Introduction

Capral Limited ("Capral") submits that there has been no change in circumstances following review of variable factors Investigation No. 543 ("Invest 543") in respect of the Government of China's ("GOC') influence on aluminium selling prices in China. It is considered that the Commissioner must continue to be satisfied that, due to a situation in the domestic aluminium extrusions market in China, domestic selling prices are not suitable for use in determining a normal value under section 269TAC(1).

I. Exporter Briefing – Guangdong Jinxiecheng Al Manufacturing Co., Ltd

(a) Recent inquiry participation

Guangdong Jinxiecheng Al Manufacturing Co., Ltd ("Jinxiecheng") is a "selected" cooperative exporter in the review of variable factors investigation No. 609 ("Invest 609").

Jinxiecheng is a wholly-owned Foreign Invested Enterprise ("FIE") located in the Henggang Industrial Zone of the Nanhai District, Foshan City, Guangdong province. Jinxiecheng was a cooperative exporter in review of measures Investigations No. 482 ("Invest 482") and Invest 543.

Jinxiecheng exports aluminium extrusions to Australia in mill finish, powder coated and anodised forms. The company sells the same goods on the domestic market in China, along with goods with an electrophoresis finish.

(b) Matters raised by Capral previously – packing costs

Capral has previously (Invest 482 and Invest 543) raised its concerns with Anti-Dumping Commission ("the Commission") that the costs of packaging were not reflected in Jinxiecheng's normal value.

The Commission raised the treatment of export packaging costs with Jinxiecheng. The Jinxiencheng exporter verification report from Invest 482 states[1]:

> "*Jinxiecheng stated that the cost of packaging for Australian sales (sold ex-works terms) did not differ to its domestic sales (also sold at ex-works terms). Jinxiecheng also stated that additional packaging costs for Australian sales, including wooden crates and steel trolleys, were borne by the traders that manage the export process. Within Jinxiecheng's management accounts, the verification team tested subsidiary ledgers that recorded all of Jinxiecheng's packaging costs for the review period. The verification team did not identify any costs relating to wooden crates or steel trolleys, nor any other export specific packaging (with the exception of a small amount of wooden crate cost in 2018, which was verified to be related to domestic sales). This is consistent with the verification team's observations during the factory tour. The verification team considers that there is no difference in packaging costs according to customer or destination market.*
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> *Given the above, the verification team considers that there is no difference in packaging costs between domestic and Australian sales such that a packaging adjustment would be warranted*."

Capral again raised this matter in Invest 543. Report 543 and the Jinxiecheng Verification Report were silent on the packaging costs for Jinxiecheng other that the Commission's accepted position that the packaging costs reflected "actual costs allocated to cost to make of the good".

It is well understood by the Commission that packaging costs for aluminium extrusions differ between domestic and export sales – driven primarily by the use of trolleys in export shipping containers and additional packaging expenses to ensure the exported goods are not damaged.

[1] Invest 482 Jinxiecheng Exporter Verification Report, EPR Document 043, P.17.

Jinxiecheng's continued stance that "*products with same surface like mill finish have the same production cost and same packing cost regardless of where they are sold*[2]" is later contradicted by "*Of course, the packing generally varies among individual customers and even individual transaction of the same customer*" and "*So, it is very difficult for Jinxiecheng to identify the packing cost for each transaction*".

Jinxiecheng then further concedes that "*there is some difference on packing between domestic sale and export sale*". The exporter further discusses the use of a "wooden tray" on export sales that are not used in domestic sales.

Jinxiecheng acknowledges that there are cost differences for packaging between types of finishes and with customers. Jinxiecheng concedes that it is difficult for it to identify the relevant cost differences.

The Commission has access to packaging cost differences between domestic and export sales from other cooperative Chinese exporters of aluminium extrusions. Capral requests the Commission to utilise this further verified information from other Chinese exporters to make adjustments to Jinxiecheng's normal value and make allowance for differences in packaging costs between domestic and export sales.

