



Australian Government
**Australian Customs and
Border Protection Service**

Customs Act 1901 - Part XVB

TRADE MEASURES BRANCH

TERMINATION OF PART OF AN INVESTIGATION

REPORT NO. 148

ALLEGED DUMPING AND SUBSIDISATION OF

CERTAIN ALUMINIUM EXTRUSIONS

THE PEOPLE'S REPUBLIC OF CHINA

13 April 2010

Background

On 24 June 2009 the Chief Executive Officer of Customs and Border Protection (CEO) initiated an investigation into the alleged dumping and subsidisation of certain aluminium extrusions exported to Australia from the People's Republic of China (China). The investigation was initiated following an application lodged by Capral Limited (Capral) on behalf of the Australian industry producing like goods.

The investigation period, used to determine whether dumping and subsidisation has occurred, was from 1 July 2008 to 30 June 2009.

Tai Ao Aluminium (Taishan) Co Ltd (Tai Ao) was identified as an exporter of the goods from China. Tai Ao was sent an exporter questionnaire which was completed and returned to Customs and Border Protection. The company was selected for a verification visit which occurred in October 2009. A preliminary visit report was produced and placed on the public record on 5 January 2010. A report on the review of preliminary dumping and subsidy margins for exporters selected for further investigation was also placed on the public record on 21 January 2010.

The Statement of Essential Facts (SEF) No 148 was placed on the public record on 1 March 2010.

The goods under consideration

The applicant provided the following description of the goods the subject of its application:

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

The application also contained additional information to assist in understanding the goods the subject of the application. Further description of the goods is included in ACDN 2009/20.

Investigation of Tai Ao's exports to Australia

Preliminary dumping finding

In accordance with s.269TACB(2)(a), Customs and Border Protection preliminarily calculated a dumping margin for the investigation period by comparing Tai Ao's monthly weighted average export prices with the corresponding monthly weighted average normal values. The product dumping margin for exports by Tai Ao during the investigation period was found to be de-minimis.

Preliminary countervailing findings

Customs and Border Protection found that during the investigation period Tai Ao had received financial contributions that conferred benefits to the exported goods. The total subsidy rate applicable to Tai Ao during the investigation period was calculated at 1.4 per cent.

Submissions in response to SEF

Capral made a number of submissions in response to the SEF which raised issues that potentially impacted on Customs and Border Protections' preliminary dumping and countervailing findings with respect to Tai Ao.

Capral submitted that a market situation existed in the country of export that renders domestic sales unsuitable for determining normal values under s.269TAC(1). Given that Tai Ao's domestic sales of like goods were rejected for normal value purposes, and that sales by other sellers were not relevant due to differences in characteristics such as specifications, performance and costs, Customs and Border Protection does not consider the issue of whether a market situation existed is relevant to the determination of Tai Ao's normal value.

Capral further submitted that Customs and Border Protection did not properly account for the treatment of VAT with an uplift of 17% for all VAT-input-taxed inputs to production. It contends that this is required in calculating the "cost to make and sell plus profit", in relation to all products properly classifiable to 7604.

Customs and Border Protection disagrees with Capral and remains satisfied it has treated the VAT appropriately in calculating costs and normal values as outlined in its '*VAT issues paper: Treatment of VAT in normal value calculations*' of 12 March 2010 and the independent accounting advice obtained from Ernst & Young.

Capral claimed that Customs and Border Protection has not relied on audited accounts for Tai Ao, but instead relied on Trial Balances and other accounting records prepared by Tai Ao as special purpose accounts for the investigation.

Customs and Border Protection dismisses the Capral claim about the reliability of Tai Ao's cost and sales information. Verification of Tai Ao's aluminium extrusion sales data and cost of production, as was the case for each selected exporter, involved a detailed examination of both audited accounts and management reporting to ensure that costing and sales data presented were reasonably complete, accurate and relevant.

The applicant submits that Tai Ao's claim for an adjustment due to theoretical and actual weight differences is mere assertion, there is no evidence to suggest that any weight differences were physically verified, and Capral's independent verification showed that in fact the actual average weight of Tai Ao sections is higher than nominal weight. Capral submitted that Customs and Border Protection should make an upward adjustment to constructed normal values, in the order of 0.0761%.

Customs and Border Protection considers that weight differences that exist between export and domestic sales would warrant either an upward or downward adjustment depending on whether the theoretical weight was lesser or greater than the actual

weight. In the case of Tai Ao, Customs and Border Protection had regard to production records and management reports to establish that the overall theoretical weights on export sales were greater than their corresponding actual weights.

