

18 March 2020

The Director
Investigations 3
Anti-Dumping Commission
GPO Box 1632
Melbourne Victoria 3001

Email: investigations3@adcommission.gov.au

Public File

Dear Sir/Madam

Investigation No. 543 – Continuation of measures on aluminium extrusions exported from The People’s Republic of China – Circumvention activities

Capral Limited (“Capral”) seeks to highlight with the Anti-Dumping Commission (“the Commission”) recent compliance breaches detected by Australian Border Force (“ABF”) that is central to the issue of the continuation of anti-dumping duties on aluminium extrusions exported from The People’s Republic of China (“China”).

The Commission has previously conducted two anti-circumvention investigations on aluminium extrusions exported from China. In Investigation 241, certain importers were identified as having circumvented the intended effect of the dumping and countervailing duties by failing to recover the full cost of the goods and duties when selling the imported goods into the Australian market. In Investigation 441, Chinese exporters the subject of measures were found to have transhipped aluminium extrusions to Australia through other countries including Malaysia, Taiwan and Thailand.

Recently, ABF has identified instances of dumping duty evasion on aluminium extrusions exported from China. The recent examples are as follows:

- (i) By media release of 21 March 2019 the ABF confirmed it had identified a Sydney-based fabrication business that falsely declared the origin and value of the aluminium extrusions shipment imported via Thailand. ABF issued penalties and recovered shortfalls in duties owed (refer Non-Confidential Attachment 1).
- (ii) By media release dated 27 June 2019 the ABF confirmed that it had issued duty demands totaling more than \$15 Million to combat duty evasion on aluminium extrusions. The investigation was conducted over a two year period with aluminium extrusions used to mount solar panels a primary source in the identified duty evasions (refer Non-Confidential Attachment 2).
- (iii) On 18 December 2019 the ABF confirmed that a Queensland solar panel wholesaler had been ordered to pay more than \$1 Million in shortfall dumping duties and gst based upon imports of aluminium extrusions over a four-year period (refer Non-Confidential Attachment 3).

The foregoing highlights the dumping duty evasion that has occurred whilst anti-dumping measures are in force. Combined with the previous anti-circumvention investigations that have confirmed Chinese exporters have sold goods at levels that did not reflect the intended effect of the measures and circumvented by transhipping Chinese goods via third countries, it is evident that Chinese manufacturers

of aluminium extrusions continue to seek to supply the Australian market even with the measures in operation.

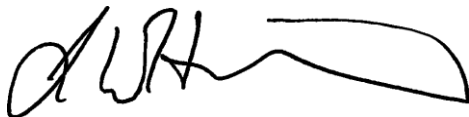
It is Capral's concern that should the measures be allowed to expire on 28 October 2020, and given the significant trade barriers in operation on Chinese exports into Canada, Mexico, the USA and potentially the European Union, there exists a high probability that Chinese exports to Australia would escalate in the absence of anti-dumping measures.

Capral re-affirms its request in its application for the continuation of measures that there can be little doubt that should the anti-dumping measures applicable to exports of aluminium extrusions from China be allowed to expire there is a very high likelihood that the Australian industry would experience a recurrence of dumping and subsidisation, and material injury, that the measures are intended to prevent.

Capral reiterates its request to the Commissioner that he recommend to the Minister for Industry, Science and Technology to not allow the measures to expire on aluminium extrusions exported from China on 28 October 2020.

If you have any questions concerning this letter, 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

Aluminium importer fined for Dumping Duty deception

21-03-2019 -

A Sydney-based fabrication business has been ordered to pay more than \$67,000 in penalties and recovered Duty and GST following an investigation by the Australian Border Force (ABF) into the importation of Chinese aluminium products through Thailand.

The investigation by ABF Customs Compliance Operations focused on an import declaration last December for just under 15 tonnes of aluminium sections shipped into Sydney in a sea container.

The investigation uncovered three false and misleading statements, which included a false declaration regarding the origin of the goods, to avoid the payment of Countervailing Duty, Dumping Duty and Customs Duty.

The Australian Government imposes Countervailing Duty and Dumping Duty to combat the dumping of low priced overseas goods below their "normal value" which causes, or threatens to cause, material injury to an Australian industry.

The shipment was also under-valued. The false and misleading statements caused a shortfall of \$35,722 in Duty, and a further \$4,676 in GST.

On top of paying the under-declared Duty and GST the company received a penalty of \$26,791 – the equivalent of 75 per cent of the Duty shortfall. In total it was required to pay \$67,189.

ABF Acting Commander Malcolm Phelps said the case was a reminder for all businesses of the requirement to correctly declare their imports.

