



Australian Government
**Department of Industry,
Innovation and Science**

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

**TERMINATION REPORT
NO. 442**

**ALLEGED DUMPING OF
CERTAIN ALUMINIUM EXTRUSIONS**

**EXPORTED FROM THE PEOPLE'S REPUBLIC OF
CHINA BY GUANGDONG JIANGSHENG ALUMINIUM
CO., LTD AND GUANGDONG ZHONGYA ALUMINIUM
COMPANY LIMITED, AND THE KINGDOM OF
THAILAND**

JULY 2018

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ABBREVIATIONS

ACN	Aluminium Centre Network
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
AEP	ascertained export prices
Alpha	Alpha Energy Pty Ltd
aluminium extrusions	certain aluminium extrusions
AluShapes	Aluminium Shapemakers Pty Ltd
Alusite	Alusite Precision Co., Ltd
ANZSIC	Australian and New Zealand Standard Industrial Classification Code
Assistant Minister	Assistant Minister for Science, Jobs and Innovation
BLC	BLC Aluminium Pty Ltd
Capral	Capral Limited
China	People's Republic of China
CIF	Cost, insurance and Freight
CON 442	Consideration Report No. 442
CTMS	cost to make and sell
Customs Direction	Customs (Extensions of Time and Non-cooperation) Direction 2015
Darley Aluminium	Darley Aluminium Trading Pty Ltd
DDP	delivered duty paid
EBITDA	earnings before interest, taxes, depreciation and amortization
EPA	Extrusion Profiles Australia Pty Ltd
EPR	Electronic Public Record
FIS	free into store
FOB	Free on Board
G James	G James Extrusion Co Pty Ltd
GAAP	generally accepted accounting principles
GOC	Government of China
Goldstar	Goldstar Metal Co., Ltd
GUC	goods under consideration
Home Affairs	Department of Home Affairs
ICD	interim countervailing duty
IDD	interim dumping duty
INEX	Independent Extrusions Pty Ltd
INV 362	Investigation No. 362 – Alleged Dumping and Subsidisation of Certain Aluminium Extrusions Exported to Australia from Malaysia and the Socialist Republic of Vietnam.
Jiangsheng Aluminium	Guangdong Jiangsheng Aluminium Co., Ltd

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JS Australia	Guangdong Jiangsheng Aluminium (Australia) Pty Ltd
Kg	Kilogram
Kt	kilotonne
LME	London Metals Exchange
Ministerial Injury Direction	Ministerial Direction on Material Injury 2012
MJP	Major Japanese Port
MT	Metric Tonnes
NDRC	National Development and Reform Commission
NIP	non-injurious price
OCOT	ordinary course of trade
OEM	Original Equipment Manufacturer
Olympic	Olympic Aluminium Co Pty Ltd
PAD	preliminary affirmative determination
PAD Direction	The Customs (Preliminary Affirmative Determinations) Direction 2015
PanAsia	PanAsia Aluminium (China) Limited
RCR	RCR International Pty Ltd
REP 148	Trade Remedies Branch Report No. 148
SBMR	State Bureau of Material Reserve
Schimmer Metal	Schimmer Metal Standard Co. Ltd
SEF	statement of essential facts
SG&A	selling, general and administrative
SHFE	Shanghai Futures Exchange
State Council	State Council of China
Thai Metal	Thai Metal Aluminium Co., Ltd
Thailand	The Kingdom of Thailand
the Act	Customs Act 1901
The Agreement	Anti-Dumping Agreement
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
the EC 2017 Report	Staff working document on significant distortions in the economy of the People's Republic of China for the purposes of trade defence investigations
the goods	the goods the subject of the application
the nominated exporters'	The exporters subject of this investigation
the Parliamentary Secretary	the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
the Regulation	Customs (International Obligations) Regulation 2015
the Think!Desk report	Report commissioned by WVMetalle

PUBLIC RECORD

the USDOC 2017 Report	China's status as a Non Market Economy, 2017 the USDOC 2017 Report
UAI	United Aluminium Industry Co., Ltd
Ullrich	Ullrich Aluminium Pty Ltd
USDOC	U.S. Department of Commerce
USP	unsuppressed selling price
VAT	value-added tax
WTO	World Trade Organisation
Zhongya Aluminium	Guangdong Zhongya Aluminium Company Limited
Line VOTI	Line value of taxable importation
TER 442	Termination report No. 442

1 SUMMARY

1.1 Introduction

This Termination Report No. 442 (TER 442) has been prepared in relation to Investigation 442.

Investigation 442 was initiated following an application by Capral Limited (Capral) for the publication of a dumping duty notice in respect of certain aluminium extrusions ('aluminium extrusions' or 'the goods') exported to Australia by Guangdong Jiangsheng Aluminium Co., Ltd (Jiangsheng Aluminium) and Guangdong Zhongya Aluminium Company Limited (Zhongya Aluminium) from the People's Republic of China (China); and all exporters from the Kingdom of Thailand (Thailand) (collectively referred to in this termination report as 'the nominated exporters').

Capral alleged that the Australian industry has suffered material injury caused by aluminium extrusions exported to Australia by the nominated exporters at dumped prices.

This termination report sets out the facts and findings on which the Commissioner of the Anti-Dumping Commission (the Commissioner) based his decision to terminate the investigation.

1.2 Findings

The Commissioner is satisfied that:

- the goods exported to Australia from China by Zhongya Aluminium and Jiangsheng Aluminium were not at dumped prices;
- the goods exported to Australia from Thailand by United Aluminium Industry Co., Ltd¹ (UAI) were at dumped prices; but the dumping margin was negligible at less than 2 per cent;
- the goods exported to Australia by all exporters from Thailand other than UAI were at dumped prices which were above negligible margins (above 2 per cent); and
- the injury to the Australian industry that has been, or may be, caused by dumped exports from Thailand was negligible.

Based on these findings, the Commissioner has terminated the investigation in relation to:

- Zhongya Aluminium and Jiangsheng Aluminium under subsection 269TDA(1)(b)(i) of the *Customs Act 1901* (the Act);²
- UAI under subsection 269TDA(1)(b)(ii); and
- Thailand under subsection 269TDA(13).

¹ In some correspondence from UAI's representative, reference has been made to United Aluminium International Pty Ltd. The representative has advised that references to United Aluminium International Pty Ltd actually mean United Aluminium Industry Co., Ltd.

² All legislative references in this report are to the *Customs Act 1901*, unless otherwise specified.

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Public notice of the Commissioner's termination decision was published on the Commission's website on 24 July 2018 (Anti-Dumping Notice (ADN) No. 2018/120 refers).

Apart from the legislative basis for terminating the investigation in relation to Jiangsheng Aluminium, these findings have not changed since Statement of Essential Facts No. 442 (SEF 442).

1.3 Application of law to facts

1.3.1 Authority to make decision

Division 2 of Part XVB of the Act describes, among other things, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to goods covered by an application under subsection 269TB(1).

1.3.2 Application

On 30 August 2017, Capral lodged an application alleging that the Australian industry had suffered material injury caused by aluminium extrusions exported to Australia by the nominated exporters at dumped prices.

Having considered the application and further information provided by Capral, the Commissioner decided not to reject the application and initiated an investigation on 19 October 2017.

Consideration Report No. 442 (CON 442) and the public notice (Anti-Dumping Notice (ADN) No. 2017/144) provide further details relating to the initiation of the investigation and are available on the Anti-Dumping Commission's (the Commission) website at www.adcommission.gov.au.³

1.3.3 Preliminary affirmative determination

In accordance with section 269TD, the Commissioner may make a preliminary affirmative determination (PAD) if satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice or a countervailable duty notice, or if satisfied that it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation of the goods into Australia.

A PAD may be made no earlier than day 60 of the investigation and the Commonwealth may require and take securities at the time of a PAD, or at any time during the investigation after a PAD has been made, if the Commissioner is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.⁴

³ See case number 442 Electronic Public Record (EPR) numbers 4 and 5 at: <http://www.adcommission.gov.au/cases/Pages/CurrentCases/EPR-442.aspx>

⁴ A submission was received from RCR International Pty Ltd (RCR) outlining the factors it believes should be considered in the event that the Commissioner were to make a PAD. See EPR number 8.

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In accordance with section 6 of the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction), the Commissioner published a Day 60 Status Report on 18 December 2017, being 60 days after the initiation of the investigation, providing reasons why a PAD was not made.⁵

Section 9 of the PAD Direction requires the Commissioner to reconsider making a PAD after the publication of a Day 60 Status Report at least once prior to the publication of the SEF.

As the Commissioner was not satisfied that there appeared to be sufficient grounds for the publication of a dumping duty notice in respect of aluminium extrusions exported to Australia from the nominated exporters, no PAD under subsection 269TD(1) has been made in relation to this investigation.

1.3.4 Statement of essential facts

SEF 442 for this investigation was placed on the public record on 12 June 2018.⁶

In preparing SEF 442, the Commissioner had regard to the application, submissions received within 37 days after the date of initiation of the investigation and other matters considered relevant.

The Commissioner also had regard to submissions received after the 37 day timeframe that in the Commissioner's opinion did not prevent the timely placement of SEF 442 on the public record. The Commissioner at the time of publishing SEF 442 had insufficient time to consider four submissions received between 4 June 2018 and 6 June 2018⁷.

SEF 442 noted that, subject to submissions received from interested parties, the Commissioner proposed to terminate the investigation in relation to:

- Zhongya Aluminium under subsection 269TDA(1)(b)(i);
- Jiangsheng Aluminium and UAI under subsection 269TDA(1)(b)(ii); and
- Thailand under subsection 269TDA(13).

1.3.5 Key changes since SEF 442

The dumping margins for Jiangsheng Aluminium and UAI have been amended subsequent to the consideration of submissions received prior to, and after publication of SEF 442.

As a result of these changes the dumping margin for Jiangsheng Aluminium was reduced from 0.4 per cent to negative 4.5 per cent and the dumping margin for UAI has increased from 1.6 per cent to 1.9 per cent.

⁵ EPR number 22.

⁶ SEF 442 was originally due to be placed on the public record by 6 February 2018. However, the due date for SEF 442 was extended on two occasions. Further details are contained in ADN No. 2018/11 and ADN No 2018/66, which are document numbers 33 and 48 on the public record respectively. A copy of SEF 442 is available at EPR number 68.

⁷ EPR numbers 63, 64, 65 and 66.

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As a result of Jiangsheng Aluminium's dumping margin being negative, the legislative basis for terminating the investigation in relation Jiangsheng Aluminium has changed to subsection 269TDA(1)(b)(i).

1.3.6 Submissions received prior, and in response to, SEF 442

The Commission received forty submissions from interested parties prior to the publication of SEF 442. Thirty-six of these submissions were considered by the Commissioner in reaching the findings and conclusions contained within SEF 442. The remaining four submissions were received too late to be incorporated into SEF 442.⁸ Accordingly, these submissions have been considered in this termination report.

Following the publication of SEF 442, the Commission received four submissions⁹ from interested parties. Three of the submissions received respectively from Capral, Jiangsheng Aluminium and UAI have been taken into account in preparing this report. Issues raised in these submissions are addressed within the relevant chapters of this report.

A further submission¹⁰ received from UAI on 23 July 2014 has not been taken into consideration in preparing this report.

1.4 Findings

1.4.1 The goods and like goods (Chapter 3)

The Commissioner has found that locally produced aluminium extrusions are 'like' to the goods the subject of the application and is satisfied that there is an Australian industry producing those like goods, which comprises nine Australian producers, including Capral, the applicant.

1.4.2 Australian market (Chapter 4)

The Australian aluminium extrusions market is supplied from local production and by imports from several countries, including China and Thailand. The imports from China include aluminium extrusions exported by both Jiangsheng Aluminium and Zhongya Aluminium.

1.4.3 Dumping margin (Chapter 5)

The Commission's assessment of dumping margins is set out in Table 1.

⁸ EPR numbers 63, 64, 65 and 66.

⁹ EPR numbers 69, 70, 71 and 72

¹⁰ EPR number 72

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Country	Exporter	Dumping margin
China	Jiangsheng Aluminium	-4.5%
	Zhongya Aluminium	-4.2%
Thailand	Schimmer Metal Standard Co. Ltd (Schimmer Metal)	22.1%
	UAI	1.9%
	Residual Exporters	22.1%
	Uncooperative and All Other Exporters	30.0%

Table 1 Dumping margins

1.4.4 Economic condition of the Australian industry (Chapter 6)

The Commissioner has found that, during the investigation period, the Australian industry has experienced injury in the forms of:

- price suppression;
- suppressed profits;
- suppressed profitability; and
- suppressed return on investment.

1.4.5 Causation assessment (Chapter 7)

The Commissioner has found that the injury, if any, caused by the dumped goods from Thailand was negligible.

1.4.6 Termination of investigation (Chapter 8)

Section 269TDA outlines when the Commissioner must terminate an investigation.

The dumping margins for Zhongya Aluminium and Jiangsheng Aluminium are negative (Chapter 5 refers). Accordingly, the Commissioner has terminated the investigation in accordance with subsection 269TDA(1)(b)(i) in so far as it relates to Zhongya Aluminium and Jiangsheng Aluminium.

The dumping margin for aluminium extrusions exported to Australia by UAI was negligible (Chapter 5 refers). Accordingly, the Commissioner has terminated the investigation in accordance with subsection 269TDA(1)(b)(ii) in so far as it relates to UAI.

Under subsection 269TDA(13), if the Commissioner is satisfied that the injury, if any, to the Australian industry caused by dumped goods is negligible, the Commissioner must terminate the investigation in so far as it relates to that country. The Commissioner was satisfied that the goods exported by all exporters from Thailand (other than by UAI) were dumped (at above negligible levels), and that the injury, if any, to the Australian industry caused by those dumped goods was negligible (Chapter 7 refers). On this basis, in accordance with subsection 269TDA(13), the Commissioner has terminated the investigation in respect of all exporters from Thailand.

2 BACKGROUND

2.1 Initiation

2.1.1 Background

On 30 August 2017, Capral lodged an application under subsection 269TB(1) requesting that the then Parliamentary Secretary publish a dumping duty notice in respect of certain aluminium extrusions exported to Australia from the nominated exporters.

Capral alleged that the Australian industry had suffered material injury caused by exports of aluminium extrusions from the nominated exporters at dumped prices. Capral alleged that the Australian industry had been injured through:

- price suppression;
- suppressed profitability;
- suppressed profit; and
- suppressed return on investment.

Having received further information on 12 September 2017 and 22 September 2017¹¹ from Capral and having considered the application, the Commissioner decided not to reject the application on 12 October 2017. The investigation was initiated on 19 October 2017.

ADN No. 2017/144 and CON 442¹² provide further details relating to the initiation of the investigation and are available on the Commission's website at www.adcommission.gov.au.

In respect of the investigation:

- the investigation period¹³ for the purpose of assessing dumping and material injury is 1 October 2016 to 30 September 2017; and
- the injury analysis period is from 1 October 2013.¹⁴

2.1.2 Submissions in relation to initiation of the investigation

Zhongya Aluminium submitted¹⁵ that the initiation of this investigation violated the second sentence of Article 5.8 of the World Trade Organisation (WTO) Anti-Dumping Agreement (the Agreement). Zhongya Aluminium noted that the goods under consideration in this investigation are exactly the same as examined in the previous investigation (Investigation No. 148) in relation to aluminium extrusions exported to Australia from

¹¹ In accordance with subsection 269TC(2A), the application was taken to have been lodged and received when the further information was lodged and received on 22 September 2017.

¹² EPR numbers 4 and 5.

¹³ As that term is defined in subsection 269T(1).

¹⁴ The purpose of the injury period is to allow the Commission to identify and examine trends in the market which in turn assists the Commission in its examination of whether material injury has occurred over the investigation period.

¹⁵ EPR number 7.

PUBLIC RECORD

China. Zhongya Aluminium outlined that, in the previous investigation, it was determined to have a zero dumping margin,¹⁶ and on this basis was excluded from the dumping duty notice. Zhongya Aluminium submitted that the new investigation should be immediately terminated by the Commission.

The Commission's consideration

The second sentence of Article 5.8 of the Agreement as referred to by Zhongya Aluminium outlines the grounds on which an investigation should be terminated by investigating authorities.

The requirements of Article 5.8 of the Agreement were met in relation to Investigation No. 148, given that the relevant aspects of that investigation were terminated as far as it related to Tai Ao Aluminium (Taishan) Co., Ltd¹⁷ (now known as Jiangsheng Aluminium) and Zhongya Aluminium.¹⁸

This investigation initiated on 19 October 2017 was a new investigation. Article 5.8 of the Agreement does not prevent a new investigation from being initiated (provided that there is sufficient evidence to justify proceeding with the case, as was found to exist in CON 442). Accordingly, immediately following initiation, the Commission was not required to terminate the investigation.

2.2 Anti-dumping measures applicable to aluminium extrusions

Anti-dumping measures currently apply to aluminium extrusions exported to Australia from China¹⁹, Malaysia²⁰ and Vietnam²¹. A history of the main cases is summarised in Table 2. Further information is also available on the Commission's EPR.

Year	Case description
2009-2011	<p>The then Australian Customs and Border Protection Service initiated an investigation, following an application from Capral. Following the investigation, the then Attorney-General published a dumping duty notice and a countervailing duty notice (<i>Trade Remedies Branch Report No. 148</i> (REP 148) refers).</p> <p>Following a review by the former Trade Measures Review Officer, the then Attorney-General amended the dumping duty notice and countervailing duty notice as a result of a reinvestigation of certain findings made in REP 148. <i>International Trade Remedies Report No. 175</i> refers.</p>

¹⁶ Zhongya Aluminium is subject to the countervailing duty notice only, originating from Investigation No. 148.

¹⁷ See *Termination Report No. 148A*.

¹⁸ See *Report No. 148* and *Report Number No. 175: Reinvestigation of Certain Findings of Report No. 148*.

¹⁹ As noted previously, the anti-dumping measures in respect of China (in the form of a dumping duty notice and a countervailing duty notice), apply to all exporters with the exception of Jiangsheng Aluminium, and noting that Zhongya Aluminium is subject to the countervailing duty notice only.

²⁰ In the form of a dumping duty notice and a countervailing duty notice for all exporters except Press Metal Berhad, LB Aluminium Berhad, Superb Aluminium Industries Sdn Bhd, Kamco Aluminium Sdn Bhd, Milleon Extruder Sdn Bhd and Genesis Aluminium Industries Sdn Bhd.

²¹ In the form of a dumping duty notice for all exporters.

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Year	Case description
2015	<p>The Commissioner initiated <i>Anti-Circumvention Inquiry No. 241</i> into the avoidance of the intended effect of duty concerning certain aluminium extrusions exported to Australia by PanAsia Aluminium (China) Limited (PanAsia). Following Final Report No. 241 and ADN No. 2015/17 the then Minister for Industry and Science published a notice declaring that circumvention had occurred and altered the original notice relating to the dumping duty and countervailing duty to have effect as if a different variable factor, the export price, applied in relation to PanAsia.</p> <p>The Commissioner initiated an all exporter <i>Review of Measures No. 248</i> (Review No .248) following an application from PanAsia. Following Review 248, the then Parliamentary Secretary to the Minister for Industry and Science published a notice declaring that she had altered the dumping duty notice and countervailing duty notice as if different variable factors had been ascertained for exporters generally.</p> <p>The Commission conducted <i>Continuation Inquiry No. 287</i>, following an application by Capral. The then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science continued the measures for a further five years, until 28 October 2020.</p>
2016	<p>The Commissioner initiated an investigation (Investigation No. 362), following an application from Capral, into the alleged dumping and subsidisation of aluminium extrusions exported to Australia from Malaysia and Vietnam.</p> <p>On 27 June 2017, the then Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science published a dumping notice in respect of the goods exported from Malaysia and Vietnam and a countervailing notice in respect of Malaysia. Certain aspects of this decision were subject to review by the Anti-Dumping Review Panel (ADRP). The ADRP recommended that the then Parliamentary Secretary affirm the decision.</p>
2017	<p>The Commissioner initiated an all exporter Review of Measures (Review 392) following separate applications from four Chinese exporters. As a result of Review 392, the then Parliamentary Secretary to the Minister for Industry, Innovation and Science published a notice declaring that he had altered the dumping duty notice and countervailing duty notice as if different variable factors had been ascertained for exporters generally.</p> <p>The Commissioner initiated an anti-circumvention inquiry following an application from Capral on behalf of the Australian industry. The inquiry was initiated on 16 October 2017. A SEF for this inquiry is due to be published on or before 22 August 2018.</p>

Table 2 Summary of the main cases – aluminium extrusions

2.3 Submissions received from interested parties

The Commission has received forty-four submissions during the investigation. The matters raised in submissions, excluding a submission²² received from UAI on 23 July 2018, have been addressed throughout this report.

The submissions are listed in **Appendix A**.

²² EPR Number 72

3 THE GOODS AND LIKE GOODS

3.1 Findings

The Commissioner has found that locally produced aluminium extrusions are ‘like’ to the goods the subject of the application and is satisfied that there is an Australian industry producing those like goods, which comprises nine Australian producers.

3.2 Legislative framework

Subsection 269TC(1) provides that the Commissioner shall reject an application for a dumping duty notice if, *inter alia*, the Commissioner is not satisfied that there is, or is likely to be established, an industry in respect of like goods.

In his report to the Parliamentary Secretary under subsection 269TEA(1), the Commissioner must recommend whether the Parliamentary Secretary ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG.

Under section 269TG, one of the matters the Parliamentary Secretary must be satisfied of is that there is an Australian industry producing like goods to the goods the subject of the application.

In making this assessment, the Commissioner must firstly determine that the goods produced by the Australian industry are ‘like’ to the imported goods. Subsection 269T(1) defines like goods as:

“..goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration”.

An Australian industry can apply for relief from injury caused by dumped imports even if the goods it produces are not identical to those imported. The Australian industry must, however, produce goods that are ‘like’ to the imported goods.

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- i. physical likeness;
- ii. commercial likeness;
- iii. functional likeness; and
- iv. production likeness.

The Commissioner must be satisfied that the like goods are produced in Australia. Subsection 269T(2) specifies that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. Subsection 269T(3) provides that in order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

3.3 The goods

The goods the subject of this application are:

“Aluminium extrusions that:

- *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:*
 - *as extruded (mill);*
 - *mechanically worked*
 - *anodised; 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 in relation to the goods subject to this investigation is:

- 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; and
- 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.

Table 3 provides examples of the coverage of the goods and like goods (and intended end-use applications) and was used for this investigation. Examples of the goods and like goods are outlined in columns 1 to 4 and non-subject goods are outlined in columns 5 to 7.

PUBLIC RECORD

< GUC >				< Non GUC >		
1	2	3	4	5	6	7
Aluminium extrusions	Aluminium extrusions with minor working	Aluminium extrusions that are parts intended for use in intermediate or finished products	Aluminium extrusions that are themselves finished products	Unassembled products containing aluminium extrusions, e.g. 'kits' that at time of import comprise all necessary parts to assemble finished goods	Intermediate or partly assembled products containing aluminium extrusions	Fully assembled finished products containing aluminium extrusions
< Examples >						
Mill finish, painted, powder coated, anodised, or otherwise coated aluminium extrusions	Precision cut, machined, punched or drilled aluminium extrusions	Aluminium extrusions designed for use in a door or window	Carpet liner, fence posts, heat sinks	Shower frame kits, window kits, unassembled unitised curtain walls	Unglazed window or door frames	Windows, doors

Table 3 The goods and like goods

3.4 Tariff classification

The goods are classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

Tariff code	Statistical code	Unit	Description
7604.10.00	06	Kg	Non alloyed aluminium bars, rods and profiles
7604.21.00	07	Kg	Aluminium alloy hollow angles and other shapes
7604.21.00	08	Kg	Aluminium alloy hollow profiles
7604.29.00	09	Kg	Aluminium alloy non hollow angles and other shapes
7604.29.00	10	Kg	Aluminium alloy non hollow profiles
7608.10.00	09	Kg	Non alloyed aluminium tubes and pipes
7608.20.00	10	Kg	Aluminium alloy tubes and pipes
7610.10.00	12	Kg	Doors, windows and their frames and thresholds for doors
7610.90.00	13	Kg	Other

Table 4 Tariff classifications of the goods

3.5 Australian industry

The Commissioner must be satisfied that the 'like' goods are in fact produced in Australia. Subsection 269T(2) provides that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. Subsection 269T(3) provides that in order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

Capral's application identified the following companies as comprising the Australian industry:

- Capral;
- G James Extrusion Co Pty Ltd (G James);
- Independent Extrusions Pty Ltd (INEX);
- Aluminium Shapemakers Pty Ltd (AluShapes);
- Almax Aluminium Pty Ltd;
- Extrusion Profiles Australia Pty Ltd (EPA);
- Extrusions Australia Pty Ltd (Extrusions Australia);
- Olympic Aluminium Co Pty Ltd (Olympic); and
- Ullrich Aluminium Pty Ltd (Ullrich).

