

7 April 2022

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

Dear Mr Merlin

Public File

Investigation No. 591 – Aluminium extrusions exported from Malaysia and Vietnam – Response to Statement of Essential Facts

I. Executive Summary

Capral Limited (“Capral”) welcomes the following findings published in Statement of Essential Facts No. 591 (“SEF 591”) concerning the continuation of anti-dumping measures on certain exporters in Malaysia and all exporters in Vietnam, including:

- That exporters the subject of measures in Malaysia were assessed as exporting at dumped prices in the range -2.3 per cent to 27.0 per cent;
- Exporters in Vietnam were assessed as exporting at dumped prices in the range 5.2 per cent to 9.0 per cent;
- That there exists sufficient evidence to support a finding that future exports from Malaysia and Vietnam by the subject exporters are “likely” to be dumped; and
- That the available evidence at the time of publication of SEF 591 is limited to demonstrate that future injury from the dumped exports from Malaysia and Vietnam will not likely result in material injury.

We have obtained additional evidence that will shift the Commissioner’s concern from an “on balance” position that sufficient information does not exist to satisfying the Commissioner that the available evidence supports a finding that future injury that is “material” is likely if the measures are not continued beyond the expiry date of 27 June 2022.

This submission evidences the critical information of the likely recurrence of injury caused by the dumping of aluminium extrusions to Australia by the subject exporters in Malaysia and Vietnam.

Capral requests the Commissioner to take full account of the compelling supporting evidence in this submission to permit the Commissioner to recommend to the Minister to take steps to ensure the measures do not expire on 27 June 2022.

II. Background

The exporters in the original investigation¹ that the anti-dumping measures in Malaysia apply to include all exporters except for exports to Australia by Milleon Extruder Sdn Bhd, Superb Aluminium Industries Sdn Bhd, Kamco Aluminium Sdn Bhd, LB Aluminium Berhad, Press petal Berhad and Genesis Aluminium Industries Sdn Bhd. The countervailing notice does not apply to the exempted Malaysian exporters or to Alumac Industries Sdn Bhd (“Alumac”) and EverPress Aluminium Industries Sdn Bhd.

¹ Report No. 362 concerning exports from Malaysia and Vietnam.



The anti-dumping measures in the form of a dumping duty notice are applicable to all exporters from Vietnam.

The investigation period in this continuation of measures investigation is 1 July 2020 to 30 June 2021.

The cooperative exporters in the current investigation included Press Metal Berhad Aluminium Sdn Bhd ("PMBA"), Alumac and East Asia Aluminium Company Limited ("EAA").

The Anti-Dumping Commission has determined that exporters in Malaysia and Vietnam have exported to Australia during the investigation period with the following margins determined:

Country	Exporter	Preliminary Dumping Margin
Malaysia	Press Metal Berhad Aluminium Sdn Bhd	6.7%
	Alumac	-2.3%
	Uncooperative and all other exporters	27.0%
Vietnam	EAA	5.2%
	Uncooperative and all other exporters	9.0%

In respect of the countervailing measures subject to Malaysian exporters, the Commission has preliminarily determined that the Malaysian exporters did not benefit from countervailable subsidies during the investigation period.

III. Dumping

In Report 362 the Minister applied anti-dumping measures to the uncooperative and all other exporters at the rate of 13.0 per cent. Subsequent to the imposition of measures, the Commission conducted the following investigations:

