



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

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

FINAL REPORT NO. 399

**ACCELERATED REVIEW
OF THE DUMPING DUTY NOTICE AND COUNTERVAILING
DUTY NOTICE APPLYING TO CERTAIN ALUMINIUM
EXTRUSIONS EXPORTED FROM
THE PEOPLE'S REPUBLIC OF CHINA BY**

GOOMAX METAL CO. LTD., FUJIAN

14 JUNE 2017

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ABBREVIATIONS

ABF	Australian Border Force
accelerated review period	1 January 2016 to 31 December 2016
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
the applicant	Goomax Metal Co. Ltd., Fujian (Goomax)
China	the People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CON 399	<i>Consideration Report No. 399</i>
CTMS	Cost to make and sell
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
FOB	Free on board
the goods	the goods the subject of the accelerated review (also referred to as the goods under consideration)
GOC	Government of China
LME	London Metal Exchange
NIP	Non-injurious price
the notices	the dumping duty notice and countervailing duty notice
OCOT	ordinary course of trade
the Parliamentary Secretary	the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
REP 148	<i>Trade Remedies Branch Report No. 148</i>
REP 248	<i>Anti-Dumping Commission Report No. 248</i>
Review 248	<i>Review of Measures No. 248</i>
SEF	Statement of essential facts
SG&A	Selling, general and administrative costs
VAT	Value added tax

1 SUMMARY AND RECOMMENDATION

1.1 Background

This Accelerated Review No.399 is in response to an application from Goomax Metal Co. Ltd., Fujian (Goomax) seeking an accelerated review of the dumping duty notice and countervailing duty notice (the notices) in respect of certain aluminium extrusions (aluminium extrusions) exported to Australia from the People's Republic of China (China) in so far as the notices affect Goomax.

Goomax did not export aluminium extrusions to Australia during the investigation period for the original investigation and is therefore a 'new exporter' as defined in subsection 269T(1) of the *Customs Act 1901* (the Act).¹

1.2 Application of law to facts

Division 6 of Part XVB of the Act enables eligible parties to apply for an accelerated review of anti-dumping measures. This Division, among other matters:

- sets out the procedures to be followed and the matters to be considered by the Commissioner of the Anti-Dumping Commission (the Commissioner) in conducting accelerated reviews for the purpose of making a report to the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary);² and
- empowers the Parliamentary Secretary, after consideration of such report, to leave the dumping duty notice or countervailing duty notice unaltered or to alter them as appropriate.

1.3 Findings and conclusions

Based on all relevant and available information, the Commissioner has, in relation to the variable factors for Goomax's exports of aluminium extrusions to Australia, found that:

- the export price be determined under subsection 269TAB(3), having regard to all relevant information, being set equal to the normal value determined (Section 3 of this report refers);
- the normal value be constructed under subsection 269TAC(2)(c) in accordance with regulation 43, 44 and 45 of the *Customs (International Obligations) Regulations 2015* (the Regulations); and
- the amount of countervailable subsidy received has changed.

¹ All legislative references in this report are to the *Customs Act 1901* unless otherwise specified.

² On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of this accelerated review, the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

1.4 Recommendation

Based on the above findings and conclusions, the Commissioner, pursuant to subsection 269ZG(1), recommends that the Parliamentary Secretary alter the notices so as to apply to Goomax as if different variable factors had been fixed.

The Commissioner recommends that:

- the Parliamentary Secretary determine that interim dumping duty be worked out on Goomax's exports to Australia in accordance with the *floor price duty* method. If Goomax's actual export prices of aluminium extrusions are less than the ascertained exported price i.e. the floor price, the interim dumping duty will be equal to the difference between the actual export price and the ascertained export price; and
- the applicable countervailing duty rate is 0.2 per cent. While Goomax received three different countervailable subsidies during the accelerated review period, the subsidy margin for program 2 and program 26 combined is 0.2%. It is recommended that the subsidy margin found under program 15 (aluminium provided at less than adequate remuneration) not be countervailed as it has already been factored into the variable component of the interim dumping duty payable for Goomax.

