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Dear Mr Crooks

Investigations No. 544 - Review of variable factors - Aluminium Extrusions exported from Malaysia and Vietnam – Statement of Essential Facts

I. Introduction

Capral Limited (“Capral”) has reviewed Statement of Essential Facts No. 544 (“SEF 544”) concerning the review of variable factors applicable to aluminium extrusions exported to Australia from Malaysia and Vietnam.

Capral provides the following comments in respect of the recently published SEF 544.

II. Vietnam – Dumping

The Anti-Dumping Commission (“the Commission”) received cooperation from only one exporter in Vietnam – East Asia Aluminium Company Ltd (“EAA”). Capral provided a submission to the Commission (EPR Document No. 014 dated 16 October) addressing concerns with the EAA exporter verification report. The Commission has addressed the matters raised by Capral in SEF 544.

Capral notes the Commission’s comments about the reliability of information provided by EAA’s Australian importer Aus Star Holdings International Pty Ltd (“Aus Star”). It is further noted that the Commission has stated that EAA’s export sales with Aus Star are “likely” at arms-length. Capral would welcome a more definitive assessment and if there exists any doubt it should be determined that the sales are not at arms-length.

Capral has also noted that the Commission has accepted EAA’s assertions that the cost of packing for domestic and export sales is similar. Export trolley’s aside, it has been established in previous investigations involving aluminium extrusions (exported from China, Malaysia, Vietnam) that goods packaged for export attract a higher cost (due to crates and paper interwoven between extrusions, etc). Whilst EAA may not record the cost differentials, an amount can be estimated and an adjustment made to EAA’s normal value for the packaging on export sales is required.

Capral is also aware that the Commission has adjusted certain exporter normal values (e.g. Alumac Industries Sdn Bhd) for export fumigation costs. Exporters like EAA would also incur this cost. An upward adjustment for fumigation costs is required for EAA’s normal value.

Capral notes that EAA was the only cooperative exporter from Vietnam. The Commission has determined normal values and export prices for EAA and calculated a dumping margin of 1.9 per cent. It is Capral's expectation that the same adjustments granted to EAA should not have been afforded to the remaining "noncooperative exporters" in Vietnam and that the adjustments identified at Section 4.4.5 of SEF 544 would not apply to the noncooperative exporters in Vietnam.

III. Malaysia – Dumping

The Commission has examined PMB Aluminium Sdn Bhd ("PMBA") for the purposes of the review of measures SEF 544. Exports of aluminium extrusions to Australia by Press Metal Berhad ("PMB") have been examined in the context of Investigations 540 and 541.

Capral agrees with the Commission's categorisation of PMBA as a new exporter. The exemption from measures (refer Report 362) applies only to PMB and does not extend to affiliated PMB parties.

As per Capral's comment above concerning the determination of a dumping margin for noncooperative exporters in Vietnam not receiving the same adjustments as cooperative exporters, Capral considers that the uncooperative exporters in Malaysia should similarly not benefit from the adjustments afforded to EverPress Aluminium Industries Sdn Bhd ("EverPress"). A normal value that does not include the favourable adjustments should be applied to the noncooperative Malaysian exporters.

IV. Subsidisation – Malaysia

The Commission did not identify any subsidies that afford a benefit to participating cooperative Malaysian exporters. The Commission states in relation to noncooperative exporters that the "*subsidy margin.....has been determined on the basis of all facts available and having regard to reasonable assumptions pursuant to section 269TAACA.*"

The Commission further states that "*The GoM's questionnaire response confirmed that the programs which formed the basis of the non-cooperative entities (Program 4 and 6) for the subsidy notice, continue to operate and could reasonable be available to certain exporters of the goods from Malaysia, provided the eligibility requirements are met.*"

However, the Commission has considered "*it reasonable to assume, in the absence of evidence to the contrary, that the goods exported to Australia in the review period did not benefit from countervailable subsidies. Accordingly, the subsidy margin for non-cooperating entities is 0%.*" Capral disagrees. The Commission identified that some "exporters and trading companies" were involved in the exportation of goods to Australia during the review period. It cannot be concluded that these entities did not receive a countervailable benefit from the Government of Malaysia ("GoM") for the manufactured goods. In the absence of information concerning these exports by parties that may have received benefits from the GoM, Capral recommends that the subsidy rate to be applied be that determined by the Minister in Report 362 (i.e. 3.24 per cent).

V. Form of measures

The Commission has proposed that for the purposes of the Malaysian exporters that were found not to be dumping during the review investigation period (i.e. Alumac Industries and premium Aluminium) that measures be based upon the floor-price methodology. Capral considers that this approach has been applied to other exporters found not to have exported at dumped prices and is considered reasonable.

However, in respect of the remaining exporters found to have exported at dumped prices (including the non-cooperative) the anti-dumping measures to be applied will be based upon the combination method. Capral supports this recommendation of the Commissioner.

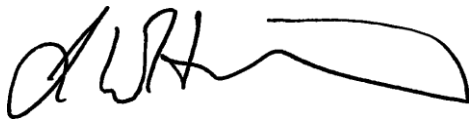
VI. Conclusions and Recommendations

Capral welcomes the findings and proposed recommendations in SEF 544. Specifically, Capral requests the Commission to consider:

- determining sales between the Vietnam exporter EAA and the Australian importer Aus Star as non arms-length;
- determine normal values for non-cooperative exporters in Malaysia and Vietnam without favourable adjustments that have been granted to cooperative exporters;
- continue to regard exports by PMB as the subject of investigations 540 and 541;
- apply a rate of subsidy applicable to non-cooperative Malaysian exporters at 324 per cent based upon Report 362; and
- recommend that the form of measures to be applied to exporters from Malaysia and Vietnam be based upon the combination method (except for exports by Alumac Industries and premium Aluminium that are proposed to be based upon the floor-price method).

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



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