

Refutation of the Continuation of Dumping Measures Ref 543

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Dumping Strategy Misguided

Will Dumping or subsidization continue or recur

Capral claims in submission 543 paragraph 4 page 1 that without the absence of measures, dumping will occur in Australia. Although, in contradiction of this, as per key points of Productivity Commission Inquiry Report No 48, D.1 page 187, is that dumping is 'similar to the sort of price discrimination that is observed and sanctioned in other market contexts'. Very few of the anti-dumping and countervailing measures currently in force in Australia apply to suppliers likely to be able to exercise market power were the local competitor or competitors will cease operations. A prime example of this is Darley Aluminium, this company imports many extrusions with little or no dumping duties imposed.

Capral's information on Report 482 figure 5 clearly defines details of Capral's increase in profitability, market share and sales during and at the end of the analysis. It states that Capral has not been able to maintain its "spread" and achieve a "desirable price". This means there is competition in the marketplace from local and overseas. This is only healthy market conditions, that affect nearly all businesses operating in a competitive market. The overseas suppliers are not strangling Capral, otherwise it would find sales, market share and profitability in decline, refer Report 482 figure 5 FY16. Capral is using the 'dumping' strategy initiative to increase profits and further harm other competitors by imposing further dumping taxes on competitors even when Capral is making year on year increased profits and sales.

If downstream industries like Classic Blinds are given larger benefits by local suppliers through normal commercial transactions, then local supply becomes a viable alternative. Examples of this include, DIFOT, good quality product and competitive pricing. Although Capral don't try and create business opportunities with small and mediums businesses, they strategically attack overseas suppliers of businesses claiming loss of 'profit' and 'price depression', although their reporting as per their figures and by the commissioners own admission in Report 482 para 7. 4.5, claim otherwise.

Significantly, for almost all of goods subject to measures in Australia, there have been multiple sources of global supply, for example, China, Indonesia, Vietnam and Malaysia. In reflection, most inquiry participants acknowledged that countering predatory behaviour is not the focus of Australia's anti-dumping system as per productivity Report 48. This realistically counters Capral's claim that the 'dumping' of material will directly impact their profitability and that Chinese suppliers are 'dumping' material to try to remove Capral from the Aluminium extrusion market. There is no question that the GOC influence supplier and financial aspects of aluminium suppliers in China, as per TAD/RC (2018)/5 Final Report, but how this equates in terms of taxation amount per supplier is hard to justify and calculate. Without concrete evidence to produce a company by company tax rate the system needs to target the respective industry and country of origin and not target driven by the local market competition creating false 'injury' claims when LME is decreasing over time refer to LME graphs figure 1 and 2. Whist the system could investigate each company in terms of GOC ownership and SOE benefit, like reduced loan rates, but this would become a financial and time burden to run such a system in Australia.

Anti-dumping actions by other countries

Capral attempts to make the connection that other countries impose anti-dumping measures on China, but this connection fails to bring about the differences in review procedures and an ability of other systems to provide a public interest test. Further Capral doesn't conclude how taxation percentages are calculated. See below the differences of other countries processes and checks before an anti-dumping measure is created.

Both Canada and EU have public interest tests of the proposed dumping measure and this is what Classic Blinds would like to see implemented, due to Capral's inability to provide sufficient supply and technical expertise to all aluminium extrusions required by Australian businesses.

	Australia	New Zealand	USA	Canada	European Union	India
Bifurcated Administration	No	No	Yes	Yes	No	No
investigating Authority: Dumping and Subsidisation	Australian customs and border Protection service	Ministry of Economic development	United States Department of commerce	Canada Border services agency	European Commission	Ministry of Commerce
investigating Authority: Injury and casual link						
Target Investigation timeframe (days)	155	180	280	210	365	365
Treatment of China	Market Economy	Market Economy	Non- Market Economy	Starting presumption of Market Economy	Economy in transition	Economy in transition
Public Interest Test	No	No	No	Yes	Yes	No
Decision maker on imposition of measures	Minister	Minister	United States International Trade Commission	Canadian International trade tribunal	Council of Ministers	Ministry of Finance
Merit and judicial review						
Lesser duty	Yes	Yes	No	Yes (as part of the public interest test)	Yes	Yes

Source: Productivity Commission Inquiry Report No 48

Classic Blinds would like to see an introduction of the public interest test. This test would bring into question the downstream effects of placing a large tax levy on a single supplier, leaving others untouched. The reason for this questioning is that it is impossible to create strategic sourcing and partnerships with overseas suppliers when every 12 months there could be a large unquantifiable cost increase imposed by a governing body. See below a diagram depicting a typical (high level) timeline of overseas supply on an aluminium extrusion.

