



LIMITED and OPEN

Trade Remedies Authority
North Gate House
21-23 Valpy Street
READING
RG1 1AF

Date: 10th April 2023

By email only.

Dear Sirs,

**Subject: Application for Reconsideration by Hydro Aluminium UK Limited.
Case AD0012 – Certain Aluminium Extrusions from China.**

Our client: Haomei Group.

This letter represents our client’s preliminary response to the Notice of Initiation published by the Trade Remedies Authority (“TRA”) on 22nd February 2023¹ following an application for reconsideration (“the application”), submitted on behalf of Hydro Aluminium UK Limited (“Hydro”).

As a preliminary point, we note that the application submitted on behalf of Hydro is undated. The preamble to the application states it is “*submitted on 17 January 2023, within one month from the application of the Final Determinations*”. As 17 January is the last day for a legal application to be considered by the TRA, we would ask you to specifically confirm that the application and supporting evidence was indeed submitted to you on this date and is not out of time.

Pending this confirmation, we turn now to the substance of the application. The application lists five grounds that Hydro consider should be reconsidered by the TRA:

¹ <https://www.trade-remedies.service.gov.uk/public/case/AD0012/submission/cdf36162-9f7c-48a4-8b50-f3aed3dfddce/>

Ground 1: The normal value used by the TRA for Shandong Nanshan Aluminium.

As Ground 1 concentrates on the methodology used for calculating the margin for Shandong Nanshan Aluminium (“Nanshan”), our client makes no comment on this Ground at this juncture. However, should any finding by the TRA in relation to this Ground have a material effect on our client, we reserve the right to comment at such time.

Ground 2: The dumping margin used by the TRA for Press Metal International.

Similarly, Ground 2 concentrates on the methodology used for calculating the margin for Press Metal International (“PMI”). Again our client reserves the right to make future comment should the circumstances so require.

Ground 3: The Haomei New Materials Company dumping margin does not reflect the distortions in other input markets.

Ground 3, which relates specifically to our client, runs to just three paragraphs, and is simply an unsubstantiated claim that costs other than billets and energy should be re-evaluated *mutatis mutandis* as for Nanshan and PMI. There is no specific claim in relation to our client and it seems that Ground 3 is included in the application simply as a catch all.

Our analysis is that Hydro is unhappy with the treatment of costs such as labour, capital, and land in the TRA’s investigation without providing any evidence or indeed any data on what they consider the true level should be.

Our client’s position is that all elements for calculating the normal value were fully analysed by the TRA during the substantive investigation. In the absence of any new data to vitiate these findings, we are unable to provide any detailed comments to disprove the unsubstantiated claims of the applicant.

Should the TRA disagree with us, and seek to recalculate the normal value for our client, we formally request full disclosure of any such revisions and a proper opportunity to comment and have those comments considered.

Ground 4: Changes in price setting in the UK by overseas exporting producers.

The applicant alleges that the Chinese exporters manipulated their prices to the UK market in order to reduce a possible dumping margin on an as yet unknown threat of a UK investigation being opened against them. This seems rather Machiavellian and is supported by no evidence other than raw import data extracted from UK trade statistics. To the applicant, increased prices of Chinese imports can mean nothing other than manipulation by exporters to reduce a putative dumping margin. No other explanation is considered or excluded by the applicant. Sadly for them, the analysis of the data does not support their position.

Even were Chinese exporters to indulge in such practices, they could not have done so before the EU opened its own investigation in February 2020. TRA data in Table 7 of the final determination (Recital 373), shows average Chinese import prices into the UK increased from 2,119 GBP/T in the year ending May 2020 to 2,286 GBP/T in the year ending May 2021; an increase of 7.88%. From the same table, the LME 3-month rate for aluminium increased at the same time from 1,359 GBP/T to 1,470 GBP/T; an increase of 8.16%. Given the importance of aluminium billets in the cost of producing the product concerned, tracking the raw aluminium price seems the most logical explanation for increased Chinese export prices. Certainly, it is a more convincing reason than the one the applicant tries to argue.

What is not so logical are the prices charged by the UK industry. If we look at the data in the same period in Table 7, we see that UK producer average prices actually fell by 2.87% against rising aluminium prices. The obvious conclusion is that if the data shows anything, it is not manipulation by Chinese exporters to reduce any dumping margin, but is rather manipulation by UK producers to increase any injury margin. This is particularly true as the UK producers would have had much more time to prepare for the case given that it is they who instigated the case in the first place and had significant foreknowledge of the case being opened.

Ground 5: Large scale extrusions should not be excluded from the scope of the measures.

In its application Hydro seeks to extend the scope of products subject to measures to aluminium extrusions with a maximum cross-sectional dimension of greater than 310mm or a weight greater than 14kg/m. From Recital 144 of the Application, this on the basis that failure to do so is:

- Not in line with the facts which show that the Applicant produced extrusions with a weight above 14kg/m during the period of investigation.
- Not in line with the applicable law which cannot require current production in the UK when there was production in the customs territory to which the UK belonged at the relevant time.
- Will result in circumvention of the measures.
- Will result in the loss of sales of when orders from users bundle large scale with small scale extrusions.
- Will impede investments by the Applicant in upgrading their presses to 9 inch and 10 inch.

Taking these points in turn:

- The applicant appears to provide new evidence of the production of one extrusion at 14kg/m in the UK (footnote 54 of the Application). One extrusion is hardly an example of commercial production. Nor is there any information provided as to the reason for this production, whether it was sold and if so, into which market.

- There is no evidence that any EU or UK producer sold large-scale extrusions on the UK market during the investigation period.
- The allegation of circumvention is not supported by any arguments or evidence and is simply inserted into the conclusions of Ground 5 without having been previously raised in the substantive application.
- Again the allegation that there will be a loss of sales of when orders from users bundle large scale with small scale extrusions is spurious and not in any way supported with evidence or argument.
- Recital 143 refers to internal deliberations on future investment to produce extrusions above 310 mm. We are provided with no evidence of these deliberations, of how serious these deliberations are, and, crucially, when these deliberations took place.

In any case, were the TRA to now include large extrusions in the product scope, this would have implications for the economic interest test, and the ability of UK producers to satisfy the legitimate needs of the user industry.

Conclusion

- Grounds 1 and 2 in the re-opening application are not relevant to our client.
- Ground 3 is sparse in detail and contains no new evidence. We would encourage the TRA to give it the short shrift it deserves.
- Ground 4 does not stand up to even the most cursory of analysis and points more to price manipulation by UK producers than it does to Chinese exporters.
- Ground 5 is light on any evidence that we can analyse and heavy on unsubstantiated claims.

The whole application seems little more than a fishing trip. We invite the TRA to reject the Application in its entirety and to close the reassessment without delay. Should the TRA not agree with us, we look forward to commenting further on any actual findings supported by relevant evidence.

In the meantime we, together with our client, stand ready to provide all information and co-operation the TRA deem appropriate.

Yours faithfully,



Kenneth Davies
Director