

25 March 2019

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Investigations 4
Anti-Dumping Commission
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Public File

Dear Ms Baynham

**Investigation No. 482 – Aluminium extrusions exported from P R China – Various responses
Statement of Essential Facts**

I. Introduction

Capral Limited (“Capral”) has reviewed submissions in response to (or immediately prior) the recently published Statement of Essential Facts No. 482 (“SEF 482”) concerning aluminium extrusions exported to Australia from the People’s Republic of China (“China”). Capral seeks to comment on the identified submissions.

II. Submission from Tai Shan City Kam Kiu Aluminium Extrusion Co., Ltd and affiliates

The submission dated 18 February 2019 on behalf of Tai Shan City Kam Kiu Aluminium Extrusion Co., Ltd (“Kam Kiu”) and affiliated parties (EPR Document No. 0049) seeks to argue for the exclusion from *like goods* for goods that it describes as “high-end models”. The submission further argues that if the *high-end models* are included as like goods, then the inclusion of favourable adjustments for the exporter for goods is required. It is argued that these high end models attract a higher level of profit and an adjustment is required to exclude the larger profit component from these high-end models in the exporter’s normal value.

Capral rejects the assertions made on behalf of Kam Kiu. The Commission has determined that the goods sold domestically by Kam Kiu are like goods and are therefore included in the determination of normal value. The determining factor is whether the goods referred to by Kam Kiu meet the description of like goods or, for the purpose of determining a level of profit for inclusion in Kam Kiu’s constructed normal value under subsection 269TAC(2)(c), can be considered for profit determination purposes under Sub-Regulation 45(3)(a) that specifically refers to “*actual amounts realised by the exporter or producer from the sale of the same general category of goods in the domestic market of the country of export*”.

The Anti-Dumping Commission (“the Commission”) has correctly included a level of profit for Kam Kiu for the subject goods in accordance with the Regulation. No adjustments to Kam Kiu’s normal value(s) are required.

III. Submission by Goomax Metal Co., Ltd Fujian

Goomax Metal Co., Ltd Fujian (Goomax) submission (EPR Document No. 0052) was visited by the Commission and a verification report prepared (EPR Document No. 045). Goomax is aggrieved that the Commission has determined its normal value “pursuant to subsection 269TAC(6), with reference to the residual value, i.e. the weighted average normal values for the like goods of the selected exporters.” Goomax then states that “the weighted average normal values of the selected exporters are unreasonably high”.

The normal values for the selected exporters have been determined under subsection 269TAC(2)(c) using the production costs, selling and general administration costs, and a level of profit, based upon information included in exporter questionnaire responses (“EQRs”). This information (for selected exporters) was considered by the Commission to be acceptable and reasonable. The Commission’s verification team at the Goomax visit by the Commission stated the following in respect of the CTMS Methodology of the exporter¹:

“The verification team are (sic) not satisfied that the allocation methodology for the cost to make and sell (CTMS) data provided by the exporter in the exporter questionnaire response by Goomax Metal Co Ltd Fujian is reasonable. The verification team advised Goomax Metal Co Ltd Fujian during the visit that, due to the allocation methodology used by the company to differentiate costs between workshops and models, that the costs provided do not reasonably reflect the cost of production of each model.”

The Commission, therefore, could not rely on Goomax CTMS data and used the CTMS data of the ‘selected’ exporters under subsection 269TAC(6) in determining Goomax’ CTMS.

In light of the Commission’s dissatisfaction with the allocation methodology for costs included in Goomax’ EQR, the Commission has correctly rejected Goomax’ CTMS and relied upon the selected exporters’ data under subsection 269TAC(6).

IV. Submission by Foshan Shunde Beijiao Jiawei Aluminium Factory

It has been argued on behalf of Foshan Shunde Beijiao Jiawei Aluminium Factory (“Jiawei”) (EPR Document No. 054) that the Commission has not afforded the exporter “procedural fairness” by determining Jiawei’s exclusive importer of aluminium extrusions “uncooperative”. Jiawei has also contended that the Commission “has refused to identify the source of information used in determining the export prices or any relevant information which would allow Jiawei to comment on whether further adjustments are necessary to ensure proper comparison with its normal values.”

Jiawei’s assertions are inaccurate. SEF 482 details the basis for export prices for Jiawei in the absence of cooperation from Jiawei’s Australian importer (refer Section 6.1.2 of SEF 482). Jiawei also contends that the export price information of exporters is not confidential as it relates to “historic export prices” and it “would not have a significant adverse effect on the party supplying the information”.

The Commission is required to maintain the confidentiality of information relating to actual normal value and export price information that is confidential to the exporter. Jiawei’s request for disclosure of actual export price information must be rejected.

