

Ms Joan Fitzhenry
Anti-Dumping Review Panel
c/o ADRP Secretariat
Legal Services Branch
Department of Industry and Science
GPO Box 9839 ACT 2600 Australia.

By Email: ADRP_support@industry.gov.au

Dear Ms Fitzhenry

We refer to the current review being conducted by you into the decision of 21 January 2015 by the Minister to vary dumping and countervailing duty notices applying to Certain Aluminium Extrusions exported from the People's Republic of China (PRC).

Protector Aluminium Pty Ltd (Protector) has been and is likely to be directly concerned with the importation into Australia of the goods described in the varied notices.

We have read the applications lodged with the Tribunal and wish to express our support for the request by our suppliers, PanAsia and OPAL, that the Panel recommend that the decision be revoked and substituted with a new decision by the Minister that any prospective alterations to the original notices are limited in application to the five importers listed in the application and the inquiry notice published by the Commissioner.

Protector is a totally independent private company supplying aluminium fencing, screening and related products primarily to the retail sector of the Australian market since 1999. We source aluminium extrusions from both local and overseas manufacturers and our trading relationship with our supplier in the PRC is no different from that in transactions with other local or overseas suppliers. Our only association with OPAL and PanAsia is as an independent purchaser.

Because of these circumstances and the terms of the Commissioner's announcement of the anti-circumvention inquiry being limited to five identified importers we concluded that Protector had no direct interest in the inquiry. This conclusion was reinforced by the assurance given by the Commission in its Issues Paper of 18 September 2014 that there would be no 'adverse impact' on importers not engaging in any circumvention activity.

We note the Commission's claims at section 6.4.2 (p.47) of Report 241 concerning contact with Protector. We have no record of an invitation from the Commission dated 5 November 2014 to make a submission and similarly no record of "follow up emails and telephone calls seeking clarification about its submission to the Commission". We did receive a letter dated 14 November 2014 inviting Protector to make a submission and this prompted our response of 26 November 2014 which is included in EPR 241 as item 035.

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Subsequently we received a further letter from the Commission dated 1 December 2014. The purpose of that letter was unclear to us because while describing some of the powers of the Minister we did not interpret the letter as indicating that the Commission intended to resile from its earlier assurance that any variation of dumping and countervailing duty notices would only effect "importers found to be engaging in circumvention activity". As we considered that our submission of 26 November 2014 already expressed Protector's position in clear and unequivocal terms we concluded that no reply was necessary.

We do not believe that there can be any lawful justification for the extended application to Protector of a massive, prohibitive penalty duty designed to counter an alleged circumvention activity undertaken by other importers but in which we have in no way been involved.

Consequently we repeat our request that the Panel recommend to the Minister that Protector should be excluded from the operation of any variation to the dumping and countervailing duty notices.

Yours sincerely


GM

7/5/15

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