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Continuation Inquiry 287: Response to SEF

This submission is made on behalf of the applicant, Capral Limited, in relation to Inquiry 287 concerning the continuation of anti-dumping measures on certain aluminium extrusions exported to Australia from the People's Republic of China (China). We specifically refer to the statement of essential facts (SEF) published on 12 August 2015.

Capral welcomes the overall findings contained in the SEF, particularly the findings that the:

- measures should be continued for a further five years;
- level of the measures should remain the same as the outcome from Review 248; and
- lesser duty rule should not be applied.

There are however two issues identified from the Commission's final report in Review 248, which we request the Commissioner consider before making his final recommendations to the Parliamentary Secretary, as follows.

Circumvention of measures by importers from PanAsia

Capral is very concerned by the statement made by the Commission in Review 248, in relation to sales from PanAsia to Australia, that:

as a result of the exporter verification process in this review the Commission now understands that the importers sales data may not have fully disclosed fabricated finish types as goods under consideration.¹

¹ *Anti-Dumping Commission Report No. 248, p.28*

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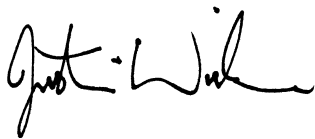
This statement implies that certain importers did not correctly declare all goods subject to measures at the time of importation and have fraudulently avoided paying dumping and countervailing duties on some of its imported goods. We urge the Commission to ensure that all importers have correctly declared goods not subject measures and that appropriate action against non-compliant behaviour is taken by the Department of Immigration and Border Protection.

Program 45: Provision of land use rights for less than adequate remuneration

In Review 248 the Commission stated that it was not in possession of sufficient information to determine whether Program 45 was countervailable in relation to aluminium extrusions.² The Commission appears to have made this finding on the basis that none of the exporters investigated were granted land use rights during the review period. This finding is illogical given that in the United States investigation into aluminium extrusions from China, the benefit from the government's grant of land use rights was allocated over 50 years, which was the life of Zhongya's land use rights contract.³

Capral outlined the approach taken by the United States in our submission of 19 June 2014.⁴ The approach to allocation of benefits from a countervailable subsidy program over the life of the benefit is also consistent with the Commission's practice as outlined in the Dumping and Subsidy Manual.⁵ The United States found the benefit received under this program by Zhongya to be almost 5% of the export price, which in the context of the findings in Review 248 and the measures going forward after this inquiry, is significant.

We request the Commission reconsider its findings in relation to Program 45. Sufficient information is publicly available in the global offering for PanAsialum Holding Company Limited to calculate the benefit received under this program for one of the cooperative exporters, namely PanAsia. We have calculated a benefit to PanAsia for 2013 of USD 1.15M and our calculations are at Appendix A.



Justin Wickes
Director

² *ibid.*, p.103

³ *Aluminium extrusions from the People's Republic of China: Issues and decision memorandum for the final determination in the countervailing duty investigation*, 28 March 2011 at VII.T

⁴ Document number 006 on EPR 248

⁵ *Dumping and Subsidy Manual*, p.81

Program 45: Provision of land-use rights: Estimate of PanAsia's benefit

Land-use rights of PanAsia Aluminium (China) Co Ltd (PanAsia)

Year of receipt	2004
Term (years)	50
Value at 30/9/12 (HKD)	9,356,000
Exchange rate on 30/9/12*	7.7536
Value at 30/9/12 (USD)	1,206,665

Area of PanAsia's properties

Property 1 (sqm)	129,133
Property 2 (sqm)	36,095
Total area occupied (sqm)	165,228

Sources: PanAsialum Global Offering, pp. I-33 and IV-3 to IV-8

* http://www.exchangerates.org.uk/historical/USD/30_09_2012

Benchmark land price for 2004

Land Benchmark (USD/sqm)	62.54
Total for PanAsia (USD)	10,333,334

Source: Wire Rod (US) Benxi Steel calculation memo at Attachment 8

Formula for allocating non-recurring benefits over time

$$A_k = \frac{y/n + [y - (y/n)(k-1)]d}{1 + d}$$

Where:

- A_k = the amount of the benefit allocated to year k,
- y = the face value of the subsidy,
- n = the AUL of assets in the industry being investigated,
- d = the discount rate, and
- k = the year of allocation where the year of receipt = 1 and 1 ≤ k ≤ n.

Source: Dumping and Subsidy Manual, p.86

Face value of subsidy (USD)	9,126,669	y
AUL/allocation period (years)	50	n
Discount rate (%)*	15	35% d
Year of allocation (2013)	10	k

Amount of benefit allocated to PanAsia for 2013 (USD)

1,154,146

Source: * Wire Rod (US) interest benchmark memo - 2004 long-term interest rate benchmark for loans in RMB