



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

**Anti-Dumping  
Commission**

---

*CUSTOMS ACT 1901 - PART XV B*

## **REPORT NO 609**

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

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

**17 August 2023**

<b>CONTENTS</b>
-----------------

<b>1</b>	<b>SUMMARY AND RECOMMENDATIONS.....</b>	<b>7</b>
1.1	INTRODUCTION.....	7
1.2	RECOMMENDATION TO THE MINISTER .....	9
<b>2</b>	<b>BACKGROUND.....</b>	<b>11</b>
2.1	APPLICATION AND INITIATION .....	11
2.2	HISTORY OF THE ANTI-DUMPING MEASURES.....	11
2.3	CURRENT ANTI-DUMPING MEASURES .....	13
2.4	CONDUCT OF THE REVIEW .....	13
2.5	STATEMENT OF ESSENTIAL FACTS .....	16
2.6	SUBMISSIONS FROM INTERESTED PARTIES .....	16
2.7	PUBLIC RECORD.....	30
<b>3</b>	<b>THE GOODS AND LIKE GOODS .....</b>	<b>31</b>
3.1	FINDING .....	31
3.2	LEGISLATIVE FRAMEWORK .....	31
3.3	THE GOODS .....	32
3.4	MODEL CONTROL CODES.....	33
3.5	LIKE GOODS ASSESSMENT .....	34
<b>4</b>	<b>VARIABLE FACTORS – DUMPING DUTY NOTICE.....</b>	<b>35</b>
4.1	FINDING .....	35
4.2	LEGISLATIVE FRAMEWORK .....	35
4.3	EXPORTER STATUS.....	37
4.4	DUMPING ASSESSMENT – GOOMAX .....	40
4.5	DUMPING ASSESSMENT – JINXIECHENG .....	46
4.6	DUMPING ASSESSMENT - KAM KIU.....	51
4.7	DUMPING ASSESSMENT - XINGFA .....	57
4.8	RESIDUAL EXPORTERS.....	62
4.9	UNCOOPERATIVE EXPORTERS.....	62
<b>5</b>	<b>VARIABLE FACTORS – COUNTERVAILING.....</b>	<b>64</b>
5.1	FINDING .....	64
5.2	LEGISLATIVE FRAMEWORK .....	64
5.3	SUBMISSIONS RELATING TO COUNTERVAILING.....	64
5.4	SUBSIDY PROGRAMS .....	66
5.5	CALCULATION OF SUBSIDY MARGINS .....	76
5.6	SUMMARY OF SUBSIDY MARGINS .....	78
<b>6</b>	<b>NON-INJURIOUS PRICE.....</b>	<b>80</b>
6.1	ASSESSMENT OF NON-INJURIOUS PRICE.....	80
6.2	LEGISLATIVE FRAMEWORK .....	80
6.3	SUBMISSIONS RELATING TO THE NON-INJURIOUS PRICE .....	81
6.4	COMMISSION’S ASSESSMENT .....	81
<b>7</b>	<b>OUTCOME OF REVIEW .....</b>	<b>83</b>
7.1	FINDING .....	83
7.2	DUMPING DUTY METHODS AVAILABLE .....	83
7.3	FORMS OF COUNTERVAILING DUTY METHODS AVAILABLE .....	86
7.4	AVOIDANCE OF ‘DOUBLE-COUNTING’ .....	86
7.5	COMMISSION’S ASSESSMENT – DUMPING DUTY METHODS .....	87
7.6	RECOMMENDED DATE OF EFFECT .....	88
<b>8</b>	<b>RECOMMENDATIONS .....</b>	<b>92</b>
<b>9</b>	<b>APPENDICES AND ATTACHMENTS.....</b>	<b>96</b>

## PUBLIC RECORD

<b>APPENDIX A</b>	<b>ASSESSMENT OF PARTICULAR MARKET SITUATION.....</b>	<b>98</b>
A1	INTRODUCTION.....	98
A2	AUSTRALIAN LEGISLATION, POLICY AND PRACTICE .....	98
A3	ASSESSING PARTICULAR MARKET SITUATION IN THIS INQUIRY .....	100
A4	CONDITIONS IN THE CHINESE PRIMARY ALUMINIUM MARKET.....	101
A5	GOC INFLUENCE IN THE CHINESE ALUMINIUM MARKET.....	104
A6	THE CHINESE ALUMINIUM EXTRUSION MARKET .....	111
A7	ASSESSMENT OF PARTICULAR MARKET SITUATION IN THE CHINESE ALUMINIUM EXTRUSIONS MARKET .....	113
<b>APPENDIX B</b>	<b>PROPER COMPARISON OF DOMESTIC AND EXPORT PRICES .....</b>	<b>117</b>
B1	INTRODUCTION.....	117
B2	PROPER COMPARISON OF DOMESTIC AND EXPORT PRICE .....	117
B3	PREVAILING CONDITIONS OF COMPETITION IN CHINA AND AUSTRALIA .....	118
<b>APPENDIX C</b>	<b>CONSTRUCTED NORMAL VALUE.....</b>	<b>126</b>
C1	APPLICABLE LEGISLATION, POLICY AND PRACTICE .....	126
C2	ESTABLISHING NORMAL VALUE .....	127
C3	THE SELECTED EXPORTERS' COSTS OF PRODUCTION.....	127
C4	CALCULATION OF THE ALUMINIUM COST ADJUSTMENT .....	130
<b>APPENDIX D</b>	<b>ASSESSMENT OF ALLEGED SUBSIDY PROGRAMS .....</b>	<b>131</b>
D1	INTRODUCTION.....	131
D2	ASSESSMENT OF PROGRAMS .....	132
<b>NON-CONFIDENTIAL ATTACHMENT 29 - ANNOUNCEMENT ON DEFERRED PAYMENT OF INCOME TAX</b>	<b>.....</b>	<b>158</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>
AR 618	<i>Accelerated Review No 618</i>
AR 619	<i>Accelerated Review No 619</i>
Aus Star	Aus Star International Holdings Pty Ltd
BMB	below-market borrowings
Capral	Capral Limited
China	the People's Republic of China
CIF	Cost, Insurance and Freight
the commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
the Council	the Australian Aluminium Council Ltd
the Customs Direction	<i>Customs (Extensions of Time and Non-cooperation) Direction 2015</i>
CTM	cost to make
DISR	Department of Industry, Science and Resources
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
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
GOC	Government of China
GOC Guidelines	<i>Notice of the State Council on Further Strengthening the Elimination of Backward Production Capacities State Council (China), Notice no 7, 6 April 2010</i>

**PUBLIC RECORD**

Goomax	Goomax Metal Co. Ltd Fujian
the goods	the goods the subject of the application, aluminium extrusions
GUC	goods under consideration
ICD	interim countervailing duty
IDD	interim dumping duty
initiation notice	ADN 2022/081
Jiangsheng	Guangdong Jiangsheng Aluminium Co., Ltd
Jinxiecheng	Guangdong Jinxiecheng Al Manufacturing Co Ltd
Kam Kiu	Tai Shan City Kam Kiu Aluminium Extrusion Co Ltd
KHK	Kam Kiu (Hong Kong) Limited
LME	London Metal Exchange
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
PMI	Press Metal International 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 148	<i>Trade Remedies Branch Report No 148</i>
REP 248	<i>Anti-Dumping Commission Report No 248</i>
REP 392	<i>Anti-Dumping Commission Report No 392</i>
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 (China)
SEF 609	<i>Statement of Essential Facts No 609</i>
SIE	State-Invested Enterprise
SOE	State-Owned Enterprise

## PUBLIC RECORD

SEF	statement of essential facts
Tai Ao	Tai Ao Aluminium Tai Shan Co Ltd
USP	unsuppressed selling price
VAT	value-added tax
WTO	World Trade Organization
Xingfa	Guangdong Xingfa Aluminium Co. Ltd
XinYueYa	Qingyuan XinYueYa Aluminum Industry Co., Ltd
Zhongya	Guangdong Zhongya Aluminium Company Limited

## 1 SUMMARY AND RECOMMENDATIONS

### 1.1 Introduction

#### 1.1.1 Background

This report sets out the material findings of fact on which the Commissioner of the Anti-Dumping Commission (**the Commissioner**) bases their recommendations to the Minister for Industry and Science (**the Minister**) in relation to a review of the anti-dumping measures applying to aluminium extrusions (**the goods**) exported to Australia from the People's Republic of China (**China**).

This review follows an application lodged by Capral Limited (**Capral**) under section 269ZA(1) of the *Customs Act 1901* (**the Act**).<sup>1</sup> Capral considers one or more of the variable factors relevant to the anti-dumping measures have changed.

The anti-dumping measures are in the form of a dumping duty notice and a countervailing duty notice applying to the goods exported from China, except for goods exported by:

- Guangdong Zhongya Aluminium Company Limited (**Zhongya**)
- Guangdong Jiangsheng Aluminium Co., Ltd (**Jiangsheng**).<sup>2</sup>

This review has not examined the goods exported from China by the following exporters on the basis that these exporters recently sought individual accelerated reviews under section 269ZF, which examined more contemporaneous review periods.

- Antai Technology Co., Ltd (**Antai**)
- Qingyuan XinYueYa Aluminum Industry Co., Ltd (**XinYueYa**).<sup>3</sup>

#### 1.1.2 Current anti-dumping measures

Table 1 provides the previously determined dumping and subsidy margins and current effective duties applying to the goods exported from China.

---

<sup>1</sup> All legislative references in this report are to the Act, unless otherwise stated.

<sup>2</sup> Chapter 2.2 provides details on why the measures do not apply to Zhongya and Jiangsheng.

<sup>3</sup> Chapter 4.3.4 provides details on why this review did not examine exports of the goods by Antai and XinYueYa.

