**Comments on the investigation for anti-dumping of aluminum extrusions originating in China**

The Government of the People's Republic of China

On June 21, 2021, the Trade Remedies Authority (TRA) initiated the anti-dumping investigation on aluminum extrusions from China. The government of China (GOC) has the honor to submit the following comments.

1. **The application did not provide full information to make the stakeholder to understand the substantive content of its submission information.**

**1.1 The application provides information in an inappropriate manner and contains flaws.**

The application only provides a link to the website of the import volume of the product under investigation, the output and demand of the similar product in the UK, and other data. The interested parties cannot directly obtain sufficient and accurate information, and cannot judge the rationality of the applicant's claim, which hampers the right of the interested parties to defend its interests.  At the same time, the application also covers up the flaws in the submitted data by providing only network links. For example, according to the link of the UK production volume of similar products provided by the applicant, only the data of UK production volume of similar products up to 2019 can be obtained before the registration date, 6th July.  The data cannot prove whether the applicant meets the requirement of domestic industry representation in 2020 and the Period of Investigation (POI).

**1.2 Confidential Information does not provide a non-confidential summary and reasons for confidentiality.**

The application for confidential information such as the production, estimate the injury of the applicant, the related index content did not provide the non-confidential summary and confidentiality reasons, the interested parties cannot reasonably understand the substance of the information submitted in the form of a secret, obstruction and deprived of the interested parties is the information full opportunity to defend their interests and rights, which does not meet the provisions of ADA 6.2 and 6.5.1.

In accordance with Section 6.5.2 of ADA, where information is not disclosed in the form of a summary or summary, the investigating authority may ignore such information and therefore TRA shall ignore the applicant's failure to provide a non-confidential summary of relevant information in order to protect the right of the interested parties to reasonably understand and defend its interests.

1. **The applicant has not demonstrated that it can apply on behalf of the domestic industry, nor has the domestic industry representativeness been reviewed by TRA, and this investigation should not be initiated.**

The application does not disclose in an appropriate manner the applicant's production data and the extent to which other domestic producers of similar products support the application.  After filing the case, the website link provided in the application can only obtain the production data of the same product in the UK up to 2019, which does not prove that the applicant and his supporters were representative of the domestic industry in 2020 and during the POI, failing to meet the relevant requirements of Articles 5.2 and 5.4 of the ADA.  TRA should reject applications where the applicant has no right to submit them on behalf of the UK domestic industry.

TRA failed to prove that it was reviewed for the domestic similar producers' support and objections to determine that the application was proposed by domestic industries or representative domestic industries. According to the provisions of Ada 5.4, TRA may not afford this investigation, so the TRA should revoke the case of this investigation.

1. **The claim of the application that the export prices of Chinese products are unreliable because of market distortion and requirement to construct the Normal Value cannot be established .**

Citing the work paper "Commission Staff working Document" issued by the European Commission, the application claims that there are distortions in the Chinese market, the Chinese aluminum industry and the market and factor prices of the products under investigation are distorted, and the domestic price of the products under investigation is unreliable. Therefore, the application claims that Turkey is the Normal Value of the structure of the surrogate country.  The GOC dismissed the claim as untenable.

**3.1Applicant's claim regarding the prices are unreliable due to the market distortion lacks legal and factual basis.**

**3.1.1 The application claims that the market distortion of the exporting country is unwarranted**

UK anti-dumping law and other domestic legislation do not provide criteria for determining "market distortion", nor do they authorize TRA to investigate whether there is market distortion in the country of origin of the product under investigation.  The applicant's claim that the market of the products under investigation and the prices of related factors are affected by market distortions and that there are distortions in the Chinese market is only based on the work paper of the third parties and has no legal basis and does not provide facts or evidence.

**3.1.2 The incorrect conclusion of the "Commission Staff working Document" of the European Commission is neither fact nor could be evidence.**

The application cites the contents of the European Commission working paper ‘Commission Staff Working Document on Significant Distortions in the Economy of China the People's Republic of China for the Purposes of Trade Defence Investigations’ (Commission Staff working Document) as evidence to claim that there are serious distortions in the Chinese aluminium industry and in the market for the products under investigation.  The GOC and relevant companies believe that the wrong conclusions of the European Commission's “Commission Staff working Document “are neither facts nor evidence.  There are serious factual and legal flaws in the content and use of the report document.  The content of the report itself is erroneous, one-sided and seriously deviates from objective reality.  The report takes the legitimate competitive advantages of Chinese industries and the normal institutional differences between China and the EU as the basis for whether there is serious market distortion, completely avoiding the question of whether the EU itself has market distortion and the relevant criteria.  The Commission accepts the alleged market distortion allegations made by the EU industry in the report as the main evidence, providing unfair advantages and facilities to their industry.  The European Commission's practice of giving judgment before trial and voluntarily providing "evidence" for the appeal of the industry within the EU puts itself on the side that favors the industry within the EU, which is not in line with the most basic legal spirit of fairness and justice.  In practice, the European Commission drafts and makes public staff documents for a small number of countries, such as China, which is easy to arouse the suspicion that it is motivated by political considerations rather than the need for impartial investigation in accordance with the law. This is enough to arouse concerns about Most-Favored-Nation treatment in fact.

**3.1.3We Resolutely oppose discrimination based on country and ownership.**

Different countries have different economic systems and arrangements, and there is no unified or single market economy model.  All countries in the world, including the UK, there are different ownership and governance structure of enterprise, with only a country's economic system, the types of corporate ownership or a country or a certain governance structure difference of the enterprise will inevitably lead to related industry exists serious market distortions is unreasonable, impose restrictive, for the reason of punitive measures is discriminatory policy, also is not acceptable.  Similarly, the existence of state-owned enterprises in China's aluminum industry or the industries of investigated products and their production factors cannot and should not directly assume that there are serious distortions in the market of China's aluminum industry and the market of investigated products.

