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*CUSTOMS ACT 1901 (Cth) - PART XVB*

**ANTI-DUMPING COMMISSION  
PRELIMINARY REINVESTIGATION REPORT  
FOR THE  
ANTI-DUMPING REVIEW PANEL**

**REINVESTIGATION OF CERTAIN FINDINGS IN  
REPORT NO. 591**

**CERTAIN ALUMINIUM EXTRUSIONS  
EXPORTED FROM MALAYSIA AND THE  
SOCIALIST REPUBLIC OF VIETNAM TO AUSTRALIA**

**26 June 2023**

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**ABBREVIATIONS**

ABF	Australian Border Force
ACCC	Australian Competition & Consumer Commission
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
Alumac	Alumac Industries Sdn Bhd
ASIC	Australian Securities and Investment Commission
AUD	Australian dollar
Aus Star	Aus Star Holdings International Pty Ltd
Capral	Capral Limited
China	the People's Republic of China
the commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTMS	cost to make and sell
EAA	East Asia Aluminium Company Limited
EPR	electronic public record
FIS	free into store
FOB	free on board
FY	financial year, a 12-month period between 1 July to 30 June
Genesis	Genesis Aluminium Industries Sdn Bhd
G James	G James Extrusions Co. Pty Ltd.
the guidelines	<i>Guidelines on the Application of Forms of Dumping Duty November 2013</i>
ICD	interim countervailing duty
IDD	interim dumping duty
INEX	Independent Extrusions Limited
kg	kilogram
LDPIS	landed duty paid into store
LME	London Metal Exchange
MCC	model control code
the Minister	the Minister for Industry and Science
MT	metric tonnes
NIP	non-injurious price
original investigation	Investigation 362
Pandemic	COVID-19 Pandemic
PMAA	Press Metal Aluminium (Australia) Pty Ltd
PMB	Press Metal Berhad
PMBA	PMB Aluminium Sdn Bhd
PRR	Preliminary Reinvestigation Report

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REP 362	<i>Anti-Dumping Commission Report No. 362</i>
REP 540	<i>Anti-Dumping Commission Report No. 540</i>
REP 541	<i>Anti-Dumping Commission Report No. 541</i>
REP 543	<i>Anti-Dumping Commission Report No. 543</i>
REP 544	<i>Anti-Dumping Commission Report No. 544</i>
REP 591	<i>Anti-Dumping Commission Report No. 591</i>
SG&A	selling, general and administration
SEF 591	<i>Statement of Essential Facts No. 591</i>
Vietnam	the Socialist Republic of Vietnam

# 1 SUMMARY

## 1.1 Introduction

On 5 October 2022, the Anti-Dumping Review Panel (ADRP) requested the Commissioner of the Anti-Dumping Commission (the Commissioner) undertake a reinvestigation of certain findings arising from *Anti-Dumping Commission Report No. 591* (REP 591).<sup>1</sup>

In REP 591, the Commissioner was not satisfied that the expiration of the anti-dumping measures applying to Malaysia and the Socialist Republic of Vietnam (Vietnam) would lead, or would be likely to lead, to a continuation of, or a recurrence of, the material injury that the anti-dumping measures were intended to prevent.<sup>2</sup>

After considering the findings in REP 591, the Minister for Industry and Science (the Minister) decided not to secure the continuation of the anti-dumping measures applying to certain aluminium extrusions (the goods) exported to Australia from Malaysia and Vietnam.<sup>3</sup> Capral Ltd (Capral) subsequently applied to the ADRP for a review of the Minister's decision. The ADRP accepted Capral's application and initiated a review of the Minister's decision.

Pursuant to section 269ZZL of the *Customs Act 1901*<sup>4</sup>, the ADRP requested the reinvestigation of the finding that material injury to the Australian industry was not likely to continue or recur in the absence of measures because there was no demonstrable connection between the price advantage that dumping gave to exporters from Malaysia and Vietnam, and the economic condition of the Australian industry, specifically in terms of how it sets its prices, which was distinct from the influence of other sources.

This preliminary reinvestigation report (PRR) sets out the preliminary findings of the Commissioner in relation to the ADRP's reinvestigation request.

The Anti-Dumping Commission (commission) invites interested parties to make submissions in response to this PRR. Submissions received before 10 July 2023 will inform the preparation of the reinvestigation report provided to the ADRP.

## 1.2 Preliminary findings

On reinvestigation, the commission finds that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the material injury that the anti-dumping measures are intended to prevent.<sup>5</sup>

The commission considers that the Australian market for aluminium extrusions is competitive and price sensitive. In addition to the observed examples of price undercutting, the commission has also observed that there is a high degree of price transparency and supplier competition where customers obtain supply from multiple sources and switch supply sources.

In this context, the commission finds that imports from Malaysia and Vietnam are likely influencing how the Australian industry sets its prices. The commission considers that the

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<sup>1</sup> Electronic Public Record (EPR) 591, document number 38.

<sup>2</sup> All references to measure in this report refer to the anti-dumping measures following Investigation 362 unless otherwise specified.

<sup>3</sup> ADRP (2022), Letter to the Commissioner regarding reinvestigation, 5 October 2022, on the ADRP's website at [https://www.industry.gov.au/sites/default/files/adrp/2022\\_155\\_aluminium\\_extrusions\\_-\\_request\\_for\\_reinvestigation.pdf](https://www.industry.gov.au/sites/default/files/adrp/2022_155_aluminium_extrusions_-_request_for_reinvestigation.pdf).

<sup>4</sup> All legislative references in this report are to the *Customs Act 1901* unless otherwise specified.

<sup>5</sup> In coming to this conclusion, the commission has taken into account the finding in REP 591 that it is unlikely that Alumac Industries Sdn Bhd would export aluminium extrusions at dumped prices in the future. This finding is not subject to the ADRP's reinvestigation request.

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large penetration of Malaysian and Vietnamese imports across Australian industry's customer base<sup>6</sup> is indicative of a large exposure to price competition from Malaysian and Vietnamese imports. The commission considers that the fact imports from other sources, including the People's Republic of China (China), are also likely having an impact does not detract from this finding.

In addition, the commission finds that the Australian market during the inquiry period was impacted by the COVID-19 Pandemic (pandemic). The market was impacted by supply constraints, increased shipping costs and government pandemic stimulus programs. These pandemic impacts were generally favourable to the Australian industry. In particular, these pandemic impacts affected the relationship between Australian industry's prices and import sourced prices, such that any price advantage of dumping was diminished during the inquiry period. The commission notes that despite the challenges faced by exporters during the inquiry period, Malaysian and Vietnamese imports were still able to undercut the Australian industry on many occasions, as shown by the revised price undercutting analysis.

The commission considers that, as the impacts of the pandemic recede, export supply will likely be more cost effective and timely, as was the case during the original investigation and prior to the pandemic. Together with the ending of the government stimulus programs, any temporary advantage the Australian industry enjoyed during the inquiry period will be removed. In particular, absent the effects of the pandemic, prices of imports will likely become more competitive, increasing the degree of price competition in the Australian market.

The commission finds that in the event of the measures expiring, importers and exporters will be able to use dumped prices, absent the dumping duty previously paid, to advantageously adopt competitive pricing strategies which would likely further exacerbate the observed undercutting of Australian industry prices during the inquiry period. Australian buyers which directly import aluminium extrusions from extruders in Malaysia and/or Vietnam will also face lower import costs in the absence of measures. These reduced costs will be relevant to their future purchasing decisions.

In the context of the forward-looking assessment, the competitive and price sensitive nature of the market absent the favourable impacts of the pandemic will mean that Australian industry will be even more susceptible to being outcompeted by dumped Malaysian and Vietnamese imports. In these circumstances, Australian industry would likely be required to respond to the import prices, absent the impact of dumping duties, by reducing prices or suppressing any potential price increases to remain competitive – which is the material injury that the measures are intended to prevent.

Chapters 3 to 9 provide the details on the Commissioner's findings that led to the overall preliminary findings set out above. The specific findings considered in each chapter are set out below.

### **1.2.1 Reinvestigation of price analysis (Chapter 3)**

The commission has reinvestigated the undercutting analysis conducted in REP 591 in accordance with the ADRP's request.

The commission finds that there was a greater degree and a more consistent pattern and frequency of undercutting by Malaysian or Vietnamese import sources during the inquiry period when compared to the findings made in REP 591.

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<sup>6</sup> On a volume basis.

### **1.2.2 Pricing behaviour of importers in the absence of measures (Chapter 4)**

The commission has reinvestigated the pricing behaviour of importers in accordance with the ADRP's request.

The commission finds that in the absence of measures importers will face lower import costs. In the price sensitive Australian market, importers will be able to use the dumped import prices, absent dumping duty, to advantageously adopt competitive pricing strategies which include further undercutting Australian industry prices. In addition, end users which directly import from producers in Malaysia and/or Vietnam will face lower importation costs in the absence of measures. These lower costs will be relevant to their future purchasing decisions.

### **1.2.3 The influence of other import sources (Chapter 5)**

As part of the reinvestigation the commission re-examined the influence of other import sources.

The commission finds that Malaysian and Vietnamese imports are likely influencing Australian industry's pricing. The commission considers that the fact imports from other sources, including China, are also likely having an impact does not detract from this finding.

### **1.2.4 Australian market conditions during the inquiry period and its impact on the price relationship (Chapter 6)**

The commission has reinvestigated the market conditions applying during the inquiry period and the impact of these conditions on the price relationship between Australian industry and import sources of aluminium extrusions.

The commission finds that the Australian market during the inquiry period was impacted by the pandemic which was generally favourable to the Australian industry and diminished the price advantage of dumped exports.

### **1.2.5 Whether material injury is likely to continue or recur (Chapter 7)**

The commission has reinvestigated, in accordance with the ADRP's request, whether material injury is likely to continue or recur in the absence of measures.

The commission now preliminarily finds that the expiration of the anti-dumping measures applying to exports from Malaysia and Vietnam would lead, or would be likely to lead, to a continuation of, or a recurrence of, the material injury that the anti-dumping measures are intended to prevent.

## **1.3 Background to the reinvestigation**

### **1.3.1 Reviewable decision**

On 15 September 2021, the Commissioner initiated an inquiry into whether the continuation of anti-dumping measures, in respect of aluminium extrusions (the goods) exported to Australia from Malaysia and Vietnam was justified. The anti-dumping measures were in the form of a dumping duty notice (Malaysia and Vietnam) and a countervailing duty notice (Malaysia only).

Following the recommendations of the Commissioner in REP 591, the Minister declared on 24 June 2022 that, pursuant to section 269ZHG(1)(a), he had decided not to secure the continuation of anti-dumping measures relating to the goods exported to Australia from Malaysia and Vietnam.

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The commission published the public notice of the reviewable decision on 24 June 2022.<sup>7</sup> The measures expired on 27 June 2022.

### 1.3.2 Review of the Minister's decision

Following the Minister's decision, the ADRP accepted Capral's application for review.

The ADRP initiated its review of the decision through public notice on 17 August 2022 (ADRP Review No. 2022/155).<sup>8</sup>

On 5 October 2022, the ADRP requested the Commissioner reinvestigate certain findings in REP 591 relating to the finding that the Commissioner was not satisfied that material injury to the Australian industry was likely to continue or recur in the absence of measures.<sup>9</sup>

In this regard, the ADRP specifically referenced the finding that there was no demonstrable connection between the price advantage that dumping gave to exporters from Malaysia and Vietnam, and the economic condition of the Australian industry, specifically in terms of how it sets its prices, which was distinct from the influence of other sources.

In summarising the reasons for requesting the reinvestigation, the ADRP commented that:

- The issue that must be addressed relates to whether the Commissioner is satisfied that, if the measures expired, would it lead or be likely to lead to the continuation or recurrence of dumping or subsidisation and the material injury that the anti-dumping measures were intended to prevent.
- Certain prices in REP 591's undercutting analysis had been completed at the incorrect level of trade. This created difficulties for the ADRP's consideration of the price impacts on material injury, both in the inquiry period and as a factual base for the hypothetical future.
- Further analysis of price undercutting may assist in resolving observed differences in comments made in REP 591 on the commission's price analysis.
- Analysis of the Non-Injurious Price (NIP) may provide an additional indication regarding whether material injury was likely to continue or recur from dumped exports.
- REP 591 contained no information to support the finding that, in the absence of measures, there would likely be little change to pricing behaviours of importers.
- Further consideration of price impacts and whether material injury was likely to continue or recur was required. This is required given REP 591's reliance on the price undercutting analysis, the comments on the impacts of Malaysian and Vietnamese imports and the finding that it is a price sensitive market.
- In the context of REP 591's reference to the downward pressure on prices and that the Australian market was price sensitive, the commission's finding was that it could not find direct evidence of the impact of the prices of dumped exports on Capral's prices needed to be revisited.
- In REP 591 there was a strong focus on the inquiry period with limited consideration of what is likely to occur if the measures expired. Very different economic conditions were apparent in the inquiry period and REP 591 did not consider that the same price relationship was established in REP 591 as was found

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<sup>7</sup> EPR 591, document number 37.

<sup>8</sup> Notice under section 269ZZI at ADRP Review No. 2022/154.

<sup>9</sup> ADRP (2022), Letter to the Commissioner regarding reinvestigation, 5 October 2022, on the ADRP's website at [https://www.industry.gov.au/sites/default/files/adrp/2022\\_155\\_aluminium\\_extrusions\\_-\\_request\\_for\\_reinvestigation.pdf](https://www.industry.gov.au/sites/default/files/adrp/2022_155_aluminium_extrusions_-_request_for_reinvestigation.pdf).

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in *Anti-Dumping Commission Report No. 362* (REP 362). The ADRP stated it was important to consider possible scenarios associated with the expiration of the anti-dumping measures in light of the reviewed price analysis.

Further details of the ADRP's reinvestigation request are included in relevant sections of this report.

### **1.4 Next steps**

The commission invites interested parties to make submissions in response to the Commissioner's preliminary findings as set out in this report. Submissions received will inform the preparation of the reinvestigation report that the Commissioner will provide to the ADRP. Submissions are due no later than 10 July 2023. The commission's preference is to receive submissions by email to [investigations4@adcommission.gov.au](mailto:investigations4@adcommission.gov.au).

Interested parties may also address submissions to:

The Director, Investigations Unit 4  
Anti-Dumping Commission  
GPO Box 2013  
CANBERRA ACT 2600

Interested parties claiming that information contained in their submissions is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests
- satisfy the Commissioner that there is no way such a summary could allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked 'OFFICIAL: SENSITIVE'. Interested parties must lodge a non-confidential version of their submission, clearly marked 'PUBLIC RECORD'.