Capral conducted an independent weighing of sampled goods exported by Tai Ao which it claims shows that actual weight of the sample products were greater than the theoretical weight and therefore an upward adjustment was appropriate. However, it is noted that for half of the sample goods, the theoretical weight was greater. In any case, Customs and Border Protection considers it appropriate to base its adjustment on the average weight difference over the investigation period.

Dumping findings in relation to Tai Ao's exports

Export price

Customs and Border Protection found the producer, Tai Ao, to be the exporter of the goods. For a number of export sales Tai Ao was also found to be the beneficial owner of the goods at the time of their arrival in Australia and was therefore considered to also be the importer. For remaining export sales, the Australian customer was found to be the importer of the goods. Exports by Tai Ao during the investigation period were to Australian customers reflecting arms length transactions.

For exports where Tai Ao was also found to be the importer, export prices have been determined under s.269TAB(1)(c), using Tai Ao's invoiced prices to arm's length customers less amounts for prescribed deductions. For exports where Tai Ao's Australian customer was determined to be the importer, Customs and Border Protection was satisfied that the requirements of s.269TAB(1)(a) were met and calculated export prices using Tai Ao's invoiced prices less amounts for ocean freight and marine insurance where applicable.

Normal value

Tai Ao sold like goods on the domestic market during the investigation period in what were found to be arms length transactions. However, Customs and Border Protection considers these like goods to be sufficiently different in terms of physical characteristics, end-use applications, production process and overall cost of production such that it was not possible to reasonably work out the amount the amount of any adjustment to account for those differences and fair comparison could not be ensured. Therefore Tai Ao's domestic sales are not considered suitable for establishing normal values under s.269TAC(1).

Customs and Border Protection has determined normal values under s.269TAC(2)(c) by summing:

- the revised monthly cost of production for the exported goods;
- the actual selling, general and administration costs incurred on domestic sales of like goods, and
- a reasonable amount for profit by reference to the profit achieved on domestic sales of like goods after comparing domestic ordinary course of trade selling prices to the revised cost to make and sell during the investigation period.

The constructed normal values incorporate the following adjustments made under s. 269TAC(9) to ensure they were fairly comparable to export prices:

- upward adjustment for export inland freight;
- upward adjustment for export handling and other FOB charges;
- upward adjustment for export credit terms;
- upward adjustment for Australian intermediary expenses;
- upward adjustment for VAT liability on exports;
- upward adjustment for export financing charges, and
- downward adjustment for difference in theoretical and actual weights.

Dumping margin

In accordance with s.269TACB(2)(a), Customs and Border Protection has calculated a dumping margin for the investigation period by comparing monthly weighted average export prices with the corresponding monthly weighted average normal values. The product dumping margin for exports by Tai Ao was found to be de-minimus. Customs and Border Protection must terminate the investigation in relation to an exporter if satisfied that there has been no dumping or the dumping margin, when expressed as a percentage of the export price, is not more than 2%.

Calculation of Tai Ao's dumping margin is contained in **Confidential Appendix 1**.

Subsidy findings in relation to Tai Ao's exports

Customs and Border Protection found that during the investigation period Tai Ao had received financial contributions that conferred benefits to the exported goods. The amount of subsidisation attributable to the benefit under each of the subsidy programs was:

- Program 13: Exemption of tariff and import VAT for imported technologies and equipment: 0.82 per cent; and
- Program 15: Primary aluminium provided by Government at less than fair market value: 0.56 per cent.

The total subsidy rate applicable to Tai Ao during the investigation period was calculated at 1.4 per cent, when measured as a percentage of the export price.

Calculation of Tai Ao's subsidy margin is contained in **Confidential Appendix 1**.

Conclusion

Under s.269TDA(1) of the Act, if the Chief Executive Officer of Customs (CEO) is satisfied that there has been no dumping by the exporter of any of those goods or the dumping margin is less than 2%, the CEO must terminate the investigation so far as it relates to the exporter.

Therefore, the CEO must terminate the dumping investigation so far as it relates to Tai Ao.

Under s.269TDA(2) of the Act, if the Chief Executive Officer of Customs (CEO) is satisfied that there has been no or negligible level of countervailable subsidy received by an exporter, the CEO must terminate the investigation so far as it relates to the exporter.

Section 269TDA(16) sets out the negligible level of countervailable subsidisation for goods exported from China as 2%.

Therefore, the CEO must terminate the countervailing investigation so far as it relates to Tai Ao.