

28 June 2018

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Public File

Dear Mr King

Investigation No. 442 – Aluminium Extrusions exported from P R China and Thailand – Capral Limited Response to Statement of Essential Facts

I. Introduction

On 18 June 2018 the Anti-Dumping Commission (“the Commission”) published Statement of Essential Facts (“SEF”) No. 442 concerning aluminium extrusions exported to Australia from the People’s Republic of China (“China”) by Guangdong Jiangsheng Aluminium Co., Ltd (“Jiangsheng”) and Guangdong Zhongya Aluminium Company Limited (“Zhongya”), and all exporters from Thailand.

The Commission has preliminarily found:

- The goods exported to Australia from China by Zhongya Aluminium were not at dumped prices;
- The goods exported to Australia from China by Jiangsheng Aluminium were at dumped prices although the margins were negligible;
- The goods exported to Australia by United Aluminium Industry Co., Ltd (“UAI”) were at dumped prices although the margins were negligible;
- The goods exported to Australia by all exporters (other than AUI) were at dumped prices (above negligible levels); and
- The injury to the Australian industry that has been, or may be, caused by dumped exports from Thailand is considered negligible.

On the basis of these findings, the Commission proposes to terminate the investigation into exports by Jiangsheng and Zhongya, and all exporters from Thailand.

Capral disputes the Commission’s findings on the preliminary dumping margins determined for the Chinese exporters Jiangsheng and Zhongya. Similarly, Capral disagrees with the determination of UAI’s normal value that includes a number of adjustments.

Preliminary dumping margins for the Chinese exporters Jiangsheng and Zhongya were not published prior to the release of SEF 442. Hence, the publication of SEF 442 on 18 June 2018 notified the Commission’s preliminary decision on constructed normal values involving benchmark aluminium input costs for both Chinese exporters. SEF 442 also confirmed the Commission’s assessment of export

prices for Jiangsheng and Zhongya. Capral maintains its concern as to the arms-length nature of export prices for Zhongya

Capral therefore contends:

- The Commission's finding that Zhongya's exports to Australia are arms-length is incorrect;
- The determination of export prices for Jiangsheng should be determined under subsection 269TAB(1)(c) using the final selling prices for goods sourced from Jiangsheng and sold in Australia;
- Preliminary dumping margins determined for Zhongya and Jiangsheng require re-assessment;
- Adjustments to UAI's normal value concerning specification differences (EPR Document No. 65) and export finance and/or bank charges have not been considered; and
- Taking full account of the above, revised dumping margins for Zhongya, Jiangsheng and UAI are above negligible levels which have caused and threaten to cause material injury to the Australian industry.

The revision of dumping margins for Jiangsheng, Zhongya and UAI will materially alter the preliminary findings included in SEF 442. Capral submits that where revised dumping margins for the identified exporters exceed negligible levels, the Commission must reconsider its injury determination and recommend to the Assistant Minister that anti-dumping measures are justified on exports from China by Jiangsheng and Zhongya, and all exporters from Thailand.

II. Guangdong Zhongya

Capral does not consider that Zhongya's export prices can be considered arms-length. The Chinese exporter sells product via its affiliated sales agent Zhongya HK to an Australian importer that has a shareholder who is also a director of other companies affiliated with Zhongya. The Commission states that in assessing the arms-length nature of the sales between the affiliated parties its policy "*is to look beyond the legal or functional association to determine whether the parties deal with each other as arms length parties would and whether outcomes are the result of real bargaining. The mere fact parties are associated is not taken to automatically mean that they cannot be engaged in arms length transactions.*"

The Commission's analysis in relation to Zhongya:

- Examined export sales between Zhongya HK and Darley Aluminium and contrasted these export sales with export sales by Zhongya HK to unaffiliated Australian customers;
- Indicated that sales by Darley Aluminium into the Australian market were essentially profitable; and
- Did not identify any evidence of direct or indirect reimbursement between Zhongya, its affiliated entities, or Darley Aluminium.