The Commission visited Capral's Bremer Park facility to examine its manufacturing processes and to verify the claims in the application. The Commission has found that Capral undertakes a substantial process of manufacture in producing aluminium extrusions in Australia and, as the aluminium extrusions are manufactured in Australia, there is an Australian industry producing like goods.

Further information regarding Capral's production processes is available in CON 442.²³

3.6 Like goods assessment

3.6.1 Information provided by the Australian industry

Capral's application provided information on the physical, commercial, functional and production likenesses between imported aluminium extrusions and aluminium extrusions manufactured by Australian industry. This is detailed below.

Physical likeness

Capral referred to the Commission's previous investigations, reviews and inquiries where it was established that the physical characteristics of the imported goods and locally produced goods were similar.

In support of its application Capral provided a copy of its catalogue of standard extrusion profiles and its alloy specifications.

Capral also referenced the Australian and New Zealand Standard Industrial Classification Code (ANZSIC) relating to aluminium extrusions.

Commercial likeness

Capral referred to the Commission's previous investigations, reviews and inquiries where it was established that locally produced goods and imported goods were commercially alike as they are sold to common users, and directly compete in the same market.

²³ EPR number 4.

Capral also referenced the fact that it provides a wide range of profiles made to customer specifications (i.e. exclusive shapes), some of which are multiple-sourced by customers from Australian and overseas producers.

Functional likeness

Capral referred to the Commission's previous investigations, reviews and inquiries where it was established that locally produced goods and imported goods were functionally alike as they have a similar range of end-uses.

Production likeness

Capral referred to the Commission's findings in Investigation Nos. 148 and 362 where it was established that locally produced goods and imported goods were manufactured in a similar manner.

In support of its application, Capral provided a detailed description and diagram of its aluminium extrusion manufacturing process.

3.6.2 Submissions regarding like goods received prior to SEF

RCR, an importer, submitted²⁴ that the goods it imports from Thailand are not like goods. RCR stated²⁵ that, in relation to:

- physical likeness, RCR's imported goods are:
 - not customer specific;
 - not cut to long lengths for commercial use;
 - are only standard geometric profiles; and
 - are predominately mill finish;
- commercial likeness, RCR's imported goods are specifically targeted to retail customers, are individually labelled, packaged in set bundles and can be differentiated to the goods subject to this investigation which are sold to larger commercial customers and ordered in bulk. RCR also stated that they were required to produce price lists, that its pricing was affected by different factors and that its merchandising services were different;
- functional likeness, RCR's imported goods were produced for multi-purpose use and, unlike Capral's products, are not made to meet custom requirements or specific 'systems'; and
- production likeness, RCR imported goods do not use custom dies, are predominantly mill finish and do not have the same finishes that are generally required for large building and commercial projects.

²⁴ EPR number 9.

²⁵ EPR number 15.

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RCR's submission was endorsed in a subsequent submission made by UAI.²⁶

In response to RCR's submission, Capral submitted²⁷ that it:

- sells standard geometric shapes;
- has an Aluminium Centre Network (ACN) which sells to the same end users in the retail sector described by RCR;
- supplies the hardware sector; and
- sells with a cut-to-length service.

RCR made a further submission²⁸ disagreeing with Capral's submission. RCR stated that Capral's ACN does not compete with retail hardware stores and that RCR does not provide the longer lengths that Capral supplies. RCR further stated that its goods bore no commercial, physical, functional or production likeness and that it should be granted an exemption if measures were imposed.²⁹

RCR made further submission³⁰ in response to the publication of G James' questionnaire response. RCR stated that, on various specified grounds, its goods were not alike to those produced by G James. Capral made a further submission³¹ responding to RCR's submission.

The Commission also received responses from certain importers and exporters contacted by the Commission at the initiation of the investigation. These exporters and importers advised that they had not imported the goods during the investigation period, but had imported (or exported to Australia) goods that were either intermediate or finished products (e.g. wall panels, glazed or unglazed window frames).

Alpha Energy Pty Ltd (Alpha), as part of a submission³², also advised that it had imported kits used to mount solar panels and that these were not the goods subject to the investigation. Capral, in response, submitted³³ that only kits which were 'complete' are not goods subject to the investigation.

3.6.3 Submissions regarding like goods received after the SEF

RCR submitted³⁴ that, despite the preliminary findings in the SEF, it maintained its position that the 'RCR goods' were not like goods on the basis that they did not bear sufficient physical likeness, were not targeted to the same market, were not of a custom shape and were not produced or finished in a similar manner. RCR's submission provided no further evidence or information to further support its stated position.

²⁶ EPR number 15.

²⁷ EPR number 21.

²⁸ EPR number 29.

²⁹ A similar claim was made by UAI in its submission at EPR number 15, on the basis that goods exported by UAI are neither like or directly competitive to locally produced extrusions.

³⁰ EPR number 49.

³¹ EPR number 61.

³² EPR number 13.

³³ EPR number 37.

³⁴ EPR number 71

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Given that no further information or evidence was provided, the Commission has not altered its assessment in regard to RCR's submissions.

3.6.4 The Commissioner's assessment – like goods

The Commission's assessment is that, while the locally produced goods are not necessarily identical to the goods that are the subject to the investigation, the Commission is satisfied that the locally produced goods closely resemble the goods that are the subject of the investigation and are like goods on the basis of the following.

The primary physical characteristics of the imported goods and locally produced goods are similar

The Commission's verification activities involving Australian producers, importers and exporters has shown that locally produced goods and imported goods are produced in a large variety of shapes and finish types. These extrusions include basic geometric shapes and client/system (proprietary) shapes. The Commission's analysis also indicates that Australian industry members are producing goods which are predominantly of the similar finish types and alloy content as those imported. The Commission considers that, despite variations in shapes, the primary physical characteristics of the goods and locally produced goods are sufficiently similar to be considered to be physically alike.

The Commission considers that kits containing aluminium extrusions together with all the other necessary components to assemble a finished product are not the goods under consideration. The Commission considers these kits to be an intermediate product that has been processed or fabricated to such an extent that they no longer possess the nature or physical characteristics of an aluminium extrusion.

The imported goods and locally produced goods are commercially alike as they are sold to common users, and directly compete in the same market

The Commission has completed a market segment analysis which identified that the Australian industry are supplying into the same market segments as imported aluminium extrusions³⁵. In many instances, the Commission identified that the Australian industry had common customers with importers who were sourcing aluminium extrusions from either China or Thailand. This included common customers in the retail sector. The Commission does not consider that individual labelling/packaging of extrusions sufficiently creates a difference in the goods or supply of the goods.

The imported goods and locally produced goods are functionally alike as they have a similar range of end-uses

Given that the Australian industry manufactures both generic geometric shapes and propriety shapes, the Commission considers that locally produced and imported goods have similar end uses. This is further evidenced through the Commission's market segment analysis which identified that numerous Australian customers are sourcing aluminium extrusions from both the Australian industry and import sources.

³⁵ Not all Australian industry members are necessarily supplying into the same market segments. This analysis is based on overall analysis of all Australian members who provided detailed sales information.

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The imported goods and locally produced goods are manufactured in a similar manner

Having visited the premises of Capral and certain exporters from China and Thailand, the Commission is satisfied that locally produced goods are manufactured in a similar manner to the imported goods.

Conclusion – like goods

Having regard to the above, the Commissioner is satisfied that the Australian industry produces 'like goods' to the goods the subject of the investigation, as defined in subsection 269T(1).

The Commissioner is also satisfied that there is an Australian industry in respect of 'like goods' in accordance with subsection 269TC(1).

4 AUSTRALIAN MARKET

4.1 Finding

The Commissioner finds that the Australian market for aluminium extrusions is supplied by the Australian industry and imports from a number of countries, including China and Thailand. The Commission estimates that the size of the Australian market during the investigation period was approximately 177,000 tonnes.³⁶

4.2 Market structure

Aluminium extrusions are used in a wide variety of applications including: commercial and residential buildings for window and door frame systems, prefabricated houses/building structures, roofing and exterior cladding, curtain walls, shop fronts, fencing, road and rail vehicles, marine, electrical and general manufacturing.

Based on information provided to the Commission, the Commission has identified three major market segments for aluminium extrusions. These are:

- residential dwellings;
- industrial sector; and
- non residential sector (i.e. commercial buildings).

The Commission also notes that there is a smaller 'retail' market segment.

These market segments, including the retail segment, are supplied by both Australian produced and imported aluminium extrusions. The major supply channels for these aluminium extrusions are:

- Australian extrusion producers and extrusion exporters through importers;
- Wholesalers and distributors; and
- End users including window and door fabricators, building system customers and a broad range of industrial or manufacturing customers.

The Australian aluminium extrusions market is supplied by Australian producers and importers. The goods are supplied by multiple countries, including China and Thailand, with China being the substantially larger import source.

Imported and locally produced aluminium extrusions are generally used interchangeably across end use applications and, subject to any proprietary rights, customers are able to switch between a domestic and an imported source.

4.3 Australian producers

The application was lodged by Capral on behalf of the Australian industry producing aluminium extrusions. Capral provided letters of support from six of the eight other

³⁶ In Investigation No. 362, the Australian market was estimated to have a size of 178,000 tonnes for the period between 1 July 2015 and 30 June 2016. Given the need to more accurately determine the proportion of imports from Thailand in this investigation, the Commission undertook a more detailed and forensic analysis of import volumes. This has resulted in a variation in the vicinity 3 per cent in estimated import volumes between the investigations.

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Australian producers of like goods. The letters of support were provided by G James, INEX, Ullrich, AluShapes, Extrusions Australia and Olympic. The Commission estimates that collectively these producers account for over 80 per cent of Australian production.

In addition to the data submitted as part of Capral's application, the Commission invited all Australian producers of like goods to complete an Australian industry questionnaire. The Commission received a completed Australian industry questionnaire response from G James in December 2017. EPA provided a partially completed questionnaire response in late March 2018 and some data was provided by Alushape.

The Commission undertook a verification visit to the applicant, Capral, and is satisfied that the information it provided was relevant, accurate and complete. A verification visit report is available on the EPR.³⁷

Whilst the Commission did not complete a verification visit to G James, the Commission undertook a benchmarking assessment of G James' data. Given the overlap in the injury analysis periods for this investigation and Investigation No. 362, the Commission benchmarked this investigation's data against G James' verified data in Investigation No. 362. This analysis confirmed that the G James data verified in Investigation No. 362 was consistent with the overlapping data provided for this investigation. The Commission also compared the relative trends in G James' data for major material costs and sale prices to the relevant trends in Capral's verified data. This analysis confirmed that both Capral and G James' major material costs and sales prices have trended in a largely consistent pattern. On this basis the Commission is satisfied that the data provided by G James is sufficiently relevant and accurate to analyse the economic performance of G James' aluminium extrusions operations.

A submission was received from INEX³⁸ supporting Capral's application and claiming that it had been injured through price suppression as the result of imports from China and Thailand. Basic financial information was provided with the submission.

EPA provided a partially completed Australian industry questionnaire to the Commission on 28 March 2018. Given that this information was given at such a late stage of the investigation, the Commission has had insufficient time to assess and analyse the information provided by EPA. This Commission has not used this data for the purposes of assessing the economic performance of the Australian industry.

4.4 Importers

Following the initiation of this investigation, the Commission identified the importers of aluminium extrusions from the nominated exporters using the Department of Home Affairs' (Home Affairs) import database. The Commission notified these importers and invited them to participate in the investigation.

Importer questionnaire responses were received from:

- BLC Aluminium Pty Ltd (BLC);
- RCR;

³⁷ EPR number 45.

³⁸ EPR number 38.

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- Kingseng Aluminium Pty Ltd;
- DTA Australia Pty Ltd; and
- Darley Aluminium Trading Pty Ltd (Darley Aluminium).

The Commission verified the importer questionnaire responses provided by Darley Aluminium and BLC.

Aluminium extrusions exported to Australia by Jiangsheng Aluminium were sold directly to Australian customers with its Australian branch, Guangdong Jiangsheng Aluminium (Australia) Pty Ltd (JS Australia), facilitating the importation and delivery of the goods to these customers. JS Australia's costs were verified during an onsite visit to JS Australia.

4.5 Market size

The Commission has relied on data from the Home Affairs import database, the sales volumes reported by the participating Australian industry producers, and Capral's estimate of the sale volumes of other aluminium extrusions producers in Australia, as well as verified exporter sales data to estimate the size of the Australian market for aluminium extrusions.

The Commission has filtered the information obtained from the Home Affairs import database based on the following criteria:

- relevant tariff classifications and statistical codes;
- goods description to exclude import transactions that appear not to be the goods;
- goods that were cleared or finalised at the border;
- an Free on Board (FOB) price per tonne range of \$2 to \$10 AUD per kilogram (kg) in order to exclude outlying data;
- goods that were less than 100kg to remove outliers in the data; and
- exclusion of goods sourced from China, Malaysia or Vietnam, which were declared exempt from interim countervailing duty and/or interim dumping duty for not being the 'goods'.

The Commission also obtained revised import volume data from an importer of goods from Thailand, DENSO Automotive Systems Australia Pty Ltd.³⁹ This revised data was incorporated into the Commission's assessment of the Australian market size.

The Government of Thailand made a submission⁴⁰ which in part related to the volume of imports from Thailand. The Commission subsequently obtained export statistics relating to aluminium extrusions from the Government of Thailand. This information was used to validate the volume of imports from Thailand during the investigation period.

Figure 1 summarises the size of the Australian aluminium extrusion market for each year ending 30 September of the injury analysis period.⁴¹

³⁹ EPR number 31.

⁴⁰ EPR number 11.

⁴¹ All years in Figure 1, and subsequent figures, align with the investigation period, e.g. years spanning October to September, unless otherwise stated.

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The Commission's assessment of the Australian market for aluminium extrusions reveals that, after declining in the 2015 year, the total Australian market size has subsequently increased in the following two years of the injury analysis period.

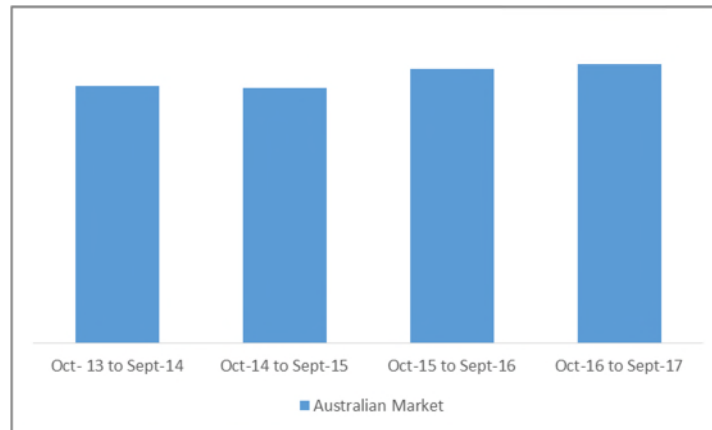


Figure 1 Aluminium extrusions total Australian market (metric tonnes (MT))

4.6 Import volumes

Figure 2, which is based on the Commission's estimates of import volumes, shows that over the injury analysis period, import volumes from:

- China have increased;
- Malaysia and Vietnam have fluctuated, but shown an overall decline;
- Thailand have increased from a negligible base; and
- all other countries have declined.

The Commission estimates that during the investigation period, imports from:

- China accounted for approximately 65 per cent of total imports;
- Malaysia and Vietnam represented approximately 15.4 per cent of total imports;
- Thailand accounted for 3.9⁴² per cent of total imports; and
- other countries accounted for 15.7 per cent of total imports. Of the other countries, New Zealand (7.04 per cent) and Indonesia (5.25 per cent) were the largest import sources.

⁴² This figure includes imports that have been both assessed as being dumped and not dumped.

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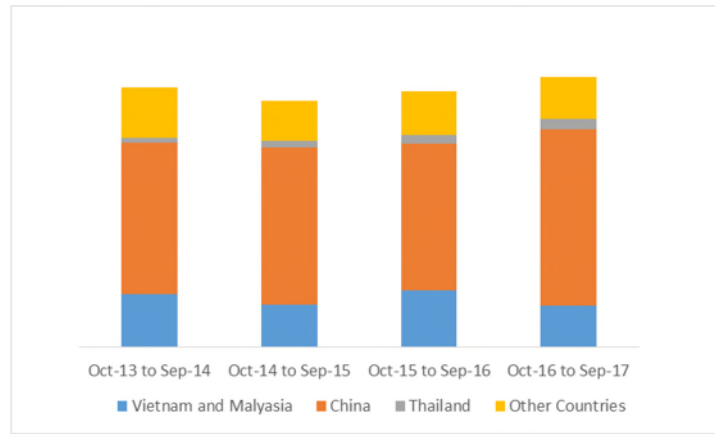


Figure 2 Aluminium extrusion import volumes (MT)

5 DUMPING INVESTIGATION

5.1 Findings

The Commissioner has found that, the goods exported to Australia:

- from China by Zhongya Aluminium and Jiangsheng Aluminium were not at dumped prices;
- from Thailand by UAI were at dumped prices; but the dumping margin was negligible at less than 2 per cent; and
- by all exporters from Thailand other than UAI were at dumped prices which were above negligible margins (above 2 per cent).

The dumping margins are summarised in Table 5.

Country	Exporter	Dumping margin
China	Jiangsheng Aluminium	-4.5%
	Zhongya Aluminium	-4.2%
Thailand	Schimmer Metal	22.1%
	UAI	1.9%
	Residual Exporters	22.1%
	Uncooperative and All Other Exporters	30.0%

Table 5 Dumping margins

The Commission's calculations of export prices, normal values and dumping margins are confidential.

The Commissioner has made these findings on the basis of the information and evidence available to the Commission and having regard to the application, submissions provided to the Commission and other matters that the Commissioner considers relevant.

5.2 Introduction and legislative framework

In his report to the Assistant Minister under subsection 269TEA(1), the Commissioner must recommend whether the Assistant Minister ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG.

Under section 269TG, one of the matters the Assistant Minister must be satisfied of in order to publish a dumping duty notice is that the goods have been dumped.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of goods are determined under sections 269TAB and 269TAC respectively.

Subsection 269TAC(1) provides that, subject to certain conditions, the normal value of the goods is the price at which like goods are sold in the domestic market of the country of export. Subsection 269TAC(1) cannot be used to calculate the normal value of the goods in any of the circumstances in subsections 269TAC(2)(a) and 269TAC(2)(b). In these circumstances, the normal value of the goods must be calculated under either

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subsections 269TAC(2)(c) or 269TAC(2)(d). Subsection 269TAC(2)(c) provides for the normal value to be constructed from the sum of:

- such amount as the Assistant Minister determines to be the cost of production or manufacture of the goods in the country of export; and
- on the assumption that the goods had been sold for home consumption in the ordinary course of trade (OCOT) in the country of export instead of being exported, such amounts as the Assistant Minister determines would be the selling, general and administrative (SG&A) costs associated with the sale and the profit on that sale.

If the Assistant Minister directs that subsection 269TAC(2)(d) applies then the normal value is the price determined by the Assistant Minister to be the price of like goods sold in the OCOT in arms length transactions from the country of export to a third country determined by the Assistant Minister to be appropriate.

Dumping margins are determined under section 26TACB. For the dumping margins in this investigation, the Commission compared the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period, in accordance with subsection 269TACB(2)(a).

Further details of the export price and normal value calculations for each exporter examined are set out in this chapter.

5.3 Exporter questionnaire responses

The Commission received exporter questionnaire responses from the following exporters who exported the goods to Australia during the investigation period:

- China:
 - Jiangsheng Aluminium; and
 - Zhongya Aluminium;
- Thailand:
 - Schimmer Metal;
 - UAI;
 - Alusite Precision Co., Ltd (Alusite);
 - Thai Metal Aluminium Co., Ltd (Thai Metal); and
 - Goldstar Metal Co., Ltd (Goldstar).

As previously mentioned, a number of Thai exporters contacted the Commission to advise that they had not exported the goods during the investigation period and in some instances provided evidence to support their claims.

5.4 Sampling of exporters from Thailand

Subsection 269TACAA(1) states that where the number of exporters from a particular country of export in relation to the investigation, review or inquiry is so large that it is not practicable to examine the exports of all of those exporters, then the investigation, review or inquiry may be carried out, and findings may be made, on the basis of information obtained from an examination of a selected number of those exporters:

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- a. who constitute a statistically valid sample of those exporters; or
- b. who are responsible for the largest volume of exports to Australia that can reasonably be examined.

The Commission received completed exporter questionnaires from five exporters from Thailand. The exports by UAI and Schimmer Metal constituted over 70 per cent of the exports of the goods from Thailand during the investigation period. The exports by Alusite, Thai Metal and Goldstar each respectively constituted less than 2 per cent of the exports from Thailand during the investigation period.

As a consequence of the number of exporters who chose to cooperate in relation to Thailand, the Commission proceeded on the basis of the information obtained from an examination of a selected number of exporters, namely UAI and Schimmer Metal (the selected exporters from Thailand), who were responsible for the predominant volume of exports to Australia, because it was not practicable to examine the exports of all cooperating Thai exporters.

In determining the largest volume of exports to Australia from Thailand that can reasonably be examined, the Commissioner took into account:

- the number of exporters who submitted exporter questionnaires from Thailand that the Commission can practically verify;
- the number of cooperative exporters from Thailand required to sufficiently cover the various finish types of aluminium extrusions sold to Australia and on the Thai domestic market; and
- the individual volume of each identified exporter and the cumulative volume of a manageable number of the largest volume exporters.

All remaining exporters from Thailand fall within the definitions of either 'residual exporters' or 'uncooperative and all other' exporters.

A residual exporter is an exporter whose exportations were not examined as part of the investigation and who was not an uncooperative exporter. The residual exporters from Thailand are Alusite, Thai Metal and Goldstar.

An uncooperative exporter is defined as an exporter that did not provide information considered to be relevant to a dumping investigation within the specified timeframe, or an exporter that significantly impeded the investigation.⁴³

5.5 Market situation finding in relation to China

Capral alleged in its application that the influence of the Government of China (GOC), through a broad range of industry plans and policies, impacted on raw material primary aluminium prices such that it caused these input prices to be artificially low. As a result of these alleged artificially low prices, Capral submitted that the market selling prices in China for aluminium extrusions were rendered unsuitable for determining normal values.

After having considered these allegations, the Commission has formed a view that normal values cannot be ascertained under subsection 269TAC(1) because there is a particular

⁴³ Residual exporter and uncooperative exporter are defined terms under subsection 269T(1).

market situation in the Chinese domestic aluminium extrusions market such that sales in that market are not suitable to be used in determining a price under subsection 269TAC(1).

The Commissioner's assessment of a particular market situation in China for aluminium extrusions is in **Appendix A**.

5.6 Model matching

Given that a constructed normal value methodology was used to determine normal values for Jiangsheng Aluminium and Zhongya Aluminium, the Commission compared export prices and normal values in accordance with how these exporters kept records in relation to costs. This was based on the finish type of the goods (e.g. mill finish, powder coated finish, bright dip finish or anodised finish).

In relation to Schimmer Metal and UAI a greater degree of granularity was possible. Finish type, alloy type, temper grade and micron level (for anodised goods) were applied as model matching criteria for Schimmer Metal. Finish type, alloy type and temper grade were applied as model matching criteria for UAI.

5.7 Dumping assessment – China

5.7.1 Constructed normal values

The Commissioner has found that there is a particular market situation in China such that domestic selling prices are not suitable for determining normal value under subsection 269TAC(1).⁴⁴

Where the Assistant Minister is satisfied that normal value cannot be determined under subsection 269TAC(1), subsection 269TAC(2)(c) provides that the normal value is:

(c) ... the sum of:

- i) such amount as the [Assistant Minister] determines to be the cost of production or manufacture of the goods in the country of export; and*
- ii) on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export—such amounts as the [Assistant Minister] determines would be the administrative, selling and general costs associated with the sale and the profit on that sale;*

As required by subsections 269TAC(5A) and 269TAC(5B), the construction of normal values under subsection 269TAC(2)(c) is required to be undertaken in accordance with sections 43, 44 and 45 of the Regulations.

