

PUBLIC RECORD



Australian Government
**Department of Industry,
Innovation and Science**

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

STATEMENT OF ESSENTIAL FACTS NO. 304

**REVIEW OF ANTI-DUMPING MEASURES APPLYING TO
CERTAIN ALUMINIUM EXTRUSIONS
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA
BY
PRESS METAL INTERNATIONAL LTD.**

1 December 2015

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ABBREVIATIONS

ABF	Australian Border Force
the Act	The <i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
the applicant	Press Metal International Ltd.
China	The People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
the goods	the goods the subject of the application (also referred to as the goods under consideration)
Inquiry 287	Inquiry into the Continuation of Anti-Dumping Measures Applying to Aluminium Extrusions No. 287
LME	London Metal Exchange
NIP	Non-injurious price
the Parliamentary Secretary	the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
PMI	Press Metal International Ltd.
The Regulations	<i>Customs (International Obligations) Regulations 2015</i>
Review 248	Review of Anti-Dumping Measures No. 248
Review period	1 July 2014 to 30 June 2015
SEF	Statement of Essential Facts
SG&A	Selling, general and administrative costs
VAT	Value added tax

1 SUMMARY

1.1 Introduction

This statement of essential facts (SEF) sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base his recommendations to the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary)¹ in relation to a review of the anti-dumping measures applying to certain aluminium extrusions² (aluminium extrusions) exported to Australia from the People's Republic of China (China).

This review of measures is in response to an application from Press Metal International Ltd. (referred to as the applicant or PMI) for a review of the anti-dumping measures (in the form of a dumping duty notice and a countervailing duty notice) applying to aluminium extrusions exported to Australia from China in so far as the anti-dumping measures affect the applicant.

The application for review is based on a change in the variable factors³ relevant to the taking of the anti-dumping measures in relation to the applicant. The applicant claims that the normal value, export price, the non-injurious price and the amount of countervailable subsidy received in respect of the goods have changed.

1.2 Legislative background

Division 5 of Part XVB of the *Customs Act 1901* (the Act)⁴ sets out, among other things, the procedures to be followed by the Commissioner in dealing with an application for review of anti-dumping measures.

Division 5 empowers the Commissioner to reject or not reject an application for review of anti-dumping measures. If the Commissioner does not reject the application, he is required to publish a notice indicating that it is proposed to review the measures covered by the application.⁵

¹ On 23 December 2014, the then Minister for Industry and Science delegated his powers and functions under Part XVB of the *Customs Act 1901* to the Parliamentary Secretary to the Minister for Industry and Science. On 20 September 2015, the Department of Industry and Science became the Department of Industry, Innovation and Science. The titles of the Minister and Parliamentary Secretary also changed to the Minister for Industry, Innovation and Science, and the Parliamentary Secretary to the Minister for Industry, Innovation and Science. On 20 September 2015, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Science.

² Refer to section 3.3 of this report for a full description of the goods.

³ Subsection 269T(4E).

⁴ A reference to a division, section or subsection in this report is a reference to a provision of the *Customs Act 1901*, unless otherwise specified.

⁵ Subsection 269ZC(4).

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The Commissioner must, within 110 days after the publication of the notice or such longer period as the Parliamentary Secretary allows, place on the public record a statement of the facts (this SEF) on which the Commissioner proposes to base his recommendation to the Parliamentary Secretary in relation to the review of measures.⁶

1.3 Findings

The Commissioner has found that, in relation to exports of aluminium extrusions to Australia from China by PMI during the review period (1 July 2014 to 30 June 2015):

- the ascertained export price has changed;
- the ascertained normal value has changed; and
- the amount of countervailable subsidy received has changed.

1.4 Proposed recommendation

The Commissioner proposes to recommend to the Parliamentary Secretary that the dumping duty notice and the countervailing duty notice have effect in relation to PMI as if different variable factors had been ascertained.

⁶ Subsection 269ZD(1).

2 BACKGROUND

2.1 Application and initiation

On 2 July 2015, PMI lodged an application requesting a review of the anti-dumping measures as they apply to its exports of aluminium extrusions to Australia from China. PMI's application claimed that variable factors relevant to the taking of the anti-dumping measures have changed.

