

2 May 2018

Mr Tim King
Investigations 3
Anti-Dumping Commission
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Public File

Dear Mr King

Investigation No. 442 – Aluminium Extrusions exported from P R China and Thailand – Threat of future material injury that is foreseeable and imminent

I. Recent changes in aluminium trade

Capral Limited (“Capral”) is the applicant company in Investigation No. 442 concerning exports to Australia by Guangdong Jiangsheng Aluminium Co., Ltd (“Jiangsheng”) and Gunagdong Zhongya Aluminium Co., Ltd (“Zhongya”), and from all exporters in Thailand.

Capral submits that it is relevant in the context of the current trading environment involving the imposition of tariff barriers by the United States (U.S.) on aluminium exports from China and, the ban on exports of raw material aluminium from Russia to the U.S., that the Anti-Dumping Commission (“the Commission”) consider the subsequent trade flows likely to emerge in the aftermath of the U.S. actions, including the possible increase in exports from China to Australia by Jiangsheng and Zhongya.

II. Anti-Dumping Agreement

Article 3.7 of the WTO Anti-Dumping Agreement addresses a determination that is based upon a “threat” of material injury. Article 3.7 states:

“A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent¹. In making a determination regarding the existence of a threat of material injury, the authorities should consider, inter alia, such factors as:

- (i) *A significant rate of increase of dumped imports into the domestic market indicating the likelihood of substantially increased importation;*
- (ii) *Sufficient freely, disposable or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to the*

¹ One example, though not an exclusive one, is that there is convincing reason to believe that there will be, in the near future, substantially increased importation of the product at dumped prices.

importing Member's market, taking into account the availability of other export markets to absorb any additional exports;

- (iii) *Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and*
- (iv) *Inventories of the product being investigated.*

None of the factors by itself can necessarily give decisive guidance but the totality of the factors considered must lead to the conclusion that further dumped exports are imminent and that, unless protective action is taken, material injury would occur."

It is also noted in Article 3.8 that "*With respect to cases where injury is threatened by dumped imports, the application of anti-dumping measures shall be considered and decided with special care.*"

A threat of material injury determination, therefore, must be based upon supporting facts that demonstrate that there is a likelihood of an increase in dumped exports in the immediate future.

III. Australian anti-dumping provisions

Section 269TAE of Part XVB contains the "Material injury to industry" provisions. Subsection 269TAE(1) details the indicators that the Minister will have regard to in determining whether material injury has been caused, *threatened* or has hindered an industry. Similarly, the material injury provisions in subsections 269TAE(2), (2A), (2B) and (3) require the Minister to also consider whether material injury is *threatened* to an industry (including in a third country).

Australia's legislative provisions, therefore, do have regard to circumstances where material injury is threatened to an Australian industry.

Capral does consider that it has experienced and, continues to experience, injury from exports of aluminium extrusions from Thailand. However, Capral does not envisage that future exports of aluminium extrusions from Thailand will likely increase at a "significant rate" in the foreseeable future (as Thai volumes have only emerged in the last two-year period), nor is it Capral's understanding that Thai exporters have inventories of the goods for supply to Australia that would likely lead to a view that increased volumes from Thailand are *foreseeable and imminent*.

IV. Future Chinese exports to Australia

Capral has observed an increase in Chinese exports to Australia in recent months. In particular, imports in November 2017 and January 2018 were at the highest monthly levels since measures were imposed in 2010. In both months, imports from China exceeded 5,000 tonnes per month (as classified within headings 7604 and 7608, but not including further value-add goods under 7610) – a sharp increase on the approximate recent 3,000 tonnes average per month over the last three-year period. The import trend for aluminium extrusions the subject of anti-dumping measures from all major source countries is reflected in Figure 1 below.

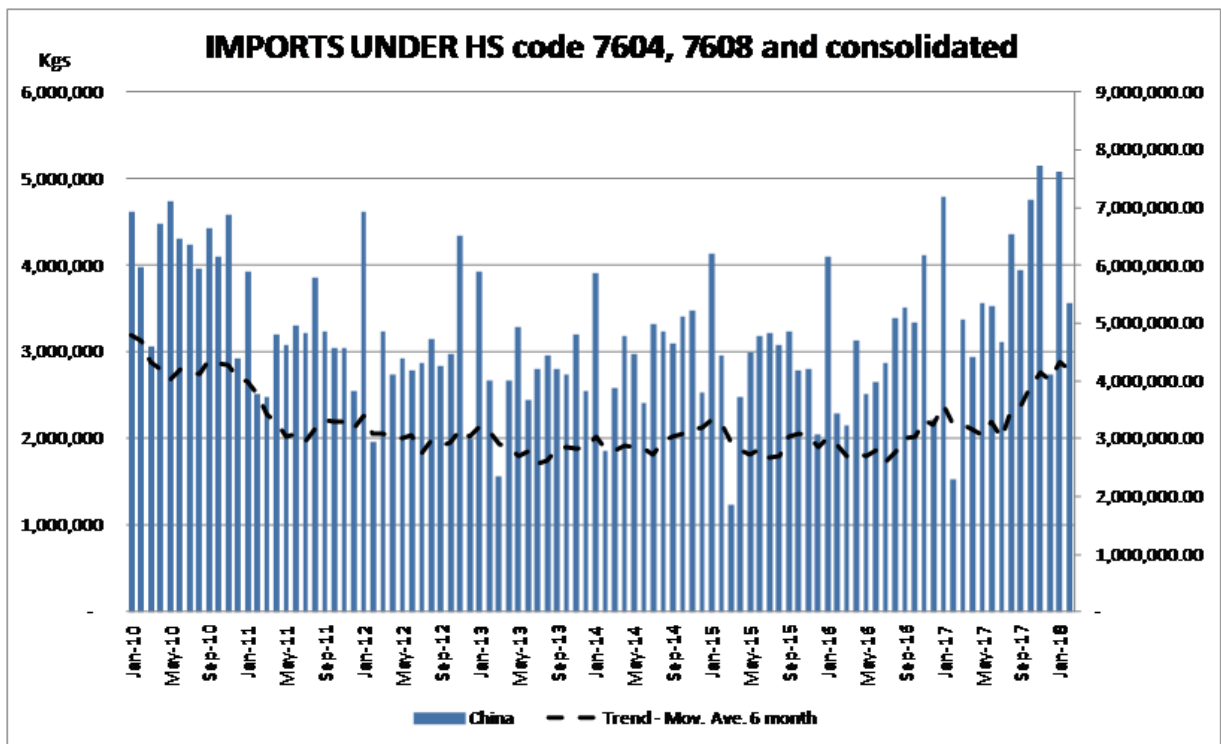
A further concern to Capral is that the Chinese exporters Jiangsheng and Zhongya are understood to account for approximately half of all exports of the goods to Australia from China. A rapid rise in exports from China is considered to reflect:

