



ADC 362

**INVESTIGATION INTO THE ALLEGED DUMPING AND
SUBSIDISATION OF
CERTAIN ALUMINIUM EXTRUSIONS
EXPORTED FROM
MALAYSIA AND THE SOCIALIST REPUBLIC OF VIETNAM
VISIT REPORT - EXPORTER**

EAST ASIA ALUMINIUM COMPANY LTD.

NOVEMBER 2016

**THIS REPORT AND THE 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

On 16 August 2016, the Commissioner of the Anti-Dumping Commission (the Commissioner) gave public notice of his decision to initiate an investigation in respect of the alleged dumping and subsidisation of aluminium extrusions exported from Malaysia and the Socialist Republic of Vietnam (Vietnam).

Anti-Dumping Notice (ADN) No. 2016/77 provides further information on the investigation and is available on the Anti-Dumping Commission's (the Commission's) electronic public record (EPR) at www.adcommission.gov.au.

The background relating to the initiation of this investigation is contained in Consideration Report 362.

Following this initiation, the Commission wrote to East Asia Aluminium Company Limited (EAA) inviting it to cooperate with the investigation regarding aluminium extrusions. EAA provided a completed exporter questionnaire response (REQ) and relevant attachments for the investigation period (1 July 2015 to 30 June 2016).

2 THE GOODS AND LIKE GOODS

2.1 The goods exported to Australia

During the investigation period EAA exported aluminium extrusions of varying lengths, wall thicknesses, sizes, temper grades and profiles. The aluminium extrusions for the export market were either mill, anodized or powder-coated finished.

All aluminium extrusions produced by EAA for Australian customers was made to order, and therefore no stock was kept on site.

2.2 Like goods sold on the domestic market

During the investigation period EAA also sold aluminium extrusions to domestic customers in varying lengths, wall thicknesses, sizes, temper grades and profiles. In addition to producing extrusions in mill, anodized and powder-coated finishes, EAA also produced extrusions in a woodgrain finish for their domestic customers only.

Unlike goods produced for export, EAA indicated that goods for domestic sale are produced both to order and from stock, depending on specifications or whether the good is customized or not.

The verification team considers that the goods manufactured by EAA for domestic consumption are identical to, or have characteristics closely resembling, the goods EAA exported to Australia, as they:

- have similar physical characteristics
- are commercially alike:
- are functionally alike; and
- are produced at the same facility with the same raw material inputs and manufacturing processes.

2.3 Model matching

For the purpose of model matching, the visit team considers that it is appropriate to have regard to the finish of the product (mill, anodized, powder-coated).

The verification team has chosen this criteria as it is consistent with EAA's cost to make and sell (CTMS) data which was provided to the finish level.

EAA requested that wall thickness be included as a model matching criterion. It was noted by the verification team that only a wall thickness range was provided in the sales data and not the specific wall thickness, and there was also no wall thickness specified on the sales invoices provided. No price lists were presented that could demonstrate the variance in the price due to wall thickness and since the CTMS data reported by the exporter was to finish level only, the verification team considered that model matching based on finish is appropriate.

2.4 Like goods – preliminary assessment

The verification team considers that aluminium extrusions produced by EAA for domestic sale has characteristics closely resembling those of the goods exported to Australia and are therefore 'like goods' in accordance with subsection 269T(1) of the *Customs Act 1901* (the Act) ¹.

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

3 VERIFICATION OF EXPORT SALES TO AUSTRALIA

3.1 Verification of Australian sales to audited financial statements

The verification team verified the completeness and relevance of EAA's export sales listing by reconciling it to audited financial statements in accordance with ADN. No 2016/30. During this process, there was one amendment to the Australian sales listing relating to sales outside the investigation period. The verification team did not identify any further issues

Details of this verification process are contained in the verification work program, and its relevant attachments, at **Confidential Attachment 1**.

3.1.1 Sales outside the investigation period

The verification team identified an issue during the verification process with a small number of sales being listed outside the Investigation Period and therefore the total sales would not reconcile to the financial statements. These sales were incorrectly listed under the US date format (mm/dd/yyyy). Once corrected the export sales listing reconciled to the audited financial statements.

3.2 Verification of Australian sales to source documents

The verification team verified the accuracy of EAA's export sales listing by reconciling it to source documents in accordance with ADN No. 2016/30.

The verification team did not identify any issues during this process. Details of this verification process are contained in the verification work program, and its relevant attachments, at **Confidential Attachment 1**.

