

28 September 2018

The Director
Investigations 4
Anti-Dumping Commission
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Public File

Dear Ms Sir/Madam

Investigation No. 490 – Review of anti-dumping measures inquiry – aluminium extrusions exported from Malaysia by Alumac Industries Sdn Bhd

I. Introduction

I refer to Australian Dumping Notice No. 2018/132 (“ADN 2018/132”) concerning the initiation of a review investigation in relation to anti-dumping measures applicable to Alumac Industries Sdn Bhd (“Alumac”) and whether the measures should be revoked.

The anti-dumping measures were imposed on 27 June 2017 by the then Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (“the Parliamentary Secretary”) following consideration of Anti-Dumping Commission Report No. 362.

Alumac has made an application asserting that the anti-dumping and countervailing measures are no longer warranted as it claims that it is not exporting at dumped prices and is not in receipt of any countervailable subsidies from the Government of Malaysia (“GOM”).

In the original investigation No. 362, Alumac was forwarded an exporter questionnaire by the Anti-Dumping Commission (“the Commission”). Alumac’s response, however, was not received by the relevant legislated date and the Commission notified Alumac that it would be treated as an uncooperative exporter pursuant to subsection 269T(1) of *the Customs Act*, and a non-cooperative entity for the purposes of the investigation.

As Alumac was confirmed as a non-cooperative exporter, its exports to Australia attracted an effective duty rate of 16.2 per cent, being an interim dumping duty of 13.0 per cent and an interim countervailing duty of 3.2 per cent.

II. Alumac’s application

Alumac has detailed the following as grounds for the revocation of the measures (as Per Consideration Report No. 490):

- The aluminium extrusions supplied are customized to each customer’s specifications. The process is extensive and Alumac is able to charge a higher margin for this and therefore has no incentive to export at dumped prices;
- Alumac export only 1.38 per cent of their turnover to Australia and therefore have no motive

- to export at dumped prices;
- The average export price that Alumac exports aluminium extrusions to Australia is higher than its average its average domestic gross invoice price;
- The average export price of aluminium extrusions exported to Australia is lower than the goods [sic] exported to third countries because of the differences in the finishes exported to these countries.

Consideration Report 490 (“Con 490”) also states that Alumac has provided the Commission with information on Alumac’s export sales, domestic sales and costs to make and sell, in support of its application for the revocation of the measures.

Alumac is also seeking a revocation of the countervailing measures and submitted a letter from its tax agent demonstrating it did not claim any government subsidies or tax incentives in the 2016/17 financial year.

III. Commission’s assessment

Capral Limited (“Capral”) notes the comments of the Commission in Con 490 that “*the Commission considers there appears to be evidence that Alumac may be exporting aluminium extrusions at dumped prices and therefore do not consider that there are reasonable grounds for Alumac to assert that dumping is not continuing, nor that dumping is unlikely to recur and that the anti-dumping measures applying to Alumac exports are no longer warranted.*”

In respect of the countervailing measures, the Commission acknowledged the Alumac supportive evidence from its tax agent confirming an absence of any government subsidies or tax incentives and indicated that the countervailing measures in respect of Alumac may not necessary.

IV. Capral’s comments

Capral concurs with the Commission’s assessment that grounds do not exist for the revocation of the anti-dumping measures applicable to exports by Alumac. Capral considers grounds for rejecting the revocation application in respect of the anti-dumping measures include:

- The claimed basis that *average* export prices are lower than *average* domestic selling prices is not a basis for establishing dumping margins as Investigation No. 362 involved the examination of sub-categories of the goods based upon mill finish, anodized, and powder coated finishes which, if examined accurately would indicate applicable margins of dumping (emphasis added);
- The allegation that Alumac exports “customized” products to its customers in Australia does not negate the fact that Alumac may be exporting at dumped prices;
- In submitting *prima facie* evidence in support of its claim that Alumac was not exporting at dumped prices, Alumac did not indicate that it’s Australian importer(s) made application for duty assessment in the first dumping assessment period following the imposition of measures on 27 June 2017 in support of its claims it was not dumping¹;
- No supporting information has been supplied by Alumac that its exports of aluminium extrusions to Australia were non-injurious to the Australian industry manufacturing like goods; and
- The relevance of the export prices to Australia viz-a-viz exports to third countries is irrelevant unless considered on a model-by-model matching basis.

Capral considers, therefore, that the Commission’s decision not to conduct a revocation investigation in respect of the anti-dumping measures applicable to Alumac is the correct decision.

Capral understands that Alumac – following notification of the Commission’s decision not to conduct a revocation inquiry into the anti-dumping measures applicable to Alumac – has made an application for

¹ Capral notes that any duty assessment application made in respect of Alumac exports to Australia in the first duty assessment period would, at the time, of Alumac’s application remain subject to investigation (if an application had been made).

review of the anti-dumping measures so that separate normal values, export prices and dumping margins may be determined for the exporter (refer Investigation No. 494).

Capral does not have access to Alumac's confidential tax records and is unable to comment on whether Alumac is in receipt of any GOM subsidies or tax incentives. The Commission will need to validate Alumac's claims that it is not in receipt of subsidies or tax incentives that provide it with a commercial advantage in respect of pricing of the goods (including exports to Australia).

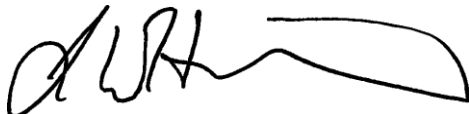
V. Recommendations

Capral agrees with the Commission's decision not to conduct a revocation investigation into exports of aluminium extrusions to Australia by Alumac as the available information does not support an application for the revocation of the measures.

Capral anticipates that the Commission will conduct a verification of Alumac's tax records to confirm whether the exporter is in receipt of any subsidies or tax incentives from the GOM in its investigation as to whether to revoke the countervailing measures applicable to Alumac's exports to Australia.

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

Yours sincerely



Luke Hawkins
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