



Press Metal International Ltd.

地址：广东省佛山市三水区乐平镇齐力大道南 21 号

Add: NO. 21 Qili South Road, Leping Town, Sanshui District, Foshan City, Guangdong Province, China

电话 Tel: 0086-757-8736 3333

传真 Fax: 0086-757-8738 8898

Non-Confidential

31 July 2023

By Email

Mr Bradley Armstrong PMC
Anti-Dumping Commissioner
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

Dear Commissioner,

RE: Review of Anti-dumping measures on exports of aluminium extrusion products from the People's Republic of China - Review 609 – Submission in response to Capral Limited submission

I refer to Capral Limited's (**Capral**) submission of 18 July 2023 and make a few observations in relation thereto.

First, one of the key points in Capral's submission seems to be summarised in the following statement from the submission:

"The increased import volumes from China confirm Capral's concerns that the measures were ineffective (as based upon significantly lower variable factors)."

Capral's concern, therefore, is with an increase in export volumes from China.

Presumably, that increase is being driven by the increased demand in the Australian residential construction sector, which continues unabated and is likely to do so for the foreseeable future given the shortage of affordable residential dwellings in Australia. It is demand that Capral and other members of the Australian industry cannot meet due to their shortfall in domestic production capacity against current demand by approximately 50%.

The Anti-Dumping Commission (**Commission**) has made a preliminary finding that exports from three of the selected cooperative exporters, and from all nineteen (19) residual exporters, which collectively would account for the vast majority of actual exports from China, have not been dumped: refer **Annexure 1**.

Capral does not seem properly to acknowledge this finding. Notwithstanding the finding, Capral seems concerned with ensuring that the variable factors comprised in the anti-dumping measures are increased so as to address the increased volume of *undumped* exports from China.

In addressing that increased volume of exports from China through an increase in the variable factors, the Commission ought not to have an objective of increasing the prices of those exports from China and thereby the prices of aluminium extrusion products in the Australian market. This for several reasons.

First, as is the case globally, the rise and fall in aluminium prices, such as the LME aluminium prices, are reflected by a corresponding rise and fall in the prices of aluminium extrusion products. This is well documented. Accordingly, the historic high of LME aluminium prices would be reflected in corresponding increases in the prices of aluminium extrusion product prices in Australia. There is no need to alter the variable factors to achieve this indirectly when it occurs as a matter of course.

Also, dumping is unrelated to such a corresponding rise and fall in prices, given that globally aluminium extrusion product prices rise and fall with the rise and fall in aluminium prices, such as the LME aluminium prices.

It is acknowledged by the Commission and by Capral that the principal driver of demand for the Australian aluminium extrusion products industry is the Australian residential construction industry.

Given the current strong economic performance of both industries, it would be puzzling if Capral's objective for obtaining a variation to the variable factors is to increase the prices of aluminium extrusion products in the Australian market that would flow on into the residential construction market. This is especially so given the current frequency of construction companies failing due to the unprecedented and unexpected increase in the cost of construction materials, as well as the contribution of construction price to the current increase in the cost of living.

As the Productivity Commission recently observed:

*"The protection that Australia's anti-dumping measures afford to some domestic businesses is offset by the costs to others – such as businesses that use imported products subject to anti-dumping measures as inputs, and Australian households that use imported products subject to these measures. The Productivity Commission's 2016 research paper *Developments in Anti-Dumping Arrangements* similarly stated 'there is no compelling economic rationale for [Australia's anti-dumping system] and it is clear that current anti-dumping arrangements are making Australia, on a national welfare basis, worse off'."* (square brackets added)(Productivity Commission, *Trade and Assistance Review 2021 -22*, (2023), page 48: [Trade and Assistance Review 2021-22 - Productivity Commission \(pc.gov.au\)](https://www.pc.gov.au/research/other/industry-reviews/2021-22-trade-and-assistance-review))

At any rate, the existence of imports from other overseas sources and, in particular, from exporting countries not subject to anti-dumping measures such as Indonesia, Thailand and New Zealand, presumably would mitigate against an increase in prices. It is understood that the Commission has determined that prices of other imports into Australia other than those from China apparently influence prices in the Australian market despite the significantly greater market share held by exports from China.

As increasing prices would not seem to be the objective, Capral's objective instead must be to exclude exports from China from the Australian market.

