



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

**Anti-Dumping  
Commission**

---

*CUSTOMS ACT 1901 – PART XVB*

**STATEMENT OF ESSENTIAL FACTS  
NO. 609**

**REVIEW OF ANTI-DUMPING MEASURES  
APPLYING TO ALUMINIUM EXTRUSIONS**

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

**8 June 2023**

**CONTENTS**

<b>ABBREVIATIONS</b> .....	<b>4</b>
<b>1 SUMMARY AND RECOMMENDATIONS</b> .....	<b>6</b>
1.1 INTRODUCTION.....	6
1.2 PROPOSED RECOMMENDATION TO THE MINISTER.....	7
1.3 LEGISLATIVE FRAMEWORK.....	9
1.4 RESPONDING TO THIS SEF.....	10
1.5 FINAL REPORT.....	10
<b>2 BACKGROUND</b> .....	<b>11</b>
2.1 INITIATION.....	11
2.2 HISTORY OF THE ANTI-DUMPING MEASURES.....	11
2.3 CURRENT ANTI-DUMPING MEASURES .....	13
2.4 REVIEW PROCESS .....	13
2.5 CONDUCT OF THE REVIEW .....	14
2.6 SUBMISSIONS FROM INTERESTED PARTIES .....	15
<b>3 THE GOODS AND LIKE GOODS</b> .....	<b>21</b>
3.1 THE GOODS SUBJECT TO ANTI-DUMPING MEASURES .....	21
3.2 TARIFF CLASSIFICATION .....	21
3.3 MODEL CONTROL CODES.....	22
<b>4 VARIABLE FACTORS – DUMPING DUTY NOTICE</b> .....	<b>23</b>
4.1 PRELIMINARY FINDING.....	23
4.2 LEGISLATIVE FRAMEWORK .....	23
4.3 EXPORTERS.....	25
4.4 DUMPING ASSESSMENT – GOOMAX .....	27
4.5 DUMPING ASSESSMENT – JINXIECHENG .....	32
4.6 DUMPING ASSESSMENT – KAM KIU.....	36
4.7 DUMPING ASSESSMENT – XINGFA .....	40
4.8 DUMPING ASSESSMENT – RESIDUAL EXPORTERS.....	44
4.9 DUMPING ASSESSMENT – UNCOOPERATIVE EXPORTERS.....	45
<b>5 VARIABLE FACTORS – COUNTERVAILING DUTY NOTICE</b> .....	<b>46</b>
5.1 PRELIMINARY FINDINGS .....	46
5.2 LEGISLATIVE FRAMEWORK .....	46
5.3 SUBMISSIONS RELATING TO COUNTERVAILING.....	46
5.4 SUBSIDY PROGRAMS.....	47
5.5 CALCULATION OF SUBSIDY MARGINS.....	57
5.6 SUMMARY OF SUBSIDY MARGINS .....	61
<b>6 NON-INJURIOUS PRICE</b> .....	<b>62</b>
6.1 ASSESSMENT OF THE NON-INJURIOUS PRICE .....	62
6.2 LEGISLATIVE FRAMEWORK .....	62
6.3 COMMISSION’S ASSESSMENT .....	62
<b>7 OUTCOME OF REVIEW</b> .....	<b>64</b>
7.1 PRELIMINARY FINDING .....	64
7.2 FORMS OF DUTY AVAILABLE – DUMPING .....	64
7.3 FORMS OF COUNTERVAILING DUTY METHODS AVAILABLE .....	65
7.4 AVOIDANCE OF ‘DOUBLE-COUNTING’ .....	65
7.5 COMMISSION’S ASSESSMENT – FORM OF MEASURES .....	66
7.6 RECOMMENDED DATE OF EFFECT .....	66
7.7 RECOMMENDED ANTI-DUMPING MEASURES.....	69
<b>8 APPENDICES AND ATTACHMENTS</b> .....	<b>71</b>
<b>APPENDIX A ASSESSMENT OF PARTICULAR MARKET SITUATION</b> .....	<b>73</b>
A1 INTRODUCTION .....	73
A2 AUSTRALIAN LEGISLATION, POLICY AND PRACTICE.....	73
A3 ASSESSING PARTICULAR MARKET SITUATION IN THIS REVIEW .....	75
A4 CONDITIONS IN THE CHINESE PRIMARY ALUMINIUM MARKET.....	76

## PUBLIC RECORD

A5	GOC INFLUENCE IN THE CHINESE ALUMINIUM MARKET .....	78
A6	THE CHINESE ALUMINIUM EXTRUSION MARKET .....	85
A7	ASSESSMENT OF PARTICULAR MARKET SITUATION IN THE CHINESE ALUMINIUM EXTRUSIONS MARKET .....	87
<b>APPENDIX B PROPER COMPARISON OF DOMESTIC AND EXPORT PRICE .....</b>		<b>90</b>
B1	INTRODUCTION .....	90
B2	PROPER COMPARISON OF DOMESTIC AND EXPORT PRICES .....	90
B3	PREVAILING CONDITIONS OF COMPETITION IN CHINA AND AUSTRALIA .....	90
<b>APPENDIX C CONSTRUCTED NORMAL VALUES .....</b>		<b>98</b>
C1	APPLICABLE LEGISLATION, POLICY AND PRACTICE .....	98
C2	ESTABLISHING NORMAL VALUES .....	99
C3	THE SELECTED EXPORTERS' COSTS OF PRODUCTION .....	99
C4	CALCULATION OF THE ALUMINIUM COST ADJUSTMENT .....	102
<b>APPENDIX D ASSESSMENT OF ALLEGED SUBSIDY PROGRAMS .....</b>		<b>103</b>
D1	INTRODUCTION .....	103
D2	ASSESSMENT OF PROGRAMS .....	104
<b>ATTACHMENT 28 – ANNOUNCEMENT ON DEFERRED PAYMENT OF INCOME TAX .....</b>		<b>126</b>

**PUBLIC RECORD**

**ABBREVIATIONS**

ABF	Australian Border Force
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
AEP	ascertained export price
Ansun	Ansun Trading Pty Ltd
Antai	Antai Technology Co., Ltd
ANV	ascertained normal value
AR 530	<i>Accelerated Review No 530</i>
AR 581	<i>Accelerated Review No 581</i>
AUD	Australian dollars
Aus Star	Aus Star International Holdings Pty Ltd
BMB	below-market borrowings
Capral	Capral Limited
China	the People's Republic of China
the commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
the Council	the Australian Aluminium Council
CON 609	<i>Consideration Report No. 609</i>
the Customs Direction	<i>Customs (Extensions of Time and Non-cooperation) Direction 2015</i>
CIF	cost, insurance and freight
CTM	cost to make
DCR	Dumping commodity register
the Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
the duty guidelines	<i>Guidelines on the Application of Forms of Dumping Duty</i>
EPR	electronic public record
FIE	foreign invested enterprise
FOB	Free-on board
Foshan Lvqiang	Foshan Lvqiang Metal Product Co., Ltd
Foshan Xing Yi	Foshan Xing Yi Import & Export Co., LTD
GAAP	generally accepted accounting principles
Goomax	Goomax Metal Co. Ltd Fujian
the goods	the goods the subject of the application (also referred to as the goods under consideration)
ICD	interim countervailing duty
IDD	interim dumping duty
initiation notice	ADN No 2022/081
Jiangsheng	Guangdong Jiangsheng Aluminium Co., Ltd
Jinxiecheng	Guangdong Jinxiecheng AI Manufacturing Co., Ltd

## PUBLIC RECORD

Kam Kiu	Tai Shan City Kam Kiu Aluminium Extrusion Co., Ltd
KHK	Kam Kiu (Hong Kong) Limited
the Manual	<i>Dumping and Subsidy Manual (December 2021)</i>
MCC	model control code
Mega Stone	Mega Stone Aluminium Australia Pty Ltd
the Minister	the Minister for Industry and Science
MJP	Major Japanese Ports
NDRC	National Development and Reform Commission (China)
NIP	non-injurious price
OCOT	ordinary course of trade
PMAA	Press Metal Aluminium Australia Pty Ltd
Qingyuan	Qingyuan City Huanan Copper and Aluminium Co., Ltd
Regulation	<i>Customs (International Obligations) Regulation 2015</i>
review period	1 July 2021 to 30 June 2022
REQ	response to the exporter questionnaire
REP 482	<i>Anti-dumping Commission Report No 482</i>
REP 543	<i>Anti-dumping Commission Report No 543</i>
RIQ	response to the importer questionnaire
SBMR	State Bureau of Material Reserve
SIE	State-Invested Enterprise
SOE	State-Owned Enterprise
SEF	statement of essential facts
Tai Ao	Tai Ao Aluminium Tai Shan Co., Ltd
VAT	value-added tax
WTO	World Trade Organization
Xingfa	Guangdong Xingfa Aluminium Co., Ltd
XinYueYa	Qingyuan XinYueYa Aluminum Industry Co., Ltd
Yongya	Foshan City Sanshui Yongya Aluminium Co., Ltd
Zhongya	Guangdong Zhongya Aluminium Company Limited

## 1 SUMMARY AND RECOMMENDATIONS

### 1.1 Introduction

This statement of essential facts (**SEF**) has been prepared in response to an application from Australian industry member, Capral Limited (**Capral**, or **the applicant**) for a review of the anti-dumping measures applying to certain aluminium extrusions (**the goods**) exported to Australia from the People's Republic of China (**China**). The anti-dumping measures consist of a dumping duty notice and a countervailing duty notice (the notices).

Capral requested a review of the anti-dumping measures because it considers one or more of the variable factors relevant to the anti-dumping measures have changed.

This SEF sets out the facts on which the Commissioner of the Anti-Dumping Commission (**the Commissioner**) proposes to base recommendations to the Minister for Industry and Science (**the Minister**) in relation to this review.

The anti-dumping measures apply to all exporters from China, except Guangdong Zhongya Aluminium Company Limited (**Zhongya**) and Guangdong Jiangsheng Aluminium Co., Ltd (**Jiangsheng**). Table 1 provides the previously determined dumping and subsidy margins and current effective duties applying to the goods exported from China.

## PUBLIC RECORD

Exporter <sup>1</sup>	Dumping margin	Subsidy margin	Effective fixed rate of interim and countervailing duty (ICD) and interim dumping duty (IDD) <sup>2</sup>	Duty method
Goomax Metal Co., Ltd Fujian ( <b>Goomax</b> )	-6.0%	1.0%	1.0%	Fixed rate of ICD. Floor price duty method: Variable component of IDD equal to the amount, if any, by which the actual export price is below the ascertained normal value (ANV)
Guangdong Jinxiecheng Al Manufacturing Co., Ltd ( <b>Jinxiecheng</b> )	-4.4%	0.0%	0.0%	
Foshan City Sanshui Yongya Aluminium Co Ltd ( <b>Yongya</b> ) <sup>3</sup>	-13.8%	0.0%	0.0%	
Tai Shan City Kam Kiu Aluminium Extrusion Co., Ltd ( <b>Kam Kiu</b> )	22.3%	6.4%	25.6%	Combination of fixed and variable duty method, consisting of a fixed rate of IDD and ICD, plus a variable component of IDD equal to the amount, if any, by which the actual export price is below the ascertained export price (AEP).
PanAsia Aluminium (China) Limited <sup>4</sup>	70.0%	0.4%	70.3%	
Residual exporters	11.1%	0.7%	11.5%	
Uncooperative, non-cooperative and all other exporters <sup>5</sup>	71.9%	9.9%	77.4%	

**Table 1: Summary of previously determined dumping/subsidy margins and current effective duties**

## 1.2 Proposed recommendation to the Minister

### 1.2.1 Change to variable factors

The Commissioner has preliminarily found that the variable factors relevant to the determination of both dumping duty and countervailing duty payable under the *Customs Tariff (Anti-Dumping) Act 1975 (the Dumping Duty Act)* have changed in respect of the goods exported from China.

The Commissioner therefore proposes to recommend to the Minister that the notices have effect as if different variable factors had been ascertained.

The revised variable factors result in different dumping and subsidy margins relevant to the taking of IDD and ICD respectively. This has resulted in various changes to the current anti-dumping measures in Table 1 and the recommended anti-dumping measures in Table 2 below.

<sup>1</sup> Further details of the anti-dumping measures can be found on the Anti-Dumping Commission's (**commission**) dumping commodity register, available at [www.adcommission.gov.au](http://www.adcommission.gov.au).

<sup>2</sup> The sum of the IDD and ICD may not equal the total effective fixed rate of IDD and ICD. This is because certain subsidies affect both the IDD and ICD. The commission's practice is to back out such subsidies to avoid double counting. A variable component of IDD may also apply, depending on the circumstances.

<sup>3</sup> For this review, this entity is a residual exporter, as per section 4.3.2.

<sup>4</sup> As a result of rezoning of industrial land, this entity ceased operation in 2020.

<sup>5</sup> Two exporters, Antai Technology Co., Ltd (**Antai**) and Qingyuan XinYueYa Aluminum Industry Co., Ltd (**XinYueYa**) are currently required to pay securities, rather than IDD and ICD, while Accelerated Review Nos 618 and 619 continue.

## PUBLIC RECORD

- The two duty methods remain the same for this review, however some exporters are recommended to have different duty methods. For example, it is recommended that the duty method for the residual exporters change.
- The recommended anti-dumping measures (i.e., the effective fixed rate of ICD and IDD) represents a change for all cooperative, residual, and uncooperative exporters in Table 2, except Jinxiecheng.
- It is recommended that some exporters change category, for example, changing from being a residual exporter to having their own rate (Guangdong Xingfa Aluminium Co., Ltd, **Xingfa**) or conversely (e.g., Yongya from having own rate to residual exporter rate). It is recommended that Qingyuan City Huanan Copper & Aluminum Co., Ltd (**Qingyuan**) and Foshan Lvqiang Metal Product Co., Ltd. (**Foshan Lvqiang**) change from having their own rate to the uncooperative, non-cooperative and all other exporters rate.

Exporter	Dumping margin	Subsidy margin	Effective fixed rate of ICD and IDD	Duty method
Gomax	-7.5%	0.7%	0.7% (previously 1.0)	Fixed rate of ICD. Floor price duty method: Variable component of IDD equal to the amount, if any, by which the actual export price is below the ANV.
Jinxiecheng	-7.7%	0.0%	0.0% (same rate)	
Xingfa	-1.8%	0.3%	0.3% (new own rate)	
Residual exporters <sup>6</sup>	-0.5%	0.9%	0.9% (previously 11.5%)	
Kam Kiu	41.1%	4.5%	45.1% (previously 25.6%)	Combination of fixed and variable duty method, consisting of a fixed rate of IDD and ICD, plus a variable component of IDD equal to the amount, if any, by which the actual export price is below the AEP.
Uncooperative, non-cooperative and all other exporters <sup>7</sup>	41.1%	11.3%	48.1% (previously 77.4%)	

**Table 2: Preliminary dumping and subsidy margins**

For further detail:

- Chapter 4 discusses the calculation of the dumping margins.
- Chapter 5 discusses the calculation of the subsidy margins.
- Chapter 7 discusses the calculation of the effective fixed rate of ICD and IDD and the proposed duty methods.

### 1.2.2 Date of effect

The Commissioner further proposes to recommend to the Minister that the Minister declare that the notices fixing different variable factors take effect from:

<sup>6</sup> The residual exporters are listed at chapter 4.3.2.

<sup>7</sup> Refer to chapter 4.3.3 for further details about Qingyuan and Foshan Lvqiang, who are now in the uncooperative, non-cooperative and all other exporters category. Refer to chapter 4.3.4 for further details about Antai and XinYueYa, who are currently subject to ongoing accelerated reviews and may be treated differently in the final report.



## PUBLIC RECORD

- for all exporters, except Qingyuan and Foshan Lvqiang – the date of publication of the Minister’s decision
- for Qingyuan and Foshan Lvqiang – the date of publication of this SEF.

The commission notes that Qingyuan and Foshan Lvqiang are responsible for a large volume of goods exported during the review period but did not cooperate with this review. The Commissioner has found that both exporters have higher dumping and subsidy margins than last determined.<sup>8</sup> The non-cooperation from these two exporters limited the volume of exports that the Commissioner could reasonably examine in this review. The two exporters currently continue to benefit from the previously determined dumping and subsidy margins while this review continues, exposing the Australian industry to injury.

To ensure effectiveness of the anti-dumping measures, and to reflect the current dumping and subsidy margins, the Commissioner considers that an earlier date, i.e., the date of publication of the SEF, is an appropriate date to fix variable factors for these two exporters. This is to limit injury to the Australian industry, noting the significance of these two exporters’ export volumes in the Australian market. Chapter 7.5 discusses the recommended date of effect for changes to the notices in more detail.

### 1.3 Legislative framework

Division 5 of Part XVB of the *Customs Act 1901 (the Act)*<sup>9</sup> sets out, among other things, the procedures to be followed by the Commissioner when undertaking a review of anti-dumping measures.

The Commissioner must, within 110 days after the initiation of a review of anti-dumping measures, or such longer period as is allowed under section 269ZHI(3), place on the public record a SEF on which the Commissioner proposes to base a recommendation to the Minister in relation to the application.<sup>10</sup>

In making preliminary findings in the SEF, the Commissioner must have regard to:

- the application for a review of the anti-dumping measures
- any submissions received prior to, or on day 37 of this case<sup>11</sup>
- any submissions received after day 37 of this case which, in the opinion of the Commissioner, would not delay the timely publication of this SEF
- any submission relating generally to the review to which the Commissioner has had regard for the purpose of formulating the SEF.

The Commissioner may also have regard to any other matter the Commissioner considered relevant to this review.<sup>12</sup>

Anti-Dumping Notice (**ADN**) 2022/081 (**initiation notice**) advised the Commissioner would publish the SEF on the public record by 28 November 2022. The Commissioner

---

<sup>8</sup> Qingyuan and Foshan Lvqiang’s current variable factors were last ascertained in February 2020 following Accelerated Review No 530 (AR 530) and July 2021 following Accelerated Review No 581 (AR 581) when both exporters had no exports.

<sup>9</sup> All legislative references in this report are to the *Customs Act 1901* unless otherwise specified.

<sup>10</sup> On 14 January 2017, the powers and functions of the Minister under section 269ZHI were delegated to the Commissioner. Refer to ADN 2017/10 for further information.

<sup>11</sup> Section 269ZD(2)(a)(ii).

<sup>12</sup> Section 269ZDA(3)(b).

## PUBLIC RECORD

approved extensions of time for the publication of the SEF and final report. The Commissioner is required to publish this SEF no later than **8 June 2023**.<sup>13</sup>

### 1.4 Responding to this SEF

Interested parties are invited to make written submissions to the Commissioner in response to this SEF within 20 days of the date of its publication. The Commissioner will consider these responses in making a final report to the Minister.

Interested parties should respond to this SEF no later than **28 June 2023**. The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Minister. The Commissioner must report to the Minister by no later than **24 August 2023**.

Interested parties should preferably lodge submissions via email to [investigations3@adcommission.gov.au](mailto:investigations3@adcommission.gov.au). Alternatively, interested parties may post submissions to:

Director, Investigations 3  
Anti-Dumping Commission  
GPO Box 2013  
CANBERRA ACT 2601  
AUSTRALIA

Confidential submissions must be clearly marked accordingly, and a non-confidential version of any submission is required for inclusion on the public record. A guide for making submissions is available on the commission website.

### 1.5 Final report

At the conclusion of this review, the Commissioner must provide a final report to the Minister. In this final report, the Commissioner must make a recommendation to the Minister that the dumping duty and countervailing duty notices:

- remain unaltered, or
- have effect, in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained.<sup>14</sup>

The Minister must make a declaration within 30 days of receiving the final report or, if the Minister considers there are special circumstances that prevent the declaration being made within that period, such longer period as the Minister considers appropriate.<sup>15</sup>

The Commissioner was originally due to provide the final report and recommendations to the Minister on, or before 10 January 2023. The Commissioner is now due to provide the final report and recommendations to the Minister on, or before **24 August 2023** unless the Commissioner grants a further extension of time.

---

<sup>13</sup> ADN 2023/023, EPR 609, Item 20, ADN 2023/009, Item 19, ADN 2022/118, Item 12 and ADN 2022/081, Item 1.

<sup>14</sup> Section 269ZDA(1)(a).

<sup>15</sup> Section 269ZDB(1A).

## 2 BACKGROUND

### 2.1 Initiation

On 29 June 2022, Capral lodged an application under section 269ZB with the Commissioner for a review of the anti-dumping measures applying to aluminium extrusions exported to Australia from China. The application claimed that one or more of the variable factors<sup>16</sup> have changed since they were last ascertained on 15 October 2020, following *Anti-Dumping Commission Report No 543 (REP 543)*.<sup>17</sup>

The Commissioner decided not to reject the application and on 8 August 2022 initiated a review of the anti-dumping measures applying to aluminium extrusions exported from China. *Consideration Report No 609 (CON 609)* and ADN 2022/081 provide further details on the initiation of this review. Both documents are available on the commission’s website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

### 2.2 History of the anti-dumping measures

The full history in relation to the anti-dumping measures relating to certain aluminium extrusions from China can be found on the commission’s website. A summary of the main cases relevant to the goods exported from China is outlined in Table 3.

Report No.	Date notice published	Case description
REP 148	28/10/2010	The then Australian Customs and Border Protection Service initiated an investigation into the alleged dumping and subsidisation of the goods exported to Australia from China following an application by Capral. Jiangsheng, formerly known as Tai Ao Aluminium Tai Shan Co Ltd ( <b>Tai Ao</b> ) was found to have a de minimis dumping and subsidy margins and the investigation in relation to Tai Ao was terminated. Tai Ao, now Jiangsheng, has been exempt from anti-dumping measures since this case.  Following the investigation, the then Attorney-General published the notices.  <i>Trade Remedies Branch Report No. 148 (REP 148)</i> refers.
REP 175	27/08/2011	The then Attorney-General published new notices as a result of a reinvestigation of certain findings made in REP 148 following a review by the former Trade Measures Review Officer. Zhongya was exempt from the dumping duty notice.  <i>International Trade Remedies Report No. 175 (REP 175)</i> refers.
REP 241	18/02/2015	The notices were amended on conclusion 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. (PanAsia China).  <i>Anti-Dumping Commission Report No. 241 (REP 241)</i> and ADN 2015/17 refer.
REP 248	19/08/2015	Publication of the outcome of a review of measures into aluminium extrusions exported from China. The notices were altered as if different

<sup>16</sup> The variable factors relevant to the notices are the export price, normal value, non-injurious price (**NIP**) and amount of countervailable subsidy received.

<sup>17</sup> EPR 543, Item 61.

## PUBLIC RECORD

Report No.	Date notice published	Case description
		variable factors had been ascertained. <i>Anti-Dumping Commission Report No. 248</i> (REP 248) and ADN 2015/96 refer.
REP 287	20/10/2015	Publication of the outcome of a continuation inquiry into aluminium extrusions exported from China. This inquiry followed an application by Capral. The then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science continued the measures for a further five years, until 28 October 2020. <i>Anti-Dumping Commission Report No. 287</i> (REP 287) and ADN 2015/125 refer.
REP 304	09/02/2016	Publication of the outcome of a review of anti-dumping measures as they applied to Press Metal International Ltd (PMI). The review resulted in changed variable factors for PMI. <i>Anti-Dumping Commission Report No. 304</i> (REP 304) and ADN 2016/04 refer.
REP 392	10/11/2017	Publication of the outcome of a review of anti-dumping measures with the former Parliamentary Secretary accepting the recommendations and varying the variable factors relevant to the taking of anti-dumping measures as they affect exporters of the goods generally from China. <i>Anti-Dumping Commission Report No. 392</i> (REP 392) and ADN 2017/138 refer.
REP 447	29/10/2018	The commission published findings of an anti-circumvention inquiry, examining claims made in an application by Capral that certain aluminium extrusions were being exported to Australia from China through one or more third countries. <i>Anti-Dumping Commission Report No. 447</i> (REP 447) and ADN 2018/155 refer.
REP 482	9/05/2019	Publication of the outcome of a review of anti-dumping measures with the Minister accepting the recommendations and varying the variable factors relevant to the taking of anti-dumping measures as they affect all subject exporters of certain aluminium extrusions from China. <i>Report No. 482</i> ( <b>REP 482</b> ) and ADN 2019/44 refer.  The review was extended to include revocation of the countervailing duty notice relating to Zhongya. The Commissioner was satisfied there were reasonable grounds for recommending that the countervailing duty notice was no longer warranted in relation to Zhongya. ADN 2018/138 refers.  Multiple applications for review of the Minister's decision were received by the Anti-Dumping Review Panel ( <b>ADRP</b> ). On 16 September 2019, the Minister accepted the recommendations made by the ADRP in ADRP Report No. 104 to revoke and substitute new decisions which took effect from 9 May 2019.
REP 543	15/10/2020	Publication of the outcome of a continuation inquiry into aluminium extrusions exported from China. This inquiry followed an application by Capral. The then Minister for Industry, Science and Technology continued the measures applying to aluminium extrusions exported to Australia from China (except Jiangsheng and Zhongya) for a further five years.  REP 543 and ADN 2020/103 refer.

**Table 3: History of anti-dumping measures in relation to the goods exported from China**

## 2.3 Current anti-dumping measures

Table 4 below summarises the rates of IDD and ICD, including the form of anti-dumping measures, currently applying to the goods exported to Australia from China.

An IDD of 0% applies to exporters with negative dumping margins (see Table 1) and subject to the floor price duty method.

Exporter	IDD	ICD	Effective rate of ICD and IDD	Duty method
Goomax	0%	1.0%	1.0%	Fixed rate of ICD. Floor price duty method: Variable component of IDD equal to the amount, if any, by which the actual export price is below the ANV
Jinxiecheng	0%	0.0%	0.0%	
Yongya	0%	0.0%	0.0%	
Kam Kiu	22.3%	6.4%	25.6%	Combination of fixed and variable duty method, consisting of a fixed rate of IDD and ICD, plus a variable component of IDD equal to the amount, if any, by which the actual export price is below the ascertained export price.
PanAsia Aluminium (China) Limited	70.0%	0.4%	70.3%	
Residual exporters	11.1%	0.7%	11.5%	
Uncooperative, non-cooperative and all other exporters	71.9%	9.9%	77.4%	

**Table 4: Current measures applying to exports of the goods exported from China**

## 2.4 Review process

If anti-dumping measures have been taken in respect of certain goods, an affected party may consider it appropriate to review those anti-dumping measures as they affect a particular exporter or exporters generally. Accordingly, the affected party may apply for a review of those anti-dumping measures, if one or more of the variable factors has changed.<sup>18</sup>

A review application must be lodged no earlier than 12 months after publication of the notice imposing the original anti-dumping measures or the notice(s) declaring the outcome of the last review.<sup>19</sup> If the Commissioner initiates a review of measures, the Commissioner has up to 155 days, or such longer time as may be allowed, to conduct a review and report to the Minister on the review of the anti-dumping measures.<sup>20</sup>

During the review, the Commissioner has examined whether the variable factors have changed. In this case, the variable factors are a reference to:

- the ascertained export price
- the ascertained normal value
- the NIP

<sup>18</sup> Section 269ZA(1). The Minister may also apply for a review under section 269ZA(3).

<sup>19</sup> Section 269ZA(2)(a).

<sup>20</sup> Section 269ZDA(1).

- the amount of countervailable subsidies received.

## **2.5 Conduct of the review**

### **2.5.1 Review period**

In the initiation notice, the Commissioner notified interested parties that the review period is 1 July 2021 to 30 June 2022 (**the review period**). The commission examined the review period to establish the variable factors for this review.

The commission sought and obtained information and data pertaining to this period to assess whether the variable factors to the determination of duty payable have changed.

### **2.5.2 Importers**

The commission identified 5 of the largest importers of aluminium extrusions from China, using the Australian Border Force (**ABF**) import database. These importers collectively accounted for most of the importations of the goods from China in the review period. The commission contacted and invited these importers to participate in this review by providing a response to the importer questionnaire (**RIQ**).

The commission also placed a copy of the importer questionnaire on its website for completion by other importers whom the commission did not contact directly.

The commission received an RIQ from the following companies:

- Mega Stone Aluminium Pty Ltd (**Mega Stone**) (whom the commission had contacted directly), and
- Press Metal Aluminium Australia Pty Ltd (**PMAA**).

The commission conducted an onsite verification of the data provided by Mega Stone. A copy of the importer verification report is available on the EPR.<sup>21</sup>

### **2.5.3 Exporters**

On initiation of this review, the Commissioner indicated this review would be limited to the examination of exports from selected exporters:

- Goomax
- Jinxi Cheng
- Qingyuan
- Foshan Lvqiang.

According to data obtained from the ABF import database, these exporters represent approximately 68% of the volume of the goods subject to anti-dumping measures exported to Australia from China during the review period.

The commission provided each of these exporters with an exporter questionnaire (selected exporter questionnaire). The Commissioner requested other Chinese exporters of the goods to make themselves known to the commission by completing a residual exporter questionnaire, published on the commission's website.

---

<sup>21</sup> EPR 609, Item 18.

## PUBLIC RECORD

Gomax and Jinxicheng provided completed questionnaire responses (**REQ**), after the Commissioner granted each an extension of time.<sup>22</sup>

The commission also received an unrequested response to the selected exporter questionnaire from Xingfa within the required timeframe.

Qingyuan did not provide an REQ.

Foshan Lvqiang failed to provide a response to the selected exporter questionnaire as requested by the commission, but instead provided a response to the residual exporter questionnaire.

In addition to the response from Foshan Lvqiang, the Commissioner received 28 completed residual questionnaire responses. This included a response from Kam Kiu, as well as 3 responses from entities who are not manufacturers of the goods.

Due to the lack of a response to the requested selected exporter from Foshan Lvqiang and no response from Qingyuan, the commission added Kam Kiu and Xingfa as selected exporters for further examination in this review. The commission therefore requested that Kam Kiu complete the selected exporter questionnaire, which it did.

In extending the review to include Xingfa and Kam Kiu, the Commissioner assessed whether such an extension will prevent the timely completion of the review, and has considered:

- the level of cooperation from the selected exporters
- the number of the other exporters seeking individual examination, and
- the available resources within the commission to undertake either on-site or remote verification.

The Commissioner considered that while the extension of the review to Xingfa and Kam Kiu (because of the lack of a proper response from Foshan Lvqiang and no response from Qingyuan) would affect review timeframes, it would not prevent its timely completion.

The non-confidential versions of the REQs and the verification reports in relation to these exporters are available on the commission's website.

Chapter 4.3.1 provides detail on the cooperative and residual exporters.

Chapter 4.3.2 provides detail on uncooperative exporters.

Chapter 4.3.3 provides detail on responses received from other entities.

## 2.6 Submissions from interested parties

The Commissioner received 9 submissions prior to the publication of this SEF. These submissions are summarised in Table 5 below.

---

<sup>22</sup> EPR 609, Item 6.

## PUBLIC RECORD

EPR item no.	Interested party	Date lodged	Issues raised	Chapter reference
4	Australia Aluminium Council Ltd	13 September 2022	Supports the review of anti-dumping measures on Chinese exports of the goods.	2.6.1
7	Capral	10 October 2022	Raised a possible ongoing exclusive agent relationship between Xingfa and an Australian company and the potential for commissions.	2.6.2 4.7.2
10	Capral	17 October 2022	Raised various concerns with Goomax and Jinxicheng's REQs.	2.6.2 4.4.2 4.5.2 5.3
11	Xingfa	25 October 2022	Response to Capral's submission regarding Xingfa's exclusive agent relationship.	2.6.3 4.7.2
14	Capral	29 November 2022	Notes recent increases in aluminium/billet premiums and increased energy costs associated with the casting of billet by aluminium extrusions.	2.6.2
16	Capral	16 December 2022	Raised various concerns with Kam Kiu's REQ.	2.6.2 4.6.2
20	Capral	10 March 2023	Raised various concerns with the Mega Stone verification report.	2.6.2
26	Capral	22 May 2023	Raised various concerns with Goomax verification report.	2.6.2 4.4.2 5.3.1
27	Capral	23 May 2023	Raised various concerns with Jinxicheng's and Xingfa's verification reports.	2.6.2 4.5.2 4.7.2 5.3.2 5.3.3

**Table 5: Submissions received and considered in the report**

The Commissioner has had regard to all the submissions referred to in Table 5 in preparing this report. Issues raised in the submissions are discussed below, and relevant sections of the report.

### **2.6.1 Submission by Australia Aluminium Council Ltd**

In its 13 September 2022 submission, The Australian Aluminium Council Ltd (**the Council**) welcomed the opportunity to make a supporting statement about the commission's initiation of the review.

The Council's submission specifically highlighted the importance of the aluminium sector in Australia and noted that Australia's manufacturing sector is facing intense near-term challenges securing and maintaining internationally competitive gas and electricity contracts, mounting inflationary pressures and labour shortages.

It further highlighted that the Australian extrusion market over the past two years during the COVID-19 pandemic has underscored the importance of domestic manufacturing,



both in terms of economic and employment contribution, supporting a productive and resilient economy, and addressing supply chain challenges.

The Council supported the Commissioner in reviewing the anti-dumping and countervailing measures applicable to exports of aluminium extrusions from China to ensure dumped import prices do not cause material injury to the value-add Australian aluminium extrusion industry.

## **2.6.2 Submissions by Capral**

The commission received multiple submissions from Capral during the review, in relation to several issues. These issues are set out below.

### **2.6.2.1 Xingfa**

In its 30 September 2022 submission, Capral claimed that the Xingfa group of companies has appointed Aus Star International Holdings Pty Ltd (**Aus Star**) as its exclusive agent for goods exported to Australia from China. Capral raised concern of an ongoing relationship with Aus Star would likely include the payment of commissions on an ongoing basis that would affect the dumping margin.

Chapter 4.7.2 addresses this submission as part of Xingfa's dumping assessment.

In its 23 May 2023 submission, Capral raised the following issues with Xingfa's verification report:<sup>23</sup>

- Additional MCCs
- Profit calculation
- Packing costs
- Countervailing

Chapters 4.7.2 and 5.3.3 address these submissions as part of Xingfa's dumping and countervailing subsidies assessments.

### **2.6.2.2 Goomax**

In its 14 October 2022 and 22 May 2023 submissions, Capral raised the following issues with Goomax's REQ<sup>24</sup> and verification report:<sup>25</sup>

- Financial statements
- Exported goods and like goods
- Packing costs
- Production process
- Particular market situation
- Countervailing
- Chinese domestic market

Chapters 4.4.2 and 5.3.1 address these submissions as part of Goomax's dumping and countervailing subsidies assessments.

---

<sup>23</sup> EPR 609, item 25.

<sup>24</sup> EPR 609, item 8.

<sup>25</sup> EPR 609, item 22.

### 2.6.2.3 Jinxiecheng

In its 14 October 2022 and 23 May 2023 submissions, Capral raised the following issues with Jinxiecheng's REQ:<sup>26</sup> and verification report:<sup>27</sup>

- Packing costs
- Particular market situation
- Countervailing
- Additional MCC's
- Cost of goods sold

Chapters 4.5.2 and 5.3.2 address these submissions as part of Jinxiecheng's dumping and countervailing subsidies assessments.

### 2.6.2.4 Kam Kiu

In its 15 December 2022 submission, Capral raised the following issues with Kam Kiu's REQ:

- Export price
- Normal value
- Packing
- Other matters

Chapter 4.6.2 addresses this submission as part of Kam Kiu's dumping assessment.

### 2.6.2.5 Mega Stone verification report

In its 9 March 2023 submission, Capral raised several issues with Mega Stone's importer verification report.<sup>28</sup> These issues are addressed below.

#### a) Profitability test

##### *Capral's concerns*

Capral queries whether the commission can be satisfied as to the completeness of the verification process where it has determined that Mega Stone's accounting system does not precisely link the imported goods to its sales to Australian customers. In Capral's view this undermines the commission's conclusions as to whether Mega Stone's sales can be considered profitable and arms length transaction.

##### *Commission's assessment*

Mega Stone's accounting system records Mega Stone's sales to its customers, however, it cannot link a particular import consignment to a particular sale. Mega Stone's import consignments are received into warehouse and on-sold to various Australian customers and through this process.

The commission understands from previous verifications of importers that this is a common limitation of accounting systems and is not an issue specific to Mega Stone.

Consistent with previous verifications, in these circumstances, the commission makes reasonable attempts to assess an importer's profitability and to determine the arms length nature of transactions.

---

<sup>26</sup> Ibid.

<sup>27</sup> EPR 609, item 23

<sup>28</sup> EPR 609, Item 18, Verification report, Importer, Mega Stone Aluminium.

## PUBLIC RECORD

To determine the profitability of Mega Stone's sales in this instance, the commission calculated Mega Stone's monthly weighted average selling price using verified data supplied in Mega Stone's sales listing. The commission multiplied the weighted average selling price multiplied by the volumes of selected import consignments to derive an estimated revenue for each selected import consignment. The commission then compared that estimated revenue to the actual CTIS of the selected import consignments. This calculation relied on the best information available with reasonable assumptions and the commission considers it provides a level of accuracy that is robust for these purposes.

A similar calculation was undertaken for an importer in CON 543.<sup>29</sup>

### b) Arms length sales

#### *Capral's concerns*

Capral notes the verification report's finding at section 6.5 that the commission was satisfied that sales between the exporter, Goomax, and the importer, Mega Stone, are at arms length. However, it questions this conclusion given that the commission could not link Mega Stone's sales to import consignments as discussed above.

#### *Commission's assessment*

Mega Stone's transaction with its supplier, Goomax, is a separate transaction to the sale between Mega Stone and its Australian customer. The commission determined that sales between Mega Stone and Goomax were arms length. The sale between Mega Stone and its Australian customer has no relevance to the arms length transaction between Mega Stone and Goomax.

### 2.6.2.6 Billet premium and energy costs

#### *Capral's concerns*

In its 24 November 2022 submission, Capral draws notes recent increases in aluminium/billet premiums and the increased energy costs associated with the casting of billet by aluminium extruders. Capral stated the increased billet premium and the higher energy costs associated with casting of billet has contributed to higher production costs for Chinese aluminium extrusions during the review period.

Capral stated the billet premium applied by suppliers has increased substantially during 2022 due to demand outstripping supply. Over the last decade, the billet premium was relatively stable. For aluminium extruders that cast their own billet there was a cost increase associated with the premium for the aluminium ingot as well as the increase in energy costs associated with the casting of the billet. Capral anticipates that aluminium extruders that cast billet will show higher energy costs incurred during the 2021/22 review period.

#### *Commission's assessment*

The commission has had regard to changes in primary material costs through this review. This is discussed variously in respect of each exporters' cost to make in chapter 4, as well as **APPENDIX A**, **APPENDIX B** and **APPENDIX C**.

---

<sup>29</sup> [CON 543 - Kam Kui Verification report.](#)

### **2.6.3 Submission by Xingfa**

In its 25 October 2022 submission<sup>30</sup>, Xingfa responded to Capral's claim in its 30 September 2022 submission in relation to Aus Star. Chapter 4.7.2 addresses this submission.

---

<sup>30</sup> EPR 609, Item 11.

### 3 THE GOODS AND LIKE GOODS

#### 3.1 The goods subject to anti-dumping measures

The goods subject to the anti-dumping measures 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 subject to the anti-dumping measures do not include:

- 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 (goods under consideration or GUC) and those that are not covered (non-GUC)

< GUC >				< Non-GUC >		
1	2	3	4	5	6	7
Aluminium extrusions	Aluminium extrusions with minor working	Aluminium extrusions that are parts intended for use in intermediate or finished products	Aluminium extrusions that are themselves finished products	Unassembled products containing aluminium extrusions, e.g., 'kits' that at time of import comprise all necessary parts to assemble finished goods	Intermediate or partly assembled products containing aluminium extrusions	Fully assembled finished products containing aluminium extrusions
< Examples >						
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 6:GUC and non-GUC classification**

#### 3.2 Tariff classification

The goods may be classified in Schedule 3 to the *Customs Tariff Act 1995* as follows.

Tariff subheading	Statistical code	Description
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

## PUBLIC RECORD

Tariff subheading	Statistical code	Description
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 7: General tariff classification for the goods**

### 3.3 Model control codes

The commission has used a model control code (**MCC**) structure in order to identify key characteristics for, among other things, model matching when comparing export prices and normal values.<sup>31</sup>

Australian industry members, exporters and importers participating with this review provided sales and cost data (to varying degrees) in accordance with the MCC structure detailed in ADN 2022/081.

Category	Sub-category	Sales data	Cost data	
Finish	<b>A</b>	Anodise	Mandatory	Mandatory
	<b>BD</b>	Bright dip		
	<b>M</b>	Mill		
	<b>PC</b>	Powder coating		
Alloy code	<b>6A</b>	6060, 6063	Mandatory	Optional
	<b>6B</b>	6106		
	<b>6C</b>	6101, 1350, 6082, 6351, 6061		
	<b>6D</b>	6005A		
	<b>O</b>	Other		
Temper code	<b>T1</b>	T1, T4, T5, T6	Optional	Optional
	<b>T50</b>	T591, T595, T52		
	<b>O</b>	Other		
Anodising microns	<b>0</b>	Not anodised	Optional	Optional
	<b>1</b>	<20µm		
	<b>2</b>	>20µm		

**Table 8: Proposed MCC structure**

The initiation notice invited interested parties to make submissions with proposals to modify the MCC structure as it applied to them.

Any changes to the proposed MCC structure or alterations in terms of its application in respect of each interested party have been addressed in Chapter 4.

<sup>31</sup> See ADN 2019/132 and page 60 of the *Dumping and Subsidy Manual (December 2021)* (the Manual), available on the commission's website.

## **4 VARIABLE FACTORS – DUMPING DUTY NOTICE**

### **4.1 Preliminary finding**

The Commissioner preliminarily finds that the variable factors relevant to the determination of dumping duty payable have changed. The Commissioner proposes to recommend to the Minister that the dumping duty notice shall have effect as if different variable factors had been ascertained.

The revised variable factors have resulted in different dumping margins relevant to the imposition of IDD. The preliminary dumping margins during the review period are summarised in Table 9.

<b>Exporter</b>	<b>Dumping margins</b>
Goomax	-7.5%
Kam Kiu	41.1%
Jinxiecheng	-7.7%
Xingfa	-1.8%
Residual exporters	-0.5%
Uncooperative and all other exporters	41.1%

**Table 9: Dumping margins for exporters**

### **4.2 Legislative framework**

#### **4.2.1 Export price**

##### **4.2.1.1 Cooperative exporters**

Export price is determined in accordance with section 269TAB and considers whether the sale of goods are 'arms length' transactions under section 269TAA.

Section 269TAB(1)(a) provides that the export price of any goods exported to Australia is the price paid (or payable) for the goods by the importer where the goods have been exported to Australia otherwise than by the importer and have been purchased by the importer from the exporter in 'arms length' transactions.

Section 269TAB(1)(b) provides that the export price of goods is the price that the importer sold the goods, less the prescribed deductions, where:

- goods have been exported to Australia otherwise than by the importer
- were purchased by the importer from the exporter, but not at 'arms length' and
- the importer subsequently sells the goods in the condition they were imported to a party not associated with the importer.

Section 269TAB(1)(c) provides that in all other cases, the export price is a price determined by the Minister having regard to all the circumstances of the exportation.

## PUBLIC RECORD

### 4.2.1.2 Residual exporters

Section 269TACAB(2)(c) provides that the export price for residual exporters must not be less than the weighted average export price for like goods of cooperative exporters from the country of export (in this case, China).

### 4.2.1.3 Uncooperative exporters

Section 269TACAB(1)(d) sets out that, if the export price of goods for an uncooperative exporter is to be worked out in relation to a review, the export price is to be worked out under section 269TAB(3), which provides that the export price is determined by having regard to all relevant information.

## 4.2.2 Normal value

The normal value is determined in accordance with section 269TAC.

### 4.2.2.1 Cooperative exporters

Section 269TAC(1) provides that:

*...[T]he normal value of any goods exported to Australia is the price paid or payable for like goods sold in the ordinary course of trade [(OCOT)] for home consumption in the country of export in sales that are arms length transactions by the exporter or, if like goods are not so sold by the exporter, by other sellers of like goods*

#### *Particular market situation*

Section 269TAC(2)(a)(ii) provides that where the Minister is satisfied that because of a situation in the market of the country of export (referred to as a 'particular market situation' in this report), such sales in that market are not suitable for use in determining a price under section 269TAC(1) and the normal value cannot be ascertained under that provision, the normal value of goods is to be calculated through either a constructed normal value under section 269TAC(2)(c) or using prices of like goods exported to a third country under section 269TAC(2)(d).

The commission found in REP 543 that a particular market situation existed in respect of the Chinese domestic market for the goods. The commission therefore examined whether the particular market situation persisted and determined that:

- a particular market situation existed in respect of the domestic market for like goods in China for the review period
- because of that particular market situation, sales of like goods in the Chinese domestic market are not suitable for determining a price under section 269TAC(1) because the price of such sales does not permit a proper comparison with the export price in determining the dumping margin.

**APPENDIX A** contains the commission's particular market situation analysis for China.

**APPENDIX B** contains the commission's proper comparison analysis for China.



#### 4.2.2.2 Residual exporters

Section 269TACAB(2)(d) provides that the normal value for residual exporters must not exceed the weighted average normal value for like goods of cooperative exporters from the country of export (in this case, China).

#### 4.2.2.3 Uncooperative exporters

Section 269TACAB(1)(e) sets out that, if the normal value of goods for an uncooperative exporter is to be worked out in relation to a review, the normal value is to be worked out under section 269TAC(6), which provides that the normal value is determined by having regard to all relevant information.

### **4.3 Exporters**

#### **4.3.1 Cooperative exporters**

Section 269T(1) provides that, in relation to a review of measures, an exporter is a 'cooperative exporter' if the exporter's exports were examined as part of the review and the exporter was not an uncooperative exporter. An exporter who is not an 'uncooperative exporter' and whose exports the commission does not examine as part of the review is a 'residual exporter'.

The following exporters are cooperative exporters:

- Goomax
- Jinxi Cheng
- Kam Kiu
- Xingfa.

#### **4.3.2 Residual exporters**

The commission considered that it was not practicable to examine the exports of the following exporters, who are residual exporters:

1. Press Metal International
2. Panasia Nanyang
3. Luoxiang Aluminium Co., Ltd
4. Guangdong Xingqiu Aluminium Co., Ltd
5. Guangdong JMA Aluminium Profile (Factory Group) Co., Ltd
6. Guangdong Jihua Aluminium Co., Ltd
7. Guangdong Haomei New Materials Co., Ltd
8. Foshan Shangyou Hardware Decoration Products Ltd
9. Guang Ya Aluminium Industries Co., Ltd
10. Fujian Minfa Aluminium Inc
11. Foshan Yuze Aluminium Co., Ltd
12. Foshan Yatai PVC & Alu Co., Ltd
13. Foshan Xingtaomei Aluminium Industry Co., Ltd
14. Foshan Sanshui Fenglu Aluminium Company Limited
15. Fenan Aluminium Co., Ltd
16. Foshan City Nanhai Yongfeng Aluminium Co., Ltd
17. Yongya
18. Foshan JMA Aluminium Co., Ltd
19. Guangdong Weiye Aluminium Factory Group Co, Ltd.

## PUBLIC RECORD

Despite submitting a residual exporter questionnaire, the Commissioner has determined that Foshan Lvqiang is an uncooperative exporter.

At initiation of the review, the Commissioner requested Foshan Lvqiang complete a selected exporter questionnaire, which advised Foshan Lvqiang that ‘...if you do not respond, do not provide all of the information sought, do not provide information within a reasonable time period, or do not allow the Commission to verify the information, we may deem your company to be an uncooperative and/or non-cooperative exporter.’<sup>32</sup>

The level of information requested in the selected exporter questionnaire is greater than that in the residual exporter questionnaire. By only providing a residual exporter questionnaire response, the information requested by the Commissioner from Foshan Lvqiang was not provided.

### 4.3.3 Uncooperative exporters

Section 269T(1) provides that an exporter is an ‘uncooperative exporter’ if the Commissioner is satisfied that an exporter did not give the Commissioner information that the Commissioner considered to be relevant to the review within a period the Commissioner considered to be reasonable, or the Commissioner is satisfied that an exporter significantly impeded the review.

The *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Customs Direction) states at section 8 that the Commissioner must determine an exporter to be an uncooperative exporter, on the basis that no relevant information was provided in a reasonable period, if:

- that exporter fails to provide a response, or
- fails to request a longer period to provide a response within the legislated period.

After having regard to section 269T(1) and the Customs Direction, the Commissioner has determined that all exporters from China that did not provide information requested of them through a selected exporter questionnaire if selected, or a residual export questionnaire if not selected, are uncooperative exporters for the purposes of this review. This includes:

- Qingyuan (who did not provide a response to the selected exporter questionnaire)
- Foshan Lvqiang, who did not give the Commissioner information that the Commissioner considered relevant to the review (i.e., the information requested in the selected exporter questionnaire provided to Foshan Lvqiang).

### 4.3.4 Other entities

#### Accelerated Review Nos 618 and 619

Exporters Antai and XinYueYa, did not participate in this review but separately sought accelerated reviews (Accelerated Review Nos 618 and 619).<sup>33</sup> The applications for the accelerated reviews were received on 3 March 2023 and 13 April 2023, respectively. The accelerated reviews are examining a more contemporaneous period (1 January 2022 to 31 December 2022) than this review (1 July 2021 to 30 June 2022) and are currently ongoing. The due dates for the final reports for the accelerated reviews (12 June 2023 and 3 July 2023 respectively) occur before the due date for the final report

---

<sup>32</sup> Review 609, Selected Exporter Questionnaire, p4.

<sup>33</sup> Details of these accelerated reviews can be found on the commission’s EPR.

## PUBLIC RECORD

in this review (currently 24 August 2023). The Commissioner may consider the interaction between the accelerated reviews and this review in the final report for this review.

### Traders/Intermediaries

The Manual<sup>34</sup> provides that 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
- owns, or previously owned, the goods, but need not be the owner at the time the goods were shipped.

The Manual notes that it is common for traders or other intermediaries to play a role in the exportation of the goods. These parties will typically provide services such as arranging transportation (both land and ocean), arranging port services, arranging loading, conducting price negotiations, arranging contracts with producer and customer alike, conveying the customer's specifications to the producer including quality, marking, and packing requirements, and so forth.

Typically, the manufacturer, as a principal who knowingly sent the goods for export to any destination, will be the exporter.

The commission has determined that, consistent with the Manual, some residual exporter questionnaires received were from entities who were not exporters of the goods during the review period, but instead act as a trader or an intermediary for the actual exporter.

The commission has identified that the following 6 entities are not exporters of the goods, based on the information available:<sup>35</sup>

- Dashiqiao Hengyuan Aluminium Products Co., Ltd
- Foshan Evergreat Import & Export Co., Ltd
- Foshan Q-Star Trading Co., Ltd
- Foshan Sanshui Match Hardware Products Co., Ltd
- Guangdong Yonglong Aluminium Co., Ltd
- Sunrise Aluminium (Hui Zhou) Co., Ltd.

Accordingly, the Commissioner does not consider the above entities to be exporters of the goods during the review period, and they do not receive their own variable factors in this review.

## 4.4 Dumping assessment – Goomax

### 4.4.1 Preliminary assessment

The commission conducted a virtual verification of Goomax's REQ. The Commissioner is satisfied that Goomax is a manufacturer of the goods and that the information provided by Goomax is accurate and reliable for the purpose of ascertaining variable factors applicable to its exports of the goods.

A report covering the verification findings is available on the public record.<sup>36</sup> The Commissioner has preliminarily found that the export price and normal value relevant to

---

<sup>34</sup> *Dumping and Subsidy Manual (December 2021)*, available on the commission's website.

<sup>35</sup> Confidential Attachment 29 – Residual Exporter Analysis.

<sup>36</sup> EPR 609, Item 22.

## PUBLIC RECORD

the determination of IDD payable has changed in respect of the goods exported by Goomax to Australia.

The preliminary dumping margin is **negative 7.5%**.

### 4.4.2 Submissions relating to Goomax

Capral raised several issues with Goomax's REQ.

#### a) Financial statements

Capral noted Goomax's REQ at section A-3.2 states that its financial records are not audited. Capral raised significant concern with the absence of independent confirmation that Goomax's financial records are maintained in a manner consistent with the generally accepted accounting principles (**GAAP**) of the exporting country.

#### *Commission's assessment*

Goomax's financial statements are not legally required under Chinese law to be audited because it is a private company. However, Goomax submitted a certificate issued by its accounting firm certifying that its financial records are prepared according to the GAAP of China. Therefore, the commission considers that the accounting records held by Goomax are in accordance with the GAAP of China.

#### b) Exported goods and like goods

In relation to Goomax's REQ, Capral observed that Goomax has included two additional finishes in the MCC structure (wood grain finish and electrophoresis finish). Capral submitted that if the two additional finishes are further worked than mill finish, these goods should not be included in the mill finish category of like goods.

In relation to Goomax's verification report Capral submitted that the two additional finishes are at a higher cost than the mill-finish aluminium extrusions and that the commission should closely examine the relevant costs incurred with both finishes and apply the higher profit mark-up that goods with such finishes attract. Capral notes it is prudent for the commission to assess the full cost structure of the two additional finishes exported by Goomax.

#### *Commission's assessment*

Following Capral's submission and prior to publication of this report, the commission clarified the wording in Goomax's verification report in relation to exception 1 regarding the inclusion of two additional finishes to the MCC structure. This was necessary as the verification report might have given the impression that Goomax exported both wood grain finish and electrophoresis finish to Australia during the review period. The commission has now clarified that Goomax produced and sold electrophoresis finish and wood grain finish on the domestic market and sold only wood grain finish on the Australian market.

The commission examined the cost structure of all finishes and determined that on a quarterly basis, wood grain finish comprises the highest unit cost compared to the other finishes. The commission notes wood grain finish is further worked than mill finish, relates to the goods under consideration, and the costs are accounted for separately to mill finish, which was Capral's concern.

The commission notes that wood grain finish and electrophoresis finish were accepted and similarly accounted for in the MCC structure for case 543.

## PUBLIC RECORD

### c) Packing costs

Capral noted that in section E-2 of Goomax's REQ, Goomax includes its packing costs in the manufacturing costs. Capral referred to previous investigations where packing costs for domestic and export sales differed and submitted that adjustments for such differences are required to Goomax's normal value.

Goomax's verification report concluded that there were no differences between Goomax's domestic and export packing costs. In a submission, Capral challenged this determination. Capral again noted that the commission has previously verified that domestic and export packing costs differ for other exporters and in those situations the commission has adjusted the relevant exporters' normal value.

#### *Commission's assessment*

During verification, the commission examined Goomax's packing materials (demonstrated with photos of both domestic and export sales covered in the same types of paper and plastic) and Goomax's accounting ledgers and determined no differences in packing costs between Goomax's domestic and export sales. The commission identified that packing costs are included in Goomax's cost of production as other material costs.

Following Capral's submission, the commission further examined the available commercial documentation relating to export and domestic sales. The commercial documentation confirmed that there are no material packing differences between export and domestic sales. The commission identified an instance of additional packaging for one customer, however this related to non-subject goods. The commission therefore remains satisfied that the packing costs have been accounted for accurately.

### d) Production process

Capral stated that Goomax produces fence panels and solar frameworks on the same production facilities as it does for aluminium extrusions. As Goomax's financial statements are not audited, Capral submitted that the commission should inquire as to the basis for allocation of production costs by Goomax, and whether the allocations are reasonable.

#### *Commission's assessment*

The commission verified Goomax's allocation of production costs and found no issues in relation to the cost allocation regarding the goods under consideration.

### e) Particular market situation

Capral noted that the aluminium purchased by Goomax includes purchases from Chinese state-invested enterprises and claimed that purchases of aluminium on the domestic Chinese market are influenced by government involvement in the primary aluminium sector.

#### *Commission's assessment*

The commission has investigated the claim of a particular market situation in the Chinese aluminium market, the results are presented in **APPENDIX A** and **APPENDIX B** of this report.

### f) Chinese domestic market

Capral stated that Goomax has confirmed a shift by domestic customers in China for manufacturers of aluminium extrusions to make the die used to produce extrusions. As such, Capral noted that the manufacturer needs to spread the cost of producing the die across the goods manufactured using the die.

## PUBLIC RECORD

Capral stated that the commission should identify the allocation methodology of the exporter in levying costs for the die and ensuring all costs of production are correctly allocated to the subject goods.

### *Commission's assessment*

As stated above, the commission verified Goomax's allocation of production costs and found no issues in relation to the cost allocation of the GUC.

#### **4.4.3 Export price**

The commission considers Goomax to be the exporter of the goods because Goomax:

- produced the goods
- is named as the supplier on the commercial invoice
- is named as consignor on the bill of lading
- arranged and paid for inland transport to the port of export for exports on shipment terms of Free-on Board (**FOB**) and Cost, Insurance and Freight (**CIF**)
- arranged and paid for port handling charges at the port of export for exports on shipment terms of FOB and CIF
- arranged and paid for ocean freight and marine insurance for export on shipment terms of CIF

The commission is satisfied that for all its Australian export sales during the review period, Goomax was the exporter of the goods.

In respect of Goomax's Australian sales of the goods to its Australian customers during the period, the commission found no evidence that:

- there was consideration payable for, or in respect of, the goods other than its price
- the price appeared to be 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
- 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 commission therefore considers that all domestic sales made by Goomax during the review period were 'arms length' transactions.

In respect of Australian sales of the goods by Goomax, the commission has determined an export price under section 269TAB(1)(a), being the price paid by the importer to the exporter, less transport and other costs arising after exportation.

#### **4.4.4 Normal value**

The commission is satisfied that, due to a situation in the domestic market for the goods in China, sales in that market are not suitable for use in determining a normal value under section 269TAC(1).

The commission has therefore calculated a normal value under section 269TAC(2)(c) using the sum of:

- the cost of production of the goods in China, which was calculated using the cost to make (**CTM**) expenses for Goomax, with its primary aluminium costs adjusted by reference to a benchmark
- domestic SG&A on the assumption that the goods, instead of being exported, were sold domestically based on the company's records under section 44(2) of the *Customs (International Obligations) Regulation 2015 (the Regulation)*, and

## PUBLIC RECORD

- an amount for profit based on data relating to the production and sale of like goods on the domestic market in the OCOT under section 45(2) of the Regulation.

### *CTM reasonably reflecting competitive market costs*

The commission has assessed the raw material input costs in the CTM for Goomax. The commission verified that Goomax kept its records relating to the goods in accordance with the relevant GAAP and that the records reasonably reflect the costs associated with the production and sale of the goods.

The commission was not satisfied that Goomax's costs reasonably reflect competitive market costs associated with the production of like goods, due to the influence of the GOC in the domestic Chinese market for primary aluminium. As a result, section 43(2) of the Regulation, which requires the commission to use a producer's records to determine the cost of production of goods in the country of export where those records reasonably reflect competitive market costs, is not enlivened.

In this case, the commission considers it is not appropriate to rely on the primary aluminium costs in Goomax's records to determine the cost of production of the goods in China, because to do so would reintroduce the factors that warranted the commission's decision to construct the normal value in the first place. The commission considers it appropriate to adjust primary aluminium costs in Goomax's records by reference to an international benchmark cost for primary aluminium. The commission has not adjusted any of the other items recorded in Goomax's cost of production.

The commission consequently worked out the amount for the cost of production in Goomax's normal value under section 269TAC(2)(c) using this adjusted cost for primary aluminium and the costs for other items as set out in Goomax's records.

**APPENDIX C** provides further details of this calculation.

### *SG&A expenses*

The commission has used Goomax's SG&A based on its records.

### *Profit*

The commission calculated an amount of profit based on the profit achieved on all domestic sales of like goods in the OCOT, pursuant to section 45(2) of the Regulation.

## 4.4.5 Adjustments

The commission is satisfied there is sufficient information to justify the following adjustments under section 269TAC(9). The commission considers these adjustments to be necessary to ensure a fair comparison of normal values and export prices.

Adjustment type	Deduction/addition
Domestic inland transport	Deduct an amount for domestic inland transport. However, this adjustment is not required if normal value is calculated under section 269TAC(2)(c).
Export inland transport charges	Add an amount for export inland transport
Export handling & other charges	Add an amount for export handling & other charges
Export credit terms	Add an amount for export credit terms

**Table 10: Summary of adjustments - Goomax**

#### **4.4.6 Dumping margin**

The commission compared the quarterly weighted average of export prices with the quarterly weighted average of corresponding normal values over the review period, under section 269TACB(2)(a).

The preliminary dumping margin for Goomax is **negative 7.5%**.

Details of the export price, normal value and dumping margin calculations are at **Confidential Attachments 1 to 5**.

### **4.5 Dumping assessment – Jinxiecheng**

#### **4.5.1 Preliminary assessment**

The commission conducted a virtual verification of Jinxiecheng's REQ. The Commissioner is satisfied that Jinxiecheng is a manufacturer of the goods and that the information provided by Jinxiecheng is accurate and reliable for the purpose of ascertaining variable factors applicable to its exports of the goods.

A report covering the verification findings is available on the public record.<sup>37</sup> The Commissioner has preliminarily found that the export price and normal value relevant to the determination of IDD payable has changed in respect of the goods exported by Jinxiecheng to Australia.

The preliminary dumping margin is **negative 7.7%**.

#### **4.5.2 Submissions relating to Jinxiecheng**

##### **a) Packing costs**

Capral noted in Jinxiecheng's REQ at section E-2 that packing costs are the same irrespective of 'where they are sold'. However, Capral noted that Jinxiecheng indicated that packing varies between individual customers, thereby confirming that different costs are likely incurred for domestic and export sales.

##### *Commission's assessment*

The commission determined that packing costs in relation to domestic sales are included in the cost of production while packing costs for export sales are separately disclosed as a direct selling expense. The commission determined a difference in domestic and export sales regarding packing cost and therefore applied adjustments to normal value to ensure fair comparison between the ascertained normal value and the export price of the goods. See chapter 4.5.5.

##### **b) Particular market situation**

Capral noted Jinxiecheng purchases all its aluminium ingots and aluminium billet domestically in China. Capral claimed that these purchases are influenced by government involvement in the primary aluminium sector.

##### *Commission's assessment*

The commission has investigated the claim of a particular market situation in the Chinese aluminium market, the results are presented in Appendices A and B of this report.

---

<sup>37</sup> EPR 609, Item 23.



c) Additional MCC's

Capral noted that Jinxiecheng's verification report states that the commission accepted two additional MCCs for 'Electrophoresis' and 'Further processing'.

Capral's submission indicates that the commission's treatment of further processing goods is not clear and queries whether the further processing costs are material.

*Commission's assessment*

The commission clarifies that further processing MCCs recognise that certain finishes undertake additional working such as cutting or drilling. The further processing costs are captured in a separate workshop. The overall further processing cost is not material in terms of the overall production costs. Essentially, if mill or powder coated goods require further work, Jinxiecheng takes those goods to the further processing workshop prior to packing, where further work is performed, making them the further processing goods. The further processing goods are then returned to their respective workshops (i.e., mill or powder coating workshop) where they are packed. The further processing goods are recognised as finished goods in the further processing workshop despite being packed in their respective workshops, but the various costs of production (including further processing) are all accounted for, meaning that the further processing goods have a higher cost than goods with no further processing.

Cost of goods sold

Capral notes that Jinxiecheng outsources its powder coating function and that the cost of powder coating was not included in Jinxiecheng's original cost of goods sold in the REQ. Despite Jinxiecheng's verification report stating that the powder coating outsourcing costs are now included, Capral considers it is important to ensure that the powder coating cost outsourcing costs also include the cost of transporting the goods to and from the third-party supplier as well as any additional packing costs.

Raw material purchases

Capral refers to the commission's comments in Jinxiecheng's verification report which indicate that Jinxiecheng had originally included raw material purchases that had occurred outside of the review period in its REQ. Capral states that it would be expected that raw material aluminium purchased prior to review period would be consumed in manufacturing goods sold in the review period. Capral consider that any exclusion of raw material purchases consumed in the manufacture of goods sold during the review period would appear to result in a misalignment of cost of goods with goods sold.

*Commission's assessment*

The commission notes that the powder coating outsourcing costs relate to a minor volume of Jinxiecheng's sales and have now been captured through the commission's verification.

The commission notes that additional packing associated with the relevant outsourced goods are included in the powder coating outsourcing fee charged by the third-party supplier to Jinxiecheng. Jinxiecheng indicated to the commission that it directly transported the relevant outsourced goods to and from the third-party supplier. The commission is making further enquires as to the materiality of associated freight costs, which at the time of publication of this report requires further assessment. However, given

## PUBLIC RECORD

the minor volume of the relevant sales, the commission's further enquiries are unlikely to result in a material change to Jinxiecheng's dumping assessment.<sup>38</sup>

Regarding Capral's observations about the commission's verification of Jinxiecheng's raw material purchases, the commission notes that Jinxiecheng's raw material purchases are relevant for multiple purposes, i.e., to both the cost of production and the assessment of subsidies (i.e., Program 15 – Aluminium Provided at Less Than Adequate Remuneration).

Capral is correct to state that raw materials purchased prior to the review period are consumed in the production of goods sold in the review period. This is confirmed by Jinxiecheng's verification report which states that the cost of raw materials is allocated based on the weighted average cost (the weighted average including raw material purchases prior to and during the review period) multiplied by the production volumes during the review period. This is a broader verification exercise undertaken by the commission which ensures that the cost of production is relevant, accurate and complete. Part of the broader verification exercise involved reconciling a list of raw material purchases specific to the review period to Jinxiecheng's ledgers. This verification was also important to the assessment of subsidies which is limited to the review period. The commission considers that Jinxiecheng's raw materials have been properly accounted for.

### 4.5.3 Export price

The commission considers Jinxiecheng to be the exporter of the goods because Jinxiecheng:

- is the manufacturer of the goods located in China
- is named as the manufacturer on the commercial invoice
- is named as the seller on the value-added tax (VAT) invoice
- is named as the shipper on the bill of lading
- for goods sold FOB, arranged and paid for inland transport and port handling charges at the port of export.

The commission is satisfied that for all its Australian export sales during the review period, Jinxiecheng was the exporter of the goods.

In respect of Jinxiecheng's Australian sales of the goods to its Australian customers during the period, the commission found no evidence that:

- there was consideration payable for, or in respect of, the goods other than its price
- the price appeared to be 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
- 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 commission therefore considers that all domestic sales made by Jinxiecheng during the review period were 'arms length' transactions.

In respect of Australian sales of the goods by Jinxiecheng, the commission has determined an export price under section 269TAB(1)(a), being the price paid by the importer to the exporter, less transport and other costs arising after exportation.

---

<sup>38</sup> The commission notes that, as stated in Chapter 4.5.4, the normal value is calculated under section 269TAC(2)(c) based on the constructed costs of exported goods. Because the powder coating outsourcing costs relate to domestic sales, they have minimal impact on the normal value calculation.

#### **4.5.4 Normal value**

The commission is satisfied that, due to a situation in the domestic market for the goods in China, sales in that market are not suitable for use in determining a normal value under section 269TAC(1).

The commission has therefore calculated a normal value under section 269TAC(2)(c) using the sum of:

- the cost of production of the goods in China, which was calculated using the CTM expenses for Jinxiecheng, with its primary aluminium costs adjusted by reference to a benchmark
- domestic SG&A on the assumption that the goods, instead of being exported, were sold domestically based on the company's records under section 44(2) of the Regulation, and
- an amount for profit based on data relating to the production and sale of like goods on the domestic market in the OCOT under section 45(2) of the Regulation.

#### *CTM reasonably reflecting competitive market costs*

The commission has assessed the raw material input costs in the CTM for Jinxiecheng. The commission verified that Jinxiecheng kept its records relating to the goods in accordance with the relevant GAAP and that the records reasonably reflect the costs associated with the production and sale of the goods.

The commission was not satisfied that Jinxiecheng's costs reasonably reflect competitive market costs associated with the production of like goods, due to the influence of the GOC in the domestic Chinese market for primary aluminium. As a result, section 43(2) of the Regulation, which requires the commission to use a producer's records to determine the cost of production of goods in the country of export where those records reasonably reflect competitive market costs, is not enlivened.

In this case, the commission considers it is not appropriate to rely on the primary aluminium costs in Jinxiecheng's records to determine the cost of production of the goods in China, because to do so would reintroduce the factors that warranted the commission's decision to construct the normal value in the first place. The commission considers it appropriate to adjust primary aluminium costs in Jinxiecheng's records by reference to an international benchmark cost for primary aluminium. The commission has not adjusted any of the other items recorded in Jinxiecheng's cost of production.

The commission consequently worked out the amount for the cost of production in Jinxiecheng's normal value under section 269TAC(2)(c) using this adjusted cost for primary aluminium and the costs for other items as set out in Jinxiecheng's records.

**APPENDIX C** provides further details of this calculation.

#### *SG&A expenses*

The commission has used Jinxiecheng's SG&A based on its records.

#### *Profit*

The commission calculated an amount of profit based on the profit achieved on all domestic sales of like goods in the OCOT, pursuant to section 45(2) of the Regulation.

#### 4.5.5 Adjustments

The commission is satisfied there is sufficient information to justify the following adjustments under section 269TAC(9). The commission considers these adjustments to be necessary to ensure a fair comparison of normal values and export prices.

Adjustment type	Deduction/addition
Export packing	Add an amount for export packing
Export inland transport, port handling and other charges	Add an amount for export inland transport, port handling and other charges
Export credit terms	Add an amount for export credit terms

**Table 11: Summary of adjustments - Jinxiecheng**

#### 4.5.6 Dumping margin

The commission compared the quarterly weighted average of export prices with the quarterly weighted average of corresponding normal values over the review period, under section 269TACB(2)(a).

The preliminary dumping margin for Jinxiecheng is **negative 7.7%**.

Details of the export price, normal value and dumping margin calculations are at **Confidential Attachments 6 to 10**.

### 4.6 Dumping assessment – Kam Kiu

#### 4.6.1 Preliminary assessment

The commission assessed the information in Kam Kiu’s REQ by comparing it to other relevant information, including verified information provided by other selected exporters in this review and information relating to Kam Kiu from REP 543.

The Commissioner is satisfied that Kam Kiu is a manufacturer of the goods and that the information provided by Kam Kiu is accurate and reliable for the purpose of ascertaining variable factors applicable to its exports of the goods.

A report covering the verification findings is available on the public record.<sup>39</sup> The Commissioner has preliminarily found that the export price and normal value relevant to the determination of IDD payable has changed in respect of the goods exported by Kam Kiu to Australia.

The preliminary dumping margin is **41.1%**.

#### 4.6.2 Submissions relating to Kam Kiu

##### a) Export price

Capral notes at section B-1 of the REQ, Kam Kiu confirmed 3 related parties are involved in the export sale for aluminium extrusions to Australia. Capral noted that the commission determined in REP 543 that the selling price between these parties was influenced by the relationship of the parties. Capral urged the commission to examine the profitability of export transactions.

---

<sup>39</sup> EPR 609, Item 24.

*Commission's assessment*

As per reasons stated in chapter 4.6.4 of this report, the commission is not satisfied that export sales were at arms length between Kam Kiu and its related entity, Kam Kiu (Hong Kong) Limited (**KHK**). The commission examined the profitability of KHK sales and determined they were at a loss.

b) Normal value

Capral noted that Kam Kiu in section C-2 of the REQ has sought profit to be excluded from normal value calculations for what it described as '*high-end products*' sold on the Chinese domestic markets. Capral stated it was not acceptable for Kam Kiu to merely identify sales that it considers as 'high-end' models.

Capral requested that the commission examine specification data for each of the claimed 'high-end' models to confirm whether these goods can be correctly claimed as specialised goods that involve:

- Tighter manufacturing tolerances
- Higher grades of alloy (i.e., would be identified in a product brochure)
- Additional processing (examine standard costs)
- Additional preparation prior to coating
- Detailed finished (confirm type of finish).

*Commission's assessment*

The commission examined source documents submitted by Kam Kiu to confirm the allocation of high-end products included in the domestic sales listing. In respect of profit for Kam Kiu, the commission excluded profit in relation to high end products. This is consistent with the methodology applied in REP 392 and upheld in the ADRP decision 2019/104.<sup>40</sup>

In that matter the ADRP determined that high end products produced by Kam Kiu should be excluded from the profit calculation as these models are not exported to Australia and therefore their inclusion in profit would not result in a fair comparison between export and domestic prices.

Packing

Capral raised concerns with Kam Kiu's packing costs listed in section E-2 of its REQ. It stated Kam Kiu does not show '*differences between domestic sales and export sales to Australia*' for packing costs. Capral noted it has raised this matter in each of its recent exporter briefings with the commission. It noted the commission has previously established that there exist differing packing costs between domestic and export sales of aluminium extrusions.

*Commission's assessment*

Kam Kiu stated in its REQ there were no differences between domestic sales and export sales in relation to packing costs. However, the commission identified a difference in unit packing costs between domestic and export sales. Therefore, the commission applied adjustments to normal value to ensure fair comparison between the ascertained normal value and the export price of the goods.

---

<sup>40</sup> ADRP Report 2019/104 at page 40.

c) Other matters

Capral stated it has identified higher costs to the Chinese aluminium extruders during the review period including for a billet premium as charged by the aluminium smelters. It noted China is not different to aluminium smelters in other countries and as such the premiums apply to the base billet and added into the purchase price.

*Commission's assessment*

As stated in Appendix C3, the commission has applied a billet premium to the competitive benchmark cost for aluminium using Capral's billet price schedules relevant to the review period.

**4.6.3 Export price**

The commission considers Kam Kiu to be the exporter of the goods because Kam Kiu:

- is the manufacturer of the goods
- is named as the supplier on the commercial invoice
- is named as consignor on the bill of lading.

The commission is satisfied that for all its Australian export sales during the review period, Kam Kiu was the exporter of the goods.

Kam Kiu's sole Australian customer during the review period was KHK. The commission is satisfied that KHK is the beneficial owner of the goods at the time of importation and therefore the importer of the goods.

The commission found a commercial or other relationship between the KHK as buyer and the Kam Kiu as the seller. This relationship appeared to influence the price because:

- Kam Kiu and KHK related entities within the same corporate group
- consistent with REP 543, goods were sold by KHK to its Australian customers at a loss, indicating that the importer will directly or indirectly be reimbursed, be compensated or otherwise receive a benefit for whole or any part of the price.

The commission was therefore not satisfied that the export sales were at arms length.

Based on its verification findings, the commission is satisfied that:

- Kam Kiu is the exporter of the goods
- the goods have been exported to Australia otherwise than by the importer
- the goods have been purchased by the importer from the exporter
- the purchases of the goods by the importer were not 'arms length' transactions
- the goods are subsequently sold by the importer, in the condition in which they were imported, to a person who is not an associate of the importer.

Accordingly, in respect of Australian sales of the goods by Kam Kiu, the commission has determined the export price under section 269TAB(1)(b). Specifically, the export price has been calculated by reference to the invoice price from KHK to its Australian customers, less prescribed deductions outlined under section 269TAB(2) to work the invoiced amount back to a FOB price from China.

**4.6.4 Normal value**

The commission is satisfied that, due to a situation in the domestic market for the goods in China, sales in that market are not suitable for use in determining a normal value under section 269TAC(1).

## PUBLIC RECORD

The commission has therefore calculated a normal value under section 269TAC(2)(c) using the sum of:

- The cost of production of the goods in China, which was calculated using the CTM expenses for Kam Kiu, with its primary aluminium costs adjusted by reference to a benchmark
- domestic SG&A on the assumption that the goods, instead of being exported, were sold domestically based on the company's records under section 44(2) of the Regulation, and
- an amount for profit based on data relating to the production and sale of like goods on the domestic market in the OCOT under section 45(2) of the Regulation.

### *CTM reasonably reflecting competitive market costs*

The commission has assessed the raw material input costs in the CTM for Kam Kiu. The commission verified that Kam Kiu kept its records relating to the goods in accordance with the relevant GAAP<sup>41</sup> and that the records reasonably reflect the costs associated with the production and sale of the goods.

The commission was not satisfied that Kam Kiu's costs reasonably reflect competitive market costs associated with the production of like goods, due to the influence of the GOC in the domestic Chinese market for primary aluminium. As a result, section 43(2) of the Regulation, which requires the commission to use a producer's records to determine the cost of production of goods in the country of export where those records reasonably reflect competitive market costs, is not enlivened.

In this case, the commission considers it is not appropriate to rely on the primary aluminium costs in Kam Kiu's records to determine the cost of production of the goods in China, because to do so would reintroduce the factors that warranted the commission's decision to construct the normal value in the first place. The commission considers it appropriate to adjust primary aluminium costs in Kam Kiu's records by reference to an international benchmark cost for primary aluminium. The commission has not adjusted any of the other items recorded in Kam Kiu's cost of production.

The commission consequently worked out the amount for the cost of production in Kam Kiu's normal value under section 269TAC(2)(c) using this adjusted cost for primary aluminium and the costs for other items as set out in Kam Kiu's records.

**Confidential attachment 14** provides further details of this calculation.

### *SG&A expenses*

The commission has used Kam Kiu's SG&A based on its records.

### *Profit*

The commission calculated an amount of profit based on the profit achieved on all domestic sales of like goods in the OCOT (excluding 'high-end' models), pursuant to section 45(2) of the Regulation.

## **4.6.5 Adjustments**

The commission is satisfied there is sufficient information to justify the following adjustments under section 269TAC(9). The commission considers these adjustments to be necessary to ensure a fair comparison of normal values and export prices.

---

<sup>41</sup> Generally Accepted Account Principles.

## PUBLIC RECORD

Adjustment type	Deduction/addition
Domestic credit terms	Deduct an amount for domestic credit
Domestic packing	Deduct an amount for domestic packing
Export inland transport and port charges	Add an amount for export inland transport and port charges
Export credit terms	Add an amount for export credit
Export packing	Add an amount for export packing

Table 12: Summary of adjustments – Kam Kiu

### 4.6.6 Dumping margin

The commission compared the quarterly weighted average of export prices with the quarterly weighted average of corresponding normal values over the review period, under section 269TACB(2)(a).

The preliminary dumping margin for Kam Kiu is **41.1%**.

Details of the export price, normal value and dumping margin calculations are at **Confidential Attachments 11 to 16**.

## 4.7 Dumping assessment – Xingfa

### 4.7.1 Preliminary assessment

The commission conducted a virtual verification of Xingfa's REQ. The Commissioner is satisfied that Xingfa is a manufacturer of the goods and that the information provided by Xingfa is accurate and reliable for the purpose of ascertaining variable factors applicable to its exports of the goods.

A report covering the verification findings is available on the public record.<sup>42</sup> The Commissioner has preliminarily found that the export price and normal value relevant to the determination of IDD payable has changed in respect of the goods exported by Xingfa to Australia.

The preliminary dumping margin is **negative 1.8%**.

### 4.7.2 Submissions relating to Xingfa

In its 30 September 2022 submission, Capral raised concern with Xingfa's REQ<sup>43</sup> at section A-2.8 which states that:

*When exporting the GUC to Australia, it also only makes direct sales without using any trading company.*

Capral submits that this statement may be in relation to exporting agents in China for goods manufactured by and sold to Australia. Capral, however, claims that the Xingfa group of companies has appointed Aus Star as its exclusive agent for goods exported to Australia from China. Capral further notes that Xingfa stated in its REQ it does not provide commissions in respect of domestic and export sales. Capral raises its concerns of an ongoing relationship with Aus Star that would likely include the payment of commissions on an ongoing basis.

---

<sup>42</sup> EPR 609, Item 25.

<sup>43</sup> EPR 609, Item 5.



## PUBLIC RECORD

In its 25 October 2022 submission<sup>44</sup>, Xingfa responded to Capral's claim in its 30 September 2022 submission that Xingfa appointed Aus Star as its exclusive agent for goods exported to Australia. Xingfa noted that Capral's claims appear to be reliant solely on outdated evidentiary material, 'Market Announcement' made by Xingfa over 7 years ago, in September 2015.<sup>45</sup>

Xingfa further notes that its verified data in previous inquiries confirms that it does not have any such exclusive export arrangement in place, as it has made exports to Australia to other local customer entities. Xingfa confirmed that no commissions were paid on its exports to Australia and while an exclusive arrangement was considered and discussed in 2015 between the relevant parties, an agreement was never reached.

### *Commission's assessment*

The commission has considered the evidence provided by Xingfa in response to Capral's claims and the commission's own findings during verification, specifically the commission found no evidence of an exclusive arrangement or the payment of sales commissions. Based on the evidence the commission considers Xingfa sells directly to its Australian customers and no commissions were paid by Xingfa in respect of its Australian sales.

#### a) Additional MCCs

Capral notes that the commission included MCC 'Other' to include four sub-categories:

- Electrophoresis ('E')
- Fluorocarbon ('F')
- Thermal break ('T')
- Wood grain ('W')

Capral emphasised it is critical that the commission is satisfied that it has identified all of Xingfa's costs involved in the production and sale of these goods.

### *Commission's assessment*

The commission confirms that Xingfa submitted cost information for all 4 MCC sub-categories which the commission verified. The commission found no issues regarding Xingfa's costs for these sub-categories.

#### b) Profit calculation

Capral notes that Xingfa's domestic sales to related party customers were at a loss. It is not evident to Capral from the commission's analysis whether, in determining the level of profit made on Xingfa's domestic sales, the unprofitable sales were excluded.

Capral considers that certain sub-categories of goods would attract a higher profit margin than others. Capral is concerned that in constructing the normal values for each grade or finish of aluminium extrusion, a weighted-average level of profit will be used when individual profit levels for each grade or finish of aluminium extrusions provides a more accurate normal value.

Capral considers the use of a weighted average profit across all grades or finish provides an artificially higher determined normal value for the highest category of aluminium extrusions i.e., mill finish. Capral therefore considers that the use of the weighted average

---

<sup>44</sup> EPR 609, Item 11.

<sup>45</sup> EPR 609, Item 11, Confidential Attachment 1.

## PUBLIC RECORD

profit across all sales is inappropriate and a separately calculated profit for each grade or finish should be applied.

### *Commission's assessment*

Although not stated in Xingfa's verification report, the commission excluded all Xingfa's domestic sales determined to be non-arm's length in determining the profit to be applied in the constructed normal values.

The commission notes Capral's concerns regarding the profits of particular grades or finishes. However, the commission has applied its standard practice in calculating profit for determining normal values under section 269TAC(2)(c). That is an amount of profit worked out under section 45(2) of the Regulation, based on the production and sale of like goods by the exporter in the OCOT. As outlined in the Manual, the commission is not restricted to working out profit from a limited subset of the goods only, for example, identical models. The commission may treat 'like goods' for this determination to be a wider subset of the goods.

### c) Packing costs

Capral notes that export packing costs are higher than for domestic sales and the commission has identified such export packing costs in previous cases to be for things such as cradles or wooden or metal frames for containerisation to ensure no damage is caused during transportation of the goods.

Capral requests the commission adjust Xingfa's normal values for the differences in packing costs between domestic and export sales.

### *Commission's assessment*

The commission undertook a comprehensive verification of Xingfa's packing costs and found that its Australian customers required goods to be covered with plastic bags and loaded onto a wooden pallet before transportation. Xingfa indicated domestic customers had similar requests. The commission determined Xingfa's costing methodology distinguished packing based on finish but not between Australian export and domestic markets. Therefore, the commission made no adjustment to normal value in relation to packing costs.

### **4.7.3 Export price**

The commission considers Xingfa to be the exporter of the goods because Xingfa:

- produced the Australian export goods
- is named as the supplier on the commercial invoice
- is named as consignor on the bill of lading
- arranged and paid for inland transport to the port of export
- arranged and paid for port handling charges at the port of export.

The commission is satisfied that for all its Australian export sales during the review period, Xingfa was the exporter of the goods.

In respect of Xingfa's Australian sales of the goods to its Australian customers during the period, the commission found no evidence that:

- there was consideration payable for, or in respect of, the goods other than its price
- the price appeared to be 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

## PUBLIC RECORD

- 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 commission therefore considers that all domestic sales made by Xingfa during the review period were 'arms length' transactions.

In respect of Australian sales of the goods by Xingfa, the commission has determined an export price under section 269TAB(1)(a), being the price paid by the importer to the exporter, less transport and other costs arising after exportation.

### 4.7.4 Normal value

The commission is satisfied that, due to a situation in the domestic market for the goods in China, sales in that market are not suitable for use in determining a normal value under section 269TAC(1).

The commission has therefore calculated a normal value under section 269TAC(2)(c) using the sum of:

- the cost of production of the goods in China, which was calculated using the CTM expenses for Xingfa, with its primary aluminium costs adjusted by reference to a benchmark
- domestic SG&A on the assumption that the goods, instead of being exported, were sold domestically based on the company's records under section 44(2) of the Regulation, and
- an amount for profit based on data relating to the production and sale of like goods on the domestic market in the OCOT under section 45(2) of the Regulation.

#### *CTM reasonably reflecting competitive market costs*

The commission has assessed the raw material input costs in the CTM for Xingfa. The commission verified that Xingfa kept its records relating to the goods in accordance with the relevant GAAP and that the records reasonably reflect the costs associated with the production and sale of the goods.

The commission was not satisfied that Xingfa's costs reasonably reflect competitive market costs associated with the production of like goods, due to the influence of the GOC in the domestic Chinese market for primary aluminium. As a result, section 43(2) of the Regulation, which requires the commission to use a producer's records to determine the cost of production of goods in the country of export where those records reasonably reflect competitive market costs, is not enlivened.

In this case, the commission considers it is not appropriate to rely on the primary aluminium costs in Xingfa's records to determine the cost of production of the goods in China, because to do so would reintroduce the factors that warranted the commission's decision to construct the normal value in the first place. The commission considers it appropriate to adjust primary aluminium costs in Xingfa's records by reference to an international benchmark cost for primary aluminium. The commission has not adjusted any of the other items recorded in Xingfa's cost of production.

The commission consequently worked out the amount for the cost of production in Xingfa's normal value under section 269TAC(2)(c) using this adjusted cost for primary aluminium and the costs for other items as set out in Xingfa's records.

**APPENDIX C** provides further details of this calculation.

#### *SG&A expenses*

## PUBLIC RECORD

The commission has used Xingfa's SG&A based on its records.

### *Profit*

The commission calculated an amount of profit based on the profit achieved on all domestic sales of like goods in the OCOT, pursuant to section 45(2) of the Regulation.

#### **4.7.5 Adjustments**

The commission is satisfied there is sufficient information to justify the following adjustments under section 269TAC(9). The commission considers these adjustments to be necessary to ensure a fair comparison of normal values and export prices.

<b>Adjustment Type</b>	<b>Deduction/addition</b>
Export inland transport	Add an amount for export inland transport
Export port handling charges	Add an amount for port handling charges
Export credit terms	Add an amount for export credit terms
Export customs declaration fees	Add an amount for customs declaration fees

**Table 13: Summary of adjustments – Xingfa**

#### **4.7.6 Dumping margin**

The commission compared the quarterly weighted average of export prices with the quarterly weighted average of corresponding normal values over the review period, under section 269TACB(2)(a).

The preliminary dumping margin for Xingfa is **negative 1.8%**

Details of the export price, normal value and dumping margin calculations are at **Confidential Attachments 17 to 20**.

### **4.8 Dumping assessment – Residual exporters**

#### **4.8.1 Preliminary assessment**

Chapter 4.3.1 lists all residual exporters.

#### **4.8.2 Export price**

The export price for residual exporters has been calculated under section 269TACAB(2)(c), which provides that the export price for residual exporters must not be less than the weighted average export price for like goods of cooperative exporters from China.

#### **4.8.3 Normal value**

The normal value for residual exporters has been calculated under section 269TACAB(2)(d), which provides that the normal value must not exceed the weighted average normal value for like goods of cooperative exporters from China.

#### **4.8.4 Dumping margin**

The dumping margin in respect of the goods exported to Australia by residual exporters for the review period is **negative 0.5%**.

The commission's calculations are in **Confidential Attachment 21**.

## **4.9 Dumping assessment – Uncooperative exporters**

### **4.9.1 Preliminary assessment**

As detailed in chapter 4.3.2, the commission considers all exporters of the goods from China are uncooperative exporters, except for Goomax, Jinxiecheng, Kam Kiu, Xingfa and those exporters classed as residual exporters, listed in chapter 4.3.1.

Section 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters.

### **4.9.2 Export price**

Pursuant to section 269TACAB(1)(d), the commission has determined an export price for the uncooperative exporters pursuant to section 269TAB(3), having regard to all relevant information.

The commission has used the lowest weighted average FOB export price of selected cooperative exporters who exported to Australia during the review period.

The commission has chosen the lowest export price on the basis that the lowest weighted average export price demonstrates a price at which an uncooperative exporter may export like goods to Australia, based on the information before the commission.

### **4.9.3 Normal value**

Pursuant to section 269TACAB(1)(e), the commission has determined the normal value for the uncooperative exporters pursuant to section 269TAC(6). The commission has used the highest normal value for the review period of selected cooperative exporters who exported to Australia during the review period. The commission chose this on the basis that:

- the commission does not have specific information relating to the uncooperative exporters relevant to the calculation of the normal value
- the highest normal value of cooperating exporters demonstrates a price at which an uncooperative exporter may sell the goods in the domestic Chinese market, based on the information before the commission.

### **4.9.4 Dumping margin**

The dumping margin in respect of the goods exported to Australia by uncooperative exporters for the review period is **41.1%**.

The commission's calculations are in **Confidential Attachment 21**.

## 5 VARIABLE FACTORS – COUNTERVAILING DUTY NOTICE

### 5.1 Preliminary findings

The Commissioner preliminarily finds that the variable factors relevant to the determination of countervailing duty payable have changed. The Commissioner proposes to recommend to the Minister that the countervailing duty notice shall have effect as if different variable factors had been ascertained.

The revised variable factors have resulted in different subsidy margins relevant to the imposition of ICD. The preliminary subsidy margins in relation to aluminium extrusions exported to Australia during the review period are summarised in Table 14.

Exporter	Subsidy margin
Goomax	0.7%
Jinxiecheng	0.0%
Kam Kiu	4.5%
Xingfa	0.3%
Residual exporters	0.9%
Non-cooperative entities	11.3%

Table 14: Subsidy margins for exporters

### 5.2 Legislative framework

Subsidisation occurs when a financial contribution or income or price support confers a benefit (whether directly or indirectly) in relation to goods exported to Australia. The amount of a countervailable subsidy is determined in accordance with section 269TACD.

### 5.3 Submissions relating to countervailing

#### 5.3.1 Submissions in respect of Goomax

##### *Capral*

In its submission of 14 October 2022, Capral noted that Goomax confirmed it is in receipt of 10 different grants in 2020, 22 grants in 2021 and 7 grants in 2022 from the various levels of government in China that are relevant to the manufacture of aluminium extrusions. Capral considers that some of the identified grants are likely to have been provided by the local provincial government of Fujian Province.

Capral raised concern with the grants received by Goomax, noting some of the information relating to the grants was redacted from its REQ. Capral notes its aware that some of the grants benefit domestic production and export sales.

In relation to Goomax's verification report, Capral stated that it is not apparent if the commission raised with Goomax any additional subsidy programs that may have provided a benefit to Goomax subsequent to Case 543 that have not been included in Goomax's verification report.

*Commission's assessment*

The commission verified subsidy programs submitted by Goomax and examined Goomax's records and is satisfied that the subsidy programs are relevant, accurate and complete. The commission determined that Goomax received a benefit attributed to the whole company in relation to several programs. Chapter 5.5.1 provides further detail.

All the subsidy programs listed in Goomax's verification report are additional subsidy programs subsequent to Case 543.

**5.3.2 Submissions in respect of Jinxiecheng**

*Capral*

In its submission of 14 October 2022, Capral noted that Jinxiecheng received a benefit in the form of a grant identified as 'Subsidy One' and that the details of the subsidy have been redacted in the REQ. Capral submits that it is reasonable to anticipate that Jinxiecheng would be in receipt of benefits from the GOC for more than one grant.

In its submission of 23 May 2023, Capral notes Jinxiecheng benefited from a '*Deferred payment of income tax*' program received from the GOC and is countervailable. Capral notes the commission will assess the program as a benefit received by Jinxiecheng.

*Commission's assessment*

The commission verified subsidy programs submitted by Jinxiecheng and determined that Jinxiecheng received a benefit in relation to 3 programs. The commission collected information on whether a State-Invested Enterprise (**SIE**) supplied or produced the raw material Jinxiecheng used and determined that no raw materials used by Jinxiecheng were supplied or produced by an SIE. This is consistent with findings the commission determined in Case 543.

The commission found the '*Deferred payment of income tax*' program to be countervailable and is included in the subsidy margin calculation for Jinxiecheng. Chapter 5.5.3 provides further detail.

**5.3.3 Submissions in respect of Xingfa**

*Capral*

In its submission of 23 March 2023, Capral notes that Xingfa benefits from the '*Preferential Tax for a High tech Enterprise*' which is a reduced rate of taxation and not a grant. Capral questions whether the complete value of the tax benefit and financial grants received by Xingfa has been accurately recorded. Capral requests that the commission re-assess the impact of the subsidies received by Xingfa and re-calculate the aggregate impact on Xingfa's export sales to Australia.

*Commission's assessment*

The commission found this program to be countervailable and is included in the subsidy margin calculation. The commission calculated the subsidy margin applying standard practice based on Chapter 17.3 of the Manual. Chapter 5.5.4 provides further detail.

**5.4 Subsidy programs**

**5.4.1 Information considered by the commission**

Section 269TAACA(1) provides that, in determining whether a countervailable subsidy has been received in respect of particular goods, or the amount of a countervailable

## PUBLIC RECORD

subsidy in respect of particular goods, the Commissioner may act on the basis of all the facts available and may make such assumptions as the Commissioner considers reasonable when an entity:

- has not given the Commissioner information the Commissioner considers to be relevant to the inquiry within a period the Commissioner considers to be reasonable or
- has significantly impeded the inquiry.

Section 269TAACA(2) provides section 269TAACA(1) applies to the following entities:

- any person who is or is likely to be directly concerned with the import or export into Australia of the goods to which the inquiry
- the government of the country of export of goods to which the inquiry relates.

The commission sent the GOC a questionnaire requesting information necessary for the review into the previously identified countervailable subsidies. The commission did not receive a response to this questionnaire from the GOC. Accordingly, because the GOC has not given the commission information considered to be relevant to the review, the commission has determined whether a countervailable subsidy has been received in respect of the goods, and the amount of the countervailable subsidy, in accordance with section 269TAACA(1).

The Commissioner has identified those exporters determined as uncooperative in chapter 4.3.2 also as non-cooperative entities.

The Commissioner has also identified that those exporters classed as residual exporters in chapter 4.3.1 as residual exporters for the purposes of the countervailing duty notice.

The commission has relied upon the previous findings in REP 543, being the most recent relevant inquiry in respect of the goods exported from China, and any relevant information provided by cooperating exporters in assessing the alleged subsidy programs.

REP 543 identified a total of 77 countervailable subsidy programs that are applicable to exports of the goods from China.

### 5.4.2 Additional programs identified in this review

During the review, the commission identified the following additional 62 programs under which entities received a subsidy in relation to Chinese exports of the goods to Australia during the review period:

Program Name	Exporter	Program No.
Municipal-level subsidy fund for enterprises participating the domestic exhibitions for 2018	Goomax	609-1
Provincial-level special subsidy for promoting stable production and employment of industrial enterprises during Spring Festival 2021	Goomax	609-2
Reward for increasing production and efficiency of Nan'an City during New Year's Day and Spring Festival 2021	Goomax	609-3
Supporting fund for foreign economy and trade of Nan'an City for 2020	Goomax	609-4
Provincial and municipal level special fund for trade 2021	Goomax	609-5
The 3rd batch of talent rewards for supporting enterprise restructuring, listing and over-the-counter listing in 2021	Goomax	609-6



**PUBLIC RECORD**

Subsidy fund for exhibitions in the first half of 2021	Goomax	609-7
2021 Vocational Skills Improvement Training Subsidy	Goomax	609-8
2020 Unemployment Insurance Stabilization Subsidy	Goomax	609-9
Reward fund for enterprises absorbing the poverty population for employment across provinces	Goomax	609-10
Subsidy for enterprise R&D expenditure for 2020	Goomax	609-11
The 2nd batch of subsidy for enterprise R&D expenditure of 2020	Goomax	609-12
Provincial-level reward fund for “Specialized-Refinement-Differential-Innovation” small and medium-sized enterprises of 2021	Goomax	609-13
One-time labour service subsidy for enterprise interprovincial labour service cooperation	Goomax	609-14
Provincial-level reward of green factory	Goomax	609-15
Settlement subsidy for college graduates	Goomax	609-16
The 1st batch of municipal-level special subsidy for energy conservation and circular economy in 2022	Goomax	609-17
Tax regulation allowing additional tax credits for R&D expenses	Goomax	609-18
Employment Assistance for the recruitment of poverty alleviation population in the fourth quarter of 2021	Kam Kiu	609-19
Jiangmen Intellectual Property Support Fund in 2022	Kam Kiu	609-20
Science and technology fund subsidy Assistance	Kam Kiu	609-21
2017 Taishan Integrity plan assistance	Kam Kiu	609-22
Assistance from Taishan city to encourage investment and support economic transformation and development	Kam Kiu	609-23
Guangdong Social Insurance Fund Administration	Kam Kiu	609-24
Assistance for training of new apprenticeship system in enterprises	Kam Kiu	609-25
Funds for energy conservation and clean production	Kam Kiu	609-26
Assistance for stable employment treatment	Kam Kiu	609-27
Special Funds for Encouraging Investment to Support Economic Transformation and Development in 2020	Kam Kiu	609-28
Special Funds for Foreign Trade and Economic Development of the Central Government in 2020 (Second Batch)	Kam Kiu	609-29
Special Funds Postdoctoral Work Recruited in 2020	Kam Kiu	609-30
Technological transformation of enterprises	Kam Kiu	609-31
Assistance from the Social Insurance Fund Administration	Kam Kiu	609-32
Funds to assist patent navigation projects for enterprise operation	Kam Kiu	609-33
Provincial Special Funds for Promoting High Quality Economic Development in 2020	Kam Kiu	609-34

**PUBLIC RECORD**

Assistance from Guangdong Social Insurance Fund Administration	Kam Kiu	609-35
Doctor workstation subsidy	Kam Kiu	609-36
Subsidy of maintenance of employment stability	Jinxiecheng	609-37
Deferred payment of income tax	Jinxiecheng	609-38
2017 'Hundreds of Enterprises Compete to Be the First' Enterprise Executive Award	Xingfa	609-39
2020 July to December Special Funds to Support Foreign Trade Enterprises to Actively Respond to the Novel Coronavirus Pandemic and Stable Development Support Measures	Xingfa	609-40
2020 Special Fund for Foreign Economic and Trade Development (Coping with Trade Friction) Project	Xingfa	609-41
2020 Special Fund Project for Promoting High-Quality Development of Foreign Trade (District Level)	Xingfa	609-42
2021 Accounts Receivable Financing Incentive Special Fund	Xingfa	609-43
2019 First Award for Large-Scale Backbone Enterprises Exceeding 10 Billion Yuan	Xingfa	609-44
2021 Special Fund for Foreign Economic and Trade Development (Coping with Trade Friction Matters) Project	Xingfa	609-45
2021 Technical Standards Strategic Support Award Project (Technical Standards Development) Incentives	Xingfa	609-46
2020 Unemployment Insurance Fund Supports Enterprises to Stabilize Job Subsidies	Xingfa	609-47
Special funds for the research and industrialization project of environmental protection and energy saving low temperature curing polyester powder coatings	Xingfa	609-48
Patented Technology Transaction Funding	Xingfa	609-49
2021 Special Fund for Foshan Industrial Internet Development Support (Industrial Internet Benchmarking Demonstration Project)	Xingfa	609-50
2021 First-level funding for the cultivation project of the Science and Technology Award at the provincial level or above in Chancheng District	Xingfa	609-51
2019 Chancheng District High-tech Enterprises' Support Fund for Quality Improvement	Xingfa	609-52
Special funds for promoting high-quality economic development in 2021 (the second batch)	Xingfa	609-53
2020 Manufacturing Singles Champion Enterprise Policy Support Fund	Xingfa	609-54
2021 Special Fund for Foshan Economic and Technological Development	Xingfa	609-55
2020 Manufacturing Singles Champion Enterprise Policy (Additional deduction for research and development expenses) Support Fund	Xingfa	609-56
2022 Provincial special funds for promoting high-quality economic development (private economy and the development of small, medium and micro enterprises)	Xingfa	609-57

**PUBLIC RECORD**

2022 Special subsidy for post-patent transformation	Xingfa	609-58
2022 'Foshan Standard' Product Support Fund	Xingfa	609-59
New employee allowance (Sanshui District)	Xingfa	609-60
2017 green manufacturing system integration fund	Xingfa	609-61
2013 provincial information industry development special fund for modern information service industry special project	Xingfa	609-62

**Table 15: Subsidy programs identified during the review period**

### 5.4.3 Summary of findings on programs

The commission has set out each program examined in respect of exports of the goods from China during the review period. Table 16 outlines the commission's finding in respect of each program.