To determine costs of manufacture or production in relation to constructing normal values, subsection 43(2) of the Regulations requires that if:

- an exporter or producer of the goods keeps records relating to the goods that are in accordance with generally accepted accounting principles (GAAP) in the country of export; and*

⁴⁴ In terms of subsection 269TAC(2)(a)(ii).

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- *those records reasonably reflect competitive market costs associated with the production or manufacture of the goods;*

the Assistant Minister must work out the cost of production or manufacture using the information set out in the exporter or producer's records.

It is the Commission's view that, where an exporter's records are otherwise in accordance with GAAP, and are reliable, but the records do not reasonably reflect competitive market costs associated with the production or manufacture of the goods, it is open for the Assistant Minister, if practicable, to adjust the records so they reasonably reflect competitive market costs associated with the production or manufacture of the goods in the country of export. In making such adjustments, the Commission considers that the Assistant Minister may have regard to all relevant information.

5.7.2 Reasonableness of exporters' costs of production

In relation to this investigation, the Commission has found that the records of the two Chinese exporters relating to the goods have been kept in accordance with GAAP in the country of export.

However, the Commission's view is that, due to the influence of the GOC in the domestic market for primary aluminium, the exporters' records do not reasonably reflect competitive market costs for the production or manufacture of the goods. Specifically, the Commission considers that aluminium costs in China, which make up a major proportion of the total costs of production of aluminium extrusions are distorted by GOC influence and do not reasonably reflect competitive market costs associated with the production or manufacture of the goods in terms of subsection 43(2)(b)(ii) of the Regulations (Appendix A refers). Accordingly, the Commissioner considers it appropriate that aluminium costs relating to the costs of production in the exporters' records be adjusted to reflect competitive market costs and that the methodology outlined below be applied in making such adjustments.

5.7.3 Aluminium cost replacement

For the reasons set out in section 5.7.2, the Commission has determined that the constructed normal values should not consist solely of the actual aluminium costs incurred by exporters in the relevant costs of production. The Commission has considered all relevant information and considers it appropriate to use the exporters' records, but only after an adjustment is made to the records relating to the costs of aluminium, as submitted by each selected exporter in its exporter questionnaire. Such adjustment ensures that each exporter's records reflect competitive market costs. In doing so, the Commission has considered the individual circumstances of each exporter's purchases of aluminium and to the greatest extent possible has ensured that the exporter's adjusted records reflect costs that would be incurred in China without the distortion resulting from the influence of the GOC.

The Commission has established in previous cases that aluminium costs in competitive markets in Asian regions are often priced according to:

- a published price for primary aluminium;
- a regional premium;
- inland transport costs; and

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- a billet premium reflecting an additional cost to convert an ingot to a billet for use in the production of the goods.

The Commission has included each of the above components in establishing a competitive benchmark cost for aluminium, as outlined below:

Primary aluminium – LME cash price

The Commission has relied on the average monthly London Metal Exchange (LME) official cash price data sourced from Argus Media⁴⁵ under subscription.

Regional premium

The Commission has relied on the published Major Japanese Ports (MJP) regional premium sourced from Argus Media under subscription. Shipments under the MJP premium are made on a Cost, Insurance and Freight (CIF) basis. This means that the premium is inclusive of all costs associated with transporting the goods from the country of export to the destination port except for those cost relating to port of arrival charges and inland transport from the port of arrival to the final destination.

Inland transport costs

The Commission calculated and applied the verified weighted average inland transport costs incurred by each exporter for its export sales of aluminium extrusions to Australia.

Billet premiums

The Commission has determined a billet premium using the Australian industry's billet price schedules relevant to the investigation period.

5.7.4 Calculation of adjustment

The aluminium costs have been determined by replacing both Jiangsheng Aluminium's and Zhongya Aluminium's actual purchased ingot or billet costs with the competitive benchmark cost and applying this change to their respective records.

5.7.5 Determination of profit for constructed normal values

Subsection 45(2) of the Regulations requires that, where reasonably practicable, profit for constructed normal values under subsection 269TAC(2)(c)(ii) must be worked out using data relating to the production and sale of like goods by the exporter or producer of the goods in the OCOT.

Accordingly, the Commission has separately calculated for each of Jiangsheng Aluminium and Zhongya Aluminium a weighted average profit rate measured as a percentage mark-up on their full cost to make and sell (CTMS) using the actual records relating to their respective costs of production. This profit rate has been used to calculate

⁴⁵ SEF 442 referred to a previous name of the Argus Metals subscription service. The name has been updated in this report to reflect the current trading name of the subscription source. Prices were obtained from Metals Prices, a trademark of Argus Media at www.metalprices.com.

a separate amount of profit for Jiangsheng Aluminium and Zhongya Aluminium for the purposes of subsection 269TAC(2)(c)(ii).

5.8 Dumping assessment – Zhongya Aluminium (China)

5.8.1 Verification

The Commission conducted an in-country visit to Zhongya Aluminium's facilities in China during January and February 2018 to verify the information disclosed in its exporter questionnaire response.

The verification team toured Zhongya Aluminium's facilities and is satisfied that it is the producer of the goods and like goods.

Capral provided a submission⁴⁶ in regards to Zhongya Aluminium's exporter questionnaire response prior to the verification visit. In summary, Capral requested that the Commission examine Zhongya Aluminium's records to establish whether:

- an upwards adjustment to the normal value is required to account for an agent's fee incurred in relation to export sales;
- the costs relating to aluminium are competitive market costs;
- an upwards adjustment to the normal value is required to account for any additional cost of packaging (including the cost of stillages) for export sales; and
- an upwards adjustment to the normal value of four per cent is required to account for the VAT differential between domestic and export sales.

This submission was considered by the verification team during the course of the verification and have been addressed at sections 5.5 and 5.8.3.

A report covering the visit findings is available on the public record.⁴⁷

5.8.2 Export price

Zhongya Aluminium sold aluminium extrusions to Australian importers through related selling agent Zhongya Shaped Aluminium HK (Zhongya HK). The goods were therefore not purchased by the importer from the exporter and for this reason export prices could not be established under subsection 269TAB(1)(a) or 269TAB(1)(b). Accordingly, the Commission determined export prices in accordance with subsection 269TAB(1)(c), namely, having regard to all the circumstances of the exportation.

Specifically, the export price is considered to be the price paid or payable by the Australian importer, less relevant costs including:

- handling and transport cost were applicable to certain sales;
- the costs of Zhongya HK;
- the profit of Zhongya HK;
- invoice fees where incurred by Zhongya HK; and

⁴⁶ EPR number 27.

⁴⁷ EPR number 57.

- credit term costs.

5.8.3 Normal value

The Commission determined Zhongya Aluminium’s normal values in accordance with subsection 269TAC(2)(c) as outlined in section 5.7.

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsection 269TAC(9):

Adjustment type	Deduction/addition
Export packaging	Add the cost of export packaging
Export commissions/processing	Add the cost of export commissions/processing & banking fees
Non-refundable value-added tax (VAT)	Add the non-refundable VAT amount of 4 per cent

Table 6 Adjustments to Zhongya Aluminium’s normal values

5.8.4 Submissions regarding Zhongya Aluminium received prior to SEF

Zhongya Aluminium’s export price

Capral made a submission⁴⁸ regarding the affiliation between Zhongya Aluminium and Darley Aluminium, which focussed in particular on the role of Kuang Shun E in these companies. Capral submitted that the export price of the goods exported by Zhongya Aluminium to Darley Aluminium was impacted by the relationship between certain entities and the role of Kuang Shun E.

In response, Darley Aluminium submitted⁴⁹ that:

- they shared no common management with Zhongya Aluminium and that Kuang Shun E was only a non-beneficial shareholder of Darley Aluminium;
- Kuang Shun E was not a director of Darley Aluminium and did not participate in the management of Darley Aluminium; and
- there is no common management between Darley Aluminium and Zhongya Aluminium which might have affected the export prices between these companies.

In response to the publication of Zhongya Aluminium’s exporter visit report⁵⁰, Capral made a submission regarding the Commission’s preliminary determination that Zhongya Aluminium’s export prices were arms length.

Capral expressed concern that Darley Aluminium’s prices in the Australian market do not reflect the export prices it paid to Zhongya Aluminium plus all costs incurred to the point of sale in Australia. Capral also highlighted that the Commission can compare export

⁴⁸ EPR number 6.

⁴⁹ EPR number 30.

⁵⁰ EPR number 60.

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prices for Zhongya Aluminium in this investigation to the verified export prices of cooperating exporters from China obtained during Review No. 392, given that the periods examined overlap (for 3 months).

Zhongya Aluminium affiliation with Guang Ya Group

Capral made a further submission concerning the findings made by the U.S. Department of Commerce (USDOC) in relation to Zhongya Aluminium and affiliations with the Guang Ya group of companies.⁵¹ Capral state that in an Administrative Review Inquiry in 2013, the USDOC collapsed Zhongya Aluminium and other entities into a single entity for the purposes of assessing dumping. For the purposes of this investigation, Capral requested that, in the event that dumping margins greater than negligible levels are determined for Zhongya Aluminium, the Commission ensure that any measures imposed are not circumvented by Zhongya Aluminium and its associated companies.

Darley Aluminium visit report

In a submission⁵² dated 3 April 2018 Capral commented on the Darley Aluminium importer visit report. Capral raised concerns regarding:

- The level of detail in the modified Darley Aluminium's sales listing;
- Its sales to a related entity which was considered by the Commission to be immaterial;
- The need for the Commission to use a deductive export price based on Darley Aluminium's sales based on previously described association of Kuang Shun E and the fact that some sales were not profitable.

Adjustments and export price

In a submission dated 25 May 2018, Capral sought the Commission to:

- clarify the nature of the export packaging adjustment made;
- examine Zhongya Aluminium's export prices and compare them to the verified cooperating exporters from China in Review 392;
- conduct deductive export price calculations based upon Darley Aluminium's selling prices to test whether Zhongya Aluminium's export price was arms length; and
- confirm that all costs of Zhongya HK are reflected in adjustments to Zhongya Aluminium's normal value.

Commission's consideration of submissions prior to SEF 442

The Commission conducted further enquiries in relation to Kuang Shun E's involvement in both Zhongya Aluminium and Darley Aluminium. This included completing relevant company searches and obtaining further information during the verification visits to Darley Aluminium⁵³ and Zhongya Aluminium.

⁵¹ EPR number 59.

⁵² EPR number 42

⁵³ Details of the analysis of this information is contained in confidential appendices to both the Darley Aluminium and Zhongya Aluminium verification reports.

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The Commission is satisfied that during the investigation period Kuang Shun E was a non-beneficial shareholder of Darley Aluminium but was not a director of Darley Aluminium. Kuang Shun E was a director of other companies affiliated with Zhongya Aluminium during the investigation period and held interests in some of these entities.

Given the nature of these relationships and the evidence before the Commission, the Commission undertook detailed analysis to determine whether Zhongya Aluminium's export sales prices were arms length in nature. In completing this analysis the Commission considered the circumstances specified under section 269TAA where the price paid or payable should not be treated as arms length. The Commission's policy⁵⁴ in relation to the application of section 269TAA was also considered.

The Commission's 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.

To assess the nature of these transactions the Commission reviewed both the nature of Zhongya Aluminium sales, through its sales agent Zhongya HK, to Darley Aluminium and Darley Aluminium's sales to its own customers.

The Commission's analysis:

- indicated that the export sale price between Zhongya HK and Darley Aluminium was an arms length price when compared to pricing of Zhongya HK's other unaffiliated Australian customers;
- indicated that the sales by Darley Aluminium into the Australian market were overall profitable and that, whilst some individual sales were unprofitable, these individual sales were not materially significant;⁵⁵ and
- did not identify any evidence of direct or indirect reimbursement during the investigation period between Zhongya Aluminium, its affiliated entities, or Darley Aluminium.

The Commission is satisfied that, in respect of aluminium extrusions exported by Zhongya Aluminium to Australia during the investigation period:

- there was no other consideration payable for, or in respect of, the goods other than its price;
- that the price was not influenced by a commercial or other relationship between the buyer and seller; and
- that an associate of the buyer, and the seller, or an associate of the seller; or the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

⁵⁴ See chapter 5 of the Commission's Dumping and Subsidy Manual.

⁵⁵ Given the finding that Darley Aluminium's sales are profitable, the Commission is not required, as requested by Capral, to test Zhongya Aluminium's export price by conducting a deductive export in relation to Darley Aluminium's sales into the Australian market.

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The Commission acknowledges Capral's reference to the USDOC's findings in relation to a US case involving Zhongya Aluminium. Given the finding below that Zhongya Aluminium has not exported the goods to Australia at dumped prices, the Commission has not addressed Capral's submission regarding potential circumvention involving Zhongya Aluminium or affiliated companies any further.

The upwards adjustment made for export packaging costs relates to Zhongya Aluminium's stillage costs. The verification team conducted a detailed inspection of Zhongya Aluminium's packaging, warehousing and distribution facilities. The verification team established that, apart from the use of stillages on export sales, packaging for domestic and export sales was similar. Differences in packaging were primarily driven by the type of finish and customer requirements.

In relation to Darley Aluminium, the Commission is satisfied that the revised sales listing provided by Darley Aluminium contained sufficient detail and included sales of the goods. The Commission notes that Capral's comments about an appropriate level of SG&A to be applied to 'trader' sales is largely consistent with the Commission's position.

The Commission compared the ascertained export prices (AEP) for Zhongya Aluminium to those of cooperating Chinese exporters established in Review No. 392 for the overlapping quarter (1 October 2016 to 31 December 2016). This comparison indicated 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.

For Zhongya Aluminium the Commission determined export prices in accordance with subsection 269TAB(1)(c), namely, having regard to all the circumstances of the exportation. To account for the costs of Zhongya HK, export prices were adjusted for all relevant costs of Zhongya HK. The nature of the costs adjusted for are discussed in section 5.8.2. These costs were verified onsite at Zhongya HK's premises.

5.8.5 Submissions in response to SEF and not considered prior to the publication of SEF 442

Capral submitted⁵⁶ that it did not consider Zhongya Aluminium sales to be arms length and that the Commission had failed to consider the market intelligence provided by Capral which identified the low prices being offered by Darley Aluminium in the Australian market. Capral advised that, based on its intelligence, it had calculated a deductive export price which demonstrated that many of Darley Aluminium's price offers did not either cover the "LME+MJP+BP" cost, conversion costs or the costs incurred to the point of sale in Australia.

Commissioner's consideration of submission

The Commission has examined the offers and calculations made by Capral in its submission and assessed this information in the context of the sales and cost information verified during the Darley Aluminium verification visit. The Commission also sought further information from Darley Aluminium subsequent to receiving Capral's submission.

⁵⁶ EPR number 70

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The Commission identified that, whilst some of the data in Capral's submission was consistent with Darley Aluminium's verified data, there were anomalies with other aspects of the data provided. These anomalies included:

- The documentary evidence , provided by Capral, for some of the offers did not provide sufficient information to enable the Commission to either identify the relevant customer or the period in which Darley Aluminium made the offer;
- In one example where Capral had calculated a price on a per kilogram basis for a particular extrusion profile, it was identified that Capral's calculated price per kilogram was understated. The Commission was able to validate Darley Aluminium's price per kilogram by reference to relevant drawings and specifications; and
- In some instances where the name of the customer was identified, the Commission was not able to identify sales to the specified customer at the offer prices quoted by Capral.

The Commission considers that the verified sales and cost information provided by Darley Aluminium provides a more accurate and reliable basis on which to assess the profitability of sales and the arms length nature of sales.

Based on the above assessment, the Commission considers that Darley Aluminium's verified data is preferred given that it is based on actual transactions and is considered more reliable.

As previously mentioned, whilst certain sales were found to be unprofitable, Darley Aluminium's sales of the goods were profitable overall. Darley Aluminium's profitable sales enabled for the full recovery of any losses made on any of the goods sold at a loss during the investigation period.

In these circumstances, the Commission continues to consider that it is not appropriate, as submitted by Capral, to treat Zhongya Aluminium's export sales to Australia as non arms length and use a deductive price methodology to establish export prices.

In the event that the Commission were to apply a deductive export price methodology, the Commission considers that, given the overall profitable nature of Darley Aluminium's sales there would not be a material change to the dumping margin.

5.8.6 Dumping margin – Zhongya Aluminium

The Commission has calculated the dumping margin for Zhongya Aluminium as negative 4.2 per cent.

5.9 Dumping assessment – Jiangsheng Aluminium (China)

5.9.1 Verification

The Commission conducted an in-country visit to Jiangsheng Aluminium's facilities in China during January 2018 to verify the information disclosed in its exporter questionnaire response.

The verification team toured Jiangsheng Aluminium's facilities and is satisfied that it is the producer of the goods and like goods.

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Capral provided a submission⁵⁷ in regard to Jiangsheng Aluminium's exporter questionnaire response prior to the verification visit. This submission was considered by the verification team during the course of the verification. In summary, Capral requested that the Commission examine:

- the impact in Jiangsheng Aluminium's change in ownership;
- the nature of certain costs in relation to Jiangsheng Aluminium's Australian subsidiary;
- whether costs relating to aluminium in Jiangsheng Aluminium's records are competitive market costs;
- whether sales by Jiangsheng Aluminium to a related party in Australia were arms length;
- an upwards adjustment to the normal value is required to account for any additional cost of packaging (including the cost of stillages) for export sales; and
- an upwards adjustment to the normal value of four per cent is required to account for the VAT differential between domestic and export sales.

This submission was considered by the verification team during the course of the verification and have been addressed at sections 5.5, 5.9.3 and 5.9.4.

A report covering the visit findings is available on the public record.⁵⁸

5.9.2 Export price

Jiangsheng Aluminium predominately exported sales of aluminium extrusions to customers in Australia on delivered duty paid (DDP) terms. In relation to these sales the Commission considers Jiangsheng to be both the importer and the exporter. Consequently, the goods have *not* been exported to Australia otherwise than by the importer. For this reason export prices could not be established under subsection 269TAB(1)(a) or 269TAB(1)(b).

Accordingly, the export price has been determined under subsection 269TAB(1)(c), having regard to all the circumstances of the exportation. Specifically, the export price has been established using the DDP invoice price paid by the Australian customers, less transport and other costs arising after exportation, except for certain sales delivered via airfreight. For those sales delivered via airfreight, the export price has been established using the ex-works price plus inland transport and port charges.

Other sales of aluminium extrusions were made by Jiangsheng Aluminium to Australia through a domestic trader. For those sales, the Commission considers that the goods have *not* been purchased by the importer from the exporter. For this reason export prices could not be established under subsection 269TAB(1)(a) or 269TAB(1)(b).

Accordingly, export prices have been determined under subsection 269TAB(1)(c), having regard to all the circumstances of the exportation. Specifically, the export price has been

⁵⁷ EPR number 28.

⁵⁸ EPR number 43.

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established using the FOB invoice price paid by the domestic trader to Jiangsheng Aluminium.

5.9.3 Normal value

The Commission determined Jiangsheng Aluminium's normal values in accordance with subsection 269TAC(2)(c) as outlined in section 5.7.

5.9.4 Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsection 269TAC(9):

Adjustment type	Deduction/addition
Domestic credit terms	Deduct the cost of domestic credit
Domestic packaging	Deduct the cost of domestic packaging
Export packaging	Add the cost of export packaging ⁵⁹
Export inland transport	Add the cost of export inland transport
Export handling expenses	Add the cost of export handling expenses
Export agent fees	Add the cost of export agent fees
Australian branch expenses	Add the cost of the Australian branch office expenses
Non-refundable VAT	Add the non-refundable VAT amount of 4 per cent
Export credit terms	Add the cost of export credit

Table 7 Adjustments to Jiangsheng Aluminium's normal values

5.9.5 Submissions regarding Jiangsheng Aluminium prior to SEF

Capral submitted information⁶⁰ in relation to Jiangsheng Aluminium regarding:

- changes in the names for Jiangsheng Aluminium and JS Australia;
- various entities related to Jiangsheng Aluminium; and
- the nature of the sales between Jiangsheng Aluminium and JS Australia.

Capral requested that the Commission examine whether the relationships between Jiangsheng Aluminium and various entities affect the export price and cost of production in China.

Jiangsheng Aluminium subsequently made a submission⁶¹ responding to and clarifying the information provided by Capral in their submission.

Jiangsheng Aluminium's submission:

⁵⁹ The adjustment for export packaging for Jiangsheng Aluminium includes stillage costs.

⁶⁰ EPR number 10.

⁶¹ EPR number 20.

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- clarified the role of various parties in the export of goods to Australia (consistent with section 5.9.2); and
- stated that Jiangsheng Aluminium has no association with companies listed in Capral's submission.

Subsequent to the publication of Jiangsheng Aluminium's verification report, Capral commented in a submission⁶² in relation to the methodology for constructing normal values under subsection 269TAC(2)(c) and the nature of the upwards adjustment for Zhongya Aluminium's packaging costs on export sales.

Capral also made a submission⁶³ on 3 April 2018, advising that there had been insufficient disclosure of information in section C of Jiangsheng Aluminium's exporter questionnaire response. Capral also raised concerns regarding Jiangsheng Aluminium's claim that they did not produce any illustrative material of products manufactured.

Commission's response to submissions prior to SEF 442

The constructed normal value methodology outlined in Capral's submission is consistent with the methodology applied in constructing the normal values for Jiangsheng Aluminium. In regard to adjustments applied for packaging costs, both a downwards adjustment for domestic packaging and an upwards adjustment for export packaging was made. The upwards adjustment included stillage costs for export sales.

The verification team queried the claim made by Jiangsheng Aluminium that they did not produce illustrative material of products manufactured. Jiangsheng Aluminium advised that they did not produce such materials as they manufactured aluminium extrusions to client specifications. Capral's comments in relation to the level of disclosure in section C of Jiangsheng Aluminium's questionnaire response was noted.

5.9.6 Submissions regarding Jiangsheng Aluminium after SEF

Submission from Jiangsheng Aluminium

Jiangsheng Aluminium submitted⁶⁴ that the Commission had understated the aluminium recoveries when calculating the billet cost for establishing Jiangsheng Aluminium's normal value. In support of its submission, Jiangsheng Aluminium provided copies of cost records that had previously been verified during the verification visit.

Submission from Capral

Capral submitted⁶⁵ that the preliminary dumping margins did not reflect the selling prices offered by Jiangsheng Aluminium's supply channels into the Australian market. Capral referred to evidence provided with its application and further evidence attached to its submission. Capral's submission provided calculations to demonstrate that, based on the offers it has observed in the Australian market, export prices on a deductive basis were

⁶² EPR number 55.

⁶³ EPR number 44

⁶⁴ EPR number 69

⁶⁵ EPR number 70

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below the prevailing “LME+MJP+BP” cost level. Capral queried why the Commission had utilised the DDP price and not utilised a deductive export price.

In Capral’s view, Jiangsheng Aluminium’s export prices must be at dumped prices for it to be competitive with all other Chinese exporters.

Commission’s consideration of submissions after SEF

The Commission has reviewed the evidence provided by Jiangsheng Aluminium and is satisfied that the aluminium recovery rate had been understated in the normal value calculations published at the time of the SEF. As a consequence, the Commission has revised the normal value and dumping margin calculations. The result of making this change was a reduction in the normal value and dumping margin.

Jiangsheng Aluminium’s sales into the Australian market were predominately completed on DPP Incoterm terms. The Commission is satisfied that that all relevant importation and post importation costs have been deducted from the DDP price to calculate an FOB ascertained export price for Jiangsheng Aluminium. Jiangsheng Aluminium was found not to be dumping on a weighted average basis across all relevant export sales.

As with Zhongya Aluminium, the Commission compared the ascertained export prices for Jiangsheng Aluminium to those of cooperating Chinese exporters established in Review No. 392 for the overlapping quarter (1 October 2016 to 31 December 2016). This comparison also indicated that Jiangsheng Aluminium’s weighted average AEP was higher than the weighted average AEP established for the cooperating Chinese exporters in Review No. 392 across all finish types. Given that Jiangsheng Aluminium is currently not subject to dumping duty, the Commission considers that they would be able to charge a higher export price given that importers sourcing aluminium extrusions from other Chinese exporters (excluding Zhongya Aluminium) would be required to pay dumping duty and would have to account for this duty in their pricing into the Australian market.

5.9.7 Dumping margin – Jiangsheng Aluminium

The Commission has calculated the dumping margin for Jiangsheng Aluminium as negative 4.5 per cent.

