

27 August 2020

The Director
Investigations 3
Anti-Dumping Commission
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Public File

Dear Sir/Madam

Investigation No. 543 – Continuation of measures on aluminium extrusions exported from The People’s Republic of China – Responses to Statement of Essential Facts

I. Introduction

Capral Limited (“Capral”) has reviewed the responses to Statement of Essential Facts No. 543 from the following interested parties:

- Fujian Minfa Aluminium Inc (“Minfa”);
- Tai Shan City Kam Kiu Aluminium Extrusion Co. Ltd (“Kam Kiu”);
- PanAsia Aluminium (China) (“PanAsia”); and
- Press Metal International Ltd (“PMI”).

The submissions have identified a number of matters that Capral seeks to provide a comment.

II. Fujian Minfa Aluminium Inc

Minfa considers it is unreasonable for it to be considered a “residual” exporter for the purposes of cooperation in Investigation No. 543 (“Invest 543”). Minfa states that it provided the Anti-Dumping Commission (“the Commission”) with a full exporter questionnaire response (“EQR”) and a supplementary questionnaire response (“SQR”). It further claims that it is incumbent on the Commission to afford it a separate normal value and dumping margin calculation for the purposes of the review of variable factors.

Anti-Dumping Notice 2020/017 (“ADN 2020/017”) outlined the basis for the sampling of exporters for the continuation of measures inquiry involving exports of aluminium extrusions from China to Australia. Attachment A to ADN 2020/017 detailed that where the number of exporters is so large and it is not practicable to examine all exports of those exporters, subsection 269TACAA(1) states that the Commissioner may select exporters for the purposes of verification that:

- (a) Constitute a statistically valid sample of those exporters; or
- (b) Are responsible for the largest volume of exports to Australia that can be reasonably examined.

The Commission notified that it had selected the “number of exporters who are responsible for the largest volume of exports to Australia” which comprised six exporters (refer Attachment A to ADN 2020/017). The six selected exporters accounted for approximately 87 per cent of the volume of goods exported to Australia from China subject to measures during the period.

The selected exporters were therefore representative as required by subsection 269TACAA(1). Minfa was not a selected exporter within the identified exporters.

The Commission has undertaken a sampling of exporters consistent with the requirements of the legislation. On this basis, the Commission's approach is sound and reasonable and in accordance with the legislative provisions of subsection 269TACAA(1).

III. Tai Shan City Kam Kiu Aluminium Extrusion Co., Ltd

Kam Kiu has again sought to have what it refers to as "High-end models" excluded from the goods coverage of the anti-dumping measures. Additionally, Kam Kiu seeks to challenge the Commission's adjustments to normal value for:

- the regional premium ("MJP");
- inland transport costs;
- non-refundable value-added tax;
- export packing trolley costs; and
- credit costs.

High-end models

There currently is no exemption available to Kam Kiu to exclude so-called high-end models of aluminium extrusions that fall within the goods description. The identified goods, therefore, have been correctly included as goods the subject of the notices.

Regional premium

Kam Kiu has submitted that the inclusion of the regional premium and transportation charges for the benchmark aluminium ingot should not be included in Kam Kiu's subsection 269TAC(2)(c) normal value.

The Commission has included a benchmark aluminium ingot cost delivered to the production facility of the aluminium extrusion exporter. This includes the costs associated with the purchase of the aluminium ingot – the Major Japanese Port ("MJP") premium and the freight transportation costs. A producer sourcing aluminium ingot whether in Malaysia, Korea or Vietnam – pays a price for the aluminium ingot that includes the MJP and a transportation charge. The inclusion of the MJP and freight costs to site have been correctly included in the benchmark aluminium price in Kam Kiu's constructed normal value.

Non-refundable value-added tax

Kam Kiu asserts that the Commission has incorrectly made an adjustment for the non-refundable value-added tax as it is not based upon "the actual tax burden", for the first quarter of the 2019 investigation period. The adjustment is included to allow for the difference between the 16 per cent VAT paid on domestic sales and the 13 per cent VAT levied on export sales.

For fair comparison purposes the terms of sale for the export and domestic sales must be the same and it is therefore appropriate to uplift the exporter's normal value by the amount of the non-refundable value-added tax.

Export packing trolley cost

The Kam Kiu verification report indicates that initially, the exporter claimed that there were no differences in packaging costs between domestic and export sales. Kam Kiu did provide the Commission with cost data related to trolleys for export sales, however, this cost data was not "evidenced". The Commission could not be satisfied that the cost data related to the export sales and therefore relied upon evidenced cost data from the earlier investigation No. 482.

