

05 February 2024

**NON-CONFIDENTIAL**

Mr Andrew Stoller  
Panel Member, Anti-Dumping Review Panel  
C/- Anti-Dumping Review Panel Secretariat  
GPO Box 2013  
Canberra City ACT 2601

Dear Sir,

**Subject: ADRP Review 168 - Review of Anti-Dumping Measures on Aluminium Extrusions from the People's Republic of China (Minister's Reviewable Decision 2023/051).**

Alspec, a leading Australian provider of aluminium systems and playing a crucial role in the aluminium value chain (and therefore an interested party as per 269ZZJ of the Customs Act 1901), makes the following submissions in relation to ADRP Review 168 concerning the Minister for Industry and Science's decision (the **Reviewable Decision**) in Review 609, being a review of the anti-dumping measures applying to exports of aluminium extrusion products from China.

I. Executive Summary

Alspec echoes the concerns voiced by the applicants and extends our disappointment with the Minister's decision outlined in the Reviewable Decision. Alspec supports each of the grounds of appeal by the applicants and the preferred and correct decisions that each applicant has proposed in their respective applications.

We underscore the importance of a meticulous and evidence-driven approach to decision-making, particularly emphasizing the significance of establishing a non-injurious price as a cornerstone in determining Anti-Dumping measures. Therefore, we support the commencement of a review and encourage an evidence-based approach.

II. Alspec Approach

Alspec aligns with principles of fairness, proportionality, and evidence-based decision-making. We firmly believe that intervention and protectionism should only be invoked when a discernible and substantiated injury to domestic industries is being caused by dumping. In the absence of concrete evidence supporting material injury being caused or threatened by dumping, the imposition of anti-dumping measures is not warranted and simply becomes an arbitrary protectionist measure lacking a justifiable basis.

III. Critique of Reviewable Decision

In this context, Alspec submits that:

**Lack of Demonstrable Injury:** Alspec questions the rationale for altering anti-dumping measures in the absence of material injury to the Australian industry and, in particular, the absence of evidence that a change in the variable factors has resulted in dumping causing material injury. Here the change in variable factors has not led to dumping for the majority of exporters, let alone injurious dumping. Further, of those few exporters found to be dumping, such as Kam Kiu, neither the volume of products they exported nor the nature of the products they exported were causing injury. Indeed, the Australian industry as represented by Capral Limited for the purposes of the review was subject to no injury from any cause.



Alspec contends that, without substantial evidence supporting injurious dumping resulting from a change in the variable factors, there was no justification for varying and, indeed, increasing the anti-dumping measures as done by the Reviewable Decision. There was no justification for the Reviewable Decision.

**Non-Injurious Price:** We echo the concerns of the applicants regarding the Reviewable Decision's failure to include a statement specifying a non-injurious price. This omission raises serious doubts about the correctness and preferability of the decision, indicating a departure from the statutory and procedural requirements. In circumstances where there was no injury being incurred by the Australian industry, let alone material injury being caused by dumping, the minimum price to remove and/or prevent that which does not exist must be zero as put forward by the applicants. Any other price would simply provide tariff protection, which is not permitted, as opposed to preventing or removing injurious dumping, which is permitted.

**Discrepancies in Determination:** Building upon the submissions of Kam Kiu, we concur with its arguments that its exports were being dumped was wrongly determined. Specifically, that the determination of export prices and normal value of its exports were wrongly determined for the reasons advanced by Kam Kiu.

#### IV. Economic Ramifications

In addition, Alspec also makes the following observations:

**Dynamic Nature of Market Conditions:** Alspec brings to the Review Panel's attention the dynamic nature of market conditions in the Australian aluminium extrusion products market. Relying on outdated information may lead to measures that inadequately reflect the current economic landscape, potentially resulting in misguided decisions with far-reaching consequences. This is evident in the continual rise and fall in aluminium extrusion prices that reflect the rise and fall of LME aluminium prices and MJP premiums. Further, as effectively confirmed in the findings by the Anti-Dumping Commission in Review 609, the effect of the rise and fall of LME aluminium prices and MJP premiums on variable factors is unrelated to whether or not dumping is occurring. This is because such rise and fall is reflected equally in export prices and in prices in overseas markets. A change in the price/cost of an input to manufacture does not of itself result in dumping and, indeed, of itself is unrelated to dumping because dumping relates to the price at which the good in question is being sold into the markets of the importing country, not the cost to make and sell that good.

**Impact on Australian Industry and Consumers:** Alspec foresees potential negative ramifications of excessive anti-dumping measures on the domestic construction industry and Australian households. Inflated costs resulting from such measures would burden end consumers, affecting the affordability and accessibility of essential goods in the Australian market. Furthermore, when local industry faces insufficient capacity to meet demands, pursuing import restrictions without addressing capacity issues becomes a counterproductive approach.

Additionally, it seems a strange Australian industry policy to increase anti-dumping measures in circumstances where there is no justification for doing so, that is, injurious dumping due to a change in the variable factors, that increases the cost of living including construction costs for residential housing. This then makes residential housing less affordable – resulting in less homes being built and, consequently, less purchases of the Australian industry's products. In other words, it seems to be a strange industry policy to impose and/or increase anti-dumping measures in circumstances where to do so is not justified that ultimately will likely threaten the existence or least injure the industry that the measures are purportedly intended to assist, as well as others involved further downstream in the industry, such as domestic fabricators.

Alspec notes that the interests of such stakeholders, that is end users including Australian businesses and consumers are not taken into account and should be as the interim dumping duties, as customs tariffs, are ultimately passed on and borne by them. Presumably their views on the impact of the anti-dumping measures are a valuable and relevant consideration for the ADRP and the Minister.



**Local Supply Constraints:** The ADRP should be aware of the pressing local supply constraints within the context of this review. The CY2023 extrusion market's total demand is approximately 221,000 tonnes, while local output is only at 128,000 tonnes for CY2023, creating a substantial 93,000-tonne shortage that necessitates imports. Alspec is aware that this shortfall is met in part by the Australian industry members importing from sources overseas, such as from Indonesia, that they are unable to fulfill from local production and at significantly low prices. Alspec understands that this is reflected in the Anti-Dumping Commission's Trade Remedy Index: [Trade remedy index \(TRINDEX\) | Department of Industry, Science and Resources](#)

Anti-Dumping measures on inter-medium products like extrusion products may have shielded certain domestic players' management and workforce, but at the cost of downstream fabricators facing squeezed margins, leading to increased pressure on consumers' cost of living. Jobs have been lost by downstream fabricators, and the widening price gap between local and imported windows is prompting more projects to be outsourced from overseas. Factors such as these should be considered and carefully weighed against these broader economic implications, aiming for a balanced approach that fosters fair competition without disproportionately harming other sectors.

#### V. Conclusion

Alspec advocates for a clear evidence-based approach in determining anti-dumping measures. Considering our aligned concerns with the applicants, we request that the Anti-Dumping Review Panel undertakes a comprehensive review of the Reviewable Decision, scrutinizing the raised points in the applications. The Reviewable Decision and findings on which it was based, with respect, falls far short of what is required and, significantly, what the legislation requires for the imposition and/or variation of anti-dumping measures.

We appreciate the Anti-Dumping Review Panel's commitment to transparency and fairness and believe that our detailed perspective enriches the ongoing deliberations. Should additional clarification or information be required, please do not hesitate to contact me at [jbaldi@alspec.com.au](mailto:jbaldi@alspec.com.au).

Thank you for your attention to this matter.

Sincerely,



John-Paul Baladi  
Corporate Affairs Manager  
Alspec

