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The Commissioner of the Anti-Dumping Commission
Anti-Dumping Commission
55 Collins Street
Melbourne VIC 3000

**Application for an accelerated review in respect of certain aluminium
extrusions exported by Foshan Shunde Beijiao Jiawei Aluminium
Factory**

Dear Commissioner,

I act on behalf of Foshan Shunde Beijiao Jiawei Aluminium Factory (Jiawei), a producer and exporter of certain aluminium extrusions from the People's Republic of China.

Please find attached an application for an accelerated review of the variable factors applying to exports of certain aluminium extrusions by Jiawei.

If you have any questions concerning the application, please do not hesitate to contact me directly.

Yours sincerely

John Bracic

PUBLIC VERSION

APPLICATION FOR ACCELERATED REVIEW

FOSHAN SHUNDE BEIJIAO JIAWEI ALUMINIUM FACTORY

1. Description of the goods to which the notice relates.

The Anti-Dumping Commission's (the Commission) previously completed Report No. 248 describes the goods as follows:

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

The goods include aluminium extrusion products that have been further processed or fabricated to a limited extent, after aluminium has been extruded through a die. For example, aluminium extrusion products that have been painted, anodised, or otherwise coated, or worked (e.g. precision cut, machined, punched or drilled) fall within the scope of the goods.

The goods do not extend to intermediate or finished products that are processed or fabricated to such an extent that they no longer possess the nature and physical characteristics of an aluminium extrusion, but have become a different product.

2. Grounds for review

Exports prior to the Statement of Essential Facts

A new exporter may request an accelerated review of a dumping duty notice, in so far as that notice affects that exporter.

New exporter is defined under section 269T of the *Customs Act 1901* (the Act) as:
an exporter who did not export such goods to Australia at any time during the period:

- (a) Starting at the start of the investigation period in relation to the application;*
- and*
- (b) Ending immediately before the day the Commissioner places on the public record the statement of essential facts in relation to the investigation of the application.*

Foshan Shunde Beijiao Jiawei Aluminium Factory (Jiawei) has not engaged in the exportation of aluminium extrusions to Australia between the relevant period 1 July 2008 to 28 February 2010.

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Related to investigated exporters

The Commissioner may reject the application if satisfied in accordance with subsection 269ZE(2)(b) that:

the exporter is related to an exporter whose exports were examined in relation to the application for publication of that notice; [emphasis added]

Jiawei can confirm that it is not related to any 'exporter whose exports were examined in relation to the application for publication of the notice'.

Grounds for review

As outlined in the Commission's Dumping and Subsidy Manual, it is not required for a new exporter to have already exported a minimum quantity of the subject goods to Australia. This is supported by the findings of the WTO Panel and upheld by the Appellate Body which examined whether Article 9.5 of the Anti-Dumping Agreement subjected the right to an expedited new shipper review to a showing of a "representative" volume of export sales. The Panel found that:

Article 9.5 of the AD Agreement provides that the authorities shall promptly carry out a review, provided that the exporters or producers who have not exported the product subject to a duty during the period of investigation can show that they are not related to any of the exporters or producers in the exporting country who are subject to the anti-dumping duties on the product. In sum, in case a producer or exporter which (i) has not exported the product to the country concerned during the period of investigation and (ii) is not related to an exporter or producer already subject to the duty requests a new shipper review, the authority is required to promptly carry out such a review.

As outlined above, Jiawei complies with the two necessary conditions to seek an accelerated review and individual dumping and countervailing duty rates.

Jiawei seeks an accelerated review of the notice as it is currently subject to the country-wide combined dumping and countervailing duty rate of 48.5% as outlined in the attached public notice. This rate reflects the dumping and countervailing margins determined for non-cooperating exporters during the recent review period 1 April 2013 to 31 March 2014, which was based on the following:

- ascertained export price was based on the '*export price for the cooperative exporters that exhibited the highest quarterly dumping margin for a specific model.*'
- ascertained normal value was based on facts available having regard to all relevant information
- ascertain amount of countervailable subsidy received was based on facts available and determined that financial contributions conferring a benefit were received under 19 subsidy programs found to be countervailable.

