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Australian Government
Anti-Dumping Commission

REVIEW 392

**ALLEGED DUMPING AND SUBSIDISATION OF ALUMINIUM
EXTRUSIONS**

EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA

IMPORTER VERIFICATION VISIT REPORT

KAM KIU PTY LTD

**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**

July 2017

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1 BACKGROUND

1.1 This review

On 23 March 2017, the Commissioner of the Anti-Dumping Commission (the Commissioner) initiated a review into the variable measures relating to aluminium extrusions exported to Australia from the People's Republic of China (China). Public notification of the initiation of the review was published on the Anti-Dumping Commission's website. The background relating to the initiation of this review is contained in Consideration Report 392.

Following the initiation, the Anti-Dumping Commission (the Commission) wrote to Kam Kiu Pty Ltd (KAU), and other importers of aluminium extrusions as identified by the Australian Border Force (ABF) import database, inviting them to cooperate with the investigation. KAU cooperated with the review and completed the importer questionnaire and relevant attachments.

1.2 Company structure

KAU forms part of the Kam Kiu group of companies. A number of companies are part of the Kam Kiu Group. Relevant to this review are:

- KAU, a sales agent for Kam Kiu Aluminium Products SDN BHD (KMY);
- KMY, a trading company incorporated in Malaysia which purchased the goods from TaiShan City Kam Kiu Aluminium Extrusion Co Ltd (KAE), and then resold the same to Australia; and
- KAE, based in Guangdong Province in China, which manufactures aluminium extrusions

KAU, KMY and KAE are all ultimately owned by the same holding company. Reference is made to **Confidential Attachment 1: Kam Kiu current group structure**.

2 AUSTRALIAN SALES

2.1 Verification of sales to audited financial statements

The verification team verified the completeness and relevance of the sales facilitated by KAU by reconciling the commissions received by KAU from KMY to KAU's financial statements in accordance with ADN. No 2016/30.

Details of this verification process are contained in the verification work program at **Confidential Attachment 2**.

2.2 Verification of sales to source documents

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

Details of this verification process are contained in the verification work program at **Confidential Attachment 2**.

The verification team did not find any issues with the verification of the sales listing to source documents.

2.3 Related party customers

The verification team did not find any evidence that KAU or KMY is a related party to any of its Australian customers during the investigation period.

3 IMPORTS

3.1 Aluminium extrusions

KAU confirmed that it facilitated imports of aluminium extrusions from China during the review period, which matches the description of aluminium extrusions that are the subject of this application.

3.2 Verification of importation and selling costs

The visit team verified the accuracy of the importation and selling costs by reconciling selected imports to the source documents in accordance with ADN 2016/30.

The verification team did not find any issues with the verification of importation and selling costs to source documents.

Details of the verification are contained within the verification work program as **confidential attachment 2**.

3.3 Import listing

KAU confirmed that the import listing extracted from the ABF import database is a complete list of imports of aluminium extrusions over the review period, with the exception of one shipment that should have been booked to calendar year 2017 and one shipment that was a duplicate of another existing shipment.

The verification team calculated the weighted average export price at **Confidential Appendix 1**

3.4 Forward orders

KAU did not provide details of forward orders in its importer questionnaire response.

3.5 The importer

According to section 269T of the *Customs Act 1901* (the Act) "importer", in relation to goods exported to Australia, means "...the beneficial owner of the goods at the time of their arrival within the limits of the port or airport in Australia at which they have landed".

The Act does not define the meaning of 'beneficial owner'.

In order to identify who is the beneficial owner of the goods at the time of their arrival the verification team has examined the importation and sales documents in relation to the sample shipments of aluminium extrusions exported to Australia by KAE.

The verification team considers KMY to be the beneficial owner of the goods at the time of arrival and hence the importer.

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3.6 The exporter

Subject to further inquiries, the verification team considers KAE to be the exporter of the goods¹.

3.7 Profitability of imports

The verification team has assessed the profitability for the 12 selected shipments. Of the 12 selected shipments one had an invoice date outside the review period and as such the verification team excluded this transaction.

The verification team found of the remaining 11 shipments ten were unprofitable. The verification team's assessment is at **Confidential Appendix 2**.

3.8 Related party suppliers

KAU provided an organisation chart of the Kam Kiu group of companies that establishes that KMY is related to its supplier of aluminium extrusions exported from China during the review period.

3.9 Arm's length

Section 269TAA of the Act 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, or in respect of, the goods other than its price; or
- 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, is directly or indirectly, reimbursed, compensated or otherwise received a benefit for, or in respect of, whole or any part of the price.

¹ The Commission generally identifies the exporter as a principal in the transaction, located in the country of export from where aluminium extrusions were shipped, that gave up responsibility by knowingly placing aluminium extrusions 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, aluminium extrusions but need not be the owner at the time aluminium extrusions were shipped.

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The verification team obtained information about KAU's price negotiation and ordering arrangements as well as undertaking a profitability analysis as detailed above.

The verification team considers that, as it was found that all but one of the assessed shipments were unprofitable, it should be treated as indicating that the importer will directly or indirectly be reimbursed, be compensated or otherwise receive a benefit for whole or any part of the price².

Therefore, given the relationship between KMY and KAE, the verification team is not satisfied that import transactions between KMY and KAE are at arm's length.

² Subsection 269TAA(2) of the *Customs Act 1901*.

4 RECOMMENDATIONS

The verification team are of the opinion that for the goods imported by KMY from KAE:

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

Subject to further inquiries in relation to these shipments, the verification team recommends that the export price for goods imported by KMY from KAE can be established under subsection 269TAB(1)(b) of the Act.

5 GENERAL COMMENTS

During the verification visit, the KAU representative provided the following comments:

5.1 The Australian market for aluminium extrusions

The KAU representative stated that the Australian market is starting to recover from the last global financial crisis. She stated that the signs of this recovery are that there are new local domestic presses entering the market. Even if the dumping measures that are applied to KAE exports were to be removed, the KAE prices are close to those charged by Australian industry. Some local presses offer lower price than KAE and the quality is similar. There are also imports from Malaysia, Thailand, Vietnam and Indonesia. Prices from these countries are lower than KAE and lower than the Australian average.

5.2 Australian industry

The KAU representative stated that Capral is both manufacturer of aluminium extrusions and a customer of KAE. Capral cannot produce larger shapes or heavy mass and purchases these types of products from KAE and other overseas suppliers.

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6 ATTACHMENTS

Confidential Appendix 1	TAB 1(b) Export price
Confidential Appendix 2	Profitability
Confidential Attachment 1	Confidential Attachment 1: Kam Kiu current group structure
Confidential Attachment 2	Confidential Attachment 2: Verification work program