**PUBLIC RECORD**

Exporter <sup>4</sup>	Dumping margin	Subsidy margin	Effective fixed rate of interim and countervailing duty (ICD) and interim dumping duty (IDD) <sup>5</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 ( <b>ANV</b> )
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>6</sup>	-13.8%	0.0%	0.0%	
Qingyuan	NA	1.7%	1.7%	
Antai	-1.6%	2.1%	2.1%	
XinYueYa	NA	0.2%	0.2%	
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 ( <b>AEP</b> ).
PanAsia Aluminium (China) Limited <sup>7</sup>	70.0%	0.4%	70.3%	
PanAsia Enterprises (Nanyang) Company Limited	59.5%	1.0%	60.5%	
Residual exporters	11.1%	0.7%	11.5%	
Uncooperative exporters and non-cooperative entities <sup>8</sup>	71.9%	9.9%	77.4%	

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

### 1.1.3 Scope of the review

The commission assisted the Commissioner to conduct the review, pursuant to the commission's function specified in section 269SMD.

The Commissioner examined the period from 1 July 2021 to 30 June 2022 (**the review period**) to establish whether the variable factors have changed. In this case, the variable factors are a reference to:

- the AEP

<sup>4</sup> Further details of the anti-dumping measures can be found on the Anti-Dumping Commission's (**commission**) website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

<sup>5</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>6</sup> For this review, this entity is a residual exporter, as per chapter 4.3.2.

<sup>7</sup> As a result of rezoning of industrial land, the commission understands that this entity ceased operation in 2020.

<sup>8</sup> The term uncooperative exporter is defined in section 269T and relates to a dumping duty notice. The term non-cooperative entity is defined in section 269TAACA and relates to a countervailing duty notice.



- the ANV
- the non-injurious price (**NIP**)
- the amount of countervailable subsidies received.

#### **1.1.4 Legislative framework**

Division 5 of Part XVB of the Act sets out, among other things, the procedures to be followed by the Commissioner when undertaking a review of anti-dumping measures.

#### **1.1.5 Statement of essential facts**

Pursuant to section 269ZD, on 8 June 2023, the Commissioner published the *Statement of Essential Facts No 609 (SEF 609)*. SEF 609 sets out the preliminary findings of the Commissioner and the Commissioner's proposed recommendation to the Minister based on the information before the Commissioner at that time.

#### **1.1.6 This report**

In preparing this report, the Commissioner had regard to:

- Capral's application
- submissions to the review to which the Commissioner has had regard in preparing SEF 609
- SEF 609
- submissions in response to SEF 609.

The Commissioner also had regard to any other matter the Commissioner considered relevant to this review as specified throughout this report.

The Minister must make a declaration within 30 days of receiving this 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>9</sup>

## **1.2 Recommendation to the Minister**

### **1.2.1 Change to variable factors**

The Commissioner finds 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 recommends to the Minister that the notices have effect as if different variable factors had been ascertained.

The Commissioner further recommends that the Minister exercise their discretion to not apply a lesser amount of duty based on the NIP as outlined in chapter 6.

---

<sup>9</sup> Section 269ZDB(1A).

## PUBLIC RECORD

The revised variable factors result in different dumping and subsidy margins relevant to the taking of IDD and ICD, respectively.

Table 2 provides details of these margins, the recommended effective fixed rates, and the recommended duty methods from this review.

Exporter	Dumping margin	Subsidy margin	Effective fixed rate of ICD and IDD	Duty method
Goomax	-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% (unchanged)	
Guangdong Xingfa Aluminium ( <b>Xingfa</b> )	-1.8%	0.3%	0.3% (new own rate)	
Residual exporters <sup>10</sup>	-1.1%	0.5%	0.5% (previously 11.5%)	
Kam Kiu	37.1%	2.0%	38.5% (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 exporters and non-cooperative entities <sup>11</sup>	37.1%	10.1%	42.9% (previously 77.4%)	

**Table 2: Summary of recommended measures from this review**

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 rates and duty methods.

### 1.2.2 Date of effect

The Commissioner recommends to the Minister 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 SEF 609, being 8 June 2023.

Chapter 7.6 discusses the recommended date of effect for changes to the notices.

<sup>10</sup> The residual exporters are listed at chapter 4.3.2.

<sup>11</sup> Refer to chapter 4.3.3 for further details about Qingyuan and Foshan Lvqiang, who are now in the uncooperative exporter and non-cooperative entity category. Refer to chapter 4.3.4 for further details about Antai and XinYueYa.

## 2 BACKGROUND

### 2.1 Application and 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 have changed since they were last ascertained on 15 October 2020, following *Anti-Dumping Commission Report No 543 (REP 543)*.<sup>12</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* and Anti-Dumping Notice (**ADN**) 2022/081 (**initiation notice**) 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 anti-dumping measures relating to aluminium extrusions 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
148	28/10/2010	<p>The then Australian Customs and Border Protection Service initiated an investigation into the alleged dumping and subsidisation of aluminium extrusions exported to Australia from China following an application by Capral.</p> <p>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.</p> <p>Following the investigation, the then Attorney-General published a dumping duty notice and countervailing duty notice applying to aluminium extrusions exported from China.</p> <p><i>Trade Remedies Branch Report No 148 (REP 148)</i> refers.</p>
175	27/08/2011	<p>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.</p> <p><i>International Trade Remedies Report No 175</i> refers.</p>

---

<sup>12</sup> EPR 543, Item 61.

## PUBLIC RECORD

241	18/02/2015	Measures 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. <i>Anti-Dumping Commission Report No 241 and ADN 2015/17 refer.</i>
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 variable factors had been ascertained. <i>Anti-Dumping Commission Report No 248 (REP 248) and ADN 2015/96 refer.</i>
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 and ADN 2015/125 refer.</i>
304	09/02/2016	Publication of the outcome of a review of anti-dumping measures as they applied to Press Metal International Ltd ( <b>PMI</b> ). The review resulted in changed variable factors for PMI. <i>Anti-Dumping Commission Report No 304 and ADN 2016/04 refer.</i>
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 all exporters of certain aluminium extrusions from China. <i>Anti-Dumping Commission Report No 392 (REP 392) and ADN 2017/138 refer.</i>
447	29/10/2018	The commission published findings of an anti-circumvention investigation, 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 and ADN 2018/155 refer.</i>
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 (REP 482) and ADN 2019/44 refer.</i>  The review was extended to include revocation of measures relating to Zhongya. The Commissioner was satisfied there were reasonable grounds for recommending that anti-dumping measures were 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.
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 aluminium extrusions exported from China**

## 2.3 Current anti-dumping measures

The anti-dumping measures apply to all exporters from China (except Zhongya and Jiangsheng). Table 4 sets out the current anti-dumping measures.

Exporter	IDD	ICD	Effective fixed rate of interim and countervailing duty (ICD) and interim dumping duty (IDD) <sup>13</sup>	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%	
Qingyuan	0%	1.7%	1.7%	
Antai	0%	2.1%	2.1%	
XinYueYa	0%	0.2%	0.2%	
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 AEP.
PanAsia Aluminium (China) Limited	70.0%	0.4%	70.3%	
PanAsia Enterprises (Nanyang) Company Limited	59.5%	1.0%	60.5%	
Residual exporters	11.1%	0.7%	11.5%	
Uncooperative exporters and non-cooperative entities	71.9%	9.9%	77.4%	

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

Further details on the current measures are available on the Dumping Commodity Register, available on the commission's website.

## 2.4 Conduct of the review

### 2.4.1 Review period

In ADN 2022/081, the Commissioner notified interested parties that the review period is 1 July 2021 to 30 July 2022. The Commission sought and obtained information and data pertaining to this period to assess whether the variable factors relevant to the determination of duty payable have changed.

---

<sup>13</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.

## **2.4.2 Exporters**

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

- Goomax
- Jinxiecheng
- Qingyuan
- Foshan Lvqiang.

According to data obtained from the Australian Border Force (**ABF**) import database, these exporters represent approximately 68% of the volume of the goods subject to anti-dumping measures (by weight) 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 exporters of the goods to make themselves known to the commission by completing a residual exporter questionnaire, published on the commission's website.

Goomax and Jinxiecheng provided completed questionnaire responses (**REQ**), after the Commissioner granted each an extension of time.<sup>14</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 residual questionnaire responses. This included a response from Kam Kiu, as well as 3 responses from entities who are not manufacturers of the goods discussed at section 4.3.4.

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 considered:

- the level of cooperation from the selected exporters
- the number of the other exporters seeking individual examination, and

---

<sup>14</sup> EPR 609, Item 6.

## PUBLIC RECORD

- 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 have some effects on the 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.

Chapters 4.3.1 and 4.3.2 provide detail on the cooperative and residual exporters.

Chapter 4.3.3 provides detail on uncooperative exporters.

Chapter 4.3.4 provides detail on responses received from other entities.

### 2.4.3 Importers

The commission identified 5 of the largest importers of aluminium extrusions from China, using the 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 electronic public record (**EPR**) for this review.<sup>15</sup>

### 2.4.4 Government of China

The commission wrote to the Government of China (**GOC**) notifying it of the initiation of this review. The commission invited the GOC to complete a questionnaire seeking information relevant to any subsidies that are available or might have been received in respect of the goods exported to Australia from China in the review period.

The commission also contacted the GOC upon publication of SEF 609, inviting it to comment on additional subsidy programs identified during verification of exporters.

---

<sup>15</sup> EPR 609, Item 18.

## **PUBLIC RECORD**

The commission has not received a response from the GOC in respect of this review.

### **2.5 Statement of essential facts**

On 8 June 2023, the Commissioner placed on the public record SEF 609, which informed interested parties of the facts established as of the date the SEF was placed on the public record and invited them to make submissions in response.

Following its publication on the public record, interested parties had 20 days to respond to the SEF. Responses were due to the Commissioner by no later than 28 June 2023.

### **2.6 Submissions from interested parties**

The commission received a total of 21 submissions during the review, including 12 submissions received in response to SEF 609. 12 of these submissions were from Capral and 9 were from other parties.

The EPR contains non-confidential submissions received from interested parties.

#### **2.6.1 Submissions received prior to SEF 609**

Submissions received by the commission prior to publication of SEF 609 are summarised in Table 5 below.