(c) <u>Delivery</u>

Jinxiecheng confirms that all domestic sales are ex-factory, whereas export sales are a mix of ex-works and FOB.

An adjustment is required for the inland freight and handling costs associated with FOB export sales. Jinxiecheng has calculated an average transportation fee for the adjustment. Capral requests the Commission to assess the reliability of the adjustment for accuracy of costs incurred by the exporter.

(d) <u>Subsidies</u>

Capral notes that Jinxiecheng has confirmed in earlier inquiries that it has not received any benefits under countervailing programs for the GOC.

Jinxiecheng is located in Guandong province. Program No. 48, for example, is an offset for R&D expenses. Capral is concerned that where the exporter states there is no benefit received in an on-line verification, the Commission is likely prevented from testing the exporter's response with any conviction.

Jinxiecheng's EQR seeks to keep the responses to the receipt of subsidies confidential. Capral is unable to assess whether Jinxiecheng may be in receipt of benefits in the form of subsidies from the GOC.

[2] Invest 609 - Jinxiecheng Exporter Questionnaire Response, EPR Document No. 009, Section E-2.

II. Exporter Briefing - Goomax Metal Co., Ltd Fujian

(a) Normal value

Capral recalls that Goomax Metal Co., Ltd Fujian ("Goomax") was a selected cooperative exporter in Invest 543. In Invest 543 Goomax dumping margin determined was negative 6.0 per cent.

It can be recalled in Invest 482 the Commission determined that Goomax' cost to make aluminium extrusions could not be relied upon. The Commission noted[3]:

> "*The verification team considers that while the costing demonstrated in the cost sheet is complete, the allocation methodology applied does not result in a cost to make that reflects the actual cost of production at a model level. As such, the verification team consider that the cost data supplied is unreliable for the purpose of constructing a normal value, determining sales made in the ordinary course of trade or determination of profit*."

As the Commission could not rely upon Goomax' costs of production – due to Goomax only including the cost of aluminium in its raw material costs - with paint and other chemicals included in manufacturing overheads – because the actual cost data was incomplete, Goomax was categorized as a "residual" exporter for the purposes of normal value assessment.

The Goomax exporter verification report also identified that Goomax included its packaging costs in its manufacturing overheads, and the Commission was "*unable to differentiate the cost of packaging between domestic and export goods*[4]". Capral notes that the Commission has previously established in earlier investigations involving aluminium extrusions[5] that exporters incur a higher cost associated with export packaging for exporters of aluminium extrusions. Capral considers that an upward adjustment to Goomax' normal value (as also for the exporter Jinxiecheng) is required for this additional packaging expense on export sales to Australia.

In Invest 543 the Commission conducted a desk verification of Goomax' cost and sales data. The Commission was satisfied that Goomax financial data was reliable for the purposes of determining normal values. Adjustments were made for domestic credit and inland transport charges, as well as for export credit & bank charges, and export inland freight and port charges.

In the Invest 543 Goomax exporter verification report the Commission did not make an adjustment for differences between domestic and export packaging as Goomax did not differentiate these costs. The Commission accepted the Goomax' representations.

Capral does not consider that it is reasonable for the Commission to accept that as Goomax does not separately cost its packaging expenses between domestic and export sales that not adjustment is therefore made to the Goomax' normal value. The Commission has access to other Chinese exporter packaging costs for aluminium extrusions and can make an adjustment based upon the verified packaging costs of another exporter.

Goomax should not be afforded a benefit of a lower normal value viz-a-viz other exporters on the basis that it does not separately account for domestic and export packaging costs.

(b) Countervailing

In Invest 543, the Commission identified a number of subsidy programs under which the GOC provided benefits to Chinese producers/exporters of aluminium extrusions. The Commission confirmed that the subsidy rate applicable to Goomax in Invest 543 was 1.0 per cent (being an aggregate of the subsidy benefits received by Goomax as a percentage of export price).

In Invest 482 Goomax received a range of awards from the GOC that attracted financial benefits including:

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[3] Goomax exporter verification report, Case 482, P. 12.
[4] *Ibid,* P. 17.
[5] Notable Investigations No. 362 and 483.