General strategic Sourcing time-line



Questionable data and inconclusive analysis

As per the manual, when calculating a dumping measure (tax) the price of the item/ material in the local manufacturing country is compared with the sold value of the item/material in Australia. If this cannot be ascertained and it can't be due to the lack of data, the Commission considers all relevant economic factors and indices. Whist these factors cannot be calculated, it is considered as per Capral's Submission and per the Commission Report 482 that the GOC is providing the Chinese aluminium industry subsidies to produce at a cheaper rate. Capral has tried to create a nominal value of the items manufactured in China using the methodology from Report 482. Although there is no real calculation data and the actual prices have been fabricated, due to Carpal's own admission that they have no local transport costing data, nor data on the level of GOC and SOE pricing involvement and assumptions must be made. The local costs calculated by the Commission in Report 482 was from data provided by cooperative exporters as the

commissioner couldn't provide any other data due to the influence of GOC on local pricing. Therefore, the pricing data submitted by Capral must be discredited.

As per paragraph 7.4.5 Report 482 the Commissioner states:

“The Commission is of the view that overall measures have been effective in remedying injury from dumping and subsidisation, noting that for the majority of the injury period Capral has been profitable. This contrasts with the injury period for the original investigation which imposed measures (INV 148) where Capral was consistently making growing losses. However, the Commission considers that the Australian industry's economic performance has continued to experience pressure in terms of price depression, price suppression, profit and profitability. The volume of market share achieved by Australian industry decreased at the same time as market share for Chinese exports, including Zhongya, increased”.

Noted that the above paragraph defines the word 'view' and no actual data is present to define otherwise. This cannot explain why Capral has continued to make profits and sales growth year on year. This doesn't align to a company who is experiencing price depression, profit and profitability. Refer figure 5 of Report 482.

As per paragraph 4.7.3.2 of Report 482 the Commissioners report defines quite a concerning stance on the review process. The Report submission date seems to be 'critical path' in the process, rather than fair and equitable data analysis. One would expect a governing body to be more interested in reviewing the data submitted as this directly affects Australian jobs.

Capral's data (Report 543 (ii)) has defined that the Chinese suppliers had not reflected an increase of LME pricing during the review period of Report 482, but as you can see below the LME for aluminium was in a period of decline during the review period. This fact alone proves the existence of erroneous data provided by Capral. This shows that Capral creates a false 'injury' period where in fact prices are dropping due to a decrease in LME across the board.