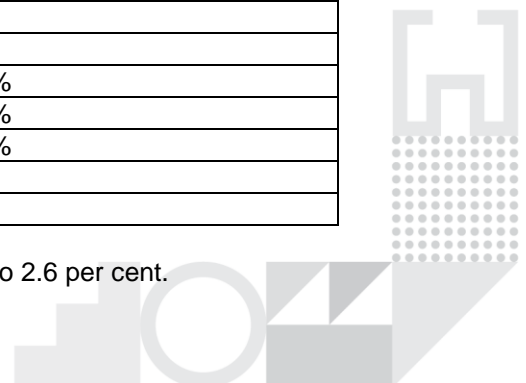
- a review of variable factors investigation ("Invest No. 494") concerning exports by Alumac to Australia from Malaysia;
- a review of variable factors investigation ("Invest 509") involving exports by EverPress Aluminium Industries Sdn Bhd ("EverPress");
- a review of variable factors investigation ("Invest 534") involving exports by Premium Aluminium (M) Sdn Bhd ("Premium"); and
- Review of measures Investigation No. 544 ("Invest 544") applicable to all exporters of aluminium extrusions to Australia from all subject exporters.

Invest 544 also applied to all exporters of aluminium extrusions from Vietnam to Australia.

Investigations 494, 509 and 534 determined that the exporters Alumac, EverPress and Premium were not exporting at dumped prices. The variable factors were adjusted to reflect interim dumping duty ("IDD") to zero for these exporters. In Invest 544, the Commission determined the following dumping margins for Malaysian and Vietnam exporters of the subject goods:

Country	Exporter	Interim Dumping Duty
Malaysia	Alumac	0%
	Premium	0%
	PMB Aluminium	10.7%
	EverPress	10.7%
	All other exporters	10.7%
Vietnam	EAA	1.9%
	All other exporters	1.9%

The rate of IDD applicable to PMBA was subsequently revised in Invest 577 to 2.6 per cent.



We note that in the current continuation of measures investigation that PMBA, EverPress and all other uncooperative exporters have continued to export to Australia at dumped prices above negligible levels. Similarly, EAA and all other uncooperative exporters in Vietnam have exported at dumped prices above negligible levels in the investigation period.

Capral submits that even with anti-dumping measures in operation, subject exporters in Malaysia (except for Alumac) and Vietnam have continued to export at dumped prices. We contend that this continued dumping is injurious to the Australian industry – particularly in an environment of increasing raw material aluminium ingot costs (further evidenced in 2022) with exporters in Malaysia and Vietnam not taking necessary actions to ensure exports to Australia are not at dumped prices.

IV. Countervailing

The Commission received information from PMBA in its exporter questionnaire concerning the receipt of countervailable subsidies. Additionally, the Commission received a government questionnaire response from the Government of Malaysia (“GOM”) that confirmed the following two subsidy programs continued to apply:

- Program 4 – Double deduction for freight charges relating to goods originating from Sabah and Sarawak; and
- Program 6 – Reinvestment allowance.

The Commission determined that PMBA did not receive any countervailable benefits under Programs 4 and 6. The Commissioner concluded²:

“On the available information, the Commissioner consider it reasonable to find, in the absence of evidence to the contrary, that the goods exported to Australia in the inquiry period by non-cooperative and all other exporters did not benefit from countervailable subsidies. Accordingly, the subsidy margin for exports by non-cooperative and all other exporters is 0%”.

Capral disagrees with the Commissioner’s conclusion. While it is acknowledged that the Commission did identify “relatively few exporters and trading companies were involved in the exportation of the goods to Australia” during the investigation period, it can only be considered ‘blind faith’ to be satisfied that these uncooperative exporters did not qualify or receive a countervailable benefit from the GOM.

We submit that it is reasonable for the Commissioner to have concluded that given the GOM’s confirmation that exporters in the aluminium extrusion industry are eligible for the identified programs, it is prudent to assess the maximum value attributable to each program and apply the applicable margin of subsidy for uncooperative exporters in Malaysia.