Following consideration of the application, the Commissioner decided not to reject the application and initiated a review of the anti-dumping measures applying to aluminium extrusions exported to Australia from China in so far as the anti-dumping measures affect the applicant.

Notification of the initiation of the review was made in *The Australian* newspaper on 13 August 2015 and in Anti-Dumping Notice (ADN) No. 2015/99.

Consideration Report No. 304 was published on the Anti-Dumping Commission's (the Commission's) website detailing the reasons for not rejecting the application.

2.2 Recent cases relating to aluminium extrusions

Review of anti-dumping measures – Review 248 (2015)

On 12 June 2014, the Commissioner initiated a review of the anti-dumping measures in respect of aluminium extrusions exported from China by all exporters following an application by PanAsia Aluminium (China) Co., Ltd. Notification of the initiation of the review was made in *The Australian* newspaper on 12 June 2014 and ADN No. 2014/46.

On 19 August 2015, the Parliamentary Secretary published a notice declaring the outcome of the review.

Anti-dumping measures applying to exports of certain aluminium extrusions from China were altered as if different variable factors had been ascertained. A variation to this notice was published on 10 September 2015 with respect to six entities incorrectly identified as residual exporters.⁷

Inquiry into the continuation of anti-dumping measures applying to aluminium extrusions – Inquiry 287 (2015)

On 27 January 2015, the Commission published a notice in *The Australian* newspaper inviting certain interested parties to apply for the continuation of the anti-dumping measures in relation to aluminium extrusions exported to Australia from China. Anti-dumping measures applying to aluminium extrusions exported to Australia from China were due to expire on 28 October 2015.

⁷ This variation only affected the six entities incorrectly categorised as residual exporters and did not affect any other aspect of the notice. The variation is taken to have effect from 19 August 2015.

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On 27 March 2015, Capral Limited, a manufacturer of aluminium extrusions in Australia, lodged an application for the continuation of the anti-dumping measures.

Following consideration of the application, the inquiry was initiated and public notification of the inquiry was made in *The Australian* newspaper on 24 April 2015.

On 14 October 2015, the Parliamentary Secretary decided to secure the continuation of the anti-dumping measures applying to aluminium extrusions exported from China. The Parliamentary Secretary determined that the dumping duty notice and the countervailing duty notice continue in force after 28 October 2015 for a period of five years.

In making this decision to continue the anti-dumping measures applying to aluminium extrusions exported from China, the Parliamentary Secretary determined that:

- the variable factors of export price, normal value and amount of countervailable subsidy received determined following Review 248 remain unaltered; and
- the full dumping and subsidy margins determined in Review 248 be applied to any interim dumping duty and interim countervailing duty taken in relation to aluminium extrusions exported to Australia from China, using her discretion to not have regard to the desirability of fixing a lesser amount of duty that does not exceed the non-injurious price (NIP), and therefore, the NIP was determined to have no future application.

Noting that these cases also considered the export of aluminium extrusions from China, the Commissioner considers the findings made in these cases to be relevant to this review.

2.3 Current measures

For the purposes of this review, the current notices are the dumping duty and countervailing duty notices published on 19 August 2015.

Further, as the Parliamentary Secretary has determined not to have regard to the desirability of fixing a lesser amount of duty that does not exceed the NIP (refer section 2.2 of this report), the Commissioner will not review the NIP nor have regard to the NIP in determining interim duty payable by PMI.

In Review 248, PMI agreed to cooperate with the review however it was not selected as part of the sampled exporters. PMI was therefore categorised as a 'residual exporter' for the purposes of Review 248, and the variable factors relevant to that category of exporters was used to determine the rate of anti-dumping measures applicable to exports of aluminium extrusions by PMI.

PMI is listed as a 'Residual Exporter (Group 1)' in Table 4 of the Dumping Commodity Register.⁸

⁸ Available on the Commission's website at www.adcommission.gov.au.

2.4 Review process

If anti-dumping measures have been taken in respect of certain goods, an affected party may consider it appropriate to review those measures as they affect a particular exporter or exporters generally. Accordingly, the affected party may apply for,⁹ or the Parliamentary Secretary may request that the Commissioner conduct,¹⁰ a review of those measures if one or more of the variable factors has changed.