Figure 1

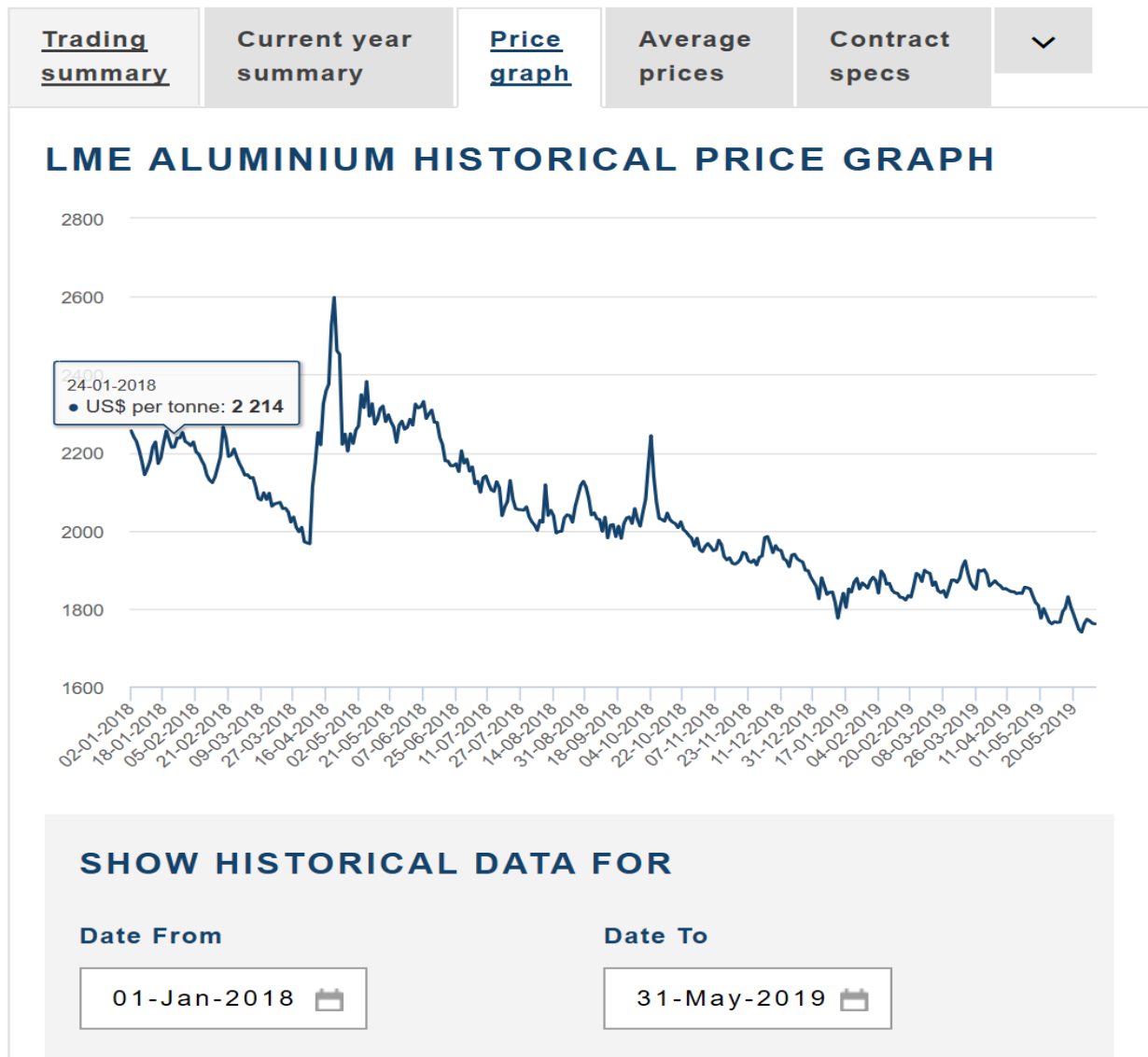


Figure 2

LME ALUMINIUM



Data from <https://www.lme.com/en-GB/Metals/Non-ferrous/Aluminium#tabIndex=2>

Capral defined that in Report 543 the Australian industry has experienced a deterioration of profit and profitability over the last two years, which has been heavily influenced by the 45% increase in imports from China (iii) conclusions. Although information as per figures 1,2 and 5 in Report 482 would suggest that again the statements as per 543 in the continuation request have no substantial data behind them.

Report TAD/TC(2018)5/FINAL defines in box 5.1 the challengers of reviewing company data in terms of data and transaction errors within a large organisation and then further by external tampering by external forces. See box 5.1 extract below.

Box 5.1. Challenges in using company data: the example of the China Hongqiao Group

The Shandong-based China Hongqiao Group ("Hongqiao") has moved in 20 years from producing jeans and denim to being the world's largest producer of primary aluminium by volume and capacity. This growth has been fast by industry standards, raising questions as to its drivers and sustainability.

An anonymous short-seller report released in November 2016 asserted that the high profit margins reported by Hongqiao (on average 18% over the 2011-15 period; see Figure 3.1 for an industry benchmark) were hiding costs and debt that had been moved off the company's books (Anonymous, 2016[48]). The Report noted in particular, what it perceived as inconsistencies in the financials, whereby Hongqiao was able to post record-high profit margins while at the same time reporting massively debt-funded, negative cash-flow (*ibid*).