If the Parliamentary Secretary accepts these recommendations, to give effect to the decision, the Parliamentary Secretary must declare (by signing and publishing the notice at **Non-Confidential Attachment 1**) that, with effect from the date the application is lodged, the Act and the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act) have effect as if the dumping duty notice and countervailing duty notice had applied to Goomax but the Parliamentary Secretary had fixed specified different variable factors relevant to the determination of duty payable by Goomax.

If accepted by the Parliamentary Secretary, the individual rates applicable to Goomax will take effect retrospectively from 6 March 2017 (the date the application was lodged).

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 (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 >						
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: Goods under consideration and like goods

2.1.2 Tariff classification

The goods are 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

Table 2: Aluminium extrusions tariff classifications

The goods exported to Australia from China are subject to a rate of Customs duty of 4 per cent.

2.2 Accelerated review process

If a dumping duty notice or a countervailing duty notice has been published in respect of certain goods, a new exporter, may request an accelerated review of that notice as it affects that particular exporter.³ A new exporter is defined in subsection 269T(1) as an exporter who did not export the goods to Australia during the investigation period in relation to the original application for anti-dumping measures.

If an application for an accelerated review of a dumping duty notice or countervailing duty notice is received and not rejected, the Commissioner has up to 100 days after the application is lodged to inquire and report to the Parliamentary Secretary on the accelerated review (subsection 269ZG(2)).

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 countervailing duty notice:

- remain unaltered; 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.

³ Subsection 269ZE(1)

2.3 Existing measures

A history of the anti-dumping measures applying to aluminium extrusions exported to Australia from China is summarised below.

24 June 2009	The then Australian Customs and Border Protection Service initiated an investigation into the alleged dumping and subsidisation of aluminium extrusions exported to Australia from China following an application by Capral Limited (Capral).
28 October 2010	The then Attorney-General published a dumping duty notice and a countervailing duty notice applying to aluminium extrusions exported from China - <i>Trade Remedies Branch Report No. 148</i> refers.
27 August 2011	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> following a review by the former Trade Measures Review Officer. <i>International Trade Remedies Report No. 175</i> refers.
21 November 2012	Publication of the outcome of a review of the anti-dumping measures as they apply to Wuxi Xisha Photoelectric Aluminium Products Co., Ltd. <i>International Trade Remedies Report No. 186</i> refers. Anti-dumping measures applicable to Wuxi Xisha Photoelectric Aluminium Products Co., Ltd. were altered as if different variable factors applied.
30 August 2013	The Federal Court ruled that dumping duty and countervailing duty notices cannot impose different variable factors for each finish of aluminium extrusion. ⁴
8 May 2014	Publication of the outcome of a review of anti-dumping measures as they apply to Alnan Aluminium Co., Ltd. Anti-dumping measures applicable to Alnan Aluminium Co., Ltd remained unaltered. <i>Final Report No. 229</i> refers.
19 February 2015	Publication of the outcome of an anti-circumvention inquiry into the avoidance of the intended effect of duty concerning certain aluminium extrusions exported to Australia by PanAsia Aluminium (China) Co., Ltd. <i>Final Report No. 241</i> refers.
19 August 2015	The then Parliamentary Secretary to the Minister for Industry and Science published a notice declaring the outcome of Review 248. Anti-dumping measures applying to exports of certain aluminium extrusions from China were altered as if different variable factors had been ascertained.
20 October 2015	The then Parliamentary Secretary published a notice declaring the outcome of continuation inquiry 287. In that notice, it was declared

⁴ *PanAsia Aluminium (China) Limited v Attorney-General of the Commonwealth* [2013] FCA 870

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	that anti-dumping measures currently applying to aluminium extrusions exported to Australia from China (as at that date) would continue in force after 28 October 2015. Anti-Dumping Notice (ADN) No. 2015/125 refers.
9 February 2016	Publication of the outcome of a review of anti-dumping measures as they apply to Press Metal International Ltd (PMI). The anti-dumping measures were altered as if different variable factors had been ascertained in relation to PMI. <i>Final Report No. 304</i> refers.
23 March 2017	The Commissioner initiated a review of measures investigation (INV 392) covering all exporters of aluminium extrusions from China. Anti-Dumping Notice ADN no. 2017/38 and CON 392 refers.