It seems to hope to achieve this by asking the Minister to increase the 'floor price' for all exports from China, whether dumped or un-dumped, by increasing the variable factors comprised in the anti-dumping measures and, specifically, by increasing the '*ascertained export prices*' of such exports. It wants those increases to be based on historically high and now-outdated LME aluminium prices and MJP premiums. For example, as at the date of this letter, LME aluminium alloy prices are

trading at around US\$2,100mt¹ or approximately US\$1,000mt less than the US\$3,200mt for the review period disclosed in Capral's application for the review of the anti-dumping measures (see page 8 of Capral's application).

Presumably Capral's expectation is, consistent with past practice, that the anti-dumping measures will not be revoked notwithstanding that circumstances require steps be taken for their revocation, including in accordance with international legal obligation under the WTO Anti-Dumping Agreement.

If the measures are retained, any duty method adopted for working out interim dumping duty payable will be based upon revised '*ascertained export prices*', which, as noted, Capral proposes would be based on the high LME aluminium prices and MJP premiums that existed during the review period. The practical effect of this would be to render the exports from China uncompetitive on price in Australia at any time when LME aluminium prices and MJP premiums are lower than the historic highs prevailing during the review period. The consequence would be to effectively exclude such imports from the Australian market, thereby reducing competition.

That fall in aluminium prices has already occurred as the Commission would be aware. For example, as noted above LME aluminium alloy prices are currently trading at around US\$2,100mt: see [westmetall . market data . prices/lme stocks . copper, tin, lead, zinc, aluminium, nickel, gold, fine silver](#) and/or [LME Aluminium | London Metal Exchange](#) Current import prices of aluminium extrusion products would reflect this, which no doubt can be confirmed by ABF import data and by the prices of the Australian industry as set out in their price lists or obtained in online quotations (e.g., [Angles, Geometric Shapes \(capral.com.au\)](#)).

Importantly, excluding exports from China from the Australian market will not enable the Australian industry to increase their sales volumes from domestic production to take up the resulting shortfall. Neither Capral nor the other members of the Australian industry, individually or collectively, possess the domestic production capacity required to meet the existing demand for aluminium extrusion products let alone any further increase due to the exclusion of exports from China from the market.

It is understood that domestic production is currently approximately [REDACTED] tpa, whereas demand is approximately [REDACTED] tpa. The shortfall in domestic production meeting demand is being met by imports from a variety of countries in the region, some of which are subject to anti-dumping measures and others not, with members of the Australian industry, as well as others, importing product to compensate for their shortfall in production capacity. Capral is apparently meeting its shortfall by importing from Indonesia and Thailand, and is importing more standard aluminium extrusion products, while producing locally more elaborately extruded and finished products for which higher prices can be obtained. Presumably this also may be reason for the focus on excluding exports by Kam Kiu who is known to be a producer of high end aluminium extrusion products.

The objective, therefore, of the altered variable factors that Capral seeks to have imposed on exports from China seems to be permit Capral to increase its market share from imports.

To seek to use Australia's anti-dumping regime for this purpose is improper. It should not be countenanced, let alone implemented.

Second, in its submission Capral refers to a Federal Court case and to a finding of the Anti-Dumping Review Panel regarding the determination of variable factors, as well as to various provisions of the *Customs Act 1901* including to the definition of '*investigation period*' in section 269T(1) of the

¹ Reference: London Metal Exchange: [LME Aluminium Alloy | London Metal Exchange](#). Shanghai Futures Exchange prices are available at: [Shanghai Futures Exchange \(shfe.com.cn\)](#)

Customs Act 1901. While of interest, these matters are not relevant to the Commission's current considerations as they relate to dumping investigations, whereas this is a review of anti-dumping measures. Had it been intended that those or similar provisions apply to a review of anti-dumping measures, Parliament would have so legislated in Division 5 of Part XVB of the *Customs Act 1901*. It did not.

In any event, the issue is whether decisions such as determination of variable factors should be based on the most current information as opposed to historic data that is known to be out-dated, and where reliance on the out-dated data will have an undesirable and inappropriate outcome.

There is ample jurisprudence both in Australia and from the WTO that current data is to be preferred for a variety of self-evident reasons.

Alternatively, if Capral's contention in this regard were correct, the appropriate solution would be for the 'review period' to be varied to a more current period by the Anti-Dumping Commissioner (**Commissioner**) in accordance with section 33(3) of the *Acts Interpretation Act 1901*. This would seem appropriate given that the Commissioner knows that the LME aluminium prices and MJP premiums during the review period are out-of-date and that the current LME aluminium prices and MJP premiums are materially lower.