The Commission cannot rely upon data that it is not satisfied relates to the cost of export trolleys on export sales.

Credit cost

Kam Kiu appears to be suggesting that the Commission has not used the correct interest rate for the purposes of calculating credit terms on domestic and export sales.

Kam Kiu's exporter verification report states that the adjustments for domestic and export credit are based upon Kam Kiu's "agreed credit terms for each transaction". It is not clear if the claimed interest is that actually incurred by Kam Kiu or an alternate bank rate referenced by the Commission.

IV. PanAsia Aluminium (China) Limited

PanAsia has sought to engage in unsubstantiated theories concerning the cooperation of Australian industry members in the continuation inquiry. PanAsia has correctly identified the cooperation by Capral and G James – two of the largest producing members of the Australian aluminium extrusion industry. Comments suggesting an industry "strategy" concerning the presentation of industry data for material injury purposes involve conjecture, are unsupported and should be ignored.

PanAsia has raised a concern about the interim duty deducted to arrive at a deductive export price for the purposes of the review of variable factors in the current inquiry. It is Capral's understanding that the "duty payable" referred to by PanAsia can only be determined at the completion of the duty assessment process (and not beforehand). It is not evident to Capral whether the duty assessment review referenced by PanAsia has been completed and therefore the duty payable has not been finalised.

PanAsia references its view that the Commission is proposing "unreasonable and excessive level of duties on its exports". The Commission's calculation of the dumping margin for PanAsia is consistent with previous investigations involving the Chinese exporter and reflects the continued dumping of aluminium extrusions on its exports of the goods to Australia. PanAsia contends that it is supplying its goods at competitive prices. The Commission's assessment confirms that the goods supplied by PanAsia are at dumped prices and this prevents the Australian industry from being able to supply at competitive prices

The level of duties recommended to apply to PanAsia by the Commission reflect the exporter's preparedness to sell at dumped and injurious prices to the Australian industry. The measure is intended to rectify the unfair prices supplied by PanAsia.

V. Press Metal International

PMI contends that the material injury sustained by the Australian industry has not been considered by the Commission as having being caused by "other variables which may be applicable to the Australian industry". PMI speculates that the injury may be due to:

- the efficient operation of the Australian industry;
- the Australian industry's own business models; and
- imports from other sources.

PMI has not supported its contentions with any evidence demonstrating that the material injury sustained by the Australian may be attributed to factors other than dumping and subsidisation. In order the Commission to readily assess PMI's assertions, supporting evidence is required.

PMI states that it is maintaining its position that the imposition of measures on Chinese exports of aluminium extrusions in other jurisdictions "*does not necessarily lead to the conclusion that Chinese exporters have excess capacity which will be directed towards Australia*". This is not the issue. The Commission has established that three cooperative exporters have spare capacity to supply approximately 20 per cent of the Australian market. The Commission also identified that there were up to 400 exporters in China of the goods to Australia that it has been able to identify. It is reasonable to conclude that there exists considerable spare capacity to supply and increase aluminium extrusions exports to Australia in the event the measures are allowed to expire.

The issue of the measures in other jurisdictions means that if those measures are effective, exporters may redirect those exports to Australia should the measures in Australia be allowed to expire.

Capral notes that PMI references the effects of ChAFTA on Chinese exports to Australia. As import duties have been lowered, Australian manufacturers have had to improve competitiveness with imported Chinese aluminium extrusions. The effects of reduced tariffs have led to an increase in imports from China. The dumping and subsidisation of Chinese exports remain independent of the lowering of the general tariffs to zero.

PMI has further commented on the requested exemption of T-Bars from the measures and stated that *“The additional extensive time and costs which would be required to be expended on that process is not justified or reasonable in circumstances where the ADC has the ability to exclude the T-Bars from measures in this inquiry.”* The continuation of measures investigation is not an “exemption” investigation and PMI’s request we understand cannot be considered under the terms of the current inquiry.

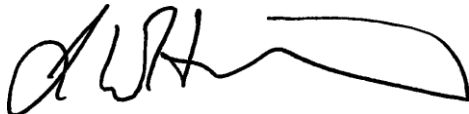
VI. Recommendation

Capral submits that the submissions by the above-mentioned parties in response to SEF 543 are not supported by information that would alter the Commission’s proposed recommendations to the Minister as detailed in SEF 543.

Capral therefore requests the Commissioner to recommend to the Minister that she take steps to ensure that the anti-dumping and countervailing measures applicable to exports of aluminium extrusions from China do not expire on 28 October 2020 and that the measures are extended for a further five-year period.

If you have any questions concerning this submission, 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



Luke Hawkins
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