



ADRP Conference Summary

Review No. 135 & 137 - Aluminium Extrusions (mill finish) exported from Malaysia and Aluminium Extrusions (surface finished) exported from Malaysia

Panel Member	Paul O'Connor
Review type	Review of Minister's decision
Date	9 August 2021
Participants	Mr Larry Isaac and Mr Gavin Crooks (Anti-Dumping Commission representatives)
Time opened	4:00pm AEST
Time closed	5:45pm AEST

Purpose

The purpose of this conference was to obtain further information in relation to the review before the Anti-Dumping Review Panel (Review Panel) in relation to Aluminium Extrusions (mill finish) exported from Malaysia and Aluminium Extrusions (surface finished) exported from Malaysia.

The conference was held pursuant to section 269ZZHA of the *Customs Act 1901* (the Act).

In the course of the conference, I was able to ask Anti-Dumping Commission (Commission) representatives to clarify its position with respect to:

- Milleon Extruder Sdn Bhd's (Milleon) claims regarding the adjustment for management time devoted to domestic sales;
- Milleon's claims in relation to the price premium which attached to sales of "special goods"; and
- Criterion Industries Ptd Limited's (Criterion) claims with respect to the Commission's injury analysis.

I have only had regard to information provided at this conference to the extent that it relates to relevant information within the meaning of section 269ZZK of the Act. Any conclusions reached at this conference are based on that relevant information. Information that relates to some new argument not previously put in an application or submission is not something that the Review Panel may have regard to and, therefore, is not reflected in this conference summary.



At the time of the conference, I advised the Commission representatives:

- That the conference was being recorded and transcribed by Express Virtual Meetings Pty Ltd, and that the recording would capture everything said during the conference.
- That the conference was being recorded for the Review Panel to have regard to when preparing a conference summary. The conference summary would then be published on the Review Panel's website.
- Any confidential information discussed during the conference would be redacted from the conference summary prior to publication.

Prior to the conference, Commission representatives were provided with a copy of the Review Panel's Privacy Statement. The Privacy Statement outlines who the conference recording and transcript may be disclosed to. The Privacy Statement is available on the Review Panel's website [here](#). The Commission representatives indicated that they understood the Privacy Statement and consented to:

- The recording of the conference; and
- The recording being dealt with as set out in the Privacy Statement.

Discussion

The specific information that the Review Panel sought in this conference related to:

Milleon's claim in relation to management selling expenses

- REP 540, at page 63, states "*details regarding the allocation were not outlined by Milleon and its specific roles and functions of the staff relevant to the claim are unclear*". Milleon claims that the allocation of management time devoted to sales was in fact disclosed closed to the Commission. Commission representatives were asked to comment on the following statements:
 - Milleon's submission dated 21 September 2020, at page, 8 states:
 - "*the domestic commission agents handle about [REDACTED] of the total domestic sales. The Milleon management team is directly involved in handling all the other customers which require services which are effectively the same as those undertaken by the local commission agents. The management team is directly involved in these sales ... There is a majority of domestic sales which have to be serviced by the management team.*"



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- The submission at page 9 provided details of Milleon’s allocation methodology with respect to management time devoted to domestic sales and states that:
 - *“Milleon has reasonably and conservatively estimated that [REDACTED] of the management team time is involved in the sales to non-commission domestic sales.”*
 - In a later submission dated 27 October 2020, at page 7, Milleon states:
 - *“allocations can be based on certain reasonable calculations. Items such as freight, or credit can be allocated in the absence of a known actual amount... Reasonable assumptions are always being made when working out an expense or cost item. In usual accounting practice a ‘charge’ or expense item is often based on an allocation of an amount to account on any basis consistent with generally accepted cost accounting principles and practices.”*
 - Further, Milleon’s submission dated 5 January 2021, at page 9, states:
 - *“The sales activities performed by Milleon management for these non-commission sales are the same as the activities that are undertaken on the domestic market by a sales commission agent. Management performing these functions receive phone calls from customers, respond to their queries and concerns regarding the supply of product including terms, conditions and prices, meet with the customers where necessary, negotiate and finalise contracts including prices, deal with subsequent issues and problems in fulfilling orders including quality issues and address issues with drawings for product profiles or new fabrications.”*
1. Commission representatives agreed that Milleon had, at a very high level, provided information to help explain how it had worked out the quantum of the adjustment it was seeking. Such information included details of the sales volumes relative to each market that Milleon sell into i.e. its domestic market, the Australian market and third country export markets. Although Milleon had suggested an allocation rate of [REDACTED] it had not provided sufficient evidence as to the basis of how this figure was calculated.