3.3 The exporter

For all Australian export sales during the investigation period, the verification team considers EAA to be the exporter of the goods.²

3.4 The importer

The verification team considers that, in relation to the goods³ exported by EAA, the customers listed in the Australian sales spreadsheet were the beneficial owners of the goods at the time of importation and therefore were the importers of the goods.

² The Commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

³ Section 2.1

3.5 Related customers

The verification team did not identify any Australian customers which were related to EAA based on the company's REQ, sales data and audited financial statements.

3.6 Arms length

In respect of export sales of aluminium extrusions to Australia by EAA during the investigation period, the verification team found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price was 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; or
- the buyer, or an associate of the buyer, was directly or indirectly, reimbursed, compensated or otherwise received a benefit for, or in respect of, whole or any part of the price.

The verification team therefore considers that all sales of aluminium extrusions exported to Australia by EAA during the inquiry period were arms length⁴ transactions.

3.7 Export price – preliminary assessment

The verification team is satisfied that the export sales listing is complete, relevant and accurate and recommends that the export price be determined under paragraph 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

The verification team's preliminary export price calculations are at **Confidential Appendix 1**.

⁴ Section 269TAA of the Act outlines the circumstances in which the price paid or payable shall not be treated as being at arms-length. These are where: there is any consideration payable for or 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; or, 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.

4 COST TO MAKE AND SELL

4.1 Verification of costs to audited financial statements

The verification team verified the completeness and relevance of EAA's CTMS spreadsheet by reconciling it to audited financial statements in accordance with ADN No. 2016/30.

The verification team was presented with a revised CTMS spreadsheet during the verification visit. The revised spreadsheet included an additional amount per unit cost.

Further, the verification team identified that financial expenses were not included in the CTMS data. The financial expenses were added to the CTMS spreadsheet.

The verification team did not find any other issues with the verification of costs and was able to reconcile the CTMS data with these changes to audited financial statements.

Details of the verification process are contained in the verification work program, and relevant attachments, at **Confidential Attachment 1**.

4.2 Verification of costs to source documents

The verification team verified the accuracy of EAA's costs in the audited financial statements by reconciling them to source documents in accordance with ADN No. 2016/30.

The verification team did not identify any issues.

Details of the verification process are contained in the verification work program, and relevant attachments, at **Confidential Attachment 1**.

4.3 Related party purchases

The verification team identified a related supplier of raw materials used to manufacture the GUC. This related supplier was an intermediary and imported the raw materials on behalf of the exporter. At the request of the verification team, EAA provided extracts from their raw materials ledger to outline that the costs were allocated at a market rate.

4.4 Cost to make and sell – summary

Having verified EAA's CTMS data for aluminium extrusions to audited financial accounts and to source documents, the verification team is satisfied that the revised CTMS spreadsheet is complete, relevant and accurate.

EAA's revised CTMS spreadsheet is at **Confidential Appendix 2**.

5 VERIFICATION OF DOMESTIC SALES

5.1 Verification of domestic sales to audited financial statements

The verification team verified the completeness and relevance of EAA's domestic sales listing by reconciling it to audited financial statements in accordance with ADN No. 2016/30.

The verification team did not identify any issues during this process. Details of the verification are contained in the verification work program, and relevant attachments, at **Confidential Attachment 1**.

5.2 Verification of domestic sales to source documents

The verification team verified the accuracy of EAA's domestic sales listing by reconciling it to source documents in accordance with ADN No. 2016/30.

The verification team did not identify any issues during the downwards verification of domestic sales.

Details of the verification are contained in the verification work program, and relevant attachments, at **Confidential Attachment 1**.

5.3 Related customers

The verification team did not identify any information that might suggest any of its Domestic customers were related to EAA based on the company's REQ, sales data and audited financial statements.

5.4 Arms length

In respect of EAA's sales of aluminium extrusions to unrelated customers during the investigation period, the verification team found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price was 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; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

The verification team therefore considers that all domestic sales by EAA during the inquiry period were arms length transactions.

5.5 Ordinary course of trade

Section 269TAA provides that if like goods are sold in the country of export at a price less than the cost of such goods, and are unrecoverable within a reasonable period, then they are taken not to have been sold in the ordinary course of trade (OCOT).

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The verification team compared the revenue (i.e. net sales value) for each domestic sale of aluminium extrusions to the corresponding quarterly domestic CTMS to test whether those sales were profitable.

Where the volume of unprofitable sales exceeded 20 per cent for a particular model, the verification team tested the recoverability of the unprofitable sales by comparing the revenue for each transaction to the corresponding weighted average CTMS over the investigation period. Those sales found to be unrecoverable were considered not to be in the OCOT.

