

RIGBY COOKE LAWYERS

Level 11, 360 Elizabeth Street
Melbourne Victoria 3000

GPO Box 4767
Melbourne Victoria 3001

T +61 3 9321 7888
F +61 3 9321 7900

www.rigbycooke.com.au

ABN 58 552 536 547
DX 191 Melbourne

Our ref: **ATH:20172476**
Your ref:

Direct dial: 03 9321 7851
Direct email: ahudson@rigbycooke.com.au
Page: 1/5

23 July 2018

Mr Tim King
Assistant Director
Investigations 3
Anti-Dumping Commission
Level 35, 55 Collins Street
MELBOURNE VIC 3000

Dear Mr King,

RCR International Pty Ltd (RCR)
Investigation into the alleged dumping of certain aluminium extrusions exported to Australia from the People's Republic of China by Guangdong Jiangsheng Aluminium Co., Ltd and Guangdong Zhongya Aluminium Company Ltd; and the Kingdom of Thailand
NON-CONFIDENTIAL VERSION

We refer to the Capral Submission.

We confirm that we are instructed to make this submission on behalf of RCR.

For the purposes of this Submission all defined terms have the meaning set out in the attached Schedule of Definitions.

1 Preliminary Comments

1.1 We refer to the RCR Submission and reiterate RCR's position that the ADC's recommendation to terminate the Investigation is correct given the multitude of factors in support of termination set out in the SEF including that:

- (a) the dumping margin on exports from Jiangsheng of China are below the *de minimis* threshold of 2%;
- (b) exports from Zhongya of China are not at dumped prices; and
- (c) the dumping margin on exports from Thailand are either below the *de minimis* threshold or are minor in terms of volume as compared to exports from China.

RIGBY COOKE LAWYERS

Our ref: ATH:20172476

Letter to: Mr Tim King
Anti-Dumping Commission

Your ref:

Page: 2/5

2 RCR's transactions with UAI

- 2.1 We are instructed to make the following submissions in response to the Capral Submission.
- 2.2 It is RCR's position that its transactions with UAI have been conducted reasonably and competitively and that the ADC's position in the Verification Report that those transactions are at arm's length is correct.
- 2.3 UAI prices the RCR Goods via negotiation with RCR. Prices are quoted by UAI to RCR and are generally driven by the combination of LME prices for raw materials plus the anticipated production cost by UAI. Both RCR and UAI are independent parties in these transactions and therefore this negotiation process gives rise to prices that are considered to be arm's length in nature.
- 2.4 The UAI Verification Report also indicates that the ADC was satisfied that all of UAI's export sales and domestic sales were arms' length. We reiterate RCR's position that all transactions are conducted at arms' length and that pricing is based on competitive negotiations between UAI and RCR.

3 Adjustments and the dumping margin

- 3.1 We reiterate RCR's position in relation to the Adjustments which relate to costs specifically applicable to RCR. We request that the ADC take this into account in considering the adjustments to normal value.
- 3.2 Generally, we do not consider the comparison between UAI's dumping margin and Schimmer's dumping margin (referred to in the Capral Submission) to be a relevant indicator of any issue in the calculation of UAI's dumping margin. The Schimmer Verification Report indicates that model matching of Schimmer's export sales with Schimmer's domestic sales of like goods was used.
- 3.3 The Schimmer Verification Report also states that in calculating normal value in instances where the ADC could not identify sufficient domestic sales volumes of identical or surrogate models of Schimmer's goods it constructed normal value based on the CTMS and SG&A on the assumption that the goods were sold domestically and added an amount for profit. It is likely that this led to a much higher normal value than would otherwise have been calculated if sufficient domestic sales volumes had been available.
- 3.4 Conversely, the UAI Verification Report indicates that the ADC was able to identify sufficient domestic arms' length sales to assess normal value and that there were sufficient volumes of domestic sales of identical export models made for all models exported to Australia during the investigation period. This resulted in a calculation of normal values based on UAI's actual figures.
- 3.5 The use of model matching and substituted values in relation to Schimmer as compared to actual values used for UAI arguably provides one clear explanation as to the difference in dumping margins. We leave any further comment in regard to Schimmer's dumping margin to Schimmer.