V. Submission by Guangdong Zhongya Shaped Aluminium

The Guangdong Zhongya Shaped Aluminium Co., Ltd (“Zhongya”) submission (EPR Document No. 055) disputes the Commission’s finding that the revocation of the countervailing measure applicable to Zhongya would lead, or likely lead, to material injury recurring.

¹ Exporter verification report, Goomax Metal Co., Ltd Fujian, P. 13 (EPR Document 045).

The Commission is proposing to recommend to the Minister for Industry, Science and Innovation (“the Minister”) that the countervailing measures applicable to Zhongya not be revoked. The Commission considers that it is likely that, in the absence of the measures, Zhongya would revert back to supply of aluminium ingot from SOEs. Zhongya rejects the Commission’s contention. Zhongya further claims that it has “no incentive” to resume purchases of aluminium ingot from State Owned Enterprises (SOEs). Once the measures are revoked, the Commission has no means of re-imposing a measure on Zhongya should it re-commence sourcing of aluminium ingot from SOEs and receive a benefit under the Program for aluminium at less than adequate remuneration.

The Commission cannot be assured by Zhongya that it will not revert to sourcing supply from an SOE and the measures therefore must continue to apply.

VI. Submission by Abra Aluminium Pty Ltd

Capral understands that Aluminium Shapemakers Pty Ltd (Alushapes) can manufacture standard flyscreen frames as referred to in the Abra Aluminium Pty Ltd (Abra) submission (EPR Document No. 056) for which an exemption from measures is sought.

Capral further understands that thin walled aluminium extrusions are available from local manufacture in Australia (e.g from Alushapes) for applications additional to flyscreens. Capral therefore does not anticipate that the Commissioner would recommend an exemption to measures for flyscreens as covered by the anti-dumping measures.

VII. Submission by Fujian Minfa Aluminium Inc

The submission on behalf of Fujian Minfa Aluminium Inc. (“Minfa”) (EPR Document No. 057) confirms that the exporter has been considered by the Commission as a ‘residual’ exporter. It is stated that Minfa has provided the Commissioner with information in response to exporter questionnaire and a recent duty assessment investigation.

The Dumping and Subsidy Manual indicates that the “typical process leading to the acceptance of an undertaking” involves an exporter offering to the Commissioner terms and conditions for an undertaking to apply. It is noted, however, that the undertaking is offered “*following the making of a preliminary affirmative determination*”.

Anti-dumping measures applicable to exporters of aluminium extrusions from China have been in place since 2010. A preliminary affirmative determination (“PAD”) in relation to aluminium extrusions exported from China was published in 2009. The ‘window’ for the offering of a price undertaking has therefore ceased to apply following the acceptance of the measures by the then Minister in 2010.

In Capral’s view, the Commissioner cannot accept a price undertaking from Minfa as the period following the PAD and prior to the imposition of the original measures by the Minister has expired.

VIII. Submission by Pan Asia Aluminium (China) Limited

Capral notes in the submission made on behalf of Pan Asia Aluminium (China) Limited (“Pan Asia”) (EPR Document No 058) that representations have been made that the Commission has made errors in the calculation of normal value(s) for Pan Asia, and hence the exporter’s dumping margin is incorrect.

Capral requests that in the event that Pan Asia’s comments concerning errors have been acknowledged by the Commission in the determination of normal values for Pan Asia, it is requested that interested parties be notified of the change in dumping margins determined for Pan Asia that are different to the margins published in SEF 482.

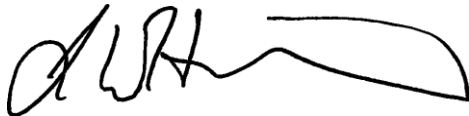
Capral notes that Pan Asia appears to be challenging the Commission’s comparison of normal value with deductive export prices. It is claimed on behalf of the exporter that the normal value and export price reflect different dates of sale. It is the Commission’s practice to compare based upon the date of invoice; for a date other than the date of invoice to be used, the exporter must demonstrate that the terms of sale have been agreed and finalised at that alternate date (e.g. date of order confirmation). In a deductive

export price situation, the date of invoice may not be readily identifiable, however, the Commission does have access to the Border Force import database to confirm an approximate date of export.

Capral anticipates that the Commission will exercise care in revisiting the suggested "errors" notified by Pan Asia. Following review and satisfaction, Capral requests that the Commission notify interested parties of any material changes to dumping margins as published in SEF 482.

If you have any questions concerning this submission, please do not hesitate to contact me on (02) 8222 0113 or Capral's representative Mr John O'Connor on (07) 3342 1921.

Yours sincerely

A handwritten signature in black ink, appearing to read 'LHAWKINS', with a long horizontal flourish extending to the right.

Luke Hawkins
General Manager – Supply and Industrial Solutions