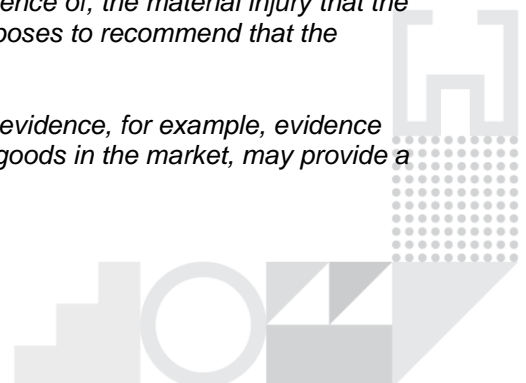
V. Likelihood of injury recurring

The Commissioner’s preliminary view as to the likelihood of material injury occurring as detailed at Paragraph 8.1 of SEF 591 is as follows:

“As a result of these findings [that dumping has occurred and was likely to continue] and on the basis of the evidence currently available, the Commissioner is not satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent. The Commissioner therefore proposes to recommend that the notices be allowed to expire.”

The Commissioner did, however, indicate that “the presentation of additional evidence, for example, evidence demonstrating Australian industry responses to the presence of the dumped goods in the market, may provide a basis for considering the proposed recommendation.”

² Statement of Essential Facts No. 591, Paragraph 7.5.2, P. 57.



We note that the Commissioner has stated that he “may” reconsider the proposed recommendation. Capral is concerned by this perceived reluctance by the Commissioner to recommend the continuation of measures even though evidence is presented by an industry that demonstrates price undercutting and injury that does not result in the industry securing the sales volumes. It can be recalled that anti-dumping measures have applied to exports of aluminium extrusions from 2010 (from China, then in 2017 from Malaysia and Vietnam) and that it is not within a customer’s interests to disclose sources of supply and competitive pricing to Australian industry suppliers as it would inhibit access to low priced imports. Capral considers that the Commissioner’s requirement for additional evidence demonstrating “Australian industry responses” to price undercutting represents an idealistic scenario that is difficult to satisfy.

Capral further observes the Commissioner’s commentary concerning the “correlation of LME prices and spread” where it is stated at Paragraph 8.7.1:

“The LME price and the spread operate independently of each other.....The analysis suggests that there is a correlation between the two in the Australian market. The absence of such correlation may, in some circumstances, indicate that the spread is impacted by the presence of the dumped goods in the market.”

Capral is unsure what it can conclude from these comments. There are a number of factors that influence the “spread” between the prevailing LME prices and the selling prices for aluminium extrusions. The supply of aluminium extrusions into the market has the greatest impact on the spread at any one time. An increase (or decrease) in supply will impact the spread. The expiration of the measures applicable to exporters in Malaysia and Vietnam will likely result in increased supply from exporters that have well-established distribution channels into the Australian market. The measures currently act as a form of *restraint* to exporters seeking to grow export volumes and market share. In the absence of the measures, increased volumes (at dumped levels as confirmed by the Commissioner) will likely eventuate.

Capral acknowledges the Commissioner’s comments concerning the pricing behaviour of EAA during the investigation period i.e. “flat prices” contrasted with increasing LME costs. The Commissioner further states that EAA’s prices may put pressure on Capral’s prices however it is stated that “the commission is not in possession of any evidence that demonstrates this link” (refer Capral’s representations below concerning competition with EAA).

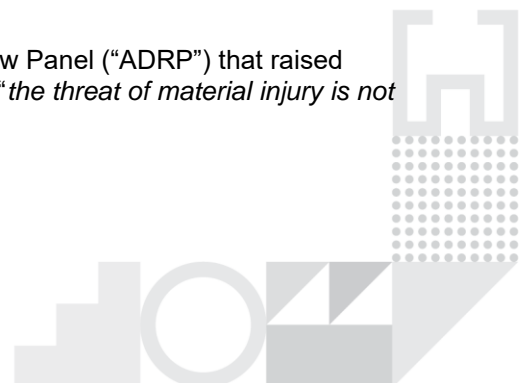
Capral does not consider that the Commissioner has adequately considered what is meant by injury that is considered “likely” in the context of long-term supply in the aluminium extrusion industry and whether this adequately considers the “future” threat of injury from exports from Malaysia and Vietnam. Future exports of aluminium extrusions from Malaysia and Vietnam will likely increase in the absence of measures as exporters utilise spare capacity to grow sales volumes and market share in the Australian market. The expiration of the measures will enable the large importers – including [*Redacted - Malaysian exporter and Australian importer*] and [*Redacted – Australian importer and source country*] to utilise well-established distribution channels to rapidly grow volumes without the limitations of the anti-dumping measures.

