**AD0012: Aluminium Extrusions**

**30 June 2022**

**Comments on the Statement of Essential Facts**

**By**

**The Applicant**

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**EXECUTIVE SUMMARY**

The Statement of Essential Facts (SEF) proposes the imposition of anti-dumping duties at levels which are significantly lower than the levels necessary to alleviate the injurious effects of the dumped imports from China.

The Applicant considers that the TRA has not fully complied with WTO and UK law in examining dumping. This has resulted in the low dumping margin. In this submission the Applicant addresses a number of technical and legal issues as well as commenting on the economic interests of the UK.

*Distortions of the markets in China*

The TRA has erred in law if it has not examined if the market for the Goods Concerned (aluminium extrusions) is distorted because of a particular market situation, and/or, if that market is distorted, the TRA has erred in using prices from that market in constructing the normal value for Shandong Nanshan.

The TRA has dismissed, without any explanation, evidence that the markets for inputs other than aluminium and energy (such as land, capital, labour, coal, steel) are distorted. The TRA’s findings are not only inadequately reasoned but they are not in line with findings in other jurisdictions and evidence from the OECD.

*Sampling*

23 Chinese exporting producers came forward to be investigated. The TRA selected the 3 exporters representing the largest volume of trade into the UK. This is in line with normal WTO practice. However, the TRA further selected a sub-category of goods to be examined. The main selection criterion was production in the UK. This criterion is not allowed in UK or WTO law. In the PAD, the TRA did not sub-divide the goods examined demonstrating that it was administratively possible to examine all the goods exported. The second sampling of the Goods Concerned distorted the final dumping margins.

*Exclusion of >310mm and >14kg/m*

The exclusion of extrusions of a size greater than 310mm and heavier than 14 kg per meter on the basis that these sizes and weights were not produced in the UK during the injury period and the period of investigation and on the basis that the UK industry does not have the capability to produce, is not in line with the law or the facts. The UK industry supplied these sizes and weights from within the applicable customs territory during these periods and the UK industry has the capability to produce these weights and sizes in the UK.

*Profit margins*

The TRA has reduced the profit margins of the exporting producers from the conservative amount of 15% proposed by the Applicant, and used in the PAD to 6% in the SEF. This is not reasonable. Published accounts of the PMI Group demonstrate EBITDA margins of 18.6% and a pre-tax profit of 13.1%. Shandong Nanshan reports a gross profit margin of 32% and a net profit of 19%.

*Unfair trade continues*

The Applicant has also examined recent trade statistics which show continued unfair pricing by exporting producers in China.

*Low margins are not in the UK interest*

The level of the duties proposed by the TRA are too low. They are significantly lower than findings by trade authorities in Australia, Canada, the US and the EU. They will be easily absorbed by traders. The UK will become the target market for continued unfair trade from China and the backdoor for distorted trade into other markets. The TRA has found that it is in the UK’s economic interest to impose measures. If that is the case measures must be imposed at a level which restores fair competition on the UK market.

**The Dumping Margin Calculations: The TRA has relied on facts which are irrelevant to the calculation of dumping and in clear breach of both UK and WTO law**

**Dumping Calculation Methodology**

On 13 June 2022, the TRA disclosed its Dumping Calculation Methodology (DCM) with the aim of providing further details as to how the individual dumping margins were calculated. The DCM also highlighted key differences between the dumping calculations in the PAD and SEF.

The Applicant welcomes this additional disclosure. On this basis the applicant now sees that the TRA has engaged in two levels of sampling for the purposes of the examination of dumping in the AD0012 investigation.

The rules on sampling for the purposes of dumping (as opposed to injury etc.)[[1]](#footnote-2) are set out in Regulation 56 of SI 2019/450.[[2]](#footnote-3) Both sets of sampling carried out by the TRA must, by law, come within Regulation 56 and must be justified on the criteria set out in Regulation 56(3)(a) or (b).

* The TRA made a first sample of the exporting producers within the terms of Regulation 56(2)(a) of SI 2019/450. SEF §38 indicates that 25 exporting producers made themselves known to the TRA by registering their interest within the terms of Regulation 54. Given this large number, the TRA took a sample of three on the basis of the largest volume of exports of the goods concerned to the UK (SEF §40). The sampled companies are: Haomei, PMI and Shandong Nanshan.
* The TRA then took a second sample. It limited its examination of the exports of the 3 sampled companies to certain categories of the goods concerned. This is sampling within the terms of Regulation 56(2)(c).

The Applicant has no comment to make on the choice of the 3 sampled exporting producers.

In relation to the second sampling of the goods concerned, the Applicant considers that the TRA has erred in the methodology used. Firstly, the TRA introduced a criterion (production in the UK) that is not provided for in Regulation 56(3)(a) or (b). The consequence of this error is the setting of an incorrect dumping margin for each of the 3 sampled exporting producers.

The Applicant considers that the selection, or the sampling, of a limited number of the PCNs, (rather than all the PCNs as used in the PAD) is likely to be one of the principle differences in the dumping margin calculations in the PAD and the SEF. In the SEF, a sub-set of PCNs was used rather than the full set of all the PCNs as in the PAD. The SEF does not provide a legal[[3]](#footnote-4) justification for this second sampling of the goods concerned as is examined below.

**A legal analysis of SI 2019/450**

In order to determine whether goods are dumped, the TRA may use sampling in accordance with Regulation 56 of SI 2019/450.

The UK Legislator made a distinction between the sampling method for dumping – regulated by Regulation 56 – and the sampling method for subsidisation, injury, causation and lesser duty rule – regulated by Regulation 57 – of SI 2019/450. For dumping therefore only Regulation 56 applies.

For the first sample, i.e. the choice of 3 rather than all the exporting producers, the TRA has relied on Regulation 56(2)(a) which authorises sampling of the exporting producers on the basis of the largest volume of exports that it is reasonable to investigate.

For the sampling of the PCNs (the second level sampling) the TRA has relied on Regulation 56(2)(c) which refers to sampling on the basis of a ‘category of goods’, see SEF §69.[[4]](#footnote-5)

Regulation 56(3) applies to all sampling (whether for the selection among the exporting producers or selection among the categories of goods). It provides that the TRA must determine the sample on either:

1. the largest volume of exports from the exporting country or territory to the United Kingdom that the TRA is reasonably able to investigate; or
2. a statistically valid method.

The TRA has not indicated in the SEF or in the DCM if the sample of categories of goods (the second sample) was established in accordance with Regulation 56(3)(a) or (b). It even appears from the DCM that the TRA has not used either criterion, but another that is not provided for in the law.

In the DCM,[[5]](#footnote-6) the TRA explains that it limited its dumping investigation to a sample of 101 out of 269 PCNs. The selection of the 101 PCNs was made taking into account two criteria: “*they were both manufactured by UK Industry and exported to the UK from the PRC by verified exporters during the POI*”.

Exports to the UK are clearly a relevant factor so long as either criteria (a) or (b) is chosen. However, the fact that PCNs are not manufactured by the UK industry can have no bearing on the sample selection for the purposes of Regulation 56 and the establishing of dumping.[[6]](#footnote-7) The purpose of the dumping calculation in Part 2 of the Regulations is to determine whether Chinese exporters dumped the goods concerned on the UK market during the POI and not whether those goods were produced in the UK.

The production, or not, of any given PCN in the UK or by the UK industry during the injury period is not relevant to the question of whether or not the goods are dumped. They are either dumped or they are not. To know if there is dumping from China it is necessary to examine all the goods concerned originating in China and imported into the UK. If it is administratively too burdensome to examine all the goods concerned exported to the UK, the TRA can make a sample of those goods. However, the law only provides for two criteria for the selection of that sample of the goods concerned: the largest volume or a statistically valid method.

The question of whether PCNs are manufactured by the UK industry during the POI is not a question of dumping. It might, or it might not, be a question of injury and causation within the terms of Parts 4 and 5 of the Regulations. But this is a different evaluation. By introducing this criterion in the selection of the PCNs for the dumping calculation, the TRA breached Regulation 56 and risks mixing not only the legally distinct issues of dumping and injury but also the margins of dumping and injury. Dumping and Injury are two distinct issues and must be examined separately. This is evidenced by the separate provisions in the Regulation on dumping and injury and causation as well as the distinction in the methodologies for sampling set out in Regulations 56 and 57 of SI 2019/450.

**The criterion used distorts the sample**

The introduction of criteria not provided for in Regulation 56 results in the distorted representation of certain types of the goods concerned within the overall mix of the goods that have been sampled. The inconsistencies are:

* Overrepresentation of custom made/bespoke profiles (73 out of 101 PCNs);
* Underrepresentation of standard profiles/shapes (28 out of 101 PCNs)[[7]](#footnote-8);
* Overrepresentation of hollow profiles (39 out of 101 PCNs) as opposed to only 4% of imports;[[8]](#footnote-9)
* Underrepresentation of solid profiles (34 out of 101 PCNs) as opposed to 66% of imports;[[9]](#footnote-10)
* Exports of bars and rods (11 out 101 PCNs) although no imports have been declared at HMRC[[10]](#footnote-11);
* Extrusions with a cross-sectional dimension greater than 310 mm are not represented at all[[11]](#footnote-12);
* Overrepresentation of finished products (43 out of 101 PCNs are anodised, painted or other)[[12]](#footnote-13);
* Overrepresentation of fabricated products (26 out of 101 PCNs)[[13]](#footnote-14).

It can be seen that the selection of the category of goods distorts the goods examined for dumping when compared to the volumes of goods exported from China to the UK. By using a criterion not provided for in the law, the TRA has examined a limited number of PCNs which do not reflect the trade in goods originating in China. The Applicant is not aware of a provision of the Regulations allowing the TRA to act as it did.

The Applicant considers that these inconsistencies in the second level sampling of the categories of goods to be examined results in levels of dumping which are lower than they otherwise would be. This can be seen in the comparison with the findings on dumping in the PAD and the SEF.

In the PAD the TRA did not engage in a second level of sampling and therefore examined all the goods concerned originating in China. The fact that the TRA was able to examine all the PCNs in the PAD determination also indicates that there is no justification for the second level of sampling. Sampling is allowed when it is necessary to lessen the administrative burden to complete an investigation within the time limits set out in law. If the TRA was in a position to examine all the PCNs in the PAD it should be in a position to do the same in the SEF.

The PAD methodology resulted in higher margins, almost twice as high as the results found using the SEF methodology. This fact demonstrates that the sample selection in the SEF is not representative of the dumping practices it is supposed to reflect.

**The sampling of the categories of goods, in addition to the sampling of the exporting producers, is not justified in the present circumstances**

Sampling can be considered an exception under WTO and UK law. The law provides that the best practice is to examine the data from all the exporting producers and all the exports of the goods concerned. However, because an examination of all exporting producers or goods can be too burdensome from an administrative point of view (particularly in view of the timelines), the law allows for sampling so long as that sampling is objective and can be justified on the basis of administrative need and practicality.

The TRA presumably justified the sampling of the exporting producers on the basis of administrative need. The question then arises whether there is an administrative need for the second level of sampling. If there is no administrative justification or there is no demonstration that it would be ‘impractical’, then the second level of sampling is not legitimate.

Sampling at two levels (i.e. in relation to the number of exporting producers chosen and secondly within that limited sample of 3 producers a second sample of the goods concerned) is highly questionable[[14]](#footnote-15) in WTO law.

Article 6.10 of the WTO Anti-Dumping Agreement provides that:

“*The authorities shall, as a rule, determine an individual margin of dumping for each known exporter or producer concerned of the product under investigation. In cases where the number of exporters, producers, importers or* ***types of products involved is so large as to make such a determination impracticable****, the authorities may limit their examination either to a reasonable number of interested parties or products by using samples which are statistically valid on the basis of information available to the authorities at the time of the selection, or to the largest percentage of the volume of the exports from the country in question which can reasonably be investigated.*[emphasis added]”

The Applicant considers that where a second level sampling (i.e a sampling of the category of goods) is chosen in addition to the first level sampling, the competent authority is obliged to show clear reasons that the *types of products involved is so large as to make such a determination impracticable.*

The choice of a sample of 3 exporting producers out of a pool of 25 has already limited the administrative burden on the TRA.[[15]](#footnote-16) It follows that, as a rule and in the absence of demonstrated need, if the TRA has chosen the first level of sampling then the the investigation into dumping has to cover the entire product scope or to demonstrate why the examination of the full scope of the goods concerned is impractical.

The Applicant considers that 269 PCNs is not an unreasonable number of categories of goods to examine. For the purposes of the PAD, the TRA has shown that it was able to examine all the PCNs as its dumping determinations were based on an examination of all PCNs exported by the sampled exporting producers as the dumping calculation performed in the PAD does not involve a sample of categories of goods.

