



Anti-Dumping Notice No. 2016/108

*Public Notice under section 269TD of the Customs Act 1901<sup>1</sup>*

## Certain Aluminium Extrusions

Exported from Malaysia and the Socialist Republic of Vietnam

Investigation into Alleged Dumping and Subsidisation

Preliminary Affirmative Determination  
and Imposition of Securities

### 1. Introduction

The purpose of this public notice is to set out the reasons why I, Dale Seymour, Commissioner of the Anti-Dumping Commission (the Commissioner) have made a preliminary affirmative determination (PAD) under subsection 269TD(1) of the *Customs Act 1901*<sup>2</sup> (the Act) on 17 October 2016,<sup>3</sup> being not earlier than 60 days after the initiation of the investigation into the alleged dumping and subsidisation of certain aluminium extrusions (aluminium extrusions or 'the goods') exported to Australia from Malaysia and the Socialist Republic of Vietnam (Vietnam).

In summary, my preliminary determination is:

- I am satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice in respect of the goods exported to Australia from Malaysia and Vietnam, and that it is necessary to require and take securities in relation to exports of the goods from Malaysia and Vietnam to prevent material injury to the Australian industry occurring while the investigation continues; and
- I am not satisfied that there are sufficient grounds at this stage to make a PAD in relation to the alleged subsidisation of the goods exported from Malaysia and Vietnam, as further analysis is required to adequately consider whether the goods have been exported to Australia from Malaysia and Vietnam at subsidised prices.

This public notice and the preliminary findings contained within reflect the current status of the investigation. My findings may change as a result of further information, submissions, analysis or verification.

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<sup>1</sup> This is a public notice under subsection 269TD(4)(a) of the *Customs Act 1901* of my preliminary affirmative determination and a public notice under subsection 269TD(5) of the *Customs Act 1901* of the Commonwealth's decision to require and take securities.

<sup>2</sup> All legislative references are to the *Customs Act 1901*, unless otherwise stated.

<sup>3</sup> Day 60 of this investigation was 15 October 2016, however the earliest possible day I could make a PAD was the following business day, 17 October 2016.

## **2. Reasons for making a PAD and for taking securities**

In deciding whether to make a PAD on day 60 of this investigation, I have, in accordance with subsection 269TD(2), had regard to the application, submissions received concerning publication of the dumping duty notice and other information I considered relevant.<sup>4</sup> Pursuant to subsection 269TD(1)(a), I am satisfied there appears to be sufficient grounds for the publication of a dumping duty notice in respect of the goods exported to Australia from Malaysia and Vietnam. As a result, I have made a PAD to that affect, pursuant to section 269TD.

Under subsection 269TD(4)(b), I am satisfied that it is necessary to require and take securities in relation to exports of the goods to Australia from Malaysia and Vietnam to prevent material injury to the Australian industry occurring while the investigation continues.

The Commonwealth will require and take securities under section 42 in respect of interim dumping duties that may become payable in respect of the goods exported to Australia from Malaysia and Vietnam and entered for home consumption in Australia on or after Wednesday **19 October 2016**.

## **3. Background**

On 16 August 2016, I initiated an investigation into the alleged dumping and subsidisation of the goods from Malaysia and Vietnam, following an application by Capral Limited (Capral), a manufacturer of like goods in Australia. Further details in relation to the initiation of this investigation can be found in Anti-Dumping Notice (ADN) No. 2016/77 at [www.adcommission.gov.au](http://www.adcommission.gov.au).

Under subsection 269TD(1), I may make a PAD at any time, not earlier than 60 days after I initiate an investigation for the publication of a dumping or countervailing duty notice, if I am satisfied that:

- there appears to be sufficient grounds for the publication of such a notice; or
- it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods.

In accordance with the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction), 60 days after the initiation of such an investigation I must either make a PAD or publish a Status Report outlining the reasons why I have not made a PAD.

## **4. Evidence relied upon**

In deciding to make a PAD in relation to this investigation, I have, in accordance with subsection 269TD(2), had regard to:

- Capral's application;
- importer questionnaire responses received from invited importers;
- exporter questionnaire responses received from cooperating exporters;
- Government questionnaire responses received from the Government of Malaysia and the Government of Vietnam;
- submissions received concerning publication of the dumping duty notice and a countervailing duty notice, including those received after 22 September 2016 that,

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<sup>4</sup> Refer to Section 3 and Attachment A to this PAD

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in my opinion, would have not prevented the timely consideration of whether or not to make a PAD;<sup>5</sup>

- information obtained during the course of a verification visit to Capral and information received from other Australian producers of like goods; and
- any other matters that I considered relevant.

Further details of the evidence relied upon for this PAD can be found in Attachment A.

### 5. Australian industry producing 'like goods'

#### 5.1. The goods the subject of the investigation

The goods under consideration are:

*"Aluminium extrusions that:*

- *are produced by an extrusion process;*
- *are of alloys having metallic elements falling within the alloy designations published by The Aluminium Association commencing with 1, 2, 3, 5, 6 or 7 (or proprietary or other certifying body equivalents);*
- *have finishes being:*
  - *as extruded (mill);*
  - *mechanically worked*
  - *anodized; or*
  - *painted or otherwise coated, whether or not worked;*
- *have a wall thickness or diameter greater than 0.5 mm;*
- *have a maximum weight per metre of 27 kilograms; and*
- *have a profile or cross-section fitting within a circle having a diameter of 421 mm".*

The goods under consideration include aluminium extrusion products that have been further processed or fabricated to a limited extent, after aluminium has been extruded through a die. For example, aluminium extrusion products that have been painted, anodised, or otherwise coated, or worked (e.g. precision cut, machined, punched or drilled) fall within the scope of the goods under consideration.

The goods under consideration do not extend to intermediate or finished products that are processed or fabricated to such an extent that they no longer possess the nature and physical characteristics of an aluminium extrusion, but have become a different product.

Further information regarding the goods under consideration can be found in *Anti-Dumping Commission Consideration Report No. 362 (CON 362)* and *ADN No. 2016/77*.

#### 5.2. Australian industry

An application can only be made if there exists an Australian industry producing 'like goods' to the goods under consideration. Like goods are defined under subsection 269T(1). Subsections 269T(2), 269T(3), 269T(4), 269T(4A), 269T(4B) and 269T(4C) are relevant to determining whether the like goods are produced in Australia and whether there is an Australian industry.

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<sup>5</sup> Under subsection 269TD(3), I am not obliged to have regard to any submission received after 22 September 2016 if to do so would, in my opinion, prevent the timely consideration of the question whether or not to make a PAD.

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Since the initiation of the investigation, the Commission has undertaken a verification visit to Capral to verify information provided in its application. During the course of the verification visit, the Commission undertook an inspection of Capral's manufacturing facility in Queensland and is satisfied that at least one substantial process of manufacture of aluminium extrusions is carried out in Australia.

The Commission has also preliminarily assessed that the locally produced goods closely resemble the goods under consideration and are like goods given that:

- the primary physical characteristics of the imported and locally produced goods are similar;
- the imported and locally produced goods are commercially alike as they are sold to common customers;
- the imported and locally produced goods are functionally alike as they have the same or similar end-uses; and
- the imported and locally produced goods are manufactured in a similar manner.