Capral contends that the continued dumping of aluminium extrusions from Malaysia and Vietnam pose a significant future threat of injury to the Australian industry manufacturing like goods.

Price undercutting

Capral notes the comments of the Senior Member of the Anti-Dumping Review Panel (“ADRP”) that raised concerns in response to the Commission’s contention in Report No. 572 that “*the threat of material injury is not part of the test for the continuation of the measures*”³.

³ Request for re-investigation, ADRP Investigation No. 144, 12 January 2022.



Capral concurs with the ADRP Senior Member that the threat of material injury is a relevant consideration in the continuation of measures analysis. The threat of material injury occurring in the absence of the measures is an important consideration in a continuation investigation. Capral has examined the Commission's price undercutting analysis which may be summarized as follows:

- In respect of the first level of trade in all finishes, Capral was undercut "by EAA across the inquiry period" of between 2% and 12%);
- Capral was not undercut by PMBA for all finishes across the inquiry period, with Capral's mill finish prices set just below PMBA. PMBA's powder coated products were priced slightly above Capral's prices, whereas PMBA's anodized prices undercut Capral's selling prices;
- EAA was able to reduce its selling prices in Q1/2021, whereas Australian industry members were increasing prices;
- G James and INEX were undercut in powder coated products by EAA and PMBA, with some undercutting evident across all three finishes;
- In the second level of trade which involved comparisons with PMBA's selling prices, there was some undercutting evident and the Commission stated that there was "inconsistent examples and degrees of undercutting" evident.

The key conclusion of all of the price undercutting examples was that EAA was involved in undercutting the Australian industry members across all types of finishes with a high level of certainty. For PMBA, select examples of price undercutting have been identified – although it is recognised that some of PMBA's prices were slightly above the Australian industry suppliers.

In a market where rising costs were evident across the investigation period, the price undercutting assessed by the Commission is supported by the dumping finding in respect of the two key cooperative exporters – EAA and PMBA (i.e. the dumping enables the exporters to undercut the Australian industry's selling prices).

Capral further notes the Senior Member's comments concerning the absence of market intelligence to support the existence of a future threat of material injury as being likely. This is conveyed by the Senior Member in the particular circumstances of that Investigation (No. 572 – consumer pineapple exported from the Philippines and Thailand):

"It seems to me that significant weight is placed on the lack of evidence to the prices of imported product.....I am not sure that the correspondence is evidence supporting the conclusion reached by the Commission.....Both sides would be aware of the presence in the market of imported product and the significant price undercutting of such imports. The conclusion reached does not take account that price negotiations take place to have an effect." (emphasis added).

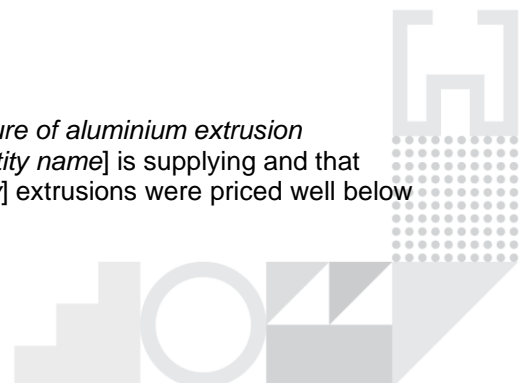
The Commission has been able to establish that the Australian industry has experienced price undercutting from EAA of Vietnam and PMBA of Malaysia (i.e. the two cooperative exporters with dumping margins above negligible levels). SEF 591 identified that the Commissioner seeks additional evidence confirming the price pressures faced by the Australian industry members from the exporters in Malaysia and Vietnam.

Further information evidencing price impacts

Capral has identified the following recent examples where importers have sourced aluminium extrusions from Malaysia and Vietnam at prices that have undercut Capral.