The Parliamentary Secretary may initiate a review at any time. However, a review application must not be lodged earlier than 12 months after publication of the notice imposing the original anti-dumping measures or the notice(s) declaring the outcome of the last review.¹¹

If an application for a review of anti-dumping measures is received and not rejected, the Commissioner has up to 155 days, or such longer time as the Parliamentary Secretary may allow, to conduct a review and report to the Parliamentary Secretary on the review of the anti-dumping measures.¹²

During the course of a review, the Commissioner will examine whether the variable factors have changed.

Variable factors in this particular review are a reference to:

- the ascertained export price;
- the ascertained normal value; and
- the amount of countervailable subsidy received in respect of the goods.

Within 110 days of the initiation of a review, or such longer time as the Parliamentary Secretary may allow, the Commissioner must place on the public record a SEF on which he proposes to base recommendations to the Parliamentary Secretary concerning the review of the anti-dumping measures.¹³

⁹ Subsection 269ZA(1).

¹⁰ Subsection 269ZA(3).

¹¹ Subsection 269ZA(2)(a).

¹² Subsection 269ZDA(1).

¹³ Subsection 269ZD(1).

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In making recommendations in his final report to the Parliamentary Secretary, the Commissioner must have regard to:¹⁴

- the application for review of the anti-dumping measures;
- any submission relating generally to the review of the anti-dumping measures to which the Commissioner has had regard for the purpose of formulating the SEF;
- this SEF; and
- any submission made in response to this SEF that is received by the Commissioner within 20 days of it being placed on the public record.

The Commissioner may also have regard to any other matter considered to be relevant to the review.¹⁵

At the conclusion of the review, in respect of the dumping duty notice and the countervailing duty notice, the Commissioner must provide a final report that makes a recommendation to the Parliamentary Secretary that the dumping duty notice and the countervailing duty notice:¹⁶

- remain unaltered;
- be revoked in its application to a particular exporter or to a particular kind of goods or revoked generally; or
- have effect, in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained.

Following the Parliamentary Secretary's decision, the Parliamentary Secretary must give notice of the decision.¹⁷

2.5 Responding to this SEF

This SEF sets out the essential facts on which the Commissioner proposes to base his final recommendations to the Parliamentary Secretary.

The SEF represents an important stage in the review as it informs interested parties of the facts established and allows them to make submissions in response to the SEF.

¹⁴ Subsection 269ZDA(3)(a).

¹⁵ Subsection 269ZDA(3)(b).

¹⁶ Subsection 269ZDA(1)(a).

¹⁷ Subsection 269ZDB(1).

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It is important to note that the SEF may not represent the final views of the Commissioner. The final report will recommend whether or not the dumping duty notice and countervailing duty notice should be varied, and the extent of any interim duties that are, or should be, payable.

Interested parties are invited to lodge written submissions in response to this SEF no later than the close of business on **21 December 2015**. The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Parliamentary Secretary.¹⁸

The Commissioner must report to the Parliamentary Secretary on or before 15 January 2016.

Submissions should preferably be emailed to operations4@adcommission.gov.au. Submissions may also be sent to fax number +61 3 8539 2499, or mailed to:

The Director
Operations 4
Anti-Dumping Commission
GPO Box 1632
Melbourne VIC 3001
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the public record. A guide for making submissions is available on the Commission's website at www.adcommission.gov.au.

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. The public record can be viewed online at www.adcommission.gov.au.

Documents on the public record should be read in conjunction with this SEF.

¹⁸ Subsection 269ZDA(4).

3 THE GOODS AND LIKE GOODS

3.1 Findings

The Commissioner considers that aluminium extrusions manufactured by the Australian industry are 'like' goods as defined in subsection 269T(1) of the Act.

3.2 Legislative framework

The Commissioner must be satisfied that 'like' goods to the goods the subject of the anti-dumping measures are produced in Australia.

Subsection 269T(2) specifies that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In accordance with subsection 269T(3), for goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of those goods must be carried out in Australia.

3.3 The goods subject to the anti-dumping measures

The goods subject to the anti-dumping measures (the goods) are:

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.

