

To The Commissioner of the Australian Anti-Dumping Commission
Date 6 March 2017
Subject Application for an accelerated review in respect of certain aluminium extrusions exported to Australia by GOOMAX METAL CO., LTD FUJIAN

Dear Commissioner

We act for GOOMAX METAL CO., LTD FUJIAN (**Goomax**), a manufacturer and exporter of certain aluminium extrusions from the People's Republic of China.

We are instructed to lodge this application for an accelerated review of the dumping duty and countervailing duty notices (Anti-Dumping Notice 2015/96 and Anti-Dumping Notice 2015/125) (**Notices**) in respect of certain aluminium extrusions exported to Australia by Goomax and its related bodies corporate. (**Application**)

1. Description of the Goods subject to the Dumping Duty and Countervailing Duty Notices

The Goods subject to the Notices are described in REP 248 and REP 287 (**Reports**) 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 Reports have further clarified:

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. 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.

The Reports have provided the following examples of goods under consideration (**GUC**) and those not under consideration:

< GUC >				< Non GUC >		
1	2	3	4	5	6	7
Aluminium extrusions	Aluminium extrusions with minor working	Aluminium extrusions that are parts intended for use in intermediate or finished products	Aluminium extrusions that are themselves finished products	Unassembled products containing aluminium extrusions, e.g. 'kits' that at time of import comprise all necessary parts to assemble finished goods	Intermediate or partly assembled products containing aluminium extrusions	Fully assembled finished products containing aluminium extrusions
< Examples >						
Mill finish, painted, powder coated, anodised, or otherwise coated aluminium extrusions	Precision cut, machined, punched or drilled aluminium extrusions	Aluminium extrusions designed for use in a door or window	Carpet liner, fence posts, heat sinks	Shower frame kits, window kits, unassembled unitised curtain walls	Unglazed window or door frames	Windows, doors

2. Grounds for the Application

2.1 *Goomax is a "new exporter" within the meaning of Section 269T(1) of the Customs Act 1901 (Act).*

Division 6 of the Act provides a statutory entitlement for a "new exporter" to apply for an accelerated review of a dumping or countervailing duty notice in so far as it affects that exporter. As a result of the Notices, Goomax is currently subject to the country-wide combined dumping duty and countervailing duty rate of 48.5% (**Duties**).

A "new exporter" is:

in relation to goods the subject of an application for a dumping duty notice or a countervailing duty notice or like goods, ... an exporter who did not export such goods to Australia at any time during the investigation period in relation to the application.
(Section 269T(1) of the Act)

An "investigation period" is:

in relation to an application for a dumping duty notice or a countervailing duty notice in respect of goods, ... a period specified by the Commissioner in a notice under subsection 269TC(4) to be the investigation period in relation to the application.

Subsection 268TC(4) of the Act requires the Commissioner to specify the period of investigation in relation to an application in a public notice that initiates the investigation. In this case the investigation period specified by the Commissioner was 1 July 2008 to 30 June 2009.

Goomax is a "new exporter" as it did not export the GUC or like goods to Australia at any time during the investigation period.

2.2 *Goomax did not refuse to cooperate and is not related to an exporter subject to the Notices*

An application for an accelerated review may be rejected if the Commissioner is satisfied that the exporter:

- (a) was not investigated in the investigation relating to publication of the notice because that exporter refused to cooperate; or
- (b) is related to an exporter whose exports were examined in relation to the application for publication of that notice.

Goomax was not investigated during the dumping and subsidy investigation because it did not export the GUC to Australia during the investigation period.

Goomax also confirms that it is not related to any exporter subject to the Notices.

Accordingly, Goomax submits that there are no grounds for its application for an accelerated review to be rejected.

2.3 Variable factors

The Duties that apply to non-cooperative exporters should not apply to Goomax as the variable factors relating to Goomax's domestic sales, costs and other relevant financial information are materially different.

Under EPR 248, the variable factors applicable to uncooperative exporters were established on the following basis:

- normal values were established under section 269TAC(6) of the Act that included an uplift to the constructed normal value for cooperative exporters based on the average monthly London Metal Exchange official price data to primary aluminium costs. This uplift in the constructed normal value for cooperative exporters was also applied for the calculation of the normal value for uncooperative exporters; and
- 19 countervailable subsidies were found to have conferred benefits to uncooperative exporters.

Under EPR 287, the Commissioner determined that these variable factors remained unaltered.

We submit that these variable factors do not apply to Goomax's exports of the GUC to Australia. In particular, they fail to take into account on and do not reflect Goomax's actual domestic sales, its costs of production, nor the subsidies (if any) it receives and other relevant information concerning its exports of the GUC to Australia.

On 11 March 2016, Goomax lodged an application for an accelerated review of the Notices requesting for a determination of the variable factors identified above (Original Accelerated Review). In its final report (REP 347) to the Parliamentary Secretary, the Commission recommended that the Notices remain unchanged in so far as they affect Goomax. The

Parliamentary Secretary accepted the recommendations but stated that “Goomax may apply again for an accelerated review” (ADN 2016/61).

In REP 347, the Commission’s recommendations to the Parliamentary Secretary, as far as normal value is concerned, were predominantly based on a finding that the information provided by Goomax in relation to the allocation of costs among different finish types was deficient. However, the Commission did not deny the fact that Goomax was fully cooperative in the Original Accelerated Review and provided all information requested in the exporter questionnaire and the supplementary exporter questionnaire. Nor did the Commission question Goomax’s response to the exporter questionnaire that Goomax’s “accounting practices are in accordance with China’s generally accepted accounting practices”. Rather, the Commission acknowledged that Goomax did provide information in relation to cost allocation including, for example, “a worksheet showing the breakdown of production costs within its various cost centres”, and “aggregated production costs and production volumes from a particular cost centre”. Thus, it seems that the only “deficiency” identified by the Commission in the Original Accelerated Review had to do with an apparent lack of evidence in support of the information on cost allocation that Goomax provided, which was due to its then accounting system.

By improving its cost accounting system, Goomax started separately costing the goods and like goods by different finish types since January 2016. Accordingly, the costing of the goods meets the Commission’s requirements. Goomax, therefore, requests an accelerated review to determine the variable factors relevant to its domestic sales, cost of production and other relevant financial information and suggests the investigation period to be from 1 January 2016 to 31 December 2016. Goomax is willing to provide any evidence that the Commission found to be “deficient” in the Original Accelerated Review to assist the Commission’s review and, of course, will fully cooperate with the Commission, as it did in the Original Accelerated Review.

Please contact us if you have any queries.



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