



**REVIEW OF ANTI-DUMPING MEASURES ON CERTAIN  
ALUMINIUM EXTRUSIONS**

**EXPORTED TO AUSTRALIA FROM THE PEOPLE'S REPUBLIC  
OF CHINA**

**IMPORTER VISIT REPORT**

**KAM KIU (AUSTRALIA) PTY LTD**

**October 2014**

*THIS REPORT AND VIEWS OR RECOMMENDATIONS CONTAINED THEREIN WILL BE REVIEWED BY  
THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT THE FINAL POSITION OF THE ANTI-  
DUMPING COMMISSION*

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## 1 BACKGROUND AND PURPOSE

### 1.1 Background to the current review

On 12 June 2014, the Anti-Dumping Commission (the Commission) commenced a review of the anti-dumping measures applying to certain aluminium extrusions exported to Australia from China. The visit to Kam Kiu (Australia) Pty Ltd (KAU) relates to this review of measures.

#### *This review of measures*

This review is the result of an application by PanAsia Aluminium (China) Co, Ltd (PanAsia) seeking a review of the anti-dumping measures as they apply to its exports to Australia. The Parliamentary Secretary to the Minister for Industry (Parliamentary Secretary), who is responsible for anti-dumping matters, accepted a recommendation from the Anti-Dumping Commissioner to extend the review to all exporters covered by the measures.

The review will be limited to examining whether the variable factors relevant to the taking of the anti-dumping measures, as they affect exporters of the goods from China generally, should be varied.

The review period is 1 April 2013 to 31 March 2014.

#### *The anti-dumping measures currently in place*

On 24 June 2009, the Australian Customs and Border Protection Service<sup>1</sup> (ACBPS) initiated an investigation into the alleged dumping and subsidisation of certain aluminium extrusions exported to Australia from the People's Republic of China (China). The ACBPS's findings are set out in International Trade Remedies Report No 148 (**REP 148**). On 28 October 2010, anti-dumping measures - in the form of a dumping duty notice and a countervailing duty notice - were imposed on certain aluminium extrusions exported from China.

Following a review by the Trade Measures Review Officer (TMRO), ACBPS conducted a reinvestigation into certain findings made in REP 148. International Trade Remedies Report No. 175 (**REP 175**) sets out the findings affirmed and new findings made by the ACBPS as a result of the reinvestigation. Subsequent to this, the Attorney-General published new notices under s. 269ZZM of the *Customs Act 1901* (the Act) substituting for the dumping and countervailing duty notices published on 28 October 2010. The new notices came into effect on 27 August 2011, replacing the earlier notices to the extent of any inconsistencies.

### 1.2 Purpose of the meeting

KAU participated in the initial investigation relating to the anti-dumping measures currently in place. The Commission wrote to KAU on 19 June 2014

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<sup>1</sup> The Australian Customs and Border Protection Service was previously responsible for functions now performed by the Anti-Dumping Commission

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advising of this review. KAU indicated its willingness to cooperate in this review and completed an importer questionnaire.

The purpose of this visit was to:

- clarify whether KAU is an importer of aluminium extrusions and confirm the identity of the exporter;
- verify information on imports of aluminium extrusions to assist in the determination of export prices from China;
- establish whether the purchases were arm's length transactions;
- establish post exportation costs incurred in importing;
- ensure that KAU is accurately declaring imports that are covered by the anti-dumping measures;
- identify whether the goods are sold profitably in Australia; and
- provide the company with an opportunity to discuss any issues it considers relevant to the review.

### 1.3 Meeting details

Company	Kam Kiu (Australia) Pty Ltd Suite 6 1175 Toorak Road Camberwell Victoria
Dates of visit	13 August 2014

The following were present at various stages of the meeting:

Kam Kiu (Australia) Pty Ltd	Ada Ye – General Manager
the Commission	Melanie Brandis – Assistant Director, Operations 4 Rebecca Oliver - A/g Assistant Director, Operations 4 Angela Kidson – Investigator, Operations 4

A copy of the meeting agenda is at **confidential attachment 1**.

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## 1.4 Review process and timeframes

The visit team advised KAU of the review of measures process and timeframes as follows.

- The review period is 1 April 2013 to 31 March 2014.
- The Statement of Essential Facts (SEF) for the review of measures is due to be placed on the public record by 1 October 2014, or such later date as the Parliamentary Secretary allows under s.269ZHI of the *Customs Act 1901* (the Act).<sup>2</sup>

The SEF will set out the material findings of fact on which the Commission intends to base its recommendations to the Parliamentary Secretary, and will invite interested parties to respond, within 20 days, to the issues raised therein.