Given the categories and scope of the goods concerned remained the same, the Applicant considers it difficult to understand why the TRA was able to examine all PCNs in the PAD and yet considered it necessary to limit its calculations in the SEF to a sample of the goods.

The Applicant concludes that the approach taken by the TRA is neither in line with SI 2019/450 nor with WTO law. This approach has led the TRA into an error the consequence of which is to significantly diminish the dumping margin and consequently reduce the level of remedies granted to the UK industry.

**The reasonable level of profit for the construction of the normal value does not reflect the financial statements of the exporting producers**

Pursuant to Regulation 12(2), the TRA must determine reasonable amounts for the administrative, selling and general costs and for profits on the basis of the actual data pertaining to the production and sales by the overseas exporter of the Goods Concerned, in the ordinary course of trade, in the domestic market of the exporting country or territory.

The TRA has revised the level of profit from 15% in the PAD to 6% in the SEF by selecting the profit level achieved by 2 sampled exporters in the period 1 June 2017 to 31 May 2018 and 1 June 2018 to 31 May 2019.

This reduction of the level of profit of the sampled exporters raises questions as the period selected falls outside the POI. Second, the 6% level is not in line with the published accounts of PMI and Shandong Nanshan.

**PMI**

The Applicant analysed the Press Metal consolidated financial statements. For the financial year 2021, Press Metal reported an EBITDA margin of 18.6% and a pre-tax profit of 13.1%.[[16]](#footnote-17) Although this is a consolidated result at group level, it is the closest indication the Applicant can have of the level of profit achieved by this exporting producer during the POI and should therefore be used for the purpose of Regulation 12.

**Shandong Nanshan**

The TRA found that for seven PCNs, Shandong Nanshan’s sales were not in the ordinary course of trade. Thus, the TRA constructed the normal value for these seven PCNs using Shandong Nanshan’s verified cost of production and AS&G and applying a reasonable level of profit.

The Applicant analysed Shandong Nanshan’s financial statements. For the financial year of 2021, Shandong reported a gross profit margin of 32% and a net profit of 19%.[[17]](#footnote-18) This is further evidence that the level of profit of 6% is too low and is therefore not a reasonable level of profit within the meaning of Regulation 8(1)(a) SI 2019/450.

**The constructed export price for PMI must take account of the relationship between PMUK and PMI**

The SEF shows that the constructed export price for PMI is based on the price of the related sales company PMUK to the first independent buyer in the UK, de-constructed back to a PMI ex works export price in China.

The DCM now shows how the export price for PMI was determined. Actual costs incurred by PMUK between importation and resale have been calculated by taking the administrative costs as a percentage of the total sales revenue from PMUK’s financial accounts from 2020. This raises two questions:

* Are the costs incurred by PMUK complete and reliable and free from transfer pricing within the Press Metal Group;
* Are the administrative costs reported by PMUK Financial Accounts the only costs incurred between importation and resale.

**The costs reported by PMUK are not reliable as they are influenced by the relationship with PMI**

Because PMUK and PMI are related, the costs incurred by one entity cannot be considered complete without analysing the costs by all entities of the group. Depending on group strategies and internal transfer pricing and cost sharing, the costs for certain administrative operations carried out in the UK could be borne by other entities within the group. Profits can be allocated to different entities.

In the case of constructed export price, costs between importation and resale would be based on those incurred by an independent importer in the UK, unless it could be demonstrated that the related entity costs and profit are not affected by the relationship with the producing exporter.

PMUK’s Note 18 to its Financial Statements 2021 titled “Related party transaction” mentions that the company has taken advantage of the exemption under FRS 102 from disclosing transactions and balances with other wholly owned group members.[[18]](#footnote-19)

Thus, the accounts of PMUK are affected by the relationship with PMI. Absent this relationship an importer in the UK would have to disclose more. For this reason, the accounts of PMUK cannot be used as they do not reasonably reflect the actual costs incurred between importation and resale.

**The costs incurred between importation and resale are more than the administrative costs used by the TRA**

In the DCM, the TRA constructed PMI’s export price by deducting actual costs incurred by PMUK to remove all costs between importation and resale. To do so, the TRA calculated a percentage based on the administrative costs compared to total sales revenue for the financial year 2020 and a reasonable level of profit.

The level of administrative costs was established at 2.91%, corresponding to £1,433,971.



However, an examination of the PMUK’s accounts shows that a number of costs are omitted. This means that the administrative costs figure does not reflect, fully, all the costs associated with importation and resale of the goods concerned into the UK.

The cost of staff for instance, in the Note 7 to the Financial Statements, PMUK disclosed its 2020 staff costs for 12 administrative staff, 6 sales staff, 1 quality control staff and 10 warehouse staff. The aggregate payroll costs incurred during 2020 amounted to of £1,592,310.[[19]](#footnote-20) This aggregate payroll of UK-based personnel employed by PMUK to perform all necessary actions between importation and resale exceeds, on this cost item alone, £158,339, the total amount taken as a reference for administrative costs by the TRA.

Under Note 3 to the Financial statements, PMUK took advantage of paragraph 1.12 of FRS 102 not to disclose the aggregate remuneration of key management personnel.[[20]](#footnote-21) If disclosed, this would further increase staff costs of UK-based personnel in charge of all operations between importation and resale.

The selection of the line administrative costs therefore leaves out other costs normally incurred by any importer of the goods concerned in the UK. A non-exhaustive list of these costs includes:

* Taxes and surcharges (including import duties);
* Warehousing;[[21]](#footnote-22)
* Internal transportation;
* Selling expenses;
* Administrative expenses;
* Marketing expenses;
* R&D expenses;
* Financial expenses (including: interest expenses);
* Any other expense between importation and resale.

It is only by taking all these costs into consideration that the TRA can legaly construct the export price, a construction which requires the removal of all costs between import and sale in the UK.

**The adjustment for credit should be maintained**

Under the Fair Comparison section, the DCM notes that during the verification visit at PMI, the adjustment made to the export price to remove credit was withdrawn as it appears that this adjustment was not needed due to payment terms.

To the Applicant’s knowledge, the only payment terms that do not require credit are cash payments on delivery.

However, it is common knowledge in the market place that PMI offers generous terms for payments to its customers in the UK, generally at the level of 60 days. These terms of sales are offered by its related entity PMUK. PMUK’s Financial Accounts report “*a very tight credit control policy in place and consider the company will remain in a positive cash position*”.[[22]](#footnote-23) This means that PMI through PMUK incurrs credit expenses to offer these terms of payment.

The adjustment for credit is therefore necessary to ensure fair comparison in accordance with Regulation 16(2)(a). Whether this adjustment is performed in relation to the PMI export price, or accounted for in PMUK’s costs incurred between importation and resales for the purpose of the constructed export price, normal credit expenses for payment terms have to be taken into account.

**The normal profit of PMI UK should be higher**

The normal profit of an importer of Aluminium Extrusion in the UK of 4.45% is low. This figure was selected by reference to a publicly available financials of a UK imported in 2019. The profit margin should either be related to the weighted average of all unrelated importers of the goods concerned during the POI or to the PMI group as a whole. PMUK reported a gross profit margin of 5,5% in 2020 and 5,6% in 2021 and Press Metal Group profits are 18%.

**Conclusions on the Press Metal Export price**

The Applicant has demonstrated that the TRA has erred in the construction of the PMI export price not fully deducting all the costs incurred in the sales to the first independent customers in the UK and thus the TRA has not arrived at a correct ex works export price.

The Applicant is concerned that the export price for the other exporting producers Haomei and Shandong Nanshan, has not been correctly determined. The data available to the Applicant by virtue of SEF §225 to §228 is simply not sufficient for a reasonable analysis.

**The distortion in the market for aluminium extrusions in China:**

1. **The TRA has erred in law if it has not examined if the market for the good concerned (aluminium extrusions) is affected by distortions, and/or,**
2. **If that market is distorted then it cannot be the basis for constructing the normal value for Shandong Nanshan**

**A summary of the approach taken by the TRA**

The Statement of Essential Facts (SEF) determines the normal value in accordance with Regulations 7(2)(b) and 7(4) of SI 2019/450. The TRA found that the normal value for two producers (Haomei and PMI) is affected by two particular market situations (PMS), one in relation to aluminium inputs and the other in relation to energy. For this reason the TRA constructed the normal value for these exporting producers. For the third sampled exporting producer, Shandong Nanshan, the TRA found that certain sales were not in the ordinary course of trade and for that reason constructed the normal value for these sales.

It is not clear that the TRA examined, as was requested in the Application, whether or not the market in China for aluminium extrusions was distorted. In SEF §140 the TRA refers to a distortion in the market for the Goods Concerned in China. However, in the section of the SEF examining the trigger for the construction of the normal value for Haomei and PMI, the TRA cites the PMS in the two input markets only and not in the market for the Goods Concerned.

The TRA rejected, in SEF §117, the Applicant’s claim that the markets for capital, labour, land and company governance, were distorted. For this reason when constructing normal value the TRA did not use benchmark values for those factors of production.[[23]](#footnote-24)

The Applicant considers that the TRA has erred in the application of the law.

1. The law requires a finding that the market for the Goods Concerened in the market of origin is distorted by a particular market situation as a trigger for the right to construct the normal value: it is not clear that the TRA has made such a finding. The TRA must make such a finding if it is to use PMS as the basis for constructing normal value for Haomei and PMI;
2. If there is a distortion in the market for aluminium extrusions in China, the TRA cannot use prices on that market to construct the normal value for Shandong Nanshan.

**The TRA may have misinterpreted Regulations 7(2)(b) and 7(4) and Article 2.2 of the WTO Anti-Dumping Agreement**

Regulation 7 of SI 2019/450 provides that normal value shall normally be the comparable *price* in the market of origin. This is the price of the Goods Concerned (aluminium extrusions) on the domestic market in China.

There are three exceptions to this rule: (a) where there are no sales in the ordinary course of trade; (b) there is a particular market situation or low volume of sales in the domestic market; (c) there are no sales.

The presence of one of these exceptions is the trigger allowing for the construction of the normal value.[[24]](#footnote-25) It appears from the SEF that the TRA has examined the particular market situation (PMS) exception and used it as the basis for constructing the normal value for Haomei and PMI.

In SEF §140 the TRA appears to have found that there was a PMS in the market for the Goods Concerned in China.

*The TRA determined that the imbalance in export taxes between unwrought aluminium and semi-finished/finished articles of aluminium (which includes aluminium extrusions) caused a PMS in the market during the POI and lowered the aluminium input costs used in the production of the Goods Concerned. As a result, prices of the Goods Concerned were artificially low and reflected non-commercial factors.*

However, in SEF§118 the TRA finds a PMS, not in the market for aluminium extrusions, but in two cost areas only. In SEF §117 the TRA rejects claims that a PMS applies in other cost areas.

Thus, is it unclear whether or not the TRA has found a PMS in the market for aluminium extrusions. The Applicant presumes that there has been a finding of PMS in the market for aluminium extrusions as there must be such a finding if the TRA is to construct the normal value for Haomei and PMI. The problem remains, however, that if there is a PMS in the market for aluminium extrusions, prices from that market cannot be used for the construction of the normal value for Shandong Nanshan.

The definition of a PMS is set out in Regulation 7(4) of SI 2019/450. A PMS can exist where either the prices are artificially low, or where there is significant barter trade or where prices reflect non-commercial factors. These factors are not cumulative. Thus, a finding that any one of these criteria is present in a market is sufficient to demonstrate a PMS.

The TRA has applied the artificially low prices criterion to the markets for two inputs for the making of aluminium extrusions. When constructing the normal value it has not used the prices on those two markets (the market for aluminium inputs and the market for energy) but benchmark costs.

A WTO dispute settlement Panel has determined that an investigating authority can use PMS criteria to exclude the use of the price on the market for an input and use a benchmark price.[[25]](#footnote-26) Thus, to the extent that the TRA has used the artificially low price on the markets for the two inputs and to the extent that the TRA has used benchmark values, the TRA is in line with UK and WTO law.

However, the TRA errs if it did not make a finding that the prices on the aluminium extrusions market in China were affected by a PMS so as to trigger the very possibility of constructing the normal value for Haomei and PMI in the first place.

Distortions in the factors of production and input costs, in addition to other distortions, may be assessed in order to determine that the prices of aluminium extrusions in China are artificially low or reflect non-commercial factors, or to show that there is barter trade. However, it is not only the PMS in these input areas that is the question at issue. Rather, the question is whether the distortions in such input areas create a PMS in the market for the Goods Concerned – aluminium extrusions in China.