5.10 Dumping assessment – Schimmer Metal (Thailand)

5.10.1 Verification

The Commission conducted an in-country visit to Schimmer Metal in Thailand during January 2018 to verify the information disclosed in its exporter questionnaire.

The verification team toured Schimmer Metal’s facility and confirmed that it was the producer of the goods and like goods.

Capral provided a submission⁶⁶ in regards to Schimmer Metal’s exporter questionnaire response prior to the verification visit. This submission was considered by the verification

⁶⁶ EPR number 26.

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team during the course of the verification. In summary, Capral requested that the Commission examine whether:

- Schimmer Metal's pricing takes into account the MJP premium and other applicable premiums;
- Schimmer Metal's costs relating to aluminium are consistent with prevailing LME and other premiums at the time of production; and
- an upwards adjustment to the normal value is required to account for any additional cost of packaging (including the cost of stillages) for export sales.

This submission was considered by the verification team during the course of the verification and have been addressed in the verification report or at section 5.10.3.

A report covering the visit findings is available on the public record.⁶⁷

5.10.2 Export price

The Commission is satisfied that the goods have been exported to Australia otherwise than by the importer and were purchased in an arms length transaction by the importer from the exporter.

Export prices were determined under subsection 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

5.10.3 Normal value

For all but one export model, the Commission found sufficient sales of like goods (identical and surrogate models) in the OCOT. For those models with sufficient sales in OCOT, the Commission calculated normal values in accordance with subsection 269TAC(1).

For the one export model where there were insufficient sales of the same model or an appropriate surrogate model, the Commission constructed the normal value under subsection 269TAC(2)(c) using the cost to make the exported goods, plus SG&A and a profit on the assumption that the goods were sold on the domestic market. In calculating the profit, the Commission used domestic sales of like goods made in the OCOT, in accordance with subsection 45(2) of the Regulations.

5.10.4 Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsections 269TAC(8) and (9):

⁶⁷ EPR number 52.

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Adjustment type	Deduction/addition
Domestic credit	Deduct the cost of domestic credit
Domestic inland transport	Deduct the cost of domestic inland transport
Domestic packaging	Deduct the cost of domestic packaging
Export packaging	Add the cost of export packaging
Export expenses	Add the cost of export expenses
Export insurance expenses	Add the cost of export insurance expenses
Specification adjustment	For models with no, or insufficient, sales in the OCOT

Table 8 Adjustments to Schimmer Metal normal values

5.10.5 Submissions not considered prior to the publication of SEF 442

Capral made a submission⁶⁸ in relation to the importer visit report for BLC. Capral submitted that it was concerned about:

- the reliability of BLC’s data given that BLC’s financial statements were not audited;
- how the costs of associated entity BLC Imports and Exports Pty Ltd were accounted for;
- the exclusion of the warehousing costs from direct to end-user sales; and
- the allocation of SG&A costs on high value sales sold in low volumes.

The Commission notes Capral’s concerns regarding not having access to an audited financial statement for the purposes of the BLC verification. However, not all entities are required to have their financial statements audited. The Commission’s verification for BLC also involved verification of data to source documents. This enabled the Commission to obtain a sufficient level of assurance in relation to the accuracy, relevancy and completeness of the data provided by BLC.

The Commission confirms that any costs of BLC Imports and Exports Pty Ltd, if they were relevant, have been included in the assessment of the profitability of BLC’s sales.

The Commission notes that BLC’s ‘direct to end-user sales’ did not involve any warehousing costs as the goods were directly transported from the port to the customers’ premises. Consequently, the Commission disagrees with Capral’s submission that warehousing costs should be allocated to these sales in assessing their profitability.

The Commission confirms that SG&A costs were allocated as a proportion of revenue and, as a consequence, this allocation method has allocated an appropriate amount of SG&A costs to the high value, low volume sales.

5.10.6 Dumping margin – Schimmer Metal

The Commission has calculated the dumping margin for Schimmer Metal as 22.1 per cent.

⁶⁸ EPR number 64

5.11 Dumping assessment – UAI (Thailand)

5.11.1 Verification

The Commission did not undertake an in-country visit to UAI's facilities in Thailand. However, UAI's exporter questionnaire response was subject to remote verification during April and May 2018.

Relying on the information available, the Commission is satisfied that UAI is a producer of the goods and like goods.

A report covering the verification findings is available on the public record.⁶⁹

5.11.2 Export price

The Commission is satisfied that the goods have been exported to Australia otherwise than by the importer and were purchased in an arms length transaction by the importer from the exporter.

Therefore the export price for UAI was calculated under subsection 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

5.11.3 Normal value

For all export models the Commission found sufficient sales of like goods in the OCOT.

The Commission determined that normal values should be calculated under subsection 269TAC(1), using the price paid or payable for like goods sold in the OCOT for home consumption in Thailand.⁷⁰

5.11.4 Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsection 269TAC(8) as follows:

⁶⁹ EPR number 62.

⁷⁰ In terms of section 269TAAD.

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Adjustment type	Deduction/addition
Domestic credit	Deduct the cost of domestic credit
Domestic packaging	Deduct the cost of domestic packaging
Domestic inland transport	Deduct the cost of domestic inland transport
Export barcode stickers	Add the cost of export barcode stickers
Export trolley	Add the cost of export trolley
Export beam wood	Add the cost of export beam wood
Export packaging	Add the cost of export packaging
Export other charges (punching)	Add the cost of export punching
Export export-related labour	Add the cost of export-related labour
Export inland transport	Add the cost of export inland transport
Export handling and other charges	Add the cost of export handling and other charges
Export other costs (port fees)	Add the cost of other export costs (port fees)
Export fumigation	Add the cost of export fumigation
Export credit	Add the cost of export credit

Table 9 Adjustments to UAI's normal values

5.11.5 Submissions regarding UAI in response to SEF and submissions not considered prior to the publication of SEF

Capral made a submission⁷¹ on 6 June 2018 in response to the verification report published for UAI. The Commission had insufficient time to consider this submission prior to the publication of the SEF and, as a consequence, this submission has been considered in this termination report. Capral's submission raised the following concerns in relation to the normal value calculations for UAI:

- whether UAI's aluminium costs were consistent with a relevant benchmark price;
- whether there were sufficient sales in OCOT, given the low volume of export sales;
- the lack of any adjustments for finance or bank charges for export sales; and
- whether upwards adjustments had been made for the specification differences identified by RCR.

In a post SEF submission⁷² Capral reiterated its concerns raised in its earlier submission and raised further concerns regarding the significant differential in the dumping margins calculated for the two sampled Thai exporters. Capral also provided further evidence in relation to its concerns that UAI's pricing did not fully reflect all raw material costs.

UAI submitted⁷³ subsequent to the publication of the SEF that certain adjustments to UAI's normal value should only reflect the proportion of sales made to RCR and should

⁷¹ EPR number 65

⁷² EPR number 70

⁷³ EPR number 71

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not be made to all sales made to Australian customers. They stated that these adjustments should be reduced to reflect RCR's share of UAI's sales.

Commissioner's consideration of submissions

Submissions from Capral

Subsequent to Capral's submissions, the Commission has applied an upwards adjustment for export credit terms. This adjustment has had the effect of increasing the dumping margin. The Commission is satisfied that the upwards adjustments made to the normal value for packing, barcode stickers and punching reflects the relevant specification differences identified by RCR in its submissions.

During the verification the Commission verified UAI's raw material purchases and costs. The verification procedures included comparing UAI's raw material aluminium costs against relevant benchmark prices. It was found that that these raw material costs were consistent with the relevant benchmark prices over the investigation period. The Commission also notes that the documentary evidence provided by Capral in relation to UAI's pricing would include sufficient allowance for any port premium or billet premium (if applicable) in the conversion figure quoted.

As a result of Capral's submission, the Commission undertook analysis of the relevant factors driving the significant variation in the dumping margins between the two sampled Thai exporters. The analysis of verified information identified that the export pricing for comparable sales for each exporter were largely consistent over the period of investigation. Whilst multiple factors appear to be affecting each exporters' dumping margin, the Commission's analysis of the verified data identified that the variation was in part driven by each exporters' relative scale, CTMS and domestic pricing. Considering that this data has been verified, none of these variations are sufficient to indicate that UAI's data used for calculating the dumping margin was not reliable and accurate.

Submission from UAI

The Commission has reviewed the upwards adjustments identified in UAI's submission and is satisfied that the adjustment has been applied on a weighted average basis which correctly accounts for the proportion of sales to which these adjustments apply. Consequently, the Commission has not reduced this adjustment as requested by UAI.

5.11.6 Dumping margin – UAI

The Commission has calculated the dumping margin for UAI as 1.9 per cent⁷⁴.

5.12 Residual exporters – Thailand

For the purpose of this investigation the category of 'residual exporters' from Thailand, is comprised of Alusite, Thai Metal and Goldstar.

⁷⁴ In a submission confirming that UAI did not object to the publication of the verification report, UAI submitted that the investigation should be terminated in relation to their client due to the de minimis dumping margin. See EPR number 63

5.12.1 Export price

In relation to residual exporters from Thailand, subsection 269TACAB(2)(c) requires that the export price must not be less than the weighted average export price for like goods of selected cooperative exporters from Thailand. In relation to an investigation, subsection 269TACAB(3) requires that, in calculating the weighted average export price, the Commission is not to include any export price from a selected exporter that was found to not be dumping or where the dumping margin, when expressed as a percentage of the export price or weighted average of export prices used to establish that dumping margin, is less than 2 per cent.

The Commission notes that, of the two selected cooperative exporters from Thailand, UAI was found to have a dumping margin, when expressed as a percentage of the export price or weighted average of export prices used to establish that dumping margin, of less than 2 per cent. Because of the application of subsection 269TACAB(3), the Commission cannot use UAI's export price to determine a weighted average amount for residual exporters' export prices under subsection 269TACAB(2)(c).

Further, given that only one selected exporter had a dumping margin above 2 per cent, the Commission was not able to establish a weighted average export price under 269TACAB(2)(c).

The Commission has established the export price for residual exporters from Thailand under subsection 269TAB(3) having regard to all relevant information, as sufficient information was not available to ascertain the export price under the preceding subsections of 269TAB. Relevant information in these circumstances included the export price of the selected cooperative exporter from Thailand with a dumping margin above 2 per cent.

5.12.2 Normal value

In relation to residual exporters from Thailand, subsection 269TACAB(2)(d) requires that the normal value must not be more than the weighted average normal value for like goods of selected cooperative exporters from Thailand. In relation to an investigation, subsection 269TACAB(3) requires that, in calculating the weighted average normal value, the Commission is not to include any normal value from a selected exporter that was found to not be dumping or where the dumping margin, when expressed as a percentage of the export price or weighted average of export prices used to establish that dumping margin, was less than 2 per cent.

The Commission notes that of the two selected cooperative exporters from Thailand, UAI was found to have a dumping margin, when expressed as a percentage of the export price or weighted average of export prices used to establish that dumping margin, of less than 2 per cent. Because of the application of subsection 269TACAB(3), the Commission cannot use UAI's normal value to determine a weighted average amount for residual exporters' normal values under subsection 269TACAB(2)(d).

Further, given that only one selected exporter had a dumping margin above 2 per cent, the Commission was not able to establish a weighted average normal value under 269TACAB(2)(d).

The Commission has established the normal value for residual exporters from Thailand under subsection 269TAC(6) having regard to all relevant information, as sufficient information was not available to ascertain the normal value under the preceding subsections of 269TAC. Relevant information in these circumstances included the normal value of the only selected cooperative exporter from Thailand with a dumping margin above 2 per cent.

5.12.3 Dumping margin – Residual exporters

The dumping margin for the residual exporters from Thailand is 22.1 per cent.

5.13 Uncooperative and all other exporter dumping margins

As detailed in section 5.4, the Commission is treating all exporters of aluminium extrusions from Thailand in the investigation period other than the cooperating exporters and the category of residual exporters from Thailand, as uncooperative exporters as defined in subsection 269T(1).

Subsection 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. This provision specifies that for uncooperative exporters, export prices are to be calculated under subsection 269TAB(3) and normal values are to be calculated under subsection 269TAC(6).

The Commission has therefore determined an export price pursuant to subsection 269TAB(3) after having regard to all relevant information. Specifically, the Commission has used the lowest of export prices of those that were established for cooperating exporters in the investigation period.

The Commission has determined normal value for the uncooperative exporters pursuant to subsection 269TAC(6) after having regard to all relevant information. Specifically, the Commission has used the highest of normal values of those that were established for the cooperating exporters in the investigation period.

This dumping margin for uncooperative and all other exporters from Thailand is 30.0 per cent.

5.14 The Commissioner's assessment

The Commissioner has assessed that aluminium extrusions exported to Australia:

- from China by Zhongya Aluminium and Jiangsheng Aluminium were not at dumped prices;
- from Thailand by UAI were at dumped prices, but the dumping margin was negligible at less than 2 per cent; and
- from Thailand by exporters other than UAI were at dumped prices which were above negligible margins (above 2 per cent).

A summary of the Commission's dumping margins are set out in Table 10.

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Country	Exporter	Dumping margin
China	Jiangsheng Aluminium	-4.5%
	Zhongya Aluminium	-4.2%
Thailand	Schimmer Metal	22.1%
	UAI	1.9%
	Residual Exporters	22.1%
	Uncooperative and All Other Exporters	30.0%

Table 10 Dumping margins

5.15 Volume of dumped imports

Pursuant to subsection 269TDA(3), the Commissioner must terminate the investigation, in so far as it relates to a country, if satisfied that the total volume of goods that are dumped is a negligible volume. Subsection 269TDA(4) defines a negligible volume as less than 3 per cent of the total volume of goods imported into Australia over the investigation period if subsection 269TDA(5)(c) does not apply.

Using the Home Affairs import database and having regard to the information collected and verified from the importers and exporters, the Commission determined the volume of imports into the Australian market. Based on this information, the Commission is satisfied that, when expressed as a percentage of the total Australian import volume of the goods, the volume of allegedly dumped goods from Thailand was greater than 3 per cent of the total import volume and is therefore not negligible. It is noted that all imports from Thailand have been included in this analysis, including the imports from UAI which were dumped at negligible levels. This is due to the operation of subsection 269TDA(6), which states that the volume of goods at negligible dumping margins are not prevented from being taken into account for the purposes of subsection 269TDA(3).

Accordingly, the Commissioner has not terminated this investigation in relation to Thailand under subsection 269TDA(3).

6 ECONOMIC CONDITION OF THE AUSTRALIAN INDUSTRY

6.1 Findings

The Commissioner has considered the relevant facts and has found that the Australian industry has experienced injury in the forms of:

- price suppression;
- suppressed profits;
- suppressed profitability; and
- suppressed return on investment.

6.2 Introduction and approach to injury analysis

6.2.1 Legislative background

Under section 269TG, one of the matters that the Assistant Minister must be satisfied of in order to publish a dumping duty notice is that the Australian industry has experienced material injury caused by the dumped goods. The matters that may be considered in determining this are set out in section 269TAE. The Commission also has regard to the *Ministerial Direction on Material Injury 2012 (Material Injury Direction)*.⁷⁵

6.2.2 Capral's application

In its application, Capral submitted that the Australian industry has suffered material injury and that injury was caused by aluminium extrusions being exported to Australia from the nominated exporters at dumped prices. Specifically, Capral claims to have suffered the following types of injury:

- price suppression;
- suppressed profitability;
- suppressed profit; and
- suppressed return on investment.

Capral claims that it has not been able to achieve prices in the Australian market commensurate with its level of investment. That is, whilst its performance improved following the imposition of provisional measures on Malaysia and Vietnam in October 2016 (Investigation No. 362), the allegedly dumped imports from the nominated exporters has resulted in performance poorer than would otherwise be.

As part of its application, Capral provided its sales and cost data relating to aluminium extrusions. The Commission verified the evidence and data Capral relied upon in making these allegations. The verification team's analysis of this information is contained in Capral's verification report.⁷⁶

⁷⁵ Ministerial Direction on Material Injury 2012, 27 April 2012, available at www.adcommission.gov.au

⁷⁶ EPR number 45.

6.2.3 The Australian industry

Following initiation of the investigation, the Commission sought information and data in the form of a questionnaire⁷⁷ from all other Australian aluminium extrusion producers, in order to assess the economic condition of the Australian industry more broadly.⁷⁸ The Commission received a response from G James on 8 December 2017.⁷⁹ The Commission also received limited data from Alushapes on 25 January 2018 and a confidential response from EPA on 28 March 2018.

The information provided by G James was benchmarked against other verified information and was found to be sufficiently relevant and accurate. This data has been used in the analysis below as far as possible. EPA's response was received very late in the investigation and on a confidential basis only, and Alushapes' response was not in a form that could be readily consolidated with other data provided. Data from EPA and Alushapes was therefore not used in the analysis with the exception of estimating the size of the Australian market and the market share analysis of the Australian industry as a whole.⁸⁰

The Commission estimates that Capral and G James represent approximately 60 per cent of the Australian industry. For this investigation, the Commission considers that there was an appropriate representation of the Australian industry to assess most economic indicators of injury and has aggregated Capral and G James' data.

This chapter analyses the economic condition of the Australian industry and provides an assessment as to whether the Australian industry has suffered injury.

6.2.4 Commencement of injury

In its application Capral stated that:

"It is Capral's view that material injury sustained in 2015/16 has continued in 2016/17 as exports from China not the subject of interim anti-dumping measures, and exports from Thailand, have increased and displaced exports from Malaysia and Vietnam that were the subject of investigation (and subject to provisional measures from October 2016)."

6.2.5 Period of analysis

The Commission has used data from Capral and G James along with other data, such as import statistics from the Home Affairs import database, where relevant in its analysis of the economic condition of the Australian industry for the injury analysis period from 1 October 2013.

⁷⁷ The questionnaire requested information about the company, the goods, the Australian market, injury, the link between injury and the alleged dumped goods from the nominated exporters, and financial data relating to the injury analysis period.

⁷⁸ The due date for responses was 2 November 2017.

⁷⁹ See EPR number 39 for the non-confidential version. It is noted that, in its questionnaire response, G James claimed injury in the form of 'reduced attractiveness to invest', but did not include return on investment data.

⁸⁰ See Section 4.3 for further discussion on the verification of Australian industry data.

In Capral's application, injury indices were presented on a financial year basis from 2013-14 to 2016-17. As noted in CON 442, the investigation period was set for the 12 months ending September 2017 to enable the most recently completed quarter to be considered. The injury analysis period was set to commence on 1 October 2013 which is consistent with the Commission's convention of including the preceding three years to the investigation period in the injury analysis period.

All analyses in this section relates only to domestic sales of aluminium extrusions and is based on years ending September, unless noted otherwise.

6.2.6 Conduct of analysis

At section 5.2 of CON 442 it was noted that the injury analysis period has been affected in various ways by past cases examining dumping and subsidisation of the goods from China, Malaysia and Vietnam. In such circumstances, the Commission may, where necessary, conduct a 'but for' analysis to determine a counterfactual scenario of what would be the economic condition of the Australian industry in terms of prices and profits absent the alleged importation of dumped goods. The analysis in this and the following chapter has focussed on what pricing and the subsequent impact on profit and return on investment would have been in the investigation period, absent goods in the market at dumped prices.

The Material Injury Direction states that in cases where it is asserted that the Australian industry would have been more prosperous if not for the presence of dumped or subsidised goods, the Commissioner is directed to be mindful that a decline in the Australian industry's rate of growth may be just as relevant as the movement of an industry from growth to decline.

The Commission also notes that, in relation to the previous investigation for Malaysia and Vietnam (Investigation No. 362), securities were taken from 19 October 2016 and anti-dumping measures were imposed on 27 June 2017. Given that this investigation was initiated on 19 October 2017, there was limited data at that stage to examine Capral's claims in the application that, following the measures in relation to Malaysia and Vietnam, the state of the Australian industry had not improved as expected due to the emergence of dumped goods from the nominated exporters. As a consequence, as part of the investigation the Commission has further investigated whether Capral's claims in the application related to a) material injury or b) threat of material injury. The Commission has addressed potential threat of material injury at section 7.16.

6.3 Volume effects

6.3.1 Sales volume

In its application, Capral did not claim to have experienced volume injury. Capral's sales volumes were however analysed in CON 442 and as part of Capral's verification report. The Commission has prepared the following volume analysis taking into account data from Capral and G James.

Capral and G James' combined sales volumes of all finish types of aluminium extrusions for the injury analysis period is illustrated in Figure 3. Figure 3 shows growth achieved in sales volumes across the injury analysis period, with a slight increase in the investigation

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period. Overall, Capral and G James' sales volumes increased by approximately 17 per cent across the injury analysis period.

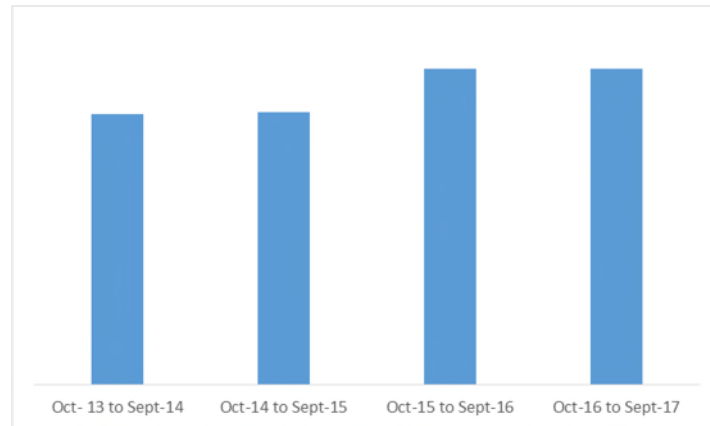


Figure 3 Capral and G James combined sales volume

6.3.2 Market share

In its application, Capral did not claim to have lost market share. As noted in CON 442, based on information available at the time, the Australian industry as a whole may have lost market share in the investigation period. This was further examined during the investigation after receiving information from G James and EPA. However it is noted that, due to the lack of participation from the Australian industry, the Commission's evaluation of the Australian industry's market share was limited because it relied in part on unverified estimates provided by Capral as part of its application in relation to certain Australian producers.

Figure 4 illustrates the Australian market share of aluminium extrusions during the injury analysis period. Figure 4 shows that:

- the Australian industry appeared to experience growth in market share between October 2013 and September 2016 before a marginal decline in the investigation period;
- the market share of aluminium extrusions sourced from Zhongya Aluminium and Jiangsheng Aluminium remained relatively stable over the injury analysis period; and
- coming off a low base, the market share of aluminium extrusions from Thailand increased from 0.7 per cent to 1.3 per cent over the injury analysis period.

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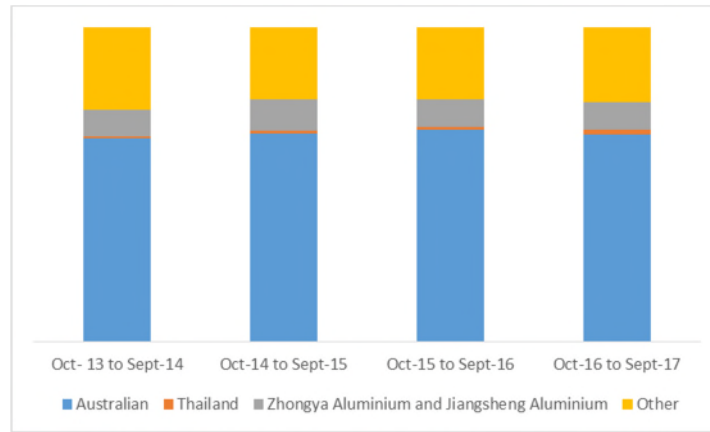


Figure 4 Australian market share (%)

Noting that the above analysis relies on estimates of sales volumes for certain Australian producers, the Commission considered there was inconclusive evidence that the Australian industry as a whole experienced lost market share during the investigation period.

The analysis of volume effects is contained in **Confidential Appendix 1**.

6.3.3 Conclusion – volume effects

Based on the above analysis, the Commissioner does not consider that the Australian industry has suffered injury in terms of lost sales volumes and lost market share.

6.4 Price effects

In its application, Capral claimed that it had been injured through price suppression.

The Commission completed both a price suppression and price depression analysis based on consolidated data from Capral and G James. This analysis excluded export sales and relevant sales of aluminium extrusions imported by Capral.

