



Australian Government
Department of Industry,
Innovation and Science

Anti-Dumping
Commission

Final report number: 347

Application for an accelerated review of the dumping duty notice and countervailing duty notice applying to

Certain aluminium extrusions exported from the People's Republic of China

Submitted by: Goomax Metal Co., Ltd

July 2016

Abbreviations

Abbreviations/short form	Full reference
ABF	Australian Border Force
Accelerated review period	1 January 2015 to 31 December 2015
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
the applicant	Gomax Metal Co., Ltd (also referred to in this report as Gomax)
aluminium extrusions	certain aluminium extrusions
Capral	Capral Limited
China	the People's Republic of China
CON 347	<i>Anti-Dumping Commission Consideration Report No. 347</i>
Commission	Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
ICD	interim countervailing duty
IDD	interim dumping duty
the Manual	<i>Anti-Dumping Commission Dumping and Subsidy Manual</i>
the notices	the dumping duty notice and the countervailing duty notice applying to certain aluminium extrusions exported to Australia from China
OCOT	ordinary course of trade
the Parliamentary Secretary	the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
Review 248	<i>Review of Measures No. 248</i>
REQ	Response to the exporter questionnaire
SG&A	selling, general and administrative costs

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1. Findings and recommendations

1.1. Introduction

This final report relates to an application by Goomax Metal Co., Ltd (Goomax) to the Anti-Dumping Commission (the Commission) seeking an accelerated review of the dumping duty notice and countervailing duty notice (the notices) applying to certain aluminium extrusions (aluminium extrusions) exported to Australia from the People's Republic of China (China) in so far as they relate to Goomax.

This report sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) is basing his recommendations to the Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary).¹

1.2. Applicable law

Division 6 of Part XVB of the *Customs Act 1901* (the Act)² provides for eligible parties to apply for an accelerated review. This Division, among other matters:

- sets out the procedures to be followed and the matters to be considered by the Commissioner in conducting accelerated reviews for the purpose of making a report to the Parliamentary Secretary; and
- empowers the Parliamentary Secretary, after consideration of such reports, to leave the notices unchanged or to modify them as appropriate.

1.3. Findings

The Commission considers that the data and information provided by Goomax as part of this accelerated review was insufficient and unreliable. The Commissioner concludes that it is not appropriate, having considered Goomax's data and other relevant information, to determine exporter specific variable factors for aluminium extrusions exported to Australia by Goomax.

1.4. Recommendations

Based on the above findings, the Commissioner, under subsection 269ZG(1)(a), recommends that the Parliamentary Secretary declare that the notices remain unchanged.

As a result, Goomax will remain subject to the "uncooperative and all other exporters" interim dumping duty (IDD) and interim countervailing duty (ICD) rates.³

If the Parliamentary Secretary accepts this recommendation, then the Parliamentary Secretary must, by notice published on the Commission's website, declare that for the purposes of the Act and the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act), the notices are to remain unchanged. The notice is at **Attachment 1**.

¹ 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 Unless stated otherwise, all legislative references in this report are to the *Customs Act 1901*.

³ The fixed component of ICD and IDD is a combined rate of 48.5 per cent and there is also a variable component of IDD payable equal to the difference between the actual export price and ascertained export price.

2. Background

2.1. The goods

2.1.1. Description

The goods the subject of the application (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.

The table below provides guidance to assist the categorisation of aluminium extrusions into the types covered by interim duties (also called the goods under consideration or GUC) and those that are not covered (Non GUC).

< 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 >				< 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

Table 1: Aluminium extrusion categories

2.1.2. Tariff classification

The goods are classified to the tariff subheadings and rates of duty as documented in Schedules 3 and 12 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 currently subject to Customs duty at rates ranging from 1.7 to 3 per cent.

2.2. The accelerated review process

If a dumping duty notice or a countervailing duty notice has been published in respect of certain goods, a new exporter, as defined in subsection 269T(1), may request an accelerated review of those measures in so far as they affect that exporter.