## 2 CONDUCT OF THE REINVESTIGATION

### 2.1 Approach to the reinvestigation

The commission is conducting the reinvestigation in accordance with section 269ZZL(2). In conducting the reinvestigation, the commission is considering:

- the grounds accepted for review (as set out in the ADRP's notice under section 269ZZI)
- the ADRP's reasons for requesting the reinvestigation
- relevant information contained in the application to the ADRP for the review of the Minister's decision
- information obtained during a conference between the commission and the ADRP in relation to the reinvestigation request<sup>10</sup>
- REP 591, relevant information referenced in REP 591 and the record evidence for continuation inquiry 591
- clarifying information the commission specifically requested from certain parties (as set out in section 2.2)
- certain additional information from the Department of the Treasury, the Reserve Bank of Australia, Australian Competition & Consumer Commission, Statista and 2 media articles (as specified in section 6.4).

The commission is assisting the Commissioner in undertaking the reinvestigation, pursuant to the commission's function specified in section 269SMD.

### 2.2 Requests for clarification of certain information previously provided by interested parties

To assist with the reinvestigation of the undercutting analysis in REP 591, the commission sought to further clarify certain aspects of the sales data provided by the following interested parties during the continuation inquiry:

- Capral
- G James Extrusions Co. Pty Ltd (G James)
- Independent Extrusions Limited (INEX)
- PMAA

### 2.3 Conference with the ADRP

The commission requested a conference with the ADRP in relation to the reinvestigation request. The purpose of the conference was to clarify aspects of the ADRP's reinvestigation request. The conference took place on 17 October 2022. A summary of the conference is available on the ADRP's website.<sup>11</sup>

### 2.4 Submissions received prior to the publication of the preliminary reinvestigation report

#### 2.4.1 Summary of submissions received

On 21 October 2022, the commission published a file note on the EPR, outlining the procedural parameters for the reinvestigation and that the commission proposed to publish

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<sup>10</sup> ADRP (2022), Anti-Dumping Commission – Conference Summary, 18 October 2022, on the ADRP's website at [https://industry2.govcms.gov.au/sites/default/files/adrp/2022\\_155\\_aluminium\\_extrusions\\_-\\_conference\\_summary\\_-\\_17\\_october.pdf](https://industry2.govcms.gov.au/sites/default/files/adrp/2022_155_aluminium_extrusions_-_conference_summary_-_17_october.pdf).

<sup>11</sup> Ibid, page 2.

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this PRR.<sup>12</sup> It advised that the commission would invite interested parties to make submissions in response to the PRR. Following that file note, the commission received submissions from several interested parties before the publication of the PRR.

Table 1 lists submissions received prior to the publication of the PRR.

EPR number	Interested Party	Date published on EPR
40	Capral	14 November 2022
42	Capral	18 November 2022
43	East Asia Aluminium Company Limited (EAA)	1 December 2022
44	PMAA	9 December 2022
45	PMAA	20 December 2022
46	PMAA	24 January 2023

**Table 1 Submissions received prior to the preliminary report**

Public record versions of these submissions are available on the commission's EPR for this case at: [www.adcommission.gov.au](http://www.adcommission.gov.au).

### 2.4.2 Commission's decision to consider submissions post PRR

The commission has not considered the 6 submissions received prior to the publication of this PRR.

In preparing this PRR, the commission has relied on the information specified in sections 2.1 and 2.2. For the purposes of this reinvestigation, the commission has not considered it necessary to have regard to the new information provided by Capral in its submission in relation to the 2 further examples of undercutting and the information provided in response to that information by East Asia Aluminium (EAA).<sup>13</sup>

In preparing the final reinvestigation report, the commission will consider the other aspects of these 6 submissions in conjunction with any further submissions received in response to the PRR.

Interested parties, in making submissions in response to the PRR, are also invited to make submissions in response to the submissions made prior to the publication of the PRR.

## 2.5 PRR and request for submissions

This report sets out the preliminary findings of the Commissioner in response to the ADRP's reinvestigation request. This report provides an opportunity for interested parties to comment on the preliminary findings and for the commission to consider those submissions prior to providing the ADRP with the reinvestigation report.

## 2.6 Conduct of the reinvestigation

The ADRP requested the Commissioner provide a report on the result of the reinvestigation by 10 February 2023. The ADRP subsequently granted the Commissioner 2 extensions of time to provide the reinvestigation report.<sup>14</sup>

The Commissioner is currently due to provide his reinvestigation report on 21 August 2023.

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<sup>12</sup> EPR 591, document number 39.

<sup>13</sup> EPR 591, document numbers 40 and 43.

<sup>14</sup> Refer to the commission's extension requests and ADRP extension approvals on the ADRP's website at <https://www.industry.gov.au/trade/anti-dumping-review-panel/current-anti-dumping-review-panel-reviews/aluminium-extrusions-exported-malaysia-and-socialist-republic-vietnam>.

### 3 REINVESTIGATION OF PRICE ANALYSIS

#### 3.1 Preliminary findings

The commission has reinvestigated the undercutting analysis conducted in REP 591 in accordance with the ADRP's request.

The commission finds that there was a greater degree and a more consistent pattern and frequency of undercutting by Malaysian or Vietnamese import sources during the inquiry period when compared to the findings made in REP 591. Specifically:

- Malaysian or Vietnamese direct import prices predominantly undercut Australian industry across all finish types and across the top 4 models sold by volume. In REP 591, mixed and varying degrees of undercutting were observed, depending on the supplier and finish type. In this report, this analysis is referenced as comparison 1.<sup>15</sup> The degree of undercutting by dumped goods ranged between 1%–50%.
- When assessing sales by importers to common customers in the Australian market, there were varying degrees of undercutting exhibited by all parties, including undercutting by Australian industry members of import sources. The analysis found there was price competition which at times was close. In this report, this analysis is referenced as comparison 2.<sup>16</sup> The degree of undercutting by dumped goods ranged between 0%–31%.
- A further examination of simultaneous supply competition for the highest volume model sold to 2 suppliers' common customers found some evidence of buyers switching suppliers when unit prices decreased.<sup>17</sup>
- While the results were somewhat mixed, the commission found sufficient examples of close price alignment to conclude the Australian market exhibits a significant degree of price competition and price sensitivity.

The changes to the commission's findings on undercutting have resulted from resolving the issues identified by the ADRP and other issues identified during the reinvestigation. The changes made by the commission are listed in **Confidential Attachment 1**.

The commission has not conducted a NIP-based comparative analysis because, for the reasons outlined in section 3.5, this would not provide a reliable indication of future material injury.

#### 3.2 Reinvestigation request

The ADRP requested the commission reinvestigate the price undercutting analysis in REP 591 and suggested that analysing the NIP may offer additional information regarding whether material injury is likely to continue or recur from dumped exports.<sup>18</sup>

In relation to the price undercutting analysis in REP 591, the ADRP noted that:

- REP 591 described the price undercutting analysis at 2 levels of trade
- Certain information used in the price undercutting analysis was found to have been compared at an incorrect level

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<sup>15</sup> In REP 591 this analysis was referred to as the 'first level of trade undercutting analysis'. In the ADRP request, this analysis was referred to as the 'landed duty paid into store' cost.

<sup>16</sup> REP 591 and the ADRP request referred to this as the 'second level of trade undercutting analysis'.

<sup>17</sup> New analysis found in comparison 2.

<sup>18</sup> ADRP (2022), Letter to the Commissioner regarding reinvestigation, 5 October 2022, pages 3–4, on the ADRP's website at [https://www.industry.gov.au/sites/default/files/adrp/2022\\_155\\_aluminium\\_extrusions\\_request\\_for\\_reinvestigation.pdf](https://www.industry.gov.au/sites/default/files/adrp/2022_155_aluminium_extrusions_request_for_reinvestigation.pdf).

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- Due to this issue, 'it would be difficult for the [ADRP] to rely on the price undercutting analysis ... in considering the price impacts on material injury considerations, both in the inquiry period and as a factual base for the hypothetical future.'<sup>19</sup>

The ADRP noted that further analysis of price undercutting may assist in resolving differences found in relation to the commission's price analysis comments in REP 591.

### 3.3 Approach to reinvestigation of undercutting analysis

The analysis in this chapter is based on:

- verified financial information submitted by Capral and unverified financial information submitted by G James and INEX
- Australian Border Force (ABF) import database data
- verified importer (PMAA) information
- verified exporter information (PMB Aluminium Sdn Bhd (PMBA) and EAA) and unverified exporter information (Alumac Industries Sdn Bhd (Alumac)) and
- relevant information obtained during the course of prior investigations, reviews, and inquiries conducted by the commission into aluminium extrusions.

### 3.4 Revisions to undercutting analysis

In the reinvestigation request, the ADRP noted that REP 591 described 2 types of price undercutting analyses (for clarity now referred to as comparisons 1 and 2).

#### 3.4.1 Findings in REP 591

In REP 591, the commission found examples of undercutting by Malaysian and Vietnamese exporters, however there appeared to be no consistent pattern to the price undercutting. In some instances, the Australian industry undercut other market participants. The following findings were the basis for this conclusion:<sup>20</sup>

- The commission observed varying levels of undercutting based on different finish types.
- The commission conducted 2 comparisons of price undercutting and found no consistent level of undercutting by any one exporter, country or in relation to any specific finish type.
- Comparison 1 compared the Australian industry with overseas producers for direct mill supply to importers (i.e. supplier to importer). These importers either distribute the imported goods or transform it into other products. Based on further consideration during this reinvestigation, the commission has used PMBA's sales data. The analysis in REP 591 inadvertently used PMAA's sales data.<sup>21</sup> This analysis was referred to as the 'first level of trade undercutting analysis' and was conducted on a weighted average quarterly and monthly basis. For mill finish and powder coated extrusions, the analysis found mixed and varying degrees of undercutting depending on the supplier. For anodised extrusions, the analysis found Australian industry all experienced undercutting by import suppliers.
- Comparison 2 compared Capral's distribution network sales with importers which sell into the Australian market (i.e. distributor/importer to customer). The analysis in REP 591 mistakenly used Capral's direct mill sales rather than Capral's distribution network sales as stated in REP 591. This analysis compared sales to customers

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<sup>19</sup> Ibid, page 5.

<sup>20</sup> REP 591, pages 79–81.

<sup>21</sup> In REP 591, findings for comparison 1 made in relation to PMAA refer in error to PMBA.

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common to Capral and cooperative importer PMAA. This analysis was referred to as the 'second level of trade undercutting analysis' and was conducted on a weighted average basis over the inquiry period and monthly. This analysis found inconsistent examples and degrees of undercutting with no clear pattern of specific undercutting.

- Based on the undercutting analysis in REP 591, the commission formed the view that the dumped prices are not having an observable effect on Australian industry's prices.

### 3.4.2 Reinvestigation analysis

To reassess the undercutting analysis completed in REP 591, the commission first reviewed the nature of competition and supply channels in the Australian market. This information informed the roles played by market participants, points of competition and enabled the commission to ensure that levels of trade have been appropriately considered.

#### 3.4.2.1 Australian market structure and participants

The commission is aware the Australian market for aluminium extrusions is supplied by domestic aluminium producers, including Capral and 8 other entities.<sup>22</sup> The 9 entities identified are considered to constitute the Australian industry producing like goods.

Imports of the goods into the Australian market are sourced from numerous countries. In recent years the highest volumes originated from China with smaller volumes originating from Malaysia and Vietnam.

The market for like goods mainly includes:

- large original equipment manufacturers, such as large aluminium window manufacturers
- distributors and wholesalers<sup>23</sup> of aluminium extrusions
- value-add finishers (e.g. anodisers, powder coat/painters)
- fabricators
- other users (small to medium retailers and trade end-users).<sup>24</sup>

These groups include a wide range of small to medium retail and trade end-users (including smaller fabricators, manufacturers and other users) which order aluminium extrusions from distributors, metal service centres or retailers. The size and complexity of orders, as well as the type of trading relationships developed over time, results in a variety of sales channels between the producer of the extrusion and the end customer. Figure 1 illustrates the market segments and key participants in the Australian market.

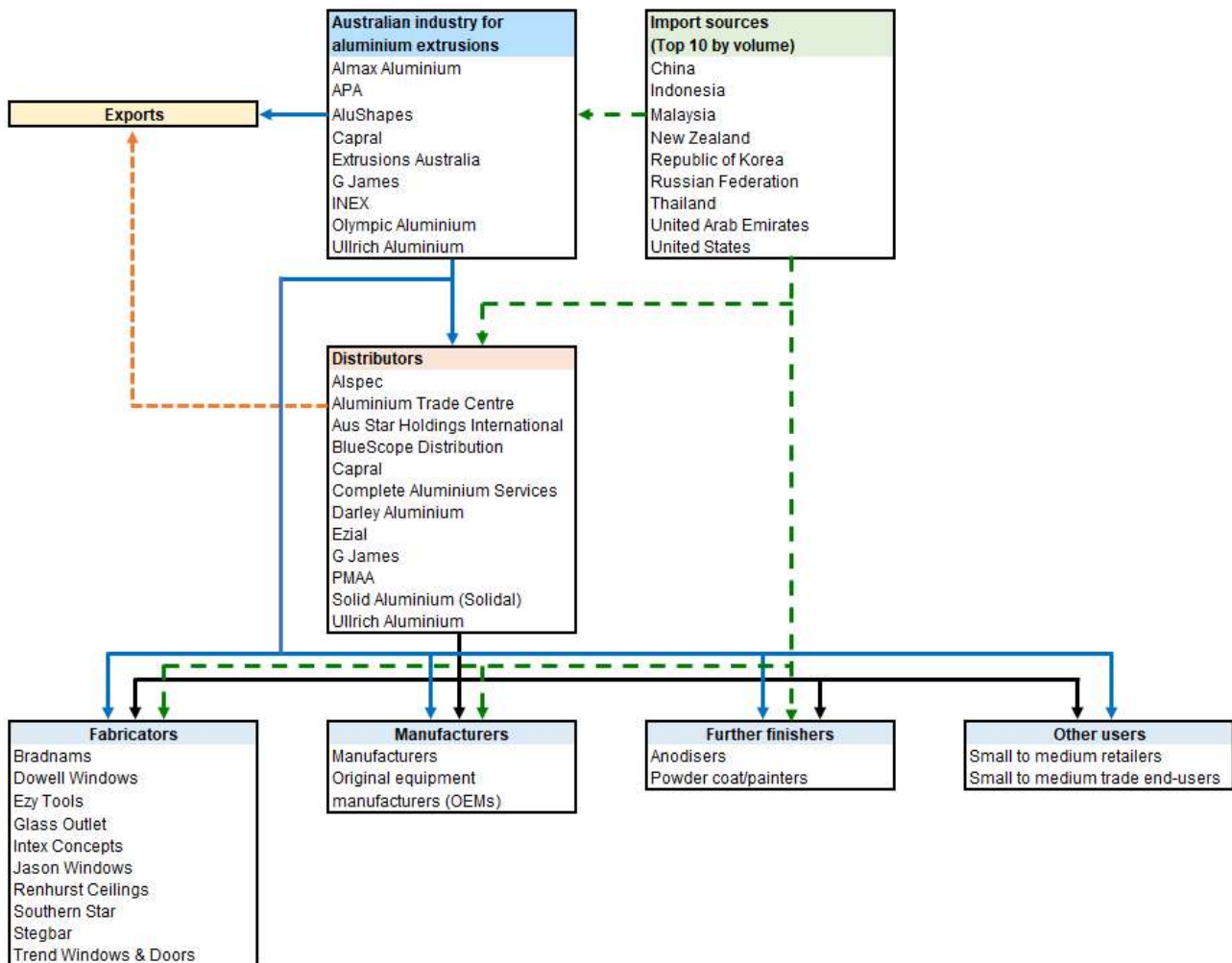
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<sup>22</sup> EPR 591, document number 1.