Program Number	Program Name	Program Type	Countervailable subsidy (Yes/No)
2	One-time Awards to Enterprises Whose Products Qualify for 'Well-Known Trademarks of China' and 'Famous Brands of China'	Grant	Yes
3	Provincial Scientific Development Plan Fund	Grant	Yes
4	Export Brand Development Fund	Grant	Yes
5	Matching Funds for International Market Development for Small and Medium Enterprises (SME)	Grant	Yes
6	Superstar Enterprise Grant	Grant	Yes
7	Research & Development (R&D) Assistance Grant	Grant	Yes
8	Patent Award of Guangdong Province	Grant	Yes
9	Training Program for Rural Surplus Labour Force Transfer Employment	Grant	Yes
15	Aluminium provided at less than adequate remuneration	Less than adequate remuneration	Yes
18	Preferential tax policies in the Western Regions	Tax	Yes
21	Tariff and VAT Exemptions on Imported Materials and Equipment	Tariff and VAT Exemptions	Yes
26	Innovative Experimental Enterprise Grant	Grant	Yes
29	Special Support Fund for Non-State-Owned Enterprises	Grant	Yes
32	Venture Investment Fund of Hi-Tech Industry	Grant	Yes
35	Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment	Grant	Yes
47	Preferential tax policies for high and new technology enterprises	Tax	Yes
48	Provincial Government of Guangdong (PGOG) tax offset for R&D	Tax	Yes

**PUBLIC RECORD**

<b>Program Number</b>	<b>Program Name</b>	<b>Program Type</b>	<b>Countervailable subsidy (Yes/No)</b>
56	PGOG special fund for energy saving technology reform	Grant	Yes
58	Development assistance grants from the Zhaoqing New and High-Tech Industrial Development Zone (ZHTDZ)	Grant	Yes
59	Processing trade special fund	Grant	Yes
60	Trade insurance support fund	Grant	Yes
61	Enterprise employment fixed point monitoring work subsidy	Grant	Yes
62	Special funds for provincial enterprises to transfer and upgrade equipment	Grant	Yes
63	Reserve funds for enterprise development	Grant	Yes
64	High integrity enterprise award 2014	Grant	Yes
65	Jiangmen engineering technology research centre award	Grant	Yes
66	2016 Shanghai Automotive Commodities Exhibition special fee subsidy	Grant	Yes
67	Corporate remuneration survey subsidy	Grant	Yes
68	Energy saving project subsidy	Grant	Yes
69	Science and technology project subsidy	Grant	Yes
70	Provincial engineering and technology research centre 2016	Grant	Yes
71	Foreign trade development fund subsidy of Jiangmen City	Grant	Yes
72	2015 Special Funds of Technology Renovation technical renovation project with environmental protection	Grant	Yes
73	Provincial Market Development Grant for foreign trade exhibitions and SMEs International market development	Grant	Yes
75	Subsidy for Supporting Foreign Trade Enterprises of Nan'an city in 2017	Grant	Yes
76	Fund for Supporting Foreign Trade Export in 2017 of Nan'an Municipal Bureau of Financial	Grant	Yes
77	Power consumption award for production and efficiency increase in December 2016	Grant	Yes
78	Integration of informationization and industrialization management system (Note changed from market development due to info provided from Goomax)	Grant	Yes
79	Subsidy for invention patents	Grant	Yes
80	No. 269: Special project for technology reform- subsidy for technology reform	Grant	Yes
81	Madrid Trademark grant by Fujian Provincial Administration for Industry and Commerce	Grant	Yes
82	2016 Award for brand value from Finance Bureau	Grant	Yes

**PUBLIC RECORD**

<b>Program Number</b>	<b>Program Name</b>	<b>Program Type</b>	<b>Countervailable subsidy (Yes/No)</b>
83	Social security fund Guangzhou Social Insurance Fund	Grant	Yes
84	Patent supporting fund	Grant	Yes
85	Unemployment fund Guangzhou Social Insurance Fund	Grant	Yes
86	Technology supporting fund	Grant	Yes
87	Special fund Industry technology development and research	Grant	Yes
88	Industry technology R&D fund	Grant	Yes
89	Technology innovation fund	Grant	Yes
90	Social security fund Zencheng City	Grant	Yes
91	2016 Jiangmen support fund for technology development	Grant	Yes
92	Funds for EFT16 technical reform	Grant	Yes
93	Funds for 2016 technical renovation	Grant	Yes
94	EFT provincial Industry and informatization special research expenses supplement fund	Grant	Yes
95	2017 Enterprise Compensation Survey Fund	Grant	Yes
96	VOCs treatment fund for the process of injection workshop	Grant	Yes
97	Economic investigation fund	Grant	Yes
98	2017 Provincial Motor Energy Efficiency Promotion Special Fund	Grant	Yes
99	2017 Jiangmen Enterprise Major technology platform construction Fund	Grant	Yes
100	Receiving the payment from Taishan Finance Bureau	Grant	Yes
101	2017 Jiangmen Enterprise Research and Development Financial Aid Fund	Grant	Yes
102	Taishan High-integrity enterprise project fund	Grant	Yes
103	2017 Provincial Enterprise Research and Development Fund	Grant	Yes
104	Special funds for enterprises in large equipment manufacturing industry	Grant	Yes
105	2017 Provincial New enterprise Technology Reform Fund	Grant	Yes
106	Jiangmen supported science and technology development projects 2018	Grant	Yes
107	2018 special fund support project fund	Grant	Yes
108	Jiangmen municipal support science and technology development funds in 2019	Grant	Yes
109	Subsidy for employment of the disabled	Grant	Yes

**PUBLIC RECORD**

<b>Program Number</b>	<b>Program Name</b>	<b>Program Type</b>	<b>Countervailable subsidy (Yes/No)</b>
110	Environmental Protection Subsidy from Nan'an City Dongtian Government	Grant	Yes
111	Electricity Incentive Reward for Promoting Industrial Enterprise to Increase Production and Increase Efficiency of April to June of 2018	Grant	Yes
112	Subsidy for Foreign Economic and Trade Enterprise of 2018	Grant	Yes
113	Fund for Natural Disaster Relief	Grant	Yes
114	Subsidy for Chief Technology Officer	Grant	Yes
115	Electricity Incentive Reward of Production Increase and Efficiency Increase for Eligible Enterprise of the First Quarter of 2019	Grant	Yes
116	Trade Promotion Fund of 2019	Grant	Yes
117	Subsidy from Guangzhou Industry and Information Technology Bureau	Grant	Yes
609-1	Municipal-level subsidy fund for enterprises participating the domestic exhibitions for 2018	Grant	Yes
609-2	Provincial-level special subsidy for promoting stable production and employment of industrial enterprises during Spring Festival 2021	Grant	Yes
609-3	Reward for increasing production and efficiency of Nan'an City during New Year's Day and Spring Festival 2021	Grant	Yes
609-4	Supporting fund for foreign economy and trade of Nan'an City for 2020	Grant	Yes
609-5	Provincial and municipal level special fund for trade 2021	Grant	Yes
609-6	The 3rd batch of talent rewards for supporting enterprise restructuring, listing and over-the-counter listing in 2021	Grant	Yes
609-7	Subsidy fund for exhibitions in the first half of 2021	Grant	Yes
609-8	2021 Vocational Skills Improvement Training Subsidy	Grant	Yes
609-9	2020 Unemployment Insurance Stabilization Subsidy	Grant	Yes
609-10	Reward fund for enterprises absorbing the poverty population for employment across provinces	Grant	Yes
609-11	Subsidy for enterprise R&D expenditure for 2020	Grant	Yes
609-12	The 2nd batch of subsidy for enterprise R&D expenditure of 2020	Grant	Yes
609-13	Provincial-level reward fund for "Specialized-Refinement-Differential-Innovation" small and medium-sized enterprises of 2021	Grant	Yes

**PUBLIC RECORD**

<b>Program Number</b>	<b>Program Name</b>	<b>Program Type</b>	<b>Countervailable subsidy (Yes/No)</b>
609-14	One-time labour service subsidy for enterprise interprovincial labour service cooperation	Grant	Yes
609-15	Provincial-level reward of green factory	Grant	Yes
609-16	Settlement subsidy for college graduates	Grant	Yes
609-17	The 1st batch of municipal-level special subsidy for energy conservation and circular economy in 2022	Grant	Yes
609-18	Tax regulation allowing additional tax credits for R&D expenses	Tax	No
609-19	Employment Assistance for the recruitment of poverty alleviation population in the fourth quarter of 2021	Grant	Yes
609-20	Jiangmen Intellectual Property Support Fund in 2022	Grant	Yes
609-21	Science and technology fund subsidy Assistance	Grant	Yes
609-22	2017 Taishan Integrity plan assistance	Grant	Yes
609-23	Assistance from Taishan city to encourage investment and support economic transformation and development	Grant	Yes
609-24	Guangdong Social Insurance Fund Administration	Grant	Yes
609-25	Assistance for training of new apprenticeship system in enterprises	Grant	Yes
609-26	Funds for energy conservation and clean production	Grant	Yes
609-27	Assistance for stable employment treatment	Grant	Yes
609-28	Special Funds for Encouraging Investment to Support Economic Transformation and Development in 2020	Grant	Yes
609-29	Special Funds for Foreign Trade and Economic Development of the Central Government in 2020 (Second Batch)	Grant	Yes
609-30	Special Funds Postdoctoral Work Recruited in 2020	Grant	Yes
609-31	Technological transformation of enterprises	Grant	Yes
609-32	Assistance from the Social Insurance Fund Administration	Grant	Yes
609-33	Funds to assist patent navigation projects for enterprise operation	Grant	Yes
609-34	Provincial Special Funds for Promoting High Quality Economic Development in 2020	Grant	Yes
609-35	Assistance from Guangdong Social Insurance Fund Administration	Grant	Yes
609-36	Doctor workstation subsidy	Grant	Yes

**PUBLIC RECORD**

<b>Program Number</b>	<b>Program Name</b>	<b>Program Type</b>	<b>Countervailable subsidy (Yes/No)</b>
609-37	Subsidy of maintenance of employment stability	Grant	Yes
609-38	Deferred payment of income tax	Tax	Yes
609-39	2017 'Hundreds of Enterprises Compete to Be the First' Enterprise Executive Award	Grant	Yes
609-40	2020 July to December Special Funds to Support Foreign Trade Enterprises to Actively Respond to the Novel Coronavirus Pandemic and Stable Development Support Measures	Grant	Yes
609-41	2020 Special Fund for Foreign Economic and Trade Development (Coping with Trade Friction) Project	Grant	Yes
609-42	2020 Special Fund Project for Promoting High-Quality Development of Foreign Trade (District Level)	Grant	Yes
609-43	2021 Accounts Receivable Financing Incentive Special Fund	Grant	Yes
609-44	2019 First Award for Large-Scale Backbone Enterprises Exceeding 10 Billion Yuan	Grant	Yes
609-45	2021 Special Fund for Foreign Economic and Trade Development (Coping with Trade Friction Matters) Project	Grant	Yes
609-46	2021 Technical Standards Strategic Support Award Project (Technical Standards Development) Incentives	Grant	Yes
609-47	2020 Unemployment Insurance Fund Supports Enterprises to Stabilize Job Subsidies	Grant	Yes
609-48	Special funds for the research and industrialization project of environmental protection and energy saving low temperature curing polyester powder coatings	Grant	Yes
609-49	Patented Technology Transaction Funding	Grant	Yes
609-50	2021 Special Fund for Foshan Industrial Internet Development Support (Industrial Internet Benchmarking Demonstration Project)	Grant	Yes
609-51	2021 First-level funding for the cultivation project of the Science and Technology Award at the provincial level or above in Chancheng District	Grant	Yes
609-52	2019 Chancheng District High-tech Enterprises' Support Fund for Quality Improvement	Grant	Yes
609-53	Special funds for promoting high-quality economic development in 2021 (the second batch)	Grant	Yes
609-54	2020 Manufacturing Singles Champion Enterprise Policy Support Fund	Grant	Yes
609-55	2021 Special Fund for Foshan Economic and Technological Development	Grant	Yes



## PUBLIC RECORD

Program Number	Program Name	Program Type	Countervailable subsidy (Yes/No)
609-56	2020 Manufacturing Singles Champion Enterprise Policy (Additional deduction for research and development expenses) Support Fund	Grant	Yes
609-57	2022 Provincial special funds for promoting high-quality economic development (private economy and the development of small, medium and micro enterprises)	Grant	Yes
609-58	2022 Special subsidy for post-patent transformation	Grant	Yes
609-59	2022 'Foshan Standard' Product Support Fund	Grant	Yes
609-60	New employee allowance (Sanshui District)	Grant	Yes
609-61	2017 green manufacturing system integration fund	Grant	Yes
609-62	2013 provincial information industry development special fund for modern information service industry special project	Grant	Yes

**Table 16: Subsidy programs considered in this review**

The commission's assessment of each subsidy program is in **Non-confidential Appendix D**.

## 5.5 Calculation of subsidy margins

### 5.5.1 Goomax

The commission found that Goomax received a benefit from the following programs:

- Program 15 – Aluminium provided at less than adequate remuneration
- Program 78 – Integration of informatization and industrialization management system
- Program 79 – Subsidy for invention patents
- Program 609-1 – Municipal-level subsidy fund for enterprises participating the domestic exhibitions for 2018
- Program 609-2 – Provincial-level special subsidy for promoting stable production and employment of industrial enterprises during Spring Festival 2021
- Program 609-3 – Reward for increasing production and efficiency of Nan'an City during New Year's Day and Spring Festival 2021
- Program 609-4 – Supporting fund for foreign economy and trade of Nan'an City for 2020
- Program 609-5 – Provincial and municipal level special fund for trade 2021
- Program 609-6 – The 3rd batch of talent rewards for supporting enterprise restructuring, listing and over-the-counter listing in 2021
- Program 609-7 – Subsidy fund for exhibitions in the first half of 2021
- Program 609-8 – 2021 Vocational Skills Improvement Training Subsidy
- Program 609-9 – 2020 Unemployment Insurance Stabilization Subsidy
- Program 609-10 – Reward fund for enterprises absorbing the poverty population for employment across provinces
- Program 609-11 – Subsidy for enterprise R&D expenditure for 2020

## PUBLIC RECORD

- Program 609-12 – The 2nd batch of subsidy for enterprise R&D expenditure of 2020
- Program 609-13 – Provincial-level reward fund for “Specialized-Refinement-Differential-Innovation” small and medium-sized enterprises of 2021
- Program 609-14 – One-time labour service subsidy for enterprise interprovincial labour service cooperation
- Program 609-15 – Provincial-level reward of green factory
- Program 609-16 – Settlement subsidy for college graduates
- Program 609-17 – The 1st batch of municipal-level special subsidy for energy conservation and circular economy in 2022
- Program 609-18 – Tax regulation allowing additional tax credits for R&D expenses

The commission examined the evidence provided and found that Goomax had received a countervailable subsidy in relation to these programs, except Program 609-18, which the commission found was not specific and therefore not countervailable.

Based on the information available, the commission has calculated a subsidy margin (to one decimal place) for Goomax of **0.7%**.

The commission’s countervailable subsidy calculations for Goomax are in **Confidential Attachment 22**.

### 5.5.2 Kam Kiu

The commission found that Kam Kiu received a benefit from the following programs:

- Program 15 – Aluminium provided at less than adequate remuneration
- Program 47 – Preferential tax policies for high and new technology enterprises
- Program 56 – PGOG special fund for energy saving technology reform
- Program 62 – Special funds for provincial enterprises to transfer and upgrade equipment
- Program 68 – Energy saving project subsidy
- Program 93 – Funds for 2016 technical renovation
- Program 97 – Economic investigation fund
- Program 102 – Taishan High-integrity enterprise project fund
- Program 106 – Jiangmen supported science and technology development projects 2018
- Program 107 – 2018 special fund support project fund
- Program 108 – Jiangmen municipal support science and technology development funds in 2019
- Program 609-19 – Employment Assistance for the recruitment of poverty alleviation population in the fourth quarter of 2021
- Program 609-20 – Jiangmen Intellectual Property Support Fund in 2022
- Program 609-21 – Science and technology fund subsidy Assistance
- Program 609-22 – 2017 Taishan Integrity plan assistance
- Program 609-23 – Assistance from Taishan city to encourage investment and support economic transformation and development
- Program 609-24 – Guangdong Social Insurance Fund Administration
- Program 609-25 – Assistance for training of new apprenticeship system in enterprises
- Program 609-26 – Funds for energy conservation and clean production
- Program 609-27 – Assistance for stable employment treatment

## PUBLIC RECORD

- Program 609-28 – Special Funds for Encouraging Investment to Support Economic Transformation and Development in 2020
- Program 609-29 – Special Funds for Foreign Trade and Economic Development of the Central Government in 2020 (Second Batch)
- Program 609-30 – Special Funds Postdoctoral Work Recruited in 2020
- Program 609-31 – Technological transformation of enterprises
- Program 609-32 – Assistance from the Social Insurance Fund Administration
- Program 609-33 – Funds to assist patent navigation projects for enterprise operation
- Program 609-34 – Provincial Special Funds for Promoting High Quality Economic Development in 2020
- Program 609-35 – Assistance from Guangdong Social Insurance Fund Administration
- Program 609-36 – Doctor workstation subsidy

The commission examined the evidence provided and found that Kam Kiu had received a countervailable subsidy in relation to these programs.

Based on the information available, the commission has calculated a subsidy margin (to one decimal place) for Kam Kiu of **4.5%**.

The commission's countervailable subsidy calculations for Kam Kiu are in **Confidential Attachment 23**.

### 5.5.3 Jinxiecheng

The commission found that Jinxiecheng received a benefit from the following programs:

- Program 109 – Subsidy for employment for disabled person
- Program 609-37 – Subsidy of maintenance of employment stability
- Program 609-38 – Deferred payment of income tax.

The commission examined the evidence provided and found that Jinxiecheng had received a countervailable subsidy in relation to these programs.

Based on the information available, the commission has calculated a subsidy margin (to one decimal place) for Jinxiecheng of **0.0%**.

The commission's countervailable subsidy calculations for Jinxiecheng are in **Confidential Attachment 24**.

### 5.5.4 Xingfa

The commission found that Xingfa received a benefit from the following programs:

- Program 47 – Preferential tax policies for high and new technology enterprises
- Program 609-39 – 2017 'Hundreds of Enterprises Compete to Be the First' Enterprise Executive Award
- Program 609-40 – 2020 July to December Special Funds to Support Foreign Trade Enterprises to Actively Respond to the Novel Coronavirus Pandemic and Stable Development Support Measures
- Program 609-41 – 2020 Special Fund for Foreign Economic and Trade Development (Coping with Trade Friction) Project
- Program 609-42 – 2020 Special Fund Project for Promoting High-Quality Development of Foreign Trade (District Level)
- Program 609-43 – 2021 Accounts Receivable Financing Incentive Special Fund

## PUBLIC RECORD

- Program 609-44 – 2019 First Award for Large-Scale Backbone Enterprises
- Program 609-45 – 2021 Special Fund for Foreign Economic and Trade Development (Coping with Trade Friction Matters) Project
- Program 609-46 – 2021 Technical Standards Strategic Support Award Project (Technical Standards Development) Incentives
- Program 609-47 – 2020 Unemployment Insurance Fund Supports Enterprises to Stabilize Job Subsidies
- Program 609-48 – Special funds for the research and industrialization project of environmental protection and energy saving low temperature curing polyester powder coatings
- Program 609-49 – Patented Technology Transaction Funding
- Program 609-50 – 2021 Special Fund for Foshan Industrial Internet Development Support (Industrial Internet Benchmarking Demonstration Project)
- Program 609-51 – 2021 First-level funding for the cultivation project of the Science and Technology Award at the provincial level or above in Chancheng District
- Program 609-52 – 2019 Chancheng District High-tech Enterprises' Support Fund for Quality Improvement
- Program 609-53 – Special funds for promoting high-quality economic development in 2021 (the second batch)
- Program 609-54 – 2020 Manufacturing Singles Champion Enterprise Policy Support Fund
- Program 609-55 – 2021 Special Fund for Foshan Economic and Technological Development
- Program 609-56 – 2020 Manufacturing Singles Champion Enterprise Policy (Additional deduction for research and development expenses) Support Fund
- Program 609-57 – 2022 Provincial special funds for promoting high-quality economic development (private economy and the development of small, medium and micro enterprises)
- Program 609-58 – 2022 Special subsidy for post-patent transformation
- Program 609-59 – 2022 'Foshan Standard' Product Support Fund
- Program 609-60 – New employee allowance (Sanshui District)
- Program 609-61 – 2017 green manufacturing system integration fund
- Program 609-62 – 2013 provincial information industry development special fund for modern information service industry special project.

The commission examined the evidence provided and found that Xingfa had received a countervailable subsidy in relation to these programs.

Based on the information available, the commission has calculated a subsidy margin (to one decimal place) for Xingfa of **0.3%**.

The commission's countervailable subsidy calculations for Xingfa are in **Confidential Attachment 25**.

### 5.5.5 Residual exporters

Chapter 4.3.1 lists all residual exporters.

The commission calculated the subsidy margin for residual exporters by using the weighted average subsidy margin for all selected cooperative exporters.

Based on the information available, the commission has calculated a subsidy margin (to one decimal place) for residual exporters of **0.9%**.

## PUBLIC RECORD

The commission's countervailable subsidy calculations for residual exporters are in **Confidential Attachment 26**.

### 5.5.6 Non-cooperative entities

The subsidy margin for non-cooperative entities is determined, pursuant to section 269TAACA(1), based on all facts available and having regard to reasonable assumptions.

When determining the countervailable subsidies for non-cooperative entities, the Commissioner considers it reasonable to assume that those entities may have benefited from the highest level of subsidisation available to Chinese entities. Accordingly, the subsidy margin for each countervailable program is the higher of:

- the margins applicable to each program type based on the most recent findings made by the commission in respect of aluminium subsidies provided to Chinese manufacturers (REP 543)
- the margins calculated for each program for cooperating Chinese entities in this review (including newly identified countervailable programs).

The commission summed up the subsidy margins for each program to obtain the total subsidy margin. Based on the information available to the commission, the commission has calculated a subsidy margin for non-cooperative entities of **11.3%**.

The commission's countervailable subsidy calculations for non-cooperative Chinese entities are in **Confidential Attachment 26**.

## 5.6 Summary of subsidy margins

The commission has summarised the countervailable subsidy programs applicable to each exporter and subsidy margin for the review period in the following table.

Exporter	Subsidy Margin
Goomax	0.7%
Jinxiecheng	0.0%
Kam Kiu	4.5%
Xingfa	0.3%
Residual exporters	0.9%
Non-cooperative entities	11.3%

**Table 17: Summary of countervailable subsidy programs received by each exporter**

## 6 NON-INJURIOUS PRICE

### 6.1 Assessment of the non-injurious price

The NIP is relevant to the Minister's consideration of whether to apply a lesser amount of duty (**lesser duty rule**).

Section 269TACA defines the NIP as 'the minimum price necessary to prevent the injury, or a recurrence of the injury' caused by the dumped or subsidised goods, the subject of a dumping duty notice or a countervailing duty notice. The commission will generally derive the NIP from the Australian industry's unsuppressed selling price (**USP**).

### 6.2 Legislative framework

Where the Minister is required to determine both ICD and IDD, sections 8(5BA) and 10(3D) of the Dumping Duty Act apply.

Sections 8(5BA) and 10(3D) require the Minister to have regard to the 'lesser duty rule' when determining the ICD and IDD payable. In relation to a dumping duty notice, the lesser duty rule requires consideration of whether the NIP is less than the normal value of the goods. In respect of concurrent dumping and countervailing notices, the lesser duty rule requires the Minister to consider the desirability of fixing a lesser amount of duty such that the sum of the export price (of the goods ascertained for the purposes of the notices), the ICD and the IDD, do not exceed the NIP.

Pursuant to sections 8(5BAAA) and 10(3DA) of the Dumping Duty Act, the Minister is not required to have regard to the lesser duty rule where one or more of the following circumstances (exceptions) apply:<sup>46</sup>

- the normal value of the goods was not ascertained under section 269TAC(1) because of the operation of section 269TAC(2)(a)(ii) (**the particular market situation exception**)
- there is an Australian industry in respect of like goods that consists of at least 2 small-medium enterprises, whether or not that industry consists of other enterprises<sup>47</sup>
- if an exporter of the goods has received a countervailing subsidy in respect of the goods – the exporter's country has not complied with Article 25 of the World Trade Organization (**WTO**) Agreement on Subsidies and Countervailing for the compliance period.

Where any of the above exceptions apply, the Minister is not required to have mandatory consideration of the lesser duty rule but may still wish to exercise a discretion to do so.

### 6.3 Commission's assessment

In accordance with sections 8(5BAAA) and 10(3DA), the Minister is not required to consider the application of the lesser duty rule in relation to the exports by selected cooperating exporters because the commission did not ascertain these exporters normal values under section 269TAC(1) due to the operation of section 269TAC(2)(a)(ii). For residual and all other exporters from China subject to the anti-dumping measures, the commission notes that none of the exceptions in sections 8(5BAAA) and 10(3DA) of the

<sup>46</sup> Sections 8(5BAAA)(a) to (c) of the Dumping Duty Act concern the calculation of dumping duty and sections 10(3DA)(a) to (c) of the Dumping Duty Act concern the calculation of countervailing duty.

<sup>47</sup> As defined in the Customs (Definition of 'small-medium enterprise') Determination 2013

## **PUBLIC RECORD**

Dumping Duty Act apply. The Minister is therefore required to consider the desirability of applying a lesser amount of duty in accordance with sections 8(5BA) and 10(3D) of the Dumping Duty Act.

The commission preliminarily intends to recommend that the Minister exercise their discretion not to apply a lesser amount of duty. The commission considers that residual and other exporters should not have an advantageous outcome over selected cooperating exporters. Although the normal value for residual exporters and all other exporters was ascertained under sections 269TACAB(2) and 269TAC(6) respectively, the normal value was based on the constructed normal values established for selected cooperating exporters, calculated under section 269TAC(2)(c) because of the operation of section 269TAC(2)(a)(ii).

Accordingly, the Commissioner preliminarily recommends that in relation to all exporters from China, the Minister determine under sections 8(5BA) and 10(3D) of the Dumping Duty Act that it is not desirable to specify a method of calculating IDD and/or fix the amount of ICD such that the sum of the export price of the goods as ascertained in this review, the amount of IDD payable and the amount of ICD payable do not exceed the NIP as last ascertained by the Minister.

## 7 OUTCOME OF REVIEW

### 7.1 Preliminary Finding

The Commissioner preliminarily finds that, in relation to the goods exported to Australia from China during the review period, for exporters generally:

- the ascertained export price has changed
- the ascertained normal value has changed
- the amount of countervailable subsidy received in respect of the goods has changed.

The Commissioner further proposes to recommend that the Minister exercise their discretion not to apply a lesser amount of duty based.

### 7.2 Forms of duty available – dumping

The forms of duty available to the Minister when imposing anti-dumping measures are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013*. In relation to IDD, the forms of duty are:

- fixed duty method (AUD per tonne)
- floor price duty method
- combination of fixed and variable (combination) duty method
- *ad valorem* duty method (i.e., a percentage of the export price).<sup>48</sup>

The various forms of dumping duty all have the purpose of removing the injurious effects of dumping. However, in achieving this purpose, certain forms of duty will better suit particular circumstances than others. In considering which form of duty to recommend to the Minister, the Commissioner will have regard to the *Guidelines on the Application of Forms of Dumping Duty (the duty guidelines)*<sup>49</sup> and relevant factors applicable to the market for the goods.

Under the floor price duty method, IDD is payable if the export price of the goods exported to Australia is less than the floor price. The amount of IDD payable is the difference between the export price and the floor price.

Under the combination duty method, the IDD payable is the combination of a:

- fixed component, which may be a percentage of the export price of the goods or an amount per unit of the goods, and
- variable component, whereby additional IDD is payable if the export price of the goods is less than the export price last ascertained by the Minister following an investigation, inquiry or review.

Currently, the goods exported to Australia are subject to the floor price duty method or the combination duty method.

---

<sup>48</sup> Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

<sup>49</sup> The Guidelines are available on the commission's website.



### 7.3 Forms of countervailing duty methods available

In relation to ICD, which is payable in respect of the goods exported by all exporters from China, the ICD may be calculated:

- as a proportion of the export price of the goods ('ad valorem')
- by reference to a measure of the quantity of those particular goods
- by reference to a combination of the above two methods.

Currently, in respect of the goods, ICD is currently calculated as a proportion of the export price ('ad valorem'). The commission recommends that this form of measures continue.

### 7.4 Avoidance of 'double-counting'

The commission has found that several Chinese entities received countervailable subsidies under Program 15 – *Aluminium provided at less than adequate remuneration*. Chapter 5 discusses this program.

When there is both an adjustment to raw material costs as part of constructing a normal value and a countervailable LTAR subsidy (such as Program 15), the commission will generally 'back out' the relevant subsidy from the dumping margin in order to avoid any double counting.

Part 20.3 of the Manual provides:

*The Commission may decide to construct normal value for the goods in question under section 269TAC(2)(c) in certain circumstances. In some of these circumstances, the cost of an input may not reasonably reflect competitive market costs and therefore an adjustment to that input cost is made in constructing normal value. Where that input was also the subject of a less than adequate remuneration subsidy finding, it is necessary to 'back out' the relevant subsidy from the dumping margin in order to avoid any double counting.<sup>50</sup>*

As Program 15 is in respect of primary aluminium provided at LTAR and the commission has adjusted aluminium as a cost input in constructing the normal value for Chinese exporters, the dumping margin calculations already address the impact of Program 15 on Chinese exporters' costs. To avoid this double counting, it is necessary for the commission to 'back-out' the Program 15 subsidy from one of the duplicative counts. The usual practice of the commission to give effect to avoiding a double count is to deduct the LTAR subsidy margin from the dumping margin, as outlined in the Manual.

The table below gives a summary of the resultant combined dumping and subsidy margins, adjusted to remove double count.

Exporter	Dumping margin	Subsidy margin	Combined effective dumping and subsidy margin with Program 15	Combined effective dumping and subsidy margin with Program 15 backed-out
Goomax	-7.5%	0.7%	0.7%	0.7%
Kam Kiu	41.1%	4.5%	45.6%	45.1%
Jinxiecheng	-7.7%	0.0%	0.0%	0.0%

<sup>50</sup> The commission notes the WTO Appellate Body's comments in DS379, that 'double remedies' are inconsistent with the requirement in Article 19.3 of the Subsidies and Countervailing Measures Agreement.

## PUBLIC RECORD

Xingfa	-1.8%	0.3%	0.3%	0.3%
Residual exporters	-0.5%	0.9%	0.9%	0.9%
Uncooperative, non-cooperative and all other exporters	41.1%	11.3%	54.1%	48.1%

**Table 18: Dumping and subsidy margins, considering Program 15**

### 7.5 Commission's assessment – form of measures

The commission has received no submissions in respect of what form the measures should take.

In relation to Goomax, Jinxi Cheng, Xingfa and residual exporters, the Commissioner preliminarily recommends that the Minister calculate the IDD based on floor price duty method and ICD be calculated as a proportion of the export price of the goods (ad valorem method).

The Commissioner preliminarily recommends that, in relation to all other exporters, the Minister calculate duties:

- in respect of any ICD that may become payable, as a proportion of the export price of the goods (ad valorem method)
- in respect of any IDD that may become payable, using the combination of fixed and variable duty method.

For each exporter, the combined fixed rate of ICD and IDD will be the sum of:

- the subsidy rate calculated for all countervailable programs
- the dumping rate calculated, less an amount for the subsidy rate applying to Program 15 (where this has been received by the exporter or group of exporters).

### 7.6 Recommended date of effect

Section 269ZDB(1)(iii) provides that the Minister, in fixing different variable factors in relation to a particular exporter or to exporters generally, must specify the date that the dumping duty or countervailing duty notice is to be taken to have effect or to have had effect.

