

11 September 2018

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Public File

Dear Mr Mantynen

Investigation No. 447 – Circumvention inquiry - Aluminium extrusions – Statement of Essential Facts

I. Introduction

I refer to Statement of Essential Facts No. 447 (“SEF 447”) published by the Anti-Dumping Commission on 22 August 2018. Capral Limited (“Capral”) welcomes the preliminary findings of the Anti-Dumping Commission (“the Commission”) that “circumvention activities as described in subsection 269ZDBB(4) of the *Customs Act 1901* (the Act) have occurred”.

Specifically, the Commission has established:

- Exports of aluminium extrusions by Zinaco Industrial and Hardware Industries Ltd (“Zinaco”) originated in China and were exported through Malaysia to avoid anti-dumping measures;
- Exports of aluminium extrusions by Yun Sin Enterprise Co., Ltd (“Yun Sin”) originated in China and were exported through Taiwan to avoid anti-dumping measures;
- Exports of aluminium extrusions by the following exporters originated in China and were exported through the Kingdom of Thailand (“Thailand”) to avoid anti-dumping measures:
 - Bay Enterprise Co., Ltd (“Bay Enterprise”);
 - Siam Industrial Supplies Ltd (“Siam Industrial Supplies”); and
 - V-Power Biotech Limited Partnership (“V-Power Biotech”).

Capral supports the Commission’s proposed recommendations to extend the measures applied under the original notice published under subsection 269ZDBH(1) to the identified exporters in the nominated countries. Capral also considers it appropriate that the Commission examine available remedies to monitor exports to Australia by China from the Chinese producer of goods to minimize further circumvention opportunities for the goods to Australia.

II. Freight Forwarders and Logistics suppliers

Capral understands that the Commission has encountered entities that are freight forwarders and logistics suppliers that “provide services such as arranging transport, arranging containerisation and repackaging as well as obtaining documentation against which import declarations are made” and may also be facilitating anti-circumvention activities. As a member of the Australian industry that has applied for measures that has resulted in the imposition of the interim dumping and countervailing duties against certain exports of the goods from China, Capral anticipates that the Commission – along with the Australian Border Force (“ABF”) – would monitor and ensure compliance with the measures imposed.

The findings in SEF 447 confirm that the measures have been circumvented (as evidenced in Capral’s application) and that the circumvention activities are not isolated.

Capral queries what recommendations and/or proposals the Commission can make to other government agencies to ensure the measures imposed by the Minister are actively enforced and not circumvented. Additionally, Capral anticipates that the Commission will increase its liaison activities with ABF to limit future circumvention activity.

III. Foshan ZP Aluminium

Capral notes that an Australian importer questionnaire identified a Chinese exporter of the goods as a supplier of goods that were sourced from Malaysia. The Chinese producer was Foshan ZP Aluminium who supplied the goods to the Malaysian exporter, Zinaco.

Capral considers that where the Chinese producer of the goods is known to be the supplier of circumvention goods, the Commission should recommend that the original notice be altered to extend to exports from the transhipped country as supplied by the Chinese producer (i.e. also nominate the Chinese exporter as an exporter in Malaysia).

Capral further queries whether the Commission has recommended to the ABF that automatic penalties for the short-payment of duties applies to any circumvention goods.

IV. Press Metal Group

Section 4.5 of SEF 447 details the Commission’s responses to assertions by Capral that exports of the goods manufactured by Press Metal International (“PMI”) had been exported to Australia and circumvented applicable measures.

Capral had provided the Commission with independent information supporting its claims.

The Commission’s findings (as reflected in the verification visit reports relating to visits with PMI, Press Metal Berhad (“PMB”) of Malaysia, and Press Metal Aluminium Australia (“PMAA”) were:

- *No evidence related to packaging or labelling that indicated that goods were exported from China to Australia through Malaysia;*
- *No packages of aluminium extrusions for export to Australia, either directly from China or through a third country;*
- *No material discrepancies in PMB’s, PMI’s or PMAA’s records related to sales, purchases, stock and production of billet or aluminium extrusions;*
- *No documentary evidence of aluminium extrusions being exported to Australia from China through Malaysia or other third countries; and*
- *No physical or other evidence of aluminium extrusions being exported to Australia from China through Malaysia or other third countries.*

On this basis – or in the absence of any evidence to the contrary – led the Commission to conclude that PMI, PMB and PMAA were not involved in any circumvention activities relating to the export of the goods to Australia. Capral, however, is concerned that the information provided by it to the Commission was creditable and reliable and, following investigation, has been dismissed. Capral does not consider that

the source(s) of information and the reliability of the information can be ignored by the Commission as not having occurred.

V. Foshan Sanshui Yonga Aluminium Co., Ltd

Capral acknowledges the Commission's inquiries following representations dated 6 June, 8 June and 31 July concerning allegations that exports to Australia by Foshan Sanshui Yonga Aluminium Co., Ltd ("Yonga") may be involved in the circumvention of measures.

Capral welcomes the Commission's undertaking to investigate the evidence provided by Capral in relation to attempts by the Chinese exporter Yonga to engage parties to facilitate circumvention activities associated with the goods exported to Australia.

Capral is concerned that Yonga is actively seeking to circumvent measures. Capral supports the Commission's commitment to "*continue to analyse the activities of Yonga in the course of this inquiry*".

VI. Proposed extension of measures

Capral considers that the Commission's proposed recommendation to alter the original notices to extend the measures to exports of the goods from:

- Malaysia by Zinaco;
- Taiwan by Yun Sin; and
- Thailand by Bay Enterprise, Siam Industrial Supplies and V-Power Biotech,

are warranted to address the circumvention activities that have been established as having occurred during the investigation. Additionally, however, Capral encourages the Commission to consider recommending to the Minister that the notices be altered to include the name of the Chinese exporter of the circumvented goods in the country of transshipment (i.e. whether Malaysia, Taiwan or Thailand, as appropriate) to ensure that the original goods manufactured in China attract the measures as intended.

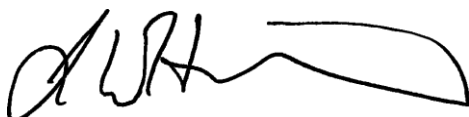
VII. Recommendations

Capral welcomes the Commission's preliminary findings as detailed in SEF 447. The available evidence confirms that circumvention activities have occurred and that these activities are not isolated. Capral supports the Commission's proposed recommendations to the Minister to alter the notices to extend the measures to the circumvention countries including Malaysia, Taiwan and Thailand by the identified exporters.

Capral also recommends that the notices be altered to include the name of the Chinese supplier of the goods so that the measures extend to all exporters in the transshipment country of that Chinese producer's goods.

If you have any questions concerning the attached, please let me know. I can be contacted on (02) 8222 0113 or you may contact Capral's representative Mr John O'Connor on (07) 3342 1921.

Yours sincerely



Luke Hawkins
General Manager – Supply and Industrial Solutions