<sup>23</sup> The commission considers both distributors and wholesalers act as intermediaries between the producer of the extrusion and the buyer. For simplicity, the commission has collectively referred to them as distributors in this report.

<sup>24</sup> EPR 591, document numbers 7 and 34.

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*Fabricators buy directly from the producers, normally in circumstances where the size and simplicity of order is such as not to adversely affect relationships between the producer and major distributors.*

**Figure 1 Market segments and key participants for aluminium extrusions in Australia**

Based on the information obtained, the commission has identified 3 major market segments for aluminium extrusions:

- residential – including products such as windows and doors, security, internal fit out of showers and robes, external fit out, and fencing
- commercial – including commercial windows and doors, internal and external fit out, and curtain walls
- industrial – including automotive, sunshades, truck and trailer, bus, rail, electrical, solar, signage, marine, portable buildings, general fabrication, manufacturing and large industrial infrastructure.

The commission's assessment of market segments and key participants is in **Confidential Attachment 2**.

### 3.4.2.2 Supply and distribution

Aluminium extrusions are a commodity product, and provided the goods meet the relevant Australian Standard and the grade requirements for the desired end use, there are limited ways in which suppliers can differentiate their offering beyond price and service. In most circumstances, customers can change supplier readily. Depending on the specific

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extrusion a customer is purchasing, the ease with which this can occur will differ in terms of cost, lead-time and management of production quality.<sup>25</sup>

The Australian industry producing like goods sells directly to users which transform the goods into products such as windows and doors, other residential solutions or for use in applications such as boat building. The Australian industry also caters for a large base of customers through its distribution centre networks. The ordering and lead-time arrangements differ between customers and depending on the sales channel through which the products are sold.<sup>26</sup>

Within the Australian industry, the commission understands that there are differing levels of geographic presence around Australia. Larger companies have Australia-wide production and distribution assets, whilst smaller companies service particular geographic areas.

In terms of distribution, the commission is aware that Australian customers will secure multiple supply sources for a range of reasons including in order to minimise the risk of a disruption in supply (e.g. where one manufacturer cannot fulfil an order).<sup>27</sup> The commission understands buyers have the option to purchase directly from the producer or indirectly via an intermediary such as a distributor or through an importer. Additionally, buyers seeking supply through importers can arrange to purchase directly from the supplier's factory or from the importer's warehouse/floor stock.

Similar to the Australian industry, the commission understands that overseas producers which supply the Australian market have a similar product offering and appear to have an ability to service the Australian market in a manner comparable to the Australian industry. Overseas producers receive purchase orders from Australian customers either directly from the customer or through an Australian-based intermediary. Through these channels, overseas extrusion producers either compete directly with the Australian industry head-to-head or indirectly with the Australian-based intermediary. The evidence before the commission indicates overseas producers were found to supply the same category of customer as the Australian industry and in some cases the same customer(s).

Based on the information before it, various types of customers within the Australian market transact with overseas aluminium extrusion producers. Goods imported into Australia may be shipped directly to the customer's final location or warehoused at an importer's facility before dispatch. From this perspective, the Australian industry's and overseas producers' methods of distribution are very similar. However, the lead time for imported goods is longer.

The commission considers that the lead time for purchase orders is one aspect that potentially differentiates the Australian industry's value proposition from overseas suppliers.

In relation to Capral, the Commissioner ascertains that its business in the sale of like goods was not generally by way of contractual arrangements.<sup>28</sup> However, Capral will and does quote for work on major projects and maintains key customers through ongoing negotiations on prices.

### **3.4.2.3 Demand**

The Australian industry identifies 3 market segments into which it sells the like goods:

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<sup>25</sup> REP 591, page 24.

<sup>26</sup> Ibid.

<sup>27</sup> EPR 591, document number 7.

<sup>28</sup> EPR 591, document number 14.

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- residential building – including the home renovation sub-sector
- commercial building
- industrial – transport, marine and other industrial.

Out of the 3 market segments listed above, the commission considers key segments included the residential and commercial building sectors. Capral has previously indicated that a key demand driver for sales of like goods is the residential building segment.

Capral has also referred to the current and future sources of like goods demand that included the defence, marine and renewable energy sectors, particularly in relation to solar panel mounting systems.

### **3.4.2.4 Reassessment of the undercutting analysis**

In conducting a reassessment of the undercutting analysis completed during the inquiry, the commission re-examined various factors including volumes of models<sup>29</sup> sold, customers common to Australian and overseas suppliers and types of buyers (i.e. level of trade). The results of this re-examination have informed the commission's approach to assessing price undercutting.

In terms of volumes of models sold, the commission analysed the most common models sold by all suppliers and found that the top 4 model control codes (MCCs) sold were M-6A-T1<sup>30</sup>, PC-6A-T1<sup>31</sup>, A-6A-T1<sup>32</sup> and M-6C-T1<sup>33</sup>. These 4 MCCs represented 85% of the volume sold in the inquiry period. The commission's price analysis of these MCCs identified that the differences in physical characteristics between these MCCs give rise to distinguishable and material differences in price.<sup>34</sup> Since these top 4 MCCs represented the most models sold during the inquiry period, the commission used these MCCs to revise the undercutting analysis in comparisons 1 and 2. This ensured that undercutting was assessed for comparable models.

In REP 591, the commission considered the customers common to both Capral and PMAA and used this to complete comparison 2. In reassessing the undercutting analysis, the commission identified customers common to suppliers from Australia, Malaysia and Vietnam. This increased the number of suppliers from 2 to 6 and increased the number of common customers to more than 300 customers in total across all suppliers. The common customers identified represent approximately 30% of the total volume sold during the inquiry period. This extended common customer matrix was used to revise the undercutting analysis for comparison 2.

The commission considers that the Australian market for aluminium extrusions contains different levels of trade including distributors, fabricators, manufacturers and end users. The commission's pricing analysis identified that these levels of trade affected pricing.<sup>35</sup> In reassessing the undercutting analysis, the commission assigned level of trade classifications against customers in the Australian market using information provided by all suppliers and its own research. This augmented the extended common customer matrix and permitted it to be stratified by type of buyer for comparison 2.

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<sup>29</sup> Using the commission's model control codes (MCC) to categorise models.

<sup>30</sup> Highest volume mill finished MCC sold using the commission's MCC.

<sup>31</sup> Highest volume powder coated MCC sold using the commission's MCC.

<sup>32</sup> Highest volume anodised MCC sold using the commission's MCC.

<sup>33</sup> Second highest volume mill finished MCC sold using the commission's MCC.

<sup>34</sup> Confidential Attachment 3 Capral Price Analysis and Confidential Attachment 4 PMAA Price Analysis.

<sup>35</sup> Ibid.

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Capral is the only extruder which provided disaggregated data by channels to market. The other participating parties did not provide disaggregated data by channels to market. The commission is aware that other parties may also make sales directly to buyers and indirectly via their distribution networks. Therefore, the aggregated data provided by other participating parties may contain both direct mill and indirect distribution channels sales. The commission has included both Capral direct mill and indirect distribution network sales separately in these analyses. As directed by the ADRP, the commission has re-examined the undercutting analyses for comparisons 1 and 2.

Similar to REP 591, the commission completed 2 types of price undercutting analyses (comparisons 1 and 2) which are described below and are found in **Confidential Attachment 5**.

### **3.4.2.4.1 Comparison 1 or the landed duty paid into store (LDPIS) analysis**

Comparison 1 compared the Australian industry with overseas producers for direct mill supply to importers (i.e. supplier to importer). This analysis compared Capral's direct mill, G James, INEX, Alumac<sup>36</sup>, EAA and PMBA sales. This analysis included all customers and was conducted on a free into store (FIS) monthly weighted average basis by finish type and by the top 4 MCCs sold.

In terms of FIS prices, where the sales terms for a selected exporter were not FIS or equivalent, the commission determined the weighted average FIS price for each exporter as the sum of:

- verified Free on Board (FOB) export prices
- post FOB costs including handling, port charges and inland freight
- dumping duties for that exporter, if relevant.

In terms of post FOB costs, the commission re-examined the costs incurred by the verified importer PMAA. The commission recalculated shipping costs and importation costs based on the relevant volume, dumping duties paid based on ABF import data and removed the unit costs for selling, general and administrative charges (SG&A). The removal of SG&A charges in comparison 1 ensured the analysis was completed at the correct level of trade in accordance with the ADRP's request. Taken together, the re-examined post FOB costs were lower than the costs used for comparison 1 in REP 591. The commission's assessment of post FOB costs is in **Confidential Attachment 6**.

Comparison 1 found there were varying levels of undercutting across the different finish types with Australian industry consistently undercut by dumped Malaysian and Vietnamese imports. Overall:

- For mill finish (the largest volume finish type), PMBA and to a lesser extent EAA consistently undercut the Australian industry whereas Alumac occasionally undercut G James. Mill finish undercutting ranged between 1%–23%.
- For powder coated and anodised finishes, Alumac, EAA and PMBA consistently undercut the Australian industry with undercutting ranging between 1%–40% for powder coated and 17%–50% for anodised.

Comparison 1 also found there were varying levels of undercutting across the top 4 MCCs sold. Overall:

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<sup>36</sup> For completeness and consistency with REP 591, Alumac was included in comparison 1. REP 591 found that it is unlikely that Alumac would export the goods at dumped prices in the future. This finding is not subject to the ADRP's reinvestigation request.

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- PMBA consistently undercut Australian industry for the highest volume mill finished and powder coated MCCs sold with undercutting ranging between 1%–21% and 14%–38% respectively.
- EAA consistently undercut G James and INEX for the highest volume mill finished MCC sold over the inquiry period and undercut Capral direct mill in the second half of the inquiry period. EAA's undercutting ranged between 2%–20%.
- EAA consistently undercut Australian industry for the highest volume powder coated and anodised MCCs sold with undercutting ranging between 12%–40% and 19%–47% respectively.
- Alumac undercut Australian industry in 3 months for the highest volume anodised MCC sold with undercutting ranging between 14%–31%.
- For the second highest volume mill finished MCC sold, Australian industry are not competing with cooperating suppliers.

Overall, comparison 1 found that Malaysian or Vietnamese direct import prices predominantly undercut Australian industry across all finish types and across the top 4 models sold by volume. Further, numerous examples of close price alignment and undercutting were observed for the commission to conclude that the Australian market exhibits a significant degree of price competition. The inclusion or exclusion of Alumac in comparison 1 does not detract from this finding.

The commission's assessment of the confidential aspects of the comparison 1 analysis, which is summarised above, is in **Confidential Appendix A**.

### **3.4.2.4.2 Comparison 2 or sales by importers analysis**

REP 591 stated that comparison 2 compared Capral's distribution network sales with importers which sell into the Australian market (i.e. distributor/importer to customer). However, the confidential analysis used Capral's direct mill sales rather than Capral's distribution network sales as stated in REP 591. In general terms, Capral's direct mill sales prices are materially lower than Capral's distribution network sales prices.

Comparison 2 compared Australian industry's sales with importers which sell into the Australian market (i.e. distributor/importer to customer). This analysis did not include all sales but compared sales to customers common to Capral's direct mill and indirect distribution network, G James, INEX, EAA and cooperative importer PMAA. An examination of Alumac's importers found that they were fabricators and not distributors. Since Alumac's importers transformed the goods into other products and were the end customer, Alumac was excluded from this comparison. This analysis was conducted on a FIS monthly weighted average basis by type of buyer for the top 4 MCCs sold.

In terms of FIS prices, where the sales terms for a selected exporter were not FIS or equivalent, the commission determined the weighted average FIS price of goods for each exporter as the sum of:

- verified FOB export prices
- post FOB costs including handling, port charges and inland freight
- dumping duties for that exporter, if relevant
- SG&A
- profit, if relevant.

In terms of post FOB costs, the commission re-examined the costs incurred by verified importer PMAA. The commission recalculated shipping costs and importation costs based on the relevant volume and dumping duties paid based on ABF import data. In terms of profit, the commission determined an appropriate level of profit for exporters using data

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from relevant Australian importers' financial statements sourced from the Australian Securities and Investment Commission (ASIC). Specifically:

- PMAA's prices were already FIS so no conversion from FOB was required.
- The commission observed that EAA sold to a small number of importers during the inquiry period but only one importer was a disclosing entity required to lodge financial reports with ASIC. The commission determined the weighted average profit for the inquiry period for that one importer using the lodged financial report. For the other importers, the commission considered PMAA's profit was a reasonable proxy. The commission determined the weighted average profit for the inquiry period using PMAA's financial reports for 2020 and 2021. Using the calculated profits for PMAA and the other importer that disclosed to ASIC, the commission calculated EAA's weighted average profit using the proportion of volume sold to each importer.

Taken together, the re-examined post FOB costs were higher than the costs used for comparison 2 in REP 591. The commission's assessment of post FOB costs is in **Confidential Attachment 6**.

Comparison 2 found there were some levels of undercutting by dumped Malaysian and Vietnamese imports across MCCs and type of buyer, including undercutting by Australian industry members. While there was undercutting across different MCCs, no one supplier was consistently undercutting. Depending on the MCC and type of buyer, Malaysian and Vietnamese imports were competing closely with Australian industry producers.

The commission's assessment of the confidential aspects of the comparison 2 analysis, which is summarised above, is in **Confidential Appendix B**.

In the response to the Australian industry questionnaire, Capral stated that many large customers increasingly sourced goods of the same specification from local and imported sources.<sup>37</sup> The commission sought to examine price competition for buyers which purchased from multiple sources (i.e. dual sourcing). The commission compared common customers which ordered from more than one supplier in the same month (i.e. concurrent sales) for the top 4 MCCs only. This included Capral's direct mill and indirect distribution network sales. Only months with concurrent sales were compared. Even though some common customers purchased from more than 2 suppliers in the same month, the commission assessed prices between 2 suppliers only. The commission's pricing analysis identified that volume affected pricing<sup>38</sup> so orders of similar volume were also compared to remove the effect of volume on price.