Refer to CON 362 for more information on the Commission's assessment of like goods.<sup>6</sup>

### 5.3. Australian industry producing 'like goods' – preliminary assessment

As a result of the information verified by the Commission during the verification visit to Capral,<sup>7</sup> I am satisfied that there is an Australian industry producing like goods to the goods under consideration and that the like goods are wholly produced in Australia.

## 6. Dumping

### 6.1. Exporter questionnaires received

Exporter questionnaire responses were received from the following exporters:

Exporter	Country
Press Metal Berhad (PMB)	Malaysia
LB Aluminium Berhad (LBA)	
Superb Aluminium Industries Sdn Bhd (Superb)	
Milleon Extruder Sdn Bhd (MESB)	
Genesis Aluminium Industries Sdn Bhd (Genesis)	
Kamco Aluminium Sdn Bhd (Kamco)	
Tong Heer Aluminium Industries Sdn Bhd (Tong Heer)	
Everpress Aluminium Industries Sdn Bhd (Everpress)	
Crystal Group Aluminium Extrusion (M) Sdn Bhd (Crystal Group)	
Alumac Industries Sdn Bhd (Alumac)	
East Asia Aluminium Company Ltd (EAA)	Vietnam
Mien Hua Precision Mechanical Co., Ltd (Mien Hua)	
Global Vietnam Aluminium Co., Ltd (GVA)	

<sup>6</sup> Refer to Case No. 362 EPR Item 3

<sup>7</sup> Capral's application lists another eight Australian producers of like goods. Refer to Case No. 362 EPR Item 1.

## **6.2. 'Uncooperative and all other' exporters and non-cooperative entities**

### Tong Heer

Pursuant to the *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Customs Direction), I considered that Tong Heer's exporter questionnaire response contained deficiencies that could not, in my view, be quickly and easily rectified in a further response. On 28 September 2016, I notified Tong Heer of my decision to treat it as an uncooperative exporter pursuant to subsection 269T(1) and a non-cooperative entity pursuant to section 269TAACA.<sup>8</sup>

### Crystal Group

Pursuant to the Customs Direction, I considered that Crystal Group's exporter questionnaire response contained deficiencies that could not, in my view, be quickly and easily rectified in a further response. On 28 September 2016, I notified Crystal Group of my decision to treat it as an uncooperative exporter pursuant to subsection 269T(1) and a non-cooperative entity pursuant to section 269TAACA.<sup>9</sup>

### Everpress

Pursuant to the Customs Direction, I considered that Everpress' exporter questionnaire response contained deficiencies that could not, in my view, be quickly and easily rectified in a further response. On 29 September 2016, I notified Everpress of my decision to treat it as an uncooperative exporter pursuant to subsection 269T(1) and a non-cooperative entity pursuant to section 269TAACA.<sup>10</sup>

### Alumac

On 6 October 2016, Alumac provided a late response to the exporter questionnaire, which was outside the legislated period. On 12 October 2016, I notified Alumac of my decision not to have regard to Alumac's response and to treat it as an uncooperative exporter pursuant to subsection 269T(1) and a non-cooperative entity pursuant to section 269TAACA.<sup>11</sup>

### All other exporters that did not provide an exporter questionnaire response

Having regard to the Customs Direction, in relation to this investigation, the legislated period for providing an exporter questionnaire response has expired. Therefore, under subsections 8(b) and 9(b) of the Customs Direction, I must determine all exporters who did not provide a response or request a longer period to provide a response within the legislated period to be uncooperative exporters pursuant to subsection 269T(1) and non-cooperative entities pursuant to section 269TAACA.

## **6.3. Sampling of cooperating exporters from Malaysia**

Subsection 269TACAA(1) states that where the number of exporters from a particular country of export in relation to the investigation, review or inquiry is so large that it is not practicable to examine the exports of all of those exporters, then the investigation, review

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<sup>8</sup> Refer to Case No. 362 EPR Item 13

<sup>9</sup> Refer to Case No. 362 EPR Item 14

<sup>10</sup> Refer to Case No. 362 EPR Item 16

<sup>11</sup> Refer to Case No. 362 EPR Item 32

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or inquiry may be carried out, and findings may be made, on the basis of information obtained from an examination of a selected number of those exporters:

- (c) who constitute a statistically valid sample of those exporters; or
- (d) responsible for the largest volume of exports to Australia that can reasonably be examined.

I note that there are six cooperating exporters from Malaysia. I will carry out this investigation on the basis of information obtained from an examination of a selected number of Malaysian exporters who are responsible for the largest volume of exports to Australia that can reasonably be examined.<sup>12</sup>

In determining which exporters from Malaysia to examine, I have taken into account:

- the number of exporter questionnaires from Malaysia that the Commission can practically verify;
- the number of exporters from Malaysia required to sufficiently cover the various finish types of aluminium extrusions sold to Australia and on the Malaysian domestic market, and
- the individual volume of each identified exporter and the cumulative volume of a manageable number of the largest volume exporters.

As such, the Commission will verify the exporter questionnaire responses of PMB, LBA and Superb in relation to Malaysia. These exporters (the selected exporters) represent approximately 64 per cent of the total volume of aluminium extrusions exported to Australia from Malaysia during the investigation period (being from 1 July 2015 to 30 June 2016).

All remaining exporters will fall within the definitions of either 'residual exporters', 'uncooperative and all other' exporters and 'non-cooperative entities'.

A residual exporter is an exporter whose exportations were not examined as part of the investigation and who was not an uncooperative exporter or a non-cooperative entity. An uncooperative exporter is defined as an exporter that did not provide information considered to be relevant to a dumping investigation within the specified timeframe, or an exporter that significantly impeded the investigation.<sup>13</sup> A non-cooperative entity is defined as an entity that did not provide information considered to be relevant to a countervailing investigation within the specified timeframe, or an entity that significantly impeded the investigation.<sup>14</sup>

The residual exporters from Malaysia are Kamco, Milleon and Genesis. The Commission may choose to extend its examination to the residual exporters following this PAD provided it does not prevent the timely completion of the investigation, which will be determined by:

- the number of 'residual exporters' seeking an individual dumping and subsidy margin determination; and
- the available resources within the Commission to undertake either on-site or remote verification.

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<sup>12</sup> I consider that it is not necessary to limit the examination to a selected number of exporters for Vietnam, given that there are only three cooperating exporters from Vietnam.

<sup>13</sup> Subsection 269T(1)

<sup>14</sup> Subsection 269TAACA(1).



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The uncooperative exporters and non-cooperative entities are identified at heading 6.2. All other exporters refers to those exporters who did not export to Australia during the investigation period.

### 6.4. Export prices

Export prices for goods exported to Australia by LBA, Superb, EAA, Mien Hua and GVA have been determined under subsection 269TAB(1)(a) as the price paid by the importer to the exporter in an arms length transaction, less transport and other costs arising after exportation.