If an application for an accelerated review of anti-dumping measures is received and not rejected, the Commissioner has up to 100 days after the application is lodged to conduct its review and complete a report for the Parliamentary Secretary.⁴

Under subsection 269ZG(1), the Commissioner must, after considering the application and making such inquiries as the Commissioner thinks appropriate, recommend to the Parliamentary Secretary that the dumping duty notice and/or the countervailing duty notice the subject of the application:

- remain unchanged; or
- be altered so as to apply to the applicant as if different variable factors had been fixed.

Following the Parliamentary Secretary's decision, a notice is published on the Commission's website advising of the decision.

2.3. Existing measures

A history of the anti-dumping measures applying to aluminium extrusions exported to Australia from China is summarised below. This information is also available on the Commission's public record.

⁴ Subsection 269ZG(2)

PUBLIC RECORD

2009 – 2011:	<p>The then Australian Customs and Border Protection Service initiated an investigation, following an application from Capral Limited (Capral). The investigation resulted with the then Attorney-General publishing the notices (<i>Trade Remedies Branch Report No. 148</i> refers).</p> <p>Following a review by the former Trade Measures Review Officer, the then Attorney-General published new notices as a result of a reinvestigation of certain findings made in <i>Trade Remedies Branch Report No. 148</i>. <i>International Trade Remedies Report No. 175</i> refers.</p>
2013:	<p>The Federal Court ruled that dumping duty and countervailing duty notices cannot impose different variable factors for each finish of aluminium extrusion.⁵</p>
2015:	<p>The then Parliamentary Secretary to the Minister for Industry and Science published a notice declaring the outcome of <i>Review No. 248</i>. The notices were altered as if different variable factors had been ascertained for exporters generally.</p> <p>The Commission conducted a continuation inquiry (<i>Report No. 287</i> refers), following an application by Capral. The then Parliamentary Secretary continued the measures for a further five years, until 28 October 2020.</p>

Table 2: History of the anti-dumping measures

2.4. The current review

On 11 March 2016, Goomax lodged an application under subsection 269ZE(1) for an accelerated review of the notices in so far as the notices affect Goomax.

The Commission examined the application and considered that:

- the application was taken to have been lodged in accordance with subsection 269ZF(2);
- the circumstances in which an accelerated review can be sought under subsection 269ZE(1) have been satisfied;
- the conditions for rejection under subsection 269ZE(2) were not satisfied; and
- the application was in writing and contained a description of the kind of goods to which the notices relate and a statement of the basis on which Goomax considers that the notices are inappropriate in so far as it is concerned (subsection 269ZF(1)).

Accordingly, the Commissioner did not reject the application and commenced the accelerated review. The *Anti-Dumping Commission's Consideration Report No. 347* (CON 347) provides further details in relation to the Commission's consideration of the application and the Commissioner's decision. CON 347 should be read in conjunction with this report and is available on the public record.

The commencement of the accelerated review was publicly notified in Anti-Dumping Notice (ADN) No. 2016/31, which was published on 31 March 2016. The ADN is available on the public record.

⁵ *PanAsia Aluminium (China) Limited v Attorney-General of the Commonwealth* [2013] FCA 870.

For the purposes of the accelerated review the period the Commission examined is 1 January 2015 to 31 December 2015 (referred to as the accelerated review period).

2.5. Response to the exporter questionnaire

Following receipt of the application, the Commission sent an exporter questionnaire to Goomax for completion, with a due date of 27 April 2016. Goomax provided a response to the exporter questionnaire (REQ) on 28 April 2016. A non-confidential version of the REQ is available on the public record.⁶

Goomax's REQ contained information and data in relation to:

- company structure and organisational charts;
- ownership and related entities;
- product brochure;
- turnover, unaudited financial statements and income tax records;
- domestic sales;
- list of raw material purchases;
- domestic production and selling costs;
- production processes and production volumes.