**PUBLIC RECORD**

<b>EPR item no.</b>	<b>Interested party</b>	<b>Date lodged</b>	<b>Issues raised</b>	<b>Chapter reference</b>
4	Australia Aluminium Council Ltd	13 September 2022	Supports the review of anti-dumping measures.	2.6.2
7	Capral	10 October 2022	Raised a possible ongoing exclusive agent relationship between Xingfa and an Australian company and the potential for commissions.	2.6.4 4.7.2
10	Capral	17 October 2022	Raised various concerns with Goomax and Jinxi Cheng's REQs.	2.6.3 4.4.2 4.5.2 5.3
11	Xingfa	25 October 2022	Response to Capral's submission regarding Xingfa's exclusive agent relationship.	2.6.4 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.	2.6.3
16	Capral	16 December 2022	Raised various concerns with Kam Kiu's REQ.	2.6.3 4.6.2
20	Capral	10 March 2023	Raised various concerns with the Mega Stone verification report.	2.6.3
26	Capral	22 May 2023	Raised various concerns with Goomax verification report.	2.6.3 4.4.2 5.3.1
27	Capral	23 May 2023	Raised various concerns with Jinxi Cheng's and Xingfa's verification reports.	2.6.3 4.5.2 4.7.2 5.3.2 5.3.3

**Table 5: Submissions prior to publication of SEF 609**

The Commissioner has had regard to all the submissions referred to in Table 5 in preparing this report.

**2.6.2 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.

### **2.6.3 Submissions by Capral**

The commission received multiple submissions from Capral prior to SEF 609, in relation to several issues. These issues are set out below.

#### **2.6.3.1 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 that a relationship between Xingfa and 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>16</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.

#### **2.6.3.2 Goomax**

In its 14 October 2022 and 22 May 2023 submissions, Capral raised the following issues with Goomax's REQ<sup>17</sup> and verification report:<sup>18</sup>

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

---

<sup>16</sup> EPR 609, item 25.

<sup>17</sup> EPR 609, item 8.

<sup>18</sup> EPR 609, item 22.

## PUBLIC RECORD

- 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.

### 2.6.3.3 Jinxiecheng

In its 14 October 2022 and 23 May 2023 submissions, Capral raised the following issues with Jinxiecheng's REQ:<sup>19</sup> and verification report:<sup>20</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.

### 2.6.3.4 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.

### 2.6.3.5 Mega Stone verification report

In its 9 March 2023 submission, Capral raised several issues with Mega Stone's importer verification report.<sup>21</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

---

<sup>19</sup> Ibid.

<sup>20</sup> EPR 609, item 23.

<sup>21</sup> EPR 609, Item 18, Verification report, Importer, Mega Stone Aluminium.

## PUBLIC RECORD

this undermines the commission's conclusions as to whether Mega Stone's sales can be considered profitable and arms length transactions.

### *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.

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.

To determine the profitability of Mega Stone's sales of imported goods 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 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 cost to import and sell 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 a previous case.<sup>22</sup>

### b) Arms length sales

#### *Capral's concerns*

Capral notes the verification report's finding at chapter 6.5 that the commission was satisfied that sales between the exporter, Goomax, and the importer, Mega Stone, are arms length transactions. 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 transactions. The sale between Mega Stone and its Australian customer has no relevance to the arms length assessment between Mega Stone and Goomax.

---

<sup>22</sup> EPR 543, item 44.

### 2.6.3.6 Billet premium and energy costs

#### *Capral's concerns*

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

Capral stated the billet premium applied by suppliers has increased substantially during 2022 due to demand outstripping supply. In contrast, 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**.

### **2.6.4 Submission by Xingfa**

In its 25 October 2022 submission<sup>23</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.

### **2.6.5 Submissions in response to SEF 609**

Following the publication of SEF 609, the Commissioner received the submissions listed in Table 6. Table 6 summarises these submissions and where the commission has addressed those submissions in this report.

The Commissioner is not obliged to have regard to any submission in response to the SEF after 28 June 2023, if to do so would, in the Commissioner's opinion, prevent the timely preparation of the final report to the Minister.<sup>24</sup> The Commissioner may also disregard information for which an interested party did not provide a public summary unless it could demonstrate the information was correct.<sup>25</sup> However, in this instance the Commissioner considered all submissions made in response to SEF 609.

---

<sup>23</sup> EPR 609, Item 11.

<sup>24</sup> Section 269ZHF(4).

<sup>25</sup> Sections 269ZJ(5) and (6).

**PUBLIC RECORD**

<b>EPR item no.</b>	<b>Interested party</b>	<b>Date lodged</b>	<b>Issues raised</b>	<b>Chapter reference</b>
29	Goomax	25 June 2023	Adjustments to the duty method or floor price are required to account for higher aluminium prices during the review period.	2.6.6 7.2.2
30	Capral	26 June 2023	Capral welcomes the preliminary findings in SEF 609 but raised concerns with the combination duty method not being applied to all exporters. Capral also submits that the date of effect for measures on Qingyuan and Foshan Lvqiang should be backdated to the initiation date.	2.6.7 7.2.2 7.6.2
31	PMI	28 June 2023	PMI makes several comments which relate to issues outside of this review. PMI makes various submissions on the calculation of the ANV of exporters, including that it should reference contemporary aluminium prices, rather than prices from the review period. It also submits that the Commissioner should consider revoking the measures.	2.6.8 7.2.2
32	Kam Kiu	28 June 2023	Kam Kiu claims errors in the calculation of the dumping and subsidy margin and makes several submissions relating to the calculation of the export price and normal value, including in relation to the particular market situation findings. Kam Kiu raises concerns with the duty method applied to Kam Kiu. Kam Kiu makes further comments relating to issues outside of this review.	2.6.9 4.6.3 4.6.5 6.3 7.2.2
33	Kam Kiu	6 July 2023	Supplementary submission to EPR 32	2.6.9
34	PMI	7 July 2023	Supplementary submission to EPR 31	2.6.8
35	Capral	17 July 2023	Supplementary submission in response to Kam Kiu submission	2.6.7
36	Capral	18 July 2023	Supplementary submission in response to PMI submissions	2.6.7
37	Kam Kiu	26 July 2023	Supplementary submission to EPR 32 and to Capral submission	2.6.9
38	Capral	28 July 2023	Supplementary submission in response to Kam Kiu submission	2.6.7
39	PMI	1 August 2023	Supplementary submission in response to Capral submission	2.6.8
40	Capral	9 August 2023	Supplementary submission in response to PMI submission	2.6.7

**Table 6: Submissions received in response to SEF 609**

### **2.6.6 Submission to SEF 609 by Goomax**

In its 25 June 2023 submission, Goomax submits that during the review period, raw aluminium prices were at a peak, nearly 50% higher than the inquiry period for REP 543, and that these prices are much higher than contemporary prices and future expected prices.

Goomax submits that, as a result, the ANV, which is constructed using aluminium prices from the review period, is expected to be higher than future market prices. Goomax considers that the recommended floor price duty method is inappropriate and adjustments to the duty method or floor price are required.

Chapter 7.2.2 addresses this submission in detail.

### **2.6.7 Submissions to SEF 609 by Capral**

In its 26 June 2023 submission, Capral welcomes the commission's findings that the variable factors relevant to the goods exported from China have changed.

Capral claim that the ABF have identified significant avoidance of anti-dumping measures in relation to the goods. Capral does not elaborate on this further or provide examples. However, in Capral's view the combination duty method is the most effective duty method to limit avoidance. Capral specifically support the recommended combination duty method for Kam Kiu (which this report recommends). Capral also acknowledge that the floor price duty method "does operate in respect of cooperative exporters that have a designated zero dumping margin in a review...". Capral maintain that it is essential that the anti-dumping measures incorporate either a combination duty or a floor price, which is what this report recommends.

Chapter 7.2.2 addresses Capral's submission (and other parties' submissions) on the duty methods.

Capral further submits that the recommended date of effect for this review for Qingyuan and Foshan Lvqiang should be the initiation date.

Chapter 7.6.2 addresses Capral's submission on the date of effect.

Capral also made submissions after the due date on 17,18 and 28 July 2023 and 9 August 2023 in response to Kam Kiu and PMI's submissions. Capral supported all preliminary findings by the Commissioner in SEF 609 in respect of Kam Kiu, including:

- scope of the review
- export price
- normal value
- dumping duty methodology
- NIP.

Capral submits the following:



## PUBLIC RECORD

- based on significant increases in raw material prices since REP 543, it is reasonable for Australian industry to seek a review to ensure anti-dumping measures are effective and to address injurious dumping
- it refutes all of PMI's assertions concerning alleged substantial market power by Capral to reduce competition in the local aluminium extrusions industry
- it considers there is adequate explanation for the different dumping margins for selected exporters, in particular noting that the commission documented that Kam Kiu's export prices were non arms length and at a loss (unlike the other 3 selected exporters)
- it notes that the process of determining whether dumping has occurred is specific to the review period and that any changes or adjustments to the variable factors outside the investigation period cannot be considered in the review
- it disagreed with Kam Kiu's claims that measures should be revoked and there is no justification in SEF 609 to change the variable factors.

The Commissioner has considered these submissions after the due date. Given these submissions are generally supportive of the preliminary findings or respond to matters outside the scope of this review, this report does not specifically address them further.

### 2.6.8 Submission to SEF 609 by PMI

#### 2.6.8.1 General comments

In its 28 June 2023 submission (and its supplementary submission of 7 July 2023), PMI submits that the preliminary findings of SEF 609 are a concern because the object of varying the anti-dumping measures as proposed is not to prevent injury to Australian industry (of which PMI claims there is no such injury) nor to negate the comparative competitive advantage of Chinese exporters of the goods.

PMI made further comments about competition within the Australian market, including reference to Federal Court decision *Australian Competition and Consumer Commission v BlueScope Steel Limited (No 5)* [2022] FCA 1475. PMI alleges that Capral appears to be using the anti-dumping regime to reduce competition in the Australian market. PMI asks whether the commission requested the view of the ACCC in this review.

PMI also queries whether varying the variable factors are in the national interest.

PMI also made another supplementary submission on 1 August 2023. The commission considers the issues raised in that submission are already addressed below or in chapters 2.6.8.5 and 7.2.2 of this report.

#### *Commission's assessment*

Division 5 of Part XVB enables affected parties (such as Capral) to apply for a review of anti-dumping measures. Among other things, the division sets out the procedures to be followed by the Commissioner when conducting a review and empowers the Minister to leave the anti-dumping measures unaltered or to alter them as appropriate. The Commissioner has carried out the review in accordance with the Act.



## PUBLIC RECORD

The examination of matters raised by PMI and Kam Kiu, such as whether exports are causing material injury are outside the scope of a variable factors review. The Commissioner is not making a revocation recommendation under section 269ZDA(1A) in this case as the review does not extend to whether the anti-dumping measures are no longer warranted (chapter 2.6.8.5 discusses further the issue of revocation).

PMI and Kam Kiu's other general comments on Capral's purported motivations or objectives for seeking the review, competition in the Australian market and national interest considerations are also outside the scope of a variable factors review. The Commissioner considered these comments but has not addressed them in this report.

### 2.6.8.2 Updating variable factors

In its submission, PMI requests that the commission update the raw material prices (including primary aluminium and associated premiums) used in calculating the constructed normal value to reflect contemporary raw material prices.

The commission notes that PMI is a residual exporter with its variable factors calculated with reference to the variable factors of the selected exporters (see chapter 4.8). Accordingly, some of its submissions relate to the variable factors of other exporters. There are points which have been reiterated by these exporters, which are discussed in chapter 7.2.2.

### 2.6.8.3 Particular market situation

In its supplementary submission, PMI notes '*...that the cost of production in China in the 'constructed normal value' was calculated using a cost to make (CTM) based primary aluminium costs adjusted by reference to a benchmark.*' PMI goes on to submit that this calculation of the cost of production is inconsistent with the Article 2.2 of the World Trade Organization's (WTO) *Anti-Dumping Agreement (ADA)*.<sup>26</sup>

The commission did not directly calculate a cost of production for PMI, as it is a residual exporter, but it did for each of the selected exporters. The commission's approach, which directly addresses the issues raised by PMI, is in chapters 4.4.4, 4.5.4, 4.6.4 and 4.7.4, and appendices A2 and C3.

### 2.6.8.4 Profit

PMI submits that it is contradictory to use domestic sales to calculate profit when the commission has found there is a particular market situation.

The commission notes that it has not used a profit value from sales by PMI as it is a residual exporter. The particular market situation finding does not preclude the use of a profit from domestic sales.

Chapters 4.4.4, 4.5.4, 4.6.4 and 4.7.4 discuss the commission's use of domestic profit in constructing normal values for the selected exporters.

---

<sup>26</sup> *Agreement for the Implementation of Article VI of GATT 1994* 1868 U.N.T.S. 186.

#### 2.6.8.5 Revocation of measures

PMI submits that the Minister be requested to make a direction that a review be conducted as to whether the anti-dumping measures in respect of the goods be revoked.

##### *Commission's assessment*

Under section 269ZDA(1A), the Commissioner is prevented from making a revocation recommendation to the Minister unless a revocation review notice has been published in relation to the review.

The initiation notice invited affected parties to lodge an application with the Commissioner that the Commissioner consider extending the review to include possible revocation of the measures. No application was received before the due date, and accordingly, no revocation review notice was published.

#### **2.6.9 Submission to SEF 609 by Kam Kiu**

##### 2.6.9.1 Calculation of variable factors

Kam Kiu submits that the dumping and subsidy margin calculations are incorrect and that the commission should have examined the reasons behind why its dumping margin is vastly different to the dumping margins of other cooperating exporters. It claims that it was not provided a draft of the commission's calculations. The commission notes that this is factually incorrect, and that Kam Kiu confirmed in writing the accuracy of the calculations prior to the publication of its comparative assessment on the EPR.

Kam Kiu submits that its dumping margin should be revised to from 41.1% to 35.5% and the subsidy margin from 4.5% to 2.0%. After considering Kam Kiu's revised calculations, the commission has calculated an amended dumping margin of 37.1% and subsidy margin of 2.0%.

In relation to the difference between Kam Kiu's revised calculations and the commission's revised calculations, Kam Kiu submits that the profit margin for domestic sales (relevant to its constructed normal value) should only include alloys matching the same alloys exported to Australia.

The commission has already excluded high end goods from the profit margin, in accordance with the decision in ADRP 2019/104,<sup>27</sup> and Kam Kiu's allocation in its REQ. The commission also determined that Kam Kiu allocated high-end goods based on 'product usage' and not by alloys and that specific alloys can include both high-end and non-high-end goods. For these reasons, the commission does not accept Kam Kiu's claim to exclude certain alloys from the profit margin.

Kam Kiu claims that the calculation of the constructed normal value and deductive export price were not explained in the SEF. Kam Kiu states that these prices do not measure the price at which exports were sold into the Australian market.

---

<sup>27</sup> [ADRP 2019/104](#).

## PUBLIC RECORD

Chapter 4.6.3 of SEF 609 and chapter 4.6.3 of this report describes the commission's method relating to the deductive export price.

Chapter 4.6.4 of SEF 609 and chapter 4.6.4 of this report describes the commission's method relating to the normal value.

Further, appendices with the calculations of Kam Kiu's deductive export price and normal value (which contain confidential information relating to Kam Kiu and so have not been published) were provided to Kam Kiu for review prior to the publication of its comparative assessment.

Kam Kiu makes several comments specific to the calculation of its export price, including the commission's findings on arms length and the use of a deductive export price in its submission of 28 June 2023 and supplemental submissions of 6 and 26 July 2023. Chapter 4.6.3 discusses these comments.

Kam Kiu makes also submits that certain adjustments should be made to the calculation of its normal value. Chapter 4.6.5 discusses these comments.

### 2.6.9.2 Duty method

Kam Kiu submits the appropriate duty method for Kam Kiu's exports is the floor price method because the 'actual export price' on which the combination duty method depends is a deductive export price which cannot be determined in advance. Kam Kiu considers that a floor price would achieve the objectives of the anti-dumping measures.

Kam Kiu states the commission's advice and guidance is required on the administration of a floor price, as well as other duty methods, and on determining the 'actual export price.'

#### *Commission's assessment*

The deductive export price is used by the commission to calculate an AEP, which is based on data for the review period. Under the combination duty method, when goods subsequently enter the Australian market, any IDD payable is calculated:

- by applying a fixed rate of IDD and ICD (in Kam Kiu's instance, 37.1% and 2.0% respectively), plus
- a variable component, equal to the amount, if any, that the actual export price is below the AEP.

The deductive export price is not recalculated for each import, as it appears Kam Kiu is submitting.

The commission notes further that the administration and enforcement of IDD is the responsibility of the ABF. The ABF uses information provided in customs declaration forms submitted with imports to calculate the IDD payable. This process is the same as the process Kam Kiu currently participates in in respect of its exports of the goods, prior to this review.

### 2.6.9.3 Particular market situation

## PUBLIC RECORD

Kam Kiu makes several comments in its submission of 28 June 2023 (and its later supplemental submission) concerning the commission's particular market situation analysis, including:

- the effect of the particular market situation is not known by the commission
- there is a market situation in Australia
- analysis that Chinese exports of aluminium extrusions have a comparative advantage over extrusions made in Australia due to Australia being a high cost, high price jurisdiction is flawed, because:
  - the constructed normal values were calculated to eliminate the effects of the particular market situation, however, despite a constructed normal value, selected exporters were found not to be dumping. Accordingly, there is no comparable advantage afforded to Chinese sales (except for Kam Kiu, which is explained due to the existing duty method applying to its exports).
  - there was no assessment of Australian industry costs and prices.
  - exporters do not compete in and supply the Australian market, but compete in a global market for the goods, and therefore, the Australian market is not the relevant market to whether a proper comparison is possible between Chinese and export prices.

### *Commission's assessment*

The commission's particular market situation analysis for China is contained in Appendix A to SEF 609 as well as in Appendix A to this report. It sets out in detail the commission's assessment of the domestic market for the goods in China and the evidence upon which the Commissioner has relied in concluding that there is a particular market situation in respect of the goods in China.

The existence of dumped goods is not central in making this conclusion, as a particular market situation analysis examines the conditions in the domestic market for China, whereas dumping considers both domestic and export prices.

Accordingly, it appears that Kam Kiu's comments in relation to the comparative advantage of Chinese exporters and the presence of a market situation in Australia relate more to the proper comparison analysis conducted by the commission.

Kam Kiu submits that the lack of dumping by some Chinese exporters negates the commission's argument that Chinese exporters have a comparative advantage over Australian industry. It also submits, as the commission understands, that if there is such an advantage, it is because Australian prices are higher than they would otherwise have been because of Australian government interference, and that this interference has created a particular market situation in Australia.

Kam Kiu has provided no evidence in support of this claim, nor what the consequences of such a claim, if supported, would have on the calculation of the normal value. As noted by Kam Kiu, some cooperating exporters were found not to be dumping during the review period. The commission notes that two large exporters, Qingyuan and Foshan Lvqiang, were found to be dumping. Noting that a significant volume of goods are dumped, the

negative dumping margins for some exporters does not negate the findings of the commission's proper comparison analysis.

The commission also does not accept the relevance of Kam Kiu's submission that the appropriate market for comparison is the 'global market.' The relevant market in this review is the Australian market for the goods. Further, section 269TAC(2)(a)(ii) provides '*...the market of the country of export is such that sales in that market are not suitable for use in determining a price under subsection (1)*', with section 269TAC(1) referring to '*...the normal value of any goods exported to Australia...*'. Neither section 269TAC nor any other section of Division 5 refer to a 'global market'.

#### 2.6.9.4 Updating variable factors

In its submission, Kam Kiu requests that the commission update the raw material prices (i.e., primary aluminium and associated premiums) used in calculating the constructed normal value to reflect contemporary prices.

Chapter 7.2.2 addresses this submission.

#### 2.6.9.5 Non-injurious price

Kam Kiu submits that the Commissioner should give the Minister the information necessary to decide on whether to apply the lesser duty rule, including calculation of a NIP.

Chapter 6.3 discusses this submission.

#### 2.6.9.6 Other issues

Kam Kiu makes several comments in its submission of 28 June 2023 and its supplemental submissions of 6 and 26 July 2023 which are not relevant to this review, including:

- that competition issues and the national interest should be considered as part of the review
- that a review involves the Minister being satisfied that dumping is causing material injury to Australian industry<sup>28</sup>, and
- a request for a revocation of anti-dumping measures (addressed in chapter 2.6.8.5)

These issues were considered by the Commissioner but were determined to be outside the scope of this review and so have not been addressed in this report.

---

<sup>28</sup> Kam Kiu submits in its 28 July 2023 submission that a review involves an examination of whether dumping is causing material injury to domestic industry and criticizes the lack of such analysis in SEF 609. The commission disagrees with this reading of Division 5 and considers no such analysis is necessary. Chapter 2.6.8.1 in respect of a similar comment by PMI provides further comment.

## **PUBLIC RECORD**

### **2.7 Public record**

The public record contains non-confidential submissions received from interested parties, non-confidential versions of the commission's verification reports and other publicly available documents. It is available online via the EPR at: [www.adcommission.gov.au](http://www.adcommission.gov.au)

Interested parties should read this in report in conjunction with documents on the public record.

## 3 THE GOODS AND LIKE GOODS

### 3.1 Finding

The Commissioner considers that the locally manufactured aluminium extrusions are like goods to the goods to which measures apply. The Commissioner considers that there is an Australian industry, which comprises predominantly Capral, producing like goods, and that the like goods are wholly or partly manufactured in Australia.

### 3.2 Legislative Framework

The review of measures must establish relevant variable factors in respect of the goods that are exported to Australia from the subject countries and the like goods that are sold in the relevant domestic market. Section 269T(1) defines like goods as:

*goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.*

The definition of like goods is relevant in the context of this review in determining the normal value of goods exported to Australia, the NIP and the goods subject to the anti-dumping measures. The commission's framework for assessing like goods is outlined in chapter 2 of the *Dumping and Subsidy Manual* (the Manual).<sup>29</sup>

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- I. physical likeness
- ii. commercial likeness
- II. commercial likeness
- III. functional likeness
- IV. production likeness.

The Commissioner must also consider whether the 'like' goods are in fact produced in Australia. Section 269T(2) specifies that for goods to be regarded as being produced in Australia, they must be either wholly or partly manufactured in Australia. Under section 269T(3), in order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia. The following therefore establishes the scope of the commission's review.

---

<sup>29</sup> Available on the commission's website.

### 3.3 The goods

#### 3.3.1 Goods subject to measures

The goods subject to the anti-dumping measures and this review are:

*Aluminium extrusions produced via an extrusion process, of alloys having metallic elements falling within the alloy designations published by The Aluminium Association commencing with 1, 2, 3, 5, 6 or 7 (or proprietary or other certifying body equivalents), with the finish being as extruded (mill), mechanical, anodized or painted or otherwise coated, whether or not worked, having a wall thickness or diameter greater than 0.5 mm, with a maximum weight per metre of 27 kilograms and a profile or cross-section which fits within a circle having a diameter of 421 mm.*

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.

Table 7 below provides guidance to assist the categorisation of aluminium extrusions into the types covered by interim duties (goods under consideration (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 7: GUC and non-GUC classification**



### 3.3.2 Tariff classification

The goods are generally, but not exclusively, classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:<sup>30</sup>

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
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 8: General tariff classification for the goods**

### 3.4 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.

---

<sup>30</sup> These tariff classifications and statistical codes may include goods that are both subject and not subject to the anti-dumping measures. The listing of these tariff classifications and statistical codes are for reference. Please refer to the goods description for authoritative detail regarding goods subject to the anti-dumping measures.

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

**PUBLIC RECORD**

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 9: 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.

### **3.5 Like goods assessment**

Based on the above, the commission considers that aluminium extrusions manufactured by the Australian industry has characteristics closely resembling the goods exported to Australia as:

- the primary physical characteristics of the goods and locally produced goods are similar
- the goods and locally produced goods are commercially alike as they are sold to common customers and directly compete in the same market
- the goods and locally produced goods are functionally alike as they have the same end uses
- the manufacturing process for locally produced goods and the goods are similar.

Therefore, the Commissioner is satisfied that the Australian industry for aluminium extrusions produces like goods to the goods the subject of the application, as defined in section 269T(1).

## 4 VARIABLE FACTORS – DUMPING DUTY NOTICE

### 4.1 Finding

The Commission found that the variable factors, being the export price and normal value, relevant to the determination of dumping duty payable under the Dumping Duty Act changed in respect of the goods exported to Australia from China.

The revised variable factors result in different dumping margins. The dumping margins<sup>32</sup> are set out in the table below.

Exporter	Dumping margins
Goomax	-7.5%
Kam Kiu	37.1%
Jinxiecheng	-7.7%
Xingfa	-1.8%
Residual exporters	-1.1%
Uncooperative exporters	37.1%

**Table 10: 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.

---

<sup>32</sup> Calculated under section 269TACB.

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 Exporter status**

#### **4.3.1 Cooperative exporters**

Section 269T(1) provides that, in relation to a review, 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:

- PMI
- Panasia Nanyang
- Luoxiang Aluminium Co., Ltd
- Guangdong Xingqiu Aluminium Co., Ltd
- Guangdong JMA Aluminium Profile Factory (Group) Co., Ltd
- Guangdong Jihua Aluminium Co., Ltd
- Guangdong Haomei New Materials Co., Ltd
- Foshan Shangyou Hardware Decoration products
- Guang Ya Aluminium Industries Co., Ltd
- Fujian Minfa Aluminium Inc
- Foshan Yuze Aluminium Co., Ltd
- Foshan Yatai PVC & Alu Co., Ltd

## PUBLIC RECORD

- Foshan Xingtaomei Aluminium Industry Co., Ltd
- Foshan Sanshui Fenglu Aluminium Company Limited
- Fenan Aluminum Co., Ltd
- Foshan City Nanhai Yongfeng Aluminium Co., Ltd
- Foshan City Sanshui Yongya Aluminium Co., Ltd
- Foshan JMA Aluminium Co., Ltd
- Guangdong Weiye Aluminium Factory Group.

Foshan Lvqiang requested to be a residual exporter and submitted a residual exporter questionnaire. However, the Commissioner has determined that Foshan Lvqiang is an uncooperative exporter.

Foshan Lvqiang was one of the largest exporters of the goods for the review period based on the ABF database. At initiation of the review, the Commissioner requested that 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>33</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. The Commissioner was subsequently unable to examine information about a large volume of goods exported during the review period.

### 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

---

<sup>33</sup> Review 609, Selected Exporter Questionnaire, p4.

## PUBLIC RECORD

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 - Antai and XinYueYa

Exporters Antai and XinYueYa, did not participate in this review, but separately sought Accelerated Review Nos 618 and 619 (AR 618 and AR 619). Following completion of the accelerated reviews, on 11 July 2023 and 31 July 2023, the Minister accepted recommendations that different variable factors relevant to the determination of duty have effect in respect of Antai and XinYueYa, respectively.<sup>34</sup>

The rates and dates of effect are below:

Exporter	IDD Method	ICD Method	Effective fixed rate of IDD and ICD	Date of effect
Antai	Floor price	Ad valorem	2.1%	Date of application (3 March 2023)
XinYueYa	Floor price	Ad valorem	0.2%	Date of application (24 March 2023)

**Table 11: Antai and XinYueYa IDD and ICD rates**

For the reasons explained below, the Commissioner recommends that the Minister not alter the variable factors Antai and XinYueYa as part of this review.

Section 269ZDA(3)(a) prescribes the matters the Commissioner must have regard to when deciding on the recommendations to be made to the Minister in the final report in relation to a review. In addition, section 269ZDA(3)(b) provides that the Commissioner may have regard to 'any other matter considered to be relevant to the review'.

The Commissioner has taken into account their findings and the Minister's decisions in AR 618 and AR 619 in this review. The commission observes that AR 618 and AR 619 examined a more recent period than the review period. The commission considers it is reasonable to conclude that the variable factors ascertained in the accelerated reviews are more relevant than those calculated in this review and should not be replaced with less contemporaneous variable factors.

As a result, any references in this report to uncooperative exporters or non-cooperative entities does not include Antai and XinYue Ya.

---

<sup>34</sup> Details of these accelerated reviews can be found on the commission's EPR.

### Traders/Intermediaries

The Manual 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 Verification**

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

---

<sup>35</sup> Confidential Attachment 30 – Residual Exporter Analysis.



## PUBLIC RECORD

Goomax is accurate and reliable for the purpose of ascertaining variable factors applicable to its exports of the goods.

The Commission is satisfied that the goods have been exported to Australia otherwise than by the importer and were purchased in arms length transactions by the importer from the exporter (Goomax). Therefore, the export price in respect of the goods exported by Goomax has been determined under section 269TAB(1)(a), as the price paid by the importer less transport and other costs arising after exportation.

A report covering the verification findings is available on the public record.<sup>36</sup> The Commissioner has found that the export price and normal value relevant to the determination of IDD payable has changed in respect of the goods exported by Goomax to Australia.

### **4.4.2 Submissions relating to Goomax received prior to SEF**

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.

---

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

*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 REP 543.

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.

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**)

## PUBLIC RECORD

- 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 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 in accordance with section 44(2) of the *Customs (International Obligations) Regulation 2015 (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 in accordance with 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

## PUBLIC RECORD

the relevant GAAP and that the records reasonably reflect the costs associated with the production and sale of the goods.

However, 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 in accordance with 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>
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 12: 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, in accordance with section 269TACB(2)(a).

The 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 Verification**

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.

The Commission is satisfied that the goods have been exported to Australia otherwise than by the importer and were purchased in arms length transactions by the importer from the exporter (Jinxiecheng). Therefore, the export price in respect of the goods exported by Jinxiecheng has been determined under section 269TAB(1)(a), as the price paid by the importer less transport and other costs arising after exportation.

A report covering the verification findings is available on the public record.<sup>37</sup> The Commissioner has 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.

#### **4.5.2 Submissions relating to Jinxiecheng received prior to SEF**

##### 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 ANV and the export price of the goods. See chapter 4.5.5.

---

<sup>37</sup> EPR 609, Item 22.

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.