Section 269ZDB(6) provides that, for the purposes of a declaration under subsection (1)(a)(ii) or (iii), the Minister must not fix a date earlier than the date of publication under section 269ZC of a notice indicating the proposal to undertake the review concerned.

The Commissioner published a notice under section 269ZC, initiating this review on 8 August 2022.<sup>51</sup>

#### 7.6.1 Qingyuan and Foshan Lvqiang

The Commissioner considers it appropriate to recommend to the Minister an effective date for the fixing of different variable factors for exporters Qingyuan and Foshan Lvqiang of the date of publication of this SEF.

---

<sup>51</sup> EPR 609, Item 1.

## PUBLIC RECORD

Exports from both Qingyuan and Foshan Lvqiang are currently subject to significantly lower effective rates of interim duty (1.7% and 11.5%, respectively) compared to uncooperative exporters (77.4%).

Foshan Lvqiang and Qingyuan's rates of interim duty were first set in February 2020 following AR 530<sup>52</sup> and July 2021 following AR 581<sup>53</sup> respectively.<sup>54</sup>

In both accelerated reviews, the commission found neither exporter had exported the goods to Australia during the relevant accelerated review period examined by the commission. In these circumstances, the commission's practice is to determine the export price as being equal to the ascertained normal value, which results in a dumping margin of 0% (IDD is then worked out using the floor price duty method).

Based on the information provided by each exporter in its application, the commission determined a subsidy rate for Foshan Lvqiang of 12.4% and for Qingyuan of 1.7%.

Qingyuan's current rates of interim duty are unchanged from AR 581, but Foshan Lvqiang had its variable factors changed as part of REP 543 in October 2020. Foshan Lvqiang was considered a residual exporter in REP 543, with a dumping margin of 11.1% a subsidy margin of 0.7%, and a combined effective rate of 11.5%.

Figure 1 below shows the volume of exports of the goods to Australia by Qingyuan and Foshan Lvqiang, both directly by Foshan Lvqiang and indirectly through Ansun Trading Pty Ltd (**Ansun**) and Foshan Xing Yi Import & Export Co., LTD (**Foshan Xing Yi**) (Qingyuan does not export significant volumes directly).<sup>55</sup>

---

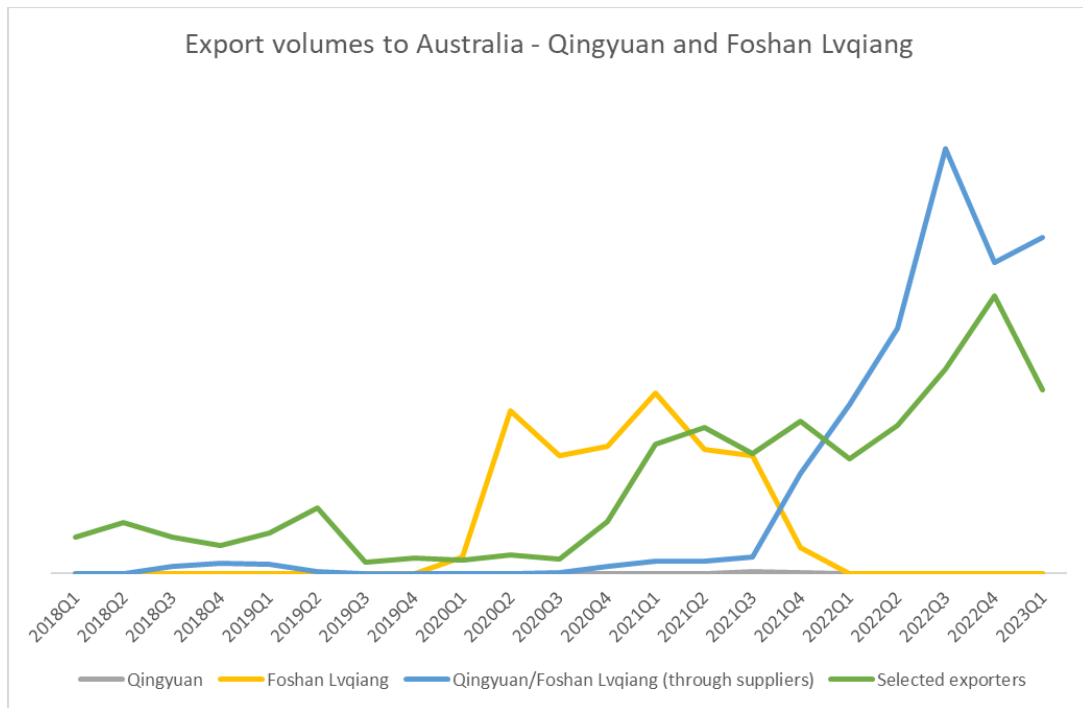
<sup>52</sup> Which examined a period, 1 October 2018 to 30 September 2019.

<sup>53</sup> Which examined a period, 1 January 2020 to 31 December 2020.

<sup>54</sup> Reports on both reviews are available on the commission's website.

<sup>55</sup> Due to the lack of cooperation by either exporter in this review, the commission is unable to distinguish between goods manufactured by Qingyuan and Foshan Lvqiang supplied through Ansun or Foshan Xing Yi. Accordingly, it has combined export volumes supplied through these entities.

## PUBLIC RECORD



**Figure 1: Export volumes to Australia by Qingyuan and Foshan Lvqiang<sup>56</sup>**

Figure 1 shows that Foshan Lvqiang's export volume of the goods increased significantly following AR 530 in 2021Q1 to a level higher than all selected exporters combined. It also shows that Qingyuan and Foshan Lvqiang's export volumes, supplied through Ansun and Foshan Xing Yi, increased significantly from the third quarter of 2021, and have been greater than the combined volumes of selected exporters in every quarter since the end of 2021. This corresponded with a decrease in exports directly from Foshan Lvqiang.

As discussed in chapter 2.5.3, because of the significance of the export volumes by Qingyuan and Foshan Lvqiang, at the commencement of this review, the Commissioner requested both Foshan Lvqiang and Qingyuan to provide a completed selected exporter REQ. Both failed to do so.

As noted in the questionnaire sent to both exporters, there is no requirement for exporters to provide a response. But the questionnaire goes on to provide:

*If you do not respond, do not provide all of the information sought, do not provide information within a reasonable time period, or do not allow the Commission to verify the information, we may deem your company to be an uncooperative and/or non-cooperative exporter. In that case the Commission must determine a dumping margin and a subsidy margin having regard to all relevant information.<sup>57</sup>*

The Commissioner has therefore determined both exporters as uncooperative. Their lack of cooperation meant that the commission was required to calculate Qingyuan and Foshan Lvqiang's variable factors based on the best information available. The commission was also impeded from conducting this review based on the larger volume of goods. As discussed in chapter 4.9, the commission has determined that exports of the goods by these exporters were dumped and subsidised during the review period at rates

<sup>56</sup> Confidential Attachment 30 – Export volume analysis – Qingyuan and Foshan Lvqiang.

<sup>57</sup> EPR 609 – Selected Exporter Questionnaire.

## PUBLIC RECORD

of 41.1% and 13% respectively. The commission also notes that the importers from these exporters also did not participate in the review by completing an importer questionnaire.

This means that during the review period and while the commission has been conducting this review of variable factors, importers from these exporters have continued to benefit from ICD and IDD rates which the commission has found do not reflect, and are significantly lower than, the actual rates of dumping and subsidisation.

The commission considers this substantial disparity between the current ICD and IDD rates applying to Qingyuan and Foshan Lvqiang's exports and their ascertained dumping and subsidy margins for this review, combined with the significance of their export volumes, has led to a situation where the anti-dumping measures may not be achieving their intended outcome of preventing injury to the Australian industry from dumping and subsidisation.

### 7.6.2 Commission's assessment

The Commissioner notes that, subject to section 269ZDB(6), the date of effect is at the discretion of the Minister, and that the Minister may set a date of effect for particular exporters. Considering the above, the Commissioner preliminarily recommends that the Minister declare that the notices fixing different variable factors take effect from:

- for all exporters, except Qingyuan and Foshan Lvqiang – the date of publication of the Minister's decision
- for Qingyuan and Foshan Lvqiang – the date of publication of this SEF.

The commission considers that fixing different variable factors, as ascertained in this review, from the date of publication of the SEF will ensure that Qingyuan and Foshan Lvqiang are subject to interim duty rates which reflect the rates at which their exports have been found to be dumped and subsidised. The commission considers this is necessary to ensure the anti-dumping measures are effective in preventing injury to the Australian industry from dumping and subsidisation, particularly considering the significance of these exporters' export volumes in the Australian market.

### 7.7 Recommended anti-dumping measures

Table 19 sets out the recommended anti-dumping measures that will apply.

**PUBLIC RECORD**

<b>Exporter</b>	<b>IDD Method</b>	<b>ICD Method</b>	<b>Effective rate of combined ICD and IDD</b>	<b>Variable component of IDD</b>	<b>Date of effect</b>
Goomax	Floor price	Ad valorem	0.7%	Applicable only where the actual export price is below the ascertained normal value.	Date of publication of the notice
Jinxiecheng	Floor price	Ad valorem	0.0%		
Xingfa	Floor price	Ad valorem	0.3%		
Residual exporters	Floor price	Ad valorem	0.9%		
Kam Kiu	Combination	Ad valorem	45.1%	Applicable only where the actual export price is below the ascertained export price.	Date of publication of this SEF
Uncooperative, non-cooperative and all other exporters (except Qingyuan and Foshan Lvqiang)	Combination	Ad valorem	48.1%		
Qingyuan and Foshan Lvqiang	Combination	Ad valorem	48.1%		

**Table 19: Summary of effective ICD and IDD**

## **8 APPENDICES AND ATTACHMENTS**

<b>Non-confidential Appendix A:</b> Assessment of Particular Market Situation
<b>Non-confidential Appendix B:</b> Proper Comparison of Domestic and Export Prices
<b>Non-confidential Appendix C:</b> Constructed Normal Values
<b>Non-confidential Appendix D:</b> Assessment of Alleged Subsidy Programs
<b>Confidential Attachment 1:</b> Goomax – Export Price
<b>Confidential Attachment 2:</b> Goomax – CTMS
<b>Confidential Attachment 3:</b> Goomax – Normal Value
<b>Confidential Attachment 4:</b> Goomax – Cost replacement
<b>Confidential Attachment 5:</b> Goomax – Dumping Margin
<b>Confidential Attachment 6:</b> Jinxiecheng – Export Price
<b>Confidential Attachment 7:</b> Jinxiecheng – CTMS
<b>Confidential Attachment 8:</b> Jinxiecheng – Normal Value
<b>Confidential Attachment 9:</b> Jinxiecheng – Cost Replacement
<b>Confidential Attachment 10:</b> Jinxiecheng – Dumping Margin
<b>Confidential Attachment 11:</b> Kam Kiu – Export Price
<b>Confidential Attachment 12:</b> Kam Kiu – CTMS
<b>Confidential Attachment 13:</b> Kam Kiu – Normal Value
<b>Confidential Attachment 14:</b> Kam Kiu – Cost Replacement
<b>Confidential Attachment 15:</b> Kam Kiu – Dumping Margin
<b>Confidential Attachment 16:</b> Kam Kiu – Profitability of imports
<b>Confidential Attachment 17:</b> Xingfa – Export Price
<b>Confidential Attachment 18:</b> Xingfa – CTMS
<b>Confidential Attachment 19:</b> Xingfa – Normal Value
<b>Confidential Attachment 20:</b> Xingfa – Dumping Margin
<b>Confidential Attachment 21:</b> Residual and Uncooperative Exporter Dumping Margin
<b>Confidential Attachment 22:</b> Goomax – Subsidy Margin
<b>Confidential Attachment 23:</b> Kam Kiu – Subsidy Margin

**PUBLIC RECORD**

<b>Confidential Attachment 24:</b> Jinxiecheng – Subsidy Margin
<b>Confidential Attachment 25:</b> Xingfa – Subsidy Margin
<b>Confidential Attachment 26:</b> Residual and Non-cooperative Entity Subsidy Margins
<b>Confidential Attachment 27:</b> Aluminium Benchmark
<b>Non-confidential Attachment 28:</b> Announcement on Deferred Payment of Income Tax
<b>Confidential Attachment 29:</b> Residual Exporter Analysis
<b>Confidential Attachment 30:</b> Export Volume Analysis – Qingyuan and Foshan Lvqiang
<b>Confidential Attachment 31:</b> Proper Comparison Market Analysis
<b>Confidential Attachment 32:</b> Aluminium Price Analysis
<b>Confidential Attachment 33:</b> Australian Market
<b>Confidential Attachment 34:</b> Market Situation – Chinese market
<b>Confidential Attachment 35:</b> Price Undercutting Analysis



## APPENDIX A ASSESSMENT OF PARTICULAR MARKET SITUATION

### A1 Introduction

The commission sent a questionnaire to the GOC requesting, inter alia, the following information in relation to the aluminium extrusions market in China:

- identification of the names of the government departments, bureaus or agencies responsible for the administration of any GOC measures concerning the aluminium industry
- details of all manufactures/traders of aluminium extrusions in China including location, whether they are an SIE or State-Owned Enterprise (**SOE**), production quantity and whether there is GOC representation in the business
- a detailed description of the domestic Chinese aluminium extrusions industry and the relevant upstream industries
- quarterly import and export data (volume and value)
- details about the operation of the *Price Law of the People's Republic of China*<sup>58</sup> and
- identification of any GOC initiatives and/or policies that affect the aluminium extrusions industry, including raw materials used in its manufacture.

The GOC did not provide a response to the commission.

In assessing whether a particular market situation exists in relation to the Chinese aluminium extrusions market during the review period, the commission has relied on contemporary evidence available to it, as well as submissions made to the review and the findings of previous cases conducted by the commission.

Considering all the information before the commission, it is the commission's view that a particular market situation existed in respect of the domestic market for aluminium extrusions in China for the review period. This appendix sets out the evidence for this finding.

### A2 Australian legislation, policy and practice

Australia treats China as a market economy for anti-dumping purposes, and the commission conducts its investigation in the same manner for China as it does for other market economy members of the WTO.

Irrespective of the country the subject of investigation, the Australian anti-dumping framework allows for rejection of domestic selling prices as the basis for normal values where there is a particular market situation such that sales in that market are not suitable for use in determining a price.

#### A2.1 Legislation

Section 269TAC(2)(a)(ii) implements, in part, Article 2.2 of the ADA:

*When there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or when, because of the particular market*

---

<sup>58</sup> 《中华人民共和国价格法》 [*Price Law of the People's Republic of China*] National People's Congress, Order no. 92, 1 May 1998.

## PUBLIC RECORD

*situation or the low volume of the sales in the domestic market of the exporting country [footnote omitted], such sales do not permit a proper comparison, the margin of dumping shall be determined by comparison with a comparable price of the like product when exported to an appropriate third country, provided that this price is representative, or with the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits.*

Where a particular market situation is found to exist in the domestic market of the exporting country, pursuant to section 269TAC(2)(a)(ii), the commission must further consider whether, because of that situation, sales in that market are unsuitable for determining a price under section 269TAC(1) that would permit a proper comparison with the export price in determining the margin of dumping. **APPENDIX B** sets out the commission's consideration of whether sales in the Chinese domestic market are suitable to permit a proper comparison.

Where the commission determines that because of the particular market situation, domestic sales are unsuitable for determining a price under section 269TAC(1), normal values may instead be constructed under section 269TAC(2)(c) or determined by reference to prices from a third country under section 269TAC(2)(d).

### A2.2 Policy and practice

The Act does not define or prescribe what is required to reach a finding of a particular market situation. A particular market situation will arise when there is some factor or factors affecting the relevant market in the country of export generally. When considering whether a particular market situation renders sales unsuitable for use in determining a normal value under section 269TAC(1), the commission may consider factors such as whether:

- government intervention in the industry and/or market of the exporting country results in prices that are lower or not substantially the same than they would otherwise be
- there are other conditions in the market that render sales in that market unsuitable for use in determining prices under section 269TAC(1).

The Manual provides further guidance on the circumstances in which the commission will find that a particular market situation exists.<sup>59</sup> In particular, with respect to prices of inputs in the manufacture of the like goods, the Manual states:

*Prices may also be artificially low or lower than they would otherwise be in a competitive market due to government influence and distortion of the costs of inputs. The mere existence of any government influence on the cost of inputs would not be enough to make sales unsuitable. The commission looks at the effect of this influence on market conditions and the extent to which domestic prices can no longer be said to prevail in a normal competitive market.<sup>60</sup>*

According to the Manual, '*market conditions will no longer be said to prevail when ... government owned enterprises, together with any unprofitable sales by those same enterprises, has caused a significant distortion to the prices received by private enterprises.*'<sup>61</sup>

---

<sup>59</sup> The Manual, p. 36.

<sup>60</sup> The Manual, p. 29.

<sup>61</sup> The Manual, p. 29.

### A3 Assessing particular market situation in this review

As part of its particular market situation assessment for this review, the commission has considered:

- stated policies and plans of the GOC
- REQs from Chinese exporters
- information obtained from Department of Industry, Science and Resources
- information from third party information providers
- OECD Trade Policy Paper, *Measuring distortions in international markets: Below-market finance*<sup>62</sup>
- the European Commission's *Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the Purposes of Trade Defence Investigations* (the EC 2017 Report)<sup>63</sup>
- the US International Trade Administration's memorandum on *China's Status as a Non-Market Economy*<sup>64</sup>
- other desktop research
- particular market situation assessments in relation to relevant cases between 2010 and 2020<sup>65</sup>

The commission did not receive a response to the government questionnaire from the GOC for this review. This has limited the ability of the commission to undertake its assessment. Notwithstanding, the commission has considered all available information.

When assessing the conditions within the Chinese primary aluminium market, the commission has focused on the period 2018 to 2022, paying particular attention to the impact of conditions for exporters of aluminium extrusions in the review period.

Consistent with findings made in REP 543, the cost of primary aluminium accounts for approximately 80% of the total CTM for aluminium extrusions for exporters in China.<sup>66</sup> Therefore, in considering whether a particular market situation exists in respect of the domestic market for aluminium extrusions, it is reasonable for the commission to assess conditions in the primary aluminium market, as a significant raw material.

It is the commission's view that the GOC's actions distorted conditions in the Chinese primary aluminium market over the entire review period, and that these distortions created a particular market situation in respect of the domestic market for aluminium extrusions in China for the review period.

---

<sup>62</sup> OECD Trade Policy Paper, *Measuring distortions in international markets: Below-market finance* (May 2021).

<sup>63</sup> European Commission, *Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the Purposes of Trade Defence Investigations* (20 December 2017) SWD(2017) 483/F2 (EC 2017 Report).

<sup>64</sup> International Trade Administration, United States Department of Commerce, *China's Status as a Non-Market Economy* (26 October 2017) E&C VI: MJH/TB.

<sup>65</sup> Refer to Investigation No 148 (aluminium extrusions), Investigations No 181 (aluminium road wheels), Reinvestigation No. 204 (aluminium road wheels), Review No. 248 (aluminium extrusions), Review No. 263 (aluminium road wheels), Inquiry No. 287 (aluminium extrusions), Inquiry No. 378 (aluminium road wheels), Review No. 392 (aluminium extrusions), Investigation No. 442 (aluminium extrusions), REP 482 (aluminium extrusions) and REP 543 (aluminium extrusions).

<sup>66</sup> 609 – SEF – Confidential Attachment 31 – Proper Comparison Market Analysis – Aluminium % of total CTM.

## A4 Conditions in the Chinese primary aluminium market

Factors considered by the commission when assessing conditions within the Chinese primary aluminium market during the review period include the level of, and trends in, aluminium production and production capacity, aluminium consumption, pricing, and the influence of the GOC over these variables.

In terms of supply, China is currently responsible for producing approximately 40 million tonnes of the total global aluminium production of 64 million tonnes, representing 60% of global supply. The figure below shows world primary aluminium production:

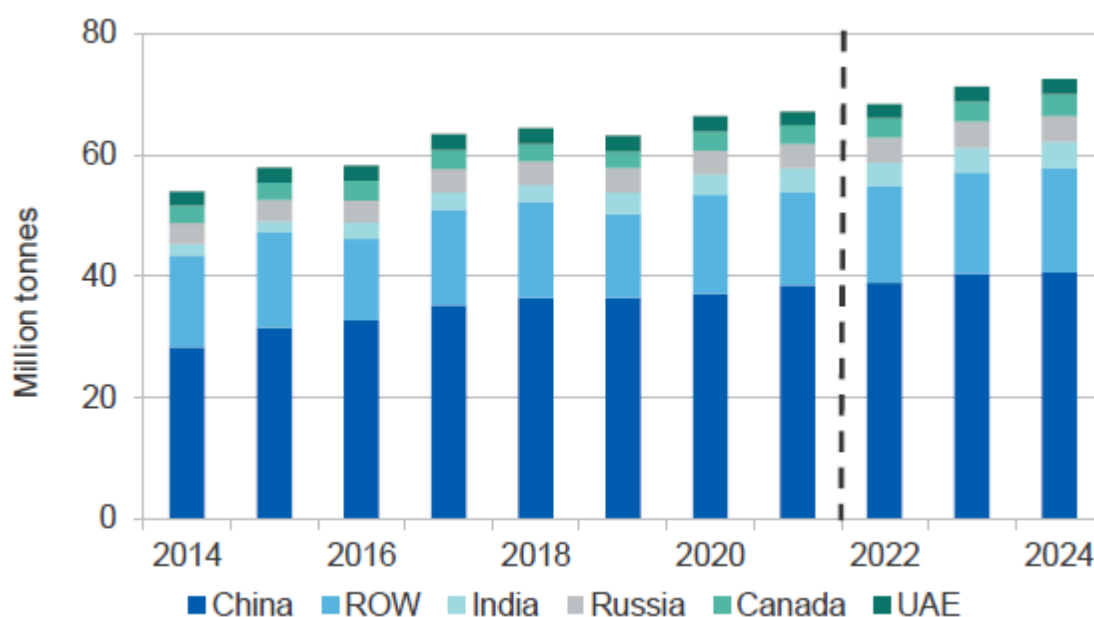


Figure 2: World primary aluminium production <sup>67</sup>

China's production of primary aluminium was down by 0.8% during the review period, as COVID-19 containment measures and power restrictions in the March quarter 2022 affected smelting operations. Production recovered slightly in the June quarter 2022, driven by the removal of power restrictions and higher power supply.<sup>68</sup>

Global primary aluminium production increased by 3.2% in the September quarter 2022 propelled by higher output in China. China produced 10 million tonnes of primary aluminium in this period, an increase of 7.1%, with Chinese smelters responding to the removal of power restrictions and higher power supply.<sup>69</sup> The commission expects China to continue this increase in primary aluminium production.

During the review period, the London Metal Exchange (**LME**) spot price for primary aluminium reached a 34-year high of US\$3,985 a tonne in March 2022, as the market reacted to the Russian invasion of Ukraine. Russia is the world's third largest primary aluminium producer and the world's third largest primary aluminium exporter.<sup>70</sup>

<sup>67</sup> Office of the Chief Economist, Department of Industry, Science and Resources, Resources and Energy Quarterly June 2022, p.114.

<sup>68</sup> Office of the Chief Economist, Department of Industry, Science and Resources, Resources and Energy Quarterly September 2022, p. 117.

<sup>69</sup> Office of the Chief Economist, Department of Industry, Science and Resources, Resources and Energy Quarterly December 2022, p. 114.

<sup>70</sup> Office of the Chief Economist, Department of Industry, Science and Resources, Resources and Energy Quarterly June 2022, p. 118.

## PUBLIC RECORD

The LME spot price fell sharply due to growing concerns regarding the impacts of China's COVID-19 containment measures. At US\$2,520 a tonne in June 2022, the LME spot price decreased by 11%, compared to an average of US\$2,705 a tonne in 2021.<sup>71</sup>

In terms of demand, during the review period, global primary aluminium consumption fell by 1.1% to 34 million tonnes, largely due to a 2% fall in demand in China. Weaker Chinese demand was due to a softening in GDP. Chinese GDP contracted by 2.6% in the June quarter 2022, the lowest quarterly result in more than two years. Over the year to the June quarter 2022, Chinese GDP grew by just 0.4%.<sup>72</sup>

Exports of aluminium from China have historically been discouraged by significant differentials in the VAT rebate and export tariff rates applicable to primary aluminium as opposed to value-added aluminium products, such as aluminium extrusions. In 2019, the VAT rate for semi-fabricated aluminium exports was reduced and aligned with the VAT rebate rate meaning there is now no non-refundable VAT on exports. This may serve to increase the attractiveness of exporting extrusions.

Research undertaken by the commission in REP 543 indicated global inventories totalled approximately 2.78 million tonnes and there was likely up to 9 million tonnes of unreported stock.<sup>73</sup> Recent research conducted by the commission confirms that during the review period, the GOC has continued stockpiling of aluminium, significantly increasing the global shortage.<sup>74</sup>

Further the commission understands that the GOC State Bureau of Material Reserve (**SBMR**), operates a significant stockpile of primary aluminium, which is likely to have distorted domestic official consumption statistics. The failure of the GOC to respond to the commission's government questionnaire has restricted the commission's ability to assess the significance of these stockpiles, and their impact on the true balance between domestic production and consumption.

In addition to the identified distortive impacts of the stockpiling activities, research conducted by the commission in REP 543 indicated a significant amount of idle production capacity in the Chinese market resulting in low-capacity utilisation. This potential excess capacity was estimated to be in the vicinity of 14% to 20% of annual global aluminium supply.<sup>75</sup> The commission's assessment of significant excess capacity was broadly in line with the major themes of the GOC's planning documents and directives before and after 2010.

In assessing the above factors impacting the Chinese aluminium market during the review period, the commission recognises the GOC continues policy to restructure and reorganise the domestic aluminium industry to manage the level of excess production capacity and oversupply. This analysis supports the commission's view there are significant distortions in the domestic Chinese market. The commission considers, based on the information available to it, that these directives and programs have had a limited

---

<sup>71</sup> Ibid p.118.

<sup>72</sup> Office of the Chief Economist, Department of Industry, Science and Resources, Resources and Energy Quarterly September 2022, p. 115.

<sup>73</sup> Tim Threadgold, 'Aluminium Surplus Worsens, Signalling a Price Fall and Plant Closures in the New Year (3 December 2019)', *Forbes* <https://www.forbes.com/sites/timtreadgold/2019/12/03/aluminum-surplus-worsens-signalling-a-price-fall-and-plant-closures-in-the-new-year/>.

<sup>74</sup> Sarah Sharples, 'China starves supply of key ingredient for everything from beer cans to car parts', News.com.au (22 November 2021) <https://www.news.com.au/finance/markets/world-markets/china-starves-supply-of-key-ingredient-for-everything-from-beer-cans-to-car-parts/news-story/081991f52916b79f62444ebdeec1ffbc>.

<sup>75</sup> AME Group, *Aluminium Strategic Market Study 2018 Q2*; Office of the Chief Economist, Department of Industry, Innovation and Science, *Resources and Energy Quarterly Report March 2018*.

impact in terms of resolving the underlying causes of market distortions, principally excess production capacity.

## A5 GOC influence in the Chinese aluminium market

The commission considers the GOC materially distorted the supply of aluminium in the domestic Chinese market and therefore has significantly influenced the domestic price for Chinese primary aluminium during the review period. This influence occurred through the following mechanisms:

- industry planning directives and associated programs
- taxation and tariff policies
- distortion of electricity production costs and pricing
- aluminium stockpiling programs
- provision of financial support to loss making aluminium smelters.

The extent of the GOC's direct involvement within the Chinese aluminium industry is also reflected in the extent of production capacity accounted for by Chinese SOEs and SIEs. The commission estimates that between 2010 and 2015, SOEs and SIEs accounted for between 32% and 47% of production capacity.<sup>76</sup>

The commission does not consider that the presence of these entities alone automatically means that a market is distorted. However, the presence of these entities, and their share of the market, does mean that there is a higher likelihood that GOC plans and directives will be adhered to.<sup>77</sup> Based on previous cases, the commission also considers that this state-owned status enables these entities to obtain preferential treatment from Chinese financial institutions, both in terms of their access to, and the cost of, financing.

The significance of SOEs and SIEs to the broader Chinese economy, including the primary aluminium and related industries, is also reflected in the 2016 State Council of China *General Office of the State Council on Promoting Central Enterprises: Guidance on Structural Adjustment and Restructuring*.<sup>78</sup>

In introducing this guidance, the State Council notes the important role of 'central enterprises' in actively promoting structural adjustment, optimisation of structural layout and quality improvement within the Chinese economy. The commentary also notes that many structural problems are still prominent, that efficiency of resource allocation needs to be improved and that innovation capacity needs to be enhanced. In response to these issues, the guidance indicates that the Party Central Committee and State Council will deepen reform of SOE policies and arrangements to optimise state owned capacity

---

<sup>76</sup> Estimates are based on information previously provided by the GOC. Current information regarding this issue was requested by the Commission in its government questionnaire, to which the GOC did not provide a response. Based on information available, the commission could not find any evidence to indicate that this information has changed for this review.

<sup>77</sup> Terence Bell, *The Biggest Aluminum Producers of 2018* (1 April 2020) *ThoughtCo* <https://www.thoughtco.com/the-10-biggest-aluminum-producers-2339724>.

<sup>78</sup> 《国务院办公厅关于推动中央企业结构调整与重组的指导意见》 [*General Office of the State Council on Promoting Central Enterprises: Guidance on Structural Adjustment and Restructuring*] State Council on Promoting Central Enterprises (China), Notice no. 56, 26 July 2016 [http://www.gov.cn/zhengce/content/2016-07/26/content\\_5095050.htm](http://www.gov.cn/zhengce/content/2016-07/26/content_5095050.htm). For an English-language summary, see also 'State Council Issues Guideline on Reorganization of SOEs' (State Council (China), 26 July 2016) [http://english.gov.cn/policies/latest\\_releases/2016/07/26/content\\_281475402145108.htm](http://english.gov.cn/policies/latest_releases/2016/07/26/content_281475402145108.htm). Based on information available, the commission could not find any evidence to indicate that this information has changed for this review.

## PUBLIC RECORD

allocation, promote transformation and upgrading. Details concerning the promotion of central enterprises restructuring and reorganisation are subsequently detailed. These include, under the 'safeguard measures' theme, the strengthening of the organisation and leadership of SOEs, strengthening of industry guidance, increased policy support and improved support measures.

### A5.1 GOC directives — relevance and enforceability

The commission considers that the extent of the GOC's influence within the Chinese primary aluminium industry is reflected in the major themes and objectives of its plans and directives. In assessing the relevance of these plans and directives, it is the commission's view that the national five-year plans provide the overarching framework for the industry and province specific plans and other directives, such as those noted above.

In regards these plans and directives, the commission acknowledges that the GOC considers these to be for guidance, rather than enforceable directives. However, the commission is of the view that the five-year plans also have a significant impact on how identified industries are supported and regulated by government planning bodies and other institutions. Examples of the channels through which identified industries are influenced includes:

- the presence of SOEs and SIEs
- the wording of plans and directives
- the consistency of the themes and objectives throughout different plans and directives
- the central role of the National Development and Reform Commission (**NDRC**) in the development of directives, and the provision of project approvals, and
- enforcement mechanisms.

While the commission notes that GOC ownership, through SOEs and SIEs, does not automatically translate into GOC control of these entities, it is the commission's view that these entities are more likely to be responsive to the directives of the broader GOC. The level of influence and broader role of SOEs and SIEs within the Chinese primary aluminium industry is relevant to this assessment. In relation to the language and consistency of themes and objectives between different plans, the commission notes that these documents, and specifically the *Notice of the State Council on Further Strengthening the Elimination of Backward Production Capabilities and Guidelines (the GOC Guidelines)*.<sup>79</sup>, are written in a style that emphasises their importance and binding nature. Examples of these consistent themes include:

- the elimination of backwards capacity
- control of production levels
- encouraging mergers, restructuring and relocation
- promoting technological and product quality improvement
- implementing and encouraging environmental measures.<sup>80</sup>

In relation to the role of the NDRC, the commission notes that it is the key body responsible for both developing these directives and providing overarching approval of

---

<sup>79</sup> 《国务院关于进一步加强淘汰落后产能工作的通知》 [*Notice of the State Council on Further Strengthening the Elimination of Backward Production Capabilities*] State Council (China), Notice no. 7, 6 April 2010 ('GOC Guidelines').

<sup>80</sup> See EPR 263 Item 51, p. 85.

## PUBLIC RECORD

large-scale investment projects within China. It is the commission's view that directives from the NDRC, as the GOC's central planning authority, would thus be central to both industry specific five-year plans and the planning decisions of all levels of government more generally. More explicit enforcement mechanisms are reflected in the GOC Guidelines. Mechanisms to address non-compliance include:

- revoking of pollutant discharge permits
- restrictions on financial institutions providing new credit support
- restrictions on examination and approval of new investment projects
- restrictions on approval of new land for use by the enterprise
- restrictions on issuing of new, and cancelling of existing, production licenses.

The GOC Guidelines state that enterprises that do not conform to the industrial policy shall not be provided financial support by financial departments.<sup>81</sup> More implicit enforcement mechanisms are reflected by the regulatory powers of bodies, such as the Ministry of Industry and Information Technology. It is the commission's understanding that such bodies maintain lists of companies that are deemed to be either compliant or non-compliant with national standards on production, environmental protection, energy efficiency and safety. Those deemed non-compliant are to be closed.<sup>82</sup>

It is the commission's view that the effectiveness of the above stated mechanisms are reflected in the responsiveness of industry groups and major companies to the GOC's various directives.