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- Famous Trademark of China;
- Fujian Famous Brand;
- Top 10 Aluminium Profiles Manufacturer of China;
- Innovative Pilot Enterprises in Fujian Province;
- National Hi-Tech Enterprise;
- Nanan Star Enterprise;
- Nanan Reserve Listed Enterprise.

The awards attract grants received from the GOC.

In Invest 543 Goomax confirmed it did not pay company tax at the applicable rate of 25 per cent. Capral notes that in Goomax EQR (Section I-3) Goomax states that it "*did not pay less than the general rate for enterprises referred to in question I-3.4"*. Goomax is a National Hi-Tech Enterprise and Capral understands that hi-tech enterprises attract a reduced 15 per cent company tax rate which is considered a countervailable subsidy. Goomax would likely be referring the concessional 15 per cent rate for enterprises of its type.

III. Exporter Briefing – Tai Shan City Kam Kiu Aluminium Extrusions Co., Ltd

(a) Relevant considerations

Capral understands from EPR Document No. 006 that Tai Shan City Kam Kiu Aluminium Extrusions Co., Ltd ("Kam Kiu") is a "selected" cooperative exporter for the purposes of verification in Invest 609.

As at the date of preparation of this briefing, there has not been an EQR placed on the EPR for Kam Kiu.

Tai Shan City Kam Kiu Aluminium Extrusion Co., Ltd (KAE) is a limited liability company, wholly owned by a foreign entity There are a number of related entities affiliated with KAE. KAE sold aluminium extrusions, for the Australian market, to a foreign related entity, Kam Kiu Aluminium Products Sdn. Bhd. (KMY). In 2019 Kam Kiu Group underwent a restructure that resulted in aluminium extrusions being sold for the Australian market to a second foreign related entity, Kam Kiu (Hong Kong) Limited (KHK).

In Invest 392 KMY was determined to be the importer of the goods on the basis that it was the beneficial owner of the goods at the time of importation. KAE, in an earlier exporter questionnaire response (EQR), stated that the restructure did not result in a material change and that there is no 'fundamental difference' between the business models. An assessment of the data provided by KAE to the Commission demonstrated that KMY and KHK both were the beneficial owners of the goods at the time of importation for the current review period. For this reason, the verification team considered both related foreign traders, KMY and KHK, to be the importers of the goods in Invest 482.

A fourth related entity, Kam Kiu (Australia) Pty Ltd. (KAU), is also involved in the sale of goods to Australia. This entity is an Australian company that facilitates sales to Australian end users.

Kam Kiu is located in the Shiqiao Industrial Zone, Dajiang County, Taishan City, Guangdong. Kam Kiu was previously involved as an exporter in the original investigation (No. 148) and in the subsequent circumvention inquiry (No. 241). Kam Kiu was also involved in Review Investigation No. 248, which it made an application to the Anti-Dumping Review Panel ("ADRP") for a review of the Parliamentary Secretary's decision to apply dumping measures at the 2 per cent of export price margin. Following the ADRP appeal, the measures applied to Kam Kui were re-calculated (due to identified errors) at 20.1 per cent. In Review of measures investigation ("Invest 392") the Commission confirmed a dumping margin for Kam Kiu of 21.0 per cent, and a countervailing subsidy margin of 4.5 per cent.

Kam Kiu was also a selected exporter in Review of Measures Investigation 482 ("Invest 482").

(b) Determination of Kam Kui's export price

In assessing the export price for goods exported by Kam Kiu to Australia in Invest 482 (as it did in Invest 392) the Commission confirmed that a large proportion of export sales between Kam Kiu and both KMY and KHK were unprofitable. The export price for Kam Kiu was determined on the basis of a deductive export price methodology using the invoice prices from KAU to the Australian customer less the prescribed deductions.