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



## PUBLIC RECORD

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 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

---

<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.



## PUBLIC RECORD

- 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.

#### **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 in accordance with 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 in accordance with 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.

## PUBLIC RECORD

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 in accordance with 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 packaging	Add an amount for export packaging
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 13: 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, in accordance with section 269TACB(2)(a).

The 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 Verification**

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 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.

### **4.6.2 Submissions relating to Kam Kiu received prior to SEF 609**

#### a) Export price

Capral notes at section B-1 of the REQ, Kam Kiu confirmed 3 related parties engage 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.

#### *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.

---

<sup>39</sup> EPR 609, Item 22.

## PUBLIC RECORD

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 ANV and the export price of the goods.

### 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.

---

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

*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 are 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.

**4.6.3.1 Submissions relating to Kam Kiu's export price**

In its submission of 28 June 2023, Kam Kiu questioned why the commission considers its export sales at a loss are not arms length and submits that as they should have been

found to be at arms length and that there are no grounds for calculating a deductive export price. Kam Kiu submits that the reason its Australian sales were made at a loss is because of the application of anti-dumping duties on Kam Kiu's exports. As exports were made on Delivered Duty Paid terms (meaning that any relevant duties have been paid when the goods are received by the importer), the price already included the anti-dumping duties.

#### *Commission's assessment*

The commission understands Kam Kiu's argument is that:

- its sales are arms length, and the only reason they appear not to be arms length is because of IDD, or
- if the sales are not arms length, IDD must be considered to ensure a fair comparison with the normal value.

The commission's findings as to the arms length nature of Kam Kiu's export sales are consistent with REP 543.<sup>41</sup> As stated in the comparative assessment, the commission found that based on the affiliated network and close relationships between the Kam Kiu, KHK and KAU, the price was influenced by a commercial or other relationship between these entities (Kam Kiu's submission, which states '*The revenue to the corporate group would be the same even if there any reimbursement*'<sup>42</sup> appears to confirm this finding). In addition, the sales by KHK to its Australian customers at a loss indicates that KHK may be directly or indirectly reimbursed, compensated, or otherwise benefit in connection with these sales.

The deduction of duty is consistent with findings in ADRP Report No 129<sup>43</sup>, which concerned the Minister's findings in respect of another Chinese exporter, PanAsia, who also had a deductive export price in REP 543. Among other things, PanAsia argued that it is not appropriate to deduct the amount of IDD paid in relation to the goods. The ADRP rejected this argument, stating '*As s.269TAB(1)(b) and s.269TAB(2)(a) of the Act, properly construed, required that the amount of interim dumping duty paid on the importation of the goods be deducted when calculating the export price for PanAsia China's exports...*'. The commission has applied this reasoning to Kam Kiu, whose exports to Australia are consistent in nature to PanAsia in REP 543.

#### **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).

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

---

<sup>41</sup> Kam Kiu verification report, EPR 543, Item 44.

<sup>42</sup> Kam Kiu submission, EPR 32, p3.

<sup>43</sup> [ADRP 2020/129](#).

## PUBLIC RECORD

- 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 in accordance with 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 in accordance with 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 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.

**APPENDIX C** 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 in accordance with 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 credit terms	Deduct an amount for domestic credit
Domestic packaging	Deduct an amount for domestic packaging
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 packaging	Add an amount for export packaging

**Table 14: Summary of adjustments – Kam Kiu**

##### 4.6.5.1 Submissions relating to adjustments to Kam Kiu’s normal value

In its submission of 28 June 2023, Kam Kiu submitted the commission should make the following adjustments to its normal value pursuant to section 269TAC(8):

- an adjustment to ensure a proper comparison with the deductive export price, specifically, an amount equal to the IDD paid should be deducted, because these duties are not paid in the Chinese domestic market
- an adjustment to the normal value should be made to ‘...take account of the level of trade difference, that is KAE’s sales to KHK are to a trading company, whereas sales to entities in China are distributors.’<sup>44</sup>

##### *Commission’s assessment*

Section 269TAC(8) provides, relevantly, that where the normal value is the price paid or payable for like goods, and that price and the export price of the exported goods are modified in different ways by taxes or the terms or circumstances of the sales to which they relate, then that price paid or payable for like goods is taken to be a price adjusted so that those differences would not affect its comparison with that export price.

Here, as the commission understands it, Kam Kiu submits that as no IDD are paid on domestic like goods, but IDD is included in the deductive export price, a deduction should be made to the normal value to account for this difference.

Adjustments under section 269TAC(8) are made under when the normal value is the price paid or payable for like goods. Here, Kam Kiu’s normal value is a constructed normal value under section 269TAC(2)(c), which is not a price paid or payable for like goods. Nonetheless, the commission has considered whether an adjustment is required under section 269TAC(9), which applies when the normal value is ascertained under section 269TAC(2)(c).

---

<sup>44</sup> Kam Kiu submission, EPR 32, p11.



The commission notes that the deductive export price does not include IDD (or ICD). The commission discusses this in relation to Kam Kiu's similar point regarding the export price in chapter 4.6.3.1. The commission does not consider that the deduction of an IDD amount from Chinese domestic prices, which Kam Kiu states do not include a similar IDD, would ensure a fair comparison. The commission considers that such a deduction on this basis would distort such a comparison.

In respect of a level of trade adjustment, the commission notes that Kam Kiu's basis for this claim is that its domestic Chinese sales are to distributors. However, according to Kam Kiu's domestic sales data, most of its sales are to end-users. Further, Kam Kiu did not make a claim for such an adjustment in its REQ and has not provided evidence to commission on what effect such a difference in level of trade (if it did exist) would have on price. The commission finds that Kam Kiu has not substantiated a basis to make such an adjustment, nor provided the necessary evidence that would be required for the commission to do so.

#### **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, in accordance with section 269TACB(2)(a).

The dumping margin for Kam Kiu is **37.1%**.

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 Verification**

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.

The Commission is satisfied that the goods have been exported to Australia otherwise than by the importer and were purchased in arms length transactions by the importer from the exporter (Xingfa). Therefore, the export price in respect of the goods exported by Xingfa has been determined under section 269TAB(1)(a), as the price paid by the importer less transport and other costs arising after exportation.

A report covering the verification findings is available on the public record.<sup>45</sup> The Commissioner has 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.

---

<sup>45</sup> EPR 609, Item 22.

#### **4.7.2 Submissions relating to Xingfa received prior to SEF**

In its 30 September 2022 submission, Capral raised concern with Xingfa's REQ<sup>46</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.

In its 25 October 2022 submission<sup>47</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>48</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')

---

<sup>46</sup> EPR 609, Item 5.

<sup>47</sup> EPR 609, Item 11.

<sup>48</sup> EPR 609, Item 11, Confidential Attachment 1.

## PUBLIC RECORD

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 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
- 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:

## PUBLIC RECORD

- 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 in accordance with 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 in accordance with 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*

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 in accordance with section 269TAC(9). The commission considers these

## PUBLIC RECORD

adjustments to be necessary to ensure a fair comparison of normal values and export prices.

Adjustment Type	Deduction/addition
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 15: 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, in accordance with section 269TACB(2)(a).

The 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 Residual exporters

### 4.8.1 Export price

The export price for residual exporters has been calculated in accordance with 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. Chapter 4.3.2 lists all residual exporters.

### 4.8.2 Normal value

The normal value for residual exporters has been calculated in accordance with 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.

### 4.8.3 Dumping margin

The dumping margin in respect of the goods exported to Australia by residual exporters for the review period is **negative 1.1%**.

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

## 4.9 Uncooperative exporters

In accordance with section 269TACAB(1), the commission considers all exporters of the goods from China are uncooperative exporters, except for Goomax, Jinxicheng, Kam Kiu, Xingfa and those exporters classed as residual exporters, listed in chapter 4.3.2.

## PUBLIC RECORD

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

### 4.9.1 Export price

In accordance with 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.

### 4.9.2 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.

### 4.9.3 Dumping margin

The dumping margin in respect of the goods exported to Australia by uncooperative exporters for the review period is **37.1%**.

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



## **5 VARIABLE FACTORS – COUNTERVAILING**

### **5.1 Finding**

The Commissioner 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 subsidy margins in relation to aluminium extrusions exported to Australia during the review period are summarised in the table below.

Exporter	Subsidy margin
Goomax	0.7%
Jinxiecheng	0.0%
Kam Kiu	2.0%
Xingfa	0.3%
Residual exporters	0.5%
Non-cooperative entities	10.1%

**Table 16: 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 received prior to SEF**

*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 REP 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 REP 543.

**5.3.2 Submissions in respect to Jinxiecheng received prior to SEF**

*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 REP 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 5.4.2 provides further detail.

**5.3.3 Submissions in respect of Xingfa received prior to SEF**

*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 5.4.2 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 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 also as non-cooperative entities.

The Commissioner has also identified that those exporters classed as residual exporters in chapter 4.3.2 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.

**PUBLIC RECORD**

**5.4.2 Additional programs identified in this review**

During the review, the commission identified the following additional 53 programs that were not considered during the original investigation under which entities received a subsidy in relation to exports of the goods to Australia during the review period:<sup>49</sup>

<b>Program Name</b>	<b>Exporter</b>	<b>New Program No</b>
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 an/d 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
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 labor service subsidy for enterprise interprovincial labor service cooperation	Goomax	609-14
Provincial-level reward of green factory	Goomax	609-15
Settlement subsidy for college graduates	Goomax	609-16

<sup>49</sup> SEF 609 identified a potential 62 additional programs. However, following a confidential submission by Kam Kiu on the determination of its subsidy margin, the commission is satisfied that 9 of the potential subsidies provided under Programs 609-28 to 609-36 in SEF 609 were made and were fully expensed outside of the review period, thus there are 53 additional programs outlined in Table 17.

**PUBLIC RECORD**

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
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

**PUBLIC RECORD**

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
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 17: Subsidies 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. The table outlines the commission's finding in respect of each program.<sup>50</sup> They constituted a mixture of program types<sup>51</sup>. All were found to be countervailable subsidies.

