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22 June 2015

Ms K Taylor
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Anti-Dumping Commission
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Victoria 3000

By email

Dear Kerry

Guangdong Jinxiecheng Aluminium Manufacturing Co., Ltd
Dumping and countervailing margin

We have been instructed to contact you on behalf of Guangdong Jinxiecheng Aluminium Manufacturing Co., Ltd ("GDJ").

The purpose of this letter is to respectfully but firmly request the Commission to ascertain individual variable factors in respect of GDJ's exports, in the special circumstances applicable to GDJ.

GDJ was disappointed to find that it had been classified as a residual exporter in Statement of Essential Facts No. 248 ("SEF 248"). There was no indication prior to the publication of SEF 248 that the Commission would disregard the information provided by residual exporters.

SEF 248 states that the circumstances of the case meant that the Commission was not able to calculate individual variable factors for the each of the residual exporters in this review. Nonetheless, GDJ believes that it is in a very different position to other residual exporters:

- six months prior to the initiation of the review, the Commissioner completed an accelerated review for GDJ;
- in that accelerated review, the Commission conducted a comprehensive on-site verification of GDJ's information, and concluded that GDJ had both a 0% dumping margin and a 0% subsidy margin;
- on this basis, GDJ had its own variable factors before this review was initiated;
- as we point out below, GDJ's information is easily susceptible to analysis and to the determination of new variable factors;
- because of the easy susceptibility of analysis of GDJ's information and the Commission's previously expressed satisfaction with GDJ's information, time cannot be considered to be an impediment for the purposes of assessing GDJ's variable factors in the same way as it may be considered to be an impediment in the case of information submitted by other exporters.

In the specific circumstances unique to GDJ, we respectfully submit that the Commission should calculate individual variable factors on the basis of the information submitted by GDJ in its exporter questionnaire, and on the findings made by the Commission in *Report Number 214 – Accelerated Review of Anti-Dumping Measures – Aluminium Extrusions Exported by Guangdong Jinxiecheng Al Manufacturing Co Ltd from the People's Republic of China* ("Report 214").

In the context of GDJ's existing position, and its full cooperation with the Commission, the decision to include GDJ as a "residual exporter" with a dumping margin of 16% and a subsidy margin of 10.2% is considered to be a very harsh one. GDJ sincerely asks for the Commission's reconsideration. GDJ is aware of the time limits faced by the Commission in doing this. However:

- GDJ's export volumes are small;
- the Commission is already familiar with GDJ's information;
- the working out of GDJ's variable factors will not take much time at all.

In relation to the last point, we were instructed by GDJ last Wednesday – two working days ago - and we have already prepared a model for you to easily work out the variable factors, and we would now like to explain it to you.

A Review of anti-dumping measures

On the basis of the information submitted by GDJ, we have constructed a model for calculating the variable factors and dumping margin for GDJ. Please refer to the attached file entitled "*Dumping Margin Calculation*".

As per the Commission's findings in SEF 248, the GDJ has calculated the dumping margin on the following basis:

OCOT Test	By comparing the applicable CTMS for each model for each quarter of the period of review with the relevant domestic sales
Normal Value	In accordance with the Commission's "particular market situation" finding under Section 269TAC(2)(a)(ii) GDJ has constructed the normal values by adding the profit on sales that passed the OCOT test **[CONFIDENTIAL TEXT DELETED – volume of sales that passed OCOT test]** to the CTMS applicable to each model for each quarter of the period of review.[1]
Export Prices	GDJ has based its export prices on its VAT exclusive import prices.[2]
Adjustments	GDJ has adjusted the normal value for domestic credit
Dumping Margin	Using a comparison of the weighted average export price with the weighted average normal value, as per the methodology in Section 269TACB(2)(a) selected by the Commission for the selected exporters the result is a no-dumping margin of **[CONFIDENTIAL TEXT DELETED**

[1] **[CONFIDENTIAL TEXT DELETED – comment regarding comparability of export and domestic sales].**

[2] **[CONFIDENTIAL TEXT DELETED – comment about relevant export expenses]**

	- percent]

The difference between the no-dumping margin of [CONFIDENTIAL TEXT DELETED - percent] and the residual exporters dumping margin of 16% is stark. GDJ's normal value would have to be [CONFIDENTIAL TEXT DELETED - percent] higher in order for such a dumping margin to be achieved on its own numbers.

While GDJ does not accept that the price it pays for aluminium ingot is not a competitive market cost, it does not realistically consider it likely that the Commission will reverse its finding in relation to such a complex matter at this late time in the investigation. The Commission has not revealed to residual exporters the benchmark "market" values for aluminium ingot that will be used, so GDJ has been unable to compare its own weighted-average quarterly price for aluminium ingot to those benchmark values, and therefore cannot confirm whether any "uplift" would be required, in accordance with the Commission's methodology, before the normal value is ascertained.

However, in the file entitled *Dumping Margin Calculation* at the tab "*Summary*" there is a column entitled "*Aluminium ingot benchmark*". If the Commission enters the per kg benchmark for each quarter, the next column will calculate any uplift required. This uplift will automatically feed-in to the CTMS at the tabs "*CTMS –Mill finished*", "*CTMS – Anode Oxidation*", "*CTMS – electrophoresis*" and "*CTMS - Powder Coating"* to create an "Adjusted CTMS". The Adjusted CTMS connects to column AL ("*CTMS per KG*") of the tab entitled "*Margin Calculation*" and is the basis for the normal value used to calculate the margin. Essentially, if an uplift is deemed necessary, it will feed into the model, and update the dumping margin.[3]

Put simply, all that the Commission is required to do in order to give GDJ its own numbers is enter the aluminium ingot benchmark into the *Aluminium ingot benchmark* field, and the model will calculate the dumping margin. We are confident that it will be substantially below the 16% margin currently applicable to GDJ as a "residual exporter".

