's position that the data provided by Capral to the Investigation may not accurately reflect or represent the Australian industry (as stated in the RCR Submissions and the Darley Submissions).
- 2.3 The Darley Submissions state:

"...the Commission is reminded that Capral is not the sole member of the Australian industry. There are at least eight other producers, including two who have not expressed support for Capral's application.

...

The point is, when it comes to any price-based injury or issues concerning return on investment, neither Capral nor the Australian industry as a whole can claim that they are affected only by imported goods."

RIGBY COOKE LAWYERS

Our ref: ATH:20172476

Letter to: Mr Tim King
Anti-Dumping Commission

Your ref:

Page: 6/9

- 2.4 Competition in the Australian industry is strong and is clearly a contributing factor to any purported injury Capral claims is occurring. We submit that the lack of engagement by the Australian industry with the Investigation supports this position and the position that the Australian industry does not appear to consider that there are issues in relation to the alleged dumping of the Goods.

3 Conclusions

G James Questionnaire

- 3.1 The Questionnaire provides a list of industries and customer channels to which G James supplies. The customer channels in no way overlap with the customer channels to which RCR supplies. RCR's target market is DIY and DIFM customers supplied through hardware retailers such as [REDACTED] [hardware store retailer]. The RCR Goods are not suitable for use in large commercial projects and are not customised to specific projects. The customer channels identified by G James demonstrate that the Goods are generally intended for use in large commercial projects which are likely to require the Goods to be customised. Accordingly, we submit that the Goods bear no commercial or functional likeness to the RCR Goods and cannot be considered "like goods".

Australian Industry

- 3.2 We have observed that the Australian industry, with the exception of Capral and G James have not actively engaged with the Investigation. We submit that this indicates that the Australian industry does not hold significant concerns in relation to dumping of the Goods.
- 3.3 Competition in the Australian industry is strong. Any effect on the pricing of the Goods in Australia is not driven solely by imports. We submit that the lack of engagement by the Australian industry indicates that the Australian industry is not concerned with the alleged dumping of the Goods and that it does not consider that it is suffering material injury.

We request that the ADC considers the strength of competition in the Australian market in determining if material injury is occurring. Further, we reiterate our submission that, if measures are imposed, an exemption should be granted for the RCR Goods as the RCR Goods are not "like goods" and are not directly competitive with the Goods.

RIGBY COOKE LAWYERS

Our ref: ATH:20172476

Letter to: Mr Tim King
Anti-Dumping Commission

Your ref:

Page: 7/9

Our client looks forward to continuing to assist the ADC throughout the Investigation and we would welcome the opportunity to discuss any issues raised in this Submission further at the ADC's request.

Yours faithfully

A handwritten signature in black ink, consisting of a stylized 'A' followed by a horizontal line.

Andrew Hudson
Partner

RIGBY COOKE LAWYERS

Our ref: ATH:20172476

Letter to: Mr Tim King
Anti-Dumping Commission

Your ref:

Page:

8/9

Schedule of Definitions

- (a) "**Act**" means the *Customs Act 1901* (Cth);
- (b) "**ADC**" means the Anti-Dumping Commission;
- (c) "**Application**" means the application made by Capral for the publication of dumping and/or countervailing duty notices - Aluminium Extrusions exported by Guangdong Jiangsheng Aluminium CO. Ltd, Zhongya Aluminium Co. Ltd of PR China, and all exporters from Thailand dated 29 August 2017;
- (d) [REDACTED] [hardware store retailer];
- (e) "**Capral**" means Capral Limited;
- (f) "**Consideration Report**" means the Consideration Report number 442;
- (g) "**Darley**" means Darley Aluminium;
- (h) "**Darley Submission**" means the submissions made by Darley to the Investigation dated 19 December 2018;
- (i) "**DIY**" means do-it-yourself;
- (j) "**DIFM**" means do-it-for-me;
- (k) "**EPR**" means Electronic Public Record;
- (l) "**Goods**" means the goods the subject of the Application, more particularly described in the Consideration Report as follows: