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PUBLIC RECORD

4 May 2020

The Director, Investigations 4
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601

By Email: investigations4@adcommission.gov.au

Dear Director,

**Press Metal International Ltd
Submission to Continuation Inquiry No 543 into aluminium extrusions exported from
the People's Republic of China**

We act for PMI.

We are instructed to make the Submission set out below on behalf of PMI in response to the initiation of the Continuation Inquiry. We submit that PMI is an "interested party" as defined in paragraph 269T(1)(b) of the Act on the basis that it exported relevant goods discussed below during the Inquiry Period and as such is entitled to provide this Submission to the ADC pursuant to paragraph 269TC(4)(c) of the Act.

For the purposes of this Submission all defined terms have the meaning set out in the attached Schedule of Definitions.

1 Background

1.1 PMI is a member of a large corporate group including having the following companies in the holding and parent company structure:

(a) [REDACTED]

(b) [REDACTED]

[REDACTED]

[COMPANY STRUCTURE]

1.2 Further details are included in attachments provided with the Exporter Questionnaire.

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- 1.3 PMI has committed significant resources to developing an extremely sophisticated production process which is discussed further below.
- 1.4 PMI participated in Anti-Dumping Investigations number 392 and Review number 304. PMI's Malaysian and Australian related companies had also fully cooperated in Investigations relating to exports to Australia from Malaysia.
- 1.5 In Review 304 PMI was treated as a selected exporter and it was found that there was no dumping or subsidisation present in relation to PMI's exports Further, PMI's Malaysian parent companies have been treated as exempt from dumping measures.
- 1.6 In Investigation 392 PMI was deemed to be a Residual Exporter by the ADC. This was the result of the ADC's use of a sampling method. We note PMI has objected in the past to being treated as a residual exporter and maintains that objection for the reasons set out below. It would appear that the only cause for PMI receiving a dumping margin for imports was because it was treated as a residual exporter and it would be inappropriate for it to be treated that way in this instance.

2 PMI's Business

- 2.1 PMI has been supplying Australian customers since 2006.
- 2.2 PMI is a manufacturer and supplier of aluminium alloy products of varying sizes, lengths, and wall thicknesses in [REDACTED] [ALLOYS] included:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[PRODUCTS]

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2.3 Further information in relation to PMI's goods has been provided with its response to the Exporter Questionnaire. Please also refer to the **enclosure** marked "*PMI Presentation*". Please note this enclosure is confidential.

2.4 PMI is also significantly involved in supplying the Australian [REDACTED] [INDUSTRY] with specialised aluminium extrusions. The Australian [REDACTED] [INDUSTRY] is a unique and important industry in Australia with specific technical and mechanical requirements for the purposes of manufacturing vessels.

[REDACTED]

[INFORMATION IN RELATION TO PMI'S CUSTOMER BASE]

[REDACTED]

[PMI PRODUCTION AND DEVELOPMENT PROCESS]

2.7 PMI also has a very well established business in both China and Malaysia. PMI is a well-known, high quality supplier in the Chinese domestic market and supplies businesses ranging from the [REDACTED] [INDUSTRIES]

[REDACTED]

[PMI PRODUCTION PROCESS]

2.9 PMI produces extrusions using [REDACTED]s [ALLOY] alloy with development capabilities for those alloys. PMI has invested significantly in sophisticated automation techniques which has resulted in efficient and high quality production processes.

[REDACTED] PMI also has significant and sophisticated research and development capabilities including a national certification and accreditation laboratory. [REDACTED]

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[REDACTED]
[INFORMATION IN RELATION TO PMI'S RESEARCH CAPABILITY]

- 2.11 Further, PMI's research and development team is comprised of experts who are professors, PhDs and senior engineers. This commitment to high quality research and development allows PMI to produce high quality, precision products and make it a leading producer of aluminium products.

[REDACTED]
[PMI ACCREDITATIONS]

- 2.13 We consider the above to indicate that PMI is a reputable and sophisticated manufacturer of aluminium products with particular and specialised knowledge in the broader industry.

3 **PMI as a selected exporter**

- 3.1 We note that currently, PMI is being treated as a residual exporter. Our client considers it appropriate and reasonable for PMI to be treated as a selected exporter.
- 3.2 Section 269TACAA of the *Customs Act 1901 (Act)* which provides that if there is an anti-dumping investigation, review or inquiry underway and the number of exporters from a particular country is so large that it is not practicable to examine the exports of all of those exporters then the investigation, review or inquiry may be carried out and findings may be made based on information obtained from a selected number of exporters who constitute:
- (a) a statistically valid sample of those exporters; and
 - (b) who are responsible for the largest volume of exports to Australia that can reasonably be examined.
- 3.3 However, section 269TACAA of the Act also provides that if information is submitted by an exporter not initially selected for the purposes of an investigation, review or inquiry the investigation review or inquiry **must** extend to that exporter unless to do so extend would prevent its timely completion.

[REDACTED]
[INFORMATION IN RELATION TO PMI'S MARKET SHARE]

- 3.5 PMI has also fully cooperated with this Inquiry and previous investigations and is actively committed to continuing participation. Further, as the ADC will note, PMI has provided a significant amount of information in response to the Exporter Questionnaire on which the ADC may rely in proceeding with this Inquiry.

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3.6 We note that certain exporters can be considered Residual Exporters however, do not consider that to be the most appropriate designation for PMI in the circumstances. Further, as discussed above, if PMI were treated as a residual exporter in this Inquiry this would lead to the perverse and unintended outcome that an exporter with specialised goods which arguably should not fall under the GUC and with exports that are unlikely to be causing any alleged material injury will have a significant dumping margin imposed on it.

3.7 Accordingly, we request that PMI be treated as a selected exporter for the purposes of this Inquiry.

4 Excluded Goods

4.1 PMI manufactures bespoke and high specialised aluminium extrusions known as “T-Bars”. The T-Bars have the following properties:

[REDACTED]

[T-BAR SPECIFICATIONS]

4.2 We have **enclosed** photographs of the T-Bars marked “*T-Bar Photographs*” for the ADC’s reference. Please note this enclosure is confidential.

[REDACTED]

[INFORMATION IN RELATION TO T-BAR USE]

[REDACTED]

[SPECIFICATIONS AND USE OF T-BARS]

[REDACTED]

[CONFIDENTIAL CUSTOMER INFORMATION]

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4.6 Additionally, the GUC and more specifically the goods manufactured by Capral, which have been discussed at length in previous investigations and reviews, are more generic extrusions designed for broad commercial uses with a limited production of speciality items. While the T-Bars may technically fall within the description of the GUC, they should not be subject to any measures which are put in place in this Inquiry as they should be excluded from the GUC due their nature as speciality products.

[REDACTED]
[CONFIDENTIAL CUSTOMER INFORMATION]

4.7 Accordingly, we request that the ADC confirms that the T-Bars will be exempted from the description of the GUC.

5 **Australian industry and material injury**

5.1 Capral has claimed in its Application, and the ADC has accepted in the Dumping Notice, that there are reasonable grounds for asserting that the expiration of the anti-dumping measures might lead to the continuation or reoccurrence of the alleged material injury.

5.2 We are instructed that our client does not consider it to be reasonably likely that any material has been caused or will continue to be caused by the export of its goods to Australia.

5.3 PMI supplies specialised goods to the Australian market and does not compete in the broader commercial market. In terms of marketing, [REDACTED]

[PMI CUSTOMER BASE]

5.4 Please note, further information will be provided by PMI with the Supplementary Exporter Questionnaire in relation to the Australian market by 11 May 2020.

5.5 Further, due to the specialised nature of the goods exported by PMI to Australia it is extremely unlikely that PMI's goods are the cause of any alleged material injury that may have been suffered (which we dispute) by the Australian industry could not have been caused by PMI's imports.

5.6 Further, it is highly likely that, due to the nature of PMI's specialised imports its export volumes will make up a negligible proportion of total exports of the GUC to Australia from China. Please refer to section B-2 "Australian Sales" of the Exporter Questionnaire material which states that PMI's total export volume for the Inquiry Period is [REDACTED]. [KILOGRAMS] Accordingly, those exports should not be considered a cause of any alleged material injury with may have been suffered (which we dispute) by the Australian industry.

5.7 As such, we request that the Inquiry be terminated as against PMI.

6 **Capral's Application**

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- 6.1 Capral states in its application that it has constructed normal values due to previous findings by the ADC that a Particular Market Situation exists in China. We note that Capral has also not been able to include certain costs, such as inland freight, in its calculations as it does not have access to that information. Further, other costs such as packaging have been estimated by Capral. As Capral does not have access to the complete and accurate information needed to calculate constructed normal value.
- 6.2 We request that the ADC carefully review any such calculation in making its assessment as well as fully assessing if a Particular Market Situation in fact exists in China.
- 6.3 The ADC has noted in the Dumping Notice that Capral has claimed, among other things, that:
- (a) Chinese exporters have retained distribution links to Australia and that imports from China have increased by 45% since the measures were continued in 2015;
 - (b) There was a high level of participation by Chinese exporters in Review number 482 and a number of requests for accelerated review which Capral claims indicates an intent to continue to export to Australia;
 - (c) Measures are in place in other jurisdictions and are designed to curb Chinese imports in those jurisdictions. Capral claims that this indicates that Chinese producers have excess capacity;
 - (d) The Chinese Government continues to provide significant subsidies to Chinese producers;
 - (e) The most recent Review number 482, imposed significant dumping margins ranging from 15% to 95%; and
 - (f) Capral has experienced material injury during the 2018/19 financial year as a result of allegedly dumped Chinese imports and this is likely to continue.
- 6.4 In response to those claims we submit as follows:
- (a) We note that imports to Australia from China of the GUC have continued however, this does not necessarily indicate that dumping is occurring, and it certainly does not prove that material injury is being caused by those imports. We also note that Chinese imports appear to have increased since 2016. It should be noted that ChAFTA came into force in December 2016 and it is highly likely that the effect of this FTA has been to increase imports from China to Australia and is in fact designed to increase those imports;
 - (b) While there have been a number of accelerated review applications made by Chinese exporters and there was a high level of participation in the Review number 482 this indicates a positive level of cooperation and participation by Chinese exporters in the Australian dumping regime and processes. Our client considers this to reflect healthy competition in the international trade market;

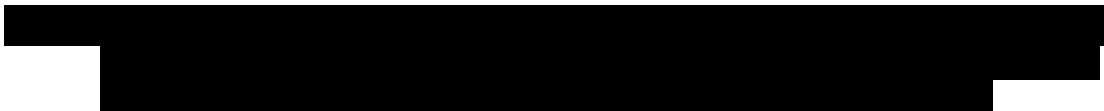
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- (c) The fact that measures are in place in other jurisdictions does not automatically suggest that Chinese exporters have excess capacity nor does it mean that Chinese exporters would increase supply to Australia. Exports to Australia are dependent in supply and demand in the local market. Chinese exporters will not simply increase supply without a corresponding increase in demand even if measures are in place in other jurisdictions;
- (d) While the margins found to apply in Review 482 appear to be somewhat significant, the ADC will be provided with new and detailed data which is likely to alter any margins which may be imposed. As discussed above, any margin applied to PMI should be based on the actual and detailed data provided by PMI with its Exporter Questionnaire and the residual exporter margin should not apply to PMI; and
- (e) We have addressed the question of causation of material injury above in respect to PMI's exports above.

7 Conclusions

- 7.1 PMI is a reputable, sophisticated and specialised manufacturer of a wide variety of aluminium products. PMI has cooperated fully with this Inquiry and provided detailed and clear data which can be verified by the ADC. Accordingly, we consider it appropriate for PMI to be treated as a selected exporter in this Inquiry.



[CONFIDENTIAL CUSTOMER INFORMATION]

- 7.3 PMI's goods are not generic aluminium profiles and are instead complex and bespoke goods which are valued for their high quality and precise application. Accordingly, our client submits that its goods should not otherwise be captured by the GUC. Further, PMI considers it appropriate for the T-Bars to be excluded from the description of the GUC as they are a highly specialised and bespoke product which, to our client's knowledge is not produced by the Australian industry.
- 7.4 PMI's export volume should be considered negligible as compared to other exporters due to its specialised nature and the Inquiry should be terminated as against it as it could not be causing the alleged material injury to the Australian industry.

We would be pleased to provide the ADC with any further information it may require.

If you have any queries, please do not hesitate to contact our office.

Yours faithfully

Andrew Hudson
Partner

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Schedule of Definitions

Act means the *Customs Act 1901*

ADC means the Anti-Dumping Commission

Capral means Capral Limited

ChAFTA means the China-Australia Free Trade Agreement

China means the People's Republic of China

Dumping Notice means Anti-Dumping Notice No. 2020/17

Exporter Questionnaire means PMI's Exporter Questionnaire submitted to this Inquiry

FTA means Free Trade Agreement

GUC means Goods Under Consideration

INCAT means INCAT Australia Pty Ltd

Inquiry means the Investigation into the Continuation of anti-dumping measures for aluminium extrusions exported from the People's Republic of China Number 543

PMI means Press Metal International Ltd

Residual Exporter has the same meaning as set out in the Act

Selected Exporter has the same meaning as set out in the Act

Submission means PMI's submission to the Inquiry

Supplementary Exporter Questionnaire means the Supplementary Exporter Questionnaire to be submitted by 11 May 2020 to this Inquiry