From the SEF it is not clear that the TRA has carried out an assessment of how the various distortions in the Chinese input markets affect the particular market situation in the Chinese market for aluminium extrusions. Without such a conclusion, the TRA cannot proceed with a construction of normal value under Regulation 8(1) for Haomei and PMI.[[26]](#footnote-27)

In accordance with the applicable law, the TRA should have concluded that the distortions it found in the two cost areas, the two costs that make up the largest percentage of the cost of production, necessarily created a PMS in the aluminium extrusion market in China, something it appears to do in SEF §140 in relation to the aluminium input costs only.

The approach taken by the TRA, i.e. not to make clear that there is a PMS in the market for aluminium extrusions in China, has led the TRA into a second error. The TRA used prices on the market for alumiunium extrusions when constructing normal value for Shandong Nanshan. If that market was affected by a PMS, then it is not legitimate to use those prices to construct normal value for Shandong Nanshan.

**Applicable UK and WTO law show that the relevant market is the market for aluminium extrusions, the Goods Concerned**

Regulations 7(2)(b) and 7(4) implement Article 2.2 of the WTO Anti-Dumping Agreement.[[27]](#footnote-28) A recent WTO Panel ruling is relevant to the proper implementation of Regulation 7.

In *Australia – Anti-Dumping Measures on A4 Copy Paper[[28]](#footnote-29)* from December 2019 the Panel found:

*In addition, we agree with the observation of the GATT panel in EEC – Cotton Yarn that a "particular market situation" is only relevant insofar as it has the effect of rendering* ***domestic sales*** *unfit to permit a proper comparison. The phrase "particular market situation" does not lend itself to a definition that foresees all the varied situations that an investigating authority may encounter that would fail to permit a "proper comparison" (para 7.21)[emphasis added]*

The first issue is that what is being discussed is domestic sales of the product under investigation (Goods Concerned) and not domestic input costs. The Panel explained this further:

*In our assessment, the phrases “particular market situation” and “permit a proper comparison” function together to establish a condition for* ***disregarding domestic market sales as the basis for normal value****. Specifically, that domestic sales “do not permit a proper comparison” must be “because of the particular market situation”. If domestic sales do permit a proper comparison, then they cannot be disregarded as the basis for normal value, regardless of the existence of the particular market situation and its effects, whatever those may be. (Para 7.27)[emphasis added]*

The Applicant has shown that prices for the Goods Concerned in China do not permit a proper comparison because of a particular market situation in that market. That PMS is in relation to the market for aluminium extrusions. This understanding is confirmed by the Panel:

***There is no dispute*** *between the parties that the underlying circumstances* ***in this case concern*** *or relate to* ***the market for A4 copy paper****. However, they disagree as to what makes a situation particular. Indonesia argues that the circumstances must be exceptional and, moreover, affect "the comparability of domestic market prices in such a way as to affect them unilaterally and, thus, prevent them from being compared to export prices". Australia argues that the circumstances must be distinguishable and not general. In our view, the market situation must be distinct, individual, single, specific but that does not necessarily make it unusual or out of the ordinary — i.e. exceptional. (Para 7.22) [emphasis added][[29]](#footnote-30)*

In imposing an anti-dumping duty on A4 Copy Paper Australia had examined whether distorted input cost could be evidence of a PMS in the market for A4 Copy Paper. The Panel found that:

*In the light of the above examination, we find that Indonesia has failed to demonstrate that a situation of a low-priced input used identically to produce merchandise for the domestic and export markets is necessarily disqualified from constituting a "particular market situation" within the meaning of Article 2.2 of the Anti-Dumping Agreement. Accordingly, the mere fact that the ADC's finding of a "particular market situation" was based, in part, on the existence of low input prices does not render that finding inconsistent with Article 2.2 of the Anti-Dumping Agreement. (Para 7.32)*

The key point in this citation is that the finding of a PMS was ‘in part’ based on low input prices. However, the market being considered was still, necessarily, the market for A4 Copy Paper on the Indonesian market, and the market for the input product. The Panel found that Australia was entitled to find that there was a PMS in the market for A4 Copy Paper because Australia found that there was a PMS in the market for the timber and pulpwood inputs.

Finally, on the basis of the different finding cited in this submission, the Panel concluded in paragraph 7.57 of the Report in relation to the particular market situation:

*On the basis of the above findings, we determine that Indonesia has not demonstrated that the ADC acted inconsistently with Australia's obligations under Article2.2 of the Anti-Dumping Agreement when it found that a "particular market situation****" existed in the Indonesian domestic market for A4 copy paper.*** *[emphasis added]*

The conclusion concerned a particular market situation for A4 Copy Paper and not the PMS for the market of the input costs (which resulted in costs which in turn were distorted). The lower input costs contributed to the finding of a PMS in the market for the Goods Concerned. But the final and necessary finding was in relation to the market for the Goods Concerned.

In the light of these specific findings in relation to the PMS in the A4 Copy Paper market, it can be also be understood that the Panel found that Australia was legitimately able to determine that there was a PMS on the market for A4 Copy Paper simply because there was a PMS in one of the input cost markets (i.e. timber and pulp).

The key point in relation to aluminium extrusions is that any finding of a PMS in an input market (aluminium and energy) means, in the absence of some extraordinary fact situation, that there is a distortion in the aluminium extrusions market and therefore it is not appropriate to base normal value for any exporting producer on prices in that market. This is particularly so when aluminium inputs and energy together make up around 80% of the normal cost of production of aluminium extrusions.

The necessary finding of a PMS in relation to the market for aluminium extrusions (necessary so as to allow the construction of the normal value for PMI and Haomei) is that that market (the market for aluminium extrusions) cannot be used as a basis for the construction of the normal value for Shandong Nanshan. Thus, the approach taken in relation to Shandong Nanshan is not in line with UK or WTO law.

If the basis for constructing normal value for PMI and Haomei is PMS, then using sales prices in that market to determine the normal value for Shandong Nanshan is not appropriate. The normal value for Shandong Nanshan must also be constructed on the basis of a PMS.

**The Market for Aluminium Extrusions in China is Distorted**

The TRA has found that the markets for aluminium inputs and energy in China are distorted and appears to have concluded that because the market for aluminium inputs is distorted the market for aluminium extrusions, the Goods Concerned, is distorted. The Applicant considers that the market for aluminium extrusions is distorted for more reasons than a distortion in aluminium and energy inputs.

**The TRA has not assessed distortions in all the factors of production**

The Applicant demonstrated in the original Application that the market for aluminium extrusions in China is distorted, the consequence of which is that the price of aluminium extrusions cannot be used to determine the normal value.

The Applicant then argued that, in constructing the normal value, the costs of inputs on the markets for those inputs in China could not be used as a basis of the construction as they were affected by a PMS. The Applicant showed proof that the markets for the following inputs were distorted and thus that prices were artificially low and a PMS existed.

* Energy
* Capital
* Raw materials and other material inputs
* Labour
* Land

While the TRA assessed certain distortions in the energy and aluminium input markets. The TRA did not address the significant distortions present in other markets. The TRA did not explain why the distortions highlighted by the Applicant did not result in a PMS in the aluminium extrusion market. In SEF §182 the TRA dismisses, in one line, the Applicant’s claims that other input costs are distorted. The SEF states ‘*the TRA determined that it was not suitable to replace all costs when constructing normal value’*. In SEF §117, the TRA simply says that ‘*some allegations were rejected because the TRA did not find any evidence of PMS’*. No further explanations are given. The Applicant considers that these findings do not allow it the possibility to understand the TRA's’ reasoning. In other words, the justifications are insufficient and not in line with the obligations of administrative authorities.

It raises the questions of the extent to which the TRA examined the evidence of distortions set out in the Application. Was there a finding that that evidence was not sufficient? If so, on what ground did the TRA dismiss that evidence. Failure to disclose this finding is a breach of due process and does not allow the Applicant the possibility to comment fully on the SEF findings. If the TRA did not evaluate the evidence, then on what basis has the TRA determined that it was not ‘*suitable*’ to replace all costs.

That being said, the Applicant maintains that the TRA must examine distortions in the markets for other key inputs into the production of aluminium extrusions to determine if they are affected by a PMS. The Applicant will look at each in turn.

*Capital*

It is evident from the Application to the TRA and from the documents referenced therein, that there are significant systematic distortions in the capital markets in China due to the role of the State.[[30]](#footnote-31)

The following distortions to capital in China were highlighted by the Applicant yet they were not addressed in the SEF:

* Access to the market is tightly regulated by governmental institutions with most market players being state-owned entities;[[31]](#footnote-32)
* Loans have been provided to Chinese companies below normal commercial market rates regardless of risk;
* Significant financial support in the aluminium industry provided by China’s state-owned banks;
* Offer of loan interest subsidies in order to direct investment into projects deemed ‘key’ by Government Organisations.

*Raw Materials and Other Materials Inputs*

The Application demonstrates that the Chinese government influences the supply and the prices of raw materials on the market through a number of interventionist policies.[[32]](#footnote-33) This is evidenced through various export restrictions, the 13th Five Year Plan, rules on State Trading Enterprises, setting of prices by the Chinese government, and the prevalence of SOEs in this sector.[[33]](#footnote-34)

The TRA did not address why it considers that distortions in raw materials do not influence the prices of aluminium extrusions such that a PMS existed in this market.

Furthermore, distortions in the coal input market have not been addressed by the TRA. Coal is the primary raw material used by Shandong Nanshan to generate electricity used in the production of the good concerned.[[34]](#footnote-35)

As highlighted by the Applicant in the Application, the government in China exercises substantial influence over the coal industry.[[35]](#footnote-36) The European Commission Working Document also demonstrates that coal and coal-fired electricity generation benefit from considerable subsidy programs.[[36]](#footnote-37)

Furthermore, the OECD report clearly observed that the relatively high prices for coal in 2011-2015 should have affected the profit margins of aluminium producers negatively; rather, in the year that Chinese coal prices peaked. Profit margins for a sample of Chinese firms were higher than average.[[37]](#footnote-38)

*Labour*

The distortions in the labour market in China are not addressed by the TRA.

As set out in the Application, China’s Trade Union Law inhibits workers’ free choice and establishment of a trade union.[[38]](#footnote-39) Equally there are significant deficiencies in the social security and public welfare system.

The production of aluminium extrusions is labour intensive and the cost of labour is therefore a component of the price of aluminium extrusions. Distortions in the labour market therefore have a distortive effect on the price of aluminium extrusions as prices will reflect government influence in labour.[[39]](#footnote-40)

*Land*

Land in the PRC is State-owned. The price and supply of land is therefore controlled by the Government. The price for land is not set by market forces. Rather, land-use rights are actioned on the basis of provincial, regional or municipality level.[[40]](#footnote-41) The OECD report highlights that, for example, land in the Zouping Economic and Technological Development Zone in Shandong is sold for significantly lower than anywhere else in China.[[41]](#footnote-42) Furthermore, the OECD report highlights that Provinces such as Shandong offer rebates of land-transfer fees for companies establishing a presence there.[[42]](#footnote-43)

The Applicant notes that the Panel in *Australia-A4 Copy Paper* addressed the issue of subsidies causing the distortion in costs and prices for the purposes of anti-dumping (as opposed to anti-subsidy investigations). The Panel examined government action, and in the specific case being examined by the Panel, government action in the form of subsidies, and found that:

*In the light of the above examination, we find that Indonesia has failed to demonstrate that a situation arising from government action in whole or in part is necessarily disqualified from constituting the "particular market situation", within the meaning of Article 2.2 of the Anti-Dumping Agreement. Accordingly, the mere fact that the ADC's finding of a "particular market situation" was based, in part, on certain Indonesian government policies affecting the timber and pulpwood sector, does not render that finding inconsistent with Article 2.2 of the Anti-Dumping Agreement. (para 7.56*)

The Applicant concludes that a particular market situation applies in the market for land in China. Land as a direct or as a hidden cost must be taken into consideration in contructing the normal value.

*Steel distortions*

Dies are fundamental in the extrusion of aluminium as primary aluminium is pushed through the die in order to create the desired extrusion profile. Dies are made of steel and make up around 3% of the cost of production of aluminium extrusions.