2.4 Notification and participation

On 6 March 2017, Goomax lodged an application for an accelerated review of the notices applying to aluminium extrusions exported to Australia from China in so far as the notices affect Goomax.

The Commissioner considered the application to determine if it was made in accordance with sections 269ZE and 269ZF. The Commissioner was satisfied that:

- 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 satisfies the requirements of subsection 269ZF(1).

Accordingly, the Commissioner did not reject the application. *Consideration Report No. 399* (CON 399) provides further details in relation to the Commissioner's consideration of the application. CON 399 should be read in conjunction with this report and is available on the Commission's website at www.adcommission.gov.au.

The commencement of this accelerated review was notified in ADN No. 2017/42, which was published on 27 March 2017 and made available on the Commission's website at www.adcommission.gov.au.

ADN No. 2017/42 advised that the Commissioner's recommendation to the Parliamentary Secretary will be made in a report on or before 14 June 2017.

For the purposes of the accelerated review, the period examined is 1 January 2016 to 31 December 2016 (herein referred to as the accelerated review period).

2.5 Exporter questionnaire response

2.5.1 Goomax's exporter questionnaire response

Upon the commencement of the accelerated review, the Commission sent an exporter questionnaire to Goomax to complete.

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On 24 April 2017, the Commission received a completed exporter questionnaire response from Goomax. A non-confidential version of this response is available on the public record.⁵

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

- company structure and organisation chart;
- business licence registration;
- product brochure;
- turnover, audited financial statements and income tax records;
- domestic sales with supporting documentation for sales;
- purchase of raw materials;
- domestic production and selling costs for aluminium extrusions;
- fixed asset list;
- supply of inputs including water and electricity; and
- production process and production volumes.

Goomax has co-operated with the accelerated review and has provided detailed financial data in its exporter questionnaire response within the required timeframe. The Commission elected not to conduct an on-site verification of the information and data provided in Goomax's exporter questionnaire response.

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 Review 248 and Accelerated Reviews 304 and 313;
- data from the Australian Border Force import database; and
- source documents including tax returns, financial statements and sales invoices.

In particular, the Commission sought clarification and further responses from Goomax in regards to a range of topics associated with its production and sale of aluminium extrusions and subsidy programs availed by it.

Goomax co-operated and provided responses to the queries within the set deadlines. The Commission is satisfied as to the accuracy, relevance and completeness of the data supplied by Goomax upon which the findings of this accelerated review are based.

2.6 Public record

There is no legislative requirement for the Commissioner to maintain a public record for accelerated reviews. However, in the interests of ensuring this process is conducted in an open and transparent manner, a public record for this accelerated

⁵ Document No. 5 on the electronic public record refers.

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review has been maintained and is accessible on the Commission's website at www.adcommission.gov.au.

3 EXPORT PRICE

3.1 Findings

The Commission has found that Goomax did not export the goods to Australia during the accelerated review period. As such, sufficient information is not available to determine the export price of the goods under subsection 269TAB(1). It is the Commission's view that application of subsection 269TAB(1) would require Goomax to have exported the goods to Australia. Since Goomax did not export the goods to Australia during the accelerated review period subsection 269TAB(1) cannot apply.

Specifically, sufficient information is not available to determine the export price of the goods using:

- the price paid or payable by the importer;⁶
- the price in Australia less prescribed deductions;⁷ or
- the price having regard to all the circumstances of the exportation.⁸

Therefore, the Commission has determined an export price under subsection 269TAB(3) having regard to all relevant information.

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 accelerated review as Goomax did not export the goods to Australia during the review period.

6 Subsection 269TAB(1)(a).

7 Subsection 269TAB(1)(b).

8 Subsection 269TAB(1)(c).

4 NORMAL VALUE

4.1 Findings

Due to a particular market situation in the Chinese domestic aluminium extrusions market, the normal value has been established in accordance with subsection 269TAC(2)(c), using the constructed normal value method. Relevant adjustments have been made to the normal value to ensure comparability to the export price of Goomax's future exports to Australia.

The Commission recommends that any interim dumping duty be calculated in accordance with the floor price duty method. For this accelerated review, as the ascertained export price is equal to the ascertained normal value, the dumping margin is zero per cent. A variable component of interim dumping duty will be applicable where the actual export price is below the ascertained export price.

4.2 Particular market situation

In 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 contained in *Anti-Dumping Commission Report No. 248* (REP 248) at Non-Confidential Appendix 1 – Market Situation Assessment.

During this accelerated review, the Commission has considered all relevant information, including the evidence in REP 248 and other more recent market intelligence, such as the prevailing international primary aluminium prices at London Metal Exchange (LME) and other prevailing costs to convert that primary aluminium cost to Aluminium bar costs available for manufacturers in China, and determined that there is a particular market situation in the Chinese aluminium extrusions market that renders sales in that market not suitable for use in determining a price under subsection 269TAC(1). Therefore, the normal value of the goods has been ascertained under subsection 269TAC(2)(c).

4.3 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 sum of:

- such amount as the Minister determines to be 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.

4.4 The Commission's assessment of normal value

4.4.1 Cost of production

As required by paragraph 269TAC(5A)(a), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the cost of production of the goods was established in accordance with regulation 43 of the Regulations.

As Goomax has made no export sales of the goods during the review period, there is no cost to make data (CTM) relating to exports which may be used as basis to construct the normal value. As a result, the Commission considers it reasonable to use Goomax's CTM for like goods sold domestically during the accelerated review period for the purpose of constructing normal values.

Regulation 43 provides that the cost of production must be worked out by using the information set out in Goomax's records if the records are in accordance with generally accepted accounting principles in China and reasonably reflect competitive market costs associated with the production or manufacture of like goods.

In Review 248, after having regard to all relevant information, the Commission found that the Government of China (GOC) has influenced the Chinese aluminium industry, and 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. In the current accelerated review, the Commission performed a comparative analysis of Goomax's actual aluminium bar purchase price with that of aluminium bar bought competitively from the international market. Similar to in REP 248, the Commission found that Goomax's actual aluminium bar purchase prices procured domestically were consistently and significantly below the fair price of internationally procured aluminium bar prices for each of the twelve months of the review period. Hence the Commission considers that Goomax's costs of aluminium bar are not competitive.

As a result, the Commission has replaced Goomax's reported primary aluminium costs. Consistent with the findings in Review 248, Goomax's aluminium costs have been replaced with aluminium costs which are considered to be competitive market benchmark prices for aluminium. The aluminium benchmark is based on contemporaneous London Metal Exchange (LME) cash prices plus other reasonable costs, port premiums and charges related to aluminium billet.

The Commission compared Goomax's actual aluminium costs to the competitive market benchmark price for each quarter of the review period. The variance between the actual reported costs and benchmark prices were then applied to uplift the aluminium material costs reported in Goomax's domestic CTM by the weighted average percentage of the variance for the quarter.

The competitive market benchmark prices used for the purpose of this accelerated review are at **Confidential Appendix 1**.

4.4.2 Selling, general and administrative costs

As required by subsection 269TAC(5A)(b), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the SG&A costs were established in accordance with regulation 44 of the Regulation.

Goomax provided information on SG&A costs associated with the domestic sales of the goods.