After an examination of PMB's exporter questionnaire response, on 4 October 2016 and 13 October 2016, I advised PMB that its exporter questionnaire response contained deficiencies that could be quickly and easily rectified in a further response and provided further time to address those deficiencies. In my letter of 13 October 2016, I advised PMB that the additional time afforded to provide a further response (which is due by 19 October 2016), will not affect my ability to make a PAD by day 60 if I am satisfied that the requisite grounds exist. I also advised PMB that, as a result of the deficiencies identified, I currently consider its response to be unreliable for establishing the export price and normal value of PMB's goods<sup>15</sup> and that I may rely on other relevant information to ascertain an export price and normal value for PMB if I make a PAD on day 60. Consequently, I have determined PMB's export price under subsection 269TAB(3) having regard to all relevant information, using an export price in relation to PMB's exports as declared in the Australian Border Force's import database for the investigation period, calculated at free on board (FOB) terms.

For residual exporters from Malaysia, export prices were calculated using the weighted average of export prices of the goods of selected exporters from Malaysia.<sup>16</sup>

Export prices for 'uncooperative and all other' exporters were determined having regard to all relevant information pursuant to subsection 269TAB(3) in accordance with subsection 269TACAB(1). In particular, for Malaysia, I used the lowest export price of the selected exporters from Malaysia, and for Vietnam, I used the lowest export price of the cooperating exporters from Vietnam.

### 6.5. Normal values

The normal value of goods exported to Australia by Superb, EAA, Mien Hua and GVA have been determined under subsection 269TAC(1) based on each exporter's respective domestic sales of like goods in the ordinary course of trade for home consumption in the country of export in sales that are arms length transactions.

GVA did not sell like goods on the domestic market in Vietnam during the investigation period. The normal value for GVA has been established in accordance with subsection 269TAC(1) based on other seller's domestic sales. As outlined in Chapter 8.2 of the Commission's *Dumping and Subsidy Manual* (the Manual), where an exporter is known to have not made any domestic sales, already available domestic sales information from

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<sup>15</sup> Subsections 269TAB(4) and 269TAC(7).

<sup>16</sup> Subsection 269TACAB(2)(c). In calculating the weighted average export price, the Commission will not include any export price from a selected exporter that was found to not be dumping or where the dumping margin, when expressed as a percentage of the export price or weighted average of export prices used to establish that dumping margin, is less than 2 per cent.

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other sellers in the country of export will be considered before turning to the other methods for establishing normal value.

I consider that there are suitable and relevant sales made by EAA and Mien Hua of the same finish types of aluminium extrusions (e.g. mill finish, powder coated and anodised aluminium extrusions) at a comparable level of trade as the goods exported to Australia by GVA.<sup>17</sup> As such, the normal value for GVA has been calculated for each finish type of aluminium extrusions, by taking the weighted average net invoice prices of like goods sold in the ordinary course of trade in arms length transactions at ex-works terms by other sellers and adding GVA's export related adjustments in accordance with subsection 269TAC(8) to arrive at a normal value at FOB terms.

For PMB, as outlined previously, I currently consider its response to be unreliable for establishing its normal value. Consequently, I have determined PMB's normal value under subsection 269TAC(6) having regard to all other relevant information. In particular, I have calculated PMB's normal value to be equal to the highest weighted average normal value of other selected exporters from Malaysia.

For residual exporters from Malaysia, normal values were calculated using the weighted average of normal values of the goods of selected exporters from Malaysia.<sup>18</sup>

In relation to 'uncooperative and all other' exporters, the normal value has been determined having regard to all relevant information under subsection 269TAC(6) in accordance with subsection 269TACAB(1). In particular, for Malaysia, I used the highest normal value of the selected exporters from Malaysia and for Vietnam I used the highest normal value of the cooperating exporters from Vietnam.

### **6.6. Dumping margins**

Having regard to the exporter questionnaire responses received, the Commission has preliminarily determined the following dumping margins in relation to aluminium extrusions exported to Australia from Malaysia and Vietnam during the investigation period (1 July 2015 to 30 June 2016):

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<sup>17</sup> To protect the confidentiality of EAA and Mien Hua's data relied upon in GVA's normal value, the Commission has calculated weighted average normal values for each finish type on a quarterly basis and the underlying transactional data will not be provided to GVA.

<sup>18</sup> Section 269TACAB(2)(d). In calculating the weighted average normal value, the Commission will not include any normal value from a selected exporter that was found to not be dumping or where the dumping margin, when expressed as a percentage of the export price or weighted average of export prices used to establish that dumping margin, is less than 2 per cent.



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Country	Exporter	Export Price	Normal Value <sup>19</sup>	Dumping Margin <sup>20</sup>
Malaysia	Press Metal Berhad	s. 269TAB(3)	s. 269TAC(6)	13.2%
	LB Aluminium Berhad	s. 269TAB(1)(a)	s. 269TAC(1)	10.5%
	Superb Aluminium Industries Sdn Bhd	s. 269TAB(1)(a)	s. 269TAC(1)	-4.3%
	Residual Exporters	s. 269TACAB(2)(c)	s. 269TACAB(2)(d)	12.6%
	Uncooperative and All Other Exporters	s. 269TAB(3)	s. 269TAC(6)	14.5%
Vietnam	East Asia Aluminium Company Ltd	s. 269TAB(1)(a)	s. 269TAC(1)	13.9%
	Mien Hua Precision Mechanical Co., Ltd	s. 269TAB(1)(a)	s. 269TAC(1)	13.2%
	Global Vietnam Aluminium Co., Ltd	s. 269TAB(1)(a)	s. 269TAC(1)	8.5%
	Uncooperative and All Other Exporters	s. 269TAB(3)	s. 269TAC(6)	34.2%

**Table 1 - Preliminary Dumping Margin Summary**

### 6.7. Dumping investigation – preliminary assessment

Given the dumping margins presented in Table 1, I am satisfied that aluminium extrusions exported to Australia from Malaysia (with the exception of Superb) and Vietnam during the investigation period was at dumped prices because:

- the margins of dumping were not negligible;<sup>21</sup> and
- the volume of dumped goods from each country was not negligible.<sup>22</sup>

### 7. Countervailing investigation – preliminary assessment

At the time of making this report, further analysis is required to adequately consider whether the goods have been exported from Malaysia and Vietnam to Australia at subsidised prices.

### 8. Injury to the Australian industry

The matters that may be considered in determining whether the industry has suffered material injury are set out in section 269TAE.

I have also had regard to the *Ministerial Direction on Material Injury 2012* (Material Injury Direction).<sup>23</sup>

#### 8.1. Background

For the purposes of CON 362, an injury assessment was limited to relevant information provided as part of Capral's application. It was noted in CON 362 that although Capral was the largest producer of aluminium extrusions in Australia, Capral's data alone may not be sufficient for assessing injury to the Australian industry as the investigation progresses. Submissions were received from the Government of Vietnam, Press Metal Aluminium Australia and the Government of Malaysia regarding Capral's injury claims in its application and the materiality of that injury.<sup>24</sup>

<sup>19</sup> Where appropriate, adjustments were made pursuant to subsections 269TAC(8) to ensure the comparability of normal values to export prices.

<sup>20</sup> Dumping margins were calculated for all exporters by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period, in accordance with subsection 269TACB(2)(a).

