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Page: 1/7

PUBLIC RECORD

25 June 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
NON-CONFIDENTIAL

We are instructed to make the following further submission on behalf of Press Metal International Ltd (**PMI**).

1 Selected Exporters

- 1.1 We refer to the ADC's File Note published on the EPR on 27 May 2020 (**File Note**).
- 1.2 The File Note states that the ADC will only consider those exporters it selected at the start of the Inquiry to be Selected Exporters. The ADC states that it will not consider other exporters, including PMI, as a Selected Exporter. The ADC has stated that it believes that considering additional exporters as Selected Exporters would prevent the timely completion of the Inquiry.
- 1.3 We are instructed that our client does not agree with this assessment. We note that the ADC has made this determination in part based on the current requirements for verification as a result of the COVID-19 pandemic.
- 1.4 We also note that 5 of 6 selected exporters returned completed Exporter Questionnaires. Further, and as previously discussed, PMI has provided detailed and verifiable responses to the Exporter Questionnaire on which the ADC can rely. The ADC has stated that "several other exporters have also provided responses to the exporter questionnaire" however, the ADC has not specified how many additional exporter questionnaires were received.

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Our ref: ATH:20191896
Your ref:

Letter to: Anti-Dumping Commission
Page: 2/7

- 1.5 We also understand that, based on our experience in other investigations, the desktop verification process involves the completion of a verification pack on a staged timetable. The ADC is able to set this timetable. Further, we note that the time to publish the SEF has been extended by the ADC.
- 1.6 It appears based on our review of the EPR, Foshan Shunde Beijia Jiawei Aluminium Factory did not return a completed exporter questionnaire. It also appears based on the documents published on the EPR that only PMI and Fujian Minfa Aluminium have provided completed exporter questionnaires in addition to the selected exporters.
- 1.7 We not consider it reasonable for the ADC to determine that the completion of the Inquiry would be delayed if 7 exporters underwent the verification process as opposed to the 6 originally contemplated by the ADC. This is particularly the case in circumstances where the ADC indicated initially that it would be open to expanding the scope of the Inquiry to include other exporters and where failure to do so would likely lead to cooperative exporters being subjected to a significantly higher dumping margin than selected exporters if the measures are continued.
- 1.8 As such, we repeat PMI's request to be considered a selected exporter for the purposes of this Inquiry and otherwise reserve all of PMI's rights in that regard.

2 **Submissions to the Inquiry**

2.1 We refer to the following submissions published on the EPR:

- (a) Capral ASX Announcement;
- (b) Capral's Exporter Briefing;
- (c) Capral submission on threat of material injury; and
- (d) Capral's submission in response to PMI.

2.2 We are instructed to respond to each document as set out below.

3 **Capral's submission in response to PMI**

- 3.1 We refer to Capral's submission in response to PMI's Submission dated 12 June 2020. We are instructed to respond as set out below.
- 3.2 We have addressed Capral's and the ADC's position on PMI being treated as a residual exporter in section 1 above. We also address Capral's comments in relation to the alleged threat of material injury in section 6 below.
- 3.3 Capral has submitted that PMI's request that its T-Bars be exempted should not be accepted by the ADC as Capral asserts that the purpose and scope of the Inquiry is to determine if the measures should continue. Capral submits that investigations as to whether goods should be exempted from measures are conducted separately to dumping investigations or inquiries.

RIGBY COOKE LAWYERS

Our ref: ATH:20191896
Your ref:

Letter to: Anti-Dumping Commission
Page: 3/7

- 3.4 While we note that a separate process for exemption applications is available, it is within the power of the ADC in a continuation inquiry or other investigation to determine that certain exporters or certain goods are exempted from measures. Further, it is open to the ADC to determine that the T-Bars do not fall within the description of the GUC.
- 3.5 We note that Capral has stated broadly, that it is able to produce T-Bars. Capral refers to catalogues and brochures on its website, specifically pages 34 and 35 of the Extrusion Die Catalogue. The Extrusion Die Catalogue states that Capral's alloy range includes 6005A, 6060, 6061, 6063, 6082, 6082B, 6101, 6106 and 6351.
- 3.6 We are instructed by our client and informed by its customer, [REDACTED] [PMI'S CUSTOMER] that the T-Bars produced by PMI are required to be extruded from [REDACTED] [NUMBER] series aluminium due to the mechanical and structural advantages of that alloy for use specifically in the construction of marine vessels. We have provided more detail in relation to [REDACTED] [PMI'S CUSTOMER] requirements in our Submission on behalf of PMI.
- 3.7 [REDACTED] [PMI'S CUSTOMER] has also informed us that it is its understanding that Capral does not produce T-Bars to its specifications and that those T-Bars cannot be sourced locally. Capral's own promotional material also appears to suggest that it does not produce T-Bars using [REDACTED] [NUMBER] series aluminium and that it does not produce goods to the specifications required by [REDACTED] [PMI'S CUSTOMER].
- 3.8 Accordingly, we repeat our client's request for the T-Bars produced by PMI to be excluded from the description of the GUC.

4 Capral's Exporter Briefing

- 4.1 We note that in Capral's submission titled "Exporter Briefing" it restates its position that a particular market situation exists in China and submits that constructed normal values should be used in this Inquiry.
- 4.2 We note that Capral has largely relied on findings in previous investigations and that it has constructed its own normal values in its application. We refer to and repeat our client's position in our Submission and specifically the comments in paragraphs 6.1 and 6.2 of that Submission.
- 4.3 We repeat our request that the ADC carefully review any calculations made by Capral in this regard and that it fully assesses whether a Particular Market Situation in fact exists in China.