Subsidisation is pervasive in the Chinese steel market. The OECD has outlined the various Chinese subsidization programmes from which the steel industry in China benefits.[[43]](#footnote-44) The OECD has also analysed the presence of SOEs in the Chinese steel sector to find that a significant share of steelmaking capacity in China is state-owned.[[44]](#footnote-45)

The European Commission Report which was enclosed in the Application, clearly highlights that the steel sector is *“heavily influenced by the government, resulting in significant distortions in the market.”* As the Chinese government considers the steel industry to be a key industry, its development is heavily guided and supported by the State and steel producers benefit from various State support practices and export restrictions.[[45]](#footnote-46)

Furthermore, different investigating authorities have found significant evidence of Government involvement in the steel sector. Both Canadian[[46]](#footnote-47) and Australian[[47]](#footnote-48) investigating authorities have repeatedly concluded that distortions exist in the Chinese steel industry which affect the price of steel products.

The OECD has also previously reported on the distortions in the steel market in China caused by export restrictions on steelmaking raw materials[[48]](#footnote-49) and the excess capacity in this sector.[[49]](#footnote-50)

Given that steel is an input for aluminium extrusion production, distortions in the steel market in China necessarily affect the prices for aluminium extrusions. The Applicant considers that the TRA should take this into account in the adjustments made (regulation 13 SI 2019/450) to the verified costs of production used for the construction of normal value.

**The TRA has not assessed the cross-cutting distortions**

The Applicant demonstrated in the Application that the economy wide market in China is distorted.

China has a ‘Social Market Economy’ in which the State and the government play a decisive role in controlling the economy. This includes the allocation of all factors of production and the control of commercial enterprises.[[50]](#footnote-51) As the Panel, in A4 Copy Paper, notes at paragraph 7.57:

*[f]inally, we are also not persuaded that "the particular market situation" referenced in this provision necessarily excludes any situation that arises from a subsidy or other governmental action.*

In other words, government action is not merely the provision, or not, of subsidies, but any government action which can give rise to a distortion.[[51]](#footnote-52) In addition, this finding demonstrates that subsidies can be considered distortions for the purposes of anti-dumping investigations.

The Applicant has demonstrated the Government of China is led by the Chinese Communist Party (CCP) which is, inter alia, in charge of the economy and the judicial system. As the Applicant has highlighted, the CCP is significantly involved in business decisions of Chinese enterprises.[[52]](#footnote-53) The Chinese financial system is also incredibly distorted with a high state presence and lack of normal market mechanisms.[[53]](#footnote-54)

One key distortion which the Applicant highlighted in the Application and which the TRA has not addressed in the SEF, concerns subsidies provided by the government of China to the aluminium sector. The OECD report clearly shows that a significant amount of financial support is provided in the aluminium industry from China’s state-owned banks and SOEs.[[54]](#footnote-55) The extensive support granted to the Chinese aluminium industry has been recognised by different national competent authorities.[[55]](#footnote-56)

Evidence was provided in the Application[[56]](#footnote-57) of non-market orientated influence by Chinese State-Owned Enterprises, provincial and municipality governments in the provision of inputs and subsidies in the aluminium industry.[[57]](#footnote-58) The OECD Report acknowledges the decisive role played by the State and the CCP in all aspects of the economy, including land, energy, capital, raw materials, and labour.

The distortive effect of the presence of the CCP and a socialist market economy has been acknowledged by the EU and the USA. However, the TRA failed to assess these cross-cutting distortions in the SEF. These factors create a highly distorted environment in which Chinese aluminium extrusion producers operate. They result in a PMS for the aluminium extrusion market itself and consequently for all exporting producers operating in that market.

In accordance with regulation 7(2)(b), these distortions do not permit a proper comparison between the like goods destined for consumption in the PRC and the goods concerned.

**The TRA has erred in finding that Shandong Nanshan is not affected by the distortions in the input markets**

The OECD study highlights the distortions present in the aluminium sector in China due to subsidisation and government controls. While the OECD study does not specifically examine Nanshan, the study identifies that China offers lower rates of income tax or tax holidays to companies producing specific goods that the government wants to encourage. China’s largest extrusion company was used as an example.[[58]](#footnote-59)

The OECD has clearly observed that:

*The relationship in China between the government and companies generates opacity around the form and scale of government support. One example is the provision of inputs such as coal, alumina, or electricity by Chinese SOEs to other companies – public or private – for prices that are below market, and for which it can be very difficult to identify the specific policies that underlie support. This example illustrates a broader tendency for “provincial and municipality governments [in China to] subsidize purchases of raw materials by requiring other SOEs or pressuring their own suppliers to provide these inputs at below-market or even below-cost prices”*

The study frequently refers to the subsidies and Government support granted to companies in the Shandong province.[[59]](#footnote-60) Shandong Nanshan Aluminium is located in Shandong province.

The Global Trade Alert[[60]](#footnote-61) highlights that Shandong Nanshan Aluminium receives approximately US$104 million of government subsidies[[61]](#footnote-62) in 2020 affecting the following sectors and products:

* Natural gas
* Unfinished products of aluminium
* Machine tools and parts
* Aluminium electrolytic capacitators

While Nanshan produces its own primary aluminium from bauxite it imports from Australia, the OECD study shows that approximately 40% of the costs of production for primary aluminium come from energy.[[62]](#footnote-63)

As the TRA highlights in the SEF, Nanshan produces its own electricity and as a result of this it benefits from lower electricity costs. However, the production of electricity itself requires energy. Nanshan uses steam coal to generate electricity. As the OECD has highlighted, the relatively high prices for coal in 2011-2015 should have affected the profit margins of aluminium producers negatively; rather, in the year that Chinese coal prices peaked, profit margins for a sample of Chinese firms were higher than average.[[63]](#footnote-64) Shandong Nanshan is considered in this sample of firms.[[64]](#footnote-65)

Shandong Nanshan also uses natural gas in the production of aluminium extrusions.[[65]](#footnote-66) The TRA has highlighted that gas prices are impacted by the PMS as they are artificially low and reflect non-commercial factors. Furthermore, there is an additional distortion on natural gas inputs given that the subsidies granted to Nanshan affect this product.

The TRA has concluded in the SEF that Shandong Nanshan does not benefit from the distortions in the aluminium input market. The upstream segment of the aluminium production chain concerns the ‘energy-intensive process known as electrolysis’[[66]](#footnote-67). As the TRA has stated, Nanshan is a vertically integrated company and therefore the upstream segment is performed in-house.[[67]](#footnote-68) The process of electrolysis is distorted in two regards. Firstly, Nanshan receives subsidies affecting aluminium electrolytic capacitators, equipment necessary to produce primary aluminium in-house. Secondly, the OECD highlights that the ‘transformation of alumina into primary aluminium through electrolysis is a highly energy intensive operation’.[[68]](#footnote-69) Therefore, the process benefits from the distorted prices of coal which Nanshan uses in the production of electricity and also of natural gas which Nanshan relies on as a secondary source of energy.

The TRA also makes no reference to the fact that Nanshan nonetheless benefits from the reduced export taxes and incomplete VAT rebates on exports of fabricated articles of aluminium and semis. The PRC trade measures penalise the export of upstream products while incentivising the export of aluminium extrusions.[[69]](#footnote-70)

According to Regulation 7(2)(b), it is not appropriate to use the comparable price to determine the normal value of the goods concerned where “because, of a particular market situation (…) such sales do not permit a proper comparison between the like goods destined for consumption in the exporting country or territory and the goods concerned”.

The TRA claims in the SEF that Shandong Nanshan was found to have a highly integrated production process meaning it was unaffected by the PMS affecting aluminium inputs and energy. To the extent that that finding is or is not correct, it does not address the finding that the market for aluminium extrusions in China is subject to a PMS or that the whole economy in China is distorted.

The importation of bauxite from Australia and the in-house production of aluminium, may shelter Nanshan from some distortions in the aluminium industry but it cannot shelter Nanshan from the distorted economy in China. Nanshan remains impacted by the distortions in the energy market despite producing its electricity internally. As demonstrated above, Nanshan uses distorted energy for the production of electricity which is necessary for around 40% of aluminium production.

The Applicant concludes that the distortions identified in energy costs impact Shandong Nanshan’s production and that this singular PMS is sufficient to require the use of an alternative basis for the determination of normal value for that company.

**Shandong Nanshan cannot float free from the environment in which it operates**

The TRA has concluded in SEF §208 that ‘*a PMS does not apply to Shandong Nanshan due to the highly integrated nature of the company*’. This finding is in fact in relation to the isolation of Shandong Nanshan from the aluminium input and energy markets where the TRA clearly found that the markets were affected by PMS.

As the Applicant has demonstrated in this Submission and in the Application, the market for the Goods Concerned, as well as the economy wide market, is affected by a PMS. Because the end product market is affected by PMS it is improper for the TRA to conclude i) that prices in that market might be the basis of determining that company’s normal value and ii) that Shandong Nanshan costs and prices are not distorted by the distorted environment within which it operates.

**The market for the Goods Concerned is Distorted**

In SEF §140 the TRA has determined that the market for the Goods Concerned is distorted. In SEF §209 to §213, it is clear that the TRA used sales prices on the market for the Goods Concerned as the basis for determining the Shandong Nanshan normal value but, at the same time, considered that some of those sales were not in the ordinary course of trade and were therefore not used. If the market for the Goods Concerned is distorted by reason of a PMS, use of prices on that market to determine normal value is not appropriate.

The TRA has therefore erred in the setting of the normal value for Shandong Nanshan and has therefore erred in the calculation of the dumping margin.

**Shandong Nanshan’s costs and prices are distorted**

The TRA found in SEF §170 that Shandong Nanshan had highly integrated production processes. As this company produced its own energy and aluminium inputs, the TRA found that its costs were not distorted by the presence of PMSs in those markets, and therefore it was legitimate to determine its normal value on the basis of prices in the market for the Goods Concenred (as adjusted for sales not in the ordinary course of trade).

The Applicant considers that it is unreasonable to consider that Shandong Nanshan floats free of the distortions in markets identified in the Application and in this Submission.

Shandong Nanshan supplies into the market of the Goods Concerned, a distorted, PMS, market which is unreliable for the setting of price. This end market distortion cannot but have an effect on the production costs and processes leading to sales in that market. To the extent that Shandong Nanshan supplies other aluminium products to other aluminium markets in China, these markets are also distorted and cannot be a benchmark for finding non-distorted prices for aluminium extrusions. The evidence from the OECD is clearly that all aluminium production and markets in China are distorted.

Even if Shandong Nanshan sources its bauxite in Australia paying market prices and produces its own alumina and energy, the decision to produce in this way is taken within an environment which is distorted. The Applicant has shown that coal for the production of energy is distorted.

Shandong Nanshan produces on land, using labour and capital and within a commercial decision making context, all of which are distorted.[[70]](#footnote-71) To find that, despite the strong evidence in the Application and in this Submission, that Shandong Nanshan is a market economy player is simply not reasonable. China does not have a market economy and it is not reasonable to consider that a company can act like a market economy player in a non-market.

The Wednesbury Principles[[71]](#footnote-72) applicable to the exercise of discretion by UK administrative authorities require that a decision must be rationally available to a reasonable decision maker in possession of all the facts. To the extent that the TRA has a ‘policy’ in relation to the nature of the market in China, the requirement remains that the TRA must still consider the facts of the particular case and be prepared to make exceptions. If there is a policy in relation to China in general, the evidence, from the OECD, from other invstigating authorities, is that the market for aluminium in China is distorted by virture of government fiat. It is unreasonable to find that it is not distorted and that Shandong Nanshan is somehow a market economy player.[[72]](#footnote-73)

**Conclusions on Distortions and Particular Market Situation**

The Applicant concludes that the absence in clarity in the SEF makes it impossible to understand the approach taken by the TRA and therefore to exercise its rights. The Applicant considers:

* The market for alumium extrusions in China is distorted because of a particular market situation;
* In constructing the normal value for Haomei and PMI, on the basis that there is a PMS in the market for the Goods Concerned, the TRA cannot use values from input markets that are themselves distorted because of a particular market situation;
* The markets for land, capital, labour, coal, steel are distorted and values from these markets (on the books of the exporting producers) cannot be used for the construction of the normal value;
* The TRA has not demonstrated that it has found on the basis of positive evidence that these input markets are not distorted: a simple dismissal of extensive evidence is not sufficient;
* In constructing the normal value for Shandong Nanshan, the TRA cannot rely on prices originating in the market for the Goods Concerned in China as the finding that that market is distorted is a necessary precondition for the construction of the normal value for Haomei and PMI;
* It is not reasonable for the TRA to conclude that Shandong Nanshan floats free uncontaminated by the distorted market in which it operates. The balance of the evidence is that the market is distorted.