This analysis confirmed that for common customers all suppliers (both Australian industry and imported sources) undercut each other and there is price competition, which at times was close. For the highest volume mill finished and powder coated MCCs sold during the inquiry period, G James and INEX were undercut by dumped import sources more often than Capral's direct mill and indirect distribution network sales. The commission considers this analysis supports the view that dual sourcing is occurring leading to a high level of price transparency in the market.

In PMB/PMBA/PMAA's submission in response to the Statement of Essential Facts 591 (SEF 591), PMB/PMBA/PMAA stated that 'the aluminium extrusions supplied to each such market segment vary and are different not only according to ... MCCs but also products within each MCC with limited, if any, overlap ... between market segments'.<sup>39</sup> The

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<sup>37</sup> EPR 591, document number 7, page 8.

<sup>38</sup> Confidential Attachment 7 Volume Price Analysis.

<sup>39</sup> EPR 591, document number 34.

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commission agrees that different segments of the Australian market can purchase different MCCs. The commission also considers the market segments reflect different buyer types with different prices being applied to these different levels of trade (i.e. distributors, fabricators, manufacturers and end users). The commission considered both types of buyers and different MCCs in the comparison 2 analysis.

In the same submission, PMB/PMBA/PMAA stated the commission's analysis 'should have included an assessment of the price elasticity of demand within each market segment' including 'at what price point, if any, will end-users switch from a domestically produced product to an import product and vice versa, again assuming all other factors affecting purchase decisions are equal'. The commission compared all sales to the top 10 common customers by volume which ordered from Capral and PMAA in the same month for the most common mill finished MCC sold to explore potential switching behaviour. For these sales, 3 out of the 10 common customers examined showed some evidence of potential switching behaviour, where a reduction in the unit price led to an increase in the volume sold. The commission considers this indicates the Australian market for aluminium extrusions is a price sensitive market.

Overall, while the results of the 3 different analyses<sup>40</sup> conducted were mixed, comparison 2 found sufficient examples of close price alignment for the commission to conclude the Australian market exhibits a significant degree of price competition.

### **3.4.2.5 Preliminary findings**

Comparison 1, which included all sales excluding Capral's distribution network, demonstrated that dumped imports from Malaysia and Vietnam were predominantly undercutting Australian industry suppliers across all finish types and across the top 4 MCCs sold by volume. Comparison 2, which included a selected set of sales by all suppliers, showed varying levels of undercutting across MCCs and types of buyers, including undercutting by Australian industry members. When the analysis was further narrowed to just include concurrent sales to common customers, this confirmed that for common customers all suppliers (both Australian industry and imported sources) at times undercut each other and there is price competition, which at times was close. An examination of simultaneous supply competition for the highest volume mill finished MCC sold to customers common to both Capral and PMAA showed some evidence of buyers switching suppliers when unit prices decreased. Overall, the commission considers the Australian market exhibits a significant degree of price competition.

Based on the findings from comparisons 1 and 2, the commission considers that there are instances of price undercutting to a material degree and switching behaviour in the Australian market. Compared to the undercutting analysis conducted in REP 591, the commission considers there is a greater degree and a more consistent pattern and frequency of undercutting by Malaysian and Vietnamese dumped import sources.

## **3.5 NIP analysis**

The commission considers that analysis of the NIP would not provide a reliable indication of the likelihood of a continuation or recurrence of material injury.

The commission considered the NIP in SEF 591 and proposed, in the event that measures were continued, to recommend that the NIP be set equal to the normal values for both Malaysia and Vietnam.<sup>41</sup> SEF 591 considered that a NIP equivalent to the normal value for

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<sup>40</sup> The 3 different analyses include: By type of buyer for the top 4 MCCs sold; concurrent sales; and the top 10 common customers by volume which ordered from Capral and PMAA in the same month for the most common mill finished MCC sold.

<sup>41</sup> EPR 591, document number 25.

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each exporter would be the minimum price necessary to prevent a continuation or recurrence of material injury to the Australian industry caused by dumping.

The commission considers that NIP-based comparative analysis during the inquiry period would provide no meaningful assistance to the future-oriented task of assessing the likelihood of a continuation or recurrence of injury. This is because the inquiry period was marked by anomalous market conditions which the commission considers would diminish the NIP as being a reliable indicator of whether the expiration of measures would likely lead to a continuation or recurrence of material injury.<sup>42</sup>

For these reasons, the commission did not complete a NIP-based comparative analysis.

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<sup>42</sup> These market conditions are further considered in Chapter 6 of this PRR.

## 4 PRICING BEHAVIOUR OF IMPORTERS IN THE ABSENCE OF MEASURES

### 4.1 Preliminary findings

The commission has reinvestigated the pricing behaviour of importers in accordance with the ADRP's request.

The commission finds that in the absence of measures importers will face lower import costs. In the price sensitive Australian market, importers will be able to use the dumped import prices, absent dumping duty, to advantageously adopt competitive pricing strategies which include further undercutting Australian industry prices. In addition, end users which directly import from producers in Malaysia and/or Vietnam will face lower importation costs in the absence of measures. These lower costs will be relevant to their future purchasing decisions.

The commission considers that, whilst other factors such as security of supply, quality and provision of service are relevant, price is a significant factor in purchasing decisions by buyers, resulting in a high degree of price sensitivity in the Australian market for aluminium extrusions. The commission has observed that there is a high degree of price transparency and supplier competition where customers obtain supply from multiple sources and switch supply sources. Evidence provided to the 591 inquiry by Australian industry (prior to REP 591) and the revised price undercutting analysis (see section 3.4.2) has identified examples of buyers switching supply in an apparent response to cheaper prices.

### 4.2 Reinvestigation request

The ADRP requested the commission reinvestigate the findings in REP 591 that in the absence of measures there would likely be little change to the pricing behaviour of exporters and importers.

In making this request, the ADRP:

- observed that, while REP 591 contained information baselining the exporters' pricing behaviour since the imposition of measures, there was no comparative information about importers
- noted it was 'unclear on what basis the comment on pricing behaviour of importers [was] made'<sup>43</sup>
- suggested that it is more likely than not, in a price sensitive market, that importers would change prices should the measures expire
- noted that the analysis of the pricing behaviour of importers since the imposition of measures was 'not apparent' and that the 'analysis of prices of importers during the inquiry period [was] limited', as 'only one importer's information was verified during the inquiry'<sup>44</sup>
- noted that there are also comments in REP 591 that 'appear to suggest that prices are being impacted by the Malaysian and Vietnamese exports and that it is a price sensitive market. Further consideration of price impacts and whether material injury is likely to continue or recur if measures expire is required'.<sup>45</sup>

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<sup>43</sup> ADRP (2022), Letter to the Commissioner regarding reinvestigation, 5 October 2022, page 6, on the ADRP's website at [https://industry2.govcms.gov.au/sites/default/files/adrp/2022\\_155\\_aluminium\\_extrusions\\_-\\_request\\_for\\_reinvestigation.pdf](https://industry2.govcms.gov.au/sites/default/files/adrp/2022_155_aluminium_extrusions_-_request_for_reinvestigation.pdf).

<sup>44</sup> Ibid, page 7.

<sup>45</sup> Ibid.

## 4.3 Reinvestigation analysis

### 4.3.1 Australian market and business factors that may influence importers' pricing decisions after the removal of measures

The commission broadly agrees with the ADRP's observations that, after anti-dumping measures are removed, an importer can continue to either maintain prices to achieve a higher return or decrease prices and retain its existing margin. The commission also considers that importers could elect to reduce their prices by a smaller extent, thereby achieving higher margins while also lowering prices.

The commission notes that the ADRP's observations largely reflect the pricing behaviour of importers acting as distributors, wholesalers or retailers in the Australian market. Fabricators or manufacturers which import directly may also seek to retain the additional margin or lower their final product prices in response to the removal of the measures. Other importers could also switch supply to Malaysia and/or Vietnam in response to cheaper Malaysian or Vietnamese import prices in the absence of measures.

The commission agrees with the ADRP's observation that the approach an importer adopts is dependent on a range of business and market-related factors. To identify these factors, the commission has re-examined its findings in REP 591, Capral's application for the continuation inquiry and submissions from interested parties during the continuation inquiry.

REP 591 made the following findings in relation to the operation of the Australian market that are relevant to importers' pricing behaviour:

- The Australian market for the goods is a price sensitive market.<sup>46</sup>
- Parties have multiple sources of supply available to them, both produced domestically and imported. Imports are currently sourced from Malaysia and Vietnam, as well as from China and other countries.<sup>47</sup>
- Aluminium extrusions are a commodity product, and provided the goods meet the relevant Australian Standard and the grade requirements for the desired end use, there are limited ways in which suppliers can differentiate their offering beyond price and service. Pricing is primarily based on the 'spread', being the difference between the combined sum of the London Metal Exchange (LME) price and premiums, and the selling price.<sup>48</sup>
- In most circumstances, customers can change suppliers readily. Depending on the specific extrusion the customer is purchasing, the ease with which this can occur will differ in terms of cost, lead-time and management of production quality.<sup>49</sup>
- Extrusion profiles made to customer specifications require special dies. This will involve a charge to the customer to cover the upfront cost of producing the die, or alternatively the manufacturer covering this cost, with the cost then amortised over the expected life of the die or the contract and built into the price of the extrusions.<sup>50</sup>
- The size and complexity of orders, as well as the type of trading relationships developed over time, results in a variety of sales channels between the producer of the extrusion and the end customer.<sup>51</sup>

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<sup>46</sup> REP 591, page 79.

<sup>47</sup> Ibid, page 24.

<sup>48</sup> Ibid, pages 24–25.

<sup>49</sup> Ibid, page 24.

<sup>50</sup> Ibid, page 26.

<sup>51</sup> Ibid, page 24.

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As noted in chapter 3, the primary importers of aluminium extrusions into the Australian market are distributors (or wholesalers) and end users (fabricators, manufacturers and further finishers).

Capral relevantly claimed in their application for the continuation inquiry<sup>52</sup> that:

- ‘the Australian market for aluminium extrusions is an “open” market with significant supply from both local and import sources’
- ‘Malaysian and Vietnamese exporters have retained distribution links into the Australian market since the anti-dumping measures were imposed in 2017’
- Capral and other Australian industry members ‘have continued to compete with ... exporters in Malaysia and Vietnam’
- there is ‘a high level of price transparency and pricing sensitivity for aluminium extrusions sold on the Australian market’.

Submissions and questionnaire responses to the inquiry made the following statements or claims relevant to the operation of the Australian market (which are not specifically commented on in the REP 591 findings summarised above):<sup>53</sup>

- ‘[M]any large customers had been increasingly sourcing a combination of local and imported extrusions of the same specification’ (i.e. dual sourcing). [Capral<sup>54</sup>]
- ‘[A]lthough purchase price is an important factor, other factors such as security of supply, quality and provision of service were all important in choosing a supplier of the goods’. [PMAA<sup>55</sup>]
- ‘There is spare capacity in the market that extruders are trying to fill. This leads to price discounting in an attempt to fill this volume’. [G James<sup>56</sup>]
- ‘There are several such markets or sub-markets within a general Australian aluminium extrusions market. The products and prices of aluminium extrusions supplied to each obviously differ.’ ‘Prices in the market to end users ultimately determines prices at the other levels of trade, such as in the wholesale market, in the supply chain’. [PMBA<sup>57</sup>]

### 4.3.2 Reinvestigation analysis of common customers in the Australian market

The commission considers that the degree to which customers obtain supply from multiple sources provides insight in relation to the nature of competition in the Australian market.

Using ABF import data and sales data provided by Australian industry, exporters and importers, the commission assessed the number of Australian customers which were sourcing from multiple suppliers participating in the 591 inquiry. This examination identified more than 300 customers which were sourcing aluminium extrusions from multiple suppliers during the inquiry period.<sup>58</sup> These common customers represent a material proportion of the volume sold for each supplier. For Capral, G James, INEX and PMAA, the commission calculated the proportion sourced by common customers for each supplier

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<sup>52</sup> EPR 591, document number 1.

<sup>53</sup> The commission received exporter questionnaire responses which included responses to questions relating to the operation of the Australian market and their pricing in the Australian market. The commission considers that this information relates to the pricing decisions of exporters, not importers. Consequently, this information has not been considered in this preliminary report assessment. Subject to any submissions received from interested parties, this information will not be considered in the reinvestigation report to the ADRP for the purposes of assessing importer behaviour.

<sup>54</sup> EPR 591, document number 7.

<sup>55</sup> EPR 591, document number 20.

<sup>56</sup> EPR 591, document number 11.

<sup>57</sup> EPR 591, document number 31.

<sup>58</sup> See section 3.4.2.4.

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and found they represented a minimum of 30% of a supplier's sales volumes during the inquiry period. Multiple customers had concurrent sales with multiple suppliers where they were dual sourcing the same extrusions within the same month.

The commission's analysis identified that:

- For the most common MCC sold, there was some evidence of customers common to Capral and PMAA switching their supply source in response to what appeared to be a cheaper price.
- For the most common MCC sold, about half of the common customers purchased from multiple suppliers in the same month (i.e. concurrent sales). The frequency of concurrent sales was material, with common customers on average ordering the same MCC from multiple suppliers in 5 out of 12 months over the inquiry period. The volume of concurrent sales was also material, with concurrent sales representing on average 53% of the total volume of that MCC purchased by that customer over the inquiry period.

Based on the above findings, the commission considers the Australian market has a high level of price transparency and supplier competition.

Whilst no importers which imported from Vietnam cooperated with the inquiry, the commission was able to compare sales data provided by Vietnamese importer, Aus Star Holdings International Pty Ltd (Aus Star) in Review 544<sup>59</sup> with sales data provided to the 591 inquiry. This analysis identified that 37% of Aus Star customers during the 544 inquiry period had purchased aluminium extrusions from other interested parties which provided sales data to the 591 inquiry. These common customers also represented a material proportion of Aus Star's sales volume in Review 544. The commission's analysis of Aus Star's common customers is in **Confidential Attachment 13**.<sup>60</sup>

### 4.3.3 Reinvestigation assessment of importers' pricing behaviour subsequent to the imposition of measures

The ADRP noted that analysis of the pricing behaviour of importers since the imposition of measures was not apparent in REP 591 and that the analysis of importers' prices during the inquiry period was limited.

The commission considers the impact of the measures on importers informs an assessment of the likely behaviour of importers in the absence of measures. The impact of imposing measures is discussed separately for Malaysia and Vietnam below.