<sup>21</sup> Subsection 269TDA(1)

<sup>22</sup> Subsections 269TDA(3) and (4)

<sup>23</sup> Ministerial Direction on Material Injury 2012, 27 April 2012, available at [www.adcomission.gov.au](http://www.adcomission.gov.au)

<sup>24</sup> Refer to Case No. 362 EPR Item Nos. 4, 10 and 27

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However, since initiating the investigation, to allow a clearer, more accurate and complete injury and causation analysis, the Commission sought sales and cost data from other Australian aluminium extrusion producers. The Commission received responses from INEX Independent Extrusions (INEX) and G James Australia Pty Ltd (G James). I consider that there is an appropriate representation of the Australian industry (approximately 72 per cent of Australian production of like goods) and the Commission has aggregated Capral, INEX and G James' data for the purposes of the analysis below.

It is also noted that the injury analysis period<sup>25</sup> (from 1 July 2012) and the investigation period examined as part of this investigation (1 July 2015 to 30 June 2016) is different to the periods examined for the purposes of the injury analysis outlined in CON 362. As a result, the injury analysis below has changed from CON 362.

All Figures below compare years ending 30 June.

### **8.2. Preliminary findings**

Based on the Commission's analysis of the information provided by the Australian industry, I am satisfied that there appears to be sufficient grounds to support the claims that the Australian industry has suffered injury in the investigation period in the form of:

- price suppression;
- price depression;
- reduced profit;
- reduced profitability;
- reduced return on investment (ROI); and
- increased closing stock levels.

### **8.3. Volume effects**

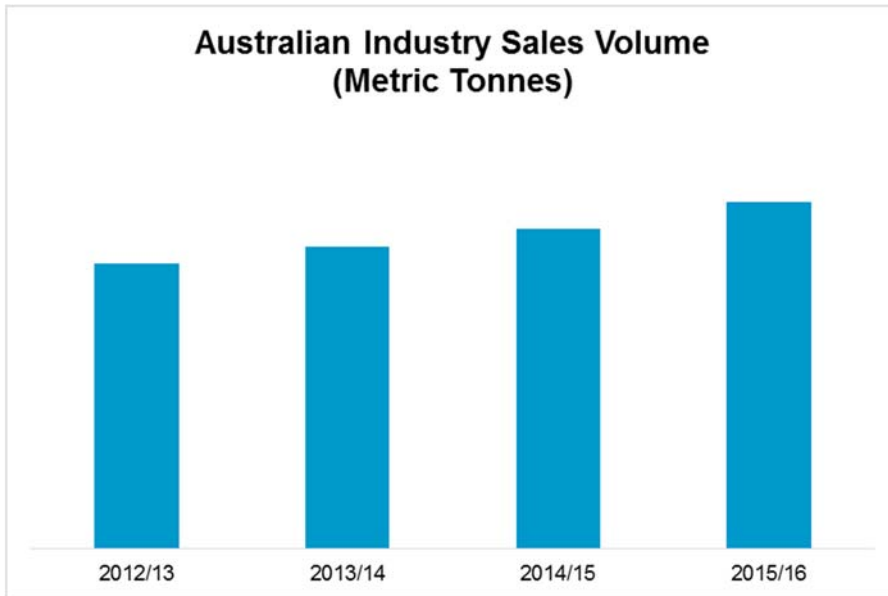
#### Sales volumes

Figure 1 below shows that the Australian industry's sales volume of all finish types of aluminium extrusions in the domestic market for each year in the injury analysis period.

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<sup>25</sup> The purpose of the injury analysis period is to allow the Commission to identify and examine trends in the Australian market which in turn assists the Commission in its examination of whether material injury has been caused by dumping over the investigation period.

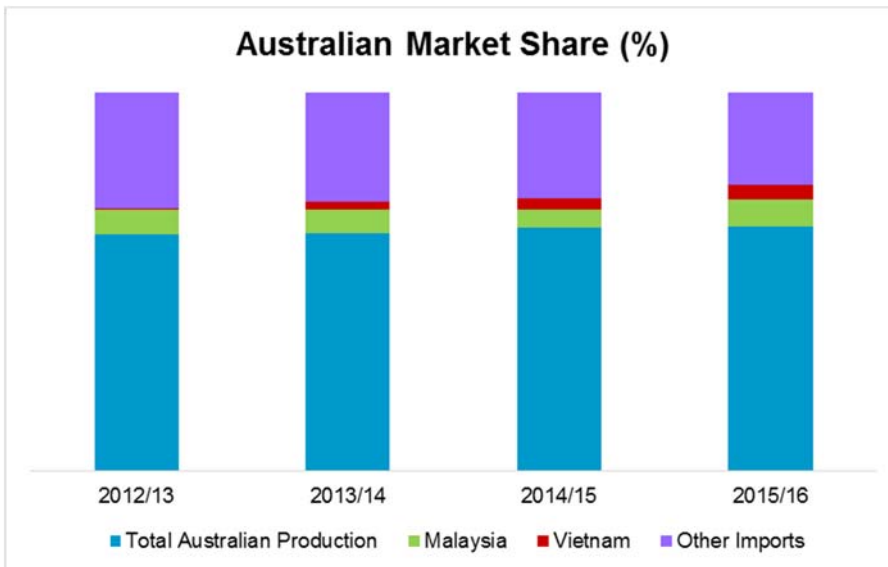
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**Figure 1: Australian Industry's sales volume**

Figure 1 shows that Australian industry sales volume increased year on year throughout the injury analysis period. Overall, the Australian industry's sales volume increased by 18 per cent between 2012/13 and 2015/16.

### Market share



**Figure 2 – Australian Market Share**

Figure 2 above shows that Australian industry's market share remained relatively stable during the injury analysis period, achieving a slight increase from 63 per cent in 2012/13 to 65 per cent in 2015/16. The market share of aluminium extrusions sourced from Malaysia and Vietnam also increased during the injury analysis period. Vietnamese market share increased from 0.2 per cent in 2012/13 to 3.8 per cent in 2015/16. Malaysian market share, increased 1 per cent during the injury analysis period, finishing at 7 per cent in 2015/16.

### Import volumes

Figure 3 below, which is based on unverified data from exporters and the Commission's estimates of import volumes, shows that, over the injury analysis period:

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- imports from the People's Republic of (China), the largest source of imports, decreased by 5 per cent;
- imports from Malaysia increased by 30 per cent;
- imports from Vietnam increased significantly from a low base; and
- imports from all other countries decreased by 11 per cent.

Collectively, the Commission estimates that, by the end of the injury analysis period, imports from Malaysia and Vietnam represented approximately 30.6 per cent of the total volume of imports.

