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The Director - Investigations 1
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

Review of measures into aluminium extrusion exported from Vietnam

Dear Director,

This submission is made on behalf of East Asia Aluminium (EAA) in response to the Anti-Dumping Review Panel's (ADRP) request for reinvestigation of certain findings in relation to Continuation Inquiry No. 591 relating to certain aluminium extrusions exported from Malaysia and the Socialist Republic of Vietnam.

It is noted that the Commission advised interested parties by way of a file note placed on the public record, that it intends to publish a preliminary reinvestigation report (PRR) and provide opportunity for parties to comment via submissions. EAA welcomes the Commission's transparency with regards to the reinvestigation process, and the opportunity to review and comment on its PRR.

Despite the clear process outlined by the Commission in its file note, EAA is deeply concerned by Capral's efforts to present new allegations and new information, in an apparent attempt to prompt a fresh restart of the investigation. This is particularly troubling given the request for investigation by the ADRP was limited to:

- presentation of analysis relevant to the non-injurious price of exports;
- updating of price undercutting analysis; and
- prepare further analysis of the pricing behaviour of importers since the imposition of anti-dumping measures.

In its submission of 8 November 2022, Capral now presents new evidence which it claims supports examples of undercutting in the period following the expiry of the measures in June 2022.

First, EAA questions the validity of new information being presented to the reinvestigation, and especially when such information relates to a period outside the scope of the inquiry period. EAA notes that the Commission's file note of its meeting with Capral, highlights that Capral's submission has not yet been considered, and questions whether there is scope to have regard to new information, given the ADRP's requested scope of reinvestigation.

Second, Capral has redacted all information with respect to this new information and provides no understanding or opportunity for parties to properly respond and defend their interests against these new assertions. It is not appropriate for the Commission to give weight to this new information without properly assessing the relevance and reliability of the evidence submitted. This can only be achieved by either allowing the referenced importers to directly respond to the new information, or the Commission to directly contact the referenced customers to seek their response and comments. In the absence of either approach, the Commission would have no means to establish whether this new information is genuine.

Third, in the absence of specific importers and/or customers responding to the new information, the Commission would also be unable to confirm whether the prices referenced in Capral's submission provide for a proper comparison have regard to known factors that influence prices in the market. This includes whether prices are based on order/sales made in similar time periods, differences in product type, quantities, level of trade, etc. This is particularly relevant given the ADRP identified and requested a reinvestigation of the price undercutting analysis to ensure prices were being properly compared.

Lastly, the new information appears to be based on a couple of price offers only. When these are added to the other limited examples contained in Capral's application and presented during the inquiry, the proportionality of evidence relative to the overall sale of like goods produced by the Australian industry is infinitesimal. This needs to be understood in the context of the Commission's assessment of 'material' injury and the overall economic condition of the Australian industry.

By way of example, total exports from Vietnam were a small fraction of Australian industry sales, and the Australian industry's record profit levels refutes the view that one or two examples of price undercutting can, and have had, a material impact on industry's overall performance. It's also important to note that Capral's 2022 Half Year Results Presentation highlights that it has annual extrusion capacity of 65,000 tonnes, and sales volume for 1H21 was 36,200 tonnes, suggesting that it was at or near capacity during 2022. This alone may explain why certain customers are sourcing extruded products from importers, but at the very least demonstrates why the Commission's material injury assessment is based on total sales and not merely one or two individual sales.

EAA encourages the Commission to ensure that the reinvestigation process is transparent and allows for submitted evidence to be properly examined. Allowing Capral to present information specific to certain importers and/or customers, without the ability for those affected parties to interrogate or properly respond to assertions made, would undermine the entire investigation process and the Commission's reinvestigation findings.

Yours sincerely

John Bracic