<sup>50</sup> The equivalent table in SEF 609 included additional Programs 609-28 to 609-36. Following a confidential submission by Kam Kiu on the determination of its subsidy margin, the commission is satisfied that subsidies provided under these programs were made and were fully expensed outside of the review period. They have therefore been removed from the table.

<sup>51</sup> Grants, Less than adequate remuneration, Tax, and Tariff and VAT Exemptions. The commission generally groups subsidy programs under such program types for administrative convenience, for example when issuing questionnaires, often there are common questions for the subsidy programs for the same type.

**PUBLIC RECORD**

<b>Program Number<sup>52</sup></b>	<b>Program Name</b>	<b>Program Type</b>	<b>Countervailable subsidy (Yes/No)</b>
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
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

---

<sup>52</sup> Program numbers up until no 117, refer to programs from the original investigation or subsequent reviews/inquiries into the goods. Programs identified in this review begin with 609.

**PUBLIC RECORD**

<b>Program Number<sup>52</sup></b>	<b>Program Name</b>	<b>Program Type</b>	<b>Countervailable subsidy (Yes/No)</b>
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
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



**PUBLIC RECORD**

<b>Program Number<sup>52</sup></b>	<b>Program Name</b>	<b>Program Type</b>	<b>Countervailable subsidy (Yes/No)</b>
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
110	Environmental Protection Subsidy from Nan'an City Dongtian Government	Grant	Yes



**PUBLIC RECORD**

<b>Program Number<sup>52</sup></b>	<b>Program Name</b>	<b>Program Type</b>	<b>Countervailable subsidy (Yes/No)</b>
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<sup>52</sup></b>	<b>Program Name</b>	<b>Program Type</b>	<b>Countervailable subsidy (Yes/No)</b>
609-14	One-time labor service subsidy for enterprise interprovincial labor 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	Yes
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
609-37	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

**PUBLIC RECORD**

<b>Program Number<sup>52</sup></b>	<b>Program Name</b>	<b>Program Type</b>	<b>Countervailable subsidy (Yes/No)</b>
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
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

**PUBLIC RECORD**

Program Number <sup>52</sup>	Program Name	Program Type	Countervailable subsidy (Yes/No)
609-62	2013 provincial information industry development special fund for modern information service industry special project	Grant	Yes

**Table 18: Subsidies considered in this review**

The commission’s assessment of each subsidy program is in **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
- The new programs listed against Goomax in Table 17 from 609-1 to 609-18.

The commission examined the evidence provided and found that Goomax 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 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:<sup>53</sup>

- 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

---

<sup>53</sup> In SEF 609, the commission had found that Kam Kiu had also received a benefit from Programs 609-28 to 609-36. However, following a confidential submission by Kam Kiu in relation to these programs, the commission is satisfied that any subsidies provided were made and were fully expensed outside of the review period.

## PUBLIC RECORD

- Program 107 – 2018 special fund support project fund  
Program 108 – Jiangmen municipal support science and technology development funds in 2019
- The new programs listed against Kam Kiu in Table 17 from 609-18 to 609-27.

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 **2.0%**.

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.
- The new programs listed against Jinxiecheng in Table 17 from 609-37 to 609-38.

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
- The new programs listed against Xingfa in Table 17 from 609-39 to 609-62.

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 4.3.2 lists all residual exporters.

## PUBLIC RECORD

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

Based on the information available, the commission has calculated a subsidy margin (to one decimal place) for residual exporters of **0.5%**.<sup>54</sup>

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.

The Commissioner has assumed that non-cooperative entities benefited from all non-regional countervailable subsidies and the highest region-specific subsidy. The Commissioner considers that this approach avoids the potential for a double count of similar programs between regions.

The subsidy margin for each program is the higher of the following:

- the margins applicable to each program type based on the most recent findings made by the commission in respect of aluminium subsidies provided to manufacturers (REP 543)
- the margins calculated for each program for cooperating 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 **10.1%**.<sup>55</sup>

The commission's countervailable subsidy calculations for non-cooperative 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.

---

<sup>54</sup> This changed from 0.9% in SEF 609 due to a recalculation of Kam Kiu's subsidy margin. See footnote 53.

<sup>55</sup> This changed from 11.3% in SEF 609 due to a recalculation of Kam Kiu's subsidy margin. See footnote 53.

## PUBLIC RECORD

Exporter	Subsidy Margin
Goomax	0.7%
Jinxiecheng	0.0%
Kam Kiu	2.0%
Xingfa	0.3%
Residual exporters	0.5%
Non-cooperative entities	10.1%

**Table 19: Summary of countervailable subsidy programs received by each exporter**

## 6 NON-INJURIOUS PRICE

### 6.1 Assessment of non-injurious price

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

However, 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>56</sup>

- the normal value of the goods was not ascertained under section 269TAC(1) because of the operation of section 269TAC(2)(a)(ii) (i.e. there is a particular market situation)
- 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>57</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 WTO *Agreement on Subsidies and Countervailing Measures* 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.

---

<sup>56</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>57</sup> As defined in the *Customs (Definition of 'small-medium enterprise') Determination 2013*.



### **6.3 Submissions relating to the non-injurious price**

Kam Kiu submits that the presence of a particular market situation is irrelevant when considering setting a dumping margin sufficient to prevent or remove injury to Australian industry caused by dumping. Further, Kam Kiu submits that as it is at the discretion of the Minister, the Commissioner ought to provide the Minister with the necessary information, including a NIP, to make such a decision.

Kam Kiu submits that the Commissioner should recommend a NIP that is the lowest and current un-dumped export price of aluminium extrusions being exported to Australia, whether from countries from which exports are subject to anti-dumping measures or from countries from which exports are not subject to anti-dumping measures.

### **6.4 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, uncooperative exporters and non-cooperative entities 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 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 Commissioner recommends that the Minister exercise their discretion not to apply a lesser amount of duty. The commission considers that it is reasonable for residual and other exporters to receive the same outcome as selected cooperating exporters in the circumstances of this case. This is because although the normal value for residual exporters, uncooperative exporter and non-cooperative entities 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).

#### **6.4.1 Conclusion**

The Commissioner recommends that in relation to all exporters from China, the Minister consider 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.

#### **6.4.2 Calculation of a NIP**

The Commissioner notes that, notwithstanding the recommendation in this report, the Minister may still decide to apply a lesser amount of duty. If so, the commission has calculated a NIP in this review. The commission's calculation of the NIP is at **Confidential Attachment 27**.

## PUBLIC RECORD

The legislation does not prescribe a method of calculating a NIP, but there are several methods outlined in the Manual.<sup>58</sup> The commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This commission refers to this price as the USP.

The Manual provides that the commission will normally use the following approaches, in order of preference, for establishing a USP, subject to the facts of the case:

- Australian industry's selling prices in a period unaffected by dumping or subsidisation
- the constructed approach, using the Australian industry's CTMS plus a reasonable amount for profit
- selling prices of undumped and unsubsidised imports in the Australian market.

Anti-dumping measures have been in place for the goods since 2010 and as set out in chapters 4 and 5, the commission has determined that dumping and subsidisation has continued. The commission considers Australian industry prices from before this time are too dated to be an accurate representation of contemporary Australian industry prices in a market unaffected by dumping and subsidisation.

The commission further considers that the presence of significant volumes of dumped and subsidised imports in the Australian market affects the pricing of undumped and unsubsidised imports. Based on these reasons the commission rejects Kam Kiu's claim to recommend a NIP that is the lowest and current un-dumped export price of aluminium extrusions exported to Australia. Therefore, consistent with the approach taken in REP 543, the commission has established a USP using the constructed approach, having regard to:

- the weighted average CTMS for Australian industry members in the inquiry period
- a reasonable amount for profit.

The commission has calculated a CTMS for Australian industry using data provided by Capral. The commission has also used Capral's profit for the review period.

The Commissioner has calculated a NIP by deducting from the USP the costs incurred in getting the goods from an export FOB point in China to the relevant level of trade in Australia. The deductions include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

---

<sup>58</sup> The Manual, chapter 24.

## 7 OUTCOME OF REVIEW

### 7.1 Finding

The Commissioner finds that, in relation to the goods exported to Australia from China during the review period, for all exporters except Antai and XinYueYa:

- the AEP has changed
- the ANV has changed
- the amount of countervailable subsidy received in respect of the goods has changed.

The Commissioner recommends that the Minister not apply a lesser amount of duty.

### 7.2 Dumping duty methods available

#### 7.2.1 Introduction

The dumping duty methods available to the Minister are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013*. In relation to IDD, they are:

- fixed duty method
- 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>59</sup>

The duty methods all have the purpose of removing the injurious effects of dumping. However, in achieving this purpose, certain duty methods will better suit particular circumstances than others. In considering which duty methods 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>60</sup> and relevant factors applicable to the market for the goods.

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

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

---

<sup>59</sup> Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

<sup>60</sup> The Guidelines are available on the commission's website.

- 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.

### **7.2.2 Submissions on the form of dumping duty method and calculation of IDD**

In its 25 June 2023 submission, Goomax submits that the use of the floor price duty method is inappropriate because increased aluminium costs during the review period have led to a higher ANV (and therefore, a higher floor price), compared to costs that would currently apply. Goomax submits that lower aluminium costs in the future could lead to lower export prices, which may be subject to IDD if those lower prices fall below the floor price. PMI makes similar points in its submission dated 28 June 2023.

Kam Kiu, in its submission dated 28 June 2023, submits that the floor price duty method should be applied to its exports, rather than the combination duty method.

Capral, in its submission of 26 June 2023, notes its preference for the combination duty method, because in its view it is the most effective in limiting the avoidance of anti-dumping measures.

Capral supports the combination duty method recommended for Kam Kiu. Capral also appear to support the floor price duty method where cooperative exporters have a zero dumping margin, noting that the floor price is similar to the variable component of the combination duty method.

Capral does note it has '*...concerns about the combination form of measures not being applied to all exporters in China due to the high avoidance of measures...*'.<sup>61</sup>

#### *Commission's assessment*

The commission considers that the submissions outlined above appear to raise two separate issues:

- whether more contemporaneous variable factors should apply to calculate future IDD, based on data from outside of the review period, rather than variable factors from the review period.
- which is the most appropriate dumping duty method to be applied to respective exporters.