"At the end of the day importers who don't pay the correct amount of duty and GST are depriving the Australian economy and ultimately Australian taxpayers," Acting Commander Phelps said.

"In this case, considerable effort was made to route the consignment through Thailand to conceal the fact that it originated in China.

"ABF Customs Compliance Operations officers work diligently to ensure importers comply with reporting and revenue collection requirements so there's a level playing field for both industry and consumers.

"Failure to comply can result in severe penalties, or the suspension or cancellation of licences and potentially prosecution."

As Australia's customs service, the ABF has made trade enforcement one of its key operational priorities.

Information to help businesses comply with their obligations is available at

<https://www.abf.gov.au/>

Media contact: Australian Border Force (02) 6264 2211

ABF tightens the screws on aluminium dumping

27-06-2019 -

The Australian Border Force (ABF) has issued duty demands of more than \$15 million to combat duty evasion on aluminium from China. The ABF announced these results as part of an ongoing two year investigation into the dumping of aluminium extrusions, mostly used to mount solar panels, in the Australian marketplace.

Dumping occurs when an exporter sells goods to Australia at a price that is below the normal value of the goods and undercutting Australian providers.

ABF officers have recently executed warrants on four solar entities across Sydney and Brisbane, and issued the duty demands in response to that. Related operational activity has also occurred on vessels arriving into Fremantle in Western Australia.

ABF Assistant Commissioner Erin Dale said the ABF was committed to protecting Australian businesses by ensuring the integrity of duty measures was not undermined by dumping activity.

“Customs and trade enforcement are key priorities for the Australian Border Force, and we work closely with our national and international counterparts. This investigation aims to detect and deter the dumping of aluminium extrusions into the Australian market, undercutting Australian providers,” Assistant Commissioner Dale said.

“As a result of this ongoing operation, more than 60 containers have been examined resulting in more than two million dollars of revenue collected. Multiple companies that were deliberately created to deceive the ABF have also been shut down and several visas have been referred for cancellation.

“This investigation is very much live and ongoing – and we would like to send a strong message to those attempting to smuggle these items into Australia while avoiding duty. The ABF is aware of these attempts and is working very hard with industry and partner agencies to combat them. When you are caught, you will face the full force of the law,” Assistant Commissioner Dale said.

The attempts have allegedly included transshipping aluminium to Australia via third countries that do not attract dumping duties such as Indonesia and Singapore. Further action against those involved in this activity is likely, with the investigation continuing to uncover information on those smuggling, evading duty and providing false statements.

Anyone with information about possible illegal activity at the border is encouraged to report it to ABF’s Border Watch program by visiting www.Australia.gov.au/borderwatch. Information can be given anonymously.

Solar companies burnt \$1.3 million for duty evasion

18-12-2019 –

A Queensland solar wholesale business has been ordered to pay more than \$1 million in recovered Duty and Goods and Services Tax (GST) following an investigation by the Australian Border Force (ABF) into the importation of Chinese aluminium rails used to mount solar panels.

The investigation by the ABF Compliance Audits Unit focused on a number of consignments imported into Brisbane over a four year period.

The investigation found aluminium rails had been falsely declared as other aluminium products to avoid the payment of Countervailing Duty, Dumping Duty and Customs Duty.

The Australian Government imposes Countervailing Duty and Dumping Duty to combat the dumping of low priced overseas goods below their 'normal value', which causes, or threatens to cause, material injury to an Australian industry.

In this case the misleading statements caused a shortfall of \$186,618 in Customs Duty, \$247,823 in Dumping Duty, \$564,507 in Countervailing Duty and a further \$99,387 in GST.

In total, the company was ordered to pay \$1,098,336.

In a separate case, a national solar energy company based in Victoria has been ordered to pay more than \$280,000 for also trying to evade Dumping and Countervailing Duty.

The investigation focussed on the misclassification of solar mounting kits imported into Australia from China between 2015 and 2018.

ABF Acting Commander Susan Drennan said the ABF was targeting businesses that deliberately and deceptively tried to avoid trade remedy measures.

"Our Customs Compliance Operations officers work diligently to ensure importers comply with reporting and revenue collection requirements so there's a level playing field for both industry and consumers," Acting Commander Drennan said.

"Importers who don't pay the correct amount of duty and GST are depriving the Australian economy and ultimately Australian taxpayers."

As Australia's customs service, the ABF has made trade enforcement one of its key operational priorities.

Information to help businesses comply with their obligations is available at <https://www.abf.gov.au/>

Media contact: Australian Border Force (02) 6264 2211