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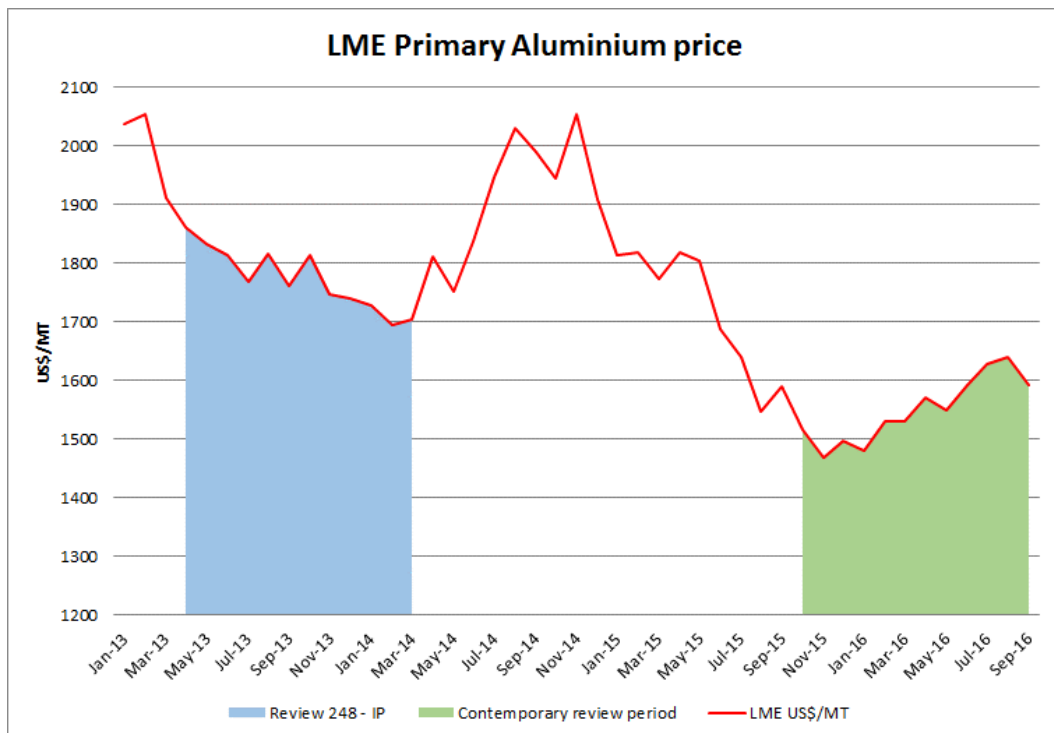
As Jiawei did not export the goods to Australia during the original investigation period or the more recent review period, it was not contacted and investigated by the Commission, and as such did not have the opportunity to participate in the original investigation and recent review and seek an individual determination of its ascertained variable factors. Given the methods used to determine the ascertained variable factors for non-cooperating exporters in Report 248, the imposed interim dumping and countervailing duties are clearly inappropriate and hindering Jiawei's ability to access the Australian market.

Therefore, Jiawei requests the determination of ascertained variable factors based on its own domestic sales, costs and other relevant financial information.

Benchmark primary aluminium

In Report No. 248, the Commission determined a benchmark price for primary aluminium by reference to the published LME monthly cash price. This benchmark was adjusted for additional charges and used to determine whether benefits were conferred under Program 15 and to uplift exporter's primary aluminium purchase costs in calculating constructed normal values.

The chart below shows the movement in monthly LME primary aluminium prices from January 2013 through to September 2016, which covers the review period from Report 248 and the proposed contemporary review period for the requested accelerated review. The chart shows that primary aluminium prices peaked during the period in November 2014 before steadily declining to the lowest monthly price in November 2015.



Source: www.indexmundi.com

PUBLIC VERSION

This movement in the price of LME primary aluminium reflects a 12.6% decline in value between the average price during the review period and the proposed contemporary review period. Jiawei considers that this further supports its view that the ascertained variable factors determined in Report 248 are no longer relevant.

Forms of duty

Jiawei notes that the current interim dumping duties are in the form of a combination of fixed and variable duty. In circumstances where export price cannot be determined due to the lack of exports during the review period, and where the costs and prices of the goods is so heavily determined by the prevailing primary aluminium prices, Jiawei requests an ad valorem duty be imposed, to be expressed as a proportion and applied to the declared export prices of futures exportations.

Yours sincerely

John Bracic