2. Commission representatives correctly noted that it was Milleon’s responsibility to raise any claim for an adjustment to normal values and to provide sufficient evidence to substantiate any such claim. Milleon, however, did not highlight in their response to the Exporter Questionnaire that they would be seeking an adjustment for in-house management team direct selling expenses. On the contrary, the response had in fact stated that Milleon had not paid sales commission for either domestic or export sales of the goods under consideration (GUC). When this response was examined during verification, Milleon claimed it had in fact paid sales commission in respect of some domestic sales and amended its response to the questionnaire to include the amounts paid. These amounts were then verified and accepted by Commission offices.
3. Following completion of the Verification Report, the Commission provided Milleon with details of its normal value calculations. It was only at this time that Milleon first raised the issue of an adjustment for management selling expenses and included a claim for this adjustment in the submission dated 21 September 2020.
4. Milleon’s submission provided a total figure of “the cost of the management team” which was the aggregate of three cost items: salary, Directors salary and statutory employee contributions. Milleon then estimated that [REDACTED] of the management team time was involved in sales to domestic customers and allocated [REDACTED] of the aggregated management team cost to such sales.
5. Commission representatives noted that the aggregated figure and its component elements relied upon in Milleon’s submission of 21 September 2020 were taken from the amounts stated to be its indirect selling, general and administration costs listing provided in its response to the Exporter Questionnaire. Commission representatives stated that Milleon appeared to be “relying on their whole SG&A wages cost base as a starting point for allocation.”
6. Further, such amounts included the full remuneration provided to the company’s three Directors but did not detail the extent of those Directors involvement in the day-to-day operations of the company, particularly its selling operations. This was viewed by the Commission as significant as that Director’s remuneration component made up approximately [REDACTED] of the aggregated amount.



7. It was noted that the company's Organisation Chart suggests that the wages expenses included in the allocation base of the adjustment included wages paid to staff performing functions that do not relate to selling activities such as: accounts payable and receivable; human resources; and warehousing. Clearly such expenses and functions were not relevant to the activity of selling.
8. It was noted that whilst Milleon repeatedly referred to a "Management Team", at no stage did it provide any records from its accounts to indicate who were the members of the team and particulars of their duties. The details provided in Milleon's submission of 5 January 2021 regarding the selling functions performed by members management team were described by Commission representatives as "a range of other generic tasks" which were reflective of general administrative functions and not directly related to sales transactions.
9. The Commission representatives acknowledged that Milleon employed a Sales Manager and that a significant portion (but not 100%) of the functions of that position would reasonably relate to selling but Milleon had included 100% of the costs of that position in its adjustment claim. The Commission's dilemma was that although it acknowledged that there was a basis to the adjustment sought for management time devoted to sales, the amount claimed by Milleon seemed excessive and/or unjustified and the Commission did not have before it sufficient evidence upon which to quantify the appropriate adjustment.

Milleon's claims in relation to the price premium which attached to sales of "special goods"
10. Reference was made to a series charts or tables prepared by the Commission as part of its domestic sales analysis to determine if it was possible to identify an observable difference in the sale prices of special and standard goods.
11. The first chart plotted each of the approximately [REDACTED] domestic sales of goods falling within MCC M-6A-T1 over the investigation period. This code captured all sales of special like goods to three customers (special customers) and all sales of standard goods. As expected, sales to one of the three special customers formed a noticeable band at a relatively consistent price point and which were the most expensive. In the descending order were prices to the second and third special customers. with the prices to each customer being at a relatively consistent level over the investigation period.