- Variable factors on Chinese exporters the subject of measures that are less than adequate to address dumping and material injury; and/or
- Increased export volumes from the two exporters – Jiangsheng and Zhongya – that do not attract anti-dumping measures and are free to undercut Chinese exporters the subject of anti-dumping measures.

Jiangsheng operates 19 presses with an estimated combined annual capacity of 80,000 tonnes. Zhongya operates a range of extrusion lines with a combined annual capacity of 150,000 tonnes. Both Chinese producers are large scale extruders and are subject to measures applied in the United States (“U.S.”). Zhongya was identified by US authorities as a ‘selected respondent’ and participated in anti-dumping and countervailing investigations. Given that the exporters are already the subject of measures in the U.S., and that the U.S. Administration is seeking to impose a further 10 per cent broad tariff on Chinese exports of aluminium products, Jiangsheng and Zhongya will seek out attractive export destinations with zero (or minimal) barriers to access.

As long-term suppliers into the Australian market, Jiangsheng and Zhongya have well-developed distribution channels, a regular customer base, and are not inhibited by anti-dumping measures when selling to customers in Australia. Both producers have excess capacity that can be diverted to export supply to Australia, from which they can grow the customer base in Australia. With significant production capacities that will become increasingly under-utilised due to further U.S. measures, Jiangsheng and Zhongya pose a very real, foreseeable and imminent threat with future exports at dumped prices that will materially injure the Australian aluminium extrusion industry.

Figure 1 – Aluminium extrusion imports into Australia – Jan 2014 to February 2018



Source: TradeData International statistics.

Capral views the increase in Chinese exports as indicative that exporters are capitalising on variable factors (upon which dumping measures are determined) that do not reflect contemporary prices for traded aluminium extrusions. For example, raw material aluminium (as reflected in traded London Metals Exchange (LME) prices) has increased by approximately 24 per cent following the end of the 2016 investigation period for the last review of measures inquiry applicable to China (Review Investigation No. 392). The upsurge in Chinese exports to Australia reflects this disparity and affords Chinese exporters the opportunity to sell into Australia at prices that are dumped and injurious, and priced below the local Australian industry that is bearing the full cost of the recent 24 per cent raw material input price increases.

It remains Capral’s view that both Jiangsheng and Zhongya have been able to maintain a combined approximate half share of the total Chinese export volume to Australia in recent years as both companies

are able to undercut the selling prices of other Chinese exporters the subject of the measures. Both exporters prices are considered to be at dumped and injurious prices.

Investigation 442 was commenced on 19 October 2017. The investigation thus far has exceeded six-months in the lead up to the Statement of Essential Facts ("SEF") – now due on 9 June 2018. Capral is seeking the Commission to urgently apply provisional measures on exports by Jiangsheng and Zhongya, to address dumping and material injury that has occurred in the current investigation period. Capral is also seeking the Commission to recognise that in the absence of any measures, Jiangsheng and Zhongya retain significant production capacity to further raise export volumes to Australia and represent a future threat of material injury (that is foreseeable and imminent) as both exporters have exported at dumped prices (based upon full cost recovery of aluminium at market based prices and normal values determined under subsection 269TAC(2)(c)) resulting in injury that is material to the Australian industry.

V. Conclusions on threat of material injury

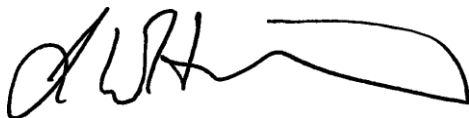
Future exports of aluminium extrusions to Australia by the Chinese exporters Jiangsheng and Zhongya pose a threat of future material injury to the Australian industry that is both foreseeable and imminent as:

- Jiangsheng and Zhongya have recently increased exports to Australia of the goods;
- Both Jiangsheng and Zhongya have excess production capacity to further increase export volumes to Australia;
- Jiangsheng and Zhongya have well-established distribution links into the Australian market to continue to supply customers in increased volumes;
- Recent exports by Jiangsheng and Zhongya (in the current investigation period) have been at dumped prices; and
- Recent import volumes from China indicate that the exporters are likely to have built inventories (both in China and in Australia at importers Alspec, Darley and Abra).

On this basis, future exports of aluminium extrusions to Australia by Jiangsheng and Zhongya pose a foreseeable and imminent threat of material injury to the Australian industry. Capral therefore is urgently seeking the publication of a preliminary affirmative determination and the imposition of provisional measures to prevent any further material injury to the Australian industry.

If you have any questions concerning this submission, please do not hesitate to contact me on (02) 8222 0113 or Capral's representative Mr John O'Connor on (07) 3342 1921.

Yours sincerely



Luke Hawkins
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