3.4 Tariff classification

The goods subject to the anti-dumping measures may be classified to the following tariff subheadings in Schedule 3 of the *Customs Tariff Act 1995*:

7604.10.00/06	non-alloyed aluminium bars, rods and profiles
7604.21.00/07	aluminium alloy hollow angles and other shapes
7604.21.00/08	aluminium alloy hollow profiles
7604.29.00/09	aluminium alloy non hollow angles and other shapes
7604.29.00/10	aluminium alloy non hollow profiles
7608.10.00/09	non-alloyed aluminium tubes and pipes
7608.20.00/10	aluminium alloy tubes and pipes
7610.10.00/12	doors, windows and their frames and thresholds for doors
7610.90.00/13	Other

The goods exported to Australia from China are subject to a 5 per cent rate of customs duty.

3.5 Like goods produced by the Australian industry

During the original investigation, the then Australian Customs and Border Protection Service found that:

- there was an Australian industry producing like goods;
- a substantial process of manufacture was carried out in Australia in producing the like goods; and
- there was an Australian industry consisting of eight companies that produce like goods in Australia.

In Review 248 and Inquiry 287, it was found that there is an Australian industry producing like goods. The Commission has not received any information during the course of this review to indicate otherwise. The Commissioner remains satisfied that there is an Australian industry producing like goods.

3.6 Like goods produced and sold in China by PMI

Based on the information provided by PMI in its response to the exporter questionnaire, the Commission is satisfied that the aluminium extrusions PMI sold on the domestic market in China possess similar physical characteristics, have similar uses, and have similar manufacturing processes to the aluminium extrusions subject to the dumping duty notice and countervailing duty notice.

4 EXPORTER INFORMATION

4.1 Findings

The Commission is satisfied that the information provided by PMI for the purposes of this review is accurate, relevant and complete.

4.2 Exporter questionnaire

The Commission provided PMI with an exporter questionnaire to complete.

PMI has provided detailed information and data in its response to the exporter questionnaire, including data relating to its domestic sales, cost to make and sell and subsidies received. PMI has also provided additional information when requested.

4.3 Accuracy, relevance and completeness of information supplied by PMI

The Commission elected not to conduct an on-site verification of the information and data provided in PMI's response to the exporter questionnaire. PMI has cooperated with the review and has provided detailed financial data in response to its exporter questionnaire.

The Commission has various other means for testing the accuracy, relevance and completeness of data to a satisfactory level. A number of tests have been undertaken on PMI's data for the purpose of this review. Based on these testing methods, the Commission is satisfied as to the accuracy, relevance and completeness of the data provided by PMI upon which the findings of this review are based. The key tests undertaken by the Commission in relation to the data submitted by PMI are outlined below.

Comparison to data verified in Review 248

The Commission has, where possible, compared the data provided by PMI to data provided by exporters of aluminium extrusions from China and verified by the Commission for the purposes of Review 248. Further, the Commission has compared the data provided by PMI to its data that was previously verified as part of a duty assessment in 2011.

The Commission benchmarked key variables, such as unit costs, to verified data from exporters selected for the purposes of Review 248. Based on this analysis, the Commission is satisfied as to the reasonableness of the cost to make and sell data provided by PMI.

Australian Border Force (ABF) import database

PMI stated that it did not export the goods to Australia during the review period. The Commission's analysis of the ABF import database and additional information provided by PMI confirms that PMI did not export the goods to Australia during the review period.

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Verification to source documents

To verify the accuracy of PMI's domestic sales data, the Commission selected eight sales transactions and requested that PMI submit source documents to verify the sales data.

For each selected transaction, the Commission obtained copies of the commercial invoices, accounts receivable ledgers and proof of payment (i.e. bank statements). The information in the commercial documentation was consistent with the information presented in PMI's exporter questionnaire response, and the Commission is satisfied as to the accuracy of PMI's domestic sales data.

Verification to audited financial statements

The Commission undertook verification of PMI's data (relating to its domestic sales and subsidies received) to PMI's audited financial statements and is satisfied as to the relevance and completeness of PMI's domestic sales and subsidies data.

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5 VARIABLE FACTORS – DUMPING DUTY NOTICE

5.1 Findings

The Commissioner finds that the variable factors relevant to the taking of anti-dumping measures in relation to aluminium extrusions exported to Australia by PMI have changed.

The Commissioner proposes to recommend to the Parliamentary Secretary that the dumping duty notice have effect in relation to PMI as if different variable factors, the export price and the normal value, had been ascertained.

