

9 July 2024

Director  
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Anti-Dumping Commission  
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Dear Director,

### Public File

## Review of Measures Investigation No. 640 – Press Metal Berhad Aluminium Sdn Bhd; Level of Trade submission

### I. Introduction

Capral Limited (**Capral**) refers to the recent submission by Press Metal Berhad Aluminium Sdn Bhd (**PMBA**) in relation to the above-noted variable factors review.<sup>1</sup> PMBA's submission concerns the applicability of a level of trade adjustment for the normal value determination.

At the request of the Anti-Dumping Commission (**the Commission**), PMBA has sought to explain why a downwards normal value adjustment is required for supposed level of trade differences in the Malaysian market. PMBA expresses concern that the Commission was ill-prepared at verification to address this matter, and that sufficient information has been provided to facilitate an adjustment. PMBA seeks to convey the matter-of-fact nature of this issue when, in fact, level of trade considerations are complex in nature and of which the Commission has already made a PMBA-specific assessment.

On this, Capral makes the following comments.

### II. PMBA's claim for an adjustment

PMBA claims that a level trade adjustment is required for its Malaysian home market sales through its PMB Johor Bahro (**JB**) regional distribution division. As distinct from its other four distribution centres, PMBA claims that sales by PMBA (via JB) are to retailers and, therefore, are at the retail level of trade.<sup>2</sup> According to PMBA, this is reflected in the pricing to those customers, which is different from pricing to the four subsidiary companies who operate as distributors within the Malaysian domestic market.<sup>3</sup>

Capral draws to the Commission's attention its most recent assessment of PMBA's normal value level of trade matter. In the final report to Continuation No. 591 (**CON 591**), PMBA made the following claim, followed by the Commission's opinion:<sup>4</sup>

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<sup>1</sup> EPR folio no. 10.

<sup>2</sup> Ibid, p. 3.

<sup>3</sup> Ibid.

<sup>4</sup> Final report to CON 591, p. 47.



PMBA claims that a level of trade adjustment is required to reflect and take account of alleged differences in levels of trade in respect of domestic sales for the purpose of comparison with export sales prices to Australia.

### Commission's assessment

The commission was not satisfied that it should make a level of trade adjustment for the normal value in relation to domestic sales. This was based on finding immaterial price differences between the claimed levels of trade. The analysis was conducted down to specific MCCs. PMBA has disputed this finding.

The commission is not satisfied that the claimed retail division of PMBA only sells to customers representing one level of trade only. From the evidence and data provided, it appears that the sales are from a different location other than PMBA's main distribution site, and not necessarily confined to an actually distinguishable level of trade (i.e. the sales need not be exclusively retail sales, for example).

As stated in the Manual, 'The evidence must demonstrate that the sales being compared were made at different levels of trade. An adjustment for trade level will only be made when these differences in levels of trade are shown to have affected price. Further, when the commission considers that sales are at different levels, it will consider two main issues: the selling activities carried out at the different marketing stages, and the price differences between sales in the domestic market.'

The commission was unable to distinguish the difference in selling activities between the claimed levels of trade. It appears that there are a mix of customers sold to through each sales route. The same sales team manages sales directly from PMBA and sales made through the retail division. Further, the commission was not provided with any information about the sales functions of the customer, which is an important indicia for assessing whether the sales were made at a different level of trade.

The Manual further states that 'there must be consistent and distinct differences in sale prices in order to establish a real difference in level of sales... The Commission will examine the pricing structure in order to determine whether all of the sales should remain in the normal value calculation. If there are no real differences in pricing between the nominated levels the domestic sales to all levels will be considered for normal value purposes.'

While not being able to distinguish if different levels of trade even exist based on selling activities, the commission still examined whether there were price differences between the claimed levels of trade. While PMBA has submitted that there is a difference, its calculations are based on a weighted average difference across all models. This approach introduces other variations (e.g. by finish type) which would lead to price differences which are unrelated to the level of trade, and so is not a relevant comparison.

Instead, the commission takes the same approach to model matching, using the MCCs to compare normal values to export prices for the most comparable products, to examine whether there is a difference in pricing for levels of trade. For the largest volume MCCs, the commission found that there were no consistent or distinct differences in sales prices that would establish a real difference in the level of sales.

Based on the evidence provided by PMBA, verified data and further analysis, the commission does not agree that a level of trade adjustment is warranted.

Putting aside PMBA's submission comments regarding the two instances of the Anti-Dumping Review Panel's (ADRP) consideration of level of trade in earlier duty assessments, the above is the Commission's current

reference point on the matter – being that a downwards level of trade normal value adjustment cannot be substantiated and is not required.

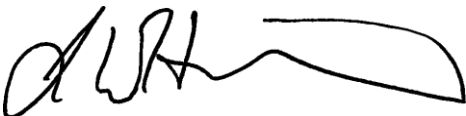
On the ADRP views, what is unclear in the PMBA submission is what (if any) level of trade adjustment was made in the two referenced duty assessments, and over what time period. On the first, PMBA admits that an adjustment wasn't made on the basis of insufficient information.<sup>5</sup> On the second, PMBA submits that:<sup>6</sup>

*Unfortunately, the determination of the amount of the adjustment was misconceived. It was based on differences in costs, specifically warehousing costs, incurred by PMBA's Division JB, which warehousing costs were not incurred by the domestic sales by PMBA to its subsidiary distributors. However, this is a difference in 'cost', not in 'price' and it is the difference in 'prices' due to the different level of trade that must be adjusted for.*

How this dovetails into the Commission's CON 591 assessment is not addressed by PMBA, nor whether the referenced duty assessments pre or post-date the CON 591 conclusion. Notwithstanding this, Capral submits that the Commission's CON 591 level of trade assessment is the leading precedent, and that a normal value adjustment is not required in the current review.

If you have any questions concerning this submission please do not hesitate to contact me on (02) 8222 0113 or Capral's representative Mr Chad Uphill on 0412 377 603.

Yours sincerely



Luke Hawkins  
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<sup>5</sup> EPR folio no. 10, p. 5. Capral takes PMBA's statement ...that an adjustment was not made by the ADRP in this manner was due to sufficient information enabling it to make the necessary calculation to make the adjustment...as indicating an insufficiency of information to permit an adjustment.

<sup>6</sup> EPR folio no. 10, p. 5.