12. Whilst there was a clear separation in the prices between the first and second special like goods customers, the prices to second customer converged with the prices to the third customer in the latter half of the investigation period. A consistent feature of the price to the third special customer was that these prices were not distinct from the prices paid by a significant number of standard like goods customers. Rather than depicting a clear pricing separation between the prices paid by the third special customer and those paid by standard goods customers, the chart suggested that the prices to the third special customer seemed to coexist with a significantly high number of higher priced sales of standard goods. A similar trend was observed in relation to the prices paid by the second customer in the latter half of the investigation period.
13. Therefore, with the exception of sales to the first special customer, the chart suggests, over the investigation period, there were frequent sales of standard goods at prices equivalent to those of the second and third special customer.
14. On a weighted average basis over the investigation period, accepting that the first special customer appears as a significant price outlier, the table indicate that prices of other like goods i.e. both special or standard, ranged between RM [REDACTED] and RM [REDACTED] per kilogram. Not only was this price range relatively insignificant, it is claimed by Milleon that the difference is due to the application of addition or special processes to which the special goods were subject. Commission representatives observed that this difference could just being naturally occurring due to the specific circumstances of the sale between customer and vendor.
15. As to the sales of the first special customer, these were consistent over the investigation period, occurred within a higher price point and were clearly separated (i.e. above) prices paid by the second special customer. The Commission representatives acknowledged that the first special customer's position as a price outlier may be due to a culmination of factors which Milleon asserts it undertakes with respect to those products. Another factor may be the pricing arrangements between Milleon and the first special customer relating to the aluminium billet used in the production of the goods.
16. The Commission representatives referred to Milleon's submission dated 5 January 2021, which compared prices to the first special customer with prices to standard



goods are customers. This comparison was undertaken with respect to prices prevailing in May 2018 i.e. at a point in time before the investigation period and before the pricing agreement between the first special customer and Milleon which was in place throughout the investigation period. Importantly, the prices to the first special customer in May 2018 were equivalent to the weighted average prices it had paid for special goods throughout the investigation period. There was however a significant reduction in the price of standard goods between May 2018 and the weighted average prices for such goods over the investigation period. The Commission representatives suggested that this reduction reflected the 20% reduction in the London Metal Exchange reference price for primary aluminium which occurred between the two periods.

Criterion's claims with respect to the Commission's injury analysis

17. The Commission's injury analysis revealed that absent the need for the Australian industry to compete against dumped imports from Malaysia, it would have been able to increase its selling prices over a significant portion of its sales thereby enhancing its profitability.
18. The analysis involved identifying the quantum of Capral's, G James' and INEX's sales of Mill and Surface finished goods which it had sold in direct competition with the dumped goods at or below the same prices as the dumped goods from Malaysia. This analysis identified that a significant portion of Capral's, G James' and INEX's sales had been impacted by direct price competition from the dumped GUC.
19. This in turn enabled the Commission to calculate the impact upon the profitability of both Capral, G James and INEX had such sales occurred at higher prices, equivalent to those offered by other suppliers to the market including exporters from other countries not subject to investigation such as China. Stated differently, that the Australian industry would have been positioned to make price offers at higher prices which would have been competitive with those of other suppliers in the market. Such higher prices in relation to the Australian industry's total sales volume in the investigation period would have generated additional revenues.
20. The Commission had identified what it referred to as "the minimum undumped price" and then identified the volume of goods which Capral, G James and INEX had sold below that price over the investigation period. The Commission was then able to



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quantify the additional sales revenue to both companies if they had sold that volume at the minimum undumped price.

Paul O'Connor

Member

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17 August 2021