1. [Customer name]

[Entity name] is a customer of Capral that also sources from [source and nature of aluminium extrusion purchased] supply. Capral is aware of a recent project in Melbourne that [entity name] is supplying and that Capral was not requested to provide a quotation – on basis imported [country] extrusions were priced well below Capral's pricing.



The following Table 1 details Capral's historic sales volumes and margins with [entity]:

Table 1 – Capral sales volumes and margin to [customer name] 2019 to 2021

	2019 (MT)	2020 (MT)	2021 (MT)	Decline since 2019
Volume	xxx	xxx	xxx	xxx%
Gross Margin	xxx%	xxx%	xxx%	xxxx%

It is evident that [entity] purchases from Capral have declined over the 2019 to 2021 period, as margin has also declined. Capral submits that [entity] sources alternatively from [source country] (historically) and has supplied [source country] aluminium extrusions for the [name of city] project that has an estimated \$xx M supply volume.

Refer Confidential Attachment 1 (a) for supporting evidence concerning the [name of city] project.

Additionally, Capral is aware from another customer that is also involved in the supply of [type of goods] that was unsuccessful in its bid to supply. Capral has obtained documentation that confirms the [source country] supplier – [name]. It is understood that approx. xx tonnes per annum was requested. The product is being supplied ex [source country] and Capral was informed that it would need to price at \$xx per kg in order to be successful.

The type of extrusion required for the [type of product] would presently be supplied at above \$xx/kg plus die costs.

Please refer to Confidential Attachment 1 (b) and (c) for details of the aluminium extrusions profile identifying the [source country] supplier.

2. [Customer name]

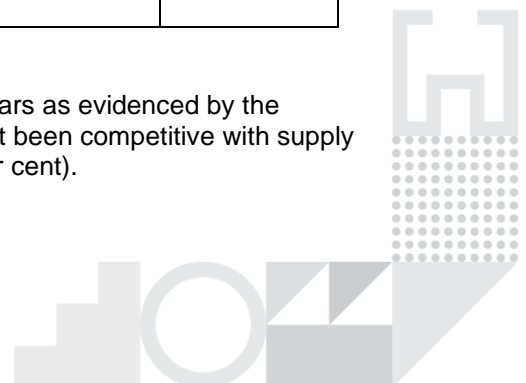
Capral continues to be uncompetitive with supply to [customer name] that has historically sourced from Capral but in recent years has switched supply to the importer [importer name] that is sourcing from [exporter and country of supply].

The following Table 2 details Capral's historic sales volumes and margins at [customer].

Table 2 – Capral sales volumes and margin to [customer name] 2017 to 2022

	2017	2018	2019	2020	2021	2022
Volume	xxx	xxx	xxx	xxx	xxx	xxx
Gross Margin	xxx%	xxx%	xxx%	xxx%	xxx%	xxx%

Capral has lost sales volumes at [customer] on an ongoing basis in recent years as evidenced by the correspondence with [customer] at Confidential Attachment 2. Capral has not been competitive with supply from [exporter] that has undercut Capral by \$xxx-xxx per kg (or by 5.5-7.0 per cent).



3. [Customer name]

[Customer] is a [supply type] of aluminium extrusions and has been a customer of Capral for a number of years. Over the last 12 months, supply to [customer] has declined sharply as the [supply type] has increased its sourcing requirements from [importer name] that imports from [exporter].

The following Table 3 highlights the decline in [customer name] purchases from Capral:

Table 3 – Capral sales volumes and margin to [customer name] 2019 to 2022

	2019 (MT)	2020 (MT)	2021 (MT)	2022 (MT)
Volume	xxx	xxx	xxx	xxx
Gross Margin	xxx%	xxx%	xxx%	Xxx%

Capral understands from feedback offered by the customer that its pricing is uncompetitive. It is Capral's understanding that it is between \$xxxx and \$xxxx per kg higher than the pricing provided by [importer name and source country] sourced extrusions. Refer to Confidential Attachment 3 for supporting documents.