5.6 Suitability of domestic sales

Subparagraph 269TAC(2)(a)(i) provides that the normal value of goods exported to Australia cannot be ascertained under subsection 269TAC(1) where there is an absence, or low volume, of sales of like goods in the market of the country of export.

Low volume is defined by subsection 269TAC(14) as less than 5% of the total volume of the goods under consideration that are exported to Australia.

The verification team found there was a sufficient volume of domestic sales made in OCOT for all three models of aluminium extrusions exported to Australia during the investigation period.

5.7 Domestic sales – summary

The verification team is satisfied that the domestic sales listing provided by EAA is complete, relevant and accurate, and can be used for assessing normal value under subsection 269TAC(1).

The domestic sales spreadsheet is at **Confidential Appendix 3**.

6 ADJUSTMENTS

To ensure the normal value is comparable to the export price of the goods exported to Australia, the following adjustments were made to the normal value⁵.

6.1 Packing

EAA stated that they believe there is no difference in the costs relating to packing the goods for export and the goods sold domestically. As a result, any costs relating packing expenses are identical for the goods exported and like goods sold domestically.

The verification team observed the goods for export and like goods sold domestically being packed for delivery during a production tour of EAA's manufacturing facility. Minimal differences in the method and form of packing between the goods for export and like goods sold domestically was observed. Identical types and amounts of packing materials were observed being used in the packing process. The verification team is satisfied, after observing the packing process, that EAA's allocation of costs for packing expenses is reasonable.

Therefore, the verification team considers an adjustment for packing expenses is not required to ensure a fair comparison to the export price.

6.2 Inland transport

The verification team considers a downwards adjustment for domestic inland transport to the customer is required to ensure a fair comparison to the export price. The verification team applied these downwards adjustments based on the actual inland transport expenses verified in the domestic sales spreadsheet.

The verification team considers an upward adjustment for export inland transport is required to ensure a fair comparison to the export price. The verification team applied an upwards adjustment based on the weighted average inland transport expenses verified in the export sales spreadsheet.

6.3 Domestic and export credit terms

The verification team considers a downwards adjustment to the normal value for domestic credit terms and an upward adjustment for export credit terms is required to ensure fair comparison. The verification team applied these adjustments based on the credit days listed for each domestic and export sale and EAA's short term borrowing rate for the investigation period.

6.4 Quantity discount adjustment

EAA have claimed an upward adjustment to the normal value for sales with a quantity discount.

⁵ In accordance with subsection TAC(8)

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EAA's adjustment claim is based on a comparison between the price achieved by its largest export customer subject to a volume discount and the price achieved by its largest domestic customer also subject to a volume discount. EAA stated that the weighted average percentage difference between the two prices over the investigation period should be the amount applied as the adjustment.

Although both the export customer and the domestic customer have access to volume related discounts, the evidence provided by EAA demonstrates that the terms of discounts differ, which permits the consideration of the adjustment⁶. The Dumping and Subsidy Manual (the Manual) provides that any adjustment for a quantity discount may be made after having regard to:

- any quantity discount given to domestic sales of like goods with similar volumes as the export sales volume to Australia;
- any quantity discount given to the same general category of goods; or any other method that is supported by evidence; and
- any other method.⁷

It is clear from the Manual that any quantity discount adjustment is to be considered from an assessment of domestic sales, and in particular, similar volumes of discounted domestic sales to the volumes of export sales. The verification team considers that EAA's comparison of prices between an export customer and a domestic customer is akin to an assessment of dumping as opposed to an adjustment claim. The evidence provided by EAA demonstrates distinctively, that the two customers are not comparative on a volume level.

The manual does provide the following guidance on applying a quantity discount:

“(a) applying the discount to that part of the total population of domestic sales not receiving the discount. This would mean that a weighted average normal value would reflect that discount across all sales; or

(b) using only those domestic sales that did receive the discount when working out normal value.”⁸

In line with the Manual, the verification team compared pricing of the domestic customer receiving the volume discount to those domestic customers who do not receive a volume discount. The evidence revealed no discernible difference in price. In fact, the price achieved by some domestic customers not receiving a volume discount was slightly lower than the domestic customer receiving the volume discount. This contradicts EAA's contention that volume discounts impact pricing in a way warranting an adjustment to the normal value.

The verification team is satisfied that the disparity in volumes and the level of trade difference between EAA's export customers and domestic customers receiving the volume discount, fails to deliver the scope on which to base the normal value only on a 'selective' number of domestic sales receiving the volume discount.

⁶ s.269TAC(8)(c) *Customs Act 1901* (Cth).