6.4.1 Price suppression

Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. In determining whether price suppression has occurred the Commission may examine:

- a comparison of prices with costs to assess whether over time (e.g. the injury analysis period) or within a specified period (e.g. the investigation period) – prices have not increased at the same rate as cost increases; and/or
- an assessment as to whether the prices for the Australian industry's product are lower than prices that may have been achieved in the absence of dumping.

Figure 5 illustrates movements in Capral and G James' domestic weighted average unit CTMS and unit sales revenue for aluminium extrusions during the injury analysis period.

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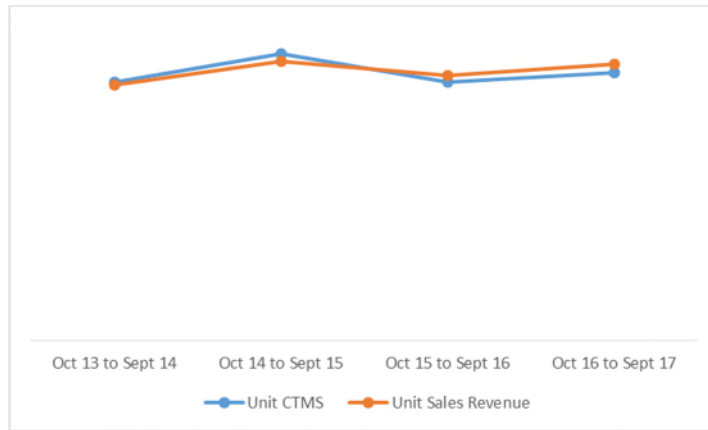


Figure 5 Capral and G James' aggregate unit CTMS and unit sales revenue of like goods

Capral claims to have experienced a slight increase in selling prices in the year ending September 2017, but consider that its selling prices have not recovered to the levels of 2014-15. This is borne out by the data, which showed a fluctuation in unit sales revenue over the four year period with an increase in the investigation period. However, the increase in the investigation period was not to the levels achieved in the year ending September 2015.

Unit CTMS and unit sales revenue have been relatively aligned, with unit sales revenue breaking above unit CTMS in the last two years.

Capral claimed in its application that its costs have been relatively stable over the injury analysis period. The main driver of its CTMS is the cost of aluminium log which is priced at the LME, plus a MJP premium price plus the cost of converting aluminium into logs (billet premium). Capral's prices are generally set based on a spread it is able to achieve above LME. Figure 6 compares Capral and G James' unit CTMS and unit sales revenue with the LME plus MJP premium and the spread achieved.

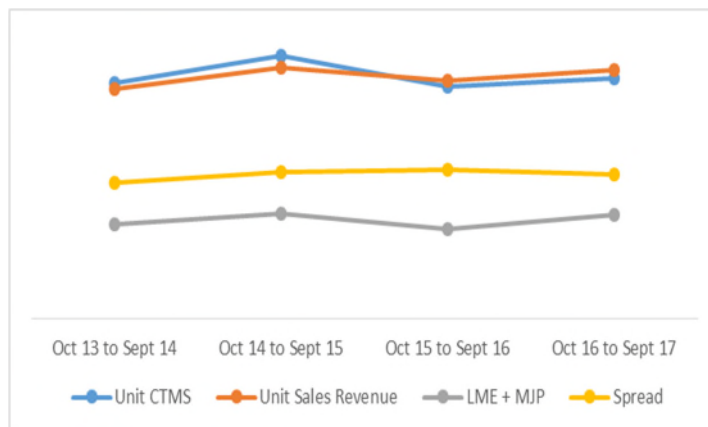


Figure 6 Capral and G James' spread comparisons

As shown in Figure 6, Capral and G James' unit CTMS and unit sales revenue generally followed a combination of the LME, MJP and billet premium and there has been a slight decline in spread in the investigation period.

6.4.2 Price depression

Price depression occurs when a company, for some reason, lowers its prices.

As indicated in Figures 5 and 6, unit sales revenue has fluctuated over the injury analysis period, with an increase in the investigation period.

6.4.3 Conclusion – price effects

Based on the analysis above, the Commissioner was satisfied that the Australian industry has suffered injury in the form of price suppression as it was not able to maintain the spread it achieves on its sales.

6.5 Profit and profitability effects

6.5.1 Suppressed profits and profitability

Subsection 269TAE(3)(e) refers to the level of profits earned in an industry as a relevant economic factor that may be considered in assessing material injury.

In its application, Capral claimed that it was suffering injury in the form of suppressed profit and profitability. Figure 7 shows Capral and G James' profit and profitability for aluminium extrusions over the injury analysis period.

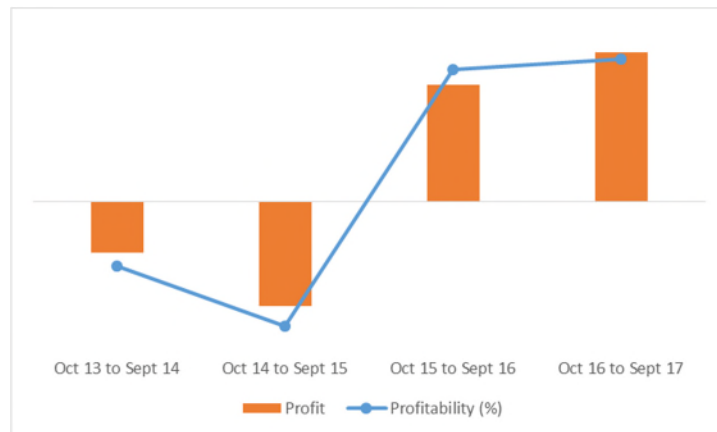


Figure 7 Capral and G James' profit and profitability of like goods

As illustrated in Figure 7, Capral and G James collectively were profitable in the final two years of the injury analysis period, with an improvement in performance in the investigation period. Sales of aluminium extrusions were profitable and improving in the investigation period. As shown in Figure 5, pricing has not kept pace with rising costs resulting in a reduced spread in the investigation period which will be examined in the next chapter.

The Commission has considered the impact on the profit of Capral and G James collectively were they able to maintain the spread achieved in the year ending September 2016. If they were able to maintain this spread during the investigation period their profit and profitability would have been significantly higher.

The analysis of Capral’s price injury, unit profits and profitability is contained in **Confidential Appendix 7**.

6.5.2 Conclusion – profit effects

Based on the analysis above, including the reduced spread that Australian industry was able to achieve in the investigation period, the Commissioner was satisfied that the Australian industry has suffered injury in the form of suppressed profit and profitability due to its suppressed prices during the investigation period.

6.6 Other economic factors

In its application Capral claimed injury in relation to suppressed return on investment.⁸¹ G James did not provide information regarding its return on investment. Figure 8 indicates there has been a decline in Capral’s return on investment in the investigation period.

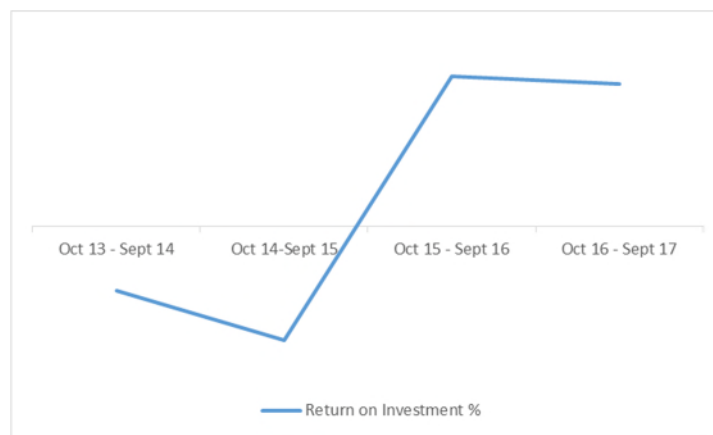


Figure 8 Capral’s return on investment (%)

A range of other economic factors not claimed by Capral or G James were examined. A summary of the other factors observed in the investigation period for Capral and G James is included in Table 11.

⁸¹ It is noted that, following initiation of the investigation, Capral provided a revised Confidential Appendix A7, therefore the indices in relation to return on investment as stated in Capral’s application at EPR number 001 have changed. The updated return on investment information in this section was analysed as part of a verification visit to Capral.

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Factor	Capral	G James
Assets	Decline	Increase
Capital investment	Decline	Increase
R+D Expense	Not provided	Not provided
Revenue	Increase	Increase
Capacity	Stable	Stable
Capacity utilisation	Decline	Increase
Employment	Increase	Increase
Productivity	Decline	Increase
Stocks	Decline	Not provided
Accounts receivable	Increase	Not provided
Receivables turnover	Not provided	Not provided
Wages	Increase	Increase
Average wage	Decline	Increase

Table 11 Summary of other factors

The increases in revenue, overall wages and employment are consistent with the slight growth in sales volumes for Capral and G James in the investigation period. Capacity levels have been stable. The other indicators did not show a consistent picture across the Australian industry. Capral and G James did not claim these as other injury factors and the Commissioner does not consider these injury factors have been experienced by the Australian industry.

6.7 Submissions related to injury

Submissions related to material injury and/or causation have been addressed at section 7.11.

6.8 Findings

The Commissioner has considered the relevant facts and has found that Australian industry has experienced injury in the form of:

- price suppression;
- suppressed profits;
- suppressed profitability; and
- suppressed return on investment.

7 HAS DUMPING CAUSED MATERIAL INJURY?

7.1 The Commissioner's findings

The Commissioner has considered the evidence available and considers that injury to the Australian industry, if any, caused by exports of aluminium extrusions from Thailand at dumped prices was negligible.

7.2 Legislative framework

In any report to the Assistant Minister under subsection 269TEA(1), the Commissioner must recommend whether the Assistant Minister ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG.

Under section 269TG, one of the matters the Assistant Minister must be satisfied of in order to publish a dumping duty notice is that, because of the dumping, material injury has been, or is being caused, or has been threatened to the Australian industry producing like goods.

Subsection 269TAE(1) outlines the factors that the Assistant Minister may take into account in determining whether material injury to an Australian industry has been, or is being, caused or threatened. The Commissioner has also had regard to the Material Injury Direction.⁸²

7.3 Approach to causation analysis

This chapter analyses whether material injury experienced by the industry was caused by the dumped goods. In the course of the investigation, evidence related to the potential causal link between any injury experienced by the Australian industry and the dumped imports was provided by Capral. The analysis below is therefore focussed on this evidence and broader conditions analysed.

As outlined in chapter 5, the Commission has found that, during the investigation period, Jiangsheng Aluminium and Zhongya Aluminium from China and UAI from Thailand were exporting the goods to Australia at negative or negligible dumping margins.

The analysis in this chapter therefore excludes imports from the above exporters and focuses on the impacts of the remaining imports at dumped prices (at above negligible levels) from Thailand.⁸³

As outlined in chapter 6 the Commissioner considers that the Australian industry has suffered injury, which has coincided with the presence of dumped goods from Thailand. This chapter will analyse whether material injury to the Australian industry was caused by dumped goods from Thailand.

⁸² Ministerial Direction on Material Injury 2012 (27 April 2012), available at www.adcommission.gov.au.

⁸³ References in this chapter to dumped goods from Thailand therefore is a reference to dumped goods at above negligible levels.

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In assessing the materiality of injury, the Commission notes chapter 21 of the Manual, which states that causal effects may be examined using what is termed a 'coincidence' analysis; or by comparing the state of the Australian industry in the investigation period to a point in time prior to the injury having commenced; or using a 'but for' analytical method.

Capral has submitted that its pricing in the market is lower than it should be. It claims that it has not been able to increase its spreads following the imposition of provisional measures in Investigation No. 362 given the allegedly dumped goods from the nominated exporters. Capral claims that there has been volume displacement in favour of these sources.

Where a 'coincidence analysis' is not possible, the Commission may undertake an alternate analytical method, such as a 'but for' analysis, when examining causal effects. Under a 'but for' analytical analysis it may be possible to compare the current state of the Australian industry to the state that the Australian industry would likely have been in if there had been no dumping.

Noting the effects of previous investigations, and the current anti-circumvention inquiry, the Commission has, where necessary, conducted a 'but for' analysis to determine what the economic condition of the Australian industry, for example, in terms of prices and profits, would have been if aluminium extrusions were not exported from Thailand at dumped prices. The Commission has considered this counterfactual scenario to compare to the factual scenario, or current state of affairs.

A 'but for' analysis is supported by the Material Injury Direction which states that in cases where it is asserted that the Australian industry would have been more prosperous if not for the presence of dumped or subsidised goods, the Commissioner is directed to be mindful that a decline in the Australian industry's rate of growth may be just as relevant as the movement of an industry from growth to decline.

The Commission's analysis in this chapter is supported by evidence including:

- sales, production, revenue and cost data from Capral and G James;
- evidence of market intelligence related to price offers in the Australian aluminium extrusions market;
- verified information from importers and exporters of aluminium extrusions; and
- information from the Home Affairs import database.

7.4 Size of the dumping margins

Subsection 269TAE(1)(aa) provides that regard may be given to the size of each of the dumping margins, worked out in respect of goods of that kind that have been exported to Australia.

The dumping margins are set out in chapter 5. The dumping margins for Schimmer Metal and the three residual exporters from Thailand is 22.1 per cent, and is 30 per cent for uncooperative and all other exporters from Thailand (excluding UAI). The Commissioner considers that the magnitude of the dumping could provide certain importers of the dumped goods with the ability to offer the goods to customers in Australia at prices lower than would otherwise have been the case. However, the Commission notes that the volume of dumped goods from Thailand was not a substantial proportion of the total

import volumes. Further discussion of the price effects from the dumped goods from Thailand is at section 7.6 (price undercutting analysis).

7.5 Volume effects

While Australian industry did not claim volume injury (and the Commission did not find volume injury to the Australian industry at section 6.3), Capral did claim that imports from Thailand (and from Jiangsheng and Zhongya) displaced imports from Malaysia and Vietnam, which has caused it injury through their pricing. The claimed displacement by goods from Thailand is examined in this section.

The major increases in volumes and market share in the investigation period have been in favour of the Chinese exporters not subject to this investigation (with an increase in the investigation period of 34 per cent in terms of volume and 3.2 percentage points in terms of market share for Chinese exporters not subject to the investigation).

As noted in chapter 4, the Commission found that the Australian industry remains the major avenue of aluminium extrusions to the Australian market. Volumes of aluminium extrusions from Thailand were small at the beginning of the injury analysis period and although increased, remained small during the investigation period. As such, the Commissioner does not consider that aluminium extrusions exported from Thailand at dumped prices have caused material injury to the Australian industry in the form of volume effects.

7.6 Price undercutting

7.6.1 Background

Price undercutting occurs when imported goods are sold at a price below that of the Australian produced like goods. The Commission has conducted an analysis of price undercutting based on verified sales data sourced from cooperating importers, data from the Home Affairs import database, and data provided by Capral and G James. All sales price comparisons in this chapter are on a free into store (FIS) basis, with the exception of the country analysis which was based on pricing that include duties.

Given the range of finish types of aluminium extrusions and the different levels of trade prevalent in the industry, the Commission compared like with like as far as possible. Mill finish is the most common finish type on the Australian market, followed by powder coated finish.

7.6.2 Price undercutting – Thailand

Weighted average prices

The Commission compared the weighted average sales prices of an importer which sourced dumped aluminium extrusions from Thailand with the Australian industry's weighted average sales prices for aluminium extrusions over the investigation period. Pricing for goods from Darley Aluminium and Guangdong Jiangsheng Aluminium Co Ltd, which were sourced from the two Chinese exporters subject to this investigation were also examined.

PUBLIC RECORD

Volume

Further to the discussion at 6.3.2 the imports from Thailand at dumped prices constitute less than one per cent of the Australian market.

Finish type prices

Noting the commercially sensitive information that may become apparent given the specific players in the specific segments of the market offering specific finishes, the Commission has presented its undercutting analysis over the investigation period in summary form in table 12. It splits prices by finish and level of trade and includes the level of undercutting on average over the investigation period. Further detail is included in **Confidential Appendix 8**.

PUBLIC RECORD

Level of trade	Overall	Fabricator/end user/ industrial/ commercial	Wholesaler/ distributor	Retailer
Mill Finish	Thai importer generally with the lowest prices and together with a firm supplied by undumped sources is undercutting Australian industry.	<p>Thai importer generally with the lowest prices and together with a firm supplied by undumped sources is generally undercutting Australian industry.</p> <p>Goods from undumped sources are undercutting the lowest priced Australian industry member.</p>	<p>Thai importer generally with the lowest prices and generally undercutting Australian industry.</p> <p>Goods from undumped sources are undercutting the lowest priced Australian industry member.</p>	Australian industry with the lowest prices.
Powder coat Finish	Thai importer and a firm supplied by undumped sources generally with the lowest prices and undercutting Australian industry.	<p>Thai importer and a firm supplied by undumped sources generally with the lowest prices and undercutting Australian industry.</p> <p>Goods from undumped sources are undercutting the lowest priced Australian industry member.</p>	<p>Thai importer with the lowest prices and together with a firm supplied by undumped sources undercutting Australian industry.</p> <p>Goods from undumped sources are undercutting the lowest priced Australian industry member.</p>	Australian industry with the lowest prices.
Anodise Finish	Firm supplied by undumped sources with the lowest prices. Australian industry not undercut by Thai importer, where relevant sales.	Firm supplied by undumped sources with the lowest prices. Australian industry not undercut by Thai importer, where relevant sales.	Firm supplied by undumped sources with the lowest prices.	Firm supplied by undumped sources with the lowest prices. Australian industry not undercut by Thai importer.

Table 12 Undercutting summary

Bright dip finish is supplied by undumped sources only. For the purpose of this table ‘undumped’ includes dumping at negligible levels. Sales between Australian industry have not been included.

7.6.3 Price undercutting – country analysis

To gain a broad understanding of how the prices of exports from Thailand compared with exports from other countries, including those not subject to this investigation, the Commission examined weighted average prices over the investigation period from China, Indonesia, Malaysia, New Zealand, Thailand and Vietnam based on data sourced from the Home Affairs import database. The Commission examined the ‘line VOTI’ prices which include duties, with the results presented in Figure 9.

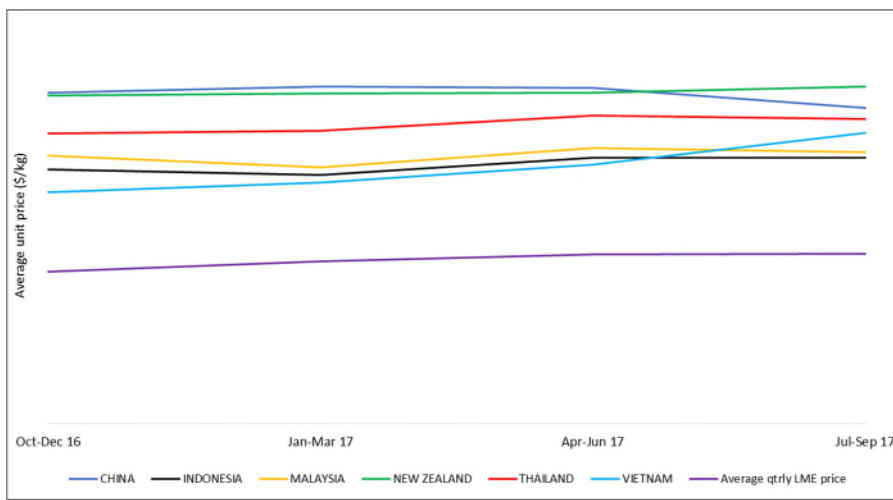


Figure 9 Country pricing analysis

Given the complexities of the aluminium extrusions market, including various finishes available in the market, the Commission utilised this data to note that prices of exports from Thailand appeared not to be the lowest in the market overall.

7.6.4 The Commissioner’s assessment – price undercutting

The Commissioner considers that there was evidence of price undercutting from Thai goods exported to Australia at dumped prices for certain finish types in certain levels of trade. However, exports from undumped sources for some finish types and levels of trade goods were priced at similar or higher levels, but also undercutting Australian industry prices.

The Commissioner does not consider that there was a direct relationship between the pricing of goods exported to Australia from Thailand at dumped prices and the prices offered in the market by the Australian industry.

7.7 Price effects

7.7.1 Pricing in the market

Based on the results of this investigation to date, as well as previous investigations, reviews and inquiries into aluminium extrusions, it has been established that the

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Australian market for aluminium extrusions is price sensitive. Movements in the price of imported aluminium extrusions are leveraged by customers to negotiate prices with the Australian industry. In order to remain competitive, the Australian industry responds to the price of imports. Capral advised that customers generally prefer to have more than one supply option for a given product and that price, rather than country of manufacture, is the more relevant factor.

Capral provided the Commission during the investigation information regarding its price setting practices. Its prices are generally set on the 'spread' which is the price it is able to achieve above LME. As noted in section 6.4.1, its spread declined in the investigation period. Capral advised that it regularly monitors price offerings in the market and that a key determinant for its prices to external customers was the prices set by its competitors, including for imported products.

Capral claims that one exporter is the price setter in the market for large customers (supplies distributors and major customer group) and that another exporter, through an importer, is the price setter in the distribution market. Capral has further claimed that price undercutting from Zhongya Aluminium and Jiangsheng Aluminium and Thai exports have been the prime cause of price suppression.

When presented with competitors' prices, Capral claims that it makes a commercial decision whether to match prices or not. Specific price discussions on specific orders appear more prevalent with Capral's smaller rather than larger customers, whose sales are made using price lists negotiated in advance with each customer.

In determining how to react to alternative pricing offers put to them from imported and other Australian-produced goods, Capral advised that they examine their variable costs, the value proposition and their desire to maintain sales volume.

In its application, Capral provided eight 'examples of price undercutting'. During the verification, Capral also provided further information on these examples and additional examples. The examples are where Capral believes it either has lost contracts from a range of customers or has had to reduce prices to compete. It is not definitive as to whom orders have been lost and the ultimate source of goods, and many of the examples are based on internal intelligence records. In some examples Capral 'walked away' when presented with a lower quote, in others it lowered its prices. Of the eight examples provided in the application, only two involve documentation beyond the previously mentioned internal intelligence records and only three involve some certainty as to whom the orders were lost.

It appears that Capral did lose out on specific contracts on the basis of their price being above those offered by competitors whose product was sourced from Thailand and Jiangsheng Aluminium and Zhongya Aluminium, but there were also instances of Capral losing sales when its price was lowest or where it lost sales but there were higher quotes for product sourced from the relevant exporters. There was also evidence from Capral that another Australian industry producer is pricing at a level lower than product sourced from the relevant exporters.

Only four of the examples related to Thailand. One showed internal advice of Capral's customers purchasing from Thai sources at prices below what Capral was offering. One showed how Capral's pricing was relatively low for a customer who purchased low

volumes that it understood was buying from a supplier sourced from Thailand. One relates to a previous customer that had not made purchases from Capral for a number of years. The other shows an offer of pricing and conditions of goods supplied by Thailand.

During the verification, Capral provided further information on its price-setting practices generally, including price lists and spread differentials with customers that source product from Capral and from imports from the nominated exporters compared with those that do not source or source only limited supply from these sources. Analysis of data provided by Capral indicates that on a weighted average basis, Capral achieves a lower spread with customers for whom it competes with products from the nominated exporters compared with those for whom it does not (see **Confidential Appendix 7**). However, at least for its major customers, it was competition with exports from Jiangsheng Aluminium and Zhongya Aluminium and likely other sources rather than competition from exports from Thailand that drove the weighted average price differentials.

Pointing to the global industry, Capral claims that it should be able to price to achieve an earnings before interest, taxes, depreciation and amortisation (EBITDA) of a certain rate range, noting that firms in the European Union and the United States achieve better earnings. Capral claims that at present they are achieving returns below this range.

7.7.2 Conclusion – Price effects

Drawing on the observations made above, the Commissioner considers that the presence of imports from Thailand at dumped prices have not significantly influenced the pricing in the Australian market in the investigation period.

The Commissioner considered that the Australian industry would not have been able to achieve significantly increased prices in a market unaffected by aluminium extrusions exported from Thailand at dumped prices.

7.8 Profit effects

As explained in 7.7.1, the Commissioner has found that the Australian industry has suffered injury in the form of price suppression, but that pricing was not significantly impacted by aluminium extrusions exported from Thailand at dumped prices.

The Commissioner therefore considered that the Australian industry would not have been able to achieve significantly increased profit and profitability in a market unaffected by aluminium extrusions exported from Thailand at dumped prices.

7.9 Other relevant economic factors

As explained in sections 6.6 and 6.8, the Commissioner has found that the Australian industry has experienced injury in the form of suppressed return on investment.

