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**The Director - Investigations 3
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601**

Case 540 Aluminium extrusions (mill finish); Case 541 Aluminium extrusions (surface finished)
Submission to the Case manager by Milleon Extrusions Malaysia

This submission is on behalf of Milleon Extruder Sdn Bhd, Malaysia, that has cooperated in these investigations. Two matters - a calculation error and commission payments in quarter 4 - were addressed in earlier comments on the verification report.

Some other matters could not be considered within the verification report deadline and the verification team advised us to include these in a submission to the case manager. Therefore, it would be appreciated if the following five confidential matters are taken into account to ensure a correct calculation is made.

1. Premium Price Sales to ■ domestic customers for particular goods – ‘level of trade’

The most important issue concerns a premium paid in certain domestic sales. This oversight has had a material effect on the ADC's preliminary calculations.

In our EQR, Milleon identified the differing levels of trade in the domestic market and the export market. The report has not yet discussed the question of trade level and it is an issue which must be taken into account in the margin determination.

There are sales of standard profiles and lengths into the domestic market. In the case of the sales to Australia *all* of them are of standard profiles and lengths. This information was provided to the ADC in the course of the verification including drawings, specifications, and pricing policy.

There is a category of sales in the domestic market which are not of standard profiles and lengths. The information below shows there are ■ domestic customers to whom we have to price in a very different manner to the standard profiles and lengths. This is because a special, significant, premium is added which reflects the fact these ■ customers require special services to be undertaken by Milleon.

PUBLIC VERSION

The [REDACTED] customers are identified in the domestic sales spreadsheet: *540 Milleon Appendix 3*, namely:

[REDACTED]

They are described in the domestic sales spreadsheet as being at the trade level "Product Manufacturer". [REDACTED] produce special assembled parts for [REDACTED], [REDACTED] produces a special assembly for [REDACTED].

For [REDACTED] all of their purchases from Milleon require a very high quality standard:

- precision cutting is required (with special cut length) to a tight tolerance of [REDACTED];
- [REDACTED];
- there is a resulting high rejection rate because of a need to maintain the required standards;
- Each profile must be individually packaged.

[REDACTED] purchases are not entirely of premium prices goods – one type is identified as having the special value added premium. [REDACTED] purchases from Milleon are entirely of premium added product.

This premium for special services has been a long standing practice. Milleon keeps a worksheet where it calculates these special prices to the [REDACTED] customers. The special services have a direct influence and are incorporated into the price paid by the customer.

Included are 10 files which provide information about the special premium added:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] uses all of the fabricated products purchased from Milleon to assemble parts for [REDACTED]. [REDACTED] supplies some assembled parts to [REDACTED], [REDACTED] uses all of the fabricated products it purchases from Milleon to assemble [REDACTED] parts for [REDACTED].

In the case of [REDACTED], the profile it purchases which has the high value added premium is code [REDACTED], which is also identified in the domestic sales spreadsheet *540 Milleon Appendix 3*.

Based on the cutting length, the products supplied to the [REDACTED] customers are fabricated parts and, because of the customer requirements, a high value added premium has to be applied by Milleon.

It is important to note that these special value added services do not exist in a usual extrusion profile for the other domestic sales. Nor do these special value added services exist for the export customers in Australia.

More information about the nature of this value added service is provided in the [REDACTED] titled:

[REDACTED]

These spreadsheets show how Milleon has added a significant premium in the sales price for the special value added service for these customers, over and above the usual premiums for billet and mill finish. Each is explained below:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Explanation of how specific customer pricing is calculated]

The Australian Sales

The value added services for these customers are not present in the export sales to Australia. There is no equivalent customer or good being supplied to Australia. As stated above and advised at verification, what we sell to Australia are the standardised profiles and lengths.

Milleon has provided extensive documentation during verification to show the nature of the sale to Australia and the prices paid which supports the statement just above. Further information is attached in this submission – see quotations sent to the Australian customer in 2019:

[REDACTED]

For two of the Australian customers – [REDACTED] – Milleon set the premium at [REDACTED] and it can fluctuate accordingly with the quarterly MJP (Global Billet premium). This MJP is publicly available as notified by billet suppliers and this is made known so that customers are also aware of the base billet price. Any addition for powder coating/woodgrain is based on the m2 cost of these finishes.

Included are 6 files which provide information about the Australian pricing. Please note all that relevant information was provided at verification – what is attached here serves merely to support that information:

[REDACTED]

The Adjustment sought for the special value added premium

The premium priced domestic sales are much like a level of trade difference. It is a combination of a level difference in association with distinct differences in the goods compared to the profiles that are sold to Australia.

There are no customers in Australia undertaking these functions, or requiring special value added services by Milleon. Associated with this level issue is the fact that the goods types being sold domestically which, as we have explained, do not have equivalents in the sales to Australia which are standard profiles. There is no matching, or even a similar, premium in Australian sales for similar services added.

Milleon's EQR identified levels of trade in both markets. The verification report did not have the opportunity to examine this important issue. As such, the dumping margin as calculated in the verification report for the company is presently skewed upward because the special premium pricing in one market, in not being taken into account, has artificially inflated the margin.

The result is that the prices/kg for the [REDACTED] customers are especially high because of the premium. Fair comparison is not achieved by adding this price level into a calculation for comparison to a standard profile sold to Australia. The production and sale to [REDACTED] need constant monitoring and interaction between the quality control teams from Milleon and the customer.

The evidence of the premium on price is apparent in the domestic sales data that been verified.

In spreadsheet 540 Milleon Appendix 3 the domestic sales (Tab (a)) the following price comparisons are apparent:

[REDACTED]

[REDACTED]

The ADC dumping manual states at page 71 that:

“...whether the sales are at different levels, two main issues are examined: the selling activities carried out at the different marketing stages, and the price differences between sales in the domestic market”.

And at page 70 the procedures manual notes that in the case where there is a trade level difference:

“.. normal value would be based upon those sales that are at the same trade level as the export sales and *not the total population of sales*. A normal value using comparable domestic sales would not require an adjustment to take account of level of trade.”

The Act at s269TAC states:

- (8) Where the normal value of goods exported to Australia is the price paid or payable for like goods and that price and the export price of the goods exported:
- (a) relate to sales occurring at different times; or
 - (b) are not in respect of identical goods; or
 - (c) are modified in different ways by taxes or the terms or circumstances of the sales to which they relate;
- that price paid or payable for like goods is to be taken to be such a price adjusted in accordance with directions by the Minister so that those differences would not affect its comparison with that export price

Milleon has substantiated that certain sales in the domestic market are modified in different ways by the terms, and the circumstances, as compared to the export sales to Australia. It has identified that there are very different selling activities to the [REDACTED] customers as discussed. [REDACTED] customers are, because of the special value added processes, different from all of the other domestic customers, and from all of the export customers in Australia;

- these other customers in both markets do not require or have included in their pricing any amount for special value added services, simply because such premium is not required for the standardised profiles.

Milleon submits that it has established grounds to have these particular sales treated in a manner described in the manual which is that the comparison should be undertaken without the inclusion of these identified premium sales in the normal value determination. This will achieve the proper and fair comparison as required under the Act.

This part of the manual shows what comparison markets ought to be examined if a dumping margin is to be correctly calculated. The value added services which are now well explained necessitates a premium being charged to certain identified domestic customer to recover the costs incurred. The premium is a significant one which of course raises the domestic prices by the amount of the premium added.

An adjustment is required to the normal values for above reasons to ensure prices are fairly compared. This adjustment claim only concerns the normal values for case 540. Case 541 is not affected by this claim.