**There Is No Justification To Exclude Extrusions Greater In Width Than 310mm And Heavier In Weight Than 14kg Per Meter**

The SEF proposes excluding aluminium extrusions with a maximum cross-section diameter of greater than 310mm, and those with a weight per metre of greater than 14 kg/m (see SEF §80 and §81). The reason given is that these sized extrusions are not produced in the UK. This finding was based on data from two UK producers only. In SEF §82 the TRA finds that UK producers do not have the capability to produce these goods. In Section E7 of the Provisional Affirmative Determination (PAD) the TRA observed that it would continue to investigate these goods and definitive remedies may be imposed.

The Applicant considers that the TRA has erred in its assessment of the facts and the law:

* During all the injury period and part of the period of investigation (up to 31 December 2020) the UK was part of the Single Market: the Applicant supplied the UK market with >310mm and > 14 kg/m from installations within the single market: this must be considered ‘domestic’ production and sale for the purposes of UK anti-dumping law;
* The UK industry does have the capability and capacity >310mm and >14 kg/m;
* Aluminium extrusions >310mm and >14kg/m are available at non dumped prices from other sources;
* The Applicant, as one producer, only stopped producing in the UK due to dumping from China;
* China is dumping extrusions >310mm and >14kg/m and this is causing injury to the UK industry for aluminium extrusions as a whole;
* Exclusion of extrusions >310mm and >14kg/m will give rise to circumvention.

Each of these issues will be examined in turn.

### **During the period considered, Hydro sourced extrusions >310mm and >14kg/m from other parts of the single market**

For most of the Injury Period (from 1 June 2017 to 31 December 2020 -three and a half years) and seven months of the Period of Investigation, the UK formed part of the customs territory of the European Union. It is this customs territory which must be considered the ‘country’[[73]](#footnote-74) for the purposes of the application of the Injury Period and the Period of Investigation in UK Anti-Dumping law. This situation is recognised in Part 12 of SI 2019/450.[[74]](#footnote-75)

During the period when the UK formed part of the EU Single Market, and as a result of the Applicant shutting down production in the UK (see below), the Applicant sourced >310mm and >14kg/m from other parts of the relevant customs territory. This production must be considered ‘domestic’ production for the purposes of Article 3 of the WTO Anti-Dumping Agreement.

Confidential Annex I to this submission demonstrates the significant volume of extrusions >310mm and >14kg/m sold by the Applicant in the UK produced on large size presses by the Applicant during both the POI and the Injury period. Thus, while it might be technically correct to state (see SEF §82) that the Applicant did not manufacture >310mm and >14kg/m in the UK it is not correct to state that the Applicant was not producing >310mm and >14kg/m and supplying it to the UK market or that at the relevant time that the Applicant, and therefore UK producers, were not producing >310mm and >14kg/m during the POI.

The obligation for the TRA to apply UK anti-dumping law in the context of the change in customs territory from EU 28 to the UK only, is not only found in Part 12 of SI 2019/450 in relation to Transition Reviews but must also apply to all aspects of the rules.

### **The Capabilities to produce extrusions >310mm and >14kg/m**

The TRA excludes extrusions of >310mm and >14kg/m on the basis that (a) such extrusions were not manufactured in the UK during the POI and (b) *UK producers do not have the capability to produce these extrusions* (SEF §82). The latter is factually incorrect.

Three UK producers registered an interest in the investigation alongside the Applicant. Data was verified from the Applicant and Garnalex. Verified data shows that the UK industry has the capability to produce extrusions of >310mm and >14kg/m.

The TRA finds that (SEF §81) the UK industry does not have the capability to produce this size of extrusions due to their *“analysis of press sizes”.* While the press size plays a role in determining capability to produce aluminium extrusions >310mm and >14kg/m, it is not the only determining factor.

[BUSINESS CONFIDENTIAL INFORMATION]

The TRA correctly found that during the POI and IP, the Applicant had not produced extrusions of >310mm and >14kg/m. However, it is evident that the Applicant has the capability to do so.

[BUSINESS CONFIDENTIAL INFORMATION]

Thus, it is factually incorrect to find that UK producers do not have the capability to produce extrusions of >310mm and >14kg/m.

**Extrusions of >14kg/m**

The TRA made separate findings in SEF §80 in relation to extrusions >14kg/m and in SEF §81 in relation to extrusions >310mm. SEF §80 does not indicate the basis of the TRA’s findings in relation to >14kg/m.

A 9 inch billet press, which the TRA has verified as being in use by UK producers, can make extrusions above 14kg/m. The issue is not the size of the billet or the press opening. The determining factor is the strength of the press. A stronger press can force heavier weighted billets through the die. A press with [BUSINESS CONFIDENTIAL INFORMATION] can produce billets above 14kg/m. [BUSINESS CONFIDENTIAL INFORMATION]

It is thus factually incorrect to conclude the that UK industry is not in a position to produce extrusions above 14kg/m. In any event, the Applicant notes that the TRA has not provided evidence for its findings.

The Applicant also notes that PCNs did not differentiate between extrusions above and below 14kg/m. The cut off point was 10kg/m with one digit being applied to all extrusions above that weight. The TRA does not therefore have verified data from the UK industry or from the exporting producers in relation to weight.

Finally, the Applicant re-emphasises that the impossibility for the customs authorities to distinguish between extrusions of different weights. This will lead to circumvention of the measures which is not in the economic interest of the UK.

### **Aluminium extrusions >310mm and >14kg/m are available at non dumped prices from origins other than China**

In the period between October 2020 to December 2020, the provisional measures imposed by the European Union applied in the UK. The graph below demonstrates that during this period there was an exponential increase of imports from origins other than the PRC into the UK.



This shows that domestic consumption, previously supplied by PRC dumped aluminium extrusions, can be replaced by aluminium supplied from other origins. It follows that if duties are imposed on aluminium extrusions >310mm and >14kg/m from China, the UK downstream demand can be met by suppliers originating in countries other than China that are not dumping into the UK.

###

### **The Applicant stopped producing this product in both the UK and parts of the Single Market due to dumping originating in China**

In 2007 the Applicant closed a plant in Bedwas in Wales and another in Banbury in Oxfordshire due to unfair competition from China. Both plants produced >310mm and >14kg/m.

In 2012 the Applicant had to reduce capacity as a result of downward market trends in the UK market. The Karmoy plant in Norway was closed in 2012. This plant had a P36-press with production capacity of 15k tonnes per year of large profiles.

EU law ceased to apply in the UK as of the ‘replacement day’ (see Regulation 94 of SI 2019/450). However, EU law did apply up to that date, as did the interpretation of that law by the EU Courts in Luxembourg. In Case T-310/12,[[75]](#footnote-76) recital 114, the General Court considered that as the basic EU Anti-Dumping Regulation contained no details as to the period during which a producer must have produced the like product in order to be included in the domestic industry, it was legal for the investigating authority to examine events outside the period of investigation. UK law provides a definition of the Period of Investigation but none for the Injury Period.[[76]](#footnote-77) The Applicant therefore considers that the plant closures in earlier periods, along with production in other parts of the Single Market which can be considered ‘domestic’, must be taken into consideration by the TRA.

Furthermore, the TRA acknowledges that the continued suffering of injury by UK producers may lead to site closures (SEF §384) which would not be in the economic interest of the UK. Previous site closures are therefore an important indicator that it is in the economic interest of the UK not to exclude extrusions of >310mm and >14kg/m.

###

### **The TRA has found that >310mm and >14kg/m extrusions are dumped and injure the UK industry**

The Goods Concernd by the AD0012 investigation include aluminium extrusions >310mm and >14kg/m as set out in the Notice of Initiation and SEF §70. The TRA determined dumping and injury on the basis of these two descriptions. Thus, the dumping of extrusions >310mm and >14kg/m is also causing injury to the UK industry.

The TRA has found that there is dumping of the Goods Concerned including extrusions >310mm and >14kg/m and that those dumped imports are causing injury. In the absence of dumping, UK manufacturers would invest in the production of extrusions >310mm and >14kg/m and utilise their capacity. If these products are excluded from the final measures then the injury caused by the dumping of such extrusions will continue to inhibit investment into this sector.

**Injury**

The dumping of aluminium extrusions by the PRC – of cross-sectional dimensions both greater and lesser than 310mm and 14kg/m – has caused material injury to the UK industry. The TRA concludes in the SEF that dumped imports from the PRC were the main cause of injury sustained to the UK industry during the POI (SEF §301). This conclusion is based on an injury analysis which includes data relating to PRC imports of aluminium extrusions >310mm and >14kg/m. This fact was acknowledged by the TRA (SEF §309).

The injury is therefore caused by the product under investigation which includes the subcategory of aluminium extrusions >310mm and >14kg/m.

There isno legal basis in WTO law for the exclusion of a sub-category of the product under investigation from the determination of injury whether the UK industry does, or does not, currently produce the product.

In *EC-Salmon*, a WTO dispute settlement panel found that:

*Since every article is identical to itself, each such article would have to be considered separately. There would never be occasion to move on to consideration of whether another article has “characteristics closely resembling” it. Thus, a product under consideration could not consist of any grouping of non-identical product categories. This would, in our view, be an absurd result.[[77]](#footnote-78)*

In *Korea – Certain papers,* the Panel emphasised that the like product flows directly from the definition of the product under investigation (goods concerned).[[78]](#footnote-79) Equally in *EC – Fasteners (China)* the panel emphasised that Article 2.6 ADA determines the like product by reference to the product under investigation, the scope of which has (by this point in the investigation) already been determined.[[79]](#footnote-80)

In *Korea – Certain papers,* the product under investigation was defined to include all wood-free paper meeting the definition set forth in the application. In accordance with Article 2.6 of the ADA, the investigating authority then identified the most similar products produced by the Korean industry as the ‘like product’.[[80]](#footnote-81) The panel clarified that had the investigating authority assessed whether the product under consideration contained more than one ‘like product’ and assessed them individually, this would have been inconsistent with the wording of Article 2.6 ADA.

**Injury includes the idea of impeding growth**

Furthermore, according to both Regulation 33 of SI 2019/450 and Article 3.4 of the Antidumping agreement, a determination of injury shall include an evaluation of relevant factors such as negative effects on growth or ability to raise capital investments and decline in utilization of capacity.

As the Appellate Body confirmed in *EC – Tube or Pipe Fittings,* the ‘declines’ and ‘losses’ found with respect to other injury factors, *necessarily relate to the issue of ‘growth’ as well*.[[81]](#footnote-82)

Extrusion presses capable of producing extrusions >310mm and >14kg/m require machines tools, training and implementation. The dumping of PRC imports inhibits the Applicant’s ability to expand its business into the production of >310mm and >14kg/m. This is further evidenced by the prior site closures detailed above. These site closures were a result of the unfair competition from Chinese imports.[[82]](#footnote-83) UK producers have made the TRA aware of injury suffered for several years prior to the Injury period, and the TRA has in fact acknowledged that the data shows that the UK industry was already depressed (SEF §302).

[BUSINESS CONFIDENTIAL INFORMATION]

**Further Injury would be caused by the exclusion of extrusions >310mm and >14kg/m**

The supply of large sized and heavier weighted extrusions is not carried out in isolation of smaller sized and weighted extrusions. Large sized and heavier weighted extrusions are used in large scale projects. However these large scale projects also require smaller and lighter extrusions. Thus the sale of larger and smaller and heavier and lighter extrusions is inextricably linked.

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### **Exclusion of extrusions >310mm and >14kg/m will give rise to circumvention**

The Applicant considers that the exclusion of >310mm and >14kg/m will allow Chinese exporters to circumvent the anti-dumping duties and continue exporting all aluminium extrusions at dumped prices. The non-application of anti-dumping duties to the imported aluminium extrusion >310mm and >14kg/m would rely on the declaration of the exporter. This is difficult to police and would pave the way for circumvention.

**The Level Of The Intended Duties Is Not In The Economic Interest Of The UK**

The TRA has concluded that the intended preliminary recommendation to impose anti-dumping measures on the Goods Concerned imported from China is in the economic interest of the UK (SEF §424).

In SEF §426, the TRA finds that imposing antidumping measures is in the economic interest of the UK because not recommending anti-dumping measures *would allow for the continued dumping of the Goods Concerned and subsequently further injury to UK producers.*

However, the level of intended measures is too low and would allow for the continued dumping of aluminium extrusions into the UK and subsequently further injury to UK producers. Thus, it is in the economic interest to impose a higher duty.

### **The level of duties will be absorbed by the exporters, meaning that the object of ensuring a fair price in the UK market will not be achieved**

The intended final measures propose a duty of 10.1% on imports from PMI, 7.3% on Shandong Nanshan and 14.9% on Haomei. A duty of around 10% could easily be absorbed by PRC exporters. The result would be that the Goods Concerned would continue to be exported to the UK at dumped prices and the duty would therefore be ineffective.