Returns on investment are directly linked to the price achieved in the market. As the Commissioner has found that dumped goods from Thailand has not significantly impacted on prices Australian industry has been able to achieve, the Commissioner considered that the reduced return on investment was not caused by dumped goods from Thailand.

7.10 Injury caused by factors other than dumping

Subsection 269TAE(2A) requires consideration of whether injury to an Australian industry is being caused or threatened by factors other than the exportation of the goods. This provision contains a list of factors that the Assistant Minister may have regard to when considering whether injury is being caused by factors other than exportation of the goods. This is not an exhaustive list. During the investigation, the Commission considered the following other possible causes of injury.

7.10.1 Supply and/or quality issues

Capral commented that the allegedly dumped products are of a comparable quality to the goods it produces, and that absent manufacturer-identifying pips, it would be difficult to tell the goods apart. Capral advised that they have no supply or quality issues with their product with a consistent level of returns year-on-year. The Commission has considered this and does not find this to be an injury factor.

7.10.2 Cessation of the local motor vehicle manufacturing industry

Capral advised that it has not been impacted by the cessation of local automotive manufacturing as it did not participate in that market. An analysis of Capral's customer base did not identify any significant sales to Australian car manufacturers (Ford, Holden, or Toyota) or Original Equipment Manufacturer (OEM) component suppliers to these manufacturers. Capral did supply various manufacturers of other vehicle types not manufactured by Ford, Holden, or Toyota. The Commission has considered this and does not find this to be an injury factor.

7.10.3 Costs profile

Capral advised that its costs to its large customers are based on price lists which use the LME price plus a conversion factor as a basis for pricing all of its aluminium extrusion products, a practice consistent between Australian industry, exporters and importers. The report discusses at section 6.4.1 the movement in Capral and G James' CTMS compared to LME and MJP, which does not show significant deviation between overall costs and raw materials. The Commission has considered this and does not find costs to be an injury factor.

7.10.4 Energy costs

Capral advises that its energy costs have not significantly increased and its supply has been stable given their contractual arrangements during the period of the investigation for energy supply. Capral provided information on its current and future contractual arrangements for energy. The Commission has considered this and does not find this to be an injury factor.

7.10.5 Minimum order requirements

Capral has minimum order requirements for sales direct from the mill, but there is not a minimum order requirement for purchases through its distribution channel. The Commission has considered this and does not find this to be an injury factor.

7.10.6 Market trends

As specified in section 3.6, the Australian market for aluminium extrusions marginally increased during the investigation period. Capral also advised that it had not identified any changes in demand resulting from developments in technology.

In its questionnaire response⁸⁴, G James noted that aluminium extrusions face competition from differing steel, composite material, plastic/PVC and pre-fabricated products.

The Commission has considered this and does not find this to be a material injury factor given the continued demand demonstrated by the size and growth of the market.

7.10.7 Capral's imports of aluminium extrusions

During the investigation period Capral imported a small amount of aluminium extrusions. Relevant imports were not materially significant and were excluded from any undercutting analysis conducted by the case team. The Commission has considered this and does not find this to be an injury factor.

7.10.8 Pre-fabricated goods

In its questionnaire response, G James claimed that prefabricated imports are hurting the domestic market as its customers find it hard to compete with this product. The Commission notes that pre-fabricated goods are not part of the goods description the subject of this application and evidence was not provided in relation to prefabricated goods. The Commission has considered this and considers there to be inconclusive evidence to find this to be an injury factor.

7.10.9 Volume and prices of imports from other countries

Import sources of the goods were dominated by countries other than Thailand, including the two Chinese exporters subject to this investigation. As discussed in sections 7.5 and 7.7.1, these volumes of imported aluminium extrusions were the prime competition for Australian industry impacting on the performance of the Australian industry.

The Commission considers imports from other countries to have had a significant impact on the performance of the Australian industry.

7.10.10 Circumvention activities

In its submission of 14 February 2018⁸⁵, Darley Aluminium raised potential circumvention as impacting the Australian industry. The Commission notes that an anti-circumvention inquiry is currently in progress and makes no findings at this time in relation to potential circumvention activity.

⁸⁴ EPR number 39.

⁸⁵ EPR number 34.

7.11 Submissions on material injury caused by dumping received prior to and considered in the SEF

7.11.1 Submissions

In its submissions⁸⁶, RCR argued that there may be factors other than dumping that may have caused injury, including volumes of undumped imports from Malaysia and the Australian industry cost profile, Thai imports have displaced imports from Malaysia and Vietnam, and that Capral has not mentioned injury from dumping in other sources. RCR, argued that the Australian industry has not suffered material injury from Thai exports and that its behaviours in the market are inconsequential given its market share and the size of the market overall. RCR argued that previous investigations relating to China are of no relevance to allegations against Thailand and that a majority of imports are from China. RCR made similar comments on injury with respect to G James' questionnaire. RCR argued that there is little concern shown by Australian industry and therefore it is unlikely that material injury is being suffered by the industry as a whole. It claims that data provided by Capral does not reflect or represent Australian industry and that competition within Australian industry is strong.

In its submission of 4 December 2017⁸⁷, UAI argues that the Australian industry has not suffered material injury from imports from Thailand. It generally adopts the submission made on behalf of RCR.

In its submissions dated 28 March 2018 and 3 May 2018⁸⁸, Jiangsheng Aluminium, expressed concern about the treatment of the G James' questionnaire⁸⁹ and the lack of questionnaire responses and submissions from Australian industry and, that this is an indication that material injury is not being experienced by the industry as a whole.

7.11.2 The Commission's response

The Commission notes that not all Australian industry members have actively participated in the investigation, but assumptions for the reasons behind any individual industry member's participation cannot be made. The Commission has examined the best available information before it to conduct its analysis.

The investigation is being terminated in relation to the two Chinese exporters the subject of the application and UAI. The impacts of dumping by the remaining Thai exporters has been considered separately.

The Commission notes that failure by an Australian industry member to mention injury caused by dumping in another forum does not preclude such a finding being made by the Commission.

⁸⁶ EPR numbers 8, 9 and 49.

⁸⁷ EPR number 15.

⁸⁸ EPR numbers 41 and 50.

⁸⁹ A revised public version of the G James questionnaire response was upload onto the EPR subsequent to these concerns raised by Jiangsheng Aluminium.

Matters related to volume of Thai imports and materiality have been dealt with throughout this chapter.

As the investigation is being terminated in relation to Thailand on the grounds of negligible injury caused by dumping or dumping at de minimis levels, the Commission has not further addressed these submissions in specific detail.

7.11.3 Submission

In its submission of 24 November 2017⁹⁰, the Government of Thailand argued that it was premature to allege that imports from Thailand are causing material injury given the measures recently applied on Malaysia and Vietnam on 28 June 2017 and that injury should already have been remedied by previously applied duties.

7.11.4 The Commission's response

The Commission notes that this investigation must determine whether material injury to the Australian industry is being caused by the Thai imports in the market at dumped prices. Dumping duties on imports from other countries does not preclude a finding of material injury caused by imports from other countries. In undertaking its causation analysis, the Commission examined the impacts of undumped goods and goods from countries on which measures have been imposed in section 7.10.

7.11.5 Submissions

In addition to arguments about like goods,⁹¹ in its submission of 27 November 2017⁹², Alpha argued that its imported quantities from a Chinese exporter are negligible and are not commercially viable for the manufacturer to produce, and that Capral refused the opportunity to produce the goods in the quantities required. Alpha also states that the price at which the goods are imported is greater than that quoted by Capral. It argues that it is Capral's pricing behaviour that may be causing it injury.

Capral responded in a submission dated 12 February 2018⁹³ arguing that:

- There is insufficient detail in Alpha's submission to comment on commercial viability/negligibility.
- It cannot identify in its records that it quoted to Alpha, and requested a copy of the quotation.
- It is concerned with the statement that Capral's prices were less than imported goods. LME prices at the time quotations were provided need to be compared.
- Injury was not due to its own pricing practices. Capral was undercut by goods from China and Thailand.

⁹⁰ EPR number 11.

⁹¹ See section 3.6.4.

⁹² EPR number 13.

⁹³ EPR number 37.

Alpha made a limited disclosure to Capral of commercial-in-confidence information contained in their submission.⁹⁴

Capral made a further submission which was provided to Alpha for consideration. To date, Alpha has not confirmed that they agree to have this submission placed on the EPR.

7.11.6 The Commission's response

As the investigation is being terminated in relation to the two Chinese exporters on the grounds of no dumping, the Commission is not proposing to address the matters raised in these submissions further.

7.11.7 Submission

In its submission of 7 December 2017⁹⁵ SMS argued that the Commission needs to look at the Australian industry as a whole, and that Capral's injury is not material. In its view, the small volume of Thai imports, noting a majority of the imports are from China, has not caused injury and there are other causes of injury including global industry and financial developments. The submission quotes Capral's annual report, noting Capral's profit and sales volume increased in 2016 – therefore no correlation with imports from Thailand.

7.11.8 The Commission's response

The Commission has considered these matters throughout chapters 6 and 7. The Commission notes that it is the Australian industry's performance in the investigation period in relation to the like goods that is relevant to the investigation not any one company's performance in relation to the like goods and not any one company's overall performance. Conclusions have been reached in relation to injury to the industry as a whole caused by dumped goods.

As the investigation in relation to Thailand is being terminated on the grounds of negligible injury caused by dumping or dumping at de minimis levels, the Commission has not addressed matters raised in this submission further.

7.11.9 Submissions

In its submission of 18 December 2017⁹⁶, Darley Aluminium made a number of claims in relation to allegations of material injury being caused to the Australian industry. These were:

- The Commission needs to look at the performance of the Australian industry as a whole.
- There is no sign of volume-based injury or displacement, price-based injury or displacement, or suppressed return on investment.
- The Commission should investigate why data is provided by Capral in its application on a calendar year basis, not by reference to the investigation period.

⁹⁴ EPR number 47.

⁹⁵ EPR number 19.

⁹⁶ EPR number 24.

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- Most of Zhongya Aluminium's products were sold to Darley Aluminium, not direct into the Australian market at the same competitive level that the Australian industry sold to its customers. A large portion of Zhongya Aluminium's exports are Darley Aluminium's own proprietary specifications. Darley Aluminium's customers cannot shift to other suppliers on an intermittent basis.
- Attached on a confidential basis two notices by Capral for price increases, showing that Capral has a greater level of price freedom with respect to its own product range which competes with Darley Aluminium's products.
- Other exporters have been found to have caused injury (REP362 and circumvention inquiries).
- In relation to competition with Capral and other industry members, there is competition on branded products. Competition within the Australian industry is fierce. Need to look at the at least 8 other producers. Since 2010 the number of presses has increased from 14 (dominated by Capral) to 24 (operated by 9 producers).

In response, Capral provided a further submission⁹⁷ arguing the following:

- Jiangsheng Aluminium, Zhongya Aluminium and Thai volumes are sufficient to have caused material injury.
- It was not able to benefit from imposition of measures in Investigation No. 362.
- Its sales growth has been as a result of a buoyant housing market, which is forecast to slow in 2018-19. Capral's performance improvements is due to increased production volumes not increased margins.
- Operating margins in its distribution business, which competes with Darley Aluminium and Jiangsheng Aluminium, have been impacted in 2016-17 due to competition against subject goods.
- Inadequate returns are caused by subject goods that have undercut Capral (referring to examples in application and verification visit).
- It provided market intelligence of offers including the July to September 2017 quarter therefore allegations that there is no evidence of 'price-based displacement' is incorrect.
- Darley Aluminium prices have been at levels below goods from countries already subject to measures. Jiangsheng Aluminium have undercut in the market.
- Chinese and Thai volumes increased in 2016-17. Malaysia and Vietnam volumes decreased. This is displacement.
- Capral does compete with Darley Aluminium and the Commission is aware of how the market operates.
- There may have been other factors but the injury from dumped goods is material. Injury may have been caused by goods already subject to measures but this would have diminished through 2016-17.

In response Darley Aluminium, provided a further submission⁹⁸ arguing:

- Capral admits no volume injury and volume injury should not be found.

⁹⁷ EPR number 32.

⁹⁸ EPR number 34.

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- There is no displacement as there was no material increase in volume from Zhongya Aluminium and Jiangsheng Aluminium. Thai imports are minimal. Other imports have increased.
- Capral admits that exports from Jiangsheng Aluminium and Zhongya Aluminium were maintained at levels similar to previous years. There is no displacement.
- Capral's claim that Zhongya Aluminium's goods are priced at levels below suppliers of goods sourced from exporters the subject of measures is misleading. Vietnam and Malaysian prices were clearly lower.
- Zhongya Aluminium and Jiangsheng Aluminium cannot be price leaders as their volumes did not increase and they could not have caused material injury even if they were dumping.
- For return on investment, need to look at the industry as a whole. Capral's investment performance was no worse than the year before. Any injury cannot be attributed to Zhongya Aluminium and Jiangsheng Aluminium. Capral admits that it has not achieved any anticipated recovery in margins since 2010. Market forces have been more significant. Capral's own performance assessment for first half 2017 does not mention Zhongya Aluminium and Jiangsheng Aluminium imports as factors affecting Capral's performance.
- Other causes of injury remain, including possible circumvention.
- Capral's submission is silent on competition with Australian industry. The Commission must consider the whole industry, not just Capral. There are factors affecting the Australian industry including undercutting by Australian industry members, and expansion.
- While theoretically possible for injury to be caused by multiple sources, however if the other injury is material, the leftover portion must be immaterial. Capral is attempting to cumulate with injury from previous investigation which is inconsistent with subsection 269TAE(2C).

In response Capral provided a further submission⁹⁹ arguing:

- It is not claiming volume injury, but Commission might find so for the Australian industry.
- Exports from Jiangsheng Aluminium and Zhongya Aluminium account for 50 per cent of Chinese export volumes to Australia. Thai volumes were increasing in 2016-17. These exports have impacted on exports from other sources and on Australian industry's selling prices.
- Chinese exporters were found to be dumping in Investigation No. 362. Over the period of this investigation, Zhongya Aluminium and Jiangsheng Aluminium's prices would have been priced at similar levels to the other Chinese exporters, otherwise maintenance of volumes would not have been possible.
- Capral is experiencing price suppression in 2016-17 influenced by Zhongya Aluminium and Jiangsheng Aluminium and Thailand. Malaysia and Vietnam exporters were impacted by provisional measures from 2016-17 – therefore low return on investment can be attributed to Zhongya Aluminium, Jiangsheng Aluminium and Thailand.

⁹⁹ EPR number 40.

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- Imports from Zhongya Aluminium and Jiangsheng Aluminium continue to injure the Australian industry. Together with Thailand, they are undercutting Capral with remaining export prices from China at higher levels.
- Australian industry is unable to raise prices to recover increases in raw material costs.
- Claim by Darley Aluminium of fierce competition between members of the Australian industry is unsubstantiated.

In a further submission dated 25 May 2018¹⁰⁰, Darley Aluminium referenced the Capral verification report, the commentary in that report on the Capral examples and submitted that the Capral examples show a dynamic market and do not conclusively substantiate Capral's claims. It notes that Capral is facing competition from Australian industry members and other imports. It submits that the spread analysis contained in the Capral verification report is separate to Capral's price undercutting allegations and submits that the discussion on multiple supply options and on the behaviour of some of Capral's former customers supports its position.

The submission includes several examples of pricing based on its market intelligence involving offers in the 'end-user market' with goods sourced from: Capral, Darley Aluminium, an Australian industry member and an exporter not subject to investigation, and offers in the distribution market with goods sourced from a range of sources. For the distribution market examples, the submission notes that Darley Aluminium secured the sales despite its higher price offers. A further example was provided showing Darley Aluminium's price as higher than two Australian industry members.

7.11.10 The Commission's response

As the investigation is being terminated in relation to the two Chinese exporters the subject of the application, the Commission does not propose to address the submissions in detail other than to note the following.

Darley Aluminium based its submission on data provided in the application. The Commission considers impacts to the industry as a whole in the context of information available to it which has been presented in this report. Some of the information provided in the application was in calendar years. This was rectified during the investigation.

In relation to competition between Australian industry members, the Commission notes that there was not significant participation from other Australian industry members in this investigation. The Commission's analysis has revealed that there are common customers between Capral and G James. The Commission has not, however, needed to come to any findings about the level of that competition.

7.11.11 Submission

In a submission dated 6 December 2017¹⁰¹, Capral argued that it has suffered material injury from exports from Jiangsheng Aluminium, Zhongya Aluminium and from Thailand –

¹⁰⁰ EPR number 58.

¹⁰¹ EPR number 67.

injury has continued from Investigation No. 362. Exports from Jiangsheng Aluminium, Zhongya Aluminium accounted for about half of Chinese exports to Australia in 2016-17.

It argued that its return on investment is inadequate and price suppression has prevented improvement in profit and profitability. It argues that exports from Jiangsheng Aluminium, Zhongya Aluminium were at similar prices to other Chinese exporters and that Thai prices must have been comparable. The submission referenced examples of price undercutting provided and, on a confidential basis, argued that the injury it experienced is material.

7.11.12 The Commission's response

As the investigation is being terminated in relation to the two Chinese exporters the subject of the application, the Commission does not propose to further address the submissions in relation the Chinese exporters. The impacts on the Australian industry as a result of the dumped goods from Thailand have been addressed in this and the preceding chapter taking into account the examples provided by Capral.

7.11.13 Submission

In its submission of 7 March 2018¹⁰², Inex, an Australian industry member, notes that it supports the application and argued that:

- It has been severely injured by exports from China and Thailand citing price suppression in the Australian market.
- Margins have been affected by suppressed prices coupled with substantial increases in manufacturing costs (wages, energy, transport, production consumables, etc.). They have been unable to achieve a price increase on the margin over the aluminium metal value since 1 July 2012.
- States the selling price of aluminium extrusion has been suppressed in Australia by the dumped goods which has injured their capital investments.

7.11.14 The Commission's response

The Commission notes the submission. As evidence was not provided to support the assertions made in the submission, the Commission has not considered it.

7.12 Submission on material injury caused by dumping received prior to the SEF but not considered in the SEF

7.12.1 Submission

In response to Darley Aluminium's submission of 25 May 2018¹⁰³, Capral provided a further submission dated 6 June 2018¹⁰⁴ arguing that:

- The examples provided in Capral's application are representative of injurious offers in the Australian market at the time.

¹⁰² EPR number 38.

¹⁰³ ERP number 58.

¹⁰⁴ EPR number 66.

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- It accepts 'second source of supply' arguments, but not at dumped prices.
- Price undercutting by another Australian industry member would not be unusual in response to dumped and subsidised imports.
- It accepts that the distribution market is less price sensitive than the end-user market but it remains very sensitive to pricing. Darley Aluminium is the most prominent importer sourced from an exporter that accounts for 25 per cent of import volumes and has gained market share as a result of its pricing. Capral anticipates the Commission will examine the complete price negotiation process.
- Rejects Darley Aluminium's claims about fierce competition amongst Australian industry members, asserting if that was the case, exports from Zhongya Aluminium and Jiangsheng Aluminium would have fallen significantly.
- Darley Aluminium claiming it is not the price setter is not conclusive. Price offers in the Australian market need to be examined, which suggest otherwise.

7.12.2 The Commission's response

As the investigation is being terminated in relation to the two Chinese exporters the subject of the application, the Commission does not propose to address the submission and has not altered its assessment.

7.13 Submission on material injury caused by dumping received after the SEF

7.13.1 Submission

In a submission dated 2 July 2018¹⁰⁵, UAI notes the small volumes of Thai imports, concurs with the Commission's findings on the impacts of goods imported from Thailand and does not consider that any change in its dumping margin would be significant enough to reverse the Commission's findings.

7.13.2 The Commission's response

The Commission's findings on material injury caused by dumping in relation to Thailand were based on volumes and prices of dumped Thai imports. The adjustments in the dumping margins since the SEF have not impacted on the Commission's findings.

7.14 Materiality of injury

The Commissioner did not find volume-based injury (see section 6.3).

In relation to prices and profit, the Commissioner does not find that the small volumes of goods exported from Thailand at dumped prices had a material impact on pricing in the Australian market. While there is evidence that Capral's spread declined in the investigation period, the Commissioner is not satisfied that the pricing of goods sourced from Thailand materially impacted on the pricing offered by the Australian industry.

Capral did provide some evidence to show that its prices are lower to customers who also source imported goods, but this was largely attributed to Chinese sources which were not

¹⁰⁵ EPR number 71.

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dumped. The specific examples provided by Capral related to Thailand do not satisfy the Commissioner that there is a clear link between price offers for goods sourced from Thailand and Capral's pricing.

As noted at section 7.6.3, prices of goods sourced from Thailand are not overall the lowest in the market, and evidence does not suggest that Thai goods are significantly influencing the price in the Australian market.

Based on evidence available, there is likely to have been some reduction in pricing by the Australian industry as a result of competition from goods sourced from Thailand. However, the Commissioner considers that the range of factors in which the Australian industry has suffered injury, when considered together, are not material in degree nor greater than that likely to occur in the normal ebb and flow of business.

The Commissioner is satisfied that goods exported from Thailand at dumped prices have caused negligible injury to the Australian industry.

7.15 Findings

The Commission has found that:

- the volume of aluminium extrusions exported from Thailand is not negligible;
- exports of the goods to Australia from Thailand at dumped prices have undercut the Australian industry's prices for certain finish types in certain levels of trade, with goods from undumped sources often also undercutting Australian industry's prices;
- the volumes of goods exported to Australia from Thailand were small relative to other goods exported to Australia and even smaller in relation to the Australian market overall;
- goods exported from Thailand have not materially impacted on pricing offered by Australian industry.

The Commissioner has considered the evidence available and considers that injury to the Australian industry, if any, caused by exports of aluminium extrusions from Thailand at dumped prices is negligible.

7.16 Threat

7.16.1 Background

CON 442 noted at section 5.2.1 that the Commission would further investigate Capral's claims that injury suffered by the Australian industry from allegedly dumped exports is one of (a) material injury or (b) threat of material injury, during the course of the investigation. This section deals with threat of material injury.

The Manual cites Articles 3.4 and 3.7 of the agreement which sets out relevant non-exhaustive factors to be considered in a determination of threat of material injury:

- A significant rate of increase of dumped imports into the domestic market;
- Capacity of the exporter;
- Effect of pricing of imports on domestic prices and likely increased demand for further imports; and

- Inventories.

Consideration of threat must be done with ‘special care’.

7.16.2 Consideration of threat

As discussed in section 6.3.2, the Commission has observed that the volume of Thai imports has been growing coming off a low base of 0.7 per cent of the Australian market at the beginning of the injury analysis period.

There was an increase in volumes of around 24 per cent in the investigation period. There is, however, no evidence to suggest that this growth will continue in the future. Were this growth to continue in the short term, the overall volumes of Thai imports in the Australian market would remain low as a proportion of the Australian market.

The Commission also examined volumes from Thailand beyond the investigation period. Figure 10 shows there has not been any significant movement in Thai volumes after the investigation period.

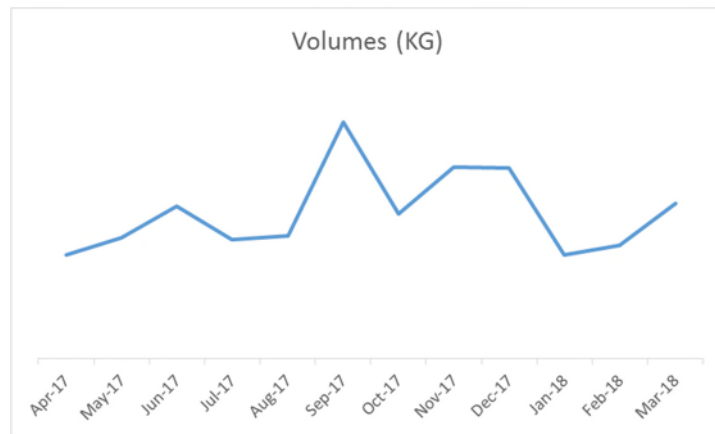


Figure 10 Volumes of aluminium extrusions from Thailand

Verified data from the two Thai exporters did not reveal any significant movements in production capacity or capacity utilisation (See **Confidential Attachment 7**).

There is also not a significant differential between production and sales volumes for the two Thai exporters whose data was verified, indicating that inventories are not being stockpiled.