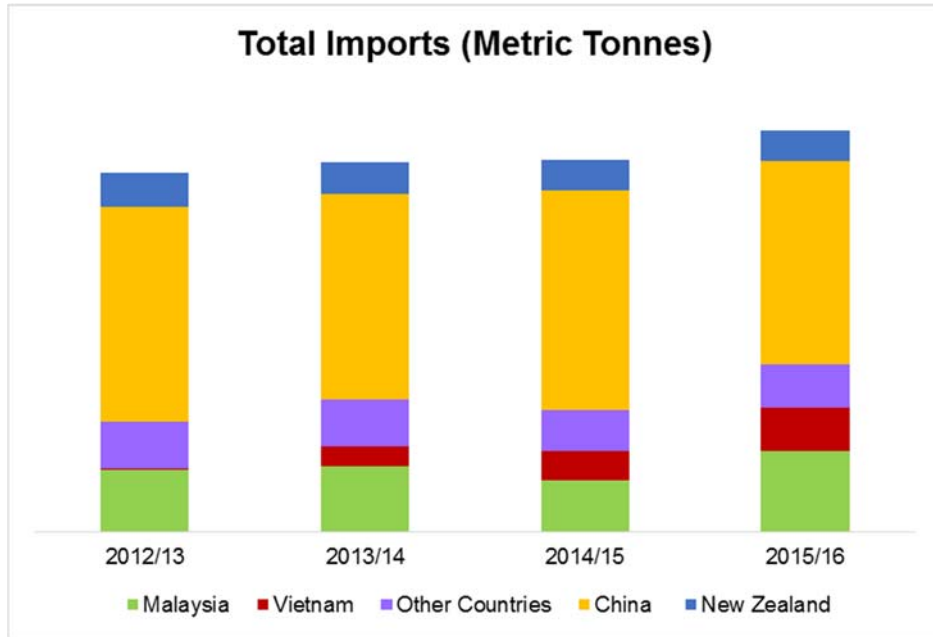


Figure 3 – Aluminium extrusion import volumes

### Conclusion – volume effects

Consistent with the findings in CON 362, I consider that the Australian industry has not suffered injury in terms of lost sales volumes or lost market share.

### 8.4. Price effects

#### Price suppression

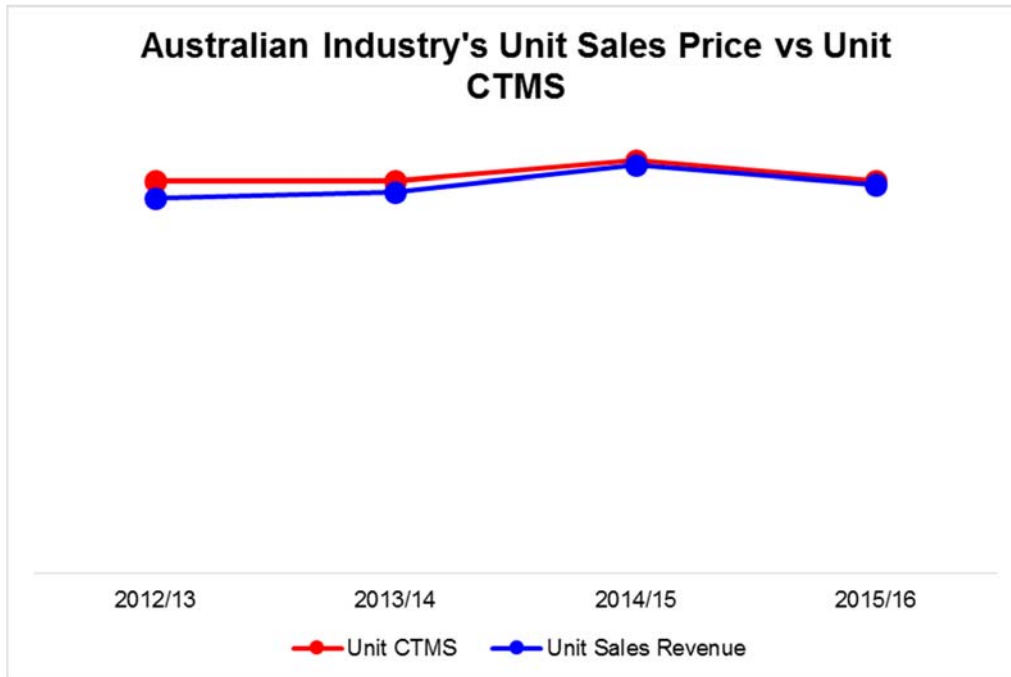
Price suppression occurs when price increases, which otherwise would have occurred, have been prevented.

In determining whether price suppression has occurred, the Commission may examine:

- a comparison of prices with costs to assess whether over time (e.g. the injury analysis period) or within a specified period (e.g. the investigation period) - prices have not increased at the same rate as cost increases; and/or
- an assessment as to whether the prices for the Australian industry's product are lower than prices that may have been achieved in the absence of dumping.

Figure 3 below shows movements in the Australian industry's domestic weighted average unit cost to make and sell (CTMS) and unit sales prices for all finish types of aluminium extrusions over the injury analysis period.

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**Figure 3 – Australian industry's unit CTMS and unit domestic sales price**

Figure 3 shows that the difference between unit CTMS and unit sales price reduced during the injury analysis period. However, in no year did the Australian industry achieve a unit sales price which exceeded its unit CTMS during the injury analysis period. My preliminary assessment is that, during the investigation period, the Australian industry suffered injury in the form of price suppression.

### Price depression

Price depression occurs when a company, for some reason, lowers its prices.

As indicated in Figure 3 above, the Australian industry's unit sales price increased marginally over the injury analysis period, but declined in the investigation period, which is indicative of price depression.

### **8.5. Profit effects**

Figure 4 below shows the Australian industry's profit and profitability for all finish types of aluminium extrusions over the injury analysis period.

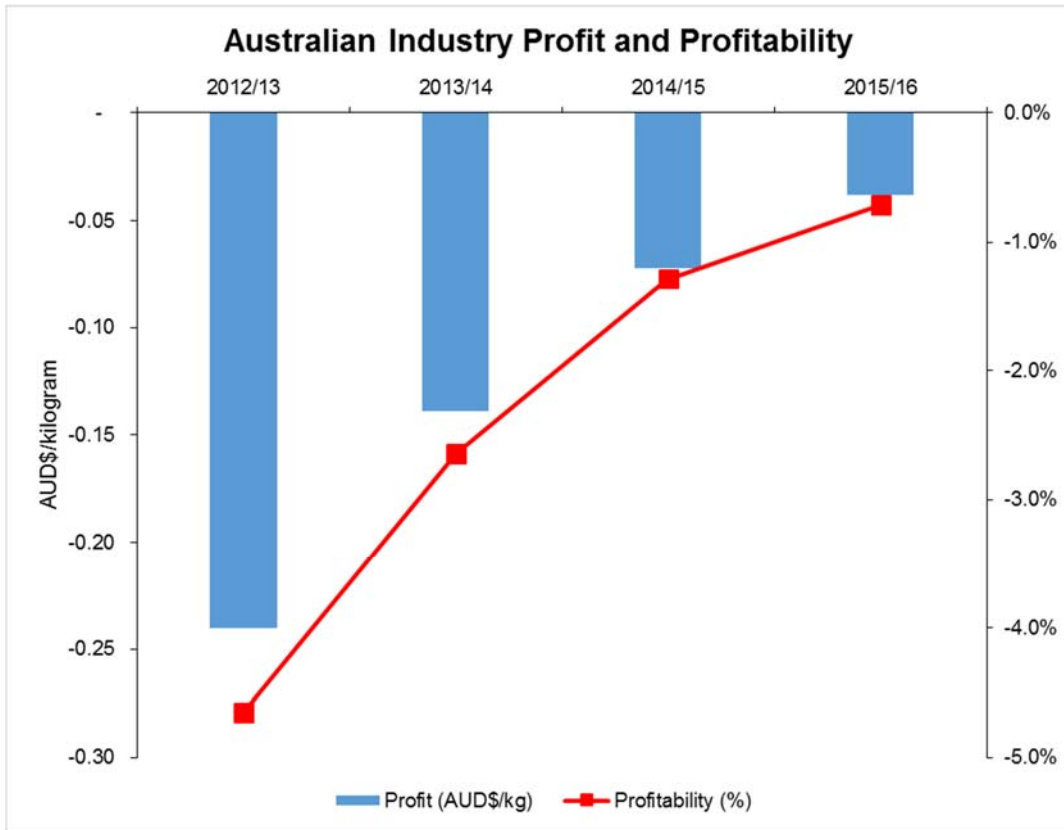


Figure 4 – Australian industry’s unit profit and profitability

As shown in Figure 4, the Australian industry’s unit profit and profitability increased in each year of the injury analysis period. However, Figure 4 shows that for the four consecutive years of the injury analysis period, the Australian industry was selling at a loss. Subsection 269TAE(3)(e) refers to the level of profits earned in an industry as a relevant economic factor that may be considered in assessing material injury. I consider that the Australian industry would normally strive to be profitable (i.e. achieve a level of profit above zero), however its ability to do so has been impacted by dumping during the investigation period.