B Review of countervailing measures

In SEF 248, the Commission found that residual exporters had a 10.2% subsidy margin, on the basis that they had benefited from the following countervailable subsidies:

- Program 5 - Matching Funds for International Market Development for SMEs;
- Program 15 - Aluminium Provided for Less Than Adequate Remuneration;
- Program 21 - Tariff and VAT Exemptions on Imported Materials and Equipment;
- Program 26 - Innovative Experimental Enterprise Grant;
- Program 32 - Venture Investment Fund of Hi-Tech Industry;
- Program 35 - Grants for Encouraging the Establishment of Headquarters and regional Headquarters with Foreign Investment;
- Program 47 - Preferential Tax Policies for High and New Technology Enterprises;
- Program 48 - Provincial Government of Guangdong Tax Offset for R&D;

[3] However, the uplift will not harm the result of the OCOT Test, which we understand was based on the full CTMS before that CTMS was adjusted by the aluminium uplift, as per page 36 of SEF 248.

- Program 56 - PGOG Special Fund for Energy Saving Technology Reform; and

- Program 58 – Development Assistance Grants for Zhaoqing New and High Technology Development Zone.

Programs 5, 15, 21, 26, 32, and 35 are “old” programs, in the sense that they were countervailed in the original investigation. This means they were also investigated by the verification team pursuant to the accelerated review, along with the other 10 subsidy programs that were found to be countervailable subsidy programs in the original investigation.

In this regard, the Commission found that GDJ had received a benefit of less than 1% in relation to Program 13. In relation to the remaining 18 countervailable subsidies, the Commission found that they did not apply to GDJ in the accelerated review period, nor in the three years prior to the accelerated review period.[4] GDJ’s EQ response confirms that it did not receive any additional subsidies in the remaining months of the period of investigation

Of course, Programs 47, 48, 56 and 58 are “new” programs, which were not considered as part of the accelerated review. In this regard we note:

- Programs 47 and 48 are taxed-based programs. The accelerated review verification report confirms that between 2011 and May 2013, GDJ’s tax rate was the standard 25% tax rate applicable to corporations.[5] For those months of the period of review which fell outside of the Commissions purview in the accelerated review, we also note that GDJ provided the Commission with copies of its income tax return for 2011, 2012 and 2013, as well as translations of those tax returns. In 2013, the only financial year that was not subject to verification by the Commission in the accelerated review, the rate remains 25%.[6] For the 3 months of the period of review not covered by these tax returns, GDJ assures the Commission that it was not eligible for any “tax” reducing programs, and notes that even if it was, the benefit of such programs would not be applicable until the close of the 2014 financial year, which is outside the period of review.

- As for Programs 56 and 58 – the “grants” programs, we would reiterate what GDJ said in its EQ response: because of its small size, GDJ generally does not qualify for government grants, and did not receive any such grants in the period or review, or prior to the period of review. More specifically, GDJ is unaware of Program 56, and, as stated in its EQ response, certainly has not benefited from that Program.

- In relation to Program 58, we also note the Commission’s finding that the Program is applicable only to entities that operate in the Zhaoqing New and High-Technology Development Zone.[7] GDJ is situated in Foshan City, not Zhaoqing, and therefore GDJ could not benefit from the program, even if it wanted to.

Finally, GDJ wishes to state that it has no awareness of “*Program 15 – Aluminium provided for less than adequate remuneration*”. GDJ purchases all of its ingot from traders. GDJ does not believe these traders to be State-invested enterprises. Furthermore, GDJ is not aware of there being any benefit to purchasing aluminium from State-invested enterprises as opposed to non-State-invested enterprises. The market for aluminium ingot is competitive, but, in GDJ’s view, all suppliers and producers of aluminium ingot set prices with a view to making profit.

4 *Certain Aluminium Extrusions Exported from the People’s Republic of China – Accelerated Review Visit Report – Guangdong Jinxiecheng Al. Manufacturing Co., Ltd*, page 30

5 *Ibid*.

6 [CONFIDENTIAL TEXT DELETED – comments regarding income tax returns].

7 Page 100.

Accordingly, GDJ considers there is sufficient evidence before the Commission to allow it to determine that GDJ's subsidy margin should be 0%.

C Conclusion

Again, we respectfully submit that a failure to calculate GDJ's own dumping and countervailing variable factors and margins would not only be unfair, but would result in the imposition of punitive dumping and countervailing duties which, on the evidence before the Commission, are out of all proportion to GDJ's actual experience.

We note that the special circumstances we have highlighted above are specific to GDJ, and do not dictate that separate numbers would need to be calculated for any other of the residual exporters.

We note that we have provided a basis through which GDJ's variable factors and dumping margin can be calculated in a very short period of time.

Finally, we also note that calculating individual variable factors for GDJ will not impact the residual exporters' variable factors significantly. The residual variable factors are based on the weighted average export prices and normal values of the cooperative exporters. Due to the small small volume of GDJ's export sales and domestic sales, these variable factors are unlikely to change.

Accordingly, we do not think there is any bar to the Commission calculating individual variable factors and margins for GDJ in the circumstances.

Please do not hesitate to contact me if you would like to discuss this matter further.

Yours sincerely

Alistair Bridges
Senior Lawyer