Consistent with the requirements of subsection 44(2) of the Regulation, the Commission is satisfied that Goomax's records are in accordance with the generally accepted accounting principles in China, and the records reasonably reflect the SG&A costs associated with the sale of like goods. As such, the Commission has used the available SG&A information to construct Goomax's normal value.

4.4.3 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 was determined having regard to section 45 of the Regulation.

Subsection 45(2) of the Regulation provides that, if reasonably practicable, profit is to be determined by using data relating to the production and sale of like goods by the exporter of the goods in the OCOT.

The Commission calculated a weighted average profit margin for the goods based on the different models of the goods sold domestically. The calculation of this profit margin was based on domestic sales of aluminium extrusions in the OCOT, the selling prices of which were compared to the company's domestic cost to make and sell (CTMS) for those goods as reported in the company's response to the exporter questionnaire (prior to the adjustments made to the cost of primary aluminium discussed above).

Profit applicable in the OCOT was applied to the CTMS (refer to **Confidential Appendices 3 and 5**);

4.4.4 Adjustments

As the normal value has been ascertained in accordance with subsection 269TAC(2)(c), the Commission considers the following adjustments are required in accordance with subsection 269TAC(9), in order to ensure the normal value is properly comparable with the export price of the goods:

- Domestic delivery costs – a downward adjustment was made to remove delivery costs to domestic customers;

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- inland freight – an upwards adjustment was made to account for export related inland transport cost to the port of export based on comparable data obtained in Review 248;⁹
- domestic packaging costs – a downward adjustment was made to remove packaging costs to domestic customers;
- export packaging – an upwards adjustment was made to account for export related packaging costs based on comparable data obtained in Review 248;¹⁰ and
- VAT adjustment – an upwards adjustment was made to account for the difference in the amount of residual value added tax (VAT) that would apply to export sales of the goods. 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.

Normal value and export price calculations are at **Confidential Appendices 5 and 6**.

4.4.5 Submissions

Capral Limited (Capral), a member of the Australian industry, made a submission on various aspects of the current accelerated review including the method that should be used by the Commission when ascertaining Goomax's normal value. Capral argued that the Commission should follow the constructed normal value approach followed in Review 248, by uplifting the domestic cost of aluminium of Goomax by a suitable premium to reflect the unsubsidised aluminium costs. Capral submitted that this premium should be based on the prevailing aluminium cash price at LME (London Metal Exchange), billet premium and "major Japanese port" (MJP) premium, a method followed in Review 248. Capral also made a submission requesting that the Commission apply forms of measures, in respect of Goomax, based on a combination method, consistent with measures imposed under Review 248 and subsequent Accelerated Review investigations.

Commission's assessment

The Commission has adopted the constructed normal value approach followed in Review 248. This was based on the analysis of Goomax's aluminium purchase prices during the review period. The Commission found that Goomax's aluminium purchase prices were significantly and consistently lower than prevailing international constructed prices for aluminium bars for each of the twelve months of the review period. Hence the Commission has followed the approach taken in previous accelerated reviews and the Review 248 investigation in determining the normal value. With regard to the appropriate form of measures, the Commission has chosen to recommend the imposition of interim dumping duty based on a floor price duty method instead of the combination measures method adopted in Review 248. The floor price method for dumping duty margin is appropriate for Goomax as it did not have any

⁹ REP 248 was the most contemporaneous verified data available to the Commission in the absence of Goomax having exported the goods.

¹⁰ Ibid.

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exports of the goods to Australia during the review period and hence the ascertained export price was set equal to the ascertained normal value.

5 COUNTERAVAILABLE SUBSIDIES

5.1 Findings

Pursuant to subsection 269TAAC(1), the Commissioner considers that Goomax received subsidies during the accelerated review period under three programs that were deemed to be countervailable in Review 248 (Program 2, 15 and 26).