My preliminary assessment is that during the investigation period, the Australian industry suffered injury in the form of reduced profit and profitability.

### 8.6. Other economic factors

#### Revenue

Consistent with the increase in sales volume across the injury analysis period, the Australian industry’s sales revenue increased by approximately 30 per cent during the injury analysis period.

#### Employment numbers

Data provided by the Australian industry shows an increase of approximately 22 per cent in employment numbers in the manufacture of aluminium extrusions in Australia throughout the injury analysis period.

#### Capacity and capacity utilisation

The total capacity of the Australian industry remained steady across the injury analysis period. Capacity utilisation has increased from approximately 65 per cent in 2012/13 to



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approximately 80 per cent in 2015/16. The increase in capacity utilisation is expected as a result of the increase in Australian industry sales volumes in recent years.

### Closing stock

The Australian industry's closing stock levels for the investigation period are 16 per cent higher compared to 2012/13 and exhibit the highest closing stock levels for the injury period. Closing stock levels were at their lowest in 2012/13, before increasing in 2013/14 and 2015/16.

In the context of this investigation, injury in the form of increased closing stock levels is experienced when a reduction in the underlying London Metal Exchange (LME) price requires a downwards revaluation of stock on hand. The higher volume of stock on hand will translate to higher revaluation expense and therefore impact on profit.

Competition with dumped imports may exacerbate the injurious effects caused by excessive closing stock levels when a manufacture is forced to hold stock when demand for its product decreases. If inventory levels are kept to a minimum then the costs incurred due to the downwards revaluation of stock on hand would be minimised.

During the investigation the Commission will further examine the relationships between the injurious effects caused by high closing stock levels, the LME price and dumped goods however it would appear that Australian industry has suffered injury from increased closing stock levels.

### Return on investment

Consistent with the profit and profitability data at Figure 4, the Australian industry reported an improved ROI, however it remained as a negative amount for each year of the injury analysis period in relation to the manufacture of aluminium extrusions.

I recognise that a negative ROI result may be influenced by other factors, however at this stage, I am satisfied that the Australian has suffered injury in the form of reduced ROI.

### Cash flow

Consistent with a year on year growth in sales revenue across the injury period, the Australian injury has reported a steady increase in inventory turnover and accounts receivables. Receivables turnover throughout the injury period has remained relatively steady.

### Capital expenditure

Capital expenditure was at its lowest in 2014/15 however almost doubled the following year, being the investigation period. Capital expenditure reported for the investigation period is the highest out of any year in the injury analysis period. Based on the data provided by the Australian industry, it would appear that the existence of dumped goods on the Australian market has not deterred Australian industry from undertaking additional capital expenditure.

## **8.7. Injury to the Australian industry – preliminary assessment**

I consider that there appears to be sufficient grounds to support that the Australian has suffered injury in the forms listed above at heading 8.2.

## **9. Cause of injury**

In determining whether material injury to an Australian industry has been or is being caused because of any circumstances in relation to the exportation of goods to Australia, the Minister may have regard to the matters set out in section 269TAE, to which I have had regard.

### **9.1. Cumulative effects of exportations**

Subsection 269TAE(2C) sets out the requirements for assessing the cumulative effects of goods exported to Australia from different countries. In relation to a dumping investigation, where exports from more than one country are the subject of investigations resulting from applications under section 269TB that were lodged on the same day (as is the case in this investigation), the cumulative effects of such imports may be assessed if:

- the margin of dumping established for exporters in each country is not negligible; and
- the volume of imports from each country is not negligible; and
- cumulative assessment is appropriate having regard to the conditions of competition between the imported goods and between the imported goods and like goods that are domestically produced.

Having regard to the size of the dumping margins determined to date, the volume of imports and the conditions of competition between the goods exported from Malaysia and Vietnam and the like goods produced by the Australian industry, I consider it appropriate to consider the cumulative effect of the dumped imports from Malaysia and Vietnam in accordance with the requirements of subsection 269TAE(2C).

### **9.2. Size of the dumping margins**

Subsection 269TAE(1)(aa) provides that regard may be given to the size of each of the dumping margins, worked out in respect of goods of that kind that have been exported to Australia.

With the exception of Superb, the dumping margins outlined above under section 5.5, ranging between 8.5 per cent and 34.2 per cent are above negligible levels (i.e. above 2 per cent). I consider that the magnitude of dumping provided exporters with the ability to offer aluminium extrusions to importers at lower prices than would otherwise have been the case, as is demonstrated in the price undercutting analysis at section 9.4 of this PAD.

### **9.3. Volume effects caused by dumping**

I noted that the Australian market for aluminium extrusions appears to have expanded over the injury analysis period. In accordance with the Material Injury Direction, anti-dumping action is possible in cases where an industry is expanding and dumping or subsidisation has slowed the rate of the industry's growth without causing it to contract.

Whilst the Australian industry do not appear to have suffered injury in terms of lost sales volume or loss of market share, I consider that the volume of imports from Malaysia and Vietnam (at approximately 30 per cent of total imports) are substantial enough to have impacted the Australian industry's prices and profit as outlined below. At this point, I am satisfied that the increased volumes achieved by the Australian industry do not detract from the findings in regard to price and profit.

#### **9.4. Price effects caused by dumping**

I accept that customers can purchase either from the Australian industry or from an import supply source. Import offers and movement in the price of import offers can therefore be used to negotiate prices with the Australian industry. Based on the results of this investigation to date, as well as previous investigations, reviews and inquiries into aluminium extrusions, it has been established that the Australian market for aluminium extrusions is price sensitive and that the Australian industry is required to respond to the price of imports in order to remain price competitive.

##### Price undercutting

For the purposes of the PAD, the Commission has undertaken a preliminary analysis of price undercutting claims by Capral. The analysis is based on verified and unverified sales data from importers, exporters and the Australian industry.

The Commission compared weighted average free into store (FIS) prices of the imported goods sold by importers to the Australian industry's FIS net selling price for like goods, at a comparable level of trade.

On a weighted average basis, the goods from Malaysia and Vietnam, from what appear to be dumped sources, undercut the Australian industry's prices in each month of the investigation period, with undercutting in the range of 11 and 19 per cent. The weighted average undercutting of goods from Malaysia was 13 per cent and from Vietnam was 16 per cent. Based on the Commission's analysis, I am satisfied that Capral's undercutting claims are supported by evidence.