This was followed by the release in February 2017 of another report by short-seller Emerson Analytics, which also alleged that Hongqiao had been "under-reporting debt and receiving related-party subsidies" in order to appear more profitable (Emerson Analytics Co. Ltd., 2017[49]). The release of that Report caused Hongqiao's stocks to collapse, prompting the company to halt public trading at the Hong Kong stock exchange (Reuters, 2017[50]). Hongqiao reacted by issuing a report of its own in which the firm sought to explain why its electricity costs were lower than those of its Chinese competitors (e.g. Chalco), and how it was able to obtain inputs such as coal and alumina for below-market prices (China Hongqiao Group Limited, 2017[6]).

Hongqiao's refusal to submit to an independent investigation to counter the allegations led Ernst & Young to resign as Hongqiao's auditor (Ernst & Young had assumed that role when Deloitte resigned in 2015). Unable to produce an annual Report for 2016 in the spring of 2017, the company turned to Hong-Kong-based auditing firm Baker Tilly Hong Kong Risk Assurance Limited (BT Risk Assurance), which also subsequently resigned (Aluminium Insider, 2017[51]). Hongqiao eventually hired a fourth auditing firm, Shinewing (HK) CPA Limited, to complete its 2016 annual Report and financials.

The present study does not seek to endorse any view in the allegations made against Hongqiao. The above example serves, however, to highlight that the use of firm-level data is not immune to data-quality problems.

This adds value to the argument, while company data can be reviewed, it is prone to external and internal forces which can be corrupted intentionally or unintentionally.

Will the material injury recur in the absence of measures and a fair way forward?

The data from OECD that Capral references in Report 543 does in fact show many countries provide subsidies for aluminium production and GOC involvement in this worldwide scheme is somewhat of a larger proportion. But due to the false and easy manipulated data from Australian and Chinese suppliers during the review process of their submissions, it makes the measures and tax rates very hard to calculate and provide evidence of the actual injury. Further, in terms of measures on the industry there are operational aspects which in turn lead to a system with flaws, refer paragraph 4.2.2 Report 482 in which reviews of companies are limited to:

- the level of cooperation from the selected exporters;
- the number of other exporters seeking an individual examination; and
- the available resources within the Commission to undertake individual examination which in relation to this review would have involved on-site or remote verification.

This leads to a system which is unable to review each supplier accurately to provide 'injury' analysis and subsequent dumping measures per company. As previously shown much of the data is erroneous and incomplete, thus putting a lot of doubt in the 'injury' to the local aluminium business from the respective supplier. The current system is more of a political review ensuring that Chinese suppliers don't create a monopoly of the global market controlling the global aluminium trade. It is important to ensure that global manufacturing of aluminium is maintained in many countries to ensure one country doesn't control many downstream industries' global supply of a much sought-after raw material.

Although a system needs to be maintained in the interest of a political nature, the amount of injury observed currently is negligible due to Capral increasing profits and sales in recent years, figures 5 and 2 Report 482. Thus, with increased profits Capral still claimed further 'injury' and duty rates and measures were reviewed and subsequently increased on certain overseas suppliers, Report 482, 1.4.3.

The system needs to be streamlined to provide a level market for all aluminium producing countries by reviewing and aligning a tax on the amount of SOE and government influence present in the respective countries and also to include a public interest test, thus ensuring the measures imposed don't in fact create their own injury.

Maintaining the current system and creating a 5-year continuation would not provide a great service for many industries and Australian jobs reliant on choices in overseas and local supply chains and procurement options that create healthy market conditions. The evidence in the document shows data ambiguity and a failure of the current system to accurately control 'predatory' dumping.

I propose that the current effective duty rates in place are reviewed on a GOC involvement level in aluminium production subsidies. Then set at an 'across the board' pre-determined value frozen for a period of 1 year, until a new more transparent and fair system to downstream businesses can be implemented.

References

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OCED Report TAD/TC(2018)FINAL published on 8 January 2019

LME <https://www.lme.com/en-GB/Metals/Non-ferrous/Aluminium#tabIndex=2>