5.2 Export price

PMI did not export the goods to Australia during the review period. As such, sufficient information is not available to determine the export price of the goods using:

- the price paid or payable by the importer;¹⁹
- the price at which the goods were sold by the importer in Australia less prescribed deductions;²⁰ or
- the price having regard to all the circumstances of the exportation.²¹

Therefore, the Commission considers it appropriate to determine an export price, for the purposes of this review, under subsection 269TAB(3) having regard to all relevant information.²² Specifically, the Commission considers it appropriate to determine the ascertained export price to be the same amount as that determined to be the normal value for the purposes of this review. This price is at ex-works delivery terms. The Commission may update this price to reflect free-on-board delivery terms in the final report should reliable information become available.

5.3 Normal value

5.3.1 Particular market situation

In Review 248, it was established that, in line with subsection 269TAC(2)(a)(ii) of the Act, a situation exists in the domestic Chinese aluminium extrusions market that renders domestic selling prices in that market unsuitable for the purpose of determining the normal value for aluminium extrusions under subsection 269TAC(1).

The reasons for this finding are contained in *Anti-Dumping Commission Report No. 248 – Non-Confidential Appendix 1 – Market Situation Assessment*.

¹⁹ Subsection 269TAB(1)(a).

²⁰ Subsection 269TAB(1)(b).

²¹ Subsection 269TAB(1)(c).

²² Subsection 269TAB(3).

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For this review, the Commission has not found any information that suggests that the findings in Review 248 (in relation to the market situation in China) have changed and therefore the Commission has not departed from the approach taken in Review 248. In line with these findings, the normal value of the goods has been ascertained under subsection 269TAC(2)(c).

5.3.2 Constructed normal value

Subsection 269TAC(2)(c) provides that, where the normal value cannot be ascertained under subsection 269TAC(1), the normal value of the goods is to be calculated as:

- the cost of production of the goods in the country of export; and
- on the assumption that the goods had been sold for home consumption in the ordinary course of trade in the country of export, the administrative, selling and general costs associated with such a sale and the profit on that sale.

5.3.2.1 Cost of production

As noted above, subsection 269TAC(2)(c) requires that the cost of production of the goods be used in determining constructed normal values. As PMI has made no export sales of the goods during the review period, the company does not have a cost to manufacture the goods during the period for the purposes of this review. The Commission instead considers it reasonable to use PMI's cost to make and sell for like goods sold domestically during the review period for the purpose of constructing normal values.

As required by subsection 269TAC(5A)(a), the cost to manufacture the goods (like goods) has been established in accordance with section 43 of the *Customs (International Obligations) Regulation 2015* (the Regulations).²³

During Review 248, it was concluded that, in determining the cost of manufacture of aluminium extrusions in China, the records of Chinese exporters of aluminium extrusions did not reasonably reflect competitive market costs associated with the production or manufacture of those goods, for the purposes of section 43 of the Regulations.

Specifically, the Commission found that:

...the Government of China has influenced the Chinese aluminium industry, and this influence is likely to have distorted competitive market conditions and both directly affected the price of the primary input used in the manufacture of aluminium extrusions, as well as likely affecting supply within the industry.

As a result, during Review 248, the Commission sought to replace the costs of primary aluminium (ingot and billet) for each Chinese exporter with a competitive market price for these inputs when constructing normal values for these exporters.

²³ Previously Regulation 180 of the *Customs Regulations 1926*. The *Customs Regulations 1926* were replaced by the *Customs Regulation 2015* and the *Customs (International Obligations) Regulation 2015* which became effective on 1 April 2015.

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Specifically, the Commission replaced each exporter's primary aluminium costs with contemporaneous London Metal Exchange (LME) cash prices plus other reasonable costs and charges.²⁴

Consistent with Review 248, the Commission considers that the costs of primary aluminium provided by PMI do not reasonably reflect competitive market prices. Therefore, the Commission considers that it is appropriate to replace PMI's primary aluminium costs with the LME price for primary aluminium during the review period plus other reasonable costs and charges. The reasonable costs and charges adopted for Review 248 have been used, except for the billet premium (applied to the LME to convert that aluminium to a billet form), which has been determined as an average aluminium billet premium for the 2014 calendar year. This LME-based price has been determined to represent a reasonably competitive market benchmark price for primary aluminium.