### A5.2 GOC directives – summary of themes, objectives, and implementation

The major GOC plans and directives in relation to the Chinese primary aluminium industry, including key themes emphasised throughout them are listed below:

1. 14<sup>th</sup> Five-Year Plan of China (2021–2025)<sup>83</sup>
  - prioritising the quality of growth rather than the quantity of growth
  - building China into a self-reliant technological and manufacturing powerhouse
  - accelerating the drive towards a low-carbon economy to help achieve the 2030/2060 climate goals
  - achieving 'common prosperity' through new rural revitalisation and urbanisation strategies
  - moving ahead with gradual liberalisation of the business environment
  - elevating China's leadership role in regional and global economic governance
  - managing great-power rivalry with the United States
2. 13<sup>th</sup> Five-Year Plan of China (2016–2020):<sup>84</sup>

---

<sup>81</sup> See EPR 263 Item 51, p. 85.

<sup>82</sup> Office of the Chief Economist, Department of Industry, Innovation and Science, *Resources and Energy Quarterly* (December 2015), p. 47.

<sup>83</sup> Benjamin Cooper, *China's 14<sup>th</sup> Five-Year Plan (2021-2025) Report* (1 April 2021) Hill & Knowlton Strategies <https://www.hkstrategies.com/en/chinas-14th-five-year-plan-2021-2025-report/>.

<sup>84</sup> 《中华人民共和国国民经济和社会发展第十三个五年规划纲要》 [*National Economic and Social Development of the People's Republic of China: Outline of the 13<sup>th</sup> Five-Year Plan*] State Council (China), as reported by Xinhua News Agency (17 March 2016) [http://www.gov.cn/xinwen/2016-03/17/content\\_5054992.htm](http://www.gov.cn/xinwen/2016-03/17/content_5054992.htm).



## PUBLIC RECORD

- promoting innovation in science and technology<sup>85</sup>
  - support regional development and the development of special regions<sup>86</sup>
  - promoting economical and intensive resource use.<sup>87</sup>
3. 12<sup>th</sup> Five-Year Plan of China (2011–2015):<sup>88</sup>
- promoting the restructuring of key industries<sup>89</sup>
  - promoting the orderly relocation of urban enterprises for non-ferrous metals<sup>90</sup>
  - planning of mergers and reorganisation of enterprises<sup>91</sup>
  - promoting the development of small and medium enterprises.<sup>92</sup>
4. The GOC Guidelines:
- objectives for structural adjustment within the Chinese primary aluminium industry<sup>93</sup>
  - measures to accelerate structural adjustment of the primary aluminium industry.<sup>94</sup>
5. *Non-Ferrous Metal Industry Adjustment and Revitalisation Plan*:<sup>95</sup>
- stabilisation and expansion of the domestic market
  - control of volume and eliminate backward production capacity
  - strengthening of technological innovation
  - promoting of industry and enterprise restructuring
  - promotion of non-ferrous metals industrial restructuring and upgrading.
6. *Chinese Non-Ferrous Metal Industry Development Plan (2016–2020)*:<sup>96</sup>
- growth targets
  - coordinating fiscal, taxation, financial, and trade policies
  - promoting bank-enterprise cooperation
  - increasing financing support to backbone enterprises and major international cooperation projects

---

85 《中华人民共和国国民经济和社会发展第十三个五年规划纲要》 [National Economic and Social Development of the People's Republic of China: Outline of the 13<sup>th</sup> Five-Year Plan] State Council (China), as reported by Xinhua News Agency (17 March 2016) [http://www.gov.cn/xinwen/2016-03/17/content\\_5054992.htm](http://www.gov.cn/xinwen/2016-03/17/content_5054992.htm) ch. 6.

86 Ibid chs. 37, 40.

87 Ibid ch. 43.

88 《中华人民共和国国民经济和社会发展第十二个五年规划纲要》 [National Economic and Social Development of the People's Republic of China: Outline of the 12<sup>th</sup> Five-Year Plan] State Council, as reported by Xinhua News Agency (16 March 2011) [http://www.gov.cn/2011lh/content\\_1825838.htm](http://www.gov.cn/2011lh/content_1825838.htm).

89 Ibid ch. 9.

90 Ibid ch. 9.

91 Ibid ch. 9.

92 Ibid ch. 9.

93 GOC Guidelines ch. 2.

94 Ibid ch. 3.

95 《有色金属产业调整和振兴规划》 [Non-Ferrous Metal Industry Adjustment and Revitalisation Plan] State Council (China), 11 May 2009 [http://www.gov.cn/zwqk/2009-05/11/content\\_1310436.htm](http://www.gov.cn/zwqk/2009-05/11/content_1310436.htm).

96 《有色金属工业发展规划(2016-2020年)》 [Chinese Non-Ferrous Metal Industry Development Plan (2016–2020)] Ministry of Industry and Information Technology (China), 28 September 2016.

## PUBLIC RECORD

- adequately utilising existing government funds
- encouraging local governments and social funds to increase input
- implementing preferential tax policies for mines, M&A, and restructurings
- establishing insurance compensation system for new materials development.

### 7. *Normalisation Criteria on the Aluminium Industry*:<sup>97</sup>

- speed up the structural reform of primary aluminium industry
- regulate behaviour
- requirements targeting the layout, location, and production scale of new bauxite, alumina, electrolytic and secondary aluminium enterprises
- requirements that new electrolytic aluminium projects have surety over their alumina and electricity supply, transport and other external requirements
- requirements that new aluminium enterprises meet the relevant national standards concerning quality, capacity, energy efficiency and national environmental standards
- requirements for monitoring and administration by the Ministry of Industry and Information Technology (China).

### 8. *General Office of the State Council on Promoting Central Enterprises: Guidance on Structural Adjustment and Restructuring*:<sup>98</sup>

- SOEs restructuring and reorganisation should serve national strategies, respect market rules, combine with reforms, follow laws and regulations, and stick to a coordinated approach
- state-owned capital should support SOEs, whose core businesses are involved in national and economic security and major national programs, to strengthen their operations, and allow non-state-owned capital to play a role, while ensuring the state-owned capital's leading position
- related departments and industries requested to steadily promote restructuring of enterprises in fields such as equipment manufacturing, construction engineering, electric power, steel and iron, nonferrous metal, shipping, construction materials, tourism, and aviation services, to efficiently cut excessive overcapacity and encourage restructuring of SOEs.

## A5.3 GOC involvement in energy sector

As a significant component of aluminium production costs, electricity pricing has a major impact on the price of primary aluminium, and the profitability of aluminium producers.<sup>99</sup> Chinese SOEs have strong involvement in the electricity market in various stages of the supply chain, with around 50% of the generation capacity state owned. The entire transmission grid is owned and maintained by two SOEs: State Grid Corporation of China and China Southern Power Grid.<sup>100</sup>

---

<sup>97</sup> 《铝行业规范条件》 [*Normalisation Criteria on the Aluminium Industry*] Ministry of Industry and Information Technology (China), Notice no. 36, 18 July 2013.

<sup>98</sup> 《国务院办公厅关于推动中央企业结构调整与重组的指导意见》 [*General Office of the State Council on Promoting Central Enterprises: Guidance on Structural Adjustment and Restructuring*] State Council on Promoting Central Enterprises (China), Notice no. 56, 26 July 2016 [http://www.gov.cn/zhengce/content/2016-07/26/content\\_5095050.htm](http://www.gov.cn/zhengce/content/2016-07/26/content_5095050.htm).

<sup>99</sup> Electricity accounts for around 40% of primary aluminium production costs: see EPR 263 Item 51, p. 100.

<sup>100</sup> EC 2017 Report p. 218.

## PUBLIC RECORD

Furthermore, the commission notes that the 2017 European Commission report highlights the central government's and local authorities' involvement in the energy sector, with some local governments in China giving additional energy subsidies to aluminium smelters to help them stay in production and remain competitive against new capacity in northwest regions.<sup>101</sup>

Based on information submitted in previous investigations and the commission's research, it is the commission's view that the GOC continues to provide support to Chinese aluminium producers through discounted electricity. Examples of support provided by the GOC through electricity pricing include:

- benefits to China's aluminium smelting industry from the GOC's initiatives and new policies to lower energy consumption rates. The significant drive in China for efficient use of electricity has seen a push to reduce unit energy consumption through the development of integrated power and aluminium projects coupled with bringing online more energy-efficient, high amperage (kA) smelters, especially in the Eastern regions<sup>102</sup> and
- energy and other non-financial subsidies provided by the GOC over 2013–17 to two main aluminium producers (57% of total Chinese electricity subsidies): China Hongqiao and Qinghai Provincial Investment Group.<sup>103</sup>
- sales by the GOC of intermediate inputs to industrial producers at below-market prices including state-owned power plants selling electricity to local firms at below-market rates or below-cost-recovery rates.<sup>104</sup>

### A5.4 GOC below market finance policies

Below-market finance can take the form of either below-market borrowings (**BMB**) where a government provides support through debt financing, or below-market equity where a government provides equity finance on terms that are inconsistent with market principles. BMB enables companies to obtain debt financing on terms that are more favorable than available on the market (e.g., preferential interest rates and government loan guarantees) or below-market equity (e.g., government equity infusions and below-market equity returns)<sup>105</sup>. In both cases, below-market finance serves to lower companies' cost of capital. A 2021 OECD paper highlighted a series of below-market finance policies recently implemented by the GOC for the Chinese aluminium market:

- among the sectors analyzed, support is more prevalent in industries subject to excess capacity such as aluminium<sup>106</sup>
- below-market finance has found to play a key role in favoring certain aluminium and semiconductor producers<sup>107</sup>

---

<sup>101</sup> EC 2017 Report p. 390.

<sup>102</sup> AME Group, *Aluminium Strategic Market Study 2018 Q2*, ch. 3.

<sup>103</sup> OECD, *Measuring Distortions in International Markets: The Aluminium Value Chain* (OECD Trade Policy Paper 218, published 2019).

<sup>104</sup> OECD, *Measuring distortions in international markets: Below-market finance* (OECD Trade Policy Paper, May 2021) p.66.

<sup>105</sup> Ibid p.5.

<sup>106</sup> OECD, *Measuring distortions in international markets: Below-market finance* (OECD Trade Policy Paper, May 2021) p.4.

<sup>107</sup> Ibid p.5.

## PUBLIC RECORD

- studies conducted by the OECD Trade Committee have found that below-market loans and below-market equity account for a large share of all government support identified in the aluminium and semiconductor value chains<sup>108</sup>
- below-market energy inputs improved the profitability of certain aluminium smelters<sup>109</sup>
- the geographical split also shows that China-based companies are much more likely to benefit from BMB based on the calculated benchmark rates<sup>110</sup>
- China accounts for the vast majority all net additions to global aluminium-smelting capacity, as well as for the bulk of all below-market borrowings that benefitted aluminium smelters over the period.<sup>111</sup>

### A5.5 GOC taxation and tariff policies

In previous cases the commission determined the GOC tariff and tax rates applicable to the Chinese aluminium industry value chain serve to discourage the exportation of primary and alloyed aluminium while encouraging the exportation of downstream aluminium products such as aluminium extrusions and aluminium road wheels.

The commission understands that in 2019 the export VAT rate for aluminium extrusions dropped to 13 per cent, aligning it with the VAT rebate. As such there is now no non-refundable VAT in respect of exported aluminium extrusions. This represents a further incentive to encourage the export of downstream products.

Consequently, it is the commission's view that the GOC's VAT rebate and export tariff arrangements for primary aluminium, alloy aluminium and aluminium extrusions continued to have the effect of discouraging exports of primary and alloyed aluminium. It is the commission's view that these arrangements contributed to increasing the supply available to the domestic market to produce goods including aluminium extrusions.

Furthermore, and consistent with findings made in REP 543, it is the commission's view these arrangements are part of the broader GOC strategy to control the domestic market for primary and alloyed aluminium within China. These intentions are to ensure there is adequate supply for downstream industries such as aluminium extrusions and sponsor value added production rather than primary exports.

This conclusion is not only based on differences in the VAT rebates available to exports of aluminium extrusions and primary or alloyed aluminium, but also on the GOC's active involvement in the domestic market through stockpiling policies as discussed in the following section.

### A5.6 GOC stockpiling policies

Prior cases undertaken by the commission into aluminium related products exported to Australia from China identified the role of the China State Reserve Bureau, now known as the SBMR, in using aluminium stockpiles to manage price fluctuations in the domestic Chinese market.<sup>112</sup> An example of the SBMR's market interventions includes the purchase and sale of aluminium from its stockpile to support the domestic market.

---

<sup>108</sup> Ibid p.9.

<sup>109</sup> Ibid p.32.

<sup>110</sup> Ibid p.40.

<sup>111</sup> Ibid p.49.

<sup>112</sup> The SBMR is situated in the NDRC.

The commission considers that the SBMR's stockpiles continue to exist and are operated with the intention of managing aluminium price volatility within the domestic Chinese market. It is the commission's view the ongoing operation of the SBMR's stockpiling not only reflects the desire of the GOC to influence and control conditions within the domestic primary aluminium market, but also the distortion of market forces and therefore the degree to which conditions within these markets reflect competitive market conditions.

## **A6 The Chinese aluminium extrusion market**

### **A6.1 Conditions in the Chinese aluminium extrusion market**

The ability of the commission to undertake a detailed assessment of conditions within the Chinese aluminium extrusion market was limited due to no questionnaire response from the GOC.

While the commission was limited in its ability to undertake a detailed assessment of the aluminium extrusion market, it considers that the impact of distorted aluminium pricing, along with the receipt of numerous subsidies both within and prior to the review period, is likely to have distorted conditions within this market. It is also the commission's view and consistent with findings in REP 543, that the GOC has actively sought to encourage the export of valued added aluminium products, such as aluminium extrusions, over primary aluminium, through differences in VAT rebates and export tariffs applied to these goods (see appendix A5.5).

### **A6.2 GOC subsidy programmes to Chinese aluminium extrusion producers**

GOC support is also provided to China's aluminium related industries through the provision of subsidies. At an aluminium trade group consortium conducted in January 2022 involving the G7 countries including Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States, data from the OECD indicated that China's share of the aluminium production market has grown from a tenth at the turn of the century to almost 60%. Chinese companies receive between 4% and 7% of their annual revenues via state subsidies compared to the global average for major aluminium firms of 0.2%.<sup>113</sup>

Previous commission cases into aluminium extrusions exported to Australia from China have identified several subsidy programmes received by Chinese exporters. Chapter 5 and **APPENDIX D** discuss these subsidies.

### **A6.3 GOC directives**

It is the commission's view and consistent with findings in REP 543, that the GOC has maintained a central role in the development of the Chinese aluminium industry and has materially contributed to its rapid expansion and oversupply during the review period. The central role of the GOC in the Chinese aluminium industry is also reflected through several planning documents and directives in relation to the structure and composition of the Chinese aluminium industry. Some of these plans and directives include:

- 14<sup>th</sup> Five-Year Plan of China (2021–2025) (made effective 2021) <sup>114</sup>

---

<sup>113</sup> Global Aluminium Trade Groups Call On G7 To Rein In Chinese Subsidies (6 February 2022) Aluminium Insider <https://aluminiuminsider.com/global-aluminium-trade-groups-call-on-g7-to-rein-in-chinese-subsidies/>

<sup>114</sup> Benjamin Cooper, *China's 14th Five-Year Plan (2021-2025) Report* (1 April 2021) Hill & Knowlton Strategies <https://www.hkstrategies.com/en/chinas-14th-five-year-plan-2021-2025-report/>

## PUBLIC RECORD

- 13<sup>th</sup> Five-Year Plan of China (2016–2020, made effective 2016)<sup>115</sup>
- 12<sup>th</sup> Five-year Plan of China (2011–2015, made effective 2011)<sup>116</sup>
- *Guidelines for Accelerating the Restructuring of the Aluminium Industry* (2006)<sup>117</sup>
- *Non-Ferrous Metal Industry Adjustment and Revitalisation Plan* (2009)<sup>118</sup>
- *Chinese Non-Ferrous Metal Industry Development Plan (2016–2020)*<sup>119</sup>
- *Industrial Structure Adjustment Guidance Catalogue* (2011, amended 2013).<sup>120</sup> The commission notes this catalogue has been replaced by a new version effective 1 January 2020.<sup>121</sup>
- the GOC Guidelines (2010)
- *Normalisation Criteria on the Aluminium Industry* (2013).<sup>122</sup> The commission notes these criteria have been replaced by a new version effective 28 February 2020<sup>123</sup>
- *General Office of the State Council on Promoting Central Enterprises: Guidance on Structural Adjustment and Restructuring* (2016).<sup>124</sup>

Demonstration of how these plans and directives relate to conditions within the Chinese primary aluminium industry are discussed throughout this appendix.

Other GOC directives, which are likely to have influenced or impacted conditions in the Chinese aluminium industry and markets include:<sup>125</sup>

---

<sup>115</sup> 《中华人民共和国国民经济和社会发展第十三个五年规划纲要》 [*National Economic and Social Development of the People's Republic of China: Outline of the 13<sup>th</sup> Five-Year Plan*] State Council (China), as reported by Xinhua News Agency (17 March 2016) [http://www.gov.cn/xinwen/2016-03/17/content\\_5054992.htm](http://www.gov.cn/xinwen/2016-03/17/content_5054992.htm).

<sup>116</sup> 《中华人民共和国国民经济和社会发展第十二个五年规划纲要》 [*National Economic and Social Development of the People's Republic of China: Outline of the 12<sup>th</sup> Five-Year Plan*] State Council, as reported by Xinhua News Agency (16 March 2011) [http://www.gov.cn/2011lh/content\\_1825838.htm](http://www.gov.cn/2011lh/content_1825838.htm).

<sup>117</sup> 《关于加快铝工业结构调整指导意见的通知》 [*Guidelines for Accelerating the Restructuring of the Aluminium Industry*] Development and Reform Commission, Notice no. 589, 11 April 2006 [http://www.gov.cn/zwgk/2006-04/28/content\\_268675.htm](http://www.gov.cn/zwgk/2006-04/28/content_268675.htm).

<sup>118</sup> 《有色金属产业调整和振兴规划》 [*Non-Ferrous Metal Industry Adjustment and Revitalisation Plan*] State Council (China), 11 May 2009 [http://www.gov.cn/zwgk/2009-05/11/content\\_1310436.htm](http://www.gov.cn/zwgk/2009-05/11/content_1310436.htm).

<sup>119</sup> 《有色金属工业发展规划(2016-2020年)》 [*Chinese Non-Ferrous Metal Industry Development Plan (2016–2020)*] Ministry of Industry and Information Technology (China), 28 September 2016.

<sup>120</sup> 《产业结构调整指导目录（2011年本）》 [*Industrial Structure Adjustment Guidance Catalogue (2011 Edition)*] National Development and Reform Commission, Order no. 9, 27 March 2011 [http://www.gov.cn/flfg/2011-04/26/content\\_1852729.htm](http://www.gov.cn/flfg/2011-04/26/content_1852729.htm); 《产业结构调整指导目录（2011年本）（2013修正）》 [*Industrial Structure Adjustment Guidance Catalogue (2011 Edition) (2013 Amendments)*] National Development and Reform Commission (China), Order no. 21, 16 February 2013 [http://www.zhenxing.gov.cn/zxqz/zf\\_zt/zl/qyfw/qyzcfb/864520173205128.html](http://www.zhenxing.gov.cn/zxqz/zf_zt/zl/qyfw/qyzcfb/864520173205128.html).

<sup>121</sup> 《产业结构调整指导目录（2019年本）》 [*Industrial Structure Adjustment Guidance Catalogue (2019 Edition)*] National Development and Reform Commission (China), Order no. 29, 30 October 2019 [http://www.gov.cn/xinwen/2019-11/06/content\\_5449193.htm](http://www.gov.cn/xinwen/2019-11/06/content_5449193.htm).

<sup>122</sup> 《铝行业规范条件》 [*Normalisation Criteria on the Aluminium Industry*] Ministry of Industry and Information Technology (China), Notice no. 36, 18 July 2013.

<sup>123</sup> 《铝行业规范条件》 [*Normalisation Criteria on the Aluminium Industry*] Ministry of Industry and Information Technology (China), Notice no. 6, 28 February 2020.

<sup>124</sup> 《国务院办公厅关于推动中央企业结构调整与重组的指导意见》 [*General Office of the State Council on Promoting Central Enterprises: Guidance on Structural Adjustment and Restructuring*] State Council on Promoting Central Enterprises (China), Notice no. 56, 26 July 2016 [http://www.gov.cn/zhengce/content/2016-07/26/content\\_5095050.htm](http://www.gov.cn/zhengce/content/2016-07/26/content_5095050.htm).

<sup>125</sup> Some directives sourced from market situation assessments in *Anti-Dumping Commission Report No. 300* (relating to steel reinforcing bar) and *Anti-Dumping Commission Report No. 301* (relating to rod in coil).

## PUBLIC RECORD

- *Notice on Several Opinions to Guide the Healthy Development of Industry: Curbing Overcapacity and Redundant Construction in Certain Industries* (2009)<sup>126</sup>
- *Guiding Opinions on Accelerating the Merger and Acquisition and Reorganisation in Key Industries* (2013)<sup>127</sup>
- *Three-Year Action Plan to Win the Blue Sky War* (2018–2020, published 2018).<sup>128</sup>

### **A7 Assessment of particular market situation in the Chinese aluminium extrusions market**

#### **A7.1 Assessment of conditions in the Chinese aluminium market**

As explained in the preceding sections, the commission considers there continued to be significant GOC induced distortions within the Chinese primary aluminium market during the review period. This section further assesses the effect of that influence on primary aluminium prices in China and therefore on the cost of the primary input in the manufacture of the goods by Chinese producers.

#### **A7.2 Flow through to aluminium extrusions sector**

As explained in section A2.2, one of the factors in assessing the existence of a particular market situation relates to whether input costs correspond to market conditions. Primary aluminium is a key cost component in aluminium extrusions. Accordingly, the commission considers that primary aluminium prices impact both the production costs and selling prices of aluminium extrusions.

In addition, the commission considers subsidies provided to the aluminium and aluminium extrusions sectors would likely impact the costs of production associated with aluminium extrusions through:

- improving the technology used by aluminium extrusion manufacturers, reducing the cost of production, affecting the supply and therefore the price of aluminium producing enterprises (and upstream industries that are also likely to have received subsidies)
- reducing the cost of inputs of aluminium and aluminium extrusions through the strengthened structural adjustment of aluminium and upstream industry entities
- directly reducing input prices of products at each stage of production when the subsidies are passed on by the recipient enterprises.

#### **A7.3 Comparison of raw material prices**

As explained in section A5, the commission considers there were significant GOC-induced distortions within the primary aluminium market during the review period.

Against that background, the commission undertook further inquiry to corroborate its findings regarding the impact of GOC influence on primary aluminium prices in China and,

---

<sup>126</sup> 《关于抑制部分行业产能过剩和重复建设引导产业健康发展若干意见的通知》 [Notice on Several Opinions to Guide the Healthy Development of Industry: Curbing Overcapacity and Redundant Construction in Certain Industries] Development and Reform Commission and Other Departments Approved by the State Council (China), Notice no. 38, 29 September 2009 [http://www.gov.cn/zwqk/2009-09/29/content\\_1430087.htm](http://www.gov.cn/zwqk/2009-09/29/content_1430087.htm).

<sup>127</sup> 《关于加快推进重点行业企业兼并重组的指导意见》 [Guiding Opinions on Accelerating the Merger and Acquisition and Reorganisation in Key Industries] Ministry of Industry and Information Technology (China), Notice no. 16, 22 January 2013 [http://www.gov.cn/zwqk/2013-01/22/content\\_2317600.htm](http://www.gov.cn/zwqk/2013-01/22/content_2317600.htm).

<sup>128</sup> 《打赢蓝天保卫战三年行动计划》 [Three-Year Action Plan to Win the Blue Sky War] State Council (China), Notice no. 22, 27 June 2018 [http://www.gov.cn/zhengce/content/2018-07/03/content\\_5303158.htm](http://www.gov.cn/zhengce/content/2018-07/03/content_5303158.htm).

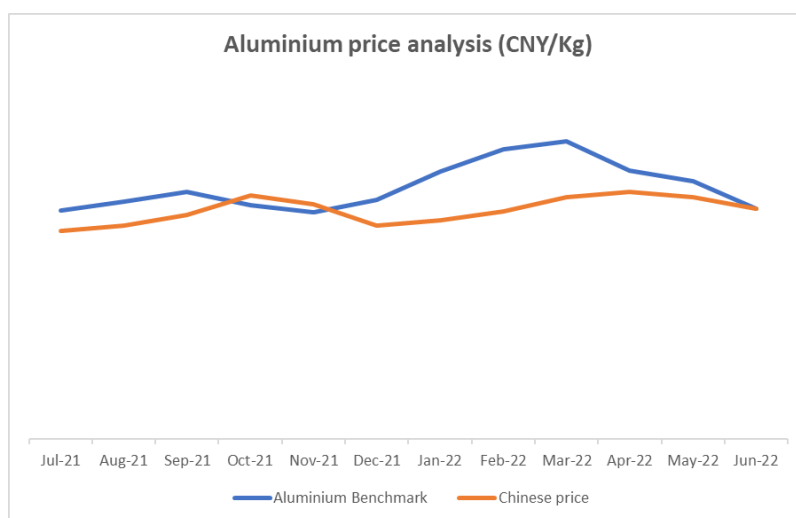
## PUBLIC RECORD

in turn, consider whether they correspond to the cost of production in China, given the relevance of this matter as a factor in the commission's assessment of a particular market situation.

Because the GOC did not provide a response to the questionnaire, the commission drew upon the available evidence to conduct its further inquiry into primary aluminium prices in China.

The commission has compared the selected Chinese exporters recorded primary aluminium costs to a competitive LME-benchmark unaffected by the particular market situation (**APPENDIX C** discusses this benchmark in detail).

The figure below depicts the monthly price of primary aluminium over the review period for the selected Chinese exporters and the LME-benchmark price.



**Figure 3: Monthly primary aluminium prices<sup>129</sup>**

Taking the whole of the review period, Chinese prices were 9% lower than the benchmark, notwithstanding that in October and November 2021, Chinese prices were 3-4% below the benchmark price. Prices were almost identical in June 2022.

The commission considers that the generally lower price of primary aluminium in the selected exporters' records represents the GOC influence and distortions on the primary aluminium price in the Chinese domestic market. The prices paid by Chinese exporters do not reflect competitive market prices but rather reflect market conditions that are not normal and ordinary. In turn, they are therefore not a reliable indication of the cost of production of downstream products in China.

### A7.4 Conclusion

Based on information before the commission, the commission's view is that a particular market situation existed in respect of the domestic market for aluminium extrusions in China for the review period which results in domestic sales in China being unsuitable for determining a normal value for cooperating exporters under section 269TAC(1).

In particular, the commission is satisfied that the presence of a particular market situation affects the Chinese market for aluminium extrusions, primarily through the distortion of primary aluminium prices as a key cost component of the goods. The commission

<sup>129</sup> Confidential Attachment 32 – Aluminium price analysis.



## PUBLIC RECORD

considers that GOC influence in the primary aluminium and aluminium extrusion sectors has resulted in a significant variance in aluminium extrusion prices, in comparison to an environment where markets operated without significant GOC intervention.

The commission recognises the impact of these GOC influences on supply are extensive, complex, and multifarious, and their impact on the price of aluminium extrusions is difficult to quantify. However, based on the commission's extensive analysis, and best available information, the commission has concluded these influences have caused a likely material impact on the domestic price of aluminium extrusions in the review period.

Whether the particular market situation in respect of the domestic market for aluminium extrusions in China has resulted in Chinese domestic sales being not suitable for determining normal value under section 269TAC(1) is discussed in **Non-confidential APPENDIX B**.

## APPENDIX B PROPER COMPARISON OF DOMESTIC AND EXPORT PRICE

### B1 Introduction

Where a particular market situation is found, pursuant to section 269TAC(2)(a)(ii), the commission must also consider whether, because of the situation in the Chinese market, sales of aluminium extrusions in China are not suitable for determining a price under section 269TAC(1).

As a particular market situation has been found in respect of the domestic market for primary aluminium in China for the review period, the commission has examined whether goods in that market are suitable for determining the normal value of the cooperating Chinese exporters under section 269TAC(1).

### B2 Proper comparison of domestic and export prices

In undertaking its assessment of whether sales are 'suitable' for the purposes of section 269TAC(1), the commission has considered the relative effect of the particular market situation on both the domestic sales and export sales. If domestic sales and export sales are not equally impacted by the particular market situation, such a finding may render domestic sales not 'suitable' for the purposes of section 269TAC(1). The commission considers this approach is consistent with Australia's obligations under the World Trading Trade Organisation's (WTO) *Anti-Dumping Agreement*<sup>130</sup> and the WTO Panel's interpretation of the obligations set out in this Agreement in *Australia – Anti-Dumping Measures on A4 Copy Paper*.<sup>131</sup>

In assessing the relative effect of the particular market situation on domestic and export prices, the commission has compared the existing relationship between price and cost in each market. Those relationships are defined by the prevailing conditions of competition in each market. It is important that the relevant factual circumstances of each price, including its relationship with cost, is considered within the proper context of the relevant market. In relation to the domestic sales price, the relevant market is the domestic market of the exporting country (i.e., China); for the export price, the relevant market is that in the country into which the goods are being sold (i.e., Australia).

In undertaking this assessment of the impact of the situation in the market, the commission has considered the prevailing conditions of competition in the domestic and export market for aluminium extrusions and the existing relationship between price and cost in determining whether domestic and export prices be properly compared.

### B3 Prevailing conditions of competition in China and Australia

In assessing the prevailing conditions of competition in China and Australia, the commission considered a variety of sources of information provided by exporters, importers and Australian industry as well as research undertaken by the commission. The

<sup>130</sup> *Agreement for the Implementation of Article VI of GATT 1994* 1868 U.N.T.S. 186.

<sup>131</sup> *Australia – Anti-Dumping Measures on A4 Copy Paper*, WTO Doc. WT/DS529/4 (4 December 2019). The Commission notes the provisions in Part XVB of the Act are to be construed, as far as its language permits, consistent with Australia's obligations with Australia's international agreements, adopting a broad approach to construction: *Schaefer Waste Technology Sdn Bhd v CEO Australian Customs Service* [2006] FCA 1644, [46]–[48] (Jacobson J), cited with approval in *Minister for State for Home Affairs v Siam Polyethylene Co Ltd* (2010) 270 ALR 440, [35] (Graham and Flick JJ).

commission considered the structure of each market, market conditions in respect of primary aluminium, the level of import penetration in each market and the nature of any competitive advantage arising from the particular market situation.

## **B3.1 Market structure**

### **B3.1.1 Australia**

Domestic aluminium producers including Capral, other Australian aluminium manufacturers and aluminium producers from other countries supply the Australian market for aluminium extrusions.

Imported aluminium extrusions in the Australian market are sourced from numerous countries however, in recent years the highest volumes originate from China, Vietnam and Malaysia.

The commission did not request a questionnaire response from Capral for this review. In REP 543 the three major market segments for aluminium extrusions in Australia included:

- residential — including products such as windows and doors, security, internal fit out of showers and robes, external fit out, and fencing.
- commercial — including commercial window and doors, internal and external fit out, and curtain walls; and
- industrial — including automotive, truck and trailer, rail, electrical, signage, marine, portable buildings, and large industrial infrastructure.

Of these sectors, the residential and commercial building sectors are the largest and are the most important drivers of demand within the Australian market. The commission understands that there is an expectation within the Australian market that there will be increasing demand in relation to the defence, marine and the renewable energy sectors, particularly in relation to solar panel framing systems.

In REP 543, a comparison of Australian industry sales data and the ABF import data indicated that the same or similar customers use the imported goods and domestically produced goods. Furthermore, domestically produced and imported aluminium extrusions are easily substitutable.<sup>132</sup> The commission considers because REP 543 was recently completed in October 2020 these findings are reliable analysis for this review.

### **B3.1.2 China**

Consistent with questionnaire responses submitted for REP 543, questionnaires for this review indicate the Chinese market is similarly segmented to the Australian market, with the residential, commercial, and industrial sectors representing the key areas of consumption of aluminium extrusions.

Demand for aluminium extrusions in China has increased since 2015. An increase in living standards in China has triggered an increase in demand for aluminium extrusions in home appliances, transport products and renewable energy products. The growth in the Chinese construction and industrial sectors has also caused an increase in demand for aluminium extrusions.

In addition to the residential, commercial, and industrial sectors, significant volumes of aluminium extrusions are sold within China's electronics sector and the automotive

---

<sup>132</sup> EPR 543, Item 61.

sector. Questionnaires indicated that goods being are also sold in niche sectors like medical and rail transportation. The Australian market does not have this same diversity of market segments.

## **B3.2 Market conditions – primary aluminium**

### **B3.2.1 Australia**

The major raw material used in the production of aluminium extrusions in Australia is aluminium billet. The Australian industry purchases the aluminium billet from a combination of Australian and international suppliers. The aluminium billet pricing offered to Australian industry is based on a combination of variables including the Monthly LME Aluminium Official Cash Price, the Major Japanese Ports regional ingot premium (**MJP**), as well as alloy and billet premiums. Given the uniform basis for pricing, a further important consideration in the choice of supplier is the cost of delivery, such that international suppliers may be more competitive for supply to certain locations, while domestic suppliers will be more competitive for other locations.