Further, using the more current data here should not be onerous given that the Commission has determined constructed normal values using a benchmark surrogate cost for aluminium alloys used in the production of aluminium extrusion products, presumably LME aluminium prices. It is then simply substituting the more current aluminium prices for the out-dated prices and re-calculating the relevant variable factors. A similarly simple process could be undertaken for the MJP premiums.

Finally, Capral refers to exports from China holding a 40% share of the total Australian aluminium extrusion products market. The relevance of that suggestion is not clear. That 40% share would consist of exports from a multitude of exporters from China who no doubt would be competing with each other as well as exporters from other countries exporting to Australia.

The market share held by a multitude of Chinese exporters is to be compared with Capral's 26% or more share of the total Australian market (although it not clear whether that market share is based solely on domestic production or includes Capral's imports). For a 'fair comparison' with the market share purportedly held by Chinese exports, other members of the Australian industry's market share, such as that of G James, INEX, Vulcan and others, would need to be added to Capral's market share. That market share of the Australian industry presumably would be well over 50% of the total Australian market. Thus, in its own right and as representative of the Australian industry as a whole², Capral possesses substantial market share and consequently power in the Australian market, both in terms of sales volume and in pricing. It is fanciful to suggest otherwise.

Conclusion

As previously submitted, the appropriate steps here is, given the preliminary findings in the Statement of Essential Facts, for action to be taken to revoke the anti-dumping measures applying to exports from China as those measures are no longer warranted.

² The Commission has frequently used Capral as a representative or surrogate of the Australian industry as a whole with, on occasion, G James and INEX, notwithstanding that the economic performance of other members of the Australian industry can be materially different to that of Capral and the others referred to above as disclosed in their audited annual financial statements filed with ASIC in accordance with the *Corporations Act 2001 (Cth)*.

Please let me know if you have any questions.

Yours sincerely,

Paul Ingram

Paul Ingram

Annexure 1
Extract from Statement of Essential Facts 609

Table 2 – Proposed new variable factors

Exporter	Dumping margin	Subsidy margin	Effective fixed rate of ICD and IDD	Duty method
Goomax	-7.5%	0.7%	0.7% (previously 1.0)	Fixed rate of ICD. Floor price duty method: Variable component of IDD equal to the amount, if any, by which the actual export price is below the ANV.
Jinxiecheng	-7.7%	0.0%	0.0% (same rate)	
Xingfa	-1.8%	0.3%	0.3% (new own rate)	
Residual exporters ⁶	-0.5%	0.9%	0.9% (previously 11.5%)	
Kam Kiu	41.1%	4.5%	45.1% (previously 25.6%)	Combination of fixed and variable duty method, consisting of a fixed rate of IDD and ICD, plus a variable component of IDD equal to the amount, if any, by which the actual export price is below the AEP.
Uncooperative, non-cooperative and all other exporters ⁷	41.1%	11.3%	48.1% (previously 77.4%)	

Table 2: Preliminary dumping and subsidy margins

6. The residual exporters are listed in Chapter 4.3.2 of Statement of Essential Facts 609 as follows:

4.3.2 Residual exporters

The commission considered that it was not practicable to examine the exports of the following exporters, who are residual exporters:

1. Press Metal International
2. Panasia Nanyang
3. Luoxiang Aluminium Co., Ltd
4. Guangdong Xingqiu Aluminium Co., Ltd
5. Guangdong JMA Aluminium Profile (Factory Group) Co., Ltd
6. Guangdong Jihua Aluminium Co., Ltd
7. Guangdong Haomei New Materials Co., Ltd
8. Foshan Shangyou Hardware Decoration Products Ltd
9. Guang Ya Aluminium Industries Co., Ltd
10. Fujian Minfa Aluminium Inc
11. Foshan Yuze Aluminium Co., Ltd
12. Foshan Yatai PVC & Alu Co., Ltd
13. Foshan Xingtaomei Aluminium Industry Co., Ltd
14. Foshan Sanshui Fenglu Aluminium Company Limited
15. Fenan Aluminium Co., Ltd
16. Foshan City Nanhai Yongfeng Aluminium Co., Ltd
17. Yongya
18. Foshan JMA Aluminium Co., Ltd
19. Guangdong Weiye Aluminium Factory Group Co, Ltd..