The Commission elected not to conduct an on-site verification of the information and data provided in Goomax's REQ. 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 Goomax's data for the purpose of this accelerated review. Those tests include comparison of Goomax's data to data verified in previous investigations and reviews, data from the Australian Border Force (ABF) import database and verification of data to Goomax's cost accounting system and source documents.

The Commission reviewed the REQ and determined that it was deficient. The Commission notified Goomax of the deficiencies of the REQ on 17 May 2016 and requested that the deficiencies be addressed in a further response by no later than 24 May 2016. Goomax provided its further response on 31 May 2016.

Goomax' further response did not address the original deficiencies, to a satisfactory level, as key data and information that would allow the Commission to calculate different variable factors as they may apply to Goomax was not provided. The data and information provided by Goomax for purposes of the accelerated review is described further in Section 3.

2.6. Public record

There is no legislative requirement under Division 6 for the Commissioner to maintain a public record for accelerated reviews. However, in the interests of ensuring the process is conducted in an open and transparent manner, a public record for this accelerated review has been maintained and is accessible on the Commission's website at www.adcommission.gov.au.

⁶ Document No. 5 on the electronic public record

3. Variable factors

3.1. Findings

The Commissioner finds that it is not appropriate, having considered Goomax's data and other relevant information, to determine exporter specific variable factors for aluminium extrusions exported to Australia by Goomax.

In the absence of a reliable export price and normal value, the Commission was unable to calculate dumping or subsidy margins specific to Goomax.

3.2. Export price

During the accelerated review period, Goomax made one sale of the goods to Australia. The one sale was to a related-party importer, via a related-party trader. As the sale involved a purchase by the importer from an entity that was not the exporter, the export price cannot be determined under subsection 269TAB(1)(a) and (b).

The Commission examined the possibility of establishing export price under subsection 269TAB(1)(c), which requires regard to be given to the circumstances of the exportation.

A search of the ABF import database confirmed the details of the sale. Goomax also provided information and supporting evidence in respect of the sale. Notwithstanding, one sale offers limited scope to investigate the circumstances of the exportation and the variables affecting the sales price (e.g. prices to different customers, different levels of trade, the arms length nature of the sale etc.).

It is further noted that the volume of the sale was relatively immaterial. The one export sale represents less than one per cent of total domestic sales of like goods and less than half a per cent of total company sales of like goods. In this instance, the Commission considers that information from this one sale is not representative of export prices across the accelerated review period.⁷

In this instance and as discussed in the preceding paragraphs, the Commission cannot recommend to the Parliamentary Secretary that the information provided and the circumstances of the export sale provide a reliable basis for determining an export price specific to Goomax.⁸

As a result, the Commission considers that sufficient information is not available to determine the export price of the goods pursuant to subsection 269TAB(1).

The Commission considered whether an export price could be determined for the purposes of this accelerated review, having regard to all relevant information as provided for in subsection 269TAB(3). For example, in past accelerated reviews, where sufficient and relevant information existed, the Commission established floor prices by determining an exporter's export price as equal to its normal value. For the reasons set out below, this approach is not available in this instance.

The Commission considers that the most relevant information available is the export price currently applying to Goomax, i.e. the export price relating to 'uncooperative and all other exporters'. This would not require a change in variable factors. In the absence

⁷ A similar finding was made in *Anti-Dumping Commission Report No. 259*

⁸ For the purposes of section 269TAB, the Parliamentary Secretary may disregard any information that he or she considers unreliable pursuant to subsection 269TAB(4).

of more reliable information, the Commission has not calculated an export price specific to Goomax.

3.3. Normal value

3.3.1. Normal value based on exporter's domestic sales

In the recent *Review of Measures No. 248* (Review 248), it was established that, in accordance with subsection 269TAC(2)(a)(ii), 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 outlined in *Anti-Dumping Commission Report No. 248* at Non-Confidential Appendix 1 – Market Situation Assessment.