- Following receipt and consideration of submissions made in response to the SEF, the Commission will provide its final report and recommendations to the Parliamentary Secretary.

This final report is due no later than 17 November 2014, unless an extension to the SEF is approved by the Parliamentary Secretary.<sup>3</sup>

## 1.5 Visit report

The visit team advised KAU that the visit team would prepare a report of the visit and provide it to KAU to review its factual accuracy, and to identify those parts of the report it considers to be confidential.

It was explained that, in consultation with KAU, the visit team would prepare a non-confidential version of the report, and place this on the review of measures' public record.

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<sup>2</sup> Subsequent to the verification visit, the Parliamentary Secretary provided an extension such that the SEF is now due no later than 30 December 2014.

<sup>3</sup> Subsequent to the verification visit, the Parliamentary Secretary provided an extension to the SEF such that final recommendation to the Parliamentary Secretary is now due no later than 13 February 2015.

**2 THE GOODS**

**2.1 Description**

The goods the subject of this review 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, originating in or exported from, the People's Republic of China.

For further detailed information about the goods, interested parties should refer to Australian Customs Dumping Notice 2009/20.

**2.2 Tariff classification**

The goods may be classified to tariff subheadings 7604.10.00 (statistical code 06), 7604.21.00 (statistical codes 07 and 08), 7604.29.00 (statistical codes 09 and 10), 7608.10.00 (statistical code 09), 7608.20.00 (statistical code 10), 7610.10.00 (statistical code 12) and 7610.90.00 (statistical code 13) in Schedule 3 of the *Customs Tariff Act 1995*. The rates of duty for the goods from China are 4 per cent for goods classified to headings 7604 and 7608 and 5 per cent for goods classified to heading 7610.

**3 COMPANY DETAILS**

**3.1 Commercial operations**

**3.1.1 Organisational structure of company**

KAU is the sales agent in Australia for the “Kam Kiu Group”. It has Australian offices and is incorporated in Australia.

The “Kam Kiu Group” was established in 1983 in TaiShan (China) with a moulding and casting plant. In 1991 the company built the aluminium extrusion factory, TaiShan City Kam Kiu Aluminium Extrusions Co., Ltd (KAE). In 1993 a fabrication plant was also built for value-added products such as doors, windows and accordion sliding doors.

A current group structure is at **confidential attachment 1**. A number of companies are part of the Kam Kiu Group. Relevant to this review are:

- KAU, the subject of this visit report;
- Kam Kiu Aluminium Products SDN BHD, a trading company incorporated in Malaysia and currently operating in Macau. This company is referred to as “KMY”, and purchased GUC from KAE, and then resold the same to Australia; and
- TaiShan City Kam Kiu Aluminium Extrusion Co Ltd, referred as “KAE” based in Guangdong Province in China, which manufactures aluminium extrusions.

All three companies are, [REDACTED]  
[REDACTED] [ownership structure]

**3.1.2 Kam Kiu (Australia)**

KAU describes itself as a sales agent for Kam Kiu Aluminium Products SDN. BHD (hereafter KMY), promoting the products sold by KMY and supporting KMY to import GUC to Australia.

[REDACTED] [KAU role].

KMY is a trading company which purchases GUC from KAE, and then resold the GUC to Australia [REDACTED]  
[REDACTED] [KMY role]

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## 3.2 Accounting

The relevant accounts are held by the KMY office. The Kam Kiu Group keeps accounts based on the financial year and these are audited accounts.

KAU keeps accounts for the purpose of GST, these record the payment collected on behalf of KMY, the GST removed, and the amount transferred to KMY.

## 3.3 Relationship with suppliers of the goods

As noted above, KAU is part of the Kam Kiu Group and is related to the supplier and manufacturer of the goods.

KAU acts as an agent of KMY subject to an Agency Agreement at **confidential attachment 2**. According to this agreement

- KAU [REDACTED]
- KMY [REDACTED]

[Contents of agency agreement]

KAU explained that as part of the Kam Kiu Group it [REDACTED]

[REDACTED]

[KAU role]

## 3.4 Relationships with customers

KAU's sales data identified that [REDACTED]

[REDACTED]

[number of customers]

At the verification visit, KAU advised that it and the Kam Kiu Group had no legal relationship with any of these customers and its relationship with its customers is that between a normal buyer and seller in a commercial transaction.