It is not in the economic interest of the UK to impose measures, and for those very measures to be absorbed by the importers in breach of the object of the measures, which is to remove injurious pricing in the UK market.

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In order to prevent continued injury to the UK industry, the Applicant considers that duties must be applied at a level which cannot be absorbed by the Chinese exporters. The level proposed by the SEF can easily be absorbed.

### **Deflections of Trade due to higher anti-dumping duties in other markets**

The level of duty for intended final measures proposed by the TRA is significantly lower than the duties imposed by other national authorities.[[83]](#footnote-84)

The TRA acknowledges in the SEF §422 that import data from HMRC shows an increasing trend in imports from the PRC of the Goods Concerned since EU measures ceased to have effect in the UK. The TRA acknowledges (SEF §422) that there would be a threat of further injury from trade diversion of aluminium extrusions produced by China from the EU to the UK, if anti-dumping measures were not imposed by the UK.

The comparison with other markets is therefore of relevance because the discrepancies between the levels of duties is likely to result in deflections of unfairly traded goods from the EU, USA, Australia and Canada to the UK.

Table 1 and 2 compare the levels of proposed UK duties on aluminium extrusions from China, with those imposed by other national authorities.

**Table 1: Comparison of Dumping Margins found by different Investigating Authorities**

This slide demonstrates that the level of duties proposed for the UK are significantly below those of other jurisdictions for the same goods concerned from the same country of origin.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Investigating Authority** | **Dumping Margins for Exporters** | **Weighted average dumping margins for cooperating exporters**  | **Press Metal International was sampled by various jurisdictions** | **Dumping Margins: Residual margin for all other exporters** |
| **UK[[84]](#footnote-85)** | 7,3% - 14,9% | 10,10% | 10,10% | 29,10% |
| **EU[[85]](#footnote-86)** | 21,2% - 25% | 22,10% | 25% | 32,10% |
| **Australia[[86]](#footnote-87)** | 15,8% - 55,2% | 29,10% | N/A | 95,90% |
| **USA[[87]](#footnote-88)** | 32,79% - 33,28% | 33,28% | 32,79% | 33,28% |
| **Canada[[88]](#footnote-89)** | 0% - 42,4% | 24,40%\* | 35,20% | 101% |

**\***Canada does not provide a weighted average; this figure is therefore a calculated simple average based on the margins calculated for each exporter

**Table 2: Average UK Margins compared to Average EU, Australia, USA and Canada**

This table shows the percentage by which the proposed duties in the UK are below the actual duties imposed in other jurisdictions.

|  |  |  |
| --- | --- | --- |
| **Investigating Authority** | **Weighted Average Dumping Margins**  | **UK Dumping Margins are significantly below other countries**\* |
| **UK** | 10,10% |  |
| **EU** | 22,10% | 45,70% |
| **Australia** | 29,10% | 34,71% |
| **USA** | 33,28% | 30,35% |
| **Canada** | 24.40% | 41.40% |

\*Expressed as a % of the other country’s dumping margin

These tables clearly show that the UK intended final measures are significantly lower than the measures imposed by the EU, Australia, USA and Canada. The difference in anti-dumping duties would likely have the same effect on trade diversion as acknowledged by the TRA at SEF §422. The Applicant considers that such drastic a difference in the level of duty imposed by the UK in comparison to other national authorities will allow for these Chinese exports to be redirected to the UK. This would lead to an increase in imports into the UK of aluminium extrusions at a price with which UK producers cannot compete. Thus, the UK industry would likely sustain further injury.

If UK tariffs are absorbed by PRC exporters, and the Goods Concerned continue to be exported to the UK at dumped prices, this threat of trade diversion would be exacerbated even further.

### **The proposed level of duties will lead to continuing injury**

The TRA’s conclusion that anti-dumping duties are in the economic interest of the UK, is based on an assessment of the different impacts of imposing or not imposing duties.

The TRA concludes in SEF §307 and §308 that the UK industry sustained material injury during the Injury Period and that dumped imports of the Goods Concerned from the PRC were the main cause of this injury.

The TRA also concluded in SEF §378 that if anti-dumping measures were not imposed, this would allow for continued dumping by the PRC and would lead to continued injury.

The TRA has acknowledged that not imposing anti-dumping measures would likely have a negative impact on the UK industry, *as they would be forced to continue to reduce prices and/or output. The continued suffering of injury could likely lead to site closures and subsequent loss of employment* (SEF §384).

The TRA has also acknowledged that *if exporters from the PRC could no longer export to the UK at lower prices due to anti-dumping measures* (SEF §371), further injury to theUK industry would be prevented (SEF §371). This would allow their output to increase and would likely also benefit the upstream industries (SEF §380).

The positive impact intended by the imposition of anti-dumping duties will not occur if anti-dumping duties are imposed at the level proposed in the SEF. As shown above, exporting producers and importers intend to absorb these levels of duties. The PRC could therefore continue to export to the UK at injurious prices. In addition, the UK will become a target market given the level of anti-dumping duties in other markets. The result would be the continued injury to the UK industry and the subsequent negative impacts such as site closures and loss of employment.

Imposing anti-dumping duties at the intended level would be ineffective in alleviating the injury caused by the dumped goods. As a result, it would not be in the economic interest of the UK to impose anti-dumping duties at the intended level.

### **Imposing anti-dumping duties on Goods Concerned >310mm and >14kg/m**

The TRA proposes to subject Goods Concerned not manufactured in the UK to a final negative determination (SEF §370). This has the effect of excluding PRC imported aluminium extrusions >310mm from anti-dumping duties. This is not in the economic interest of the UK.

In SEF Section H, the TRA highlights that the introduction of anti-dumping measures would likely permit UK producers to increase output and remain competitive without having to lower prices (SEF §371).

The dumping of Goods Concerned including those >310mm and 14kg/m are causing injury to the UK industry. One of the key factors contributing to the lack of production of this product in the UK industry during the POI, is the injury sustained by the UK industry.

It is therefore in the economic interest of the UK to reduce the imports of PRC Goods at dumped prices. The exclusion of >310mm >14kg/m allows the PRC to continue to export Goods Concerned > 310mm and >14kg/m at lower prices into the UK. It is likely that this will continue to cause injury to the UK industry, inhibiting the UK industry’s investment into the >310mm >14kg/m sector.

**Pricing Of Imports From China Continues To Show Unfair Trade Practices**

The Applicant considers that this recent pricing behaviour by Chinese exporting producers has been influenced by the imposition of EU trade remedies, the removal of these remedies for the UK and the consequent initiation of this UK investigation. In other words, pricing behaviour changes depending on the presence or absence of duties or anticipation of the presence or absence of duties. The Applicant has analysed the unit values of Chinese exports to the UK over time.

Table 1 compares the pricing of Chinese imports compared to price levels of other “reference” origins.

**Table 1: Changes in Chinese Pricing Behaviour**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **2019** | **2020** | **2021** | **2022\*** |
| Situation  | **No EU Tarriffs but investigation had begun** | **EU Tariffs announced August 2020** | **UK Case Initiated June 2021** | **UK Awaits Final duties** |
| Delta of China Price compared to All countries | **46.0%** | **54.1%** | **60.2%** | **68.7%** |
| Delta of China Price compared to Spain Price | **59.6%** | **67.7%** | **69.1%** | **70.6%** |
| Delta of China Price compared to Turkey Price | **52.1%** | **49.2%** | **68.1%** | **70.8%** |
| Delta of China Price compared to Italy Price | **32.3%** | **25.7%** | **44.9%** | **50.5%** |

The data in Table 1 shows that while in 2019, China’s price was 46% of the price of all imports (from the Top 10 origins exporting to the UK), there has since been a clear increase in the prices of Chinese aluminium extrusions. In August 2020, EU tariffs, applicable also to the UK, were announced on aluminium extrusions from China. From 2019 to 2020, therefore following this announcement, an overall increase in China’s prices can be seen.

Table 2 shows the monthly trend in China’s pricing during the end of 2020 to the beginning of 2021.

**Table 2: Monthly changes in Chinese Pricing**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Date | Oct-2020 | Nov-2020 | Dec-2020 | Jan- 2021 | Feb-2021 | Mar-2021 | Apr-2021 | May-2021 | June-2021 | July- 2021 | Aug-2021 | Sept –2021 | Oct-2021 |
| Unit price £/MT |  2,267  |  2,233  |  2,622  |  2,359  |  2,366  |  2,389  |  2,252  | 2,421 | 2,410 | 2,622 | 3,149 | 2,870 | 2,962 |

Table 2 provides a closer look at the change in pricing behaviour over the course of late 2020 – mid-2021. EU provisional measures were in place and were applicable to the UK between 14 October 2020 and 31 December 2020. Table 2 shows that during this period, Chinese pricing increased. However, immediately after the removal of these measures, there is a downwards trend in Chinese pricing. This is until the month of May 2021 after which Chinese prices begin to increase significantly. UK investigation AD0012 was initiated in June 2021.

As evident from Table 1, the Chinese pricing behaviour compared to the reference points continues to increase from 2020 to the first two months of 2022.

The Applicant considers that this increase in Chinese prices does not reflect a reduced level of dumping by Chinese aluminium exporters, nor does it reflect a reduced level of injury sustained by the UK industry in recent years. Both Table 1 and Table 2 evidence an intentional change in pricing behaviour by Chinese exporters. The changes in pricing clearly coincide with the introduction of duties and initiation of anti-dumping investigations. The period under consideration has been affected by a unique set of circumstances which will not be repeated.

The Applicant considers that the decrease in prices is therefore not a reason to impose a reduced level of duty on Chinese exporters.

**Comments On the Submissions Of Interested Parties From Before The Publication Of The PAD And SEF**

In this section the Applicant addresses certain claims made by interested parties in their submissions from before the publication of the PAD and SEF.

**Downstream Users**

On 24 March 2022, 13 downstream users submitted a letter to the TRA. This letter sought the exclusion of aluminium extrusions >300mm on the basis that the UK industry does not have the capability and capacity to manufacture such extrusions. The users claim that extrusions >300m represent 20% of the 13 users’ end customer requirements.

*Exclusion of >300mm*

In the TRA report on the meeting with the 13 Users, the TRA states that[[89]](#footnote-90) in a recent biodiesel case publication, the TRA made a recommendation to remove measures on imports of a good that the UK did not make.

The TRA appears to be referring to transition review TD0004 Biodiesel from United States and Canada.[[90]](#footnote-91) In this review, a submission was received requesting the exclusion from the scope of the review of HVO, a type of biodiesel. The TRA assessed the likeness of HVO and FAME, the other type of Biodiesel under review, and concluded that they *were sufficiently similar to remain in scope for the purposes of the transition review* (TD0004 SEF 16). Both dumping and injury analyses were carried out for HVO.

The TRA, acknowledging that HVO was not produced in the UK, concluded that this sub-category of biodiesel should remain within the scope of the Goods given that they were *like* goods. However, the TRA found it was appropriate to conduct a separate analysis for the two commodities (TD0004 SEF §82).

The TRA examined the likelihood of dumping of HVO and concluded that if measures were not applied, dumping of HVO would be likely (TD0004 SEF §22).

However, the TRA did conclude, after carrying out an injury analysis, that injury to the UK industry would likely not occur from the importation of HVO if anti-dumping duties were no longer applied to this product (Section J).

In accordance with TRA practice, the TRA is required to assess both the dumping and injury of imported extrusions >300m from China. The sub-category of goods is *like* other extrusions subject to investigation and they can therefore not be excluded without a proper dumping and injury assessment.

*Capability of UK producers*

This submission clearly demonstrates that contrary to the downstream users’ submission, the UK industry does have the capability to produce aluminium extrusions >310mm and >14kg/m.

*UK consumption demand*

The 13 downstream users have submitted that the UK aluminium sector consumes 365K tonnes of aluminium extrusions a year and that the UK only has the capacity to produce 100K tonnes, the remaining needs are supplied by imports.

As shown in this submission, domestic consumption previously supplied by Chinese dumped aluminium extrusions, can be replaced by aluminium extrusions supplied by other origins not-dumping. The trade statistics clearly show that UK downstream demand can be met by suppliers originating in countries that are not dumping.

The Applicant therefore considers that the claims made by the Downstream users are not valid.

**Allbright Law Offices (Shandong Nanshan)**

On 14 March 2022 Allbright Law offices submitted comments on behalf of Shandong Nanshan.

In this submission Shandong Nanshan Aluminium claims that there are no distortions in their price of aluminium extrusions. This claim is made on the basis that the main raw materials used by the exporter in the production of aluminium extrusions are purchased at global prices and that it has a fully integrated chain of aluminium production, producing even its own electricity in-house.

