

11th February 2026

Secretariat
Anti-Dumping Review Panel
Department of Industry, Science and Resources
GPO Box 2013
Canberra ACT 2600

By email: adrp@industry.gov.au ; pouyan.afshar@industry.gov.au

Public File

Dear Afshar, ADRP Secretariat,

Federal Court Decision NSD67/2024 – Anti-Dumping Measures on Aluminum Extrusions from Malaysia and Vietnam

Capral Limited (Capral) refers to the orders of the Federal Court made on 19 November 2025 concerning proceeding number NSD67/2024. This correspondence serves to express the Australian aluminium extrusion industry's concerns with the dismissal outcomes as they currently stand, and to present critical arguments in support of the continued imposition of trade measures against Malaysian and Vietnamese imports. In accordance with the Federal Court's remand orders, Capral understands that the Anti-Dumping Review Panel (**ADRP**) will shortly reassess whether these trade measures are warranted.

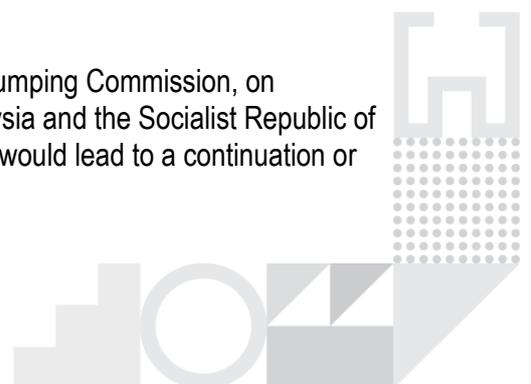
Executive Summary

Capral respectfully requests that the ADRP:

1. Uphold the substantive findings in ADRP Report No. 155 (**Report No. 155**) that material injury would continue or recur in the absence of measures, notwithstanding the Federal Court's remand on procedural grounds;
2. Reset the five-year measures period to commence from the date of the Minister's acceptance of the recommendations in Report No. 155, recognising the extended periods without protection and the need for continuous trade remedy coverage;
3. Provide urgent process clarity on timelines and opportunities for stakeholder consultation; and
4. Expedite the re-make decision to minimize the Australian industry's exposure to unfairly traded imports.

Background

The Federal Court's decision has assessed whether the ADRP and the Anti-Dumping Commission, on reinvestigation, correctly concluded that anti-dumping measures against Malaysia and the Socialist Republic of Vietnam (**Vietnam**) should continue based on the expectation that their expiry would lead to a continuation or recurrence of material injury to the Australian aluminium extrusion industry.



The Federal Court has specifically upheld one of the applicant's appeal grounds, directing that the normal value and dumping margin for the applicant's related party Malaysian exporter be recalculated. The sequence of events leading to this situation is detailed further below. Critically, this determination has resulted in the complete removal of measures applying to Malaysian and Vietnamese exports. Whether this removal proves temporary will depend on the outcome of the next phase of the legislative, procedural and administrative assessment of the trade measures in question.

To date, the Australian industry has engaged comprehensively throughout an extraordinarily drawn-out process in representing the interests of the Australian aluminium extrusion industry on the measures in question. By way of brief timeline:

- June 2017: Malaysian and Vietnam trade measures imposed under Investigation No. 362.
- August 2021: Capral's application for the continuation of the measures, resulting in initiation of Continuation Inquiry No. 591;
- June 2022: Commission's decision not to continue the measures, under Report No. 591;
- July 2022: Capral's application for ADRP merits review;
- August 2023: Commission's reinvestigation report, at the request of the ADRP;
- September 2023: ADRP findings, under Report No. 155, recommending re-imposition of the measures;
- December 2023: Minister's decision to reimpose measures; and
- November 2025: Federal Court decision setting aside measures.

As above, the trade measures were originally imposed by public notice on 27 June 2017 following consideration of Anti-Dumping Commission (**the Commission**) Report No. 362 (**REP 362**)¹ by the then Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science. Exports of aluminium extrusions during the original investigation period (1 July 2015 to 30 June 2016) were found to be dumped and subsidised. The original measures were in the form of a dumping duty notice on exports from Malaysia and Vietnam, and a countervailing duty notice on exports from Malaysia. The anti-dumping measures were then due to expire after 27 June 2022.