### **B3.2.2 China**

The major raw materials used in the production of aluminium extrusions in China are aluminium ingot and aluminium billet.

The selected cooperative exporters' REQs collectively reported approximately 350,672 tonnes of primary aluminium purchases. Consistent with findings made in REP 543, the exporters' purchasing data identified that 98% of the primary aluminium inputs was sourced locally and 2% imported.<sup>133</sup>

The commission conducted an examination of the four-selected cooperative exporters' monthly primary aluminium purchases during the review period and compared these monthly costs with the competitive LME based benchmarks constructed for ingot and billet. When comparing the selected cooperative exporters' aluminium purchases from domestic suppliers to the constructed LME benchmarks, the commission noted that all exporters paid less than the benchmark for the review period. The total benefit (as a percentage of total purchase cost) for all exporters was higher than the total benefit found in REP 543.<sup>134</sup>

The commission considers that Chinese manufacturers have access to cheaper aluminium inputs than the Australian industry due to the distortions in the Chinese primary aluminium market.

Further, the GOC tariff and tax rates applicable to the Chinese aluminium industry value chain serve to discourage the exportation of primary and alloyed aluminium while encouraging the exportation of downstream aluminium products such as aluminium extrusions.

Accordingly, the Australian industry does not have access to the same aluminium raw materials available to Chinese manufacturers at the discounted cost evident within the Chinese market.

---

<sup>133</sup> Confidential Attachment 27 – Aluminium Benchmark – Exporter purchaser volumes.

<sup>134</sup> Confidential Attachment 27 – Aluminium Benchmark – WA benefit summary.

## **B3.3 Import penetration**

### **B3.3.1 Australia**

The commission examined the ABF import database to identify exporters and importers of aluminium extrusions during the review period. The commission observed that during the review period, 254 exporters exported aluminium extrusions to Australia, 92% from China.<sup>135</sup> In REP 543, imports accounted for 41% of sales in the Australian market and of this 41%, China represented 63%.<sup>136</sup> The commission did not request a questionnaire response from Australian industry for this review and therefore has relied on the analysis conducted in REP 543. This was recently completed in October 2020 and therefore the commission consider these findings relevant and reliable for this review.

Based on this analysis, the commission considers the Australian market is composed of a small number of Australian industry participants competing against a significant number of exporters and substantial import volumes. The Australian aluminium extrusions market can therefore be characterised as having a high level of import penetration.

### **B3.3.2 China**

Questionnaire responses did not provide information about the overall degree of import penetration into the Chinese market including the number of exporters or importers active in the Chinese domestic market. The commission had no access to this information from other sources and therefore could not determine the level of import penetration in the Chinese market.

Questionnaire responses indicated that goods imported into China were generally more likely marketed based on being technologically sophisticated and, perhaps consequently, imported goods tend to be more competitive when sold as specialty goods — as opposed to generic products that could be easily substitutable with another manufacturer's product.

The responses did not identify barriers to entry for importers of goods into China, aside from the general requirement to comply with Chinese laws and environmental regulations.

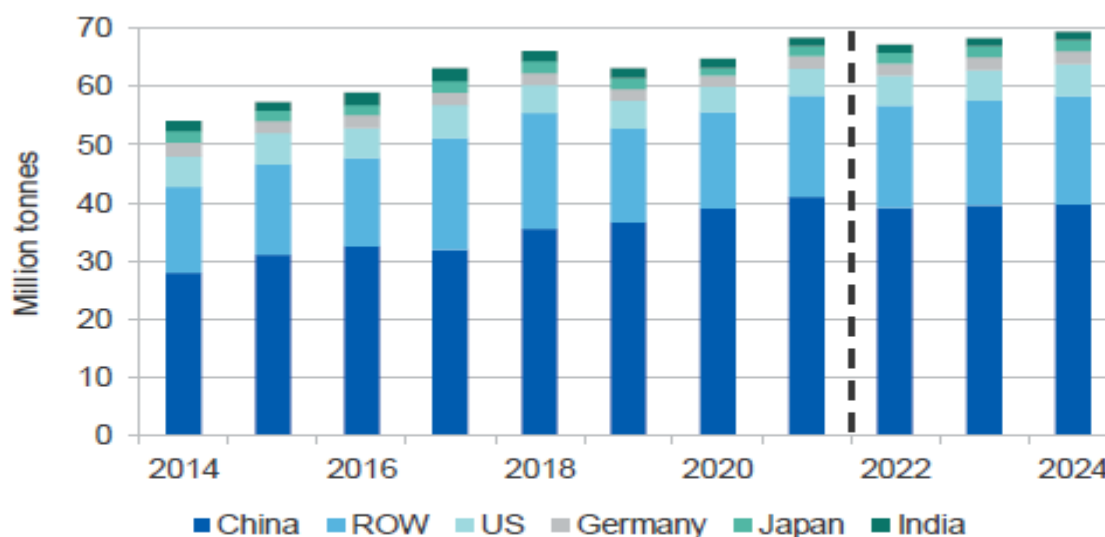
The commission notes that for 2021 Australia's consumption of aluminium as a percentage of global aluminium production was less than 1% while China produced and consumed approximately 60% of global aluminium production. The chart below shows global consumption of primary aluminium since 2014.

---

<sup>135</sup> Confidential Attachment 33 – Australian Market.

<sup>136</sup> EPR 543, Item 61.

## PUBLIC RECORD



Source: World Bureau of Metal Statistics (2022); Macquarie (2022); Department of Industry, Science and Resources (2022)

Figure 4: Global consumption primary aluminium<sup>137</sup>

The commission further notes that as stated above of the total aluminium extrusion manufacturers exported to Australia during the review period 92% were Chinese. Given the relative size of Australian's aluminium consumption to China's, the commission considers the number of Chinese manufacturers supplying the Australian market would represent only a small portion of all Chinese manufacturers. One exporter estimated the number of Chinese manufacturers of aluminium extrusions at over 1000.<sup>138</sup> The commission also noted from the information provided by the selected cooperating exporters that they each maintain significant excess productive capacity.

The commission considers that due to the number of Chinese producers supplying the Chinese market and based on the low cost of the primary aluminium inputs available to those producers, which is lower than the international LME benchmark, and not available to foreign producers, there would appear to be a competitive disadvantage in respect of the importation of aluminium extrusions into China.

Accordingly, based on the information before the commission, albeit limited, on balance it appears that import penetration in the Chinese aluminium extrusion market was low in the review period, relative to the Australian aluminium extrusion market.

### B3.4 Relationship between price and cost

The commission found that Chinese exporters use the same aluminium inputs, ingot and billet (and in some minor instances, scrap aluminium) to manufacture aluminium extrusions sold into the Chinese domestic market and those exported to Australia, and these inputs account for most of the total CTM.<sup>139</sup> The commission compared the CTM by finish type for each cooperative exporter between the domestic and Australian markets.

<sup>137</sup> Office of the Chief Economist, Department of Industry, Science and Resources, *Resources and Energy Quarterly September 2022*, p.116.

<sup>138</sup> Confidential Attachment 34 – Market situation – Chinese market.

<sup>139</sup> Confidential Attachment 31 – Proper Comparison Market Analysis – Aluminium cost % of CTM.

## PUBLIC RECORD

The commission observed that, for Goomax, Jinxiecheng and Xingfa, across all finish types, there was negligible difference in the CTM between goods produced for domestic consumption and those produced for export to Australia.<sup>140</sup> For Kam Kiu and consistent with REP 543, a material difference was evident in respect of certain finish types. The difference in cost relates to Kam Kiu's participation in the high-tech segment of the Chinese market. This market segment has higher specification products including enhanced quality control, increasing the cost of production. Goomax, Jinxiecheng and Xingfa do not produce these product types in the domestic market, resulting in a material difference in cost profile between these manufacturers and Kam Kiu.

In terms of pricing in the domestic Chinese market, the commission undertook an analysis with reference to three MCCs that aligned with the predominant MCCs sold into the Australian market.<sup>141</sup>

The commission observed that during the review period, the quarterly weighted average prices achieved in the domestic market:

- for one of the three MCCs there was little price variance for three of the four manufacturers
- for the other two of the three MCCs, there was little price variance, for three of the four manufacturers
- for all three MCCs there was material price difference for one of the four manufacturers.<sup>142</sup>

The commission notes that where a material price variance is evident, Kam Kiu achieved significantly higher domestic pricing. This observation is consistent with the fact, as stated above, this manufacturer participates in the high-tech segment of the Chinese market. Goods produced for that market segment experience both a higher cost profile for production and a higher pricing profile in respect of domestic sales.

The commission undertook the same analysis in terms of pricing in the Australian market for the same MCCs. The commission identified that quarterly weighted average prices achieved in the Australian export market showed significant price variance across each of the MCCs.<sup>143</sup> Similar findings in relation to domestic and export pricing were found in REP 543.

The commission considers, given the coincidence of cost profiles for three of the four manufacturers between domestic and export production, which were conditions of competition comparable between the domestic and export markets, a coincidence of pricing between the domestic and export markets would be observed. Because this is not evidenced by the analysis presented above indicates a difference in the relationship between price and cost between the Chinese and Australian markets.

To strengthen this evaluation, the commission undertook additional analysis of cost margins achieved by each exporter for each finish type in both the Chinese domestic and Australian export markets. This analysis was undertaken by calculating ex-works selling

---

<sup>140</sup> Confidential Attachment 31 – Proper Comparison Market Analysis – Dom v Export CTM.

<sup>141</sup> In total there were 30 unique MCCs exported to Australia by the selected cooperating exporters. The MCCs evaluated were A-6A-T1, M-6A-T1 and PC-6A-T1 and represented 61% of volume of the MCCs exported to Australia by the selected cooperating exporters during the review period.

<sup>142</sup> Confidential Attachment 31 – Proper Comparison Market Analysis – Dom sales by MCC.

<sup>143</sup> Confidential Attachment 31 – Proper Comparison Market Analysis – Export sales by MCC.

## PUBLIC RECORD

prices for both domestic and Australian export sales and comparing these selling prices to the CTM relevant to each market.

The commission determined that Goomax, Jinxicheng and Xingfa made significantly greater margins on cost in the Australian market for each finish type, while for Kam Kiu the margin on cost was significantly greater in the domestic market.<sup>144</sup> The commission considers the greater margin on cost achieved in the domestic market for Kam Kiu is because of their participation in the higher cost, higher margin high-tech sector of the domestic Chinese market.

The commission has also considered exporters' margins on cost within the context of the price undercutting, by MCC, by each exporter relative to the prices achieved by Australian industry in the Australian market. In terms of price undercutting, the commission observed that:

- for all products, all exporters had undercut Australian industry prices in all quarters of the review period, with annual levels of undercutting ranging from 15% to 56% over the entire review period<sup>145</sup> and
- for mill finished products price undercutting was less significant compared to other products, however annual levels of undercutting still varied from 15% to 37%.<sup>146</sup>

Finally, the commission compared the FOB export pricing of the selected cooperating exporters against the weighted average FOB export pricing of exports from Malaysia and Vietnam<sup>147</sup> as recorded in the ABF database. The commission identified the weighted average FOB export prices of the selected cooperating exporters were generally lower than those of Malaysia and Vietnam specifically in the September and December 2021 quarters of the review period.<sup>148</sup> The commission considers this finding indicates that, in addition to undercutting Australian industry, Chinese manufacturers generally undercut other export participants in the Australian market as a result of the distortions in the Chinese primary aluminium market.

Based on the above analysis, the commission considers that:

- there is a consistency and stability in the domestic pricing by Chinese manufactures which confirms a competitive market where no competitive advantage is derived by any individual manufacturer as the reduced input costs resulting from the situation in the market appears to equally benefit most producers and
- the Australian market is a competitive market. However, the commission considers variability of pricing by Chinese manufacturers in the Australian domestic market builds a competitive advantage enjoyed by Chinese exporters due to the market situation, which allows them to engage in pricing strategies in the Australian market that allow them to achieve either:
  - higher margins than the margins attainable on the sale of the same goods on the domestic market

---

<sup>144</sup> Confidential Attachment 31 – Proper Comparison Market Analysis – CTM margin comparison.

<sup>145</sup> Confidential Attachment 35 – Price Undercutting Analysis – Undercutting by MCC.

<sup>146</sup> Confidential Attachment 35 – Price Undercutting Analysis – Undercutting by MCC.

<sup>147</sup> Malaysia and Vietnam are the largest exporters of aluminium extrusions to Australia after China, and in total make up 28% of exports compared to China at 72 per cent.

<sup>148</sup> Confidential Attachment 31 – Proper Comparison Market Analysis – FOB China v other countries.



## PUBLIC RECORD

- increased sales volumes by significantly undercutting other participants in the Australian market or
- a combination of higher margins and increased sales volumes resulting from undercutting.

### **B3.5 Conclusion on the effects of the situation in the market**

The commission's analysis indicates the relationship between price and cost and the prevalent conditions of competition in China is different in comparison to the relationship between price and cost and the conditions of competition in Australia. Specifically, the effect of the market situation in China is a decrease in input costs across all production that results in a lower level of competitive pricing throughout the market. This relationship defines the conditions of competition in China.

Based on the information before the commission, the effect of the market situation on the domestic sales prices in China does not result in any competitive advantages or disadvantages between the key market players, being Chinese producers. Consequently, this particular market situation modifies the conditions of competition in a consistent manner for the key market participants.

In Australia, where no market situation or input cost decrease exists, competitive pricing prevails at a higher level. Higher input costs for those participants producing without the benefit of a market situation establishes a higher minimum threshold for competitive prices. Under these circumstances, the effect of the particular market situation in China on the price of aluminium extrusions sold into the Australian market results in competitive advantages and disadvantages between market players.

Specifically, Chinese exporters enjoy a cost advantage that either manifests as an increased margin at the prevalent level of competitive pricing in the Australian market, a low export price that undercuts the prevalent level of competitive pricing, or a combination whereby the Chinese manufacturer can enjoy a higher margin while still undercutting other market participants. The effect of the particular market situation on export price is to modify the conditions of competition in Australia to the benefit of Chinese exporters and, to the extent that benefit manifests as a low price that undercuts the prevalent level of competitive pricing in Australia, to the detriment of all other market participants in that market.

Consequently, and consistent with findings made in REP 543, the relative effect of the particular market situation on domestic and export prices is different in the relevant markets.

Accordingly, the commission finds that sales in the domestic Chinese market for each of the selected cooperating exporters are not suitable for determining a normal value, pursuant to section 269TAC(1) because they do not permit a proper comparison with the export price of the goods exported to Australia.

## APPENDIX C CONSTRUCTED NORMAL VALUES

### C1 Applicable legislation, policy and practice

Where the Minister is satisfied that normal value cannot be determined under section 269TAC(1), as is the case in this review, section 269TAC(2)(c) provides that the normal value is:

*... the sum of:*

- (i) such amount as the [Minister] determines to be the cost of production or manufacture of the goods in the country of export; and*
- (ii) on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export—such amounts as the [Minister] determines would be the administrative, selling and general costs associated with the sale and the profit on that sale*

As required by sections 269TAC(5A) and 269TAC(5B), the construction of normal values under section 269TAC(2)(c) must be in accordance with the Regulation.

In constructing normal values, section 43(2) of the Regulation requires that the Minister must work out the cost of production or manufacture using the information set out in the exporter or producer's records if:

- an exporter or producer of the goods keeps records relating to the goods that are in accordance with GAAP in the country of export, and
- those records reasonably reflect competitive market costs associated with the production or manufacture of like goods.

In determining whether costs reasonably reflect competitive market costs associated with the production or manufacture of like goods, the commission will determine whether those costs reasonably reflect the costs associated with the production or manufacture of like goods and are competitive market costs suitable for the purpose of constructing normal values.

The commission may determine, pursuant to section 43(2) of the Regulation, that while costs may be in accordance with GAAP and may reasonably reflect the costs associated with the production or manufacture of the like goods, being the costs actually incurred by the exporter or producer, the costs may not be a competitive market cost suitable for the purpose of constructing normal value. In those circumstances, the commission's investigation into the cost of production or manufacture under section 269TAC(2)(c)(i) continues. Neither the Act nor Regulation prescribe a particular method for the Minister to determine the cost of production or manufacture under section 269TAC(2)(c)(i) where the exporter or producer's records do not satisfy section 43(2) of the Regulation, nor do they limit the data that the Minister may use in this regard. Nonetheless, the factual conclusions reached by the commission as part of its assessment under section 43(2) of the Regulation – and, indeed, when examining the existence of a particular market situation – may be relevant to the assessment of whether the investigated exporter or producer's records correspond to the 'cost of production in the country of export' under section 269TAC(2)(c)(i).

Where, following a consideration of the available evidence, including the exporter or producer's records, a surrogate value from other than the country of export is used to adjust an exporter or producer's records to determine the cost of production or manufacture of like goods in the country of export under section 269TAC(2)(c)(i), the commission considers the available evidence pertaining to any comparative advantages or disadvantages applicable to exporters or producers in the country of export.

## **C2 Establishing normal values**

The commission notes that, in accordance with section 269TAC(3A), the Minister is not required to consider working out the normal value of goods under section 269TAC(2)(d) before working out the normal value of goods under section 269TAC(2)(c). Where section 269TAC(1) is not available, the commission's policy preference, as outlined at chapter 10 of the Manual, is to construct normal values under section 269TAC(2)(c), in the first instance, when cost data of exporters is available.

When considering whether it is preferable to use the price paid or payable for like goods sold by the exporters to a third country, pursuant to section 269TAC(2)(d), the commission must be satisfied that it is an 'appropriate third country'. The commission has regard to the following factors, to determine whether any such third country is 'appropriate':<sup>149</sup>

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

In this case, the commission considers that the information provided by the selected exporters in their REQs does not provide a precise or granular level of detail to determine whether a third country would be appropriate and to undertake the calculations required to determine a normal value.

Consequently, the commission has constructed normal values under section 269TAC(2)(c) for the selected Chinese exporters, and has done so in accordance with sections 43, 44 and 45 of the Regulation, relevant aspects of which are outlined below.

## **C3 The selected exporters' costs of production**

The commission established during verification activities that the records of selected Chinese exporters relating to the goods have been kept in accordance with GAAP in China and reasonably reflect costs associated with the production of like goods, being that they reflect the costs actually incurred by the exporters.

Additionally, the commission assessed whether the costs of production as reported in exporters' records reasonably reflect competitive market costs such that the commission is required by section 43 of the Regulation to use the records for constructing a normal value.

Most costs of production for the selected exporters relate to primary aluminium (either in the form of billet, ingot or in some minor volumes, purchased scrap). Primary aluminium

---

<sup>149</sup> The Manual, page 51.

## PUBLIC RECORD

costs therefore are most relevant the commission's assessment of whether Chinese exporters' records reflect competitive market costs. The commission has examined in **Non-confidential Appendix A6** the degree to which particular market situation impacts on primary aluminium prices in the Chinese domestic market.

Noting the commission's finding that a particular market situation exists in respect of like goods in China, the commission compared the selected Chinese exporters recorded primary aluminium costs to a competitive LME-benchmark unaffected by the particular market situation.

The commission has established in previous cases that aluminium costs in competitive markets in Asian regions are often priced according to:

- a published price for primary aluminium
- a regional premium
- inland transport costs
- a billet premium reflecting an additional cost to convert an ingot to a billet for use in the production of the goods.

The commission has included each of the above components in establishing a competitive benchmark cost for aluminium, as outlined below:

### Primary aluminium — LME cash price

The commission has relied on the average monthly LME official cash price data.

### Regional premium

The commission has relied on the published MJP regional premium sourced from an independent third-party data provider. Shipments under the MJP premium are made on a Cost, Insurance and Freight (**CI**F) basis. The premium is inclusive of all costs associated with transporting the goods from the country of export to the destination port. However, it does not include costs relating to port of arrival charges and inland transport from the port of arrival to the final destination.

### Inland transport costs

No inland transport costs for aluminium ingot purchases were submitted for this review. In the absence of actual costs relevant to the review period, the commission relied on the inland transport costs determined in REP 543.

### Billet premiums

The commission has determined a billet premium using the Australian industry's billet price schedules relevant to the review period.

The commission's competitive benchmark cost for aluminium is contained at **Confidential Attachment 27**.

The commission used this benchmark because it represented the most suitable recorded evidence available. The commission recalls, in this regard, that the GOC declined to respond to requests for information and evidence of direct relevance to these points, which in turn limited the information before the commission in the review. It is in that context that, given that the benchmark pertained to primary aluminium prices outside of China, the commission considered whether the available evidence demonstrated that adjustments were warranted to reflect any comparative advantage or disadvantage applicable to Chinese producers of the goods. The commission's consideration in this regard was to ensure that the benchmark values would, to the extent practicable based

## PUBLIC RECORD

on the available evidence, correspond to the 'cost of production in the country of export' under section 269TAC(2)(c)(i).

The available evidence did not support the making of such adjustments. First, the commission has not identified evidence that would have substantiated or facilitated the making of any comparative advantage or disadvantage adjustment in this regard. Second, the data available did not permit the disaggregation of primary aluminium prices into constituent elements that would enable discrete aspects of comparative advantage or disadvantage to be distilled, quantified, and adjusted. Against that background, despite considering the merits of adjustments to reflect comparative advantages and disadvantages, the commission had no basis to do so in the circumstances of the present case.

The commission considers that the difference between the LME-based benchmark aluminium prices and selected Chinese exporters recorded aluminium costs is an indicator of the level of distortion of primary aluminium cost in China caused by the particular market situation.

The commission considers that the LME-based benchmark is indicative of a competitive market cost unaffected by the same particular market situation in respect of the like goods in China. The LME-benchmark indicates that the primary aluminium cost in such a competitive market, after allowing for differences that might affect the comparison, were materially higher during the review period than the primary aluminium cost recorded in the selected exporters' records.

The commission considers that the primary aluminium cost in the records of selected exporters reflect the impact of the particular market situation to a degree that is significant. The commission considers that the programs and policies of the GOC together with the other interventions in the primary aluminium market have lowered the price and cost of aluminium in China. This induced and allowed producers of the goods and like goods in China to produce and supply more like goods at a lower price point than otherwise possible.

The commission is therefore satisfied that while the aluminium cost recorded in selected exporters' records may reasonably reflect the costs associated with the production or manufacture of the goods, because of the particular market situation, they do not reasonably reflect competitive market costs associated with the production or manufacture of the goods and are therefore unsuitable for the purpose of constructing normal value. The commission therefore finds, as a factual matter, that the circumstance stipulated in section 43(2) of the Regulation is not enlivened. The selected exporters' recorded costs for primary aluminium do not reflect competitive market costs.

Turning to section 269TAC(2)(c)(i), the commission considered whether it was appropriate to rely on the selected exporters' purchase prices of primary aluminium to form part of the cost of production of the goods in China. In that regard, the commission recalls its finding of a particular market situation in **APPENDIX A**, which pertained specifically to matters affecting aluminium prices in China. Given that the particular market situation finding for the goods turned on aluminium prices, the commission considers that relying on the price paid by selected exporters for aluminium to construct the normal value would undermine the very basis for having recourse to a constructed normal value in the first place. Put another way, the use of selected Chinese exporters recorded aluminium costs would reintroduce the very factors that warranted the

## **PUBLIC RECORD**

commission's decision to construct the normal value. Such an approach would be counter to the commission's decision to have recourse to constructing the normal value based on the particular market situation found to be present in this case.

With respect to aluminium prices, therefore, the commission considers the selected Chinese exporters' records unsuitable in determining the cost of production of the goods in China for the purpose of constructing normal value. The commission therefore considers it necessary to adjust the costs for primary aluminium in the selected exporters' records to determine the cost of production of the goods in China under section 269TAC(2)(c)(i).

The commission has not adjusted any of the other items recorded in the selected exporters' cost of production.

### **C4 Calculation of the aluminium cost adjustment**

The aluminium costs have been determined by comparing the competitive benchmark cost to the exporter's actual costs and applying the resulting variation as an adjustment to the exporter's records.

In cases where an exporter has purchased ingot or billet, the adjustment to the aluminium costs is proportionate to the amount of billet and ingot purchased in the relevant period. Aluminium ingot and billet imported for use in production by an exporter has not been subject to adjustment. The commission made no adjustment for purchased scrap because of the small volumes involved, which it considered immaterial.

## APPENDIX D ASSESSMENT OF ALLEGED SUBSIDY PROGRAMS

### D1 Introduction

#### D1.1 Definition of Government, public and private bodies

In its assessment of each program, the commission has had regard to the entity responsible for providing the financial contribution (if any) under the relevant program, as part of the test under section 269T(1) for determining whether a financial contribution is a subsidy. Under section 269T(1), for a contribution to be a subsidy, the following must provide the contribution:

- a government of the country of export or country of origin of the goods
- a public body of that country or a public body of which that government is a member
- a private body entrusted or directed by that government or public body to carry out a governmental function.

#### D1.2 Government

As described in section 16.2 of the Manual, the commission considers that the term 'government' includes government at all different levels, including at a national and sub-national level.

#### D1.3 Public bodies

The Act does not define the term 'public body'. Determining whether an entity is a 'public body' requires evaluation of all available evidence of the entity's features and its relationship with government, including the following:

- 1) The objectives and functions performed by the body and whether the entity in question is pursuing public policy objectives. In this regard relevant factors include:
  - legislation and other legal instruments
  - the degree of separation and independence of the entity from a government, including the appointment of directors
  - the contribution that an entity makes to the pursuit of government policies or interests, such as considering national or regional economic interests and the promotion of social objectives.
- 2) The body's ownership and management structure, such as whether the body is wholly or part-owned by the government or has most shares in the body. A finding that a body is a public body may be supported through:
  - the government's ability to make appointments
  - the right of government to review results and determine the body's objectives
  - the government's involvement in investment or business decisions.

The commission considers this approach is consistent with the WTO Appellate Body decision of *United States – Countervailing Measures (China)*<sup>150</sup> In that case the Appellate

---

<sup>150</sup> DS379 United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China.

## PUBLIC RECORD

body referred to the following 3 indicia which may assist in assessing whether an entity was a public body vested with or exercising government authority:

- where a statute or other legal instrument expressly vests government authority in the entity concerned
- where there is evidence that an entity is, in fact, exercising governmental functions
- where there is evidence that a government exercises meaning control over an entity and exercises governmental authority in the performance of government functions.

The Federal Court of Australia has also previously considered these principles.<sup>151</sup>

### D1.4 Private bodies

Where an entity is neither a government nor public body, the commission will consider it a private body, in which case, a government direction to make a financial contribution in respect of the goods must be established for the contribution to be considered a subsidy, as defined by section 269T(1).

Pursuant to section 16.3 of the Manual, in determining the character of an entity that may have provided a financial contribution, the commission will consider whether a private body has been:

- 'entrusted' to carry out a government function, which occurs when a government gives responsibility to a private body, or
- 'directed' to carry out a government function, which occurs in situations where the government exercises its authority over a private body.

Accordingly, not all government acts are entrusting or directing a private body. Encouragement or mere policy announcements by government of themselves are not sufficient to satisfy this test. However, threats and inducements may be evidence of entrustment or inducements. This test is satisfied where the private body is a proxy by government to give effect to financial contributions.

## D2 Assessment of Programs

Appendix D2.1 discusses the commission's assessment of subsidy programs identified previously by the commission as countervailable in respect of aluminium extrusions exported from China.

Appendix D2.2 discusses the commission's assessment of subsidy programs identified during this review.

### D2.1 Assessment of existing programs

#### D2.1.1 Program 15 — Aluminium provided at less than adequate remuneration

##### *Background*

In the original investigation it was alleged that Chinese exporters of aluminium extrusions had benefited from the provision of goods by the GOC at less than adequate remuneration. The applicant in the investigation claimed that primary aluminium, the main

---

<sup>151</sup> See *Panasia Aluminium (China) Limited v Attorney-General of the Commonwealth* [2013] FCA 870, [27] - [70]; *Dalian Steelforce Hi Tech Co Ltd V Minister for Home Affairs* [2015] FCA 885, [50] - [73].



## PUBLIC RECORD

input used in the manufacture of aluminium extrusions, was being produced and supplied by government owned enterprises at less than adequate remuneration.

Under this program, a benefit to the exporter of aluminium extrusions is conferred by the GOC providing primary aluminium at an amount reflecting less than adequate remuneration, having regard to prevailing market conditions in China.

Consistent with the original investigation and subsequent cases, the commission sought information from selected exporters to establish the quantity and cost of primary aluminium purchases, the form (ingot or billet), origin of product, identify of the supplier (trader or original manufacture) and if the supplier was an SIE or SOE.

In determining whether the provision of goods conferred a benefit, the commission has had regard to the terms of section 269TACC(3).

In keeping with the position outlined in REV 482 (and confirmed in REP 543), the commission considers that the constructed LME based prices for imported primary aluminium (see appendix C3) are the most suitable benchmark for determining whether primary aluminium was provided at less than adequate remuneration and conferred a benefit in relation to the primary aluminium used in the goods exported to Australia.

The exporters' purchasing data also revealed whether that aluminium was imported or purchased from domestic suppliers, and where it was purchased from domestic suppliers whether the supplier, or the supplier's manufacturer, was an SOE or SIE.

### *Amount of subsidy – cooperative entities*

The commission conducted an examination of the selected cooperative exporters' monthly primary aluminium purchases during the review period and compared these monthly costs with the constructed LME based benchmarks.

The commission then determined whether a benefit was provided in respect of those purchases by calculating the difference between the prices paid by manufacturers to SOEs and the constructed LME benchmark.

### *Amount of subsidy – non-cooperative entities*

For the non-cooperative and all other entities, no information was provided by either the GOC or the individual exporters themselves to identify whether a financial contribution has been received under this program. The commission considers that these entities have not given the Commissioner information considered to be relevant to the investigation within a reasonable period.

Pursuant to sections 269TAACA(1)(c) and 269TAACA(1)(d), the Commissioner has acted based on all the facts available and made reasonable assumptions to determine whether a countervailable subsidy has been received in respect of the goods.

Based on previous findings in REP 543, the commission considers it likely that non-cooperative and all other entities purchased primary aluminium from SOEs and SIEs at subsidised prices and therefore received a financial contribution under this program. The commission received no evidence in this review that the purchasing behaviour of non-cooperative Chinese exporters has changed. Further, given the continuing presence of raw materials available from SIEs at below market prices, as discussed in **APPENDIX A**, notwithstanding the availability of input products from private suppliers, it is reasonable for the Commissioner to assume, pursuant to section 269TAACA, that non-cooperating Chinese entities would purchase such raw materials to manufacture the goods.

## PUBLIC RECORD

The commission considers that the amount of countervailable subsidy, and in turn the subsidy margin for Program 15 to apply to non-cooperative Chinese entities, should be determined by reference to the higher of the subsidy margin established in REP 543, being the most recent relevant inquiry, and the margin established for cooperating Chinese entities in this review.

Chapter 5.5.6 discusses the calculation of the subsidy margin for non-cooperative entities.

### **D2.1.2 Program 47 — Preferential Tax Policies for High and New Technology Enterprises**

Program 47 was first found to be countervailable in relation to aluminium extrusions in REP 248 and again in subsequent inquiries, including REP 543.

Information provided by selected cooperative exporters established that a subsidy had been received under this program during the review period.

Based on the commission's previous findings in relation to Program 47 in REP 543 and information provided during this review, the commission finds that Program 47 is countervailable in relation to exports of aluminium extrusions from China.

In accordance with section 269TACD(1), the amount of the subsidy has been determined as the difference between tax paid at the reduced rate and the tax that would have been paid at the standard tax rate.

In accordance with section 269TACD(2), the subsidy margin for this program has been calculated based on the unit subsidy amount attributed to the goods as a percentage of the ascertained export price for the selected cooperative exporter. The subsidy amount attributed to the goods has been calculated based on the total benefit received by the selected cooperative exporter as a proportion of the company revenue.

### **D2.1.3 Company Grants – Programs 62, 78, 93, 97, 106, 107, 108 and 109**

Information provided by selected cooperative exporters during the review established that a subsidy had been received by one or more exporters under programs 62, 78, 93, 97, 106, 107, 108 and 109 during the review period.

Based on the commission's previous findings in REP 543 in relation to these programs and information provided during this review, the commission finds that each of these programs is countervailable in relation to exports of aluminium extrusions from China.

In accordance with section 269TACD(1), the amount of the subsidy has been determined as the amount of the grant received by the selected cooperative exporter.

In accordance with section 269TACD(2), the subsidy margin for this program has been calculated based on the unit subsidy amount attributed to the goods as a percentage of the ascertained export price for the selected cooperative exporter. The subsidy amount attributed to the goods has been calculated based on the total benefit received by the selected cooperative exporter as a proportion of the company revenue.

### **D2.1.4 Programs 21, 48, 56, 68, 73, 100, 102, 112 and 116**

The commission found in REP 543 that programs 21, 48, 56, 62, 68, 73, 100, 102, 112 and 116 are countervailable.

The commission is not aware of the status of these programs given the GOC has declined to participate in the review. Furthermore, the REQs submitted by exporters did not provide any new information regarding these programs.

## PUBLIC RECORD

The commission considers that no new information has been provided that would warrant a reconsideration of the determination made in relation to these programs in this review and has therefore maintained its position that these programs are countervailable in relation to exports of the goods from China for the review period.

