



锦天城律师事务所

ALLBRIGHT LAW OFFICES

北京市东城区东长安街1号东方广场C1座6层 (100738)

电话: +86 10 8523 0688

传真: +86 10 8523 0699

Level 6, Office Tower C1, The Towers Oriental Plaza, No.1, East Chang An Avenue, Dong Cheng District, Beijing, P.R.China 100738

Tel: +86 10 8523 0688

Fax: +86 10 8523 0699

www.allbrightlaw.com

United Kingdom
Department for International Trade
Trade Remedies Authority

June 20, 2022

By e-mail

Dear Madams, Dear Sirs,

RE: AD0012 – Aluminium Extrusions originating in China – Comments on the calculation of dumping margin

Our client: Shandong Nanshan Aluminium Co., Ltd. ("Nanshan Aluminium")

On 20 May 2022, the TRA published the Provisional Affirmative Determination in the anti-dumping investigation concerning certain aluminium extrusions originating in China (AD0012), as well as the Statement of Essential Facts. The present submission is filed on behalf of Nanshan Aluminium, on the calculation of dumping margin, in particular with respect to the fair comparison between the export price and the normal value.

1. Violation of Article 6(2)(c), Article 16 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 and Article 2.4 of the Anti-Dumping Agreement

The TRA failed to make a “fair comparison” between the export price and the normal value, as it did not make relevant adjustments for the general selling and administrative expenses (SG&A) to the normal value.

A fair comparison shall be made between the export price and the normal value. This comparison shall be made at the same level of trade. The authorities shall establish the normal value at a level of trade equivalent to the level of trade of the export price, or shall

make due allowance. As reflected by the formula contained in the calculation spreadsheet, the export price used in the calculation is on EXW level, net of freight, handling charges, packing, bank charges and etc., which are generally recorded in the accounts of raw materials, selling expenses and financial expenses. However, for the 7 out of 10 PCNs used in the calculation of dumping margin, which the constructed normal value methodology is applied, the TRA did not make adjustments for the allowances deducted from the export price to the UK which are normally included in the COP and SG&A. Consequently, the comparison between the export price and the normal value is not on a comparable basis.

The screenshot 1 is captured from the spreadsheet “Export Questionnaire Data”. Obviously, the domestic freight, handling charges, packing, bank charges and credit adjustment are deducted to come to the export price at ex-factory level.

Screenshot 1 - Adjustments to Export Price (LIMITED)

The screenshots 2 and 3 are captured from the spreadsheet “CNV Adjustment”. The TRA constructed the normal value by adding up COP, SG&A and profit. As seen from the two screenshots below, the deductions to the export price are included in the establishment of the constructed normal value.

Screenshot 2 – Constructed Normal Value – Packing (LIMITED)

Screenshot 3 – Constructed Normal Value – SG&A (LIMITED)

Therefore, the TRA violates Article 6(2)(c) and Article 16 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 which mandates that such a fair comparison is made. Such practices also violate TRA’s obligation under Article 2.4 of the WTO Anti-dumping Agreement.

2. TRA’s compliance with its obligations under Article 6.9 of the Anti-Dumping Agreement

After the Provisional Affirmative Determination and the Statement of Essential Facts were



published on May 20, upon Nanshan Aluminium's request, the TRA provided the detailed calculation of dumping margin on May 27 and additional COP data which the dumping margin calculation was relied on June 6, respectively. Nanshan Aluminium identified the formula errors in the cost calculation sheet and brought this issue to the TRA's attention on June 8. The TRA reverted an updated cost calculation sheet with corrected formulas on June 15. Nanshan Aluminium requested for the updated calculation of dumping margin on June 16 which was rejected by the TRA.

Without prejudice, Nanshan Aluminium reiterates that the dumping margin calculation is the "essential facts under consideration which form the basis for the decision whether to apply definitive measures" in light of Article 6.9 of the WTO Anti-dumping Agreement.

Given the formula errors identified in the original calculation spreadsheet, Nanshan Aluminium respectfully request TRA to disclose the updated dumping margin calculation with the corrected formula. Nanshan Aluminium reserves its right to comment on the updated calculation, and other consequential matters arisen in a later stage.