On 15 September 2021, the Commission initiated Continuation Inquiry No. 591 (**CON 591**) of the measures following an application from Capral, the original applicant to Investigation No. 362. The period of inquiry was 1 July 2020 to 30 June 2021.²

The Statement of Essential Facts to CON 591 was published on 18 March 2022. The Commissioner provided a report (**REP 591**) to the Minister recommending not to secure the continuation of the measures and that the notices applying to the goods be allowed to expire. This report was dated 13 May 2022.

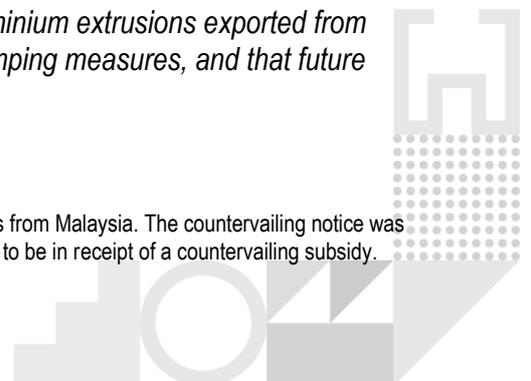
The Commissioner's findings in REP 591 indicated that:³

... there is sufficient evidence to support a finding that exports for aluminium extrusions exported from Malaysia and Vietnam are likely to continue in the absence of anti-dumping measures, and that future exports (except for exports by Alumac) are likely to be dumped;

¹ Anti-Dumping Notices (ADN) 2017/72 and 73 respectively refer.

² The original countervailing notice imposed following REP 362 applied only to non-cooperating exporters from Malaysia. The countervailing notice was revoked for Alumac following REP 490 and for Everpress in REP 590. In REP 591, PMBA was found not to be in receipt of a countervailing subsidy.

³ REP 591, Section 1.2, p. 8-9.



...

... it is unlikely there will be a continuation or recurrence of the subsidisation, in relation to exports from Malaysia...;

...

While the Commissioner considers dumping will continue (except by Alumac), the Commissioner does not consider that material injury to the Australian industry, that the measures are intended to prevent, is likely to continue or recur in the absence of the measures. This is because there is no demonstrable connection between:

The price advantage that dumping gives to exporters from Malaysia and Vietnam, and

The economic condition of the Australian industry, specifically in terms of how it sets its prices, which is distinct from the influence of other sources of the goods.

...

Two Australian industry members presented evidence of sales that appeared to have been lost to imports from Malaysia and/or Vietnam. It considered these examples related to very small volumes in the context of the overall market. It noted that while there was evidence presented in the original inquiry (in REP 362) that demonstrated that prices were impacted by the presence of the dumped goods, this was not apparent in the Australian market during the continuation inquiry.

...

The volume of goods from Malaysia and Vietnam subject to the notices has remained a relatively small proportion of the Australian market over the last five years. While some exports have undercut the Australian industry's prices at different points during the inquiry period, the evidence does not demonstrate that this had any practical impact on the performance of the Australian industry. The imposition of measures appears to have prompted little change in the market. Taken together, this causes the commission to conclude that, in the absence of the measures, there would likely be little change to pricing behaviours by exporters and importers. In this context, there is little likelihood of a recurrence of material injury to the Australian industry that, in the absence of the measures, would be caused by dumped aluminium extrusions from Malaysia and Vietnam.

The Minister advised in Anti-Dumping Notice (ADN) 2022/042 that he had decided to accept the recommendations in REP 591.

In July 2022, Capral then sought review⁴ of the decision of the Minister for Industry and Science not to secure the continuation of anti-dumping measures on aluminium extrusions exported from Malaysia and Vietnam (**the Reviewable Decision**).

⁴ By way of application, available here: https://www.industry.gov.au/sites/default/files/adrp/capral_non-confidential_application_for_adrp_review_of_minister_decision.pdf



The ADRP accepted three grounds of review, relating to the impact of dumped exports on Australian industry prices and whether material injury was likely to continue or recur in the absence of the anti-dumping measures. Across all review grounds, Capral's application argued that the correct or preferable decision was that the dumped exports would lead or would be likely to lead to a continuation or recurrence of the material injury the anti-dumping measures are intended to prevent, and that the measures should therefore be continued.