The subsidies availed under Program 2 (One-time awards to Enterprises Whose Products qualify for 'Well-known Trademarks of China' and 'Famous Brands of China') and Program 26 (Innovative Experimental Enterprise Grant) collectively account for 0.2% of ascertained export price for the accelerated review period.

In respect of program 15 (aluminium provided at less than adequate remuneration), in order to avoid any double count of duty, the Commission considers that this subsidy should not be countervailed as it has been factored into the variable component of the interim dumping duty payable for Goomax.

As a result of these findings, the countervailing margin has been determined to be 0.2 percent.

5.2 Legislative requirement for countervailable subsidies

Section 269TAAC defines a countervailable subsidy as follows:

- (1) For the purposes of this Part, a subsidy is a countervailable subsidy if it is specific.*
- (2) Without limiting the generality of the circumstances in which a subsidy is specific, a subsidy is specific:*
 - (a) if, subject to subsection (3), access to the subsidy is explicitly limited to particular enterprises; or*
 - (b) if, subject to subsection (3), access is limited to particular enterprises carrying on business within a designated geographical region that is within the jurisdiction of the subsidising authority; or*
 - (c) if the subsidy is contingent, in fact or in law, and whether solely or as one of several conditions, on export performance; or*
 - (d) if the subsidy is contingent, whether solely or as one of several conditions, on the use of domestically produced or manufactured goods in preference to imported goods.*
- (3) Subject to subsection (4), a subsidy is not specific if:*
 - (a) eligibility for, and the amount of, the subsidy are established by objective criteria or conditions set out in primary or subordinate legislation or other official documents that are capable of verification; and*
 - (b) eligibility for the subsidy is automatic; and*

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- (c) those criteria or conditions are neutral, do not favour particular enterprises over others, are economic in nature and are horizontal in application; and
- (d) those criteria or conditions are strictly adhered to in the administration of the subsidy.

(4) The Parliamentary Secretary may, having regard to:

- (a) the fact that the subsidy program benefits a limited number of particular enterprises; or
- (b) the fact that the subsidy program predominantly benefits particular enterprises; or
- (c) the fact that particular enterprises have access to disproportionately large amounts of the subsidy; or
- (d) the manner in which a discretion to grant access to the subsidy has been exercised;

determine that the subsidy is specific.

(5) In making a determination under subsection (4), the Parliamentary Secretary must take account of:

- (a) the extent of diversification of economic activities within the jurisdiction of the subsidising authority; and
- (b) the length of time during which the subsidy program has been in operation.

Sections 269TACC and 269TACD concern determinations by the Parliamentary Secretary whether a benefit has been conferred by a financial contribution or price support, and the amount of this benefit. Generally, the existence of a benefit is determined by comparison with a benchmarked market-place, or if it involves claims of a benefit received from revenue foregone from a comparison of the actual tax rate applied to the tax rates of the country in question.

5.3 Programs reviewed

In Review 248, the Commission found that 19 subsidies were countervailable in respect of aluminium extrusions exported to Australia from China.

Program number	Program name (as specified in REP 248)
2	One-time Awards to Enterprises Whose Products Qualify for 'Well-Known Trademarks of China' and 'Famous Brands of China'
3	Provincial Scientific Development Plan Fund
4	Export Brand Development Fund
5	Matching Funds for International Market Development for SMEs
6	Superstar Enterprise Grant
7	Research & Development (R&D) Assistance Grant
8	Patent Award of Guangdong Province

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9	Training Program for Rural Surplus Labour Force Transfer Employment
15	Aluminium provided at less than adequate remuneration
18	Preferential tax policies in the Western Regions
21	Tariff and VAT Exemptions on Imported Materials and Equipment
26	Innovative Experimental Enterprise Grant
29	Special Support Fund for Non-State-Owned Enterprises
32	Venture Investment Fund of Hi-Tech Industry
35	Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment
47	Preferential tax policies for high and new technology enterprises
48	Provincial Government of Guangdong tax offset for R&D
56	PGOG special fund for energy saving technology reform
58	Development assistance grants from the Zhaoqing New and High-Tech Industrial Development Zone

Table 3: REP 248 Countervailable subsidy programs

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

After assessing all relevant information provided by Goomax, the Commission found that countervailable subsidies have been received in respect of the goods manufactured by Goomax under three programs, namely 'Program 2 - One-time Awards to Enterprises Whose Products Qualify for 'Well-Known Trademarks of China' and 'Famous Brands of China', 'Program 15 – Aluminium provided at less than adequate remuneration' and 'Program 26 – Innovative experimental enterprise grant'.