## 3.5 Kam Kiu's product range

Around ■ per cent of total sales are the goods under consideration. The remaining ■ per cent of total sales are other products, primarily aluminium grilles.



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[REDACTED]

[product range]

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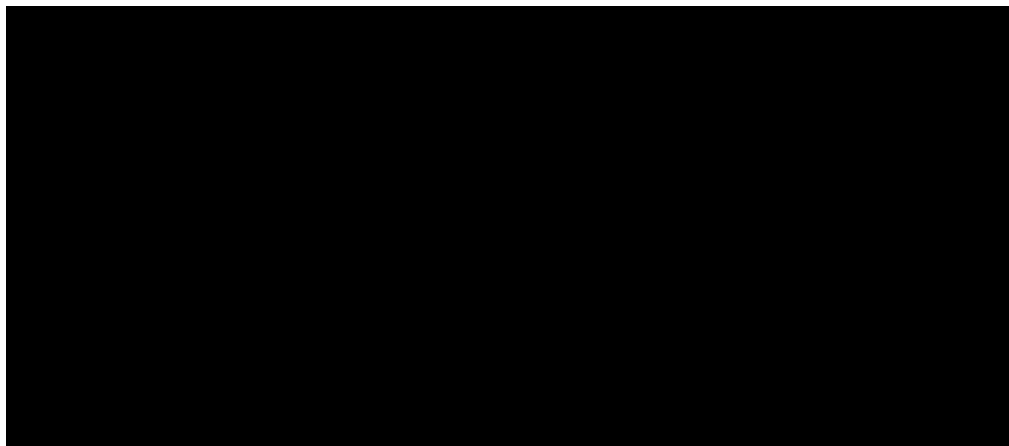
**4 Australian Market**

**4.1 The Australian market**

KAU considered that sources of supply into the Australian market had shifted from China to other countries, such as Indonesia, Thailand, and Malaysia. KAU observed that Australian manufacturers of Aluminium extrusions were price competitive, although the market demand may have decreased since 2007-2008.

**4.2 Ordering and sales process**

KAU advised that the ordering process for the GUC is generally as follows:



[Ordering and sales process]

**4.3 Sale verification to source documents**

Prior to the visit, KAU provided the Commission with a 'sales listing' spread sheet as its importer questionnaire Part C response. The visit team selected ten invoice references from that sales listing for further verification.

At the verification visit, KAU provided invoices and proof of payment for these ten invoice references.

The invoices provided are numbered and dated and provide details of the goods purchased and invoiced amount. The visit team verified these details against the sales spread sheet provided by KAU.

The proof of payment [redacted]

The visit team observed that [redacted]

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[details of how the documents were verified with reference to KAU records]

The visit team is therefore satisfied that invoice details recorded in KAU's sales listing are reasonably accurate.

## 4.4 Verification to management accounts

The visit team requested KAU provide documents in order to conduct an upwards reconciliation from KAU's sales listing to its management accounts.

KAU was unable to provide complete management accounts as

[details on limitations to verification process]

## 4.5 Sales volume and selling prices in Australia

KAU's sales spread sheet showed a total invoiced sales value of [redacted] and volume of approximately [redacted] tonnes of aluminium extrusions.

At the verification visit, the visit team noted that [redacted]

[redacted] [detail of discrepancy on the sales spread sheet]

KAU stated that apart from the sales invoice, there were [redacted]

[redacted] This was unable to be fully verified at the KAU visit. As shown in figure 1, the difference between the "invoiced price" and "off invoice" price are not significant in terms of the resulting weighted average selling price. As discussed later in this report, adjusting for these invoices does not change the outcome of the profitability analysis.

Figure 1: Weighted average selling prices

Quarter	Invoiced price per tonne	"Off invoice" price per tonne
April to June 13	[redacted]	[redacted]
July to Sept 13	[redacted]	[redacted]
Oct to Dec 13	[redacted]	[redacted]
Jan to March 14	[redacted]	[redacted]

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**5 IMPORTS**

**5.1 Volume of trade**

[REDACTED]

[REDACTED] [KAU view on relationship between the companies]

Based on data from the ACBPS database (at **confidential attachment 3**), KAU imported approximately [REDACTED] tonnes of aluminium extrusions during the review period. This data was provided to KAU before the visit and KAU confirmed there were no discrepancies in the data.