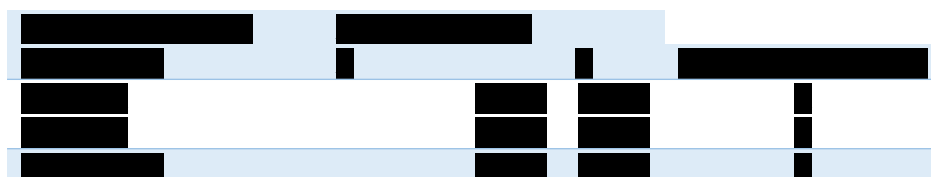
Some domestic prices to certain customers – for example [REDACTED] [REDACTED] show unit prices which are just beneath the unit prices for [REDACTED]. However, this fact does not detract from the adjustment sought for the special value added premium [REDACTED]:

- These other customers only have low quantity orders, and are low priority customers
- ADC was shown invoices during the verification which show on the invoice that low volume orders have a surcharge added. (Something not present in exports to Australia because export sales are not in small quantities. The surcharges represents a difference to exports which could have been investigated for a further adjustment).

The special value added services and goods supplied are features not present in sales to these small quantity customers.

2. Profitability test in ADC Appendix 3

In 540 Milleon Appendix 3 Domestic Sales, at Tab (c) the profitability test shows:



In the domestic sales at Tab (a), it will be noted that certain customers show a very low unit price. (For example customers [REDACTED]. Their unit prices range from [REDACTED]. These low values refer to the conversion process to Mill finish only. The cost of the billet is not included.

It is not correct to compare a price for a conversion process only at AR to a fully costed CTMS at column AS and report that as a sale at a loss.

These low priced sales should be removed from the calculation of profitability. They are not sales in the 'ordinary course of trade' in so far that typically a sale is inclusive of the cost of billet. And all export sales are inclusive of the cost of billet.

When this accounting anomaly is removed, the profitability test shows for [REDACTED]. This has important consequential changes to the normal value calculation for that model.

3. Milleon management costs in domestic sales

In the export sales to Australia in both cases 540 and 541 there is one commission agent serving as a dedicated sales agent. A commission is paid on all of the export sales for services provided by the agent.

For Domestic, there are fewer commission based agents. For example, in the case of [REDACTED] and [REDACTED] in 540 domestic sales. Some customers were introduced by an agent and their services retained. Historically however most domestic customers are long standing and their sales have been serviced by the management team.

All of the domestic sales which have had a commission fee have been identified in the domestic sales spreadsheets.

	Commission	W/o Commission	Total
	Kg	Kg	Kg
Domestic	[REDACTED]	[REDACTED]	[REDACTED]
Australia	[REDACTED]	[REDACTED]	[REDACTED]
3 rd Country	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]

It can be seen that the domestic commission agents handle about [REDACTED] of the total domestic sales. The Milleon management team is directly involved in handling all of the other customers which require services which are effectively the same as those undertaken by the local commission agents. The management team is directly involved in these sales and Milleon needs to recover their cost when selling to non- commission customers.

The management team also handles all of the sales to [REDACTED], demonstrating again that the functions they must undertake in relation to servicing sales are effectively the same as the commission agent.

Page 78 of the ADC Dumping Manual states the following about commissions:

“Commissions For commissions paid in both markets included in the prices being compared, an adjustment to the domestic sales price for the difference in those commissions is allowed. The domestic sales commission is subtracted and the export sales commission added. Where a commission is paid in only one of the markets under examination, an allowance is made for relevant selling expenses incurred in the market where the commission had not been paid. Relevant selling expenses include sales-staff salaries, associated overheads such as office, support staff, transport and communications incurred. For example, if a commission paid in the export market is included in the export price, the relevant domestic selling expenses from the domestic selling price are subtracted and the export sales commission is added”.

The intent of this statement in the manual is clear enough. It's not stating, we think, that a mere presence of one sale in a domestic market with a commission negates the purpose of taking into account the relevant sales staff expenses where circumstances warrant. A manual can't cover every circumstance and we believe that this claim accords with the principle that is being established in the ADC manual.

While there are some commission sales in Malaysia it is, as shown in the table above, covering only [REDACTED] of the total domestic sales volume, there is a majority volume of domestic sales which have to be serviced by the management team. This is a factor deserving to be taken into account when comparing sales between Malaysia and Australia.