The above examples demonstrate the new information required by the Commissioner evidencing that exports of aluminium extrusions from Malaysia and Vietnam undercut Capral's pricing preventing Capral the opportunity to supply sales volumes for the identified projects and to enable ongoing supply reliability with the identified customers. The price-effect of the identified exports is that Capral is uncompetitive with the exports from Malaysia and Vietnam and is not offered supply for the required volumes.

The identified market intelligence confirms that the exporters in Malaysia and Vietnam continue to supply the Australian market at prices that undercut the Australian industry. The Commission identified that EAA's prices undercut the Australian industry across all of the investigation period. Capral's [source of information] that EAA's Australian importer [importer name] continues to source goods from Vietnam for supply. The selling price for EAA supplied aluminium extrusions is priced well below Capral and contributes to lost volumes for the Australian industry.

EAA's pricing reflects the out-of-date normal values from Investigation 544. EAA is continuing to export at dumped and injurious prices into the Australian market. It is therefore reasonable to conclude that should the measures be allowed to expire, EAA will reduce its export prices in the absence of the measures in an attempt to grow market share through its Australian importer [name].

In respect of the exports from Malaysia, Capral has identified two projects where Capral was not competitive with Malaysian exports for supply. The Commission identified price undercutting from Malaysia, although this was limited to the verified data involving exports from PMBA only. Capral contends that the Commission's finding that PMBA has undercut the Australian industry during the investigation period (with its exports at dumped prices) will likely become more prevalent if the measures against PMBA are allowed to expire. Similarly, for unco-operative Malaysian exporters, it is considered highly probable that the Malaysian exporters will utilise well established distribution channels into the Australian market to secure increased sales volumes in the absence of the measures.

The available evidence therefore confirms that Capral has experienced injury from the dumping of aluminium extrusions from Malaysia and Vietnam during the investigation period and that this injury continues into 2022. It is therefore reasonable to conclude that should the measures be allowed to expire against exporters in Malaysia



and Vietnam (i.e. EAA) that it is *likely* that the Australian industry would again experience a recurrence of the injury that the measures are intended to prevent.

VI. Conclusions & Recommendations

Capral welcomes the Commissioner's findings that exports of aluminium extrusions from Malaysia and Vietnam were assessed as greater than negligible levels of dumping during the investigation period.

Capral further welcomes the Commissioner's determination that future exports of aluminium extrusions from Malaysia and Vietnam will *likely* be at dumped prices.

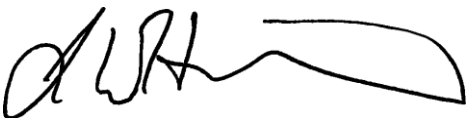
We do not agree with the Commissioner's preliminary finding that the exports from Malaysia by unco-operative exporters will not benefit from a countervailable subsidy. The Commissioner's assessment relies solely on information from a cooperative exporter (i.e. PMBA) and does not fully consider that the GOM has acknowledged that Programs 4 and 6 continue to operate and would likely be of benefit to unco-operative Malaysian exporters of the goods to Australia. It is unreasonable to conclude that there is an absence of a benefit based solely on one exporter not receiving that benefit (and thereby assuming all other unknown exporters would not receive that benefit).

Capral has obtained additional new information that evidences exports of aluminium extrusions from Malaysia and Vietnam (i.e. from EAA) have caused injury to the Australian industry during the investigation period and that, in the absence of measures, will likely cause a recurrence of material injury that the measures are intended to prevent.

Capral therefore requests the Commissioner to reconsider his preliminary recommendation to the Minister to allow the measures to expire on aluminium extrusions exported from Malaysia and Vietnam, and to recommend to the Minister that the Minister take steps to secure the continuation of the measures for a further five year period from 27 June 2022 to ensure the measures prevent a recurrence of material injury to the Australian industry manufacturing like goods.

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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