The ADRP required a reinvestigation of certain findings in REP 591 pursuant to s.269ZZL of the *Customs Act 1901*.⁵ On reinvestigation, the Commissioner reached materially different findings compared to the findings in REP 591.

The ADRP considered, for the reasons outlined in the investigation report⁶ and following consideration of the reviewable grounds, that Capral had established that the Reviewable Decision was not correct or preferable as material injury was likely to continue or recur in the absence of the measures. On 19 September 2023, the ADRP recommended imposition of a new decision that was materially different to the Reviewable Decision – it secured the continuation of the measures on exports from Malaysia and Vietnam.⁷

The ADRP recommended that the Minister, pursuant to s.269ZZM(1)(b), revoke the Reviewable Decision and substitute a new decision, as follows:⁸

...that the Minister declare that the Minister has decided to secure the continuation of the dumping duty notice applying to exports of aluminium extrusions from Malaysia and Vietnam in accordance with s.269ZHG(1)(b). I recommend that the Minister's decision take effect from the date of publication of the Minister's decision.

...that pursuant to s.269ZZM(3)(d) of the Act, the Minister declare that the dumping duty notice as in force on 27 June 2022 be reinstated with effect from the date of the publication of the Minister's decision.

...with respect to PMB Aluminium Sdn Bhd: that the Minister has decided to secure the continuation of the dumping duty notice relating to goods exported to Australia from Malaysia by PMB Aluminium Sdn Bhd with effect from the date of publication of the Minister's decision but that under s.269ZHG(4)(iii) the dumping duty notice continues in force as if the Minister had fixed different specified variable factors, relevant to the determination of duty.

...with respect to Alumac Industries Sdn Bhd: that the Minister has decided to secure the continuation of the measures relating to goods exported to Australia from Malaysia by Alumac Industries Sdn Bhd with effect from the date of publication of the Minister's decision but that under s.269ZHG(4)(iii) the dumping duty notice continues in force as if the Minister had fixed different specified variable factors relevant to the determination of duty.

...with respect to all other exporters from Malaysia: that the Minister has decided to secure the continuation of the measures relating to goods exported to Australia from Malaysia by all other exporters with effect from the date of publication of the Minister's decision but that under s.269ZHG(4)(iii) the dumping duty notice

⁵ All legislative references are to the *Customs Act 1901*, unless otherwise stated.

⁶ Refer https://www.industry.gov.au/sites/default/files/adrp/2023-12/2022_155_591_reinvestigation_report.pdf

⁷ ADRP Report No. 155, paragraph 4, p. 6.

⁸ Ibid, paragraph 104, p. 43-44.



continues in force as if the Minister had fixed different specified variable factors relevant to the determination of duty.

...with respect to East Asia Aluminium Company Ltd: that the Minister has decided to secure the continuation of the measures relating to goods exported to Australia from Vietnam by to East Asia Aluminium Company Ltd with effect from the date of publication of the Minister's decision but that under s.269ZHG(4)(iii) the dumping duty notice continues in force as if the Minister had fixed different specified variable factors relevant to the determination of duty.

...with respect to all other exporters from Vietnam: that the Minister has decided to secure the continuation of the measures relating to goods exported to Australia from Vietnam by all other exporters with effect from the date of publication of the Minister's decision but that under s.269ZHG(4)(iii) the dumping duty notice continues in force as if the Minister had fixed different specified variable factors relevant to the determination of duty.

On 7 June 2024, Press Metal Aluminium (Australia) (**PMAA**) appealed to the Australian Federal Court the Minister's acceptance of the ADRP's decision in Report No. 155 to overturn the ADC's original findings in CON 591. Capral understands that PMAA appealed the decision on the following four grounds:⁹

1. An impermissible delay in the Minister making his decision;
2. PMB Aluminium Sdn Bhd's (the Malaysian exporter) (**PMBA**) dumping margin should not have changed;
3. The Minister/ADRP did not consider the likelihood of dumping in the absence of measures; and
4. In the alternative to PMBA's dumping margin having been changed, the Commission failed to make correct normal value adjustments.