In these circumstances it is reasonable in the interests of fair comparison that an adjustment be made for the management team cost in domestic sales, being treated as the functional equivalent of a commission agent. Milleon therefore submits that the following *deduction* be included when working out the normal value:



Milleon has reasonably and conservatively estimated that [REDACTED] of the management team time is involved in the sales to the non-commission domestic sales [REDACTED].

This is Milleon's best estimate of the effort and time the managing team spends in servicing the non-commission customers. It is similar to amounts already being deducted in the ADC normal value spreadsheets for commissions. This amount should be applied as a downward adjustment to all non-commission sales in column AM spreadsheet 540 Milleon Normal value and 541 Milleon Normal Value. That is where there is presently no value shown.

The adjustment sought for Milleon management costs for non commission sales

There should be a downwards adjustment to domestic sales prices for all-non commission sales of [REDACTED].

4. The cost involved with thickness - for powder coating

The powder coating cost has implications for a proper dumping margin calculation in case 541. This issue does not concern case 540.

Milleon produces powder coated extrusions. The normal costing method works out powder coating cost as an amount per square metre. This cost method means there is no difference between the powder cost of the exported coated extrusion as compared to the same domestically sold extrusion.

In the verification we provided information showing that the wall thickness for aluminium extrusion exported to Australia is a minimum [REDACTED]. On the other hand, the profiles sold domestically are generally [REDACTED]. Milleon has included some additional information which supports the evidence that was previously provided to the ADC. Please see these details at:

[REDACTED]

This information confirms the differences in the thicknesses between the domestic and the exported sales.

This difference has consequences when the weight is calculated. The Commission has decided that weight in kg is the appropriate unit and we note it has been long standing. However, Milleon submits that certain consequences flow from the use of the weight as a unit or measure.

The thinner profiles have a lighter weight and these are the [REDACTED]. The thicker profiles have a heavier weight and these are [REDACTED].

The attachment [REDACTED], was provided at the verification and it shows how the powder cost had been calculated [REDACTED] in both the domestic costs and the Australian costs.

The outcome is that when powder cost is worked out in kg terms, in line with the EQR, the powder cost is now [REDACTED]. This flows through to the CTMS calculations as used and the consequences flowing from a higher CTMS. For example [REDACTED]

(Whereas Milleon's actual costs are recording no difference between domestic and export powder coat costs as they are only charged an amount per m2 by their powder coater supplier and no difference occurs in their pricing for powder coat services to customers either in Malaysia or Australia).

Also, in terms of price comparison generally, the price per kg in the domestic market [REDACTED] [REDACTED] in the domestic market); and on the export market [REDACTED] [REDACTED] on average.

This outcome causes an anomaly because there is a tendency towards dumping outcomes merely as a consequence of using kg as the unit of measure. Whether this was originally intended is not known, but it is apparent that a 'distorted' effect arises from the calculation method in Milleon's view.

A model control code is unable to cover all possible differences. It seeks to identify the main differences in product specification likely to affect pricing. Thickness is not part of the model control code but this does not mean that its absence precludes the making of this adjustment concerning the powder coat cost. It should be made as part of working out a proper dumping margin.

The price and cost distortion, caused by using kg, is having an effect that does not accord with the fair comparison standard and a correction is permissible and desirable.

The adjustment sought for powder costs caused by the distortion of the unit of measure

Milleon submits that the NV for powder coated goods should be adjusted downwards [REDACTED] in order to offset this inequity from using weight as the unit.

5. The discount for [REDACTED] in 540 – second discount not taken into account

[REDACTED] is Milleon's largest domestic customer accounting for half of the total domestic sales volume for all goods. It purchases [REDACTED] and [REDACTED] sales as a proportion of the total sales of [REDACTED] is about [REDACTED].

The domestic sales spreadsheet [REDACTED] the verification report has not deducted the correct amount of discount given [REDACTED] when calculating the net invoice value. Attached is a copy of part of the spreadsheet for [REDACTED].

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Explanation of customer specific discount]

ADC in [REDACTED] has not calculated this second discount in [REDACTED]. The amount in [REDACTED] was provided to ADC at verification and was required for completeness purposes. Although there are [REDACTED] to Australia this correction needs to be made.