The exporter therefore considers that distortions in the primary aluminium market do not affect the price of their aluminium extrusions. The exporter considers that its only inputs are coal and bauxite.

The Applicant challenges Shandong Nanshan’s claims on the basis that (1) there are distortions in the coal input market, (2) a PMS exists in the market for aluminium extrusions and this necessarily affects all the prices of Shandong Nanshan and (3) other factors of production are distorted in China.

*Distortions in the Coal Market*

The Applicant has highlighted in this submission that the Government in China exercises substantial influence over the coal industry[[91]](#footnote-92) and that coal and coal-fired electricity generation benefit from considerable subsidy programs.[[92]](#footnote-93) Distortions in the coal industry have been acknowledged by both the OECD and the European Commission. Thus, as electricity generated from Nanshan’s coal fired plant is used in the production of aluminium extrusions, the price of aluminium extrusions is necessarily affected by the distortions in the coal industry.

*Distortions in other factors of production*

As the Applicant has evidenced in this submission, distortions exist in factors of production other than the two costs of production examined in the SEF. Notably, there are clear distortions in the labour, land, steel and capital markets in China.

Furthermore, both the OECD report and Global Trade Alert strongly suggest that Shandong Nanshan Aluminium receives significant government support affecting sectors and factors of production that are central to the production of aluminium extrusions.

*PMS in the aluminium extrusion market*

The TRA concluded in the SEF that a PMS exists in two factors of production for aluminium extrusions. The Applicant has demonstrated that both UK and WTO law require that the finding of a PMS must be in relation to the market for aluminium extrusions and that a find of a PMS in any factor of production necessarily requires such a finding.

As the Applicant has explained, where the aluminium extrusion market is found to be distorted, the prices for all exporters operating in that market are affected by those distortions and cannot be used as the basis for determining the normal value. It follows that even if Shandong Nanshan is vertically integrated, if the basis for constructing the normal value for PMI and Haomei is PMS, then using sales prices in that market to determine the normal value for Shandong Nanshan is not appropriate.

**3o Limited**

On the 16 January 2022 3o Limited submitted comments addressing its complaints on the Application.

3o Limited argues that UK producers are concerned about competition, which is not relevant to anti-dumping as it is in the nature of any business enterprise.

3o Limited insinuates that the competition faced by UK industries is irrelevant to anti-dumping. Anti-dumping measures re-establish fair competition where dumped imports cause material injury to the domestic industry. Competition is of central concern to the imposition of anti-dumping measures. UK producers are unable to compete on the UK aluminium extrusion market because the product is being imported from the PRC at prices significantly lower than their normal value. These prices cannot be replicated by UK producers, without injuring them.

3o Limited criticises the Applicant for:

1. *Claiming that since the EU has found dumping of Chinese aluminium extrusions, there must also be dumping into the UK*

The Applicant considers that no claim has been made that since the EU has found dumping, the UK should by default also find dumping. Rather, the Applicant has provided evidence that Chinese aluminium extrusion exporters are dumping their products on the UK market. However, given that for a large period of the IP and POI (until the 31 December 2020), the UK industry formed part of the wider EU industry, the Applicant considers that evidence of dumped imports into the EU is relevant as during this period the UK and the 27 EU member states formed part of a Single Market.

1. *Claiming that since the imposition of EU anti-dumping measures, Chinese extruders have modified their pricing*

The Applicant has clearly shown in that the recent pricing behaviour by Chinese exporting producers has been influenced by the imposition of EU trade remedies, the removal of these remedies for the UK and the consequent initiation of AD0012. The data provided by the Applicant demonstrates that the decrease in prices by Chinese exporters clearly coincide with the afore mentioned events and therefore reflect intentional change in pricing behaviour by Chinese exporters as opposed to a reduction in the level of dumping.

3o limited claims that there is neither evidence of dumping nor of damage being caused by Chinese imports to any UK extruder. The SEF clearly demonstrates that the TRA has found that China is dumping aluminium extrusions into the UK market (SEF §14) and that this dumping is causing injury to the UK industry (SEF §16).

3o limited considers that the products not currently produced by UK extruders should be excluded from any AD0012 consideration. The Applicant considers that there is no basis upon which products not currently produced by UK extruders can be excluded from AD0012 consideration. Production of the goods in the UK market is not an issue for consideration in the determination of dumping. This is clear from the wording of Article 2.1 of the WTO Anti-dumping agreement whereby dumping exists where:

*the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country*

In transition review TD0004 Biodiesel, the TRA did not exclude HVO from consideration of the investigation despite the lack of production in the UK of this category of the goods concerned. As stated above, the TRA concluded that this product should remain within the scope of the Goods concerned given that they were *like* the other goods.

It follows that products not currently produced by UK extruders cannot be excluded from consideration on this basis.

**Government of the PRC**

The Government claims that there is no legal basis in UK law for the TRA to investigate market distortions in China. This is factually and legally incorrect.

Regulation 7(2)(b) provides the legal basis for assessing whether a particular market situation exists in exporting country such that sales of the product do not permit a proper comparison. Regulation 7(4) then defines PMS as situations where (a) prices are artificially low, (b) there is sigficant barter trade or (c) prices reflect non-commercial factors.

SI 2019/450 therefore allows the TRA to investigate whether distoritons exist in the market of the exporting country in order to assess whether such distortions are causing a PMS in the market for the Goods Concerned.

The Government additionally claims that the European Commission Working Paper is not a valid source of evidence of distortions in the market in China. The Applicant has submitted evidence of distortions using sources such as the European Commission Working Paper, various OECD reports and investigations carried out by competent investigating authorities in other jurisdictions. All the evidence submitted strongly suggests that distortions exist in China for many factors of production and therefore in the aluminium extrusion market itself.

**A summary of the finding in relation to the three exporting producers**

The Applicant concludes that the TRA’s normal value and export price calculations for each sampled exporter must be adjusted in order to comply with Regulation 2019/450.

**PMI**

The TRA constructed the normal value using verified domestic costs of production and AS&G data (SEF §199). The normal value was constructed as a result of a finding of a PMS in the costs of aluminium billets and energy. The TRA made adjustments under Regulation 13 to the cost of aluminium billets and energy in order to account for the distortions in these factors of production (SEF §200). Brazil was used as a third country for benchmark costs.

The Applicant considers that the TRA erred in only adjusting the costs for two factors of production. As demonstrated in the Application and in this Submission distortions exist in the labour, land, capital and steel markets as well as in the primary aluminium and energy markets and in the market for aluminium extrusions. The Applicant therefore considers that the TRA should make further adjustments to these costs of production, using benchmark costs as permitted by Regulation 13(4) SI 2019/450.

The DCM shows how the export price for PMI was determined. The Applicant considers that the TRA has erred in the construction of the export price by relying on PMUK accounts, by not deducting all costs incurred by PMUK and by withdrawing the adjustment to remove credit previously made in the PAD. The Applicant therefore considers that to ensure a fair comparison between the export price and the normal value, changes must be made to the constructed export price to accurately reflect the costs incurred by PMUK.

**Haomei**

The TRA constructed the normal value for Haomei using verified domestic costs of production and AS&G data (SEF §204) and adjusting the production costs for aluminium billets and energy (SEF §205). Brazil was used as a third country for benchmark costs.

The Applicant considers that the TRA must adjust the costs for all distorted factors of production including labour, land, capital and steel. Benchmark costs should therefore be used in the construction of the normal value in order to accurately represent these costs of productions.

With regards to the export price, the TRA has provided no evidence that the association with related sales companies does not affect the export price. The Applicant considers that this lack of evidence prevents them from assessing whether the export price has been calculated correctly.

**Shandong Nanshan**

The TRA determined the normal value for Shandong Nanshan on the basis of their sales prices in the market for aluminium extrusions in China except for 7 PCNs (SEF §211) where the normal value was constructed as they were not sold in the ordinary course of trade, and for 3 PCNs where profitable sales prices were used (SEF §213).

The Applicant considers that the TRA has erred in its normal value calculation for Shandong Nanshan.

The TRA findings in relation to Shandong Nanshan come down to a finding that, even though Shandong Nanshan is a producer of aluminium extrusions in the Shandong province of China, the company somehow operates outside the context of the market distortions present in the Chinese aluminium value chain. This is simply unreasonable.

As demonstrated in the Application and in this Submission there is a particular market situation in the aluminium extrusion market in China. Shandong Nanshan operates in this distorted market.

In accordance with Regulation 8(1)(a) SI 2019/450, where it is not appropriate to use the comparable price to determine the normal value, the normal value must be constructed on the basis of the costs of production plus a reasonable amount for administrative, selling and general costs and for profits.

It follows that the prices of Shandong Nanshan cannot be used to determine the normal value. Rather, this value must be constructed.

In addition, the Applicant considers that benchmark costs must be used for the costs of all the distorted inputs, in accordance with Regulation 13(3) and (4) SI 2019/450.

With regards to the export price, the TRA has failed to provide evidence of how the association does not affect the export price. The Applicant considers that this lack of evidence prevents them from assessing whether the export price has been calculated correctly.

**List of Annexes**

Annex I – [BUSINESS CONFIDENTIAL INFORMATION]

Annex II – [BUSINESS CONFIDENTIAL INFORMATION]

Annex III - Table detailing the capabilities of PMI presses

Annex IV – [BUSINESS CONFIDENTIAL INFORMATION]

Annex V – [BUSINESS CONFIDENTIAL INFORMATION]

