

PUBLIC RECORD

RECEIVED 6 AUGUST 2014

# 中华人民共和国商务部

MINISTRY OF COMMERCE OF THE PEOPLE'S REPUBLIC OF CHINA  
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Dated July 24, 2014

## REVIEW OF DUMPING AND COUNTERVAILING MEASURES APPLYING TO ALUMINIUM EXTRUSIONS EXPORTED FROM THE PEOPLES REPUBLIC OF CHINA

### POSITION OF THE GOVERNMENT OF CHINA

The Government of the People's Republic of China (the GOC) wishes to bring to the Commissioner's attention its concerns regarding certain procedural and transparency aspects of the current review of measures applying to aluminium extrusions (the review). In particular, the GOC is concerned that the Anti-Dumping Commission (the Commission) has not fulfilled certain basic obligations required under the Agreement on Subsidies and Countervailing Measures (SCM), and thus infringed seriously the GOC's important legal rights.

#### 1. Application and Initiation under Article 11 of the SCM

Article 11.1 of the SCM provides, "Except as provided in paragraph 6, an investigation to determine the existence, degree and effect of any alleged subsidy shall be initiated upon a written application by or on behalf of the domestic industry", whereas paragraph 6 provides, "If, in special circumstances, the authorities concerned decide to initiate an investigation without having received a written application by or on behalf of a domestic industry for the initiation of such investigation, they shall proceed only if they have sufficient evidence of the existence of a subsidy, injury and causal link, as described in paragraph 2, to justify the initiation of an investigation".

The GOC understands that the Commission has without warning commenced an investigation into 19 new subsidy programs against Chinese aluminium extrusion exporters, during the course of the review, without a proper written

application on behalf of the Australian domestic industry or consideration and initiation by the Commission itself. The GOC is aware that the Commission has issued exporter/producer questionnaires which request information on the 19 new subsidy programs.

From the documents on the public record to date, the GOC has only seen the allegations against those subsidy programs from a submission lodged by Capral Ltd., the applicant of the original aluminum extrusions investigation. However, that document is just a responsive submission in relation to an already-started review, from a particular interested party. It is not an application in any sense, nor does it include sufficient evidence satisfying the requirements of a general application.

## **2. Consultations under Article 13 of the SCM**

Article 13.1 of the SCM provides, "As soon as possible after an application under article 11 is accepted, and in any event before the initiation of any investigation, Members the products of which may be subject to such investigation shall be invited for consultations with the aim of clarifying the situation as to the matters referred to in paragraph 2 of Article 11 and arriving at a mutually agreed solution".

Up to now, the GOC has not received any invitation from the Australian side for consultations, not to mention the invitation for consultation before the initiation of the investigation required in Article 13.1. These practices in this review has seriously violated the above WTO rules and deprived the GOC of its basic right.

## **3. PUBLIC NOTIFICATION UNDER ARTICLE 22 OF THE SCM**

The GOC is concerned by the Commission's apparent disregard for its obligations to properly notify the exporting Member and other interested parties of the new alleged subsidy programs. Article 22 of the SCM requires the investigating authority to provide, through public notice or a separate report, adequate information on the description of the subsidy practice or practices to be investigated.

The GOC is unaware of any such public notification in this review and notes that neither of the Commission's consideration report (CON 248) or sampling report, provide information on the new alleged programs to be investigated.

#### **4. Conclusion**

In conclusion, the Commission's practices of investigating the 19 new subsidy programs in this review has seriously violated the relevant WTO rules under the SCM, and infringed the basic rights of the GOC and the concerned Chinese exporters/producers.

The GOC would kindly request the Commission to cease this investigation into the 19 new subsidy programs immediately and take prompt measures to prevent further damage to the relevant Chinese exporters/producers.