During this accelerated review, the Commission did not find any information to warrant a departure from the market situation finding in Review 248.⁹ Accordingly, the Commission is of the view that this finding is still relevant, and that the normal value cannot be established under subsection 269TAC(1).

The Commission's approach in Review 248, was to construct normal values for cooperating exporters pursuant to subsection 269TAC(2)(c).

3.3.2. 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 or manufacture of the goods in the country of export; and
- on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade (OCOT) in the country of export, the selling, general and administrative (SG&A) costs associated with such a sale and the profit on that sale.

As required by subsections 269TAC(5A) and 269TAC(5B), the costs of production or manufacture, the SG&A costs and profit are established in accordance with sections 43, 44 and 45 of the *Customs (International Obligations) Regulation 2015*, respectively.

Following receipt of the application, the Commission sent Goomax an exporter questionnaire to complete by 27 April 2016. Among other things, the exporter questionnaire requested that Goomax provide its production costs and production volumes in relation to the goods and like goods. Goomax's production costs and production volumes for the goods and like goods are necessary in the calculation of a constructed normal value.

Goomax submitted its REQ on 28 April 2016. The REQ stated that its cost accounting system does not separately account for the production costs and production volumes in a manner that differentiates between the goods, like goods and goods not subject to the notices.¹⁰

Consequently, the Commission considered that the REQ was deficient and requested that the above deficiency (along with other deficiencies) be addressed in a further response by 24 May 2016. The Commission also queried Goomax's inability to cost

⁹ This finding was also subsequently confirmed in *Continuation Inquiry No. 287*

¹⁰ Reference is made to section G of the REQ

the goods and like goods by different finish types, given that different finish types require different manufacturing process and incur different costs.

Goomax provided a further response on 31 May 2016. In this response, Goomax confirmed that separate production costs and volumes are not recorded in its cost accounting system. In its further response, Goomax provided (among other things) supporting evidence of the aggregated production costs and production volumes from a particular cost centre which included production costs and production volumes applicable to products that are not subject to the notices.

Goomax provided a worksheet showing the breakdown of production costs within its various cost centres. However, the basis of allocation was not provided. As such, the Commission was unable to verify the reasonableness of Goomax's allocations. The Commission also found that the production volumes provided in the REQ were taken from a monthly ledger of inventory. Given Goomax's previous claims regarding the limitations of its accounting system, it is unclear whether the monthly ledger of inventory includes products that are not subject to the notices. On the basis of the information contained in the further response, the Commission could not be assured that the production costs and production volumes of the goods and like goods were relevant, accurate and complete.

In its further response, Goomax confirmed that it does not separately cost the goods and like goods by different finish types. Goomax stated that, whilst it manufactures products with different finish types, the cost of different finishes is a small proportion of the total manufacturing costs. On the basis of the information provided, the Commission cannot verify Goomax's claims. In contrast, the Commission possesses verified information from past investigations and reviews which clearly demonstrates that different finish types incur substantially different costs. For example, anodised aluminium extrusions can be upwards of 20 per cent higher than mill finish aluminium extrusions. This cost difference reflects the higher costs required to conduct additional manufacturing processes. In addition, from past investigations and reviews, the Commission has observed that cooperating exporters routinely cost aluminium extrusions by finish type.

In the absence of such information, the Commission cannot accurately assess the true production costs of the goods and like goods and accurately determine the extent to which like goods sold were sold in the OCOT on the domestic market. This information is also relevant to determining the level of profit achieved for like goods.

On the basis of information before it, and noting the accelerated timeframes of an accelerated review, the Commission is not satisfied that the normal value can be established under subsection 269TAC(2)(c).¹¹

3.3.3. Third country sales

In accordance with subsection 269TAC(2)(d), in certain circumstances, the normal value can be based on comparable third country sales. Goomax sold like goods to a third country.