#### 4.3.3.1 Malaysia

Following REP 362, measures relating to Malaysia were initially imposed on all Malaysian exporters, except for Genesis Aluminium Industries Sdn Bhd (Genesis), Kamco Aluminium Sdn Bhd, LB Aluminium Berhad, Milleon Extruder Sdn Bhd, PMB and Superb Aluminium Industries Sdn Bhd. Measures were subsequently imposed on these excluded exporters, except for Genesis and PMB, following investigations 540 and 541.<sup>61</sup>

As a result of imposing measures, importations from exporters subject to the notices fell significantly.<sup>62</sup> ABF import data indicates that interim dumping duty was paid on these exports. Applications for duty assessments and refunds were made in relation to these

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<sup>59</sup> The inquiry period for Review 544 was 1 January 2019 to 31 December 2019.

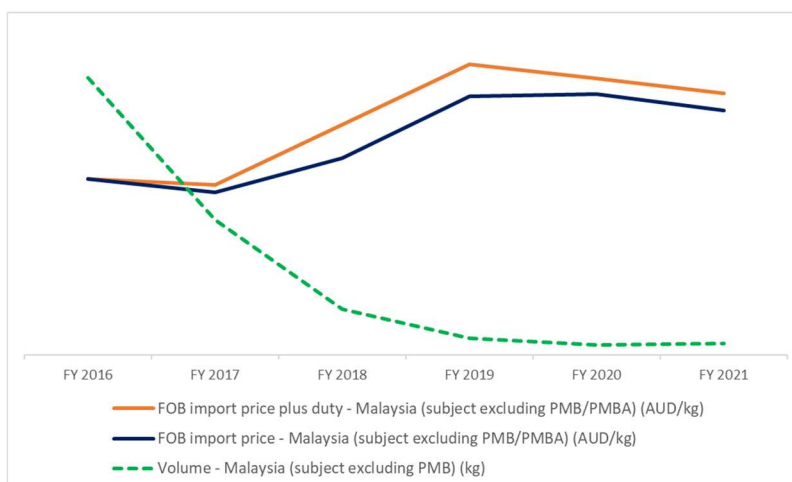
<sup>60</sup> See Confidential Attachment 13 Aus Star Common Customer Analysis.

<sup>61</sup> See Anti-Dumping Notice (ADN) numbers 2017/72, 2017/73, 2017/74, 2021/033, 2021/034, 2021/035 and 2021/036.

<sup>62</sup> Exempt exporters Import volumes were either maintained or increased over the longer term after the imposition of the measures.

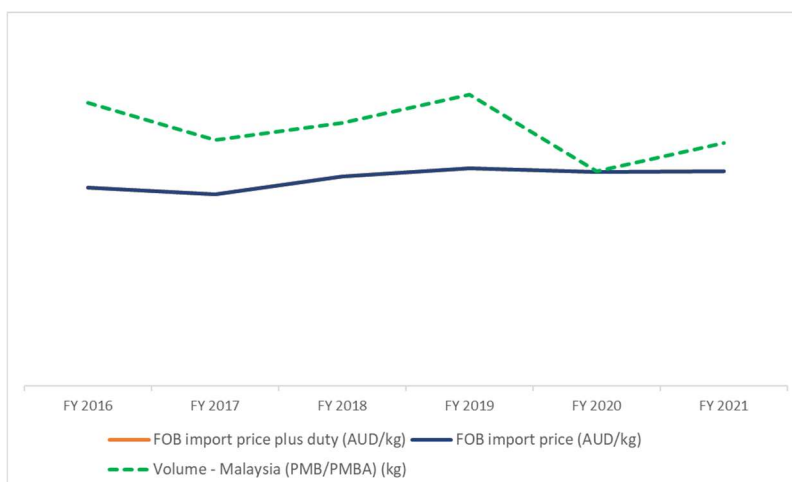
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importations. Figure 2 illustrates the amount of duty paid, after deducting duty assessment refunds, relative to the declared FOB prices.



**Figure 2 Subject imports from Malaysia (excluding PMAA) – Duty paid, FOB prices and volume (by financial year (FY))**

PMAA, as the primary importer from related exporters PMB and PMBA, only commenced paying dumping duties during the second quarter of 2021. Figure 3 illustrates the amount of interim duty paid by PMAA, after deducting duty assessment refunds, relative to the declared FOB prices since the imposition of measures.



**Figure 3 Imports from Malaysia by PMAA – Duty paid, FOB prices and volume (by FY)**

Due to the limited time frame in which to observe PMAA's pricing response to the measures, the commission was unable to observe any price change. However, the commission considers that PMAA would be likely to increase its prices to cover dumping duties, otherwise its profit margin will be affected. This is consistent with PMAA's observed price changes as a result of incurring increased shipping costs during the inquiry period.<sup>63</sup>

The commission considers that other importers sourcing from Malaysia have reflected the cost of the import duties in their prices and purchasing decisions. It is noted that no anti-circumvention applications have been received claiming that importers are avoiding the intended effect of the duties. The commission also considers that the initial substantial fall in Malaysian import volumes (excluding the exempt exporters and PMB/PMBA) likely indicates that importers reacted to the imposition of measures by reducing import volumes from Malaysia.

<sup>63</sup> See section 6.4.1.3 for further discussion about shipping costs.

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Consequently, the commission is satisfied, based on available evidence, that importers sourcing from Malaysia have predominantly reflected the cost of dumping duties in their pricing and/or are sensitive to import costs in their pricing decisions.

### 4.3.3.2 Vietnam

Dumping duties relating to Vietnam were initially imposed on all exporters in Vietnam following investigation 362.<sup>64</sup>

The overall number of importers sourcing from Vietnam has reduced since measures were imposed. There is some evidence that a limited number of the importers which ceased importing from Vietnam switched to other import sources. Importers which accounted for 80% of the imports in the original investigation period have continued to regularly import from Vietnam. These regular importers accounted for 99% of importations during the inquiry period. One regular importer is an Australian industry member, which accounted for 1.5% of Vietnamese importations during the inquiry period. The largest importer, Aus Star, accounted for 92% of the Vietnamese imports during the inquiry period. Aus Star's import volume during the inquiry period was 56% lower than its import volume prior to the imposition of measures.

Assessment of ABF import data for Vietnam indicates that, subsequent to the imposition of anti-dumping measures, importers have paid interim duty. No applications for duty assessments or duty refunds have been made in relation to Vietnam for the period after the imposition of measures. The amount of interim duty paid is reflected in Figure 4.

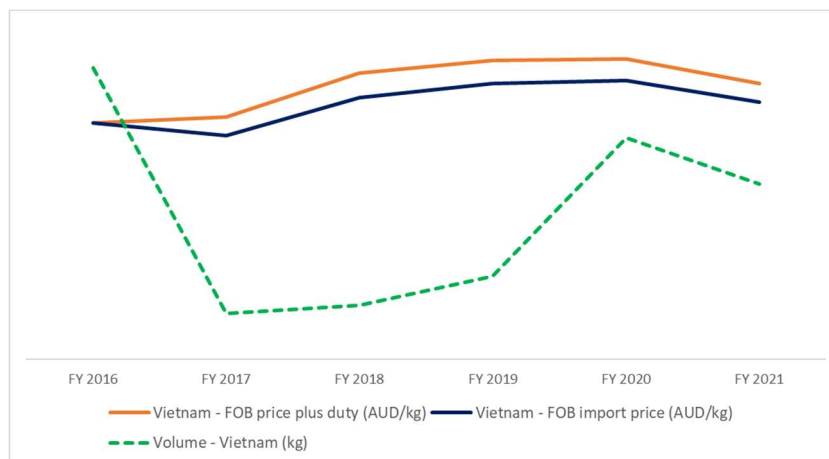


Figure 4 Imports from Vietnam – Duty paid, FOB prices and volume (by FY)

Whilst no importers sourcing from Vietnam cooperated with the inquiry, the commission has previously received verified information from Aus Star. Aus Star provided relevant information to the original investigation and subsequent Review 544.

Based on the assessment of Aus Stars' profitability and recoverability of costs between the original investigation and Review 544, the commission considers that Aus Star is reflecting the measures in its pricing to customers.<sup>65</sup> Consequently, the commission is satisfied, based on available evidence, that importers sourcing from Vietnam have predominantly reflected the cost of anti-dumping duties in their pricing and are sensitive to costs in their pricing decisions.

<sup>64</sup> See ADN numbers 2017/72 and 2017/74.

<sup>65</sup> Confidential Attachment 13 Aus Star Common Customer Analysis.

#### **4.3.4 Reinvestigation assessment of the likely price behaviour of importers in the absence of measures**

The commission considers that aluminium extrusions are a commodity product which is price sensitive in the Australian market. Importers from Malaysia and/or Vietnam face competition from multiple sources, including from Australian producers and other import sources.

Australian-produced goods and the imported goods have similar end uses, meet similar quality specifications and standards, are sold to the same types of customers and compete directly with each other in the same market segments.

The commission considers that, whilst other factors such as security of supply, quality and provision of service are relevant, price is the highest-ranking factor in purchasing decisions. This is evidenced by:

- The material number of common customers obtaining supply from more than one source.
- Evidence of common customers dual sourcing the same models in the same month from multiple suppliers.
- Customers switching between suppliers, including some examples of customers potentially switching to a lower priced supplier.
- Importers, at times, sourcing from multiple import sources, with some importers switching import sources in a likely response to the imposition of measures.
- A high degree of price transparency in the market, with pricing based on published movements in the LME and common customers considering pricing from multiple sources.
- A significant degree of price correlation in the market where common customers are purchasing similar models at similar levels of trade.

Given that price is a key element in purchasing decisions, this results in a high degree of price sensitivity in the Australian market for aluminium extrusions.

The imposition of measures has impacted importers' pricing in the Australian market and importers are responsive to changes in import costs in their pricing decisions. The commission's analysis of the impact of the measures, the ongoing profitability of importers and the analysis of the impact of shipping costs discussed in Chapter 6 of this preliminary report indicate that importers' pricing in the market is sensitive to import costs, including anti-dumping duties.

In a competitive market that is price sensitive, the commission considers that importers will be able to use the dumped import prices, absent the duties previously paid, to advantageously adopt competitive pricing strategies which include undercutting to a greater degree and with more frequency than was observed during the inquiry period. Further, end users which directly import from producers in Malaysia and/or Vietnam will face lower importation costs in the absence of measures. These lower costs will be relevant to their future purchasing decisions.

The commission's analysis of ABF import data identified that importers also, at times, imported from multiple sources. There was also some evidence of importers switching sources in response to the imposition of measures. The commission considers that importers may seek to switch import supply to Malaysia and/or Vietnam to access cheaper prices to enable them to price more cheaply in the Australian market.

The commission's analysis relevant to the pricing behaviour of Malaysian and Vietnamese import sources is in **Confidential Attachment 8**.

## 5 THE IMPACT AND INFLUENCE OF OTHER IMPORT SOURCES

### 5.1 Preliminary findings

The commission has reinvestigated the impact and influence of imports from other sources, including China, on the Australian industry's prices to inform its analysis of the influence of Malaysian and Vietnamese imports.

Price analysis over the history of the measures indicates that a similar price relationship between imports from China, Malaysia and Vietnam existed during the inquiry period as was found in the original investigation period. Analysis of import pricing indicates that Malaysian and Vietnamese prices were, at times, lower than Chinese prices and on other occasions above Chinese prices, but in close alignment. Historically, pricing analysis is also indicative of Australian industry prices responding, at times, to Malaysian or Vietnamese import prices, rather than Chinese import prices.

Common customer and undercutting analyses indicate that the Australian market is a price sensitive market where a range of customer's purchase supply from multiple sources, including from Australian industry and import sources. The commission's undercutting analysis has also identified a significant degree of price competition between exporters, importers and Australian industry.

Whilst both Malaysia and Vietnam reflected approximately 4% of imports during the inquiry period, the commission's common customer analysis indicates that as much as 25% of each Australian industry member's sales volume was to customers also sourcing, or previously sourcing, aluminium extrusions from Malaysia and/or Vietnam. Given this degree of penetration and the nature of the observed price competition in the market, the commission finds that Malaysian and Vietnamese imports are likely influencing Australian industry pricing. The commission considers that the fact imports from other sources, including China, are also likely having an impact does not detract from this finding.

### 5.2 Reinvestigation request

The ADRP requested the commission reinvestigate the price relationship in REP 591 between Australian industry prices and the prices of dumped imports, noting aluminium extrusions is a price sensitive market.

The ADRP noted that REP 591 contained 'various references ... to the downward pressure on prices being exerted by dumped goods' and that the commission was unable to 'find direct evidence of the impact of the prices of such dumped imports on Capral's prices'.<sup>66</sup> The ADRP commented that this finding needed to be revisited in the context of Capral's specific claims in its review and continuation applications. The ADRP further noted that Capral had questioned the 'lack of analysis of prices from other sources in the market, when it is acknowledged that the aluminium extrusions market is price sensitive'.<sup>67</sup>

Capral, in its review application, claimed that the REP 591 finding that the main source of price pressure on Australian industry would likely be from other imports with a greater market share was erroneous. Capral claimed that this conclusion could not be relied upon as it assumed, unsupported by evidence, that the other sources of supply were offering prices at the same (or lower) levels than exports from Malaysia and Vietnam.

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<sup>66</sup> ADRP (2022), Letter to the Commissioner regarding reinvestigation, 5 October 2022, page 8, on the ADRP's website at [https://industry2.govcms.gov.au/sites/default/files/adrp/2022\\_155\\_aluminium\\_extrusions\\_-\\_request\\_for\\_reinvestigation.pdf](https://industry2.govcms.gov.au/sites/default/files/adrp/2022_155_aluminium_extrusions_-_request_for_reinvestigation.pdf).

<sup>67</sup> Ibid, page 2.

### **5.3 Findings in REP 591**

REP 591 noted that imports were sourced from numerous countries, with the highest volumes originating from China.

REP 591 noted that, in isolation, these observations tended to support Capral's claim that cheaper Vietnamese exports of aluminium extrusions continue to have an impact in the market. However, REP 591 also noted that, given the ABF import data did not delineate pricing based on finish type, the actual mix of finish types from other countries reduced the relevance of any comparison to the apparently lower Malaysian and Vietnamese export prices.

Whilst REP 591 considered that lower Malaysian and Vietnamese export prices were a relevant factor influencing the economic condition of the Australian industry, in terms of its ability to increase prices or compete on price in a price sensitive market, imports from Malaysia and Vietnam each respectively only held approximately 2% share of the Australian market. This was contrasted with China's Australian market share of 20%.

