

30 March 2022

Mr Ben Merlin
Assistant Director
Investigations 1
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

Dear Mr Merlin

For Public File

Investigation No. 591 – Aluminium extrusions exported from Malaysia and Vietnam – Verification reports for East Asia Aluminium and PMB Aluminium

I. Background

We refer to the exporter verification reports for the following exporters:

- East Asia Aluminium Co., Ltd (“EAA”); and
- Press Metal Berhad Aluminium Sdn Bhd (“PMB Aluminium”),

Recently placed on the EPR in continuation of measures Investigation No. 591 involving exports of aluminium extrusions from Malaysia and Vietnam.

From the outset Capral Limited’s (“Capral”) wishes to express its concern about the delayed release of the two exporter verification reports that have only appeared on the Electronic Public Record (“EPR”) on the day prior to the publication of Statement of Essential Facts No. 591 (“SEF 591”). The delayed publication of the exporter verification reports (“the reports” does not allow interested parties:

- The opportunity to review the reports to assess whether the Anti-Dumping Commission (“the Commission”) has relied upon misinformation or made any erroneous findings (prior to the publication of the SEF);
- To understand whether any additional information may be provided to assist the Commission with information that could influence the findings in the SEF; and
- The transparency required in a public investigation where interactions with the Commission have been significantly scaled back due to the covid 19 restrictions.

The delay in publishing exporter verification reports coinciding with the publication of the SEF requires urgent redress by the Commission for future investigations.

II. East Asia Aluminium

Capral notes that EAA sells all export sales via a related party agent, Perfect Gateway Enterprises Ltd (“PGE”). The Commission could only identify a processing fee charges by PGE to EAA in respect of the transactions for exports to Australia and as PGE did not maintain any records, the Commission could not verify any sales and general administrative (“SG&A”) costs incurred by PGE.

It can be inferred that PGE does incur costs for performing the sale function and, in the absence of information supplied by the exporter, the Minister can include SG&A costs for another exporter that trades via an agency.

Capral recommends that the Commissioner utilise costs verified with another exporter that sells through an agent to include in an upward adjustment to EAA's normal value.

Capral notes that EAA contends that temper codes 'do not impact EAA's pricing decisions'. The Commission is aware that the temper of the goods (along with anodising microns) are cost drivers that are correctly reflected in selling prices. Capral recommends that the Commission utilise the mark-ups from other exporters to appropriately cost temper and anodizing micron differentials.

It is further noted that the Commission made a specification adjustment for certain models of the goods where there was an absence of domestic sales for the specific alloy in question. The Commission relied upon sales in the export market (in the absence of actual price lists detailing alloys by grade) during the investigation period to establish premiums that were evident.

Capral does not agree with this approach as it has been confirmed by the Commission that EAA has exported to Australia at dumped prices. The applicable premiums that apply on export markets for EAA are therefore suppressed and cannot be relied upon as a replacement for actual sales on the domestic market. Capral submits that the Commission could access the premium from sales information by the Australian industry to identify an appropriate premium to be applied as the specification adjustment for alloys not sold domestically by EAA.

III. PMB Aluminium

It may be recalled from Investigations 540 (mill finish) and 541 (coated products) that PMB Aluminium was identified as the producer of the subject goods in Malaysia and that the export sales to Australia were carried through by the related entity, PMB.

In Reports 540 and 541 the Commission noted that "*documents issued in PMB's name were generated by staff at PMBA and PMB staff are not involved in the administration of the sale and manufacture of the goods*"¹.

Capral does not consider that PMBA's assertions concerning the role of PMB as the apparent transactor of the export sales that does not incur any costs or charges, can be relied upon. Indeed, the Commission identified in Reports 540 and 541 that PMB does employ staff so if PMB is involved in the exports to Australia it must have an active role in the administration of the export sales to PMB Australia.

Capral therefore contends that an upward adjustment for PMB's role as the export agent is therefore required in respect of PMBA's normal value.

Capral notes that the Commission has identified concerns about reimbursements by PMBA for sales it claims were inadvertently identified as CIF term sales and subsequently adjusted to FOB term sales. Capral agrees that the reimbursement for the difference must be identified as a payment made not in respect of the goods and the sales to Australia over the relevant period must be considered to have been non arms length.

Capral is concerned by PMBA's claim arrangements for the export of sales to Australia (via PMB) to its affiliated PMB Australia importer and attempts to downplay the role of PMB such that it can be argued that it does not incur costs in its role as the "transactor" for export sales to Australia. This claim should be considered to be a misrepresentation and as such, the Commission should include an adjustment for the role of PMB as an agent in PMBA's normal value.

¹ Refer Report 541, P. 49.

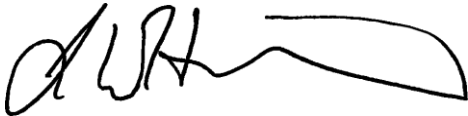
IV. Conclusions

Capral does not consider that the release of cooperating exporter verification reports the day prior to the publication of the SEF reflects a transparent investigation process.

Capral has reviewed the EAA and PMBA exporter verification reports and notes an emerging practice of exporters nominating affiliated export agents that conduct the transaction process on behalf of the exporter for no apparent cost. This practice cannot be accepted by the Commission as legitimate and the Commission should take a stance against such fictitious claims. The role of the affiliated agents involves costs to transact the export sales and a legitimate upward adjustment to normal value for the agents costs is required.

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

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