**3.1.4 China's state-owned enterprises are equal competitors in the market economy and will not and have not caused serious distortions in the aluminum market.**

China has established a market economy in which the market plays a decisive role in the allocation of resources and is recognized by most countries in the world.  After years of reform, China's state-owned enterprises have become independent market players, allocating resources and conducting operations in full accordance with price signals. They operate independently, assume their own profits and losses, risks, constraints and development, and compete on an equal footing with enterprises of other ownership.  Therefore, Chinese state-owned enterprises in the aluminum industry are equal players and competitors in the market, and their presence does not and does not lead to serious distortions in the aluminum market and the market for the products under investigation.

**3.1.5 The 13th Five-Year Plan and other documents are guiding plans.**

The main purpose of China's five-year plan is to provide a framework for economic and social development during the plan period.  The programme is not automatic but requires each responsible agency to take action as appropriate within its jurisdiction.  Business enterprises can use planning to predict the economy and the direction of economic development, and to make informed investments based on the expected direction.  Just as the UK government's White Paper "Industrial Strategy: Building a UK fit for the Future" published in November 2017 is also an executive plan, the UK's investigative authorities have given equal treatment to China's 13th Five-Year Plan and similar DOCUMENTS in the UK, rather than applying double standards.

**3.2 As a matter of principle, the relevant criteria should be applied fairly**

On the basis of not injuryd and the above-mentioned position of the China Aluminum market, the GOC believes even if the applicant has a standard, such as the so-called "market distort" standard, the GOC believes:

**3.2.1 Discriminatory and selective application of a standard is not acceptable**

If a certain judgment standard is adopted for the accused export enterprise or its home country, it shall be applied to all interested parties fairly, otherwise it is suspected of violating the fair procedure requirement, the WTO principles such as national treatment, most-favored-nation treatment and the relevant provisions of the anti-dumping agreement.  The GOC believes that any standard should be applied fairly, and any discriminatory or selective use is unacceptable and directly violates the principles of most-favored -nation treatment and national treatment.

**3.2.2 Market distortion in the surrogate country should be assessed.**

The application for reference Commission Staff working Document, citing China's so-called market distortions, select country structure Normal Value, but there is no comprehensive assessment in selected representative countries exists under the condition of market distortions, accept the cost data to replace the cost of Chinese producers, it is a kind of typical "double standards".  The application selects Turkey as a substitute country, but the United States, the European Union, India and other countries have launched anti-subsidy investigations against Turkey and made definitive final rulings.  In April 2021, the Commerce Department also made a preliminary affirmative countervailing ruling against aluminium sheets from Turkey.  According to the applicant's so-called market distortion logic, the Turkish aluminum industry and companies' accepting of "subsidies" is bound to distort the market and prices.  The applicant ignores this and constructs the "Normal Value" of Chinese products, which inevitably leads to a "distorted" result that completely fails to reflect the true cost situation of Chinese products.

**3.3.3 The application should also examine the internal market in a comprehensive way for any distortions.**

The price of similar products is one of the important indicators to determine whether there is injury or threat of injury.  According to the application for the so-called "market distortions that relevant product price is not credible" proposition logic, without any distortion the British internal market assessment, on the basis of unable to ensure the reliability of the domestic industry related costs and selling prices, with the price for the important basis of injury assessment and no injury to determine price also will be no credibility.  The application should therefore make a full assessment of whether there is any distortion in the UK domestic market to establish claims of injury to domestic industry.

1. **The application's claim of injury to domestic industry is untenable.**

**4.1 No positive evidence of the injury is provided in the application and the injury cannot be determined .**

The injury shall be determined on the basis of positive evidence. The application contains only opinions and conclusions about the injury, without providing any positive evidence, and does not meet the requirements of the relevant provisions of Article 3.1 of ADA. The simple assertion of the lack of relevant evidence shall not be deemed sufficient to satisfy the requirements of Article 5.2 of ADA that the application shall include the relevant evidence.

TRA did not review the accuracy and adequacy of the evidence provided in the application to determine whether there was sufficient evidence to justify the initiation of an investigation, in violation of section 5.3 of ADA.

**4.2 The decline in the absolute number of imports from China should be carefully considered when examining injuries .**

 The determination of injury shall take into account the quantity of the imported product.  Article 3.2 of the ADA provides that with regard to the volume of dumped imports, the investigating authority shall consider whether there has been a significant increase in the dumped imports.  The figures in the table below show that UK imports of aluminium extrusions from China declined in both absolute terms and as a proportion of UK global imports between 2017 and 2020.  When investigating the injury to domestic industries, investigators should take into consideration the declining import of aluminum extrusions from China.

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| --- | --- | --- | --- | --- |
| Volume（T） | Year2017  | Year2018 | Year2019 | Year2020 |
| China | 51,221 | 53,222 | 43,781 | 34,878 |
| Global | 181,479 | 188,564 | 191,961 | 181,392 |
| Proportion | 28.2% | 28.2% | 22.8% | 19.2% |

Data from the following link:

<https://www.uktradeinfo.com/trade-data/ots-custom-table>

**5.Conclusion.**

Based on the above, the application submitted by the information and evidence do not conform to the requirements of the ADA related regulations. The applicant has failed to prove that it can apply for an anti-dumping investigation on behalf of domestic industry. They lack legal and factual basis that the prices of Chinese exports because of market distortions are unreliable and the applicant required to construct the Normal Value. The applicant did not provide positive evidence of injury, and the injury claim is untenable. Accordingly, TRA shall reject the application and withdraw the case and the ongoing investigation.