The commission noted that the existing price advantage arising from dumped goods during the inquiry period did not appear to have resulted in any significant shift in purchasing by Australian consumers towards Malaysian or Vietnamese sources. It was concluded that the data suggested that the main source of price pressure on the domestic industry would likely be from other import sources with a much greater market share, noting that the original measures on the subject imports prompted little change in the market and, counterintuitively, precipitated an initial decline in the domestic industry's performance as imports from China and other sources continued to grow.

### **5.4 Reinvestigation analysis**

For the purposes of the reinvestigation, the commission has re-examined the impact of prices from other sources, including examining imports from China as the largest import source over the inquiry period.

#### **5.4.1 Impact of imports from other countries**

The original investigation examined the influence of pricing from China. REP 362 noted that the analysis of the relative movements in prices and volumes relating to exports from China, Malaysia and Vietnam, in comparison to the Australian industry's prices, showed that:

- Vietnamese prices were the lowest in the investigation period.
- The reduction in the FOB export price of Malaysian goods from Q2-2015 was likely a reaction to the rapid increase in goods from Vietnam at lower prices.
- Cheaper Malaysian and Vietnamese goods had replaced volumes of higher priced goods from China and other countries.
- Australian industry's FIS prices appear to have reduced in reaction to lower priced Malaysian and Vietnamese goods.
- Malaysian and Vietnamese prices were the lowest in the market. In contrast, Chinese imports, although substantial in volume, did not appear to have been the lowest priced imports in the market.
- It was apparent that the Australian industry's prices were reacting to both the movement in LME prices and the prices of the Malaysian and Vietnamese goods.

REP 362 concluded that Australian industry's price depression and price suppression had been caused by dumped and subsidised goods from Malaysia and dumped goods from Vietnam.

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As part of the reinvestigation, the commission examined verified pricing data relating to imports of aluminium extrusions from China, Malaysia and Vietnam obtained for the 2019 calendar year. This is the most recent period in which the commission had comparable and verified price data from all 3 sources, a period which was also absent the impacts of the pandemic (discussed in Chapter 6). Quarterly FIS prices were compared at the direct import level for the highest volume mill finished, powder coated and anodised MCCs sold.

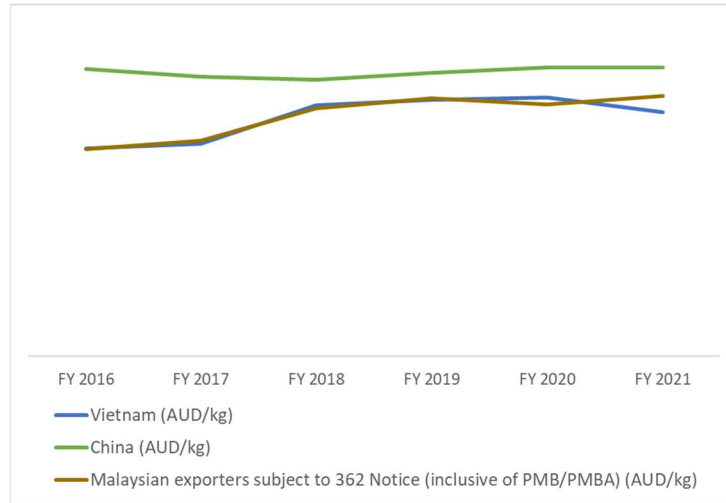
Analysis of this pricing identified that:

- For the highest volume mill finish MCC sold, Malaysian direct prices were the cheapest in the market, followed by Vietnamese direct prices. Australian industry direct prices were higher than the Malaysian and Vietnamese direct prices but were lower than Chinese direct prices for 3 of the 4 quarters.
- For the highest volume powder coated MCC sold, Malaysian direct prices were the cheapest in the market. Chinese direct prices were the next cheapest for 3 of the 4 quarters. Vietnamese direct prices were cheaper than Chinese direct prices in one quarter and within 1% of Chinese direct prices in another quarter. Australian industry prices were higher than Chinese, Malaysian and Vietnamese direct prices in all 4 quarters.
- For the highest volume anodised MCC sold, Malaysian direct prices were the cheapest in the market. Vietnamese direct prices were the next cheapest for 3 of the 4 quarters. Chinese direct prices were cheaper than Vietnamese direct prices in one quarter. Australian industry prices were higher than Chinese, Malaysian and Vietnamese direct prices in all 4 quarters.

This analysis of the 2019 pricing data indicates that a similar price relationship to the original investigation period was in existence during 2019 where Malaysian and Vietnamese prices were, at times, lower than Chinese prices and on other occasions above Chinese prices, but in close alignment. There was also evidence that Australian industry prices, were at times, below Chinese prices.

Whilst ABF import data does not delineate pricing based on finish type or the actual mix of finish types, the continued broad consistency in the ABF import data between the investigation period for investigation 362, the 2019 calendar year and the inquiry period for continuation inquiry 591, indicates that a similar pricing relationship between Chinese, Malaysian and Vietnamese prices was in existence during the inquiry period for continuation inquiry 591. This is reflected in Figure 5.

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**Figure 5 Landed import prices – China, Malaysia and Vietnam (by FY)<sup>68 69</sup>**

As noted in Chapters 3 and 4, the Australian market is price sensitive exhibiting characteristics including price transparency, customers sourcing from multiple suppliers and customers switching supply. The commission's undercutting analysis has also identified a significant degree of price competition between exporters, importers and Australian industry.

Whilst both Malaysia and Vietnam reflect approximately 4% of imports, the commission's common customer analysis indicates that as much as 25%<sup>70</sup> of each Australian industry member's sales volume was to customers also sourcing, or previously sourcing, aluminium extrusions from Malaysian and/or Vietnamese exporters subject to the measures applying in this continuation inquiry. Given this degree of penetration and the nature of the observed price competition in the market, the commission considers that Malaysian and Vietnamese imports are likely influencing Australian pricing. The commission considers that the fact imports from other sources, including China, are also likely having an impact does not detract from this finding.

### 5.4.2 Impact of other Malaysian sources

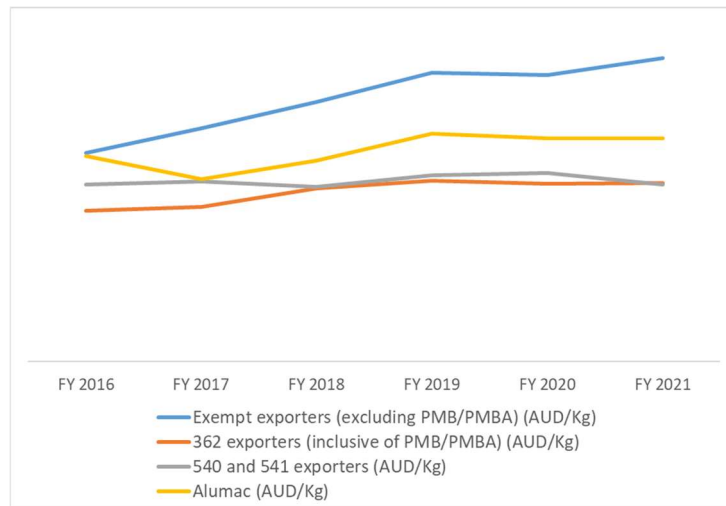
In order to assess the impact of Malaysian exporters not subject to the measures, the commission examined the relative prices of Malaysian exports. This is reflected in Figure 6.

<sup>68</sup> The landed price used was the ABF reported VOTI value. VOTI is the value of taxable importation (VOTI) and is the sum of the Customs Value, Duty, Transport and Insurance and the Wine Equalisation Tax (if applicable).

<sup>69</sup> This analysis is different to that completed in REP 591. REP 591 analysis was based on pricing for those subject to the notice and those not subject to the notice. In this analysis, PMB/PMBA was included in exporters subject to the notice. This has enabled analysis of the historical pricing behaviour of exporters currently subject to the notice.

<sup>70</sup> Sales data of each Australian industry participant in the inquiry was examined. Given the proportion of the Australian industry participating on a sales volume basis, this analysis is considered a reasonable reflection of the whole industry.

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**Figure 6 FOB import prices – Malaysia (by FY)<sup>71</sup>**

This analysis identified that the exporters currently subject to the measures (inclusive of PMB/PMBA) have consistently had amongst the lowest import prices. The commission also notes that the import prices for Alumac, which was not found to have dumped during the inquiry period, have been historically higher than other exporters subject to measures. The commission's analysis is contained in **Confidential Attachment 9**.

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<sup>71</sup> This analysis is different to that completed in REP 591. REP 591 analysis was based on pricing for those subject to the notice and those not subject to the notice. In this analysis, PMB/PMBA was included in exporters subject to the notice. This has enabled analysis of the historical pricing behaviour of exporters currently subject to the notice.

## 6 AUSTRALIAN MARKET CONDITIONS DURING THE INQUIRY PERIOD AND ITS IMPACT ON THE PRICE RELATIONSHIP

### 6.1 Preliminary findings

The commission has reinvestigated the market conditions applying during the inquiry period and the impact of these conditions on the price relationship between Australian industry and import sources of aluminium extrusions.

The commission finds that the Australian market during the inquiry period was impacted by the pandemic. The market was impacted by supply constraints, increased shipping costs and government pandemic stimulus programs. The impacts of the pandemic on the market were generally favourable to Australian industry.

In particular, the pandemic impacts affected the price relationship between Australian industry prices and import sourced prices, such that any price advantage of dumping was diminished during the inquiry period.

Information indicates that the supply constraints and increased shipping costs observed during the inquiry period are now returning to pre-pandemic conditions. The government pandemic stimulus programs have also now been wound back. The commission considers that these reduced supply constraints and shipping costs are likely to be reflected in importers' Australian pricing. End users directly importing from Malaysia or Vietnam will also face reduced import costs.

For the purposes of the forward-looking assessment, as the impacts of the pandemic recede and following the expiration of measures, export supply will likely be more cost effective and timely. The commission considers that the observed price relationship between Australian industry and import sources of aluminium extrusions is likely to return to conditions that are more consistent with those observed during the pre-pandemic period of 2019 and the original investigation period, removing any temporary advantage the Australian industry enjoyed during the inquiry period. In particular, absent the effects of the pandemic, prices of imports will likely become more competitive, increasing the degree of price competition in the Australian market.

### 6.2 Reinvestigation request

In the reinvestigation request, the ADRP noted that the commission had 'sought to differentiate its findings in REP 591 from the material injury findings in REP 362'. The ADRP commented that the commission 'did not consider that the same price relationship was established in REP 591 as that found in REP 362 for injury purposes'. The ADRP also commented that the commission had observed 'very different conditions apparent in the inquiry period'.<sup>72</sup>

Whilst acknowledging that 'different economic conditions now app[lied]', the ADRP considered that it was 'appropriate to revisit the price relationship aspect given the possible changes to the price analysis as [a] result of the further consideration'.<sup>73</sup>

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<sup>72</sup> The ADRP referenced a conference with the commission on 7 September 2022 where, at question 6, the commission was requested to elaborate on its comments that the price relationship in REP 362 was different to that found in REP 591. See conference summary at: [https://www.industry.gov.au/sites/default/files/adrp/2022\\_155\\_aluminium\\_extrusions\\_-\\_conference\\_summary\\_-\\_7\\_september\\_2022\\_-\\_pdf](https://www.industry.gov.au/sites/default/files/adrp/2022_155_aluminium_extrusions_-_conference_summary_-_7_september_2022_-_pdf).

<sup>73</sup> ADRP (2022), Letter to the Commissioner regarding reinvestigation, 5 October 2022, page 9, on the ADRP's website at [https://www.industry.gov.au/sites/default/files/adrp/2022\\_155\\_aluminium\\_extrusions\\_-\\_request\\_for\\_reinvestigation.pdf](https://www.industry.gov.au/sites/default/files/adrp/2022_155_aluminium_extrusions_-_request_for_reinvestigation.pdf).

### 6.3 Findings in REP 591

REP 591 found that during the inquiry period:

- Capral had lowered its prices across all finishes in FY2020 and FY2021. This was in line with the trends shown from Malaysia and Vietnam over the same period. However, Capral's unit cost to make and sell (CTMS) had declined at a steeper rate than its prices. Capral's profit and profitability had also improved significantly during this period, with its overall sales revenue and return on investment also experiencing marked improvements.<sup>74</sup>
- The commission's analysis of the economic condition of the Australian industry in the inquiry period and in the period since measures were implemented found that the Australian industry (based on Capral's data as a reasonable indicator of the performance of the whole industry) had generally experienced an improvement in its economic performance.<sup>75</sup>
- The market for aluminium extrusions expanded by more than 15% during the inquiry period. In addition to the opportunities afforded by a growing market, the Australian industry may have benefitted during the inquiry period due to disruptions to global supply chains. The commission understood that a contraction in shipping availability combined with the increasing costs of international shipping opened up opportunities for domestic suppliers to capture additional sales volumes and market share. Based on the most recent import data, it appeared that supply chains were returning to pre-2020 levels.<sup>76</sup>

Capral stated in its submission on 15 December 2021 that it was unlikely that recent shipping constraints would prevail beyond early 2022.<sup>77</sup> As shipping availability improved, Capral claimed that aluminium extrusion exporters in Malaysia and Vietnam would capitalise on opportunities to export into the Australian market should the measures not reflect prevailing prices or be allowed to expire. Capral also submitted that it was unsafe to rely upon export volumes in the last 12 months (being 2021 calendar year) as indicative of an absence of injurious export volumes from Malaysia and Vietnam.

### 6.4 Reinvestigation analysis

For the purposes of the reinvestigation, the commission has assessed:

- the market conditions that existed during the inquiry period and the impact of those market conditions on Australian industry and importers (section 6.4.1)
- the impact of these market conditions on prices, price relationships and the price advantage of dumping (section 6.4.2)
- impact of the pandemic on the forward-looking assessment (section 6.4.3).

#### 6.4.1 Market conditions during the inquiry period

Consistent with the commission's findings in REP 591 and ADRP's comments, the commission finds that different market conditions existed during the inquiry period. These conditions were materially different to those during the original investigation period and the period up to when the pandemic commenced at the start of 2020.

Overall, the commission considers that the market conditions that existed during the inquiry period were impacted by both the growing Australian market and the pandemic.

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<sup>74</sup> EPR 591, document number 38, page 79.

<sup>75</sup> Ibid, page 85.

<sup>76</sup> Ibid.

<sup>77</sup> EPR 591, document number 16.

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Based on information before it, the commission considers that the impacts of the pandemic on the market were generally favourable to the Australian industry.

The commission considers the relevant market conditions below.

### 6.4.1.1 Growth in the Australian market

In relation to the observed growth in the Australian market, Australian industry were initially able to capture the growth in the Australian market. However, import sources have been able to capture a larger portion of that continued growth towards the end of the inquiry period at the expense of Australian industry. This growth is reflected in Figure 7.