It is noted that the Commission relied upon representations by Darley Aluminium's (as per EPR Document 30), namely:

- *They share no common management with Zhongya Aluminium and that Kuang Shun E was only a **non-beneficial shareholder** of Darley Aluminium (emphasis added);*
- *Kuang Shun E was not a director of Darley Aluminium and did not participate in the management of Darley Aluminium; and*
- *There no common management between Darley Aluminium and Zhongya Aluminium which might have affected the export prices between these companies (sic).*

Capral has highlighted with the Commission the role of an individual in both the exporter and the importer. It is reasonable to conclude that the individual would have full knowledge of transactions between the affiliated parties. This should have influenced the Commission to test the validity of market intelligence available from Capral as to the low pricing offered by Darley to Australian customers. Whereas the Commission may not have evidence to the potential for reimbursement, the available evidence of low pricing is indicative of a potential reimbursement to the importer by the exporter.

The Commission's practice, however, fails to consider the market intelligence provided by Capral as to the low market prices offered by Darley into the Australian market during (and post) the investigation period. The Commission's statement that it "*did not identify any evidence of direct or indirect reimbursement*" is somewhat unconvincing. It would not be expected that the Commission would encounter any evidence of reimbursement by the exporter; market selling offers by Darley suggest otherwise.

Capral has re-examined market offers by Darley into the Australian market during the investigation period. Capral has determined deductive export prices from the identified market offers which confirm that the deductive FOB export prices for Zhongya-sourced goods sold by Darley:

- In four cases cited the deductive export price for product offered by Darley do not recover the London Metal Exchange (LME) aluminium price, plus Major Japanese Port (MJP) Premium, plus Billet Premium (BP) – excluding any conversion costs to aluminium extrusion stage;
- In further five instances the DEP prices do not recover raw materials plus conversion costs and associated selling and general administration expenses;
- In only two instances do market offers reflect full cost recovery.

Detailed deductive export price ("DEP") calculations for offers in the Australian market by Zhongya and Jiangsheng and supporting cost information (and explanations) are included at Confidential Attachment 1.

Capral submits that the Commission's analysis of affiliated parties must include an examination of market offers for the imported goods in order for it to be satisfied that sales between the affiliated parties can be considered arms-length in nature.

Capral acknowledges the Commission's efforts in addressing matters raised by Capral in submissions during the investigation.

III. Guangdong Jiangsheng

The Commission referenced Capral's submission (EPR Document 28) dated 8 January 2018 that detailed the change in ownership status of the exporter from the former Tai Ao Aluminium (Taishan) Co., Ltd that was involved in the earlier investigation (No.148) involving Chinese exports of aluminium extrusions to Australia.

Capral acknowledges that the Commission has addressed matters raised by Capral in the SEF.

The preliminary dumping margins determined for Jiangsheng do not reflect the selling prices offered by Jiangsheng's [*supply channel in Australia*]. Capral included in its application for measures [*source for pricing*], when calculated back to the FOB level, confirms a DEP below the prevailing LME+MJP+BP level.

This position is again re-affirmed in the DEP calculations at Confidential Attachment 1 (sourced from market offers – including [*company name & source*]).

Capral questions, therefore, why the Commission has only utilised the DDP prices and prices paid by the domestic trader to determine Jiangsheng's export prices under subsection 269TAB(1). Given the price undercutting claims of the Australian industry – including undercutting by Jiangsheng-sourced goods – it would seem prudent to also calculate export prices for Jiangsheng on a deductive basis, taking account of market offers for imported Jiangsheng goods.

The market intelligence available to Capral indicates that Jiangsheng is exporting aluminium extrusions to Australia at dumped prices. In the periods prior to the investigation period, and throughout the investigation period, Jiangsheng's exports to Australia were competitive with other Chinese exporters that were found to have dumped during the 2016 calendar year. Whilst the Commission has stated that "*Zhongya Aluminium's AEP was higher than the weighted average AEP established for the cooperating Chinese exporters in Review No. 392 across all finish types*" and it would be expected that Jiangsheng was competitive with Zhongya's export prices, the conclusion reached by the Commission is not

surprising given the rise in LME prices across both periods and that there was only one common quarter across the two investigation periods.

Capral's principle concern with exports by Jiangsheng is that its export prices must have been competitive with all other Chinese exporters (including Zhongya) and that in order to achieve and maintain its stable export volumes to Australia, the exports would have been at dumped prices (consistent with all Chinese exporters investigated in Review Investigation No. 392). It is for this reason that the Commission should consider the final selling prices for Jiangsheng's goods and calculate deductive export prices to establish whether these are consistent with actual export prices declared by the exporter.

IV. United Aluminium

The Commission has determined a dumping margin for UAI of Thailand at 1.6 per cent during the investigation period. Capral notes that the Commission has not fully considered Capral's submission dated 5 June 2018 concerning UAI's exporter verification report. The key matters raised by Capral concerning UAI include:

- Full verification of raw material aluminium costs including LME+MJP+BP;
- Costs associated with bank charges/finance on export sales; and
- Full verification of model costs, based upon representations by the importer RCR International that UAI goods include particular and specific finish extras that attract premium prices.

The dumping margin determined for UAI is inconsistent with the margins determined for the cooperating exporter Schimmer Metal and the residual exporters – determined at 22.1 per cent. Capral would again contend that in order for UAI to be competitive with other exporters (including Chinese and Thai exports) that it would need to be price-competitive. The determined margin suggests that UAI prices well above other exporters, yet Capral's market intelligence as evidenced in its application suggest otherwise. Advice received from an external party confirms that UAI does not fully reflect all raw material costs in its pricing offers, nor does it price to reflect fully absorbed costs (refer Confidential Attachment 2).

V. Recommendations

The Commission's preliminary findings as detailed in SEF 442 do not, in Capral's view, reflect the competitive position as encountered by Capral in the domestic market in Australia for aluminium extrusions. Capral similarly does not consider that the negative dumping margin assessed for Zhongya and the negligible margin for Jiangsheng are reflective of both exporters being able to maintain export volumes to Australia at prices that compete with dumped exports (from China as evidenced in Report 392).

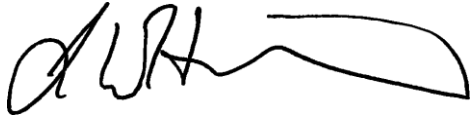
Capral maintains its position as reflected in earlier representations during the investigation that it is imperative that the Commission calculate deductive export prices for goods exported to Australia by Zhongya and Jiangsheng. The impact of trading with affiliated parties in the case of Zhongya does not provide any reliability around declared export prices as per documentation from the affiliated interested parties. In respect of Jiangsheng, it is difficult to conclude that its export prices to a distributor in Australia at levels that do not reflect full raw material costs, can be determined by the Commission as 'negligible' dumping. Capral requests the Commission to re-visit export price determinations for both Chinese exporters and utilise final selling prices in the Australian market to calculate reliable DEPs.

Capral anticipates that the Commission will consider Capral's representations of 5 June 2018 concerning the UAI exporter verification report, and re-assess preliminary margins for the Thai exporter.

Following full account of Capral's contentions in this submission, it is Capral's position that the preliminary dumping margins determined for Zhongya and Jiangsheng, along with the margin preliminarily determined for UAI, will be amended and reflect margins above negligible levels for all three exporters. On this basis, the Commission will therefore re-examine its injury findings in respect of that experienced (and threatened) to the Australian injury and, as appropriate, recommend the imposition of measures on the dumped and injurious exports to Australia.

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

A handwritten signature in black ink, appearing to read 'LHAWKINS', followed by a long, horizontal, wavy flourish.

Luke Hawkins
General Manager – Supply and Industrial Solutions