5.3.1 'Program 2- One time award to enterprise whose products qualify for "Well-known Trademarks of China" and "Famous Brands of China"'

Verification of Goomax's financial information indicates that it has been recipient of a number of separate subsidies within the broad category of program 2. This includes a number of grants for market development and other grants. To determine if the benefit was conferred to the goods, the Commission verified the applicability of these grants to the goods. The subsidy margin accrued to the goods manufactured by Goomax was determined to be 0.18% of the ascertained export price for the review period.

5.3.2 Program 26 – Innovative experimental enterprise grant

Goomax also benefited from number of grants falling in the category of Program 26 – Innovative experimental enterprise grants. The Commission assessed the applicability and countervailability of each of these grants. After excluding the grants received by Goomax for its non-goods business, the Commission has determined that the subsidy margin attributable to the goods during the review period is 0.06% of the ascertained export price.

5.3.3 Program 15 – Aluminium provided at less than adequate remuneration

In Review 248, it was established that a countervailable subsidy program (Program 15) existed whereby the Government of China (GOC) exercises governmental authority on the production of primary aluminium in China. The Commission determined in Review 248 that this caused suppressed and distorted prices in the market for primary aluminium in China. The benefit to exported aluminium extrusions is conferred by the provision of primary aluminium to aluminium extrusion producers, by a government or public body, at an amount reflecting less than adequate remuneration, having regard to prevailing market conditions. The benefit conferred was calculated by comparing the difference in the prices for Chinese domestic purchases of primary aluminium and a benchmark LME based import prices.

To determine if a benefit was conferred to Goomax under program 15, the Commission performed a number of analyses. The Commission compared Goomax's aluminium purchase price to the benchmark aluminium bar prices based on aluminium prices on LME. The Commission also analysed the sources of supplies of aluminium to Goomax. The analysis revealed that Goomax sourced its aluminium bars from both private entities and state owned entities, with private suppliers being the dominant suppliers. As a small portion of aluminium bars were sourced from state owned entities at less than fair benchmark prices, the Commission has concluded that Goomax has received a benefit on certain aluminium purchases under this program.

5.4 Amount of countervailable subsidy received

To determine the countervailable subsidies received under Programs 2 and 26, the Commission has calculated the total subsidy received by Goomax attributable to the goods. The Commission then calculated the per unit value of this subsidy for each unit of the goods produced by Goomax.

To determine the amount of countervailable subsidy received under Program 15, the Commission compared the prices paid by Goomax for its domestic purchases of aluminium bar to the competitive LME based market benchmark price discussed in section 4.4.1 of this report. The net benefit received is considered to be the amount of countervailable subsidy received under Program 15.

The Commission, with reference to the data and information provided by Goomax, has determined that the subsidy margin is expressed as a percentage of the ascertained export price.

6 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:

- the *floor price* interim dumping duty will be set, where interim dumping duty will be payable only when the actual export price is below the ascertained export price; and
- the interim countervailing duty will be payable for the exported goods, reflecting a countervailing rate of 0.2 cent.

If the Parliamentary Secretary accepts the recommendations in this report, these changes will take effect retrospectively from 6 March 2017 (being the date the application was lodged). The Commission notes that if the recommendations in this report are accepted by the Parliamentary Secretary, Goomax will not be eligible to seek another accelerated review.

A summary of the ascertained variable factors is provided at **Confidential Appendix 7**.