#### Floor prices and the review period

In conducting reviews, it is the commission's established practice to ascertain the variable factors for a period which is usually the 12 months preceding the initiation date (which is then referred to as the review period).<sup>62</sup> Setting a review period is consistent with the conduct of investigations, which are also carried out for defined periods.

---

<sup>61</sup> Capral submission, EPR 609, Item 30.

<sup>62</sup> Manual, page 129.

## PUBLIC RECORD

The review period for this review is outlined in the initiation notice. Setting a defined review period is transparent, provides certainty to all interested parties about the conduct of the review and allows for the verification of data and timely delivery of findings. This review has been carried out on this basis.

The commission acknowledges there has been movement in aluminium raw material prices both across the review period and following the review period.<sup>63</sup> Having set a review period and verified data from the review period, the commission has not examined the impact of those raw material price changes on variable factors such as the normal values and export prices outside of the review period.

The commission also notes that there are currently high levels of inflation and uncertainty in global markets.<sup>64</sup> Therefore, there is no certainty as to whether current aluminium raw material prices are sustained, or more representative, than the prices verified in the review period.

The commission considers that the variable factors from the review period should be used in calculating future IDD, consistent with its established practice.

The commission notes that the Act provides that importers can apply for a duty assessment to have their final duties payable calculated, with any IDD paid above the final duty payable refunded. In addition, if affected parties consider that variable factors in respect of the goods have changed (i.e., because there has been a change in raw material prices), they can apply for another review of variable factors 12 months following this review.

### Dumping duty methods

The commission's consideration of the appropriate duty methods is informed by its published duty guidelines<sup>65</sup> and past cases.

The commission notes Capral's concerns that the combination duty method is not recommended for all exporters in this review. However, the commission considers the floor price duty method is appropriate for exporters with zero or negative dumping margins during a review period. This recommendations in this review are consistent with past cases for aluminium extrusions. The commission considers that the floor price is effective at preventing avoidance of anti-dumping measures, in situations where there is no dumping. The alternative is a combination duty method with a fixed component of 0%. A floor price duty method and a combination duty method with a 0% fixed component achieve a similar outcome, although use of the combination method for parties that are not dumping could in the future lead to adverse outcomes in certain circumstances, as outlined below.

The commission notes that the combination duty method uses the AEP in determining the variable amount of duty payable, rather than the ANV which is used in a floor price. The

---

<sup>63</sup> <https://www.lme.com/Metals/Non-ferrous/LME-Aluminium#Price+graphs>

<sup>64</sup> *Statement by Philip Lowe, Governor: Monetary Policy Decision*, Reserve Bank of Australia, 1 August 2023 <https://www.rba.gov.au/media-releases/2023/mr-23-19.html>

<sup>65</sup> The guidelines acknowledge that there are advantages and disadvantages to all duty methods.

commission also notes that for exporters with a negative dumping margin, as is the case here for residual exporters, an exporter may export goods at a price equal to the ANV (and therefore not be dumping) but be liable to pay IDD under the combination duty method. This is because in this circumstance if this was to occur, the actual export price would be less than the AEP because the AEP has been found to be higher than the ANV for these exporters (and hence, the negative dumping margin). Accordingly, the commission considers it would not be appropriate to apply the combination method to exporters that did not dump in this review.

In relation to Kam Kiu, the commission notes that in past cases relating to aluminium extrusions, the combination duty method has been used for exporters with positive dumping margins (dating back to when the measures were imposed). A combination duty method is also suited where there are complex company structures with related parties. Kam Kiu was found in the review to be dealing at non-arms length terms with its related parties in exporting the goods to Australia, which supports the recommendation for a combination duty method.

### **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 Commissioner recommends that this form of measures continue.

### **7.4 Avoidance of 'double-counting'**

The commission has found that several entities received countervailable subsidies under Program 15 – *Aluminium provided at less than adequate remuneration*. **APPENDIX D** discusses this program in detail.

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*

## PUBLIC RECORD

*subsidy finding, it is necessary to ‘back out’ the relevant subsidy from the dumping margin in order to avoid any double counting.<sup>66</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 exporters, the dumping margin calculations already address the impact of Program 15 on 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 dumping and subsidy margin with Program 15	Combined dumping and subsidy margin with Program 15 backed-out
Goomax	-7.5%	0.7%	0.7%	0.7%
Kam Kiu	37.1%	2.0%	39.1%	38.5%
Jinxiecheng	-7.7%	0.0%	0.0%	0.0%
Xingfa	-1.8%	0.3%	0.3%	0.3%
Residual exporters	-1.1%	0.5%	0.5%	0.5%
Uncooperative exporters and non-cooperative entities	37.1%	10.1%	48.4%	42.9%

**Table 20: Dumping and subsidy margins, considering Program 15**

### 7.5 Commission’s assessment – dumping duty methods

In relation to Goomax, Jinxiecheng, Xingfa and residual exporters, the Commissioner 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 recommends that, in relation to uncooperative exporters and non-cooperative entities, 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

---

<sup>66</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

- 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).

Exporter	IDD Method	ICD Method	Effective rate of combined ICD and IDD	Variable component of IDD	Date of effect
Goomax	Floor price	Ad valorem	0.7%	Applicable only where the actual export price is below the ANV.	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	0.4%		
Kam Kiu	Combination	Ad valorem	38.5%	Applicable only where the actual export price is below the AEP.	Date of publication of the SEF
Uncooperative exporters and non-cooperative entities (except Qingyuan and Foshan Lvqiang)	Combination	Ad valorem	42.9%		
Qingyuan and Foshan Lvqiang	Combination	Ad valorem	42.9%		

**Table 21: Summary of effective ICD and IDD**

### 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 section (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>67</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.

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%).

---

<sup>67</sup> EPR 609, Item 1.



## PUBLIC RECORD

Foshan Lvqiang and Qingyuan's rates of interim duty were first set in February 2020 following *Accelerated Review No 530 (AR 530)*<sup>68</sup> and July 2021 following *Accelerated Review No 581 (AR 581)*,<sup>69</sup> respectively.<sup>70</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 ANV, 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>71</sup>

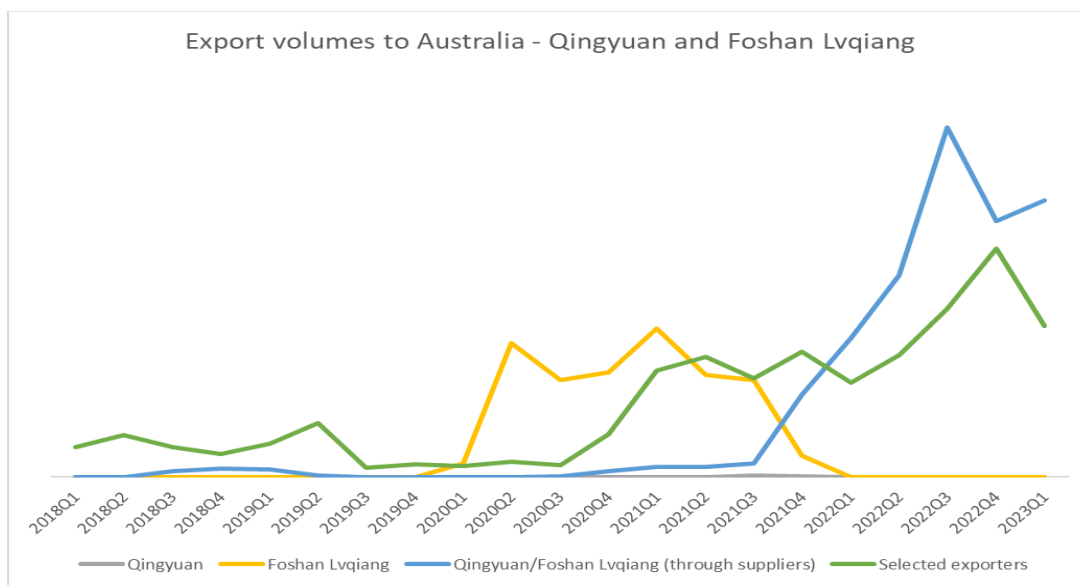


Figure 1: Export volumes to Australia by Qingyuan and Foshan Lvqiang<sup>72</sup>

<sup>68</sup> Which examined a period, 1 October 2018 to 30 September 2019.

<sup>69</sup> Which examined a period, 1 January 2020 to 31 December 2020.

<sup>70</sup> Reports on both reviews are available on the commission's website.

<sup>71</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.

<sup>72</sup> Confidential Attachment 31 – Export volume analysis – Qingyuan and Foshan Lvqiang.

## PUBLIC RECORD

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 2.4.2 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. However, 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:

*However, 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>73</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 of 37.1% and 10.1%, respectively.

This means that during the review period and while the commission has been conducting this review of variable factors, 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 Submissions on the date of effect

In its 26 June 2023 submission, Capral agrees that the intended effect of the measures on Qingyuan and Foshan Lvqiang have not been achieved and submits that the proposed recommended date of effect for measures for these exporters be the date of commencement of the review, that is, the date of initiation of 8 August 2022.

---

<sup>73</sup> EPR 609 – Selected Exporter Questionnaire.

Capral does not consider that backdating the measures to the publication of the SEF remedies injury caused by these exports, noting that the publication of SEF 609 was extended by 182 days. Backdating any measures only to the SEF provides an additional benefit to these exporters.

#### *Commission's assessment*

The Commissioner's general practice is to recommend a date of effect for any change to variable factors that is the date of publication of the Minister's decision. However, the specific circumstances outlined above in respect of Qingyuan and Foshan Lvqiang are such that the Commissioner considers a different approach is necessary.

As noted by Capral, the publication of the SEF was extended on multiple occasions. The reasons for these extensions were provided in the ADNs published on the EPR. Noting this, if the effective date was backdated to the initiation date, importers may be prevented from making a claim for a duty assessment for some of the backdated period by the operation of section 269V(2). This section provides that an application for a duty assessment must be lodged not more than 6 months after the end of a particular importation period.

After considering these factors, the Commissioner considers that backdating the updated variable factors to the SEF publication date is the most appropriate