1. The rules on sampling for subsidies, causation and injury are set out in Regulation 57 [↑](#footnote-ref-2)
2. The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (Regulations No.450 2019) [↑](#footnote-ref-3)
3. The basis of the selection of the sub-set of the PCN is whether like products are produced in the UK. This justification is irrelevant to the issue of the dumping, or not, of the goods originating in China. [↑](#footnote-ref-4)
4. The Applicant notes that §69 refers to sampling for the purposes of Injury on the basis of Regulation 56(2)(c). As seen above sampling for the purposes of Injury comes within the terms of Regulation 57. [↑](#footnote-ref-5)
5. Provided to the parties on 13 June 2022. [↑](#footnote-ref-6)
6. The Applicant notes that rule for sampling for causation and injury are different and set out in regulation 57. [↑](#footnote-ref-7)
7. Hoamei is known for its stong presence on standard extrusions (estimated at 90% of its exports to the UK) mainly in bars and rods; Shandong Nanshan is know for selling predominantly standard products to stockists in the UK (estimated 80% of its total exports to the UK). [↑](#footnote-ref-8)
8. Although HMRC imports from China declared as hollow profiles (76042100) was 4% of total imports of the goods concerned from China during POI. [↑](#footnote-ref-9)
9. Although HMRC imports from China declared as solid profiles (76042990) was 66% of total imports of the goods concerned from China during POI. [↑](#footnote-ref-10)
10. No imports have been declared at HMRC under bars and rods of aluminium allors (76042910) during the last four years. [↑](#footnote-ref-11)
11. Sampled exporters are known to be present on this market which is estimated at least 10% of the total market for the goods concerned. [↑](#footnote-ref-12)
12. Although the UK market is estimated to be approximately 75% mill-finish. [↑](#footnote-ref-13)
13. Although the UK market is estimated to be between 5% and 10% of fabricated products. [↑](#footnote-ref-14)
14. The Applicant is not aware of any specific rulings by WTO adjudication panels on the issue of double sampling. The Applicant considers that the reason for the absence of findings on this practice is that no other competent authority seems to double sample on a regular basis, if at all. A single sampling methodology, whether sampling of exporting producers or sampling of the goods concerned, is usually considered sufficient to remove any administrative burden. [↑](#footnote-ref-15)
15. It can be argued that, in strict law, the TRA is only entitled to engage in one level of sampling and must choose between the three possibilities set out in Regulation 56(2). [↑](#footnote-ref-16)
16. Press Metal Annual Report 2021, <https://www.pressmetal.com/investor-relations/overview.php> [↑](#footnote-ref-17)
17. Reuters, Shandong Nanshan Aluminium Co Ltd, <https://www.reuters.com/markets/companies/600219.SS/financials/income-annual> [↑](#footnote-ref-18)
18. Press Metal UK Ltd. Financial Statements for the Year ended 31 December 2021, page 19, [Companies House](https://find-and-update.company-information.service.gov.uk/company/03653082/filing-history) [↑](#footnote-ref-19)
19. Press Metal UK Ltd. Financial Statements for the Year ended 31 December 2021, page 16, [Companies House](https://find-and-update.company-information.service.gov.uk/company/03653082/filing-history) [↑](#footnote-ref-20)
20. Press Metal UK Ltd. Financial Statements for the Year ended 31 December 2021, page 12, [Companies House](https://find-and-update.company-information.service.gov.uk/company/03653082/filing-history) [↑](#footnote-ref-21)
21. Note 10 to PMUK Financial Statement metions level of stocks held at the end of the year. [↑](#footnote-ref-22)
22. Press Metal UK Ltd. Financial Statements for the Year ended 31 December 2021, page 2, [Companies House](https://find-and-update.company-information.service.gov.uk/company/03653082/filing-history) [↑](#footnote-ref-23)
23. The Applicant considers that the rejection is not in line with good administration as it does not show why the Applicants claims were not found by the TRA. [↑](#footnote-ref-24)
24. Within the terms of Regulation 8(1) of SI 450/2019 [↑](#footnote-ref-25)
25. See below the extensive discussion in this Submission on the *A4 Copy Paper* case [↑](#footnote-ref-26)
26. Regulations No.450 2019, Regulation 8(1): *Where (…) it is not appropriate to use the comparable price in accordance with regulation 7(2)(…)* [↑](#footnote-ref-27)
27. Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 [↑](#footnote-ref-28)
28. WT/DS529/R Australia – Anti-Dumping Measures on A4 Copy Paper (Report of the Panel, 4 December 2019) [↑](#footnote-ref-29)
29. The equivalent market in AD0012 is the market for aluminium extrusions and not the market for aluminium inputs or the market for energy. [↑](#footnote-ref-30)
30. Application, page 35 and 38 [↑](#footnote-ref-31)
31. Application, page 36 [↑](#footnote-ref-32)
32. Application, page 38 [↑](#footnote-ref-33)
33. Application, page 38 - 40 [↑](#footnote-ref-34)
34. Allbright Law Offices letter on the open file (7 March 2022) [↑](#footnote-ref-35)
35. Application, page 32 [↑](#footnote-ref-36)
36. European Commission, *Staff Working Document on Significant Distortions in the Economy of the People’s Republic of China for the Purposes of Trade Defence Investigations* (SWD (2017) 483 final of 18.12.2017), page 233 [↑](#footnote-ref-37)
37. OECD (7 January 2019), “Measuring distortions in international markets: the aluminium value chain”, *OECD Trade Policy Papers,* No. 218, Paris, page 51 [↑](#footnote-ref-38)
38. Hydro Aluminium Ltd Anti-dumping Application [↑](#footnote-ref-39)
39. Commission Staff Working Document, page 342 [↑](#footnote-ref-40)
40. Commission Staff Working Document, page 216*;* Hydro Aluminium Ltd Anti-dumping Application [↑](#footnote-ref-41)
41. OECD (7 January 2019), page 89 [↑](#footnote-ref-42)
42. OECD (7 January 2019), page 88 [↑](#footnote-ref-43)
43. OECD (1 September 2020), “Steel Subsidies and government support measures: a progress report”, DSTI/SC(2020)11 [↑](#footnote-ref-44)
44. OECD (10 March 2022), “Interim report providing preliminary statistics on a sample of steel enterprises obtained by linking the OECD Steel and Subsidy Databases”, DSTI/SC(2022)6 [↑](#footnote-ref-45)
45. [↑](#footnote-ref-46)
46. CBSA, Statement of Reasons concerning the final determination with respect to the dumping and the subsidising of Certain Fabricated Industrial Steel Components (May 2017) paras 177-196; CBSA, Statement of Reasons concerning the final determination with respect to the dumping and the

subsidising Certain concrete reinforcing bar originating in or exported from the People’s Republic of China, the Republic of Korea and the Republic of Turkey, 4214-42 AD/1403, 4218-39 CV/138, 23 December 2014 [↑](#footnote-ref-47)
47. Report No. 198: Dumping of Hot Rolled Plate Steel Exported from The People’s Republic of China, Republic of Indonesia, Japan, The Republic of Korea and Taiwan, and Subsidisation of Hot Rolled Plate Steel Exported from The People’s Republic of China, September 2013; Anti-Dumping Commission, Report No. 300: Alleged Dumping of Steel Reinforcing Bar Exported from The People’s Republic of China, April 2016. [↑](#footnote-ref-48)
48. OECD (11 October 2012), “Steelmaking raw materials: market and policy developments” DSTI/SU/SC(2012)1/FINAL [↑](#footnote-ref-49)
49. OECD (7 January 2019), page 49 [↑](#footnote-ref-50)
50. Application, page 30 [↑](#footnote-ref-51)
51. WT/DS529/R Australia – Anti-Dumping Measures on A4 Copy Paper (Report of the Panel, 4 December 2019) [↑](#footnote-ref-52)
52. ibid, page 39 [↑](#footnote-ref-53)
53. ibid, page 150 [↑](#footnote-ref-54)
54. Application, page 33 [↑](#footnote-ref-55)
55. [Austrlian Anti-Dumping Commission Statement of Essential Facts No. 482](https://www.industry.gov.au/sites/default/files/adc/public-record/482-050_-_report_-_statement_of_essential_facts_sef_482.pdf), Review of Anti-Dumping Meausres Applying to aluminium extrusions exported to Australia from the PRC, Page 84 [↑](#footnote-ref-56)
56. Application, page 33 [↑](#footnote-ref-57)
57. OECD (7 January 2019), page 93 [↑](#footnote-ref-58)
58. OECD (7 January 2019), page 18 [↑](#footnote-ref-59)
59. OECD (7 January 2019), page 16,17, 83, 86 and 88 [↑](#footnote-ref-60)
60. [Global Trade Alert](https://www.globaltradealert.org/intervention/92509/financial-grant/china-government-subsidy-changes-for-listed-company-nanshan-aluminium-in-year-2020) [↑](#footnote-ref-61)
61. Subsidies can be evidence of distortions for the purposes of triggering the construction of normal value and thus dumping. An examination of subsidies is thus relevant in anti-dumping investigations. [↑](#footnote-ref-62)
62. OECD (7 January 2019), page 39 [↑](#footnote-ref-63)
63. OECD (7 January 2019), page 51 [↑](#footnote-ref-64)
64. OECD (7 January 2019), page 50 [↑](#footnote-ref-65)
65. SEF, page 43 [↑](#footnote-ref-66)
66. OECD (7 January 2019), page 34 [↑](#footnote-ref-67)
67. SEF, page 43 [↑](#footnote-ref-68)
68. OECD (7 January 2019), page 39 [↑](#footnote-ref-69)
69. OECD (7 January 2019), page 25 [↑](#footnote-ref-70)
70. To obtain land, capital and labour, all enterprises in China must demonstrate compliance with the Five Year Plans and the dictates of the Chinese Communist Party (CCP). All enterprieses employing more than three CCP members must create a party cell, the purpose of which is to direct the commercial activities of the enterprise to state and party ends. [↑](#footnote-ref-71)
71. *Associated Provincial Picture Houses Limited v Wednesbury Corporation* [1948] 1 K.B. 223. [↑](#footnote-ref-72)
72. The same considerations apply to the TRA’s PMS determinations for the other inputs such as land, capital and labour. There are two clear breaches of the principles of good administration. First, it is not reasonable, or in line with the Wednesbury principles, to dismiss the Applicant’s substantive evidence of distortions in those markets in one line in the SEF. Secondly, it is not reasonable, in the absence of clear demonstrated evidence on the record, for the TRA to reach different conclusions from the OECD and other investigating authorities in relation to these markets. [↑](#footnote-ref-73)
73. GATT Article VI and the WTO Anti-Dumping Agreement refer to countries rather than customs territories. The WTO has recognised the EU single market as a customs territory for the purposes of the implementation of GATT Article VI. [↑](#footnote-ref-74)
74. The Applicant notes that for certain purposes within Part 12 reference to the United Kingdom must be read as reference to the European Union (See for example Regulation 97). [↑](#footnote-ref-75)
75. Case T-310/12 Yuanping Changyuan Chemicals Co. Ltd v Council of the European Union (20 May 2015) ECLI:EU:T:2015:295 [↑](#footnote-ref-76)
76. There is no definition in WTO law. [↑](#footnote-ref-77)
77. WT/DS337/R European Communities – Anti-dumping measure on farmed Salmon from Norway (Report of Panel, 2007) paragraph 7.56 [↑](#footnote-ref-78)
78. WT/DS312/R Korea – Anti-dumping duties on imports of certain paper from Indonesia (Report of the Panel, 2005) Paragraph 4.206 [↑](#footnote-ref-79)
79. WT/DS397**/**R European Communities – Definitive anti-dumping measures on certain Iron or steel fasteners from China (Report of the panel, 2010) paragraph 7.268 [↑](#footnote-ref-80)
80. WT/DS312/R Korea – Anti-dumping duties on imports of certain paper from Indonesia (Report of the Panel, 2005) Paragraph 4.205 [↑](#footnote-ref-81)
81. WT/DS219/AB/R European Communities – Anti-dumping duties on malleable cast iron tube or pipe fittings from Brazil (Report of the Appellate Body, 2003) Paragraph 165 [↑](#footnote-ref-82)
82. Nadina Bloxosme, [“Hydro to close extrusion plant at Karmøy in 2012”](https://aluminiumtoday.com/news/hydro-to-close-extrusion-plant-at-karmy-in-2012) (Aluminium International Today, 8 December 2010); [“Sapa Extrusions: 132 aluminium plant jobs at risk”](https://www.bbc.com/news/uk-wales-south-east-wales-24803879) (BBC, 4 November 2013) [↑](#footnote-ref-83)
83. In particular, UK proposed duties are significantly lower than the duties imposed by the USA, Canada, Australia and the EU. [↑](#footnote-ref-84)
84. UK Trade Remedies Authority, [Statement of Essential Facts Case AD0012](https://www.trade-remedies.service.gov.uk/public/case/AD0012/submission/5721e900-0c2a-47f7-a61d-1d6196e2d7b5/) Investigation into alleged dumping of aluminium extrusions from the People’s Republic of China [↑](#footnote-ref-85)
85. [COMMISSION IMPLEMENTING REGULATION (EU) 2021/546](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R0546&from=EN) of 29 March 2021 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of aluminium extrusions originating in the People’s Republic of China [↑](#footnote-ref-86)
86. Australia imposed anti-dumping duties on 8 May 2019 following [Anti-Dumping Notice No. 2019/44](https://www.industry.gov.au/sites/default/files/adc/public-record/482-064_-_notice_-_adn_2019-044_-_findings_in_relation_to_a_review_of_anti-dumping_measures.pdf) [↑](#footnote-ref-87)
87. US imposed anti-dumping duties in April 2011: [Federal Register / Vol. 76, No. 64 / Monday, April 4, 2011 / Notices](https://usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2010/Aluminum%20Extrusions%20from%20China/Final/doc_final_ad_determination.pdf). Following Review, the duties were maintained in March 2017: [Federal Register / Vol. 82, No. 60 / Thursday, March 30, 2017 / Notices.](https://usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2016/Aluminum%20Extrusions%20from%20China/Full%20Review/aluminum_extrusions_-_determination.pdf) Review was initiated on March 3 2022 and is [pending determination.](https://usitc.gov/investigations/701731/2022/aluminum_extrusions_china/second_review_expedited.htm) [↑](#footnote-ref-88)
88. Canada imposed anti-dumping duties on February 16 2009: [Statement of Reasons 4214-22 AD/1379](https://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/ad1379/ad1379-i08-fd-eng.html). Following Review, the duties were maintained on August 16 2019: [Expiry Review Determination AE 2019 ER](https://www.cbsa-asfc.gc.ca/sima-lmsi/er-rre/ae2019/ae2019-de-eng.pdf) [↑](#footnote-ref-89)
89. AD0012: [Meeting Minutes with UK Downstream Industry Members](https://www.trade-remedies.service.gov.uk/public/case/AD0012/submission/3da0a712-eee2-42c1-8281-f60519ee19d6/) (22 March 2022) [↑](#footnote-ref-90)
90. Case TD0004, [Statement of Essential Facts](https://www.trade-remedies.service.gov.uk/public/case/TD0004/submission/a8fa1a1e-4ba7-433e-b358-edcbf0d17450/), Transition review of anti-dumping measures applying to biodiesel originating in the United States of America and consigned from Canada [↑](#footnote-ref-91)
91. Application, page 32 [↑](#footnote-ref-92)
92. European Commission, *Staff Working Document on Significant Distortions in the Economy of the People’s Republic of China for the Purposes of Trade Defence Investigations* (SWD (2017) 483 final of 18.12.2017), page 233 [↑](#footnote-ref-93)