As discussed above, the Commission did not consider that the pricing of the dumped goods had a material impact on domestic prices. Pricing has not changed significantly over the investigation period and there has been no indication that pricing of the dumped goods will decline into the future. At the level of pricing offered in the market, there has not been a shift in volumes towards the dumped goods indicating that there is unlikely to be a shift in volumes in the future.

7.17 Submissions on threat received prior to and considered in the SEF

7.17.1 Submissions

In a submission dated 6 December 2017¹⁰⁶, Capral referenced the agreement provisions on threat. The submission notes the increase in imports from China and the share of those exports by Zhongya Aluminium and Jiangsheng Aluminium and the increase in exports from Thailand. Capral argues that there is relatively free access for aluminium into Australia compared to some other countries and that exports from Zhongya Aluminium and Jiangsheng Aluminium and from Thailand have undercut its prices.

In a further submission dated 2 May 2018¹⁰⁷, Capral argued that recent tariffs on aluminium imposed by the United States and a ban on raw material exports from the United States are relevant. It argued that an increase in exports from China have been observed in recent months and that exports from Zhongya Aluminium and Jiangsheng Aluminium account for half of Chinese exports. Capral also argued that Zhongya Aluminium and Jiangsheng Aluminium have significant production capacity and well developed distribution channels from which they can grow their Australian customer base with product potentially diverted from the United States. Their significant production capacity represents an imminent and foreseeable threat of material injury.

In relation to Thailand, Capral does not envisage that exports will increase at a significant rate in the foreseeable future or that increased volumes are foreseeable and imminent.

In a submission dated 15 May 2018¹⁰⁸, Guangdong Jiangsheng responded to Capral's submission noting that it is not dumping during the investigation period and claims that Capral's claim of threat is not based on facts required by the agreement. It claims that a significant rate of increase in exports by Jiangsheng Aluminium is not clearly foreseen and imminent. It claims that Capral's utilisation and capacity figures it has for Jiangsheng Aluminium, and claims of excess production capacity to divert to Australia and inventories in China and Australia are wrong. It claims that increased tariffs imposed by the United States will not impact it given its specialised product exports to the United States.

7.17.2 The Commission's response

As the investigation is being terminated in relation to the two Chinese exporters the subject of the application on the grounds of no dumping or dumping at de minimis levels, the Commission does not propose to further address the submissions.

In relation to Thailand, the Commission notes that Capral's submission resembles the Commission's analysis above.

¹⁰⁶ EPR number 67.

¹⁰⁷ EPR number 51.

¹⁰⁸ EPR number 56

7.18 Submission on threat received after the SEF

7.18.1 Submission

In response to Capral's submission dated 2 May 2018¹⁰⁹, in a submission dated 2 July 2018¹¹⁰ UAI argued that:

- Capral's focus on China supports its arguments on the impact of imports from Thailand.
- The modelled scenarios in a referenced report by Cadence Economics prepared for the Commission on the projected impacts on volumes of steel and aluminium products imported into Australia as a result of the recent tariffs imposed by the United States are speculative and conclusions should not influence the Commission's decision to terminate the investigation.
- A surge in Chinese imports would not be occasioned by dumping, but would be a result of trading conditions and should not impact the Commission's decision to terminate the investigation. Capral's submission and speculation on future actions by the United States should not be taken into account.

7.18.2 The Commission's response

The Commission notes that the submission supports the termination of the investigation. Findings on threat are necessarily a forward-looking assessment. As the investigation is being terminated in relation to the two Chinese exporters the subject of the application on the grounds of no dumping, the Commission does not propose to further address the submission in relation to the two Chinese exporters. In relation to Thailand, there is nothing in the submission that would cause the Commission to adjust its findings.

7.18.3 Findings on threat

Based on the above the Commissioner has not found threat of material injury from exported goods from Thailand.

¹⁰⁹ EPR number 51.

¹¹⁰ EPR number 71.

8 NON-INJURIOUS PRICE

Capral provided information during the course of the verification and made a subsequent public record submission¹¹¹ in relation to the proposed form of any measures applied and an unsuppressed selling price from which a NIP could be determined.

The Commissioner is terminating the entirety of the investigation for the reasons outlined in chapter 9. Therefore, the Commissioner is not recommending that the Assistant Minister publish a notice under subsections 269TG(1) or (2).

As such, there is no requirement for the Commissioner to make a recommendation regarding whether the Assistant Minister should consider the desirability of fixing a lesser amount of duty than the dumping margin found for the purposes of removing injury, pursuant to subsection 5(B)(a) of the *Customs Tariff (Anti-Dumping) Act 1975*.

¹¹¹ EPR number 46.

9 CONCLUSION

Under subsection 269TDA(1), if the Commissioner is satisfied that there has been no dumping by the exporter of any of those goods or that the dumping margin for that exporter is less than 2 per cent, the Commissioner must terminate the investigation in so far as it relates to that exporter.

Under subsection 269TDA(13), if the Commissioner is satisfied that the injury, if any, to the Australian industry caused by dumped goods is negligible, the Commissioner must terminate the investigation in so far as it relates to that country.

The Commissioner has therefore terminated the investigation for the following reasons:

- with respect to Zhongya Aluminium and Jiangsheng Aluminium, the goods were found not to be dumped as per subsection 269TDA(1)(b)(i);
- with respect to UAI, the dumping margin is less than 2 per cent as per subsection 269TDA(1)(b)(ii); and
- with respect to all remaining Thai exporters, the injury, if any, to the Australian industry caused by dumped goods is negligible, in accordance with subsection 269TDA(13).

10 APPENDICES

Appendix A	List of Submissions
Appendix B	Market Situation Assessment
Confidential Attachment 1	Assessment of Australian market
Confidential Attachment 2	Dumping margin calculations – Zhongya Aluminium
Confidential Attachment 3	Dumping margin calculations – Jiangsheng Aluminium
Confidential Attachment 4	Dumping margin calculations – Schimmer Metal
Confidential Attachment 5	Dumping margin calculations – UAI
Confidential Attachment 6	Dumping margin calculations – ‘residual’ and ‘uncooperative and all other’ exporters from Thailand
Confidential Attachment 7	Australian industry injury analysis
Confidential Attachment 8	Price undercutting analysis

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APPENDIX A

Interested party	Date published	EPR document number
Capral	30 October 2017	6
Zhongya Aluminium	30 October 2017	7
RCR International	14 November 2017	8
RCR International	29 November 2017	9
Capral	29 November 2017	10
Government of Thailand	29 November 2017	11
Alpha	4 December 2017	13
UAI	5 December 2017	15
Schimmer Metal	14 December 2017	19
Jiangsheng Aluminium	14 December 2017	20
Capral	15 December 2017	21
Darley Aluminium	19 December 2017	24
Capral	8 January 2018	26
Capral	9 January 2018	27
Capral	9 January 2018	28
RCR International	11 January 2018	29
Darley Aluminium	15 January 2018	30
Capral	19 January 2018	32
Darley Aluminium	22 February 2018	34
Capral	5 March 2018	37
INEX	8 March 2018	38
Capral	27 March 2018	40
Jiangsheng Aluminium	4 April 2018	41
Capral	4 April 2018	42
Capral	10 April 2018	44
Capral	20 April 2018	46
RCR International	27 April 2018	49
Jiangsheng Aluminium	3 May 2018	50
Capral	4 May 2018	51
Capral	22 May 2018	55
Jiangsheng Aluminium	22 May 2018	56
Darley Aluminium	28 May 2018	58
Capral	28 May 2018	59
Capral	30 May 2018	60
Capral	4 June 2018	61

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Interested party	Date published	EPR document number
UAI	4 June 2018	63
Capral	5 June 2018	64
Capral	6 June 2018	65
Capral	12 June 2018	66
Capral	12 June 2018	67
Jiangsheng Aluminium	3 July 2018	69
Capral	3 July 2018	70
UAI and RCR International	3 July 2018	71
UAI	23 July 2018	72

APPENDIX B – MARKET SITUATION ASSESSMENT

A1 Introduction and Summary of Findings

This appendix sets out the Commission's assessment of the applicant's claims that there was a market situation in the Chinese market for aluminium extrusions during the investigation period such that sales in that market were not suitable for use in determining normal values under subsection 269TAC(1).

A1.2 Applicant's claims

Capral alleged in its application that the influence of the Government of China (GOC) through a broad range of industry plans and policies impacted on raw material primary aluminium prices such that it caused these input prices to be artificially low. As a result of these alleged artificially low prices, Capral submitted that the market selling prices in China for aluminium extrusions were rendered unsuitable for normal value purposes.

In support of its claim of the existence of the market situation, Capral referred to the Commission's findings in investigations 181¹¹² and 248¹¹³. Capral further submitted that GOC had not withdrawn or denounced any of the plans and policies identified by the Commission in Report 248 and, as such, they have continued to impact and distort domestic selling prices for the goods in China during 2016/17.

A1.3 Summary of Commission's findings

Having regard to all available information, it is the Commission's view that a market situation exists in respect of the domestic market for aluminium extrusions in China, such that sales in that market are not suitable for use in determining normal values under subsection 269TAC(1).

A2 Australian legislation, policy and practice

Australia treats China as a market economy for anti-dumping purposes, and the Commission conducts its investigation in the same manner for China as it does for other market economy members of the WTO.

Irrespective of the country the subject of investigation, the Australian anti-dumping framework allows for rejection of domestic selling prices as the basis for normal values where there is a 'market situation' such that sales in that market are not suitable for use in determining a price, as outlined below.

¹¹² Investigation of Aluminium road wheels exported from China. See EPR record: <http://adcommission.gov.au/cases/Pages/ArchivedCases/EPR181.aspx>

¹¹³ Review of Anti-Dumping Measures for Certain Aluminium Extrusions Exported from The People's Republic of China. See EPR record: <http://adcommission.gov.au/cases/Pages/ArchivedCases/EPR248.aspx>

A2.1 Legislation

Market situation

Subsection 269TAC(1) provides that the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the OCOT for home consumption in the country of export in arms length transactions by the exporter or, if like goods are not sold by the exporter, by other sellers of like goods.

However, subsection 269TAC(2)(a)(ii) provides that the normal value of the goods exported to Australia cannot be determined under subsection 269TAC(1) where the Assistant Minister is satisfied that '*...because the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under subsection (1)*'.

Where such a market situation exists, normal value cannot be established on the basis of domestic sales. Instead, the normal value may be determined using another method in section 269TAC. Therefore, a determination as to whether there is a market situation has potential consequences for the assessment of normal value.

Subsection 269TAC(2)(c) provides that a cost construction of normal value comprises:

- the sum of what the Assistant Minister determines to be the cost of production or manufacture of the goods in the country of export; and
- on the assumption the goods, instead of being exported, had been sold in the OCOT in the country of export, such amounts that the Assistant Minister determines would be the sales and general administrative costs associated with the sale and the profit on that sale.

Subsection 269TAC(2)(d) provides that where the Assistant Minister directs that third country sales be used for normal value, it will be based upon the price paid or payable for like goods sold in the OCOT in arms length transactions for exportation from the country of export to an appropriate third country.

As outlined in section 5.7, the Commission has chosen to establish normal values for Zhongya Aluminium and Jiangsheng Aluminium, in accordance with subsection 269TAC(2)(c).

Costs of production or manufacture

When determining the costs of production or manufacture of goods under subsection 269TAC(2)(c)(i) in a constructed normal value, subsection 269TAC(5A) provides that these costs must be worked out in accordance with the Regulations for the purposes of subsection 269TAAD(4)(a). Subsection 43(1) of the Regulations sets out the manner the Assistant Minister must, for the purposes of subsection 269TAAD(4)(a), work out an amount to be the cost of production or manufacture of goods in a country of export, and the factors that he or she must take account of for that purpose.

Subsection 43(2) of the Regulations requires that if:

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- an exporter keeps records relating to like goods that are in accordance with the GAAP in the country of export; and
- those records reasonably reflect competitive market costs associated with the production or manufacture of like goods,

the Assistant Minister must work out the cost of production or manufacture using information set out in the exporter's records.

Similarly, in terms of sales and general administrative costs, subsection 44(2) of the Regulations provides that if:

- an exporter keeps records relating to like goods that are in accordance with the GAAP in the country of export; and
- those records reasonably reflect the sales and general administrative costs associated with the sale of like goods,

the Assistant Minister must work out the sales and general administrative costs using information set out in the exporter's records.

Where the conditions of subsections 43(2) and 44(2) of the Regulations are not met, it is the Commission's position that the cost records kept by that exporter are not required to be used in working out its costs.

Market situation

In relation to market situation assessments, the Commission's Manual states that:

[i]n considering whether sales are not suitable for use in determining a normal value under s. 269TAC(1) because of the situation in the market of the country of export the Commission may have regard to factors such as:

- *whether the prices are artificially low; or*
- *whether there are other conditions in the market which render sales in that market not suitable for use in determining prices under s. 269TAC(1).*

Government influence on prices or costs could be one cause of "artificially low pricing". Government influence means influence from any level of government.

In investigating whether a market situation exists due to government influence, the Commission will seek to determine whether the impact of the government's involvement in the domestic market has materially distorted competitive conditions. A finding that competitive conditions have been materially distorted may give rise to a finding that domestic prices are artificially low or not substantially the same as they would be if they were determined in a competitive market.

For subsection 269TAC(2)(a)(ii) to apply, the Commission is required to identify where a 'market situation' exists, and if found to exist, be satisfied that the 'market situation' renders sales in that market not suitable for normal value purposes before rejecting actual selling prices. It is considered that the assessment as to whether a market situation exists in a particular market constitutes a positive test.

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Although it is for the Commission to establish the nature and consequence of the 'market situation', including an evaluation of whether there is an impact on domestic prices, the Commission considers that the pricing effect does not necessarily have to be quantified.

Costs of production or manufacture

In relation to the determination of the reasonableness of costs of production or manufacture for the purpose of doing a cost construction, under subsections 43(2) and 44(2) of the Regulations, it must be assessed:

- whether the cost to make is reasonably reflective of competitive market costs associated with the manufacture of like goods; and
- whether the sales and general administrative costs reasonably reflect the costs associated with selling like goods (i.e. are these costs generally reasonable).

It is noted that the Regulations specifically relates to the costs of like goods, rather than the price of the goods themselves (the sales price of these goods is what is examined for a market situation assessment).

The Commission considers that it is possible government influence on these costs can be such that these costs are not reasonably reflective of competitive market costs (costs of production or manufacture) or not generally reasonable (sales and general administrative costs). Again, it is considered that this is a question of the degree of the influence.

A2.3 Evidentiary threshold

When relevant and reasonably reliable prima facie evidence supporting the proposition that there is a market situation is set out in the application, and an investigation is initiated, the Commission will:

- notify relevant governments and exporters of the claims and of the evidence provided and further information will be sought from such governments and exporters; and
- if the relevant government or exporters fail to respond, or do not provide probative evidence in response, all available evidence is weighed up, including prima facie evidence contained in the application.

A3 Information relied upon and methodology

Information considered

Upon initiation of the investigation, the Commission sought interested parties to provide information in relation to Capral's market situation claims by:

- inviting interested parties to lodge submissions;
- inviting the GOC to participate in the investigation by providing a response to the Commission's government questionnaire; and
- by seeking both Zhongya Aluminium and Jiangsheng Aluminium to provide information in their response to the exporter questionnaire in relation to the claimed market situation.

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Both Zhongya Aluminium and Jiangsheng Aluminium provided information in their questionnaire responses relating to the market situation claims made by the applicant. However, the Commission did not receive a government questionnaire response or any submissions from interested parties in relation to the claimed market situation.

In the absence of submissions from interested parties and a response to the government questionnaire, the Commission analysed all available information to assess Capral's claims.

In addition to the questionnaire responses provided by Zhongya Aluminium and Jiangsheng Aluminium, the Commission obtained and considered information from the following sources:

- the claims made by Capral in its application;
- the stated policies and plans of the GOC;
- information obtained from Department of Industry, Innovation and Science resources;
- information from third party information providers;
- the Commission's 2016 report, Analysis of Steel and Aluminium Markets Report to The Commissioner of the Anti-Dumping Commission;
- the European Commission's Staff working document on significant distortions in the economy of the People's Republic of China for the purposes of trade defence investigations (the EC 2017 Report)¹¹⁴;
- The US Department of Commerce's memorandum on China's status as a Non Market Economy, 2017 (the USDOC 2017 Report)¹¹⁵;
- other desktop research; and
- market situation assessments in relation to relevant cases between 2010 and 2017, including:
 - Investigation No. 181 in relation to aluminium road wheels;
 - Reinvestigation No. 204 in relation to aluminium road wheels;
 - Review No. 263 in relation to aluminium road wheels;
 - Inquiry No. 378 in relation to aluminium road wheels;
 - Investigation No. 148 in relation to aluminium extrusions;
 - Review No. 248 in relation to aluminium extrusions;
 - Inquiry No. 287 in relation to aluminium extrusions; and
 - Review No. 392 in relation to aluminium extrusions.

Approach to analysis

When assessing the conditions within the Chinese primary aluminium market, the Commission has focused on the period between 2010 and 2017, paying particular attention to the impact of conditions for exporters of aluminium extrusions in the investigation period.

¹¹⁴ See http://trade.ec.europa.eu/doclib/docs/2017/december/tradoc_156474.pdf

¹¹⁵ See <https://enforcement.trade.gov/download/prc-nme-status/prc-nme-review-final-103017.pdf>

The Commission assesses whether a market situation exists at the level of the goods being investigated. In making that assessment the Commission will also examine markets for key raw material inputs to the goods.

The cost of primary aluminium accounted for between 75 to 90 per cent of the total cost to make aluminium extrusions for the two Chinese exporters subject to this investigation.¹¹⁶ The Commission considers that aluminium is the key raw material input into aluminium extrusions. Therefore, in considering whether a market situation exists in respect of the domestic market for aluminium extrusions, it is reasonable for the Commission to assess conditions in the primary aluminium market, as a significant raw material input.

A4 Conditions in the Chinese primary aluminium market

Factors considered by the Commission when assessing conditions within the Chinese market during the investigation period include the level of, and trends in, aluminium production and production capacity, aluminium consumption, pricing and the influence of the GOC over these variables.

Supply

In terms of supply, Chinese aluminium production increased by approximately 88 per cent between 2010 and 2017. Whilst the rate of growth in Chinese production has abated over recent years, Chinese production during 2017 was still marginally higher than that produced during 2016. As a result of this rapid growth, China has grown from accounting for 39 per cent of global production in 2010 to accounting for about 55 per cent of global aluminium production in 2017¹¹⁷.

It is reported that the GOC has recently undertaken supply side reforms. However, various reports and market commentaries analysed by the Commission indicate that the impact of these reforms is unclear, complex and is affected by multiple factors. The Commission's own analysis indicates that these reforms may have resulted in a reduction in the rate of growth in Chinese production, but not in a curtailment of production. Any abatement in Chinese production has to be considered in the context of any additional new Chinese capacity coming into operation, the potential for the restart of idled capacity, and the Chinese Government's production curtailment exemption granted to large state-owned corporations. It is reported that Chinese aluminium smelters have the potential to add capacity equivalent to around 15 per cent (or 9 million tonnes) of annual global aluminium supply¹¹⁸. A Harbour aluminium report¹¹⁹ specifies that they continue to expect China's primary aluminium production to increase in 2017 by 12.8 per cent and in 2018 by 4.7 per cent. Market commentary also indicates that the success of the GOC's reforms have been adversely impacted by the reluctance of local and provincial authorities to

¹¹⁶ Based on cost data provided by Zhongya Aluminium and Jiangsheng Aluminium. The percentage quoted has been rounded to within a 5% range to account for the confidentiality of this information. The proportion also varies depending on the finish type of the aluminium extrusion.

¹¹⁷ Calculations based on data obtained from the World Bureau of Metal Statistics aluminium workbooks.

¹¹⁸ Department of Industry, Innovation and Science – Office of the Chief Economist "Resources and Energy Quarterly March 2018" page 89.

¹¹⁹ Harbour Aluminium, Aluminium Alert, 29 September 2017

comply with these policies and implementing measures that are contradictory to these reforms¹²⁰.

Demand

Chinese aluminium consumption increased by approximately 100 per cent between 2010 and 2017. China's consumption of just under 32 million tonnes in 2017 accounted for almost 55 per cent of global aluminium consumption¹²¹.

The strong growth in consumption over this period has resulted in only a small proportion of production, estimated to be less than 2 per cent, being exported¹²². As identified in Review No. 392, exports of aluminium have been discouraged by significant differentials in the VAT rebate and export tariff rates applicable to primary aluminium as opposed to value added aluminium products, such as aluminium extrusions. It is also noted that China's imports of aluminium are materially insignificant in comparison to its production¹²³.

Stockpiling and capacity under-utilisation

Whilst the above supply and demand analysis is indicative of broad alignment between production and consumption within China, the Commission understands that there is significant stockpiling of aluminium by the GOC and significant under-utilisation of aluminium manufacturing capacity. The failure of the GOC to respond to the Commission's government questionnaire has restricted the Commission's ability to assess the significance of these factors and their impact on the true balance between domestic production and consumption.

The Commission understands that the GOC State Bureau of Material Reserve (SBMR), operates a significant stockpile of primary aluminium, which is likely to have distorted domestic official consumption statistics¹²⁴. The Commission also notes that the 2017 EC report identifies that the Chinese Non-Ferrous Metal Industry Development Plan (2016-2020) provides for stockpiling¹²⁵. The EC report further identifies specific occasions where the GOC has purchased primary aluminium via the SBMR and references other information sources suggesting the SBMR's involvement in these stockpiling activities has occurred as recently as 2016¹²⁶.

In addition to the identified distortive impacts of the stockpiling activities, the Commission's research indicates that there is a significant amount of idle production capacity in the Chinese market resulting in low capacity utilisation. This potential excess

¹²⁰ See AME Aluminium Strategic Market Study (Quarter 3 2016) and AME Aluminium Strategic Market Study (Quarter 3 2017)

¹²¹ Calculations based on data obtained from the World Bureau of Metal Statistics aluminium workbooks.

¹²² Ibid.

¹²³ Ibid.

¹²⁴ This matter was discussed in final report for Review 392.

¹²⁵ See page 381 of EC 2017 report.

¹²⁶ See page 392 of EC 2017 report.

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capacity has been estimated from various sources to be in the vicinity of 14 per cent to 20 per cent of annual global aluminium supply¹²⁷.

Pricing

In terms of pricing, the significant growth in Chinese aluminium production between 2010 and 2017 was accompanied by a decline in domestic prices¹²⁸, from around USD2,494 to USD2,183 per tonne. Over the same period, the primary non-Chinese aluminium contract price benchmark, the LME, declined from around USD2,235 to USD2,071 per tonne¹²⁹. Both benchmarks tested historical lows in November 2015 before following an upward trend through 2016 and 2017. During the investigation period, Chinese aluminium prices rose from around USD1,990 to USD2,489 per tonne, while the LME rose from around USD1,664 to USD2,489 per tonne.

Market commentary suggests that the impact of Chinese winter curtailments, the halting of non-compliant new Chinese smelter projects and low western inventories have contributed to price rises during 2017. This commentary also indicates that the rising prices during the investigation period also contained a speculative element driven by uncertainty over the ongoing impact of Chinese supply-side reforms¹³⁰.

Profitability

Harbour Aluminium in a September 2017 report¹³¹ notes that based on prices at that time all operating smelters in China were turning a profit as margins had reached all-time highs of around 20%, while the newest capacity was making cash profits of more than 30%. The Commission considers it likely that these profit levels will drive smelters to lift output which will ultimately work against the GOC's supply-side reform agenda and add to downward pricing pressures. This is further supported by Harbour Aluminium's analysis in the same report which suggests that physical market indicators continue to suggest that a considerable underlying surplus was continuing to develop.

In assessing all of the factors impacting upon the Chinese aluminium market during the review period, the Commission recognises that the GOC continues to take significant steps to restructure and reorganise the domestic aluminium industry to better manage the level of excess production capacity, oversupply and environmental concerns. The GOC introduced and implemented a 'supply-side reform' policy aiming at cutting domestic production and removing excess capacity. The Government also introduced a 'new for old' policy in 2016, to replace old and inefficient capacity with new and cost-effective capacity. These efforts are reflected in the GOC's plans and directives, which further support the Commission's view that there are significant distortions within the domestic Chinese market. The Commission considers, based on the information available to it, that these directives, and associated programmes, have had a limited impact in terms of

¹²⁷ Information sourced from the AME Aluminium Strategic Market Study and Department of Industry, Innovation and Science – Office of the Chief Economist "Resources and Energy Quarterly Report March 2018.