PMI's primary aluminium costs have been uplifted by the difference between the price actually paid by PMI for primary aluminium and the LME-based comparable competitive market benchmark price for primary aluminium (taking into account the applicable delivery terms and whether the primary aluminium is cast into ingots or billets).

The competitive market benchmark price used for the purpose of this review is at **Confidential Appendix 1**.

5.3.2.2 Selling, general and administrative costs (SG&A)

As required by subsection 269TAC(5A)(b) of the Act, in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the SG&A costs are to be established in accordance with section 44 of the Regulations.

PMI provided information on SG&A costs associated with the domestic sales of the goods subject to this review.

Consistent with the requirements of subsection 44(2) of the Regulations, the Commission was satisfied that the information in PMI's records are in accordance with the generally accepted accounting principles in the country of export, and the records reflect the SG&A costs associated with the sale of like goods in the country of export. The Commission worked out the SG&A amount for each quarter of the review period by using the information set out in the records.

5.3.2.3 Profit

As required by subsection 269TAC(5B), when ascertaining the normal value of the goods under subsection 269TAC(2)(c), the amount of profit included in the normal value is to be determined having regard to section 45 of the Regulations.

²⁴ Details of the competitive market benchmark price methodology applied can be found in *Anti-Dumping Commission Report No. 248*.

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Subsection 45(2) of the Regulations provides that, if reasonably possible, profit is to be determined as the profit made on like goods sold by the exporter domestically in the ordinary course of trade.

The Commission calculated a weighted average profit margin for the goods. The calculation of this profit margin was based on domestic sales of aluminium extrusions in the ordinary course of trade, the selling prices of which were compared to the company's domestic cost to make and sell those goods as reported in the company's response to the exporter questionnaire (prior to the amendments made to the cost of primary aluminium discussed above). This profit margin was applied to each quarter of the review period in constructing the normal value.

5.3.2.4 Adjustments

A positive adjustment to the normal value has been applied to account for the difference in the amount of residual value added tax (VAT) that would apply to export sales of the goods.²⁵ The residual amount has been calculated at the rate of 4 per cent, which is the full VAT rate of 17 per cent less the 13 per cent VAT rebate that applies to export sales of the goods.

5.3.3 Conclusion – normal value

Details of normal value calculations are at **Confidential Appendix 2**.

5.4 Dumping margin

For this review, as the ascertained export price is equal to the ascertained normal value, the dumping margin is zero.

²⁵ Subsection 269TAC(9).

6 VARIABLE FACTORS – COUNTERVAILING DUTY NOTICE

6.1 Findings

The Commissioner has determined that the amount of countervailable subsidy received by PMI has changed.

The Commissioner has determined that the subsidy margin applicable to PMI in the review period is 16 per cent.

The Commissioner proposes to recommend to the Parliamentary Secretary that the countervailing duty notice have effect in relation to PMI as if a different variable factor, the amount of countervailable subsidy received, had been ascertained.

6.2 Programs reviewed

The Commission requested that PMI provide data and information relating to all subsidies it received during the review period as part of its response to the exporter questionnaire.

After assessing all relevant information and the data provided by PMI, the Commission found that countervailable subsidies have been received in respect of the goods manufactured by PMI under the following countervailable subsidy²⁶ programs:

- Program 5 – Matching Funds for International Market Development for SMEs;
- Program 7 – Research & Development (R&D) Assistance Grant; and
- Program 15 – Aluminium provided at less than adequate remuneration.

These subsidy programs were found to be countervailable in the original investigation and subsequently in Review 248 and Inquiry 287. During the course of this review, the Commission has not found any information that indicates that these subsidy programs no longer exist nor that they are no longer countervailable.

The Commission has therefore determined that during the review period, PMI has received a benefit from a number of financial contributions in respect of the goods.²⁷

²⁶ Subsection 269T(1) and section 269TAAC.

²⁷ Subsection 269TACC(1).