However, as outlined in Chapter 10 of the *Dumping and Subsidies Manual* (the Manual), in determining whether it is appropriate to do so, regard will be had to:

- whether the trade between the country of export and the third country is at arms length and in the OCOT;

¹¹ For the purposes of section 269TAC, the Parliamentary Secretary may disregard any information that he or she considers to be unreliable pursuant to subsection 269TAC(7).

- the volume of trade from the country of export to the selected third country is similar to the volume of trade from the country of export to Australia; and
- the nature of the trade in like goods between the country of export and the selected third country is similar to the nature of trade between the country of export and Australia (in considering “nature of trade” such things as the level of trade in a third country may be relevant).

Based on the information provided by Goomax, and for the reasons set out at sections 3.3.1 and 3.3.2, including the inability to accurately determine whether third country sales were arms length and in the OCOT, the above factors are not satisfied. Accordingly, the normal value cannot be established under subsection 269TAC(2)(d).

3.3.4. Normal value based on all relevant information

Subsection 269TAC(6) provides that where sufficient information has not been furnished or is not available to enable the calculation of normal value under preceding sections, the normal value may be determined having regard to all relevant information. Chapter 13.3 of the Manual lists examples of relevant information such as information from independent sources, information from other countries and earlier dumping investigations. The Commission does not have reliable information of the nature described in the Manual.

The Commission considers that the most relevant information available is the normal value currently applying to Goomax, i.e. the normal value relating to ‘uncooperative and all other exporters’. This would not require a change in variable factors.

In the absence of more reliable information, the Commission has not calculated a normal value specific to Goomax under subsection 269TAC(6).

3.3.5. Commissioner’s recommendation - normal value

The Commissioner has concluded that it is not appropriate, having regard to the circumstances of this accelerated review, to determine a normal value for aluminium extrusions exported to Australia by Goomax.

3.3.6. Dumping margin

As the Commission has not established an export price or normal value specific to Goomax, the Commission has not calculated a dumping margin for the purpose of this accelerated review.

3.4. Countervailable subsidies

Pursuant to subsection 269TAAC(1), based on information in Goomax’s REQ, the Commission considers that Goomax received countervailable subsidies during the accelerated review period.

Subsection 269TACD(1) specifies that the amount of countervailable subsidy received in respect of the goods is to be expressed as a percentage of the ascertained export price. In relation to the notices, the countervailable subsidies are expressed as a percentage of export price and a measure of the quantity of the goods.¹²

The findings outlined above at section 3.2 and 3.3.2 prevent the calculation of a subsidy margin.

¹² Subsection 10(3B)(c) of the Dumping Duty Act

3.5. Conclusion

The Commissioner concludes that it is not appropriate, having considered Goomax's data and other relevant information, to determine exporter specific variable factors for aluminium extrusions exported to Australia by Goomax.

4. Effect of the accelerated review

If the Parliamentary Secretary accepts the recommendations in this report, in respect of aluminium extrusions exported by Goomax to Australia from China:

- in accordance with subsection 269ZG(3)(a), the notices will remain unchanged; and
- Goomax will remain subject to the existing “uncooperative and all other exporters” ICD and IDD rates.

The Commission notes that if the recommendations in this report are accepted by the Parliamentary Secretary, Goomax may apply again for an accelerated review in accordance with subsection 269ZE(1).

5. Recommendation

The Commissioner recommends that the Parliamentary Secretary considers this report and if in agreement, sign the attached notice at **Attachment 1** to declare:

- in accordance with subsection 269ZG(3)(a), for the purposes of the Act and the Dumping Duty Act the notices remain unchanged.

The Commissioner recommends the Parliamentary Secretary **be of the opinion that:**

- in accordance with subsection 269TAB(4), information provided by Goomax as set out in chapter 3 is unreliable and therefore disregard that information; and
- in accordance with subsection 269TAC(7), information provided by Goomax as set out in chapter 3 is unreliable and therefore disregard that information.

6. Attachments

Attachments	Confidentiality	Title
Attachment 1	Public	Public notice