The Commission will refine its undercutting analysis, where possible, to an examination of individual finish types and individual customers as the investigation progresses.

#### **9.5. Profit effects caused by dumping**

As shown in Figure 4, the Australian industry's profit increased in each year of the injury analysis period.

In its application, Capral stated that it suffered ongoing material injury during injury analysis period, due to the circumvention of anti-dumping measures which were imposed in 2010, by Chinese exporters. Capral state that the circumvention activities were not addressed until an anti-circumvention inquiry was completed in February 2015, the year immediately preceding the investigation period.

Capral claim that despite the positive outcome of the anti-circumvention inquiry, the Australian industry has not recovered as expected in the investigation period, due to the emergence of dumped imports from Malaysia and Vietnam. I consider that Capral's claims are supported by evidence because, following the anti-circumvention inquiry, Chinese exports to Australia decreased in comparison to the increased Malaysian and Vietnamese exports to Australia in an expanding market.

The existence of factors such as this throughout the injury analysis period, makes it difficult for the Commission to perform a 'coincidence analysis'. In preparing a statement of essential facts, the Commission may consider a 'but for' causation analysis.<sup>26</sup>

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<sup>26</sup> Reference is made to Chapter 21 of the Manual

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Nonetheless, despite the Australian industry's improved profitability during the injury analysis period, I consider that there appear to be sufficient grounds to conclude that the preliminary dumping margins, price effects and price undercutting from goods from Malaysia and Vietnam contributed to the Australian industry's inability to achieve a sufficient level of profit in the investigation period.

### 9.6. Other causes of injury

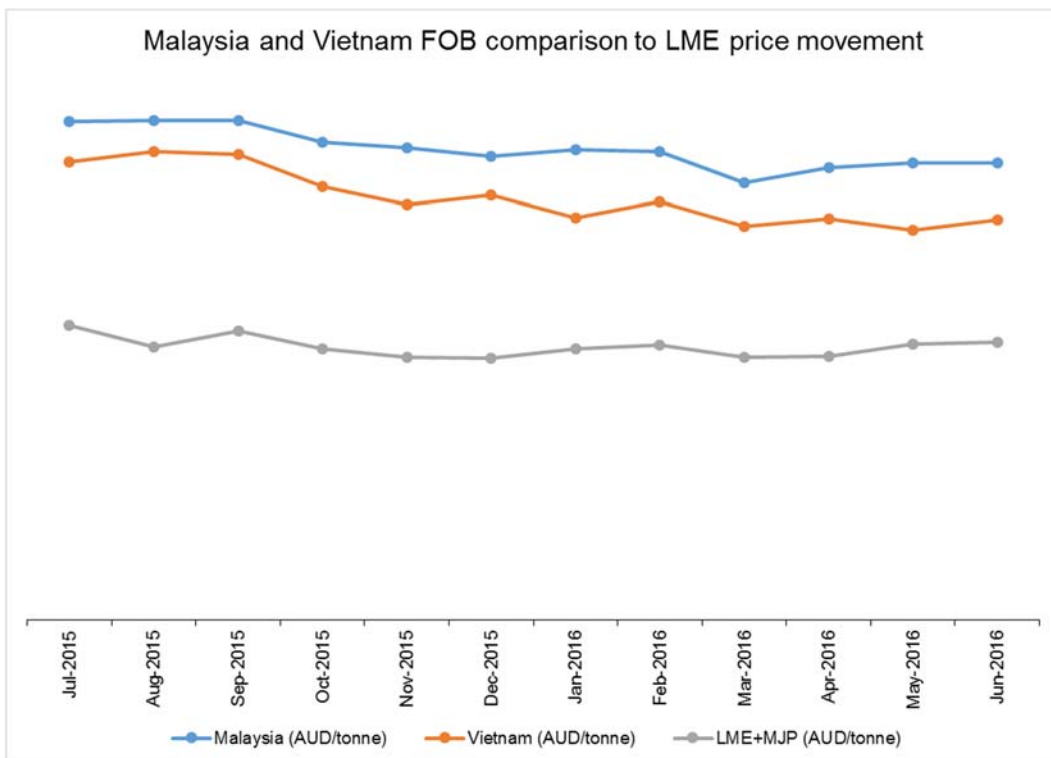
#### LME price

One possible contributing factor to the Australian industry's injury is the movement in the combined LME and Major Japanese Port Premium (MJP) price and the subsequent effects on aluminium extrusion prices in the Australian market.

Aluminium extrusion prices are generally set with reference to the cost of raw materials and manufacturing costs. Billet prices in the South East Asian region are set with reference to the prevailing combined LME and MJP prices. Therefore, movements in the LME and MJP will be reflected in the price of aluminium extrusions. In particular, a downwards movement in the LME price and MJP may have the effect of reducing selling prices.

Figure 5 below shows the combined LME price and MJP, and FOB prices of Malaysian and Vietnamese sourced aluminium extrusions during the investigation period. The data shows that the combined LME and MJP price remained relatively flat in AUD terms whereas FOB prices for Malaysian and Vietnamese extrusions decreased consistently across the investigation period. The Commission calculates the overall reduction in Malaysian FOB prices was approximately 8 per cent and the reduction in Vietnam FOB prices was approximately 12.5 per cent. Although not shown in Figure 5, the Commission has also calculated that Australian industry's selling prices fell by approximately 6 per cent.

The above observations suggest that the LME price may not have been the primary cause of the Australian industry's price depression.



**Figure 5 – Malaysian and Vietnam FOB comparison to LME price movement**

## **9.7. Cause of injury – preliminary assessment**

Based on the Commission's price undercutting analysis for Malaysian and Vietnamese exporters, verification of Capral's injury claims and unverified data of other Australian producers, and the preliminary dumping margin calculations for Malaysian and Vietnamese exporters, and for the purposes of this PAD, I consider that:

- importers were provided a competitive advantage due to the ability to purchase the goods at what the Commission has preliminarily found to be dumped prices, which allows importers to be more competitive on price than otherwise would be the case;
- the Australian industry's prices were depressed and suppressed due to competition with the goods exported from Malaysia and Vietnam at dumped prices, which in turn has caused injury in the forms of price depression, price suppression, reduced profit and reduced profitability;
- in the absence of dumping, it is likely that the Australian industry would be in a better position to achieve pricing at levels necessary to achieve an increased profit; and
- the injury suffered by the Australian industry is material.

I also note that the Material Injury Direction states that dumping or subsidisation need not be the sole cause of injury to the Australian industry.

As such, I am satisfied, at this point in the investigation, that there appears to be sufficient grounds to support the conclusion that aluminium extrusions exported from Malaysia and Vietnam are at dumped prices and because of that, material injury to the Australian industry has been caused.

## **10. Non-injurious price**

The non-injurious price (NIP) is relevant to subsection 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975*, which requires consideration of the desirability of fixing a lesser amount of duty if sufficient to remove injury to the Australian industry unless certain conditions are met.

The Commission also utilises the NIP as an additional test to establish whether there is a causal link between the alleged dumping and material injury.