In the most recent review of measures investigation involving Kam Kiu's exports to Australia (i.e. Invest 543) the Commission was not satisfied that the export sales were conducted at arms length, as it concluded that "*the price was artificially influenced due to the relationship between the parties involved in the importation of the goods to Australia, being Kam Kiu China as the manufacturer, Kam Kiu (Hong Kong) Limited as the international sales office for the Kam Kiu group of companies, and Kam Kiu Australia as the sale agent in Australia*".

Capral is not aware that the relationship between the Kam Kiu manufacturer, sales agent and Australian importer has altered since Invest 543 and that a deductive export price (section 269TAB(1)(b)) is again required in the current review of variable factors investigation.

(c) Normal value

In Invest 482, the Commission determined normal values for Kam Kiu on the basis of a constructed methodology. With respect to the level of profit to be applied to Kam Kiu's normal value, the exporter sought to have excluded from the profit calculation certain "high-end" model sales. Following consideration of Kam Kiu's request the Commission considered that the profit for the so-called "high-end" models should be included in the profit calculation as these are also 'like goods' to the goods the subject of the measures.

The Commission included all sales of like goods in its normal value determination.

Capral noted that in Invest 482 Kam Kiu did not provide separate costs relevant to the trolleys used for exported goods. The verification team used verified trolley costs from Invest 392 to provide an upward adjustment to Kam Kiu's normal value in Invest 482 to reflect the higher costs associated with export sales to Australia.

In Invest 543 the Commission was prepared to follow a similar path to the earlier investigation and use historic trolley costs for an adjustment to Kam Kiu's normal value. However, Kam Kiu provided relevant information that the Commission accepted as reliable for the purposes of trolley costs.

Capral requests that the Commission examine Kam Kiu's current trolley costs to see that they reflect actual costs of trolleys for the investigation period.

Capral further understands that Kam Kiu Australia ("KAU") is paid a commission for sales of aluminium extrusions made on the Australian market. The Commission is requested to investigate the extent of any commissions received by KAU from its affiliated exporter in China.

(d) Subsidies

In Invest 482 Kam Kiu indicated it received subsidies from the Government of China ("GOC") under programs 47 (as a High-Tech Enterprise) and Program 48 (Income tax offsets for R&D expenditure). Additionally, Kam Kiu confirmed it received grants from the GOC that fall within the *Grants and Preferential Policies category (Programs 2 to 9, 26, 29, 32, 35, 56 and 58 to 71*).

Kam Kiu's EQR response in Invest 482 listed the grants received within the identified programs 61 to 71.

In Invest 543 Kam Kiu was determined as having the highest aggregate subsidy benefit of the cooperating exporters – a margin of 6.4 per cent was determined. Report 543 did not detail the applicable programs identified by the Commission that applied to Kam Kiu – just an aggregate percentage was determined based upon the taxation benefits, grants and exemptions received on imported materials and equipment was calculated.

The Commission is requested to examine these programs in the current review and also assess whether Kam Kiu has benefitted from other subsidy benefits received during the 2021/22 investigation period.

IV. Exporter Briefing – Guangdong Xingfa Aluminium Co., Ltd

Guangdong Xingfa Aluminium Co., Ltd ("Xingfa") has been identified as a selected cooperative exporter. Xingfa has provided the Commission with a completed EQR (EPR Document 005).

According to Xingfa's EQR, the company sells directly to customers on the domestic market and similarly to customers in Australia (i.e. not via a trading entity). For export sales to Australia, it appears the Xingfa sells on an FOB basis (as it arranges and pays inland transportation expenses and port & handling charges).

Xingfa has some related party sales on the domestic market. It states that there is "no difference" in selling prices between related and unrelated sales. The Commission will assess the relevant sales.

Xingfa has not provided separate packaging costs between domestic and export sales. Xingfa does state, however, that packaging varies between customers. As indicated, it is well established that there exist cost differences between packaging for domestic and export sales. The Commission is requested to include adjustments based upon relevant information for packaging costs for domestic and export markets.

In respect of subsidies, Xingfa confirms that it is in receipt of certain financial grants from the GOC. It states that it has not received any grants from the local Guandong Provincial government.