The commission considers that the amount of countervailable subsidy, and in turn the subsidy margin for these programs to apply to non-cooperative Chinese entities, should be determined by reference to the subsidy margin established in REP 543, being the most recent relevant inquiry.

### **D2.1.5 Programs with no benefit during the review period**

The commission found the following programs as countervailable in previous inquiries into the goods exported from China:

Program No	Program Name
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 Small and Medium Enterprises (SME)
6	Superstar Enterprise Grant
7	Research & Development (R&D) Assistance Grant
8	Patent Award of Guangdong Province
9	Training Program for Rural Surplus Labour Force Transfer Employment
18	Preferential tax policies in the Western Regions
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
58	Development assistance grants from the Zhaoqing New and High-Tech Industrial Development Zone (ZHTDZ)
59	Processing trade special fund
60	Trade insurance support fund
61	Enterprise employment fixed point monitoring work subsidy
63	Reserve funds for enterprise development
64	High integrity enterprise award 2014
65	Jiangmen engineering technology research centre award
66	2016 Shanghai Automotive Commodities Exhibition special fee subsidy
67	Corporate remuneration survey subsidy
69	Science and technology project subsidy
70	Provincial engineering and technology research centre 2016
71	Foreign trade development fund subsidy of Jiangmen City

**PUBLIC RECORD**

<b>Program No</b>	<b>Program Name</b>
72	2015 Special Funds of Technology Renovation technical renovation project with environmental protection
75	Subsidy for Supporting Foreign Trade Enterprises of Nan'an city in 2017
76	Fund for Supporting Foreign Trade Export in 2017 of Nan'an Municipal Bureau of Financial
77	Power consumption award for production and efficiency increase in December 2016
79	Subsidy for invention patents
80	No. 269: Special project for technology reform- subsidy for technology reform
81	Madrid Trademark grant by Fujian Provincial Administration for Industry and Commerce
82	2016 Award for brand value from Finance Bureau
83	Social security fund Guangzhou Social Insurance Fund
84	Patent supporting fund
85	Unemployment fund Guangzhou Social Insurance Fund
86	Technology supporting fund
87	Special fund Industry technology development and research
88	Industry technology R&D fund
89	Technology innovation fund
90	Social security fund Zencheng City
91	2016 Jiangmen support fund for technology development
92	Funds for EFT16 technical reform
94	EFT provincial Industry and informatization special research expenses supplement fund
95	2017 Enterprise Compensation Survey Fund
96	VOCs treatment fund for the process of injection workshop
98	2017 Provincial Motor Energy Efficiency Promotion Special Fund
99	2017 Jiangmen Enterprise Major technology platform construction Fund
101	2017 Jiangmen Enterprise Research and Development Financial Aid Fund
103	2017 Provincial Enterprise Research and Development Fund
104	Special funds for enterprises in large equipment manufacturing industry
105	2017 Provincial New enterprise Technology Reform Fund
110	Environmental Protection Subsidy from Nan'an City Dongtian Government
111	Electricity Incentive Reward for Promoting Industrial Enterprise to Increase Production and Increase Efficiency of April to June of 2018
113	Fund for Natural Disaster Relief
114	Subsidy for Chief Technology Officer
115	Electricity Incentive Reward of Production Increase and Efficiency Increase for Eligible Enterprise of the First Quarter of 2019
117	Subsidy from Guangzhou Industry and Information Technology Bureau

**Table 20: Existing subsidy programs where no benefit was reported during the review period**

## **PUBLIC RECORD**

The commission is not aware of the status of these programs given the GOC has declined to participate in the review. Furthermore, the REQs submitted by exporters did not provide any new information regarding these programs.

The commission considers that no new information has been provided that would warrant a reconsideration of the determination made in relation to these programs in this review and has therefore maintained its position that these programs are countervailable in relation to exports of the goods from China for the review period.

The commission considers that the amount of countervailable subsidy, and in turn the subsidy margin for these programs to apply to non-cooperative Chinese entities, should be determined by reference to the subsidy margin established in REP 543, being the most recent relevant inquiry.

There was no amount of countervailable subsidy that was determined in relation to these programs for exporters (including non-cooperative entities) during the inquiry period examined in REP 543.

**PUBLIC RECORD**

## D2.2 Assessment of additional programs

Program number	Program description	Background and WTO notification	Legal basis	Eligibility criteria	Is there a subsidy?	Is the subsidy countervailable?
609-1	Municipal-level subsidy fund for enterprises participating the domestic exhibitions for 2018 (2021-Grant 11)	This program was identified by Goomax in its REQ for Review 609.  The commission is not aware of any WTO notification for this program.	Goomax provided evidence in its REQ that this program is administered by the Nan'an Municipal Bureau of Industry and Information Technology and Nan'an Municipal Finance Bureau.	<i>Limited to companies in Fujian province</i>  The evidence provided in Goomax's REQ state that companies applying for the grant should submit application materials to the relevant departments of the Municipal Bureau of Industry and Information Technology.  The eligibility criterion to receive the grant was that enterprises in Nan'an city participated in domestic exhibitions.	Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.  Due to the nature of the grant, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).  The commission considers that this constitutes a benefit in relation to the goods exported to Australia.  The financial contributions made under this program meet the definition of a subsidy under section 269T.	The commission considers that this subsidy is limited to the Nan'an City.  The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).  No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
609-2	Provincial-level special subsidy for promoting stable production and employment of industrial enterprises during Spring Festival 2021 (2021-Grant 12)	This program was identified by Goomax in its REQ for Review 609.  The commission is not aware of any WTO notification for this program.	Goomax provided evidence in its REQ that this program is administered by the Nan'an Municipal Bureau of Industry and Information Technology and Nan'an Municipal Finance Bureau.	<i>Limited to companies in Fujian Province.</i>  The evidence provided in Goomax's REQ state the grant was in respect of electricity fees during the Chinese New Year 2021.  There were no specific eligibility criteria to receive the grant and no application process.	Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.  Due to the nature of the grant, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient	The commission considers that this subsidy is limited to Nan'an City.  The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).  No evidence was provided indicating that the eligibility criteria were neutral, do no not favour particular enterprises, are economic in nature and horizontal in

**PUBLIC RECORD**

					<p>enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>application, or that the criteria are strictly adhered to in the administration of the subsidy.</p> <p>Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
609-3	<p>Reward for increasing production and efficiency of Nan'an City during New Year's Day and Spring Festival 2021 (2021-Grant 13)</p>	<p>This program was identified by Goomax in its REQ for Review 609.</p> <p>The commission is not aware of any WTO notification for this program.</p>	<p>Goomax provided evidence in its REQ that this program is administered by the Nan'an Municipal Bureau of Industry and Information Technology and Nan'an Municipal Finance Bureau.</p>	<p><i>Limited to companies in Fujian Province.</i></p> <p>The evidence provided in Goomax's REQ state the grant was in respect of electricity fees during the Chinese New Year 2021.</p> <p>The evidence provided in Goomax's REQ state that companies applying for the grant should submit application materials to the Operation Section of the Municipal Bureau of Industry and Information Technology.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>The commission considers that this subsidy is limited to Nan'an City.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, do not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy.</p> <p>Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
609-4	<p>Supporting fund for foreign economy and trade of Nan'an City for 2020 (2021-Grant 14)</p>	<p>This program was identified by Goomax in its REQ for Review 609.</p> <p>The commission is not aware of any WTO notification for this program.</p>	<p>Goomax provided evidence in its REQ that this program is administered by the Nan'an Municipal Bureau of Commerce and Nan'an Municipal Finance Bureau.</p>	<p><i>Limited to companies in Fujian Province.</i></p> <p>The evidence provided in Goomax's REQ state the grant were funds for foreign economy and trade regarding Nan'an City for 2020.</p> <p>The evidence provided in Goomax's REQ state that the eligibility criteria was an export increment in 2020 and for export sales in general.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient</p>	<p>The commission considers that this subsidy is limited to Nan'an City and is related to the export of the goods.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, do not favour particular enterprises, are economic</p>

**PUBLIC RECORD**

					<p>enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy.</p> <p>Eligibility is limited to certain enterprises and therefore favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
609-5	<p>Provincial and municipal level special fund for trade 2021 (2021-Grant 16)</p>	<p>This program was identified by Goomax in its REQ for Review 609.</p> <p>The commission is not aware of any WTO notification for this program.</p>	<p>Goomax provided evidence in its REQ that this program is administered by the Fujian Provincial Department of Commerce, Quanzhou Municipal Bureau of Commerce and Quanzhou Municipal Finance Bureau.</p>	<p><i>Limited to companies in Fujian Province.</i></p> <p>The evidence provided in Goomax's REQ state companies applying for the grant should submit relevant application materials.</p> <p>The evidence provided in Goomax's REQ state that eligibility criteria was promoting trade and the grant is related to export sales in general.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>The commission considers that this subsidy is limited to Quanzhou city and is related to the export of the goods.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, do not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy.</p> <p>Eligibility is limited to certain enterprises and therefore favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
609-6	<p>The 3rd batch of talent rewards for supporting enterprise restructuring, listing and over-the-counter listing in 2021 (2021-Grant 17)</p>	<p>This program was identified by Goomax in its REQ for Review 609.</p> <p>The commission is not aware of any WTO notification for this program.</p>	<p>Goomax provided evidence in its REQ that this program is administered by the Quanzhou Local Financial Supervision and Administration Bureau and Nan'an Finance Bureau.</p>	<p><i>Limited to companies in Fujian Province.</i></p> <p>The evidence provided in Goomax's REQ state companies applying for the grant should send application materials to the financial bureau (financial office, listing office) of the county (city, district) where it is located.</p> <p>The evidence provided in Goomax's REQ state that the eligibility criteria was being a Quanzhou listed backup enterprises.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient</p>	<p>The commission considers that this subsidy is limited to Quanzhou city.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, do not favour particular enterprises, are economic in nature and horizontal in</p>



**PUBLIC RECORD**

					<p>enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>application, or that the criteria are strictly adhered to in the administration of the subsidy.</p> <p>Eligibility is limited to certain enterprises and therefore favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
609-7	Subsidy fund for exhibitions in the first half of 2021 (2021-Grant 18)	<p>This program was identified by Goomax in its REQ for Review 609.</p> <p>The commission is not aware of any WTO notification for this program.</p>	<p>Goomax provided evidence in its REQ that this program is administered by the Quanzhou Municipal Bureau of Commerce and Quanzhou Finance Bureau.</p>	<p><i>Limited to companies in Fujian Province.</i></p> <p>The evidence provided in Goomax's REQ state companies applying for the grant should send materials to the Foreign Trade and Economics Section of Nan'an Municipal Bureau of Commerce.</p> <p>The evidence provided in Goomax's REQ state that the eligibility criteria was that exhibitors went abroad to participate in non-provincial support exhibitions and non-provincial support overseas offline to online cloud exhibitions. Alternatively, exhibitors in Quanzhou participated Quanzhou Foreign Trade Cloud Exhibition organised by the Municipal Bureau of Commerce in 2021.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>The commission considers that this subsidy is limited to Quanzhou city.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, do not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy.</p> <p>Eligibility is limited to certain enterprises and therefore favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
609-8	2021 Vocational Skills Improvement Training Subsidy (2021-Grant 19)	<p>This program was identified by Goomax in its REQ for Review 609.</p> <p>The commission is not aware of any WTO notification for this program.</p>	<p>Goomax provided evidence in its REQ that this program is administered by the Nan'an Human Resources and Social Security Bureau.</p>	<p><i>Limited to companies in Fujian Province.</i></p> <p>The evidence provided in Goomax's REQ state there was no application process.</p> <p>The evidence provided in Goomax's REQ state the eligibility criteria was the granting of a professional certificate to employees.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient</p>	<p>The commission considers that this subsidy is limited to Nan'an City.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, do not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are</p>

**PUBLIC RECORD**

					<p>enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>strictly adhered to in the administration of the subsidy.</p> <p>Eligibility is limited to certain enterprises and therefore favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
609-9	2020 Unemployment Insurance Stabilization Subsidy (2021-Grant 20)	<p>This program was identified by Goomax in its REQ for Review 609.</p> <p>The commission is not aware of any WTO notification for this program.</p>	<p>Goomax provided evidence in its REQ that this program is administered by the Nan'an Human Resources and Social Security Bureau.</p>	<p><i>Limited to companies in Fujian Province.</i></p> <p>The evidence provided in Goomax's REQ state companies applying for the grant should submit materials to Nan'an Human Resources and Social Security Bureau.</p> <p>The evidence provided in Goomax's REQ state eligibility criteria was based on the local monthly per capita unemployment insurance benefits for 6 months and the monthly average number of insured persons applying for unemployment insurance from January to May 2020.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>The commission considers that this subsidy is limited to Nan'an city.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, do not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy.</p> <p>Eligibility is limited to certain enterprises and therefore favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
609-10	Reward fund for enterprises absorbing the poverty population for employment across provinces (2021-Grant 21)	<p>This program was identified by Goomax in its REQ for Review 609.</p> <p>The commission is not aware of any WTO notification for this program.</p>	<p>Goomax provided evidence in its REQ that this program is administered by the Nan'an Human Resources and Social Security Bureau.</p>	<p><i>Limited to companies in Fujian Province.</i></p> <p>The evidence provided in Goomax's REQ states that companies applying for the grant should submit materials to Nan'an Human Resources and Social Security Bureau.</p> <p>The evidence provided in Goomax's REQ state eligibility criteria was based on absorbing labour from outside the province.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient</p>	<p>The commission considers that this subsidy is limited to Quanzhou City.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, do not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are</p>

**PUBLIC RECORD**

					<p>enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>strictly adhered to in the administration of the subsidy.</p> <p>Eligibility is limited to certain enterprises and therefore favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
609-11	Subsidy for enterprise R&D expenditure for 2020 (2021-Grant 22)	<p>This program was identified by Goomax in its REQ for Review 609.</p> <p>The commission is not aware of any WTO notification for this program.</p>	<p>Goomax provided evidence in its REQ that this program is administered by Fujian Provincial Bureau and Nan'an Human Resources and Social Security Bureau.</p>	<p><i>Limited to companies in Fujian Province.</i></p> <p>The evidence provided in Goomax's REQ state that eligibility criteria was based on an increase in the company R&amp;D investment.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>The commission considers that this subsidy is limited to Nan'an city.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, do not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy.</p> <p>Eligibility is limited to certain enterprises and therefore favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
609-12	The 2nd batch of subsidy for enterprise R&D expenditure of 2020 (2022-Grant 1)	<p>This program was identified by Goomax in its REQ for Review 609.</p> <p>The commission is not aware of any WTO notification for this program.</p>	<p>Goomax provided evidence in its REQ that this program is administered by Nan'an Science and Technology Bureau and Nan'an Finance Bureau.</p>	<p><i>Limited to companies in Fujian Province.</i></p> <p>The evidence provided in Goomax's REQ state that eligibility criteria was based on an increase in the company R&amp;D investment.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient</p>	<p>This program is limited to enterprises in Nan'an City.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are</p>

**PUBLIC RECORD**

					<p>enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
609-13	<p>Provincial-level reward fund for "Specialized-Refinement-Differential-Innovation" small and medium-sized enterprises of 2021 (2022-Grant 2)</p>	<p>This program was identified by Goomax in its REQ for Review 609.</p> <p>The commission is not aware of any WTO notification for this program.</p>	<p>Goomax provided evidence in its REQ that this program is administered by Fujian Provincial Department of Industry and Information Technology and Nan'an Finance Bureau.</p>	<p><i>Limited to companies in Fujian Province.</i></p> <p>The evidence provided in Goomax's REQ state that eligibility criteria was based on the following:</p> <ul style="list-style-type: none"> <li>• company who was an advanced manufacturer (small or medium sized)</li> <li>• company with an independent legal representatives registered in Fujian</li> <li>• company has operated continuously for more than three years (inclusive) with good development prospects and economic and social benefits</li> <li>• company's operating income in the previous year should be more than 50 million (Yuan). Growth rate of operating income or net profit in the past two years should be not less than 10% and the profit should be maintained. (due to the epidemic, the growth rate of operating income or net profit in the past two years was not necessary for the declaration for 2021</li> <li>• degree of specialization, the company should engage in a specific market segment for 3 years or more. Its sales revenue of leading products should account for more than 60% of the operating income. Its leading products should enjoy a high reputation and the market share of the market ranks among the top 10 country wide or the top 3 province wide.</li> <li>• Innovation ability, the company should have a research and</li> </ul>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>The commission considers that this subsidy is limited to Nan'an City.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, do not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy.</p> <p>Eligibility is limited to certain enterprises and therefore favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>

**PUBLIC RECORD**

				<p>development institution. It is research and development expenditures in the past two years accounted for more than 3% of its operating income. It is scientific and technological personnel engaged in research and development and related technological innovation activities account for no less than 10% of the total number of employees of the company. The company obtained at least one patent related to the main product invention or 5 or more utility model patents design patents or the company presided over or participated in the formulation (revision) of at least 1 international standard, national standard, industry standard, local standard or group standard in the past 3 years.</p> <p>Operation and management, the company adopts advanced management methods with a complete and refined management plan. It has obtained at least one relevant quality management system certification and has its brand. At the same time, the declared enterprise shall not have the circumstance specified in the restrictive conditions of article 4, paragraph 2 of the Measures.</p>		
609-14	One-time labour service subsidy for enterprise interprovincial labour service cooperation (2022-Grant 3)	<p>This program was identified by Goomax in its REQ for Review 609.</p> <p>The commission is not aware of any WTO notification for this program.</p>	<p>Goomax provided evidence in its REQ that this program is administered by the Nan'an Municipal Human Resources and Social Security Bureau and Nan'an Municipal Finance Bureau.</p>	<p><i>Limited to companies in Fujian Province.</i></p> <p>The evidence provided in Goomax's REQ state that eligibility criteria was based on participation in recruitment fairs organised by Nan'an Municipal Human Resources and Social Security Bureau.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit</p>	<p>This program is limited to enterprises in Nan'an City.</p> <p>The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular</p>

**PUBLIC RECORD**

					in relation to the goods exported to Australia.  The financial contributions made under this program meet the definition of a subsidy under section 269T.	enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
609-15	Provincial-level reward of green factory (2022-Grant 4)	This program was identified by Goomax in its REQ for Review 609.  The commission is not aware of any WTO notification for this program.	Goomax provided evidence in its REQ that this program is administered by the Fujian Provincial department of Industry and Information Technology and Nan'an Finance Bureau.	<i>Limited to companies in Fujian Province.</i>  The evidence provided in Goomax's REQ state that eligibility criteria was based on: <ul style="list-style-type: none"> <li>• Operating and producing normally</li> <li>• Major or above production safety and quality accidents, grade III (large) and above levels of sudden environmental pollution incidents</li> <li>• Be dynamically adjusted out of the green manufacturing list.</li> <li>• Have serious problems in the relevant supervision work of the state council and relevant departments</li> <li>• Be included in the industrial energy conservation supervision and rectification list and failed to complete as required</li> </ul> Not be classified as dishonest and subject to enforcement.	Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.  Due to the nature of the grant, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).  The commission considers that this constitutes a benefit in relation to the goods exported to Australia.  The financial contributions made under this program meet the definition of a subsidy under section 269T.	This program is limited to enterprises in Nan'an City.  The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).  No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
609-16	Settlement subsidy for college graduates (2022-Grant 5)	This program was identified by Goomax in its REQ for Review 609.  The commission is not aware of any WTO notification for this program.	This program was administered by the Human Resources and Social Security Bureau and Nan'an Finance Bureau.	<i>Limited to companies in Fujian Province.</i>  The evidence provided in Goomax's REQ state that eligibility criteria for the subsidy was for college and university graduates employed in Quanzhou enterprises or introduced scientific research institutes or self-employed. They should not be under the age of 35 and have signed a labour contract of 1 year or more with the employer (the time of signing the contract is after March 22, 2019).	Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.  Due to the nature of the grant, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).  The commission considers that this constitutes a benefit	This program is limited to enterprises in Nan'an City.  The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).  No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore

**PUBLIC RECORD**

					in relation to the goods exported to Australia.  The financial contributions made under this program meet the definition of a subsidy under section 269T.	does not satisfy the exception to specificity in section 269TAAC(3).
609-17	The 1st batch of municipal-level special subsidy for energy conservation and circular economy in 2022 (2022-Grant 6)	This program was identified by Goomax in its REQ for Review 609.  The commission is not aware of any WTO notification for this program.	This program was administered by Quanzhou Bureau of Industry and Information Technology and Nan'an Finance Bureau.	<i>Limited to companies in Fujian Province.</i>  The evidence provided in Goomax's REQ state that eligibility criteria was based on: <ul style="list-style-type: none"> <li>• Operating and producing normally</li> <li>• Major or above production safety and quality accidents, grade III (large) and above levels of sudden environmental pollution incidents.</li> <li>• Have serious problems in the relevant supervision work of the state council and relevant departments</li> <li>• Be included in the industrial energy conservation supervision and rectification list and failed to complete as required</li> </ul> Not be classified as dishonest and subject to enforcement.	Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.  Due to the nature of the grant, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).  The commission considers that this constitutes a benefit in relation to the goods exported to Australia.  The financial contributions made under this program meet the definition of a subsidy under section 269T.	This program is limited to enterprises in Quanzhou city and Nan'an city.  The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).  No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
609-18	Tax regulation allowing additional tax credits for R&D expenses	This program was identified by during verification of Goomax's REQ in Review 609.  The commission is not aware of any WTO notification for this program.	Article 30 of the <i>Corporate Income Tax Law of the People's Republic of China</i>	Companies may deduct expenditure when calculating their taxable income which relates to research and development expense (among other things).	The reduced income tax rate under this program is a financial contribution by a government which involves foregoing or not collecting of revenue by a government.  Due to the nature of this program (reduced income tax rate) it is considered that a financial contribution would be made in connection to the production, manufacture, or export of all goods of the recipient enterprise (including goods exported to Australia).  The commission considers that this constitutes a benefit	<i>Not countervailable</i>  Based on the terms of the <i>Corporate Income Tax Law of the People's Republic of China</i> , this deduction appears available to all enterprises paying income tax within China.  Accordingly, the commission does not consider this program limited to particular enterprises, and it does not meet the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).

**PUBLIC RECORD**

					in relation to the goods exported to Australia.  The financial contributions made under these programs meet the definition of a subsidy under section 269T.	
609-19	Employment Assistance for the recruitment of poverty alleviation population in the fourth quarter of 2021	Kam Kiu reported in its REQ for Review 609 receiving a number of grant programs during the review period.  The commission is not aware of any WTO notification for any of these programs.	The commission is not aware of any legal basis for these programs.	<i>Limited to companies in Guangdong</i>  Kam Kiu advised it received these grants through a simple written application and approval procedure, with no application in some instances for smaller grants.  Kam Kiu kept no written records of its grant applications and received no other correspondence from the approving authorities.  Kam Kiu advised that most grants do not relate to the goods or to export sales. Most grants are for research and development, environmental protection, and energy savings, and apply to the whole company.	Grants provided under these programs are financial contributions by a government which involve the direct transfer of funds from that government.  Due to the nature of the grants, and considering the limited information available, it is considered that a financial contribution would be made in connection to the production, manufacture, or export of all goods of the recipient enterprise (including goods exported to Australia).  The commission considers that this constitutes a benefit in relation to the goods exported to Australia.  The financial contributions made under these programs meet the definition of a subsidy under section 269T.	Due to the lack of relevant information provided by the GOC and the exporter, the commission has based its finding on all the facts available and made such assumptions as considered reasonable.  The commission considers that these programs appear similar in nature to countervailable grants previously received by Kam Kiu in respect of the goods, which also related to research and development, environmental protection, and energy savings. Many of the program titles indicate that grants are limited to certain regions.  Taking this into account, and from the information before it, the commission considers that these programs are limited to and predominantly benefit particular enterprises carrying out business within a designated geographical region.  The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).  No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular
609-20	Jiangmen Intellectual Property Support Fund in 2022					
609-21	Science and technology fund subsidy Assistance					
609-22	2017 Taishan Integrity plan assistance					
609-23	Assistance from Taishan city to encourage investment and support economic transformation and development					
609-24	Guangdong Social Insurance Fund Administration					
609-25	Assistance for training of new apprenticeship system in enterprises					
609-26	Funds for energy conservation and clean production					
609-27	Assistance for stable employment treatment					
609-28	Special Funds for Encouraging Investment to Support Economic Transformation and Development in 2020					



**PUBLIC RECORD**

609-29	Special Funds for Foreign Trade and Economic Development of the Central Government in 2020 (Second Batch)					enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
609-30	Special Funds Postdoctoral Work Recruited in 2020					
609-31	Technological transformation of enterprises					
609-32	Assistance from the Social Insurance Fund Administration					
609-33	Funds to assist patent navigation projects for enterprise operation					
609-34	Provincial Special Funds for Promoting High Quality Economic Development in 2020					
609-35	Assistance from Guangdong Social Insurance Fund Administration					
609-36	Doctor workstation subsidy					
609-37	Subsidy of maintenance of employment stability	<p>This program was identified by Jinxicheng in its REQ for Review 609.</p> <p>The subsidy was paid to companies for providing flexible employment conditions as a response to the COVID pandemic; for paying unemployment insurance; and that its lay-off rate did not exceed the unemployment rate.</p>	<p><i>'Notice of the Office of Nanhai District People's Government of Foshan City on Printing and Distributing Fifteen Policy Opinions on Actively Responding to Pneumonia Infected by Novel Coronavirus and Supporting the Stable Development of Enterprises'</i></p> <p>This program was administered by the Human Resource and</p>	<p><i>Limited to companies in Nanhai District, Guangdong</i></p> <p>The criteria to obtain the subsidy is that the rate of laying off employees is less than the registered unemployment rate at the national level and the applicant has paid the unemployment insurance fee.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The commission considers that this constitutes a benefit</p>	<p>This program is limited to enterprises in Nanhai District. The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular</p>

**PUBLIC RECORD**

		The commission is not aware of any WTO notification for this program.	Social Safeguard Bureau of Nanhai District in Foshan City.		in relation to the goods exported to Australia.  The financial contributions made under this program meet the definition of a subsidy under section 269T.	enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
609-38	Deferred payment of income tax	Jinxiecheng did not report this as a subsidy program. The program was identified by the commission during verification.  Under this program, companies were permitted to delay full payment of income tax for various periods, depending on whether they are small or medium sized entities.  The commission is not aware of any WTO notification for this program.	<i>'Announcement on matters related to the continued deferment of payment of some taxes and fees by small, medium and micro enterprises in the manufacturing industry'</i> by the State Administration of Taxation Ministry of Finance, 14 September 2022.  <b>See Non-confidential attachment 28.</b>	<i>Not region specific</i>  Eligibility is limited to small, medium and micro enterprises in the manufacturing industry.	The delay in the payment of income tax under this program results in a financial contribution by  a government which involves foregoing or not collecting of revenue by a government.  Due to the nature of this program, the commission considers a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).  The commission considers that this constitutes a benefit in relation to the goods exported to Australia.  The financial contributions made under this program meet the definition of a subsidy under section 269T.	The commission considers that this program is limited to small, medium and micro enterprises in the manufacturing industry. The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a).  No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
609-39	2017 'Hundreds of Enterprises Compete to Be the First' Enterprise Executive Award	Xingfa reported in its REQ for Review 609 receiving a number of grant programs during the review period.	The commission is not aware of any legal basis for these programs.	<i>Limited to companies in Guangdong</i>  Xingfa advised it has no information regarding the criteria, application process or operation of the grants. Its accounting records only show the names of the grants and the amounts received.	Grants provided under these programs are financial contributions by a government which involve the direct transfer of funds from that government.  Due to the nature of the grants, and considering the limited information available, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient	Due to the lack of relevant information provided by the GOC and the exporter, the commission has based its finding on all the facts available and made such assumptions as considered reasonable.  The commission considers that these programs appear similar in nature to countervailable grants previously received by Xingfa in respect of the goods. Many of the program titles indicate that grants are limited to certain regions.
609-40	2020 July to December Special Funds to Support Foreign Trade Enterprises to Actively Respond to the Novel Coronavirus Pandemic and Stable Development Support Measures	The commission is not aware of any WTO notification for any of these programs.				

**PUBLIC RECORD**

609-41	2020 Special Fund for Foreign Economic and Trade Development (Coping with Trade Friction) Project				enterprise (including goods exported to Australia).  The commission considers that this constitutes a benefit in relation to the goods exported to Australia.  The financial contributions made under these programs meet the definition of a subsidy under section 269T.	Taking this into account, and from the information before it, the commission considers that these programs are limited to and predominantly benefit particular enterprises carrying out business within a designated geographical region.  The commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).  No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
609-42	2020 Special Fund Project for Promoting High-Quality Development of Foreign Trade (District Level)					
609-43	2021 Accounts Receivable Financing Incentive Special Fund					
609-44	2019 First Award for Large-Scale Backbone Enterprises Exceeding 10 Billion Yuan					
609-45	2021 Special Fund for Foreign Economic and Trade Development (Coping with Trade Friction Matters) Project					
609-46	2021 Technical Standards Strategic Support Award Project (Technical Standards Development) Incentives					
609-47	2020 Unemployment Insurance Fund Supports Enterprises to Stabilize Job Subsidies					
609-48	Special funds for the research and industrialization project of environmental protection and energy saving low temperature curing polyester powder coatings					

**PUBLIC RECORD**

609-49	Patented Technology Transaction Funding					
609-50	2021 Special Fund for Foshan Industrial Internet Development Support (Industrial Internet Benchmarking Demonstration Project)					
609-51	2021 First-level funding for the cultivation project of the Science and Technology Award at the provincial level or above in Chancheng District					
609-52	2019 Chancheng District High-tech Enterprises' Support Fund for Quality Improvement					
609-53	Special funds for promoting high-quality economic development in 2021 (the second batch)					
609-54	2020 Manufacturing Singles Champion Enterprise Policy Support Fund					
609-55	2021 Special Fund for Foshan Economic and Technological Development					
609-56	2020 Manufacturing Singles Champion Enterprise Policy (Additional deduction for research and development expenses) Support Fund					
609-57	2022 Provincial special funds for promoting high-quality economic development (private					

**PUBLIC RECORD**

	economy and the development of small, medium and micro enterprises)					
609-58	2022 Special subsidy for post-patent transformation					
609-59	2022 'Foshan Standard' Product Support Fund					
609-60	New employee allowance (Sanshui District)					
609-61	2017 green manufacturing system integration fund					
609-62	2013 provincial information industry development special fund for modern information service industry special project					

**ATTACHMENT 28 – Announcement on deferred payment of income tax**

State Administration of Taxation Ministry of Finance

Announcement on matters related to the continued deferment of payment of some taxes and fees by small, medium and micro enterprises in the manufacturing industry

Release time: 2022-09-15 09:45 Font size: [Large] [Middle] [Small] Print this page

Document Number: Announcement No. 17 [2022] of the State Administration of Taxation and the Ministry of Finance

Issued by: State Administration of Taxation, Ministry of Finance

Issue date: 2022-09-14

Status: Valid for full text

In order to thoroughly implement the decision-making and deployment of the Party Central Committee and the State Council, and further support the development of small, medium and micro enterprises in the manufacturing industry, the policy of deferring the payment of some taxes and fees for small and medium-sized enterprises in the manufacturing industry (including sole proprietorship enterprises, partnership enterprises, and individual industrial and commercial households, the same below) is hereby continued. The related matters are announced as follows:

1. From September 1, 2022, in accordance with the "Announcement of the State Administration of Taxation and the Ministry of Finance on Continuing the Implementation of Matters Concerning the Deferment of Partial Taxes and Fees for Small, Medium and Micro Enterprises in the Manufacturing Industry" (No. 2, 2022), 50% of the deferred payment of taxes and fees has been enjoyed For 100% of medium-sized enterprises in the manufacturing industry and 100% of the small and micro enterprises in the manufacturing industry that have postponed the payment of taxes and fees, the deferred payment period for taxes and fees that has been deferred will continue to be extended for 4 months after the expiration.
2. Deferred tax payment includes the period of November and December 2021, February, March, April, May and June of 2022 (paid on a monthly basis) or the fourth quarter of 2021 and the first quarter of 2022. The corporate income tax, personal income tax, domestic value-added tax, domestic consumption tax and additional city maintenance and construction tax, education surcharge, and local education surcharge that have been deferred according to regulations in the first quarter and second quarter (paid quarterly), excluding withholding Payment, collection and remittance, and taxes paid when applying to the tax authorities for issuing invoices.
3. If the above-mentioned enterprises deferred payment of taxes and fees in November 2021 and February 2022 have been paid into the treasury after September 1, 2022 and before the release of this announcement, they can voluntarily choose to apply for tax refund (fee) and enjoy continued deferred payment policy.

## **PUBLIC RECORD**

4. After the expiration of the deferred payment period stipulated in this announcement, the taxpayer shall pay the corresponding monthly or quarterly taxes and fees according to the law. Those who comply with the "Tax Collection and Administration Law of the People's Republic of China" and its implementation rules can apply for deferred payment of taxes according to the law. Apply for an extension to pay taxes.

V. If a taxpayer does not meet the conditions stipulated in this announcement and cheats to enjoy the deferred tax payment policy, the tax authorities will deal with it severely in accordance with the "Law of the People's Republic of China on the Administration of Tax Collection" and its implementation rules.

6. This Announcement shall come into force on the date of promulgation.

Special announcement.

State Administration of Taxation    Ministry of Finance

September 14, 2022