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Director Operations 3
Anti-Dumping Commission
GPO Box 1632
Melbourne VIC 3001

Investigation into alleged dumping of aluminium extrusion exported from Vietnam

Dear Director,

This submission is made on behalf of East Asia Aluminium (EAA) in response to the preliminary findings contained in the EAA verification report.

Due allowance – Volume based discounts

During the verification visit, EAA submitted its claim for a downward adjustment to normal values to address the impact on prices by the relative monthly volumes purchased by the respective domestic and export customers. Evidence provided to the verification team demonstrates that irrespective of whether sales are made on the domestic or export market, purchased monthly volumes have a direct impact on the final net price as EAA provides its customers with [redacted] **[terms of sale]**. That is, the [redacted] [**[terms of sale]**. This is supported by the evidence submitted and not disputed by the verification team.

The submitted evidence also shows that during the investigation period, EAA's largest export customer [redacted], consistently purchased monthly volumes in excess of [redacted] metric tons to derive the [redacted] **[terms of sale]**. By contrast, the domestic distributor customers averaged monthly purchases of between [redacted] - [redacted] metric tons which triggered the [redacted] **[terms of sale]**. These are also supported by the evidence submitted and cannot be disputed by the verification team.

In addition, as highlighted in EAA's questionnaire response and demonstrated through the evidence presented at the verification visit, [redacted] **[terms of sale]**. For example, the largest domestic end-user, [redacted] was the only end-user customer to [redacted] **[terms of sale]**.

In considering EAA's claim for due allowance relating to volume discounts, the verification team's rejection of any such adjustment appears to be based on its understanding that EAA had argued that the adjustment should be '*the weighted average percentage difference between the* *two prices over the investigation period should be the amount applied as the adjustment.'* This is not correct and not EAA's position on the proper approach for adjusting domestic sales.

EAA had referenced its largest domestic and export customers by way of example to highlight the difference in the discount structures offered into each market. The comparison of EAA's weighted average prices to these two customers was simply to demonstrate the effect of the quantity discount structures on the basis of the actual monthly volumes purchased, and not a calculation of the level of adjustment that ought to be applied to all domestic sales, irrespective of the customer's monthly purchased volumes or its agreed discount structure.

EAA agrees with the verification team's view that this absolute approach would be '*akin to an assessment of dumping as opposed to an adjustment claim*', and reiterates that this was not the view being presented to the Commission. EAA was simply using volumes sold to its largest domestic and export customers to demonstrate that '*the quantity sold has an effect on price comparability*' and substantiate '*that a price differential arises from a difference in quantities*'.

However, EAA disagrees with the verification team's understanding and interpretation of the guidance outlined in the Commission's Dumping and Subsidy Manual. The verification team's rejection of EAA's adjustment claim appears to rest on its view that *'[i]t is clear from the Manual that any quantity discount adjustment is to be considered from an assessment of domestic sales, and in particular, similar volumes of discounted domestic sales to the volumes of export sales.'*.

This is plainly mistaken as the Dumping and Subsidy Manual makes clear *'[w]here the export sales volume is greater than the quantities sold on the exporter's domestic market an exporter may consider an adjustment is required to permit a fair comparison between the domestic and the export prices.'*. This is further supported by the finding of the Appellate Body in *US — Hot-Rolled Steel*[1], which found that any differences affecting price comparability cannot be excluded:

> Article 2.4 of the Anti-Dumping Agreement provides that, where there are 'differences' between export price and normal value, which affect the 'comparability' of these prices, '[d]ue allowance shall be made' for those differences. The text of that provision gives certain examples of factors which may affect the comparability of prices: 'differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences'. However, Article 2.4 expressly requires that 'allowances' be made for 'any other differences which are also demonstrated to affect price comparability.' (emphasis added) There are, therefore, no differences 'affect[ing] price comparability' which are precluded, as such, from being the object of an 'allowance'. [emphasis added]

The Manual then outlines two alternative approaches to determining a normal value in such circumstances and a third broad approach based on supported evidence.