5 Capral's ASX Announcement

- 5.1 We refer to the non-confidential attachment to Capral's submission in response to Classic Blinds and Shutters published on the EPR on 8 May 2020. We do not propose to comment on the submissions made specifically in relation to Classic Blinds and Shutters, however, are instructed to make the following comments in relation to Capral's ASX Announcement.

Our ref: ATH:20191896
Your ref:

Letter to: Anti-Dumping Commission
Page: 4/7

- 5.2 We note that the ASX Announcement indicates that Capral posted a loss for the 2018/2019 financial year. We also note that Capral has stated in the ASX Announcement that it considers both pressure from local competitors and what it alleges are “low-priced imports” to have had an effect on its volumes recovery in 2019. Capral has also stated in the ASX Announcement that it is committed to actively participating in anti-dumping and circumvention cases.
- 5.3 While Capral continues to publicly claim that allegedly low-priced imports have affected its business it has also detailed other significant activity including restructuring of its operations to increase productivity and long-term capital expenditure and investment including restructuring its Bremer Park operations. This expenditure and investment will, of course, have a short-term effect on profitability.
- 5.4 The large investment in productivity improvement also appears to support the position that has been taken by Australian importers over a series of anti-dumping investigations, that Capral lacks efficiency in its processes and business operations and so is unable to compete locally due to its own operational issues. Any effect imports may be allegedly be having on the market would be only one of a multitude of factors affecting the Australian market and is likely to be a minimal factor.
- 5.5 As such, we repeat our client’s request that all other factors which may be affecting the Australian industry be taken into account by the ADC in making its determination.

6 **Capral’s claims on threat of material injury**

- 6.1 We refer to Capral’s submission in response to PMI and Capral’s submission dated 11 May 2020.
- 6.2 In its response to PMI’s Submission Capral makes the following claims:
- (a) the ADC has established in previous investigations that PMI’s goods were exported to Australia at dumped prices and that those goods are covered by the description of the GUC;
 - (b) despite PMI’s small export volume in the absence of the measures being continued Capral will continue to suffer the alleged material injury; and
 - (c) the purpose of the measures is to prevent material injury and in the absence of measures Chinese exporters, including PMI, will resume exports at allegedly dumped prices.
- 6.3 Capral has also stated in its submission dated 11 May 2020:
- (a) the Minister’s decision to not allow measures to expire is designed to prevent the continuation of alleged material injury;
 - (b) claims that the Chinese government is influencing the aluminium market including encouraging the stockpiling of aluminium; and

Our ref: ATH:20191896
Your ref:

Letter to: Anti-Dumping Commission
Page: 5/7

- (c) allegations that the Chinese government is influencing the aluminium market through subsidisation and Chinese exporters are allegedly receiving the benefit of aluminium prices which do not reflect competitive market prices.

6.4 We are instructed that our client disputes these allegations for the following reasons:

- (a) In previous investigations the ADC has found that PMI was not dumping. The sole reason a dumping margin was applied to PMI in a subsequent investigation was due to the sampling method used by the ADC and was not the result of any actual finding that PMI was dumping.
- (b) The potential for the absence of measures to lead to a continuation of alleged material injury to the Australian industry is a matter for the ADC to address in reference to all exporters involved in this Inquiry. However, the ADC has the ability to terminate an investigation or inquiry in respect to specific exporters if it finds that no dumping is occurring or that a specific exporter could not be the cause of material injury due to small volumes. Capral's assertion that if the measures are discontinued as against any exporter the alleged material injury will continue is incorrect and lacking analysis of the specific circumstances of each exporter. The termination of measures as against PMI does not necessarily lead to the conclusion that any alleged material injury would continue particularly when PMI's submission in relation to its export volumes is properly considered.
- (c) The absence of measures does not necessarily lead to the conclusion that goods would be exported to Australia at dumped prices. This is speculation and a general assertion lacking any substantive support.
- (d) Capral's claims in relation to the absence of measures relate to the Inquiry and Chinese exports to Australia as a whole. PMI's submissions are specific to its exports and particularly its low volume of exports. Capral has not raised any argument which specifically addressed PMI's position and has instead relied on generalities.
- (e) We note that any assertion of influence by the Chinese government on the Chinese aluminium market would need to be thoroughly investigated by the ADC.
- (f) PMI has provided the ADC with detailed information specific to it in relation to the claims of subsidisation in China. We refer the ADC to our Submission and PMI's Exporter Questionnaire and note that it is PMI's position that it has not received any grants or subsidies which are countervailable.
- (g) We reiterate our client's position that it could not be causing any alleged material injury to the Australian industry due to the specialised nature of its exports, the niche industry to which it supplies and its small volume of exports to Australia.

Our ref: ATH:20191896
Your ref:

Letter to: Anti-Dumping Commission
Page: 6/7

7 Conclusions

- 7.1 PMI repeats its request to be treated as a Selected Exporter in circumstances where this would mean only one additional exporter in addition to those originally contemplated would need to undergo verification.
- 7.2 PMI's export volume was relatively small during the Investigation Period and so it could not be the cause of any alleged material injury.
- 7.3 The T-Bars exported by PMI should be excluded from the description of the GUC due to their unique specifications and the requirement that they be produced from [REDACTED] [NUMBER] series aluminium which is not used by Capral.
- 7.4 Capral has in no way addressed PMI's submissions in relation to its low export volumes and the threat of any alleged material injury to the Australian industry by it. Capral has instead relied on generalities in claiming that the alleged material injury would continue if measures are not continued.
- 7.5 The ADC should take into account all factors which may be affecting the Australian industry when determining if material injury is occurring including Capral's own processes and procedures.
- 7.6 Any claims of subsidisation, particular market situation or other influence by the Chinese government should be thoroughly investigated by the ADC before any conclusions are made.

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