¹²⁸ As represented by the Shanghai Futures Exchange (SHFE) Aluminium by Month spot contract price, sourced from Metalprices.com under subscription.

¹²⁹ LME Aluminium Cash Official rate monthly average, sourced from Metalprices.com under subscription.

¹³⁰ AME Aluminium Strategic Market Study (Quarter 4 2017)

¹³¹ Harbour Aluminium, Aluminium Alet, 29 September 2017

addressing the underlying causes of market distortions, principally excess production capacity.

The Commission considers that key constraints on the effectiveness of these directives includes the divergence in economic and social objectives between the different levels of the GOC, and the availability of financing to support the restructuring and reorganisation. With regard to the objectives of provincial and local governments, aluminium smelters are typically major employers, sources of significant tax revenue and providers of health care and education services within their respective regions. It is also the Commission's understanding that aluminium smelters are often used by local governments to support the establishment of electrical generation facilities, particularly in the developing regions of western China. As such, there are significant incentives for provisional and local governments to resist directives from the central government to remove excess capacity and to provide ongoing support to local producers.¹³²

A5 GOC influence in the Chinese aluminium market

The Commission considers that the GOC materially contributed to the excess supply of aluminium in the domestic Chinese market and hence has significantly influenced the domestic price for Chinese primary aluminium during the investigation period. This influence occurred through the following mechanisms:

- industry planning directives and associated programmes;
- taxation and tariff policies;
- distortion of electricity production costs and pricing;
- aluminium stockpiling programmes; and
- provision of financial support to loss making aluminium smelters.

The extent of the GOC's direct involvement within the Chinese aluminium industry is also reflected in the extent of productive capacity accounted for by Chinese SOEs and SIEs. The Commission estimates that between 2010 and 2015, SOEs and SIEs accounted for between 32 and 47 per cent of productive capacity.¹³³ A 2017 report commissioned by WVMetalle (the Think!Desk report) referenced the actions of six Chinese SOEs which together accounted for about 42 per cent Chinese aluminium output¹³⁴.

The Commission does not consider that the presence of these entities alone automatically means that a market is distorted. However, the presence of these entities, and their share of the market, does mean that there is a higher likelihood that the GOC

¹³² AME Aluminium Strategic Market Study (Quarter 1 2016), pages 9 and 94. Page 9 notes that, in spite of the recently implemented 'supply-side reform' policy, local governments within Gansu, Shanxi and Xinjiang provinces have reportedly been offering incentives for extra production. Page 94 notes that, while the official position has been that overcapacity in China's aluminium sector is to be addressed, in practice, there has been little in the way of practical effects in limiting discretionary production start-ups or restarts. Difficulties include local governments being directly involved in state smelting projects and subsidies being provided to maintain unviable operations. Indirect official intervention, such as requiring smelters to achieve emissions targets and efficiency levels, does not seem to have had the dramatic impact expected.

¹³³ Estimates are based on information previously provided by the GOC. Current information regarding this issue was requested by the Commission in its government questionnaire, to which the GOC did not provide a response.

¹³⁴ Taube, M. (2017), Analysis of Market Distortions in the Chinese Non Ferrous Metals Industry, Think!Desk, 24 April 2017, page 51

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plans and directives will be adhered to.¹³⁵ Based on past cases, the Commission also considers that this status enables these entities to obtain preferential treatment by Chinese financial institutions, both in terms of their access to, and the cost of, financing.

The significance of SOEs and SIEs to the broader Chinese economy, including the primary aluminium and related industries, is also reflected in the 2016 State Council of China (State Council) 'guidance on the promotion of central enterprises restructuring and reorganisation'.

In introducing this guidance, the State Council notes the important role of 'central enterprises' in actively promoting structural adjustment, optimisation of structural layout and quality improvement within the Chinese economy. The commentary also notes that many structural problems are still prominent, that efficiency of resource allocation needs to be improved and that innovation capacity needs to be enhanced. In response to these issues, the guidance indicates that the Party Central Committee and State Council will deepen reform of SOE policies and arrangements to optimise state-owned capacity allocation, promote transformation and upgrading. Details concerning the promotion of central enterprises restructuring and reorganisation are subsequently detailed. These include, under the 'safeguard measures' theme, the strengthening of the organisation and leadership of SOEs, strengthening of industry guidance, increased policy support and improved support measures.

A5.1 GOC directives

It is the Commission's view that the GOC has maintained a central role in the development of the Chinese aluminium industry, and by virtue of this has materially contributed to its rapid expansion and oversupply during the investigation period. The central role of the GOC in the Chinese aluminium industry is also reflected through the numerous planning documents and directives regarding the structure and composition of the Chinese aluminium industry. Examples of these plans and directives include the:

- thirteenth Five Year Plan (2016 to 2020) of China (2016);
- twelfth Five Year Plan (2011 to 2015) of China (2011);
- guidelines for Accelerating the Restructuring of the Aluminium Industry (the Guidelines) (2009);
- non-ferrous metal industry Adjustment and Revitalisation plan (2009);
- non-ferrous metal Five Year Plan (2012);¹³⁶
- directory catalogue on Readjustment of Industrial Structure and the Interim Provisions on Promotion of Industry Structure and Adjustment (2011);
- notice of the State Council on Further Strengthening the Elimination of Backward Production Capabilities;
- requirements of Entry into the Aluminium Industry (2007);
- normalisation criteria on the aluminium industry (2013);¹³⁷
- circular of the State Council on Accelerating the Restructuring of the Sectors with Production Capacity Redundancy (2006); and

¹³⁵ <https://www.thebalance.com/the-10-biggest-aluminum-producers-2012-2339722>.

¹³⁶ Replaced the non-ferrous metal industry Adjustment and Revitalisation Plan (2009).

¹³⁷ Replaced the Requirements on Entry into the Aluminium Industry (2007).

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- State Council guidance on the Promotion of Central Enterprises Restructuring and Reorganisation (2016).

How these plans and directives relate to conditions within the Chinese primary aluminium industry, as well as the major themes, are discussed in subsequent sections of this appendix.

Other GOC directives, which are likely to have impacted conditions within the Chinese aluminium industry and markets include:¹³⁸

- notice of several opinions on curbing overcapacities and redundant constructions in certain industries and guiding the healthy development of industries (2009);
- guiding opinions on pushing forward enterprise mergers and acquisitions and reorganisation in key industries (2013); and
- the directory catalogue on readjustment of industrial structure (version 11) (2013 amendment).

A5.2 GOC directives – relevance and enforceability

The Commission considers that the extent of the GOC's influence within the Chinese primary aluminium industry is reflected in the major themes and objectives of its plans and directives. In assessing the relevance of these plans and directives, it is the Commission's view that the national five year plans provide the overarching framework for the industry and province specific plans and other directives, such as those noted above. In regards these plans and directives, the Commission acknowledges that the GOC considers these to be for guidance, rather than enforceable directives. However, the Commission is of the view that the five year plans also have a significant impact on how identified industries are supported and regulated by government planning bodies and other institutions. Examples of the channels through which identified industries are influenced includes:

- the presence of SOEs and SIEs;
- the wording of plans and directives;
- the consistency of the themes and objectives throughout different plans and directives;
- the central role of the National Development and Reform Commission (NDRC) in the development of directives, and the provision of project approvals; and
- enforcement mechanisms.

While the Commission notes that GOC ownership, through SOEs and SIEs, does not automatic translate into GOC control of these entities, it is the Commission's view that these entities are more likely to be responsive to the directives of the broader GOC. The level of influence and broader role of SOEs and SIEs within the Chinese primary aluminium industry is relevant to this assessment, as it is estimated these entities accounted for around 42 per cent of total primary aluminium capacity between 2010 and 2015. In regards to the wording and consistency of themes and objectives between different plans, the Commission notes that these documents, and particularly the

¹³⁸ Sourced from market situation assessments at EPR 300/063 (steel reinforcing bar) and 301/038 (rod in coils).

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Guidelines, are written in such a way that it emphasises their importance and binding nature. Examples of these consistent themes include:

- the elimination of backwards capacity;
- control of production levels;
- encouraging mergers, restructuring and relocation;
- promoting technological and product quality improvement; and
- implementing and encouraging environmental measures.¹³⁹

In regards the role of the NDRC, the Commission notes that it is the key body responsible for both developing these directives, and providing overarching approval of large scale investment projects within China. It is the Commission's view that directives from the NDRC, as the GOC's central planning authority, would thus be central to both industry specific 'five-year plans' and the planning decisions of all levels of government more generally. More explicit enforcement mechanisms are reflected in the notice of the State Council on 'Further Strengthening the Elimination of Backward Production Capabilities and Guidelines'. Mechanisms to address non-compliance include:

- revoking of pollutant discharge permits;
- restrictions on financial institutions providing new credit support;
- restrictions on examination and approval of new investment projects;
- restrictions on approval of new land for use by the enterprise; and
- restrictions on issuing of new, and cancelling of existing, production licenses.

The Guidelines state that enterprises that do not conform to the industrial policy shall not be provided financial support by financial departments.¹⁴⁰ More implicit enforcement mechanisms are reflected by the regulatory powers of bodies, such as the Ministry of Industry and Information Technology. It is the Commission's understanding that such bodies maintain lists of companies that are deemed to be either compliant or non-compliant with national standards on production, environmental protection, energy efficiency and safety. Those deemed non-compliant are to be closed.¹⁴¹

It is the Commission's view that the effectiveness of the above mentioned mechanisms are reflected in the responsiveness of industry groups and major companies to the GOC's various directives. For example, in responses to the GOC's recent 'supply-side reform' directive, the Chinese Nonferrous Metals Association indicated that it would continue to limit production for the remainder of 2016,¹⁴² while 14 significant Chinese aluminium producers agreed to not restart curtailed capacity within a one-year period, as well as to refrain from ramping up constructed potlines.¹⁴³

¹³⁹ EPR 263/051, page 85 refers.

¹⁴⁰ EPR 263/051, page 85 refers.

¹⁴¹ Department of Industry, Innovation and Science, Resources and Energy Quarterly (December 2015), page 47.

¹⁴² Department of Industry, Innovation and Science, Resources and Energy Quarterly (June 2016), page 63.

¹⁴³ AME Aluminium Strategic Market Study (Quarter 1 2016), page 94.

A5.3 GOC directives – summary of themes, objectives and implementation

Below is a list of the major GOC plans and directives concerning the Chinese primary aluminium industry, and some of the key themes emphasised throughout them:

- thirteenth Five Year Plan of China (2016):
 - promoting innovation in science and technology;¹⁴⁴
 - support regional development and the development of special regions;¹⁴⁵ and
 - promoting economical and intensive resource use;¹⁴⁶
- twelfth Five Year Plan of China (2011):
 - promoting the restructuring of key industries;¹⁴⁷
 - promoting the orderly relocation of urban enterprises for non-ferrous metals;¹⁴⁸
 - planning of mergers and reorganisation of enterprises;¹⁴⁹ and
 - promoting the development of small and medium enterprises.¹⁵⁰
- the Guidelines:
 - objectives for structural adjustment within the Chinese primary aluminium industry;¹⁵¹
 - measures to accelerate structural adjustment of the primary aluminium industry;¹⁵²
- non-ferrous metal industry Adjustment and Revitalisation Plan:
 - stabilisation and expansion of the domestic market;
 - control of volume and eliminate backward production capacity;
 - strengthening of technological innovation;
 - promoting of industry and enterprise restructuring;
 - promotion of non-ferrous metals industrial restructuring and upgrading.
- non-ferrous metals Five Year Plan:
 - policy mechanisms for controlling market access;
 - use of fiscal incentives to support elimination of backward capacity elimination;
 - use of improved ‘supervision and inspection mechanisms’, including the creation of annual lists of enterprises with backward capacity, technologies and equipment for elimination along with the monitoring and reporting of the elimination process;
 - strengthening of GOC organisation and leadership of elimination activities;
 - provision of support to competitive enterprises for the elimination of backward capacity through merger, acquisition or restructuring activities;
 - GOC agencies and government involvement in the development of implementation plans through alignment of tasks to cities, counties and specific enterprises along with submission of capacity elimination lists to the Ministry of Industry and Information Technology and National Energy Administration;

¹⁴⁴ Chapter 6 refers.

¹⁴⁵ Chapters 37 and 40 refer.

¹⁴⁶ Chapter 43 refers.

¹⁴⁷ Chapter 9 refers.

¹⁴⁸ *ibid.*

¹⁴⁹ *ibid.*

¹⁵⁰ *ibid.*

¹⁵¹ Chapter 2 refers.

¹⁵² Chapter 3 refers.

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- improved regulation and control of land use including prohibiting land supply for construction projects involving backward production capacities;
- encouraging role of pricing mechanism to support reform and elimination of backward production capacity;
- requirements on entry into the primary aluminium industry:
 - speed up the structural reform of primary aluminium industry;
 - regulate behaviour;
 - achievement of environmental goals;
- normalisation criteria on primary aluminium industry:
 - requirements targeting the layout, location, and production scale new bauxite, alumina, electrolytic and secondary aluminium enterprises;
 - requirements that new electrolytic aluminium projects have surety over their alumina and electricity supply, transport and other external requirements;
 - requirements that new aluminium enterprises meet the relevant national standards concerning quality, capacity, energy efficiency and national environmental standards;
 - requirements for monitoring and administration by the Ministry of Industry and Information Technology;
- circular of the State Council on accelerating the restructuring of the sectors with production capacity redundancy:
 - promoting of economic restructuring to prevent inefficient expansion of industries that have resulted from blind expansion;
 - intensify the implementation of industrial policies related to the primary aluminium sector to strengthen the examination thereof and to improve them in practice; and
- State Council guidance on the promotion of central enterprises restructuring and reorganisation:¹⁵³
 - SOEs restructuring and reorganisation should serve national strategies, respect market rules, combine with reforms, follow laws and regulations, and stick to a coordinated approach;
 - state-owned capital should support SOEs, whose core businesses are involved in national and economic security and major national programmes, to strengthen their operations, and allow non state-owned capital to play a role, while ensuring the state-owned capital's leading position.
 - related departments and industries requested to steadily promote restructuring of enterprises in fields such as equipment manufacturing, construction engineering, electric power, steel and iron, nonferrous metal, shipping, construction materials, tourism and aviation services, to efficiently cut excessive overcapacity and encourage restructuring of SOEs.

A5.4 GOC involvement in energy sector

As a significant component of aluminium production costs, electricity pricing has a major impact on the price of primary aluminium, and the profitability of aluminium producers.¹⁵⁴ Based on information provided in the course of past investigations and the Commission's research, it is the Commission's view that the GOC continues to provide support to

¹⁵³ http://english.gov.cn/policies/latest_releases/2016/07/26/content_281475402145108.htm.

¹⁵⁴ Electricity accounts for around 40 per cent of primary aluminium production costs (EPR 263/051, page 100 refers).

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Chinese aluminium producers through discounted electricity. Examples of support provided by the GOC through electricity pricing include:

- the report by AME that ‘government-provided power subsidies are being seen in China to halt individual smelter curtailment plans, or to enable restarts and that this would appear unsustainable in the current market situation’;¹⁵⁵
- the report in May 2016 that the state-owned entity, Aluminium Corporation of China Limited, had indicated it would shut down one of its 500 kilotonne (kt) smelters in the Gansu region, due to profitability issues. In response to this announcement, Gansu officials reduced the plant’s electricity bill by 30 per cent, with the facility subsequently returning capacity to full production;¹⁵⁶
- the report by AME that the Jinneng Taiyuan Oriental aluminium smelter in the Shanxi province intended to restart production, after being fully curtailed since early 2015, subsequent to receiving a significant power discount from the local government;¹⁵⁷
- the report by AME that the 450 kt expansion project for Jiarun aluminium smelter in the Xinjiang province had been supported by the receipt of electricity at favourable rates from the local grid, significantly below the price from its own captive power source;¹⁵⁸
- the report by AME that the 130 kt Zengshi Anshun Huangguoshu aluminium smelter in Guizhou province had returned to full capacity following the restarting of idle capacity, with the support of local government subsidies enabling the company to achieve favourable electricity prices;¹⁵⁹
- the report by AME that the Baise Yinhai aluminium smelter in Guangxi province had delayed the planned restart of its full 200 kt smelting capacity, due to its inability to come to terms with the local government for favourable power subsidies to enable a profitable restart;¹⁶⁰ and
- the report by AME that the government of Yunnan province had announced that it was providing assistance to Yunnan Aluminum Holdings for it to lower its total smelting power costs. The report noted that the government may continue to assist Yunnan Aluminum Holdings until further reductions in its power cost has been achieved.¹⁶¹

The 2017 Think!Desk report also identified a series of factors within the Chinese power sector which have substantially affected the discounted price of electricity. These include an oversupply of electricity in certain regions, the introduction of electricity subsidies and differential electricity pricing policies¹⁶².

¹⁵⁵ AME Aluminium Strategic Market Study (Quarter 4 2015), page 9.

¹⁵⁶ www.wsj.com/articles/chineseexports-surge-amid-overcapacity-at-home-1462746980.

¹⁵⁷ Aluminium Outlook, July 2016, page 13.

¹⁵⁸ Aluminium Outlook, July 2016, page 13.

¹⁵⁹ Aluminium Outlook, July 2016, page 15.

¹⁶⁰ Aluminium Outlook, July 2016, page 16.

¹⁶¹ Aluminium Outlook, July 2016, page 16.

¹⁶² Taube, M. (2017), Analysis of Market Distortions in the Chinese Non Ferrous Metals Industry, Think!Desk, 24 April 2017, pages 110 to 115.

A5.5 GOC taxation and tariff policies

During the course of previous cases the Commission has established that the GOC tariff and tax rates applicable to the Chinese aluminium industry value chain serve to discourage the exportation of primary and alloyed aluminium while encouraging the exportation of downstream aluminium products such as aluminium extrusions and aluminium road wheels.

The Commission did not obtain any information during this investigation to indicate that there had been any change to the GOC's VAT rebate and export tariff arrangements in relation to the aluminium industry. However, the Commission notes that the 2017 Think!Desk report¹⁶³ identified that:

“China is the world’s largest exporter of aluminium products. The country exports almost no aluminium in raw form but supplies the world with semi-finished and finished products. Trade policy strongly discourages the exportation of raw materials and primary aluminium but encourages sales of higher value added products. In recent years, Chinese companies have increased exports of semi-processed goods. Arguably, this has been done to circumvent Chinese export restrictions and re-melt the materials into raw aluminium inside target markets. Exporting semis instead of raw aluminium mean exporters can avoid paying a 30% export tax and claim a 15% VAT refund. The phenomenon of “fake semis” has received particular attention through the case of China Zhongwang’s substantial stockpiling activities in Mexico and Vietnam (see section 5.3 for details).

As is the case with other metals reviewed for this study, the GOC has geared its trade policy instruments to shift the composition of exports towards higher value added and more technology intensive products”.

As such, it is the Commission's view that the GOC's VAT rebate and export tariff arrangements for primary aluminium, alloy aluminium and aluminium extrusions during the investigation period continued to have the effect of discouraging exports of primary and alloyed aluminium. It is the Commission's view that these arrangements contributed to increasing the supply available to the domestic market for the production of goods such as aluminium extrusions.

In assuming that there had not been a significant change in the tariff and rebate rates between the previous investigations, reviews and this investigation, it is the Commission's view that these arrangements are part of the broader GOC strategy to control the domestic market for primary and alloyed aluminium within China, to ensure there is adequate supply for downstream industries such as aluminium extrusions.

This conclusion is not only based on differences in the VAT rebates available to exports of aluminium extrusions and primary or alloyed aluminium, but also on the GOC's active involvement in the domestic market through stockpiling policies as discussed in the following section.

¹⁶³ Taube, M. (2017), Analysis of Market Distortions in the Chinese Non Ferrous Metals Industry, Think!Desk, 24 April 2017, page 115

A5.6 GOC stockpiling policies

Prior investigations undertaken by the Commission into aluminium related products exported to Australia from China identified the role of the China State Reserve Bureau, now known as the SBMR, in using aluminium stockpiles to manage price fluctuations in the domestic Chinese market.¹⁶⁴ An example of the SBMR's market interventions includes the purchase and sale of aluminium from its stockpile to support the domestic market.

The Commission considers that the SBMR's stockpiles continue to exist and are operated with the intention of managing aluminium price volatility within the domestic Chinese market. It is the Commission's view that the ongoing operation of the SBMR's stockpiling not only reflects the desire of the GOC to influence and control conditions within the domestic primary aluminium market, but also the distortion of market forces and hence the degree to which conditions within these markets reflect competitive market conditions.

A6 The Chinese aluminium extrusion market

A6.1 Conditions in the Chinese aluminium extrusion market

The ability of the Commission to undertake a detailed assessment of conditions within the Chinese aluminium extrusion market was constrained due to the lack of response to the government questionnaire from the GOC.

While the Commission was unable to undertake a detailed assessment of the aluminium extrusion market, it considers it highly likely that the impact of distorted aluminium pricing, along with the receipt of numerous subsidies both within and prior to the investigation period, is likely to have distorted conditions within this market. It is also the Commission's view that the GOC has actively sought to encourage the export of value added aluminium products, such as aluminium extrusions, over primary aluminium, through differences in VAT rebates and export tariffs applied to these goods (Section A4 refers).

A6.2 GOC subsidy programmes to Chinese aluminium extrusion producers

In addition to the support mechanisms listed above, the Commission has identified in prior investigations a number of subsidy programmes that individual producers have received.

These programs were most recently reviewed as of Review 392¹⁶⁵. This review identified numerous programs demonstrating the nature of support being provided to China's aluminium related industries. The review period for Review 392 overlaps the investigation period in this matter in one quarter.

The extent of this support has also been identified by differing investigating bodies which have confirmed that aluminium related industries have consistently benefitted from a variety of subsidy programs. These most recently include the US Department of Commerce investigation into aluminium foil imported from China¹⁶⁶.

¹⁶⁴ The SBMR is situated in the NDRC.

¹⁶⁵ See Appendix B of Review 392's Final Report at EPR 392/069.

¹⁶⁶ See United States Department of Commerce, 7 August 2017, Decision Memorandum for the Preliminary Affirmative Determination: *Countervailing Duty Investigation of Certain Aluminum Foil from the Peoples Republic of China*, C-570-054.

A7 Assessment of market situation in the Chinese aluminium extrusions market

A7.1 Assessment of conditions in the Chinese aluminium market

As outlined in the preceding sections, the Commission considers that there continued to be significant GOC induced distortions within the Chinese primary aluminium market during the investigation period, which rendered pricing outcomes in that market uncompetitive. More specifically, the GOC induced distortion of that market is considered by the Commission to be structural, and will therefore take a significant time to dissipate.

A7.2 Flow through to aluminium extrusions sector

It is the Commission's view that, during the investigation period, primary aluminium prices in China were lower than they otherwise would have been if the markets operated in a competitive environment without GOC intervention. As primary aluminium is a major cost component in aluminium extrusions (between 75 and 90 per cent for the two Chinese exporters in this case), the Commission considers that this understated aluminium cost would likely have an impact on the end cost and prices of aluminium extrusions.

The Commission further views that the subsidies provided to the aluminium and aluminium extrusions sectors would likely impact the costs of production associated with aluminium extrusions through:

- improving the technology used by aluminium extrusion manufacturers, decreasing the cost of production, as well as affecting the supply and hence price of aluminium producing enterprises (and upstream industries that are also likely to have received subsidies);
- decreasing the cost of inputs of aluminium and aluminium extrusions through the encouraged structural adjustment of aluminium and upstream industry entities; and
- directly reducing input prices of products at each stage of production if the subsidies are passed on by the recipient enterprises.

A7.3 Conclusion

The Commission therefore finds that GOC influence in the primary aluminium and aluminium extrusion sectors has resulted in significantly different aluminium extrusion prices, compared to what would have been the case if the relevant markets operated without significant GOC intervention.

The Commission recognises that the impact of these GOC influences on supply are extensive, complex and manifold, and their resulting impact on the price of aluminium extrusions is not able to be easily quantified. However, available information and the Commission's analysis indicates that these influences are likely to have had a material impact on the domestic price of aluminium extrusions in the investigation period, such that prices of aluminium extrusions in that market are no longer suitable for determining normal value under subsection 269TAC(1).

The Commission therefore considers that GOC influences in the Chinese aluminium industry have created a 'market situation' in the domestic aluminium extrusions market,

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such that sales in that market are not suitable for use in determining a normal value under subsection 269TAC(1).