Prior to the visit, the Commission selected nine shipments for further examination by KAU. The Commission compared the data supplied by KAU regarding these shipments to that recorded in ACBPS systems and noted no anomalies.

**5.2 Verification of imports**

Prior to the visit, KAU provided the Commission with information on nine selected shipments (**confidential attachment 5**). The visit team verified this information to source documents provided by KAU.

These source documents included:

- bill of lading;
- customs import declaration;
- invoices from the third party logistics company used by KAU for delivery;
- purchase orders from customers; and
- invoices to customers.

KAU were unable to provide any supplier invoices as KMY sells the goods directly to the Australian customer. The invoice details provided to the Commission were based on information supplied by KMY.

Some shipment details were verified to the bill of lading. The bill of lading showed [REDACTED]

[REDACTED] [company details shown on bill of lading]. The visit team verified details of gross weight as shown on the bill of lading. However, the documents provided did not indicate the price for overseas freight or insurance. KAU advised that these figures were supplied by [REDACTED] [details on preparation of documents].

Australian importation costs detailed in the importer transaction worksheet included [REDACTED] [details from importer

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transaction worksheet]. These details were able to be verified to the documents provided. In verifying these figures, the visit team observed that duty paid details had not been entered into the importer transaction worksheet. The visit team were able to identify this information in the customs declaration forms provided.

Selling price was available on a per shipment basis as all shipments are direct shipments to the customer and KAU does not have warehousing facilities. Consistent with this, the sales data provided by KAU shows similar volumes of sales to the imports shown in the ACBPS database. Therefore, KAU's import transaction worksheet included selling price information based on the price paid by customers who received the goods imported in each shipment.

The purchase orders from customers and invoices to customers provided by KAU documented this selling price information. The visit team were able to verify that relevant documents had been provided and that these were consistent with the information entered into the importer transaction worksheet.

The visit team also confirmed that some orders included both the goods and items that were not the goods (e.g. grilles). In this case, KAU had adjusted the selling price shown in the importer transaction worksheet to remove items that were not the goods. The invoices were itemised in detail so that items that were not the goods could be identified.

The visit team were able to verify customs entry fee and port service charges from the invoices from the logistics company to KAU. However, in the course of this visit the visit team were unable to verify all elements of the import costs as KAU did not hold this information. Figure 2 shows the key costs per tonne as supplied by KAU.

**Figure 2: Costs according to KAU information**

Costs - Across all models	per tonne
<b>FOB Price (in \$AU)</b>	████
Insurance	████
Freight	████
<b>Australian importation costs (excl GST)</b>	████
- Customs entry fee	████
- Customs brokers fees	████
- Port service charges	████
- Delivery	████
<b>Total in to store costs</b>	████
Selling, general and admin costs	████

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### 5.3 Selling, general and administrative costs

KAU had calculated total SG&A costs for each of the nine selected shipments based on a figure of [REDACTED].

The visit team sought further information on how this figure was calculated. KAU advised that this figure was supplied by other companies in the Kam Kiu Group.

Following the verification visit, KAU provided a spread sheet showing itemised prices for administrative expenses and selling expenses for 'selected products sold in Australia'. A note to that spread sheet noted that SG&A had been allocated by sales value, with the exception of legal & professional fees, commissions, tariffs, and transportation costs.

While the spread sheet provided outlined the basis upon which the figure of [REDACTED] had been calculated this information has not been verified to management or audited accounts as this information is held overseas and was unavailable to the visit team. Therefore, the visit team is unable to reach a conclusion on whether the SG&A costs are reasonable.

### 5.4 Overall conclusion on profitability based on costs and selling price

Subsequent to the visit, KAU advised that it considered that the spreadsheet should have recorded the purchase price between KMY and KAE rather than the price from KMY. While KAU considered that this new information would contain the conclusions on profitability in this report, this data was not considered at the visit (or shortly after) and was unable to be verified. Therefore, it is not considered in this visit report.

#### **Costs**

As noted above, some aspects of costs were unable to be adequately verified as this information was not held by KAU. Therefore the profitability analysis conducted is not based on fully verified information.

However, based on the information available, the profitability analysis

[REDACTED] [outcome of profitability analysis]

#### **Selling Price**

As noted in section 4, as KAU operates on a 'direct shipment' model KAU were able to verify most details of the selling price of the imports.

