

**SUBMISSION TO ADRP REVIEW**

2 March 2022

Anti-Dumping Review Panel  
c/o Anti-Dumping Review Panel Secretariat  
GPO Box 2013  
Canberra ACT 2601

**Review of Aluminium Zinc Coated Steel of a width equal to or greater than 600 millimetres (“Aluzinc”) exported from the Socialist Republic of Vietnam**

Dear Panel Member,

This submission is made on behalf of Hoa Sen Group Joint Stock Company (“HSG”) to the ADRP’s review (2022/151) of the reviewable decision into exports of aluzinc from Vietnam by HSG.

In its application for review, HSG highlighted the Commission’s stated policy for relying on the model control code (“MCC”) structure in making necessary comparisons and adjustments. That policy explicitly outlined the requirement for basing its determinations having regard to the hierarchy of the MCC categories. In this particular case, it is clear that the industry applicant, HSG and the Commission itself, all agreed that the zinc coating mass of the subject prime products was the primary characteristic that influenced selling prices. This was demonstrated by the internal price guidance utilised by HSG in negotiating with customers.

During the ADRP conference held on 23 February 2022, Commission representatives explained that its MCC selection for the timing adjustment was due to the HSG proposed MCC having fewer identical MCC categories and apparent lower volume. HSG wishes to address both of these issues.

On the issue of the MCC characteristics, it is clear that the Commission has not followed its own stated policy, but instead introduced a new consideration that undermines the reliability and purpose of the MCC structure. By seeking to select a MCC that has the most number of identical categories, irrespective of their relevance or importance, the Commission has weakened the MCC hierarchy that was established at the outset of the investigation.

Importantly, this unstated approach by the Commission runs counter to the purpose of the MCC which was ‘... *to impose a discipline on the selection of characteristics that will be used to identify the most closely matching models of the goods sold for export to Australia and like goods sold domestically in the country of export.*’<sup>1</sup> The MCC structure was introduced into the Australian dumping system to ensure a consistent approach across investigations, improve transparency, remove the subjective element from model selections.

By disregarding its own stated policy, the Commission has eliminated the preference for MCC selections to be based on a hierarchy of characteristics, with primary characteristics given greater weight than characteristics that have lesser influence on price.

During the ADRP conference, the Commission also highlighted that the volume of sales for the HSG proposed MCC was taken into consideration. The Commission noted that the quarterly volumes were low given they amounted to ■■■ tonnes and ■■■ tonnes in the June

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<sup>1</sup> ADN 2018/77, page 1.

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quarter 2019 and September quarter 2019 for MCC "████████", and █████ tonnes and █████ tonnes for MCC "████████". The consideration of volume is irrelevant and again demonstrates the willingness of the Commission to introduce a new test that is not reflected in either the legislation or their policy.

The volumes referred to by the Commission reflect the domestic sales found to be in the ordinary course of trade and 'in substantial quantities'. That is, those sales found to be in the ordinary course of trade have been tested by the Commission to ensure that they were made in substantial quantities. This is reflected in the data contained in the Commission's Appendix 4 spreadsheet at worksheet '(d)Sufficiency test'. Refer to screenshot below.

**[CONFIDENTIAL INFORMATION REMOVED]**

It confirms that the domestic sales for the HSG proposed MCC, represented more than 5% of the corresponding export sales volume, and the Commission's own calculations confirm that these MCCs are suitable and preferred to be used. The sufficiency test reflected in subsection 269TAC(14) of the *Customs Act 1901*, is the only stated test for establishing whether certain domestic sales are of low volume for comparison purposes. It is unreasonable for the Commission to introduce a further new test that appears to be entirely based on an unstated and unknown standard. It is especially unreasonable and flawed, given that the Commission's own analysis concluded that those sales were in fact of sufficient volume.

Yours sincerely,

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