On 19 November 2025, after lengthy consideration, the Federal Court remitted the Minister's decision for the Commission to reconsider certain of PMAA's appeal grounds, and for the ADRP to advise the Minister on re-making the substitutable decision. In a reading of Justice Younan's decision and in discussions with the Commission, Capral understands this process will comprise two main steps:

1. The orders remit the matter to the Commission for preparation of a report and recommendation to the ADRP on only the normal value and dumping margin for PMBA. The action to be taken by the Commission as ordered by the court is limited to seeking certain information from PMBA as set out in paragraph 4(a) of the court's orders so as to rectify the error described at Note A of the order. The Commission is then to provide a copy of its report to PMBA and is to publish a non-confidential version of the report on the electronic public register; and
2. The ADRP is to prepare a report in response to Capral's original application for merits review (of 12 July 2022) within 40 business days of receiving the Commission's report. The Minister is to then re-make the Minister's Substitute Decision within 30 days of issue of the ADRP report.

⁹ Refer NOTICE OF FILING AND HEARING; Filing and Hearing Details. Document Lodged: Originating Application for Judicial Review - Form 66 - Rule 31.01(1). Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA). Date of Lodgment: 7/06/2024 10:51:06 AM AEST. Date Accepted for Filing: 7/06/2024 11:43:32 AM AEST. File Title: PRESS METAL ALUMINIUM (AUSTRALIA) PTY LTD ACN 085 370 010 & ANOR v MINISTER FOR INDUSTRY AND SCIENCE. Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



As confirmed by the ADRP in Report No. 155, Capral's application for merits review of 12 July 2022 established that the Reviewable Decision was not correct or preferable as material injury was likely to continue or recur in the absence of measures. This, of course, covered the measures as applicable to PMAA/PMBA and the continuation thereof under the substitutable decision. It is this correct and preferable decision, and its substitution over the Reviewable Decision, that Capral stresses must be upheld by the ADRP in its requirement to re-make the decision.

Australian Industry Concerns

Capral, and the Australian industry more broadly, expresses serious concern regarding the Federal Court decision, which has now set aside the anti-dumping measures on aluminium extrusions from Malaysia and Vietnam for a second time, pending compliance with the Federal Court's orders.

The period from June 2022 to December 2023 covering the ADRP's initial assessments and the Commission's reinvestigation, as prompted by Capral's merits review application – a period when measures were not in place – left the Australian extrusion industry exposed to unfairly traded imports. Following Justice Younan's decision in November 2025, measures again no longer apply to any Malaysian or Vietnamese exporters – not only to PMAA's supplier, which was the specific focus of the Federal Court challenge.

The Australian industry seeks clarity on why the measures have been removed in their entirety,¹⁰ particularly given that:

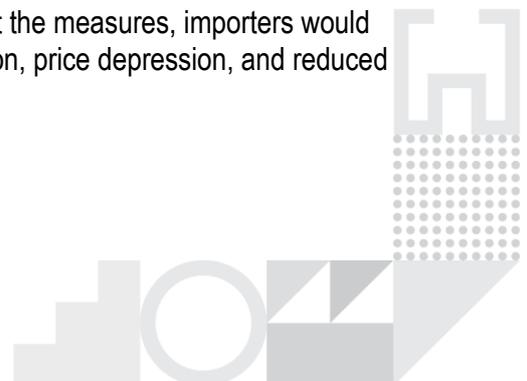
- Vietnamese measures were not challenged. Vietnam was not a party to the Federal Court proceedings, the normal value calculation issue was specific to PMBA, and PMAA's challenge related exclusively to Malaysian measures. There appears to be no basis for removing measures against Vietnamese exporters; and
- Measures against other Malaysian exporters were not challenged. The Federal Court's orders direct recalculation of the normal value and dumping margin for PMBA specifically. Other Malaysian exporters (including all other exporters and separately, Alumac Industries Sdn Bhd and East Asia Aluminium Company Ltd) were not the subject of PMAA's appeal and should not be affected by the remand.

