Percival Legal

Non-Confidential

22 April 2025

By Email

Director - Investigations,
Anti-Dumping Commission
Canberra ACT 2601

Dear Sir/Madam,

RE: Revocation Review 667 – anti-dumping measures applying to exports of aluminium extrusions products from Malaysia by PMBA – Submission – Interested Party Questionnaire

I refer to the recently initiated Revocation Review 667 concerning whether the anti-dumping measures applying to exports by PMB Aluminium Sdn. Bhd (**PMBA**) are no longer warranted.

The Anti-dumping Commission's (**Commission**) electronic public file for this review makes no mention of, nor contains templates of, Australian industry and/or end-user questionnaires such as ones similar to the **attached** template Australian industry questionnaire.

It, therefore, is not apparent whether the Commission has or proposes to circulate such questionnaires to those interested parties, that is, members of the Australian industry producing like goods to the subject goods and end-users of such goods (refer Figure 1 '*Market segments and key participants for aluminium extrusions in Australia*' of Reinvestigation Report in Continuation Inquiry 591). Responses to such questionnaires are, of course, necessary to provide the Commission with information and evidence relevant to the review, including information and evidence on conditions prevailing in the Australian aluminium extrusion market and the economic performance of the Australian industry in that market.

In particular, questionnaires addressed to:

(i) members of the Australian industry would be relevant in obtaining information and evidence on whether they individually and/or collectively incurred material injury because of dumping of PMBA's exports or otherwise during the injury period. Specifically, information and evidence on, amongst other matters, '*what*' aluminium extrusion products were sold at '*what*' prices to '*whom*' at '*what*' prices on '*what*' terms during the injury period by members of the Australian industry, including whether those transactions were profitable; and

(ii) end-users such as distributors, fabricators, manufacturers and other end-users to obtain information and evidence on '*what*' aluminium extrusion products they purchased from '*whom*', in '*what*' quantities

and at '*what*' prices and, in particular, '*why*' they made those purchasing decisions for those products in those quantities from those suppliers at those prices during the injury period.

Of course, information and evidence obtained from suppliers of aluminium extrusions into the relevant market provides information only on '*what*' products were sold in '*what*' quantities to '*whom*' and at '*what*' prices. It does not provide information or evidence as to '*why*' the purchasers purchased those products in those quantities from which supplier(s) at those prices. Such information and evidence is obtainable only from the purchasers, that is, the end-users. That information and evidence is critical, of course. to the issue of causation.

Conclusions purportedly drawn on the reasons '*why*' purchasers made the purchasing decisions they made that are based on information provided by third parties such as suppliers are necessarily speculative. In particular, in the absence of information and evidence from a purchaser as to '*why*' it made its purchasing decisions, any claims as to '*why*' those purchasing decisions were made are, at best, indicative, and ultimately necessarily speculative. As is well-known to researchers and investigators, coincidence and correlation are not evidence of causation. Rather, evidence directly from the source is required.

Hence the necessity for information and evidence be obtained from end-users, that is, purchasers of the goods under consideration, as well as from members of the Australian industry. The questionnaire to end-users should seek to obtain information from end-users as to *why*' purchasing decisions were made, that is, solely or principally for reasons of price or whether are factors influenced purchasing decisions and if so, to what extent.

This would be consistent with the practice in other jurisdictions such as of the US International Trade Commission (**USITC**) in the USA: refer Import injury Investigations | United States International Trade Commission and USITC's Report No. 5560 referred to in Section 8(4)(ii) of the PMAA's application for this review.

Accordingly, would the Commission please advise:

- whether Australian industry and/or end-user questionnaires have been sent to such interested parties to obtain information and evidence relevant to this review and, if not sent, why not; or
- alternatively, if such questionnaires have been circulated to such interested parties in Continuation Inquiry 657, whether it is proposed to rely on the information so obtained in that inquiry for the purposes of this review and, if so, what steps have been taken to ensure the relevance of information and evidence in that inquiry is relevant to this review.

Thank you for your cooperation. If you have any questions, please contact me.

Yours faithfully,

Andrew Percival
Principal

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