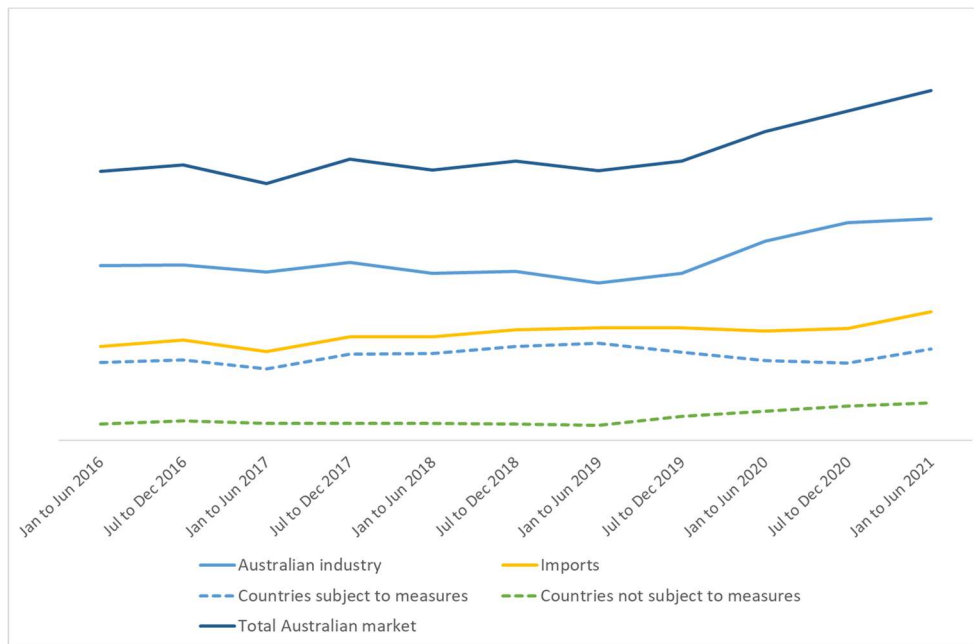


Figure 7 Australian market volume for aluminium extrusions (Metric Tonnes (MT))

The growth in the Australian market was, in part, driven by government stimulus programs, including:

- government income supplements, including the JobKeeper payment<sup>78</sup>
- significant direct and indirect government stimulus initiatives intended to support confidence in the residential construction sector during the uncertainty caused by the pandemic, such as the HomeBuilder Grant<sup>79</sup>
- a change in consumption patterns away from experience services such as travel, hospitality and entertainment services toward spending on consumer goods, including home improvement materials.<sup>80</sup>

These programs started being wound back during 2021. Consequently, it is considered that any stimulatory effects of these programs would have started diminishing after the inquiry period. The commission anticipates that any increased demand for aluminium extrusions created by these programs will reduce.

The commission's analysis of Australian market volumes is in **Confidential Attachment 10**.

<sup>78</sup> <https://treasury.gov.au/coronavirus/jobkeeper> (last accessed 8 June 2023).

<sup>79</sup> <https://treasury.gov.au/coronavirus/homebuilder> (last accessed 8 June 2023).

<sup>80</sup> Reserve Bank of Australia, [Tracking Consumption during the COVID-19 Pandemic](#), 17 March 2022, Australian Government, 2022, (last accessed 9 June 2023).

#### **6.4.1.2 Impact of the pandemic on Capral and Australian industry generally**

As noted in REP 591, Capral, as the largest Australian industry member, is considered a reasonable indicator of the performance of the whole industry.

Capral, in its application for the continuation inquiry and in response to an Australian industry questionnaire, claimed that the injury it sustained during the inquiry period was less than what would have been sustained absent the impacts of the pandemic.<sup>81</sup>

They claimed that imports from all sources, including Malaysia and Vietnam, had been difficult to source, with Australian industry members experiencing increased demand from customers in Australia.<sup>82</sup>

The commission examined Capral's 2020 and 2021 annual reports in relation to its financial performance and the Australian market during the inquiry period.<sup>83</sup> The following comments were identified in relation to Capral's improved financial performance and the Australian market:

- Annual Report 2020
  - Demand plummeted during the pandemic lockdown restrictions. However, the market rebounded strongly in the second half of 2020 resulting in higher-than expected demand. Overall revenues were 3% higher and volumes increased 8% compared to 2019.
  - JobKeeper allowed Capral to operate without drastically cutting staffing levels with the initial steep drop in demand. JobKeeper then enabled them to rapidly respond to meet the unexpected surge in demand.
  - Capral benefitted from a strong shift to import replacement as the effects of anti-dumping measures, disruptions to import supply chains, shipping congestion and increased sentiment towards local supply occurred.
  - Government assistance targeted to the residential construction market began to take hold in the latter part of the year.
- Annual Report 2021
  - Revenues increased by 37% and sales volumes increased by 25% during 2021.
  - Plants were operating at full capacity which led to greater operating leverage and there were improved operating efficiencies.
  - The residential market remained buoyant on the back of government stimulus programs. Industrial markets remained strong on the back of strong economic activity. However, the construction industry was impacted by the pandemic.
  - Local demand had lifted supply away from import sources. This was driven by import supply chain disruptions, high shipping costs, anti-dumping measures and local supply providing customers with the benefit of shorter and more reliable lead times. There was also a growing "Australian Made" sentiment.

#### **6.4.1.3 Impact of the pandemic on importers**

PMAA advised the commission that it considered that Capral was the cheapest provider (by about 10%) of the goods in the Australian market due to the surge in international shipping costs.<sup>84</sup> In support of its claim, PMAA provided documents evidencing increases

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<sup>81</sup> EPR 591, document number 1.

<sup>82</sup> Ibid.

<sup>83</sup> Capral provided a copy of its 2020 annual report as part its response to the Australian industry questionnaire (see EPR document number 7). Capral's 2021 annual report was referenced in various submissions to the inquiry regarding Capral's improved economic performance (see EPR 591 document numbers 34, 31 and 30).

<sup>84</sup> EPR 591, document number 20.

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in its prices due to the higher shipping costs. PMAA also indicated that the lead time for shipments from order date to arrival date had substantially increased.

The Australian Competition & Consumer Commission (ACCC) in its 2020-2021 Container Stevedoring Monitoring Report<sup>85</sup> noted that the deterioration of global supply chains resulted in importers facing challenging conditions, including:

- Many were struggling to get all their cargo on ships and were facing rapidly escalating freight rates. Some were paying significant premiums and surcharges to shipping lines to obtain priority loading, but even this did not guarantee on-time delivery.
- The increase in disruptions and lack of reliable shipping services led importers to re-consider 'just-in-time' business models with an increase in onshore warehousing and distribution.
- Disruptions in international supply chains led to a shift in favour of local manufacturing. Importers commented on looking at ways of sourcing more products locally as a way of dealing with uncertainty in international shipping.
- Where vessels had omitted certain ports due to disruptions, containers had been diverted to alternative destination ports, resulting in additional costs and delays.
- Importers have experienced difficulties in de-hiring empty containers, resulting in additional costs.

The commission considers the findings in the ACCC Report and PMAA's observations indicate that importers faced import constraints which manifested as disruptions in supply and significant increases in the lead times for imports to arrive in Australia. The commission considers that this would have impacted the capacity of importers to supply their customers on a timely basis in the quantities sought.

In terms of costs, the commission examined the historic trend in shipping costs relating to aluminium extrusions from the original investigation, through subsequent inquiries and reviews to the inquiry period. Consistent with the claims of PMAA, the commission found that shipping costs from Malaysia substantially increased from mid-2020. This change in shipping costs is reflected in Figure 8.

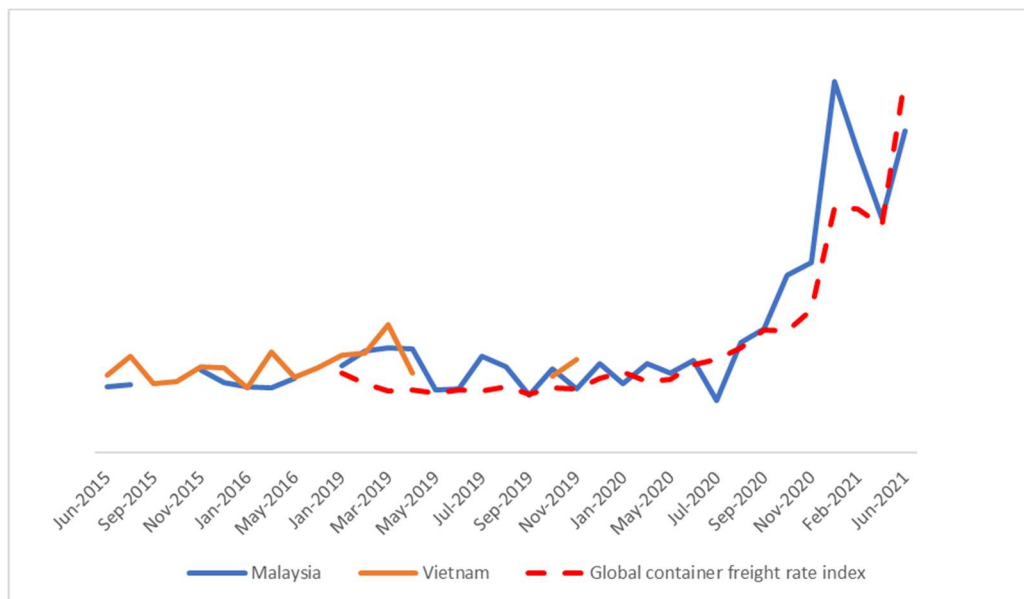


Figure 8 Shipping costs (AUD/Kg)

<sup>85</sup> Australian Competition & Consumer Commission, [Container stevedoring monitoring report 2020–21](#), October 2021, Australian Government, 2021, (last accessed 9 June 2023).

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The commission compared these shipping costs against an international shipping index<sup>86</sup> and found that the trend in the Malaysian shipping costs was broadly consistent with the index. Whilst the commission did not receive any verified shipping costs for Vietnam for the inquiry period, the commission considers that shipping costs from Vietnam would have followed a similar trend to that of the index given the close correlation of the Malaysian shipping costs to the index, the close geographic proximity of Vietnam to Malaysia and the observed correlation in Vietnamese shipping costs to Malaysian shipping costs prior to the pandemic.

The commission's analysis of shipping costs is in **Confidential Attachment 11**.

### 6.4.2 The impact of the pandemic during the inquiry period on pricing and the price advantage of dumping

To assess the impact of the pandemic on pricing and the price advantage of dumping, the commission compared relevant importer and Australian industry price data from a range of inquiries relating to aluminium extrusions during the 2019 calendar year to data obtained for the inquiry period.<sup>87</sup>

Given that both Capral and PMAA had provided relevant data for both periods, the analysis focused on pricing data from both these parties. The commission considers that this analysis would be applicable to other importers and Australian industry members.

The commission examined the change in the effective 'spread' between the LME price (with a local premium) and Australian industry and importers' pricing in the Australian market.<sup>88</sup> This analysis identified that:

- Between the end of 2019 and the start of the inquiry period, both Capral and PMAA increased the spread between their selling prices and the LME (plus local premium). PMAA increased their spread by a larger amount.
- The effect of the change in spreads was of sufficient magnitude to result in Australian industry's spread being lower than PMAA's. This is a reversal of what was observed during 2019.
- An examination of relevant profit and loss statements indicate that the increase in the spread by PMAA was likely driven by pricing decisions to recover greater costs, rather than a decision to capture greater profits. This is also consistent with the direct evidence provided by PMAA evidencing the reasons for their price increases.
- The size of the respective spreads reduced for both Capral and PMAA over the inquiry period. The reduced relative size of each party's spread corresponded with increasing LME prices. This reducing spread is considered reflective of price competition in a competitive market.

This pricing analysis indicates that, due to the increased shipping costs and possibly due to the supply constraints, Australian industry was more competitive with import sources during the inquiry period.

Consequently, any price advantage of dumping was diminished during the inquiry period compared to earlier periods.

The commission's spread analysis is in **Confidential Attachment 12**.

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<sup>86</sup> See: <https://www.statista.com/statistics/1250636/global-container-freight-index/> (last accessed 16 March 2023).

<sup>87</sup> Investigation 540 – Mill Finish – Specific Malaysian exporters (REP 540), Investigation 541 – Surface Finish – Specific Malaysia exporters (541), Continuation 543 – China (REP 543); Review 544 – Malaysia and Vietnam.

<sup>88</sup> Analysis focused on mill finish sales data. A similar pattern was observed for powder coated finishes. For adonised finishes, the change was less pronounced given the degree of price difference.

### **6.4.3 Impact of the pandemic on the forward-looking assessment**

Capral, in its application for the inquiry and submissions to the commission during the inquiry, claimed that the effects of the pandemic were short term and that caution should be applied in assessing material injury during the inquiry period.<sup>89</sup> The commission has examined Capral's claims in the context of completing the forward-looking assessment in relation to the likelihood of material injury in the absence of measures.

As noted above, the commission considers that the Australian market for aluminium extrusions was impacted by supply constraints, increased shipping costs and government pandemic stimulus programs.

The commission considers supply constraints started diminishing as the impact of the pandemic receded. As noted in section 6.4.1.1, import volumes started trending upwards towards the end of the inquiry period. This upward trend is indicative of the supply constraints starting to reduce.

Information indicates that shipping costs have reduced after the inquiry period and are returning to pre-pandemic levels. The ACCC's 2021-2022 Container Stevedoring Monitoring Report<sup>90</sup> identified that by the second half of 2022, shipping rates had fallen to near pre-pandemic levels and as of November 2022, shipping spot rates had fallen to around double the average of the 2019 rates. Various subsequent articles published in early 2023 indicate that shipping rates have now fallen to near pre-pandemic levels.<sup>91</sup>

Given the competitive nature of the Australian market for aluminium extrusions, the commission considers that:

- importers which sell into the Australian market will be pressed to reflect these reduced shipping costs in their pricing
- end users which directly import will face reduced importation costs.

For the purposes the forward-looking assessment, as the impacts of the pandemic recede and following the expiration of measures, export supply will likely be more cost effective and timely. The commission considers that the price relationship between Australian industry and import sources of aluminium extrusions is likely to return to conditions that are more consistent with those observed during the pre-pandemic period of 2019 and the original investigation period, removing any temporary advantage the Australian industry enjoyed during the inquiry period. In particular, absent the effects of the pandemic, prices of imports will likely become more competitive, increasing the degree of price competition in the Australian market.

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<sup>89</sup> EPR 591, document numbers 1 and 21.