As a result, the Australian industry now finds itself completely exposed to low-priced Malaysian and Vietnamese extrusions flooding the Australian market, with no remedial protection in place.

Prior to the Federal Court challenge, Capral highlights that the Commission's analysis underwent a significant evolution:

- In original CON 591, the Commission found that while exports from Malaysia and Vietnam were dumped, they had not caused material injury to the Australian industry.
- Upon reinvestigation, the Commission concluded however that without the measures, importers would lower prices to increase sales volumes, likely causing price suppression, price depression, and reduced sales volumes to the Australian industry – constituting material injury.

¹⁰ Refer the *Aluminium Extrusions Dumping Commodity Register*, at p. 12 (available here: https://www.industry.gov.au/sites/default/files/adc/measures/2025-12/dcr - aluminium_extrusions_1.pdf)



This fundamental shift – from finding no injury despite dumping, to finding likely material injury absent measures – underscores the critical importance of maintaining protection for the Australian industry.

The Australian industry therefore expresses the following key concerns:

Scope of the Court's Order

The Federal Court's decision to set aside measures in their entirety for Malaysia and Vietnam is concerning, given that the challenge related specifically to PMAA's claims regarding the relevance and extent of the Malaysian measures to its operations. While the Court concluded that the Commission's denial of procedural fairness to PMAA could have affected material injury conclusions, Capral seeks clarity on why the entirety of the measures have been set aside.

Retrospective Duty Refund Risk

Capral understands that importers may apply for duty refunds retrospectively to December 2023, which significantly compounds the severity of this outcome for the Australian industry.

Effective Date of Reinstated Measures

The Commission's Dumping Commodity Register now states that measures no longer apply to aluminium extrusions exported from Vietnam and Malaysia, effective from 15 December 2023. This makes it highly unlikely that if the Commission's reassessment of PMBA's normal value and dumping margin, and the ADRP's remaking of the substitute decision, result in the reinstatement of the measures, the reimposed measures would be backdated to recover refunded duties otherwise payable from 15 December 2023.

Lack of Process Clarity and Stakeholder Visibility

To date, there is little visibility on the reinvestigation process ordered by the Court, including:

- Specific timelines and key dates, beyond those specified in the court orders;
- How stakeholders can meaningfully engage; and
- Steps being taken to expedite resolution.

Substantive Findings Remain Correct and Preferable

While recognised that the variable factors were not assessed in Report No. 155,¹¹ and that this is now the subject of the Commission's reconsiderations for PMAA/PMBA, Capral does not oblige PMAA's Federal Court action that prompted the remand reassessment for PMBA's variable factors. Capral submits that the substantive conclusions in Report No. 155 regarding material injury remain correct and preferable.

The ADRP stated in Report No. 155 that:¹²

¹¹ Report 155, paragraph 105, p. 44.

¹² Ibid, paragraphs 98-101, p. 41-42.



The Review Panel has considered RR 591 [Reinvestigation Report No. 591], including the confidential appendices and attachments, that support the Commissioner's revised finding and agrees and adopts these findings. That is, '... the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the material injury that the anti-dumping measures are intended to prevent.

RR 591 provides a comprehensive analysis of the pricing relationship of the Malaysian and Vietnamese exports with the Australian industry's prices and has dealt with each of the issues raised by Capral's claims and my letter to the Commissioner regarding the reinvestigation. I have reviewed the report, including each of its confidential appendices and spreadsheets which contain the detailed information that supports the findings and agree with its analysis and findings. Accordingly, I adopt the key findings as described in the reinvestigation report.

Having reviewed the findings in REP 591 as well as RR 591 in the context of Capral's grounds, regarding whether:

- there is a demonstrable connection of the Australian industry's price with the prices of the dumped exports,*
- there is evidence to demonstrate a connection between the economic condition of the industry and how it sets its prices (including consideration of the influence of other sources), and*
- in the absence of measures that it is likely, or more probable than not, that in the absence of measures there would be a recurrence of the material injury that the measures are intended to prevent is established.*

I agree with the Commissioner's reinvestigation findings that there is sufficient evidence that, should the measures expire, there would be additional pricing pressure on the Australian industry to either depress or suppress its prices from the Malaysian and Vietnamese exports. Furthermore, it is more probable than not, that this price effect would lead or be likely to lead to a continuation or recurrence of the material injury that the measures are intended to prevent.