6.2.1 Program 15 – Aluminium provided at less than adequate remuneration

In the original investigation and subsequently in Review 248, it was established that a countervailable subsidy program (Program 15) existed whereby the Government of China, through state-invested enterprises that were determined to be 'public bodies' for the purpose of section 269T, provided primary aluminium (the primary input used in the manufacture of aluminium extrusions) to manufacturers of aluminium extrusions at an amount reflecting less than adequate remuneration. The Commission has not found any information during the course of this review that suggests that this program no longer exists.

The Commission has quantified an amount of the countervailable subsidy for Program 15 by comparing the actual costs incurred by PMI for primary aluminium to the competitive market benchmark prices discussed in section 5.3.2.1 of this report.

However, when collecting the anti-dumping measures applicable to PMI's exports of aluminium extrusions, the Commission considers that, for the purposes of this review, this subsidy should not be countervailed because to do so would be double-counting the benefit received. This is because, where the ascertained export price is equal to the ascertained normal value, the maximum amount of the countervailable subsidy is equal to the difference between the actual cost of primary aluminium and the replacement cost of primary aluminium used in constructing the normal value (when measured on a weighted average basis). This difference has already been incorporated in the constructed normal value.

Therefore, in order to avoid any double-count of dumping duty and countervailing duty, the Commission has calculated a subsidy margin less the subsidy amount determined for Program 15.

6.3 Amount of countervailable subsidy received

The Commission calculated a subsidy margin with reference to the data and information provided by PMI. The subsidy margin is expressed as a percentage of the ascertained export price.

The subsidy margin applicable to PMI in the review period is 0.04 per cent (which excludes the benefit received under Program 15). This amount, when rounded, is 0.0 and therefore an interim countervailing duty rate of zero per cent should apply as a result.

The subsidy margin calculations are at **Confidential Appendix 3**.

7 NON-INJURIOUS PRICE

During Inquiry 287, the Commissioner found that two prescribed circumstances existed where the Parliamentary Secretary was not required to have mandatory regard to the desirability of fixing a lesser amount of duty (refer *Anti-Dumping Commission Report No. 278*).

Given these circumstances, the Commissioner noted that the Parliamentary Secretary was not required to have regard to the desirability of fixing a lesser amount of duty due to the operation of paragraphs 8(5BAAA)(a) and (c) and paragraphs 10(3DA)(a) and (c) of the Dumping Duty Act.

On 14 October 2015, the Parliamentary Secretary determined not to have regard to the desirability of fixing a lesser amount of duty.²⁸ Given the Parliamentary Secretary's decision, and given that the prescribed circumstances continue to exist, the Commissioner did not review the NIP and will not have regard to the NIP in determining the amount of interim duty payable by PMI.

²⁸ Refer ADN No. 2015/125.

8 FINDINGS AND PROPOSED RECOMMENDATIONS

8.1 Findings

The Commissioner has found that, in relation to exports of aluminium extrusions to Australia from China by PMI during the review period:

- the ascertained export price has changed;
- the ascertained normal value has changed; and
- the amount of the countervailable subsidy received has changed.

8.2 Proposed recommendation

The Commissioner proposes to recommend to the Parliamentary Secretary that the dumping duty notice and the countervailing duty notice have effect in relation to PMI as if different variable factors had been ascertained.²⁹

8.3 Effect of the review

The Commissioner proposes that the form of anti-dumping measures applicable to exports of aluminium extrusions by PMI be a combination of fixed and variable duty pursuant to sub-regulation 5(2) of the *Customs Tariff (Anti-Dumping) Regulation 2013*. This is consistent with the method used in the original dumping duty notice.

The interim dumping duty payable will comprise a fixed component that is zero,³⁰ and a variable component that will be payable if the actual export price (dumping export price or 'DXP') is below the ascertained export price which is a specified (confidential) amount per kilogram.

The Commissioner further proposes that interim countervailing duty of zero per cent apply to PMI.

A summary of the variable factors as they apply to PMI is at **Confidential Appendix 4**.

²⁹ Subsection 269ZDA(1)(a)(iii).

³⁰ For this review, as the ascertained export price is to be the same amount as that determined to be the ascertained normal value, the dumping margin is zero.

9 LIST OF APPENDICES AND ATTACHMENTS

Confidential Appendix 1	Aluminium benchmark price calculation
Confidential Appendix 2	Normal value calculation
Confidential Appendix 3	Subsidy margin calculation
Confidential Appendix 4	Summary of variable factors