7 RECOMMENDATION

The Commissioner has found that, in relation to aluminium extrusions exported to Australia from China by Goomax:

- the ascertained export price should be altered;
- the ascertained normal value should be altered; and
- the amount of countervailable subsidy received should be altered.

The Commissioner recommends that the Parliamentary Secretary consider this report, and if agreed, sign the attached notice (Non-confidential Attachment 1) and sign the attached schedules (Confidential Attachment 2) to declare:

- under subsection 269ZG(3)(b) of the Act, that, with effect from 6 March 2017, the Act and the Dumping Duty Act have effect as if the notices had applied to Goomax but specified different variable factors had been fixed in respect of Goomax, relevant to the determination of duty.

The Commissioner recommends that the Parliamentary Secretary be satisfied that:

- in accordance with subsection 269TAC(2)(a)(ii), the normal value of the goods exported to Australia from China by Goomax cannot be ascertained under subsection 269TAC(1) because the situation in the market of China is such that sales in that market are not suitable for use in determining a price under subsection 269TAC(1);
- in accordance with subsection 269TAB(3) of the Act, sufficient information is not available to enable export prices for the goods exported to Australia from China by Goomax the subject of this accelerated review to be ascertained under the preceding subsections of section 269TAB of the Act.
- in accordance with subsection 269TACD(1), countervailable subsidies have been received in respect of the goods by Goomax.

The Commissioner recommends that the Parliamentary Secretary determine:

- having regard to subsection 269TAAC(2) and (3), and in accordance with subsection 269TAAC(4) and (5), that subsidies are set out in section 5.3 are specific having regard to specificity of the subsidies program;
- in accordance with subsection 269TAB(3) of the Act, the export price for aluminium extrusions exported to Australia from China by Goomax is the amount as set out in **Confidential Appendix 6**, which has been determined having regard to all relevant information;
- in accordance with subsection 269TAC(2)(c) of the Act, the normal value for aluminium extrusions exported to Australia from China is the sum of Goomax's:
 - cost of production of the goods in China as set out in **Confidential Appendix 4**; and
 - on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in China, the administrative, selling and general costs associated with such a sale and the profit on that sale as set out in **Confidential Appendix 5**,

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as adjusted in accordance with subsection 269TAC(9) and set out in section 4.4.4 of this report, to ensure that the normal value so ascertained is properly comparable with the export price; and

- that in accordance with subsection 8(5) of the Dumping Duty Act, the interim dumping duty payable is an amount which will be worked out in accordance with the floor price duty method pursuant to subsection 5(4) of the Regulations.
- in accordance with subsection 269TACC(1), that, having regard to all relevant information and subsections 269TACC(2) and (3), Goomax has received number of financial contribution and grant from various public bodies and council authorities, as set out it section 5.3, that confers a benefit;
- in accordance with subsection 269TACD(1), that the amount of countervailable subsidy received in respect of aluminium extrusions by Goomax is a specified amount per kilogram, as set out in Confidential Appendix 7.

The Commissioner recommends that the Parliamentary Secretary direct:

- in accordance with subsection 10(3B) of the Dumping Duty Act, that the amount of interim countervailing duty payable on the goods the subject of the countervailing duty notice be ascertained as a proportion of the export price of the goods. The rate of countervailing duty applying to Goomax's exports of aluminium extrusions shall be 0.2 per cent.

APPENDICES AND ATTACHMENTS

Non-Confidential Attachment 1	Section 269ZG(3)(b) Notice
Confidential Attachment 2	Confidential tables
Confidential Appendix 1	Aluminium Benchmark
Confidential Appendix 2	Aluminium purchases analysis
Confidential Appendix 3	Domestic Sales OCOT and Profit
Confidential Appendix 4	Cost To Make and Sell
Confidential Appendix 5	Constructed Normal Value
Confidential Appendix 6	Ascertained Export Price
Confidential Appendix 7	Summary of Variable Factors