On this basis, and as outlined earlier, I agree and adopt the Commissioner's findings as outlined in RR 591. Accordingly, Capral's grounds have established that the Reviewable Decision was not correct or preferable. In other words, the dumping duties should be continued rather than allowed to expire.

I accept each of the grounds of review in Capral's application as it has been established that the Reviewable Decision was not correct or preferable.

The decision re-making remand from the Federal Court tasks the ADRP to prepare a report in response to Capral's application for merits review. The above findings are therefore of critical context to this assessment, and Capral submits that they should be upheld in the re-made decision.

Requests of the ADRP

Capral respectfully requests that the ADRP consider the following in the re-make decision:



Recommend Reset of the Measures Period

Should the re-make decision find that measures are to remain in place, recommend that the five-year measures period commence from the date of the Minister's acceptance of the recommendations in ADRP Report No. 155. The Australian industry has now experienced two extended periods without protection: from June 2022 to December 2023 (18 months), and from November 2025 onwards. Resetting the measures period would afford the Australian industry warranted trade remedy relief without requiring a continuation assessment in the medium term. It would also recognise the need for continuous protective measures, given the historical pattern of interrupted and inconsistent trade remedy coverage for Malaysian and Vietnamese imports.

Provide Process Clarity

Urgently provide clarity on the reinvestigation process, including:

- Detailed timeline for the re-make decision;
- Opportunities for industry/stakeholder consultation and submission; and
- Procedural framework to ensure all affected parties receive proper notice and opportunity to participate.

Prioritise and Expedite the Reinvestigation

It is critical that the ADRP conduct and finalise the reinvestigation as soon as possible to avoid further severe and material injury to the Australian industry. The Australian industry has now endured extended periods without protection – first from June 2022 to December 2023, and now from November 2025 onwards. During these gaps in protection, the industry remains completely exposed to dumped imports from Malaysia and Vietnam with no remedial measures in place.

As the ADRP itself found in Report No. 155, the absence of measures leads to pricing pressure on the Australian industry, causing price suppression, price depression, and reduced sales volumes – all of which constitute material injury. Every day without protection compounds this injury and undermines the viability of Australian manufacturers.

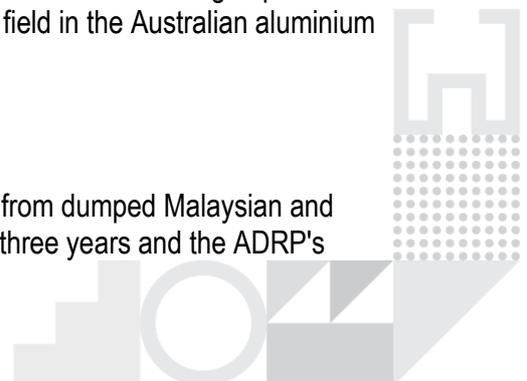
Given the ongoing exposure to unfairly traded imports and the accumulated damage already sustained, Capral urges the ADRP to prioritise and expedite the re-make decision to provide certainty to the Australian industry at the earliest possible date.

Facilitate Stakeholder Engagement

Permit the Australian industry to make full representations supporting the Commission's earlier conclusions in Reinvestigation 591 and the ADRP's acceptance of these in Report No. 155, as well as continuing to petition for trade measures that are appropriate and necessary to maintain a level playing field in the Australian aluminium extrusion market.

Conclusion

The Australian aluminium extrusions industry requires certainty and protection from dumped Malaysian and Vietnamese imports. Despite Capral's sustained engagement over more than three years and the ADRP's



findings supporting the need for measures, the Australian industry now faces another extended period without trade relief.

Capral requests that the ADRP recognise that upholding appropriate measures is essential to protecting Australian jobs, manufacturing capability, and the viability of the domestic aluminium extrusion industry.

Capral remains committed to constructive engagement in this process but must emphasize the urgency of this matter. We would welcome the opportunity to discuss these concerns with the ADRP.

Yours sincerely,