⁷ Anti-Dumping Commission, 'Dumping and Subsidy Manual' (November 2015) p. 70 – 71.

⁸ *Ibid.*

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Based on the evidence provided by EAA, the verification team considers an adjustment for a quantity discount is not warranted to ensure a fair comparison to the export price.

6.5 Adjustments – conclusion

The verification team is satisfied that there is sufficient and reliable information to justify the following adjustments, in accordance with subsections 269TAC(8) and considers these adjustments are necessary to ensure a fair comparison of normal values and export prices.

Adjustment Type	Deduction/addition
Domestic credit	Less an amount for domestic credit
Domestic inland transport	Less an amount for domestic inland transport
Export inland transport	Add an amount for inland transport
Export credit	Add an amount for export credit

7 NORMAL VALUE

The verification team is satisfied that it found sufficient volumes of domestic sales of aluminium extrusions for all three models exported to Australia, that were arms length transactions and at prices that were within the OCOT. The verification team is therefore satisfied that the prices paid in respect of domestic sales of aluminium extrusions for these models are suitable for assessing normal value under subsection 269TAC(1).

In using domestic sales as the basis for normal values, the verification team considers that certain adjustments, in accordance with subsection 269TAC(8), are necessary to ensure fair comparison of normal values with export prices.

Normal value calculations are at **Confidential Appendix 4**.

8 DUMPING MARGIN

The dumping margin has been assessed by comparing weighted average Australian export prices to the corresponding quarterly weighted average normal value for the inquiry period.⁹

The dumping margin in respect of aluminium extrusions for EAA for the investigation period is **6.9%**.

Details of the preliminary dumping margin calculation are at **Confidential Appendix 5**.

⁹ In accordance with subsection 269TACB(2)(a).

9 SUBSIDIES

9.1 Import tariff exemption

EAA received an import tariff exemption on certain equipment imported in 2008/09. The imported goods that received a tariff exemption have been depreciated over a 7 year period. Examination of the company's asset register shows that this equipment reached the end of its useful life for depreciation purposes in the period ending 31 December 2015.

The verification team verified the import tariff exemption declared in the exporter questionnaire by reconciling the amounts contained in the assets register to the ledger over the investigation period. The verification team was also able to verify the accuracy of the import tariff exemption by reconciling selected purchases downwards to the invoices, import declarations and shipping documents.

The benefit received in relation to the goods which were subject to an import tariff exemption was found to be relevant for the first six months of the investigation period.

9.2 Corporate tax incentive

EAA received a corporate income tax benefit during the investigation period in the form of a lower corporate tax rate than the standard tax rate. EAA received the benefit as it is located in the Chi Linh District, Hai Duong Province. This is considered to be an area of socio-economic difficulties under Appendix II of Decree 164/2003/ND-CP detailing the implementation of the Law on Corporate Income Tax 2003.

The verification team reconciled the tax incentive received to the audited financial statement, audited accounts and tax returns and found that this incentive was provided up to 31 December 2015. For the period after this date the verification team understands that the corporate tax rate for all companies in Vietnam is now 20%, this includes EAA.

9.3 Non-agricultural land tax reduction

The tax on the use of land for non-agricultural purposes has been applied since 1 January 2012 at a rate 0.03%. This amount is calculated by multiplying the tax rate with the land area and the land price. EAA states in its exporter questionnaire it is entitled to a 50% reduction of non-agricultural land use tax from 2012 till the end of 2016 (as provided in Decision 5442/QD-CT of Hai Duong Tax Department dated 16 December, 2015). As a result EAA's current land tax rate is 0.015%.

EAA is entitled to the 50% reduction as it employs more than 500 people which is considered as an investment sector of encouragement under Point 29, Section B, Appendix I to Decree 108/2006/ND-CP detailing the implementation of the Law on Investment 2005. This criterion applies to enterprises of all industries and regions. It is not conditional on business exports, the use of domestic over imported inputs, the industry to which EAA belongs to, or the region where EAA is located.

The verification team verified the validation of the non-agricultural tax reduction declared in the exporter questionnaire by ensuring that EAA employed the specified number of staff and the required insurances for direct labour were being paid. This was verified by viewing the Direct Labour ledger.

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Details of the verification are contained in the verification work program, and relevant attachments, at **Confidential Attachment 1**.

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10 APPENDICES AND ATTACHMENTS

Confidential Appendix 1	Australian export sales
Confidential Appendix 2	CTMS spreadsheet
Confidential Appendix 3	Domestic sales
Confidential Appendix 4	Normal value
Confidential Appendix 5	Dumping margin
Confidential Attachment 1	Verification work program, with attachments