#### **Conclusion on profitability**

[REDACTED] [observation on profitability analysis]

KAU were unable to provide an explanation as the figure had been calculated by KMY.

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Based on the above, the visit team concludes that the shipments used in the analysis were [REDACTED]. Further, significant elements of cost were unable to be verified by the visit team and KAU was unable to provide a complete account of how some figures had been calculated. This is because KAU, as agent for KMY, did not have access to adequate information to allow the information to adequately explained and verified.

**6 WHO IS THE IMPORTER AND EXPORTER**

**6.1 Who is the importer?**

The visit team has reviewed the importation process and have noted that the role of KAU is to [redacted] [role of KAU]. KMY [redacted]

[redacted] KMY is responsible [redacted] [role of KMY]. Based on this information, the visit team consider KMY to be the beneficial owners of the goods at the time of importation and therefore the importer.

The visit team have reviewed the importation process and consider that KAU is an agent for the importer. The visit team reviewed the documents provided in respect of the selected shipments and note that:

[redacted]

[observations based on review of documents]

The visit team considers KMY to be the beneficial owner of the goods at the time of importation, and therefore the importer.

**6.2 Who is the exporter?**

The Commission will generally identify the exporter as:

- a principal in the transaction located in the country of export from where the goods were shipped who gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or their own vehicle for delivery to Australia; or
- a principal in the country of export who owns, or who has previously owned, the goods but need not be the owner at the time the goods were shipped.

It is common for traders and other intermediaries to play a role in the exportation of the goods. These parties will typically provide services such as arranging transportation, conducting price negotiations, arrange contacts with the producer, etc.

In such cases, the trader typically acts as an intermediary who, although one of the principals, is essentially a facilitator in the sale and shipment of the goods on behalf of the manufacturer. Typically the manufacturer as a principal who knowingly sent the goods for export to any destination will be the exporter.

Therefore, depending on the facts, the Commission considers that only in rare circumstances would an intermediary be found to be the exporter. Typically this will occur where the manufacturer has no knowledge that the goods are destined for export to any country and the essential role of the intermediary is that of a distributor rather than a trader.



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Subject to further inquiries, the visit team is satisfied that TaiShan City Kam Kiu Aluminium Extrusion Co Ltd can be considered the exporter of aluminium extrusions imported by KMY.

**7 ARMS LENGTH**

In determining export prices under s. 269TAB(1)(a) and normal values under s. 269TAC(1), the Act requires that the relevant sales are arm's length transactions.

S.269TAA outlines the circumstances in which the price paid or payable shall not be treated as arm's length. These are where:

- there is any consideration payable for in respect of the goods other than price;
- the price is influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; and
- in the opinion of the Parliamentary Secretary, the buyer, or an associate of the buyer, will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

The visit team has been advised by KAU that KAE issues sales invoices to KMY and KMY issues sales invoice to the customers at the point of sale. Customers either pay KAU or KMY directly. Where customers pay KAU, KAU wires the sales proceeds to KMY after deducting the logistics cost. KMY collects the proceeds from both channels and pays KAE.

Given the relationship between KMY (the importer), and the exporter the visit team is not satisfied that import transactions between KMY and the exporter are at arm's length in terms of s. 269TAA. Accordingly, the visit team considers that the export sales transactions are not arm's length.

**8 RECOMMENDATIONS**

Based on the information provided, the visit team is of the opinion that for the goods imported by KMY from TaiShan:

- the goods have been exported to Australia otherwise than by the importer; and
- the purchases of the goods by the importer were not arm's length transactions.

Subject to further enquiries, the visit team recommends that the export price for aluminium extrusions imported by KMY from TaiShan be established under s. 269TAB(1)(c) of the Act, as the price the Parliamentary Secretary determines having regard to all the circumstances of exportation.

Specifically, the visit team recommends that the export price be calculated using the price at which the goods were first sold to an arms' length party outside of the Kam Kiu Group, less deductions the Parliamentary Secretary considers reasonable.

**9 ATTACHMENTS**

Confidential Attachment 1	Agenda
Confidential Attachment 2	Agency agreement
Confidential Attachment 3	ACBPS database information on KAU imports
Confidential Attachment 4	KAU Importer Questionnaire Part A response
Confidential Attachment 5	KAU Importer Questionnaire Part B response (list of imports)
Confidential Attachment 6	KAU Importer Questionnaire Part C response (Sales listing)