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1 May 2017

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

### **Investigation into alleged dumping of aluminium extrusion exported from Vietnam**

Dear Director,

This submission is made on behalf of East Asia Aluminium (EAA) in response to the preliminary findings contained in Statement of Essential Facts 392 (SEF 392).

#### **Due allowance – Volume based discounts**

EAA is mystified by the Commission's consideration and preliminary rejection of the adjustment for clear differences in export and domestic prices resulting from distinct discount structures offered to customers, which are tied directly to monthly purchased volumes.

Initially, the Commission advised that the adjustment was disallowed as it did not meet the requirements outlined in the Dumping and Subsidy Manual as the *'evidence provided by EAA demonstrates distinctively, that the two customers are not comparative on a volume level.'* Yet in SEF 362, there is no mention or support for this initial view which appears to suggest that the Commission has correctly withdrawn its initial interpretation of the evidentiary requirements for accepting such an adjustment.

Instead, the Commission is now dismissing the claim for adjustment on two grounds. The first being an observed discrepancy in the evidence submitted during verification, showing *'[t]he customer shown on the price list was not the same customer shown on the other sales documents, e.g. invoices and payment documents.'* The second being that EAA did not report these volume discounts in the relevant column with export sales and domestic sales listings.

On this first issue, EAA is concerned by the Commission's lack of objective examination of the evidence submitted and the lack of opportunity provided to EAA to address and clarify the observed discrepancy. It is worth highlighting that the verification to EAA was completed in October 2016 and the verification report finalised and placed on the public record in December 2016. No discrepancies were identified or raised by the Commission during that period and in the 4 months subsequent to the verification report being published.

Further, the Commission makes the following conclusions and statements in its published verification report:

**5.1 Verification of domestic sales to audited financial statements**

The verification team verified the completeness and relevance of EAA's domestic sales listing by reconciling it to audited financial statements in accordance with ADN No. 2016/30.

The verification team did not identify any issues during this process. Details of the verification are contained in the verification work program, and relevant attachments, at Confidential Attachment 1.

**5.2 Verification of domestic sales to source documents**

The verification team verified the accuracy of EAA's domestic sales listing by reconciling it to source documents in accordance with ADN No. 2016/30.

The verification team did not identify any issues during the downwards verification of domestic sales.

Details of the verification are contained in the verification work program, and relevant attachments, at Confidential Attachment 1.

Given the Commission's apparent identification of a discrepancy in the identification of the customer shown on the submitted price list and remaining source documents, and its reliance on that discrepancy to reject the adjustment claim, EAA contends that it was incumbent on the Commission to bring this matter to EAA's attention earlier and allow it the opportunity to understand and clarify the issue. This is supported by Article 2.4 of the Anti-Dumping Agreement which requires that:

*... [t]he authorities shall indicate to the parties in question what information is necessary to ensure a fair comparison and shall not impose an unreasonable burden of proof on those Parties.'*

Notwithstanding that EAA has not had the opportunity to establish or respond to the identified discrepancy, it considers that the Commission has either misunderstood the information submitted or compared documents not relating to the same common sale. That is, the evidence submitted to the verification team clearly showed that EAA offers its domestic and export customer a discount structure linked to the purchased monthly volumes. This was demonstrated to the Commission during verification by way of supporting documentation in the form of contract agreements, price lists, invoices and proof of payment.

On the second ground raised by the Commission in SEF 392, EAA is again confused by the reasoning. The referred to discount columns in Appendix B-4 and D-4 have no relevance to the volume discounts offered by EAA on its export and domestic sales. As the notes to each appendix shows, the discounts to be reported in those columns relate to *'the amount of any discount deducted on the invoice on each transaction.'*

This then refers to discounts applied to the invoice values, and is intended to allow for a determination of the net invoice value which is calculated by deducting all 'post-invoice' discounts, rebates and other charges from the gross invoice value. This is not applicable to EAA's export or domestic sales [REDACTED]

[REDACTED] [Confidential pricing details]. As submitted in its domestic sales listing and verified by the Commission, the reported gross invoice value is [REDACTED]

[Confidential pricing details]

Therefore, EAA submits that sufficient information has been provided which demonstrates that different volume discount structures apply to domestic and export sales, and that these discounts affect the respective prices and the ability to ensure proper comparison. As such, EAA requests the Commission to reconsider its position and apply the adjustment using the approach outlined in our submission of 2 February 2017. EAA also requests the Commission to provide it with copies of the relevant evidence submitted during verification which it considers shows the discrepancy in customers reported on the various documents.

### Due allowance – Profile complexity

EAA requests the Commission to reconsider its approach to defining models by including wall thickness as it is key criteria that influences costs of production and corresponding selling prices. If the identified models remain unchanged, then EAA requests the Commission to consider making appropriate adjustment to take account of the profile complexities which have been categorised on the basis of wall thickness.

The Commission has initially dismissed these model criteria and adjustment claims on the basis that ‘...there was also no wall thickness specified on the sales invoices provided. No price lists were presented that could demonstrate the variance in the price due to wall thickness and since the CTMS data reported by the exporter was to finish level only, the verification team considered that model matching based on finish is appropriate. However, EAA wishes to highlight in response:

- that selling prices are set according to a formula whereby the complexity of the profile is captured in the overall conversion costs of the goods and not separately identified or reported; and
- it is impossible and unreasonable to expect aluminium extruders to separately record and maintain production costs for each profile, given the tens of thousands of profiles being produced each year.

To support its view that the complexity of the profile has a direct bearing on the production costs and as a consequence the corresponding selling price, the previously submitted views by Capral are relevant. In its application to the original investigation into exports from China, Capral<sup>1</sup> stated:

*...small and intricate section material was sold at a higher price per kilogram than larger sizes, reflecting slightly lower production tonnage per hour. (Application page 18).*

Capral also confirmed<sup>2</sup>:

***Complexity premium** – Shapes which are more difficult to produce (and therefore more costly to produce) were able to attract a higher price. Capral previously charged a premium of up to \$XX/kg for C and D class hollow sections (XX% of production volume) to account for the increased complexity, lower speeds and higher waste.*

Therefore, EAA reiterates its original explanation<sup>3</sup> of the impact that custom or complex profiles have on selling price:

<sup>1</sup> EPR 148, Record No. 001, page 18

<sup>2</sup> Ibid., page 30.

<sup>3</sup> EAA Confidential Questionnaire response, page 29.

[REDACTED]

EAA requests the Commission to reconsider and make due allowance for profile complexity/wall thickness to ensure proper comparison.

Yours sincerely

John Bracic