The first of these specific methods is to base normal values only on those domestic sales of like goods receiving the quantity discount with '*similar volumes as the export sales volume to Australia*'. In this scenario, there is no need to make a discrete adjustment to domestic sales of like goods as the normal value is to be based on those domestic sales with similar volumes to export and as such no difference exists which gives rise to price comparability being affected. This method is akin to the Commission's common practice of determining normal values on domestic sales of the same level of trade as the export sales, instead of having to adjust all of

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the domestic sales where a different level of trade existed. Importantly, this approach does not mandate that an adjustment for quantity discounts can only be made where similar volumes exist between domestic and export sales, as the verification team appears to have understood.

As demonstrated by the evidence submitted by EAA in its exporter questionnaire and at the verification visit, this method is not applicable as the monthly volumes for domestic customers is very small compared to the large monthly volumes purchased by EAA's main export customer.

The second specific approach allows for normal values to be determined on the basis of quantity discounts given to sales of the same general category of goods. As EAA only produces and sell aluminium extrusions, this approach is not applicable.

The third approach allows for any other reasonable method '*substantiated by evidence of the effect on price*'. EAA contends that the evidence submitted to the Commission clearly demonstrates the effect on prices as a result of purchased monthly volumes. This stems from agreed monthly volume targets between EAA and its domestic customers, which automatically trigger discounts in the net unit prices. The agreed monthly volumes and unit price discounts for domestic and export distributors are outlined in the tables below:

Domestic Distributor Discount rate: Party B shall be entitled discount rate in the event that Party B accomplishes the consumption target as follow:

No.	Consumption	Discount rate
1	Reaching [redacted] tons	[redacted] VND/Kg
2	Reaching [redacted] tons	[redacted] VND/Kg
3	Reaching [redacted] tons	[redacted] VND/Kg
4	Reaching [redacted] tons	[redacted] VND/Kg

Export Distributor Discount rate: Party B shall be entitled discount rate in the event that Party B accomplishes the consumption target as follow:

No.	Consumption	Discount rate
1	[redacted] tons	[redacted] USD/T
2	[redacted] tons	[redacted] USD/T
3	[redacted] tons	[redacted] USD/T
4	[redacted] tons	[redacted] USD/T

These consumption targets and unit price discounts have been verified by the Commission through to source documents and proof of payment. Therefore, there can be no disputing that the monthly purchased volumes directly affect the net unit selling prices. The only issue then for discussion is the appropriate approach to making due allowance to domestic sales to ensure proper price comparability.

Given that monthly export sales exceeded the largest consumption target in each month of the investigation period and thereby achieving the maximum applicable discount, EAA submits that all domestic sales should be adjusted downwards by the difference between their applicable maximum discount on domestic sales and the actual discount applied to existing domestic customers. This downward adjustment would reflect that had EAA's export customer [redacted] purchased domestically in Vietnam, they would have received the maximum applicable discount.

Therefore, as none of the domestic distributor customers attained monthly purchased volumes of [redacted] tons, the downward adjustment to those domestic selling prices should be calculated as:

[redacted] **VND/kg** = [redacted] VD/kg – [redacted] VND/kg

Similar adjustment is required to be made to end-user domestic sales by comparing the maximum discount allowed with the actual discount received.

This method of adjustment ensures that the impact of the quantity differences affecting the comparison of normal values and export prices are removed.

Conclusion

Therefore, EAA contends that the evidence presented to the Commission clearly demonstrates that quantity discounts offered to domestic and export customer had a direct effect on net selling prices. The evidence also confirms that EAA's export customer consistently achieved the highest monthly consumption target and as a result received the maximum applicable quantity discount. By contrast, domestic customers never achieved the highest monthly consumption targets and as such received the lowest applicable quantity discounts.

In these circumstances, the Commission is compelled to adjust the normal values to ensure proper comparison with the corresponding export prices. Upon making the required adjustment to normal values, EAA has estimated that its dumping margin ought to be revised downwards to [redacted]%.

Yours sincerely

John Bracic