RIGBY COOKE LAWYERS

Our ref: ATH:20172476

Letter to: Mr Tim King
Anti-Dumping Commission

Your ref:

Page:

3/5

4 Conclusions

- 4.1 We reiterate RCR's position that termination of the Investigation is warranted in light of the multitude of factors identified by the ADC in the SEF.
- 4.2 We further reiterate RCR's position that all transactions between UAI and RCR are at arms' length. This is supported by the ADC's findings and the comprehensive data provided to the ADC by UAI and RCR during the verification process and the UAI Verification Report.
- 4.3 Any difference in the dumping margin calculated for Schimmer and the dumping margin calculated for UAI may be the result of the use of constructed normal values and model matching in relation to Schimmer which led to the calculation of higher normal values than those calculated based on actual domestic sales in UAI's case.

We request that the ADC take the above submissions into consideration in the next stage of the Investigation.

We would be pleased to provide any further information the ADC may require.

Yours faithfully



Andrew Hudson
Partner

RIGBY COOKE LAWYERS

Our ref: ATH:20172476

Letter to: Mr Tim King
Anti-Dumping Commission

Your ref:

Page: 4/5

Schedule of Definitions

- (a) "**Act**" means the *Customs Act 1901* (Cth);
- (b) "**ADC**" means the Anti-Dumping Commission;
- (c) "**Adjustments**" means the upwards adjustments made to UAI's normal value referred to in the UAI Verification Report;
- (d) "**Application**" means the application made by Capral for the publication of dumping and/or countervailing duty notices - Aluminium Extrusions exported by Guangdong Jiangsheng Aluminium CO. Ltd, Zhongya Aluminium Co. Ltd of PR China, and all exporters from Thailand dated 29 August 2017;
- (e) "**Capral**" means Capral Limited;
- (f) "**Capral Submission**" means the submission made by Capral to the investigation dated 28 June 2018;
- (g) "**EPR**" means Electronic Public Record;
- (h) "**Goods**" means the goods the subject of the Application, more particularly described in the Consideration Report as follows:

2.3. The goods the subject of the application

Table 3 below outlines the goods as described in the application and their corresponding tariff classification.

Full description of the goods, as subject of the application
Aluminium extrusions that: <ul style="list-style-type: none">• are produced by an extrusion process;• are of alloys having metallic elements falling within the alloy designations published by The Aluminium Association commencing with 1, 2, 3, 5, 6 or 7 (or proprietary or other certifying body equivalents);• have finishes being:<ul style="list-style-type: none">○ as extruded (mill);○ mechanically worked;○ anodized; or○ painted or otherwise coated, whether or not worked;• have a wall thickness or diameter greater than 0.5 mm;• have a maximum weight per metre of 27 kilograms; and• have a profile or cross-section fitting within a circle having a diameter of 421 mm.
Further information
The goods under consideration ("GUC") include aluminium extrusion products that have been further processed or fabricated to a limited extent, after aluminium has been extruded through a die. For example, aluminium extrusion products that have been painted, anodised, or otherwise coated, or worked (e.g. precision cut, machined, punched or drilled) fall within the scope of the goods. The GUC do not extend to intermediate or finished products that are processed or fabricated to such an extent that they no longer possess the nature and physical characteristics of an aluminium extrusion, but have become a different product.

- (i) "**Investigation**" means the investigation by the ADC in response to the Application;
- (j) "**Jiangsheng**" means Guangdong Jiangsheng Aluminium Co. Ltd;

RIGBY COOKE LAWYERS

Our ref: ATH:20172476

Letter to: Mr Tim King
Anti-Dumping Commission

Your ref:

Page:

5/5

- (k) “**LME**” means the London Metal Exchange;
- (l) “**Manual**” means the Dumping Subsidy Manual dated April 2017;
- (m) “**MJP**” means Main Japanese Ports premiums;
- (n) “**RCR**” means RCR International Pty Ltd;
- (o) “**RCR Goods**” means aluminium extrusions imported by RCR from UAI which may be the subject of the Investigation dated 2 July 2018;
- (p) “**RCR Submission**” means the submission by RCR to the ADC in relation to the investigation made;
- (q) “**Schimmer**” means Schimmer Metal Standard Co. Ltd;
- (r) “**Schimmer Verification Report**” means the verification report published by the ADC on 14 May 2018;
- (s) “**SEF**” means the Statement of Essential Facts published on 12 June 2018;
- (t) “**Submission**” means this submission on behalf of RCR;
- (u) “**UAI**” means United Aluminium Industry Pty Ltd;
- (v) “**UAI Verification Report**” means the verification report in respect to UAI published on 4 June 2018;
- (w) “**Zhongya**” means Guangdong Zhongya Aluminium Co. Ltd.