<sup>90</sup> Australian Competition & Consumer Commission, [Container stevedoring monitoring report 2021–22](#), October 2022, Australian Government, 2022 (last accessed 9 June 2023).

<sup>91</sup> For instance, see <https://www.bloomberg.com/news/articles/2023-02-13/shipping-rates-will-probably-dip-below-pre-pandemic-levels-barclays-warns> and <https://www.economist.com/graphic-detail/2023/01/09/global-shipping-costs-are-returning-to-pre-pandemic-levels>.

## 7 WHETHER MATERIAL INJURY IS LIKELY TO CONTINUE OR RECUR

### 7.1 Preliminary findings

The commission has reinvestigated, in accordance with the ADRP's request, whether material injury is likely to continue or recur in the absence of measures.

As such, following reconsideration of the matters identified by the ADRP, the Commissioner now preliminary finds that the expiration of the anti-dumping measures applying to exports from Malaysia and Vietnam would lead, or would be likely to lead, to a continuation of, or a recurrence of, the material injury that the anti-dumping measures are intended to prevent.

### 7.2 Reinvestigation request

The ADRP requested the commission reinvestigate REP 591's finding that material injury to the Australian industry was not likely to continue or recur in the absence of measures. This was because REP 591 found there was no demonstrable connection between the price advantage that dumping gives to Malaysian and Vietnamese exporters and the economic condition of the Australian industry, specifically in terms of how it sets its prices, which is distinct from the influence of other sources.

#### 7.2.1 ADRP's observations in relation to the assessment of whether material injury is likely to continue or recur

The ADRP stated that 'the issue that must be addressed by the Commissioner ... relates to whether the Commissioner is satisfied that, if the measures expired, would it lead or be likely to lead to the continuation or recurrence of dumping or subsidisation and the material injury that the anti-dumping measures are intended to prevent.'

The ADRP noted that REP 591 stated that the commission's 'assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation. The Commission must consider what will [happen] in the future should a certain event, being the expiry of measures, occur. However, the Commissioner must nevertheless base their conclusions and recommendations on facts and not merely conjecture' (ADRP emphasis).

The ADRP also noted (referencing comments in an earlier reinvestigation request) that it is not sufficient simply to consider what has occurred during the inquiry period but based on the material and evidence obtained during the inquiry to consider what is likely to occur if the measures in place are not continued.

The ADRP stated that the finding that the commission could not find direct evidence of the impact of dumped exports on Capral's prices, needed to be revisited given the various references in REP 591 to the downward pressure on prices being exerted by dumped goods and that it was a price sensitive market. The ADRP further specified that this finding needed to be revisited in the context of:

- Capral's specific claims in its review application and its continuation application
- the reviewed price undercutting analysis
- the price analysis of the NIP with the LDPIIS prices from exporters and Australian industry FIS prices.

### **7.3 Reinvestigation analysis**

To reassess the likelihood of material injury in the absence of the measures the commission examined:

- the likely effect on prices (section 7.3.1)
- the likely effect on volumes (section 7.3.2)
- whether expiration of the measures would likely lead to a continuation or recurrence of the material injury that the measures are intended to prevent (section 7.3.3).

#### **7.3.1 Likely effect on prices**

The commission considers, on reinvestigation, that Australian industry will be required to adjust their prices or, at a minimum, suppress any price increases in response to importers being able to advantageously price or source dumped goods in the absence of measures.

This is different to the findings in REP 591. REP 591 found that, in the absence of measures, there would likely be little change to the pricing behaviours of exporters and importers. REP 591 found that, while Malaysian and Vietnamese import prices may have put downward pressure on the prices achieved by the Australian industry during the inquiry period, there was no evidence before the commission which showed a link between the two. Whilst isolated examples of undercutting were identified, there appeared to be no consistent price undercutting behaviour occurring during the inquiry period.

As detailed in earlier chapters, the commission's reinvestigation has identified:

- A greater degree and more consistent pattern and frequency of undercutting by Malaysian and Vietnamese import sources during the inquiry period. The commission has also continued to observe that all suppliers during the inquiry period (both Australian industry and imported sources) undercut each other.
- The commission's undercutting analysis has also identified a significant degree of price competition between exporters, importers, and Australian industry.
- The commission's analysis of the impact of the measures since implementation has found that importers sourcing from Malaysia and/or Vietnam have reflected the dumping duty paid in their prices to customers or, in the case of direct importers, have reflected the duty paid in the importation costs they have incurred.
- The commission considers that importers, given the price sensitive nature of the market, are likely to adjust their prices in the absence of measures and the reduction in shipping costs. Future dumped exports from Malaysia and Vietnam, absent measures, will provide them with a price advantage in the Australian market.
- Australian buyers which import directly from either Malaysian and/or Vietnamese mills will likely be able to advantageously source cheaper landed prices from dumped imports in the absence of measures.
- Other importers may switch to sourcing dumped supply from Malaysia and/or Vietnam in response to the removal of the anti-dumping measures. Any switching may enable these importers to offer prices in the Australian market based on the price advantage of dumped exports from Malaysia and/or Vietnam.
- Import pricing analysis indicates that Malaysian and Vietnamese imports remain amongst the cheapest in the Australian market. Whilst China is the largest source of import supply, Malaysian and/or Vietnamese prices were, at times, lower than Chinese prices and on other occasions above Chinese prices, but in close alignment. Historically, pricing analysis is also indicative of Australian industry prices responding, at times, to Malaysian and/or Vietnamese import prices, rather than Chinese import prices.

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- Despite Malaysia and Vietnam reflecting a smaller proportion of the market than Chinese imports, the commission's common customer analysis indicates that a material proportion (as much as 25%) of Australian industry's sales volume is exposed to customers which source or have previously sourced supply from Malaysia and/or Vietnam.

As noted in Chapter 6, the inquiry period was impacted by the pandemic. The effects of the pandemic were such that any price advantage of dumping gained by importers and exporters was diminished during the inquiry period, resulting in Australian industry being able to more competitively price against dumped import prices. Subsequent to the inquiry period, supply constraints and shipping costs have commenced returning to near pre-pandemic conditions.

To inform the forward-looking assessment of the likely impact of removing the measures, the commission considers that it is necessary to account for the extraneous impacts of the pandemic observed during the inquiry period.

The commission considers that, in the absence of measures and with the return to conditions more consistent with the original investigation period and the 2019 pre-pandemic period, importers will likely adjust their prices in the price sensitive Australian market. In addition, buyers importing directly from Malaysia and/or Vietnam, in the absence of duty and reduced shipping charges, will face reduced importation prices and costs. In the absence of measures, the commission finds that importers will be able to use the dumped import prices, absent the dumping duty previously paid<sup>92</sup>, to advantageously adopt competitive pricing strategies which include further exacerbating the observed undercutting of Australian industry prices during the inquiry period.

The commission considers that it is reasonable to conclude, based on the price sensitive nature of the market, that Australian industry would respond to the import prices by reducing prices or suppressing any potential price increases to remain competitive.

### 7.3.2 Likely effect on volumes

In REP 591, the commission found that should the measures expire, exports from Malaysia and Vietnam are likely to continue. However, REP 591 found that, in the absence of measures, exporters from Malaysia and Vietnam would be unlikely to increase export volumes to Australia from those observed during the inquiry period.

On reinvestigation, the commission considers that exporters from Malaysia and/or Vietnam could increase export volumes to Australia in the absence of measures because:

- During the inquiry period, import supply constraints likely impacted importers' ability to import goods on a timely basis from Malaysia and/or Vietnam (see analysis in section 6.4.2). This would have likely limited the capacity of importers to readily supply goods to customers for the quantities required and within the timeframes sought.
- Whilst the largest Vietnamese exporter, EAA, had no meaningful spare capacity during the inquiry period, the commission considers that it is open to EAA to switch supply from other export destinations to Australia in the absence of measures. This finding is based on:
  - EAA having exported 58% more volume to Australia prior to the imposition of measures.

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<sup>92</sup> Analysis of the impact of measures indicate that importers from Malaysia and/or Vietnam, reflected the impost of dumping duty in their pricing.

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- Analysis of EAA's third country sales data indicates that during the inquiry period it achieved lower FOB export prices to certain third countries for certain models.<sup>93</sup>
- The majority of PMBA's sales are to its domestic market. However, PMBA still sells into export markets in significant volumes.
- PMBA's spare capacity could be used to increase supply into the Australian market.

As discussed in 7.3.1, in the absence of measures the subject exporters would gain a pricing advantage over other sellers, including Australian industry, by exporting at dumped prices. However, in the event that Australian industry does not adjust prices to compete with those dumped exports, the commission considers it likely that it would cede market share to imports from Malaysia and/or Vietnam, noting:

- that exporters from the subject countries have long standing relationships and distribution channels into the Australian market and could increase export volumes to Australia
- the high level of price transparency and supplier competition identified in 4.3.2.

This in turn would lead to a reduction in sales volume by Australian industry.

### **7.3.3 Whether expiration of the measures would likely lead to a continuation or recurrence of the material injury that the measures are intended to prevent**

On reinvestigation, the commission preliminary finds that the expiration of the measures would likely lead to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

This is a change to the finding in REP 591.

The commission has, upon reinvestigation, found that:

- The Australian aluminium extrusions market is competitive and price sensitive. In addition to the observed examples of price undercutting, the commission has observed that there is a high degree of price transparency and supplier competition where customers obtain supply from multiple sources and switch supply sources.
- Imports from Malaysia and Vietnam are likely influencing how the Australian industry sets its prices. The fact that imports from other sources are also likely having an effect does not detract from this finding. In particular, the large volume penetration of Malaysian and Vietnamese imports across Australian industry's customer base is indicative of a large exposure to likely price competition from these imports.
- The Australian market during the inquiry period was impacted by the pandemic, and these impacts were generally favourable to the Australian industry such that any price advantage of dumping was diminished. Despite this, Malaysian and Vietnamese imports were still able to outcompete Australian industry on many occasions, as shown by the revised price undercutting analysis. To further assess the possible impact on the degree of undercutting, absent the measures and impacts of the pandemic, the commission conducted sensitivity analysis of prices. This sensitivity analysis identified that importers can more readily undercut Australian industry prices with dumped imports absent the effects of the pandemic and anti-dumping measures. The commission's sensitivity analysis is in **Confidential Attachment 15**.

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<sup>93</sup> See the commission's analysis in Confidential Attachment 14 EAA Third Country Export Price Analysis.

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- As the impacts of the pandemic recede, export supply will likely be more cost effective and timely, as was the case during the original investigation and prior to the pandemic. Together with the ending of the government stimulus programs, any temporary advantage the Australian industry enjoyed during the inquiry period will be removed. In particular, absent the effects of the pandemic, prices of imports will likely become more competitive, increasing the degree of price competition in the Australian market.

Taken together, these factors suggest that, upon expiration of the measures, the Australian industry would likely be required to respond to Malaysian and Vietnamese import prices by reducing prices or suppressing any potential price increases to remain competitive (or otherwise risk losing sales volume to imports from Malaysia and/or Vietnam) – which is the material injury that the measures are intended to prevent.

### **7.3.3.1 Other injury factors**

The commission examined whether there were any other factors that could effectively sever the link between the expiration of the measures on the one hand, and the likely continuation of, or a recurrence of, of material injury on the other.

The commission considers that the presence of imports from other sources may continue to adversely influence the economic condition of Australian industry. However, as set out in the sections above, the commission has found that the Australian market is price sensitive and there is a large penetration of common customers across Australian industry's customer base sourcing or having previously sourced from Malaysia and/or Vietnam. The fact that imports from other sources are also likely having an effect on the economic condition of the Australian industry does not detract from the finding that Malaysia and Vietnam are likely influencing how the Australian industry sets its prices.

### **7.3.3.2 Conclusion**

Accordingly, the commission considers that the expiration of the anti-dumping measures relating to the exporters from Malaysia and Vietnam, would be likely to lead to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

## 8 FORM OF MEASURES

### 8.1 Preliminary findings

Given that commissioner's preliminary finding that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the material injury that the anti-dumping measures are intended to prevent, the commission seeks submissions in relation to the form of measures.

Noting that analysis of the form of measures was not included in REP 591, the commission has broadly set out the preliminary findings specified in SEF 591 below.

### 8.2 Forms of measures available as set out in SEF 591 – dumping

The forms of dumping duty available to the Minister when imposing anti-dumping measures are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013*. In relation to IDD, the forms of duty are:

- fixed duty method (\$X per tonne)
- floor price duty method
- combination duty method or
- *ad valorem* duty method (i.e. a percentage of the export price).<sup>94</sup>

The various forms of dumping duty all have the purpose of removing the injurious effects of dumping. However, in achieving this purpose, certain forms of duty will better suit particular circumstances more so than others. In considering which form of duty to recommend to the Minister, the Commissioner will have regard to the published *Guidelines on the Application of Forms of Dumping Duty November 2013* (the Guidelines) and relevant factors in the market for the goods.<sup>95</sup>

### 8.3 Conclusion in SEF 591

In REP 544, IDD and the dumping duty payable was determined as an amount worked out in accordance with combination of fixed and variable duty method or the floor price method.

Subject to submissions received, the commission is of the view that the combination of fixed and variable duty method and floor price duty method (as relevant) should be used for IDD.

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<sup>94</sup> Section 5 of the Customs Tariff (Anti-Dumping) Regulation 2013.

<sup>95</sup> See [Guidelines on the Application of Forms of Dumping Duty November 2013](#), available on the commission website.

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**9 ATTACHMENTS**

<b>Confidential Appendix A</b>	Comparison 1 Undercutting Analysis Assessment
<b>Confidential Appendix B</b>	Comparison 2 Undercutting Analysis Assessment
<b>Confidential Attachment 1</b>	Amendments Made To Undercutting Analysis in REP 591
<b>Confidential Attachment 2</b>	Australian Market Channels
<b>Confidential Attachment 3</b>	Capral Price Analysis
<b>Confidential Attachment 4</b>	PMAA Price Analysis
<b>Confidential Attachment 5</b>	Revised Price Undercutting Analysis
<b>Confidential Attachment 6</b>	Post FOB Import Costs to FIS
<b>Confidential Attachment 7</b>	Volume Analysis
<b>Confidential Attachment 8</b>	Importers Pricing Behaviour
<b>Confidential Attachment 9</b>	Other Import Sources
<b>Confidential Attachment 10</b>	Australian Market Volume Analysis
<b>Confidential Attachment 11</b>	Shipping Costs Analysis
<b>Confidential Attachment 12</b>	Spread Analysis
<b>Confidential Attachment 13</b>	Aus Star Common Customer Analysis
<b>Confidential Attachment 14</b>	EAA Third Country Export Price Analysis
<b>Confidential Attachment 15</b>	Sensitivity Analysis