I have not received any submissions regarding the NIP. As such, the Commission has utilised a similar approach to calculating a NIP as outlined in CON 362, by first calculating an unsuppressed selling price (USP) using the weighted average unit selling price of the Australian industry's aluminium extrusions for the year immediately preceding the investigation period, e.g. 1 July 2014 to 30 June 2015. I have no evidence to suggest that this period was affected by dumping from Malaysia and Vietnam, therefore I consider this to be a period unaffected by dumping. The Commission then deducted amounts from that USP for importer selling general and administrative costs and profit, as well as into-store costs, Customs duty and overseas freight. These deductions were based on data provided by importers of the goods from Malaysia and Vietnam.

The Commission compared the NIP with the weighted average normal values for each of the exporters and determined that the NIP exceeds those normal values. As a result, I propose that securities be taken at the amount of the dumping margins as ascertained in Table 1, rather than at the NIP. Given that the NIP exceeded the export prices, this

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analysis also supports the conclusion that dumped aluminium extrusions exported to Australia from Malaysia and Vietnam have caused material injury to the Australian industry.

It is also noted that the Commission is investigating claims that the Australian industry consists of more than two or more SMEs, which may mean that the Minister is not required to have regard to the lesser duty rule.<sup>27</sup> However, even where this circumstance exists, it does not preclude the Minister from considering and applying a lesser duty where the Minister considers it would be appropriate to do so.

### 11. Other matters considered relevant – subsection 269TD(2)(b)

In accordance with section 7 of the PAD Direction and for the purposes of subsection 269TD(2)(b), I have considered the desirability of providing relief to an injured Australian industry, as quickly as possible, where warranted.

### 12. Form of duty

The forms of duty available under the *Customs Tariff (Anti-Dumping) Regulation 2013* include:

- combination fixed and variable duty method ('combination duty method');
- fixed duty method;
- floor price duty method; and
- *ad valorem* duty method (i.e. a percentage of export price).

These forms of duty all have the same objective of removing the injurious effects of dumping; however in achieving this objective certain forms of duty will better suit the particular circumstances of some investigations more so than other forms of duty.

I have not received any submissions regarding the form of duty in relation to this investigation. For the purposes of this PAD, I have had regard to the *Guidelines on the Application of Forms of Dumping Duty – November 2013* (the Guidelines).<sup>28</sup>

The proposed securities are recommended to be taken as an amount worked out in accordance with the combination duty method. This approach is the same as that taken for the purpose of the dumping duty notice that presently applies to exporters of aluminium extrusions from China.

The Guidelines acknowledge that the combination duty method has potential disadvantages, particularly where there are many models or types of the goods with significantly different prices or when the market experiences falling prices. Although aluminium extrusions can come in different finish types (e.g. mill finish, anodised and powder coated) with different unit prices, I consider that the potential advantages of the combination duty method outweigh the disadvantages for the purpose of this PAD. The combination duty method is suitable in a PAD because it ensures the adequate collection of securities whilst the Commission fully verifies exporter's data and is suited to circumstances where there are complex company structures involving related parties (as is the case in this investigation) where circumvention of measures can occur.

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<sup>27</sup> For the purposes of defining SMEs, the *Customs (Definition of "small-medium enterprise") Determination 2013*, prescribes, a SME to be:

"a producer or manufacturer with 200 or less full-time staff, which is independently operated and which is not a related body corporate for the purposes of the Corporations Act 2001".

<sup>28</sup> Available at [www.adcommission.gov.au](http://www.adcommission.gov.au)



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I note that the LME aluminium prices (a significant percentage of the total CTMS) are, at the time of this report, higher in USD (the primary currency of the goods exported to Australia) than the average during the investigation period, which is not indicative of a falling market. In addition, potential disadvantages sometimes associated with the combination duty method, such as the potential for more frequent reviews, are less relevant in the context of a PAD.

I will reassess the most appropriate form of measures should a recommendation be made to publish a dumping duty notice.

The fixed component of the securities will be imposed in relation to the goods exported to Australia from Malaysia and Vietnam at the rates specified in Table 1 of preliminary dumping margins. The variable component will be applicable where the actual export price is below the ascertained export price.

The actual security liability may be higher than the effective rate of security due to a number of factors. Affected parties should contact [www.business.gov.au](http://www.business.gov.au) on telephone number 13 28 46 or +61 2 6213 6000 (outside Australia) for further information regarding the actual security liability calculation in their circumstance.

### **13. Commission contact**

Enquiries about this public notice may be directed to the case manager on telephone number +61 3 8539 2418, fax number +61 3 8539 2499 or email at [operations3@adcommission.gov.au](mailto:operations3@adcommission.gov.au).

Dale Seymour  
Commissioner  
Anti-Dumping Commission

17 October 2016

**Evidence relied upon**

The table below summaries the information submitted by interested parties and the verification status of that information.

Interested party	Verification Status	Details
Applicant	Verified	The Commission has undertaken a verification visit to the applicant, Capral, and is satisfied that the information it provided is relevant, accurate and complete. A verification visit report will be uploaded to the electronic public record in due course.
Other Australian producers	Unverified	The Commission invited all other Australian producers of like goods to complete an Australian industry questionnaire. The Commission received two completed Australian industry questionnaire responses from INEX and G James. The Commission is currently in the process of verifying the information provided.
Importers	Unverified	The Commission invited three major importers to complete an importer questionnaire. The Commission received completed importer questionnaire responses from all three major importers, being: <ul style="list-style-type: none"> <li>• ABRA Metals Pty Ltd;</li> <li>• Aus Star Holdings International Pty Ltd; and</li> <li>• Press Metal Aluminium (Australia) Pty Ltd.</li> </ul> The Commission is currently in the process of verifying the information provided.
Exporters	Unverified	Refer to the above heading 6.1 for further details regarding exporter questionnaire responses received. The Commission is currently in the process of verifying the information provided by selected exporters from Malaysia and cooperating exporters from Vietnam.
Governments	To be considered	Government questionnaire responses were received from the Government of Malaysia on 6 October 2016 and Government of Vietnam on 10 October 2016. As outlined at heading 7, further analysis is required to adequately consider whether the goods have been exported from Malaysia and Vietnam to Australia at subsidised prices.
Other interested parties	Considered	Prior to making this PAD, the Commission received submissions from: <ul style="list-style-type: none"> <li>• Viet Nam Competition Authority (EPR Nos. 4 and 6);</li> <li>• Hazard Systems Pty Ltd; (EPR No. 5)</li> <li>• BlueScope Distribution Pty Ltd (EPR No. 8);</li> <li>• Sapa BS Asia (EPR No. 9);</li> <li>• Press Metal Aluminium (Australia) Pty Ltd (EPR Nos. 10 and 28);</li> <li>• Sam's Aluminium Extrusion Sdn Bhd (EPR No. 11);</li> <li>• Capral (EPR No. 18);</li> <li>• PA Extrusion Sdn Bhd (EPR No. 25);</li> <li>• Focus Merchant Management Sdn Bhd (EPR No. 26); and</li> <li>• Classic EMAS (Sarawak) Sdn Bhd (EPR No. 33).</li> </ul> These submissions, insofar as they are relevant to the dumping and injury aspects of the investigation, have been considered where, in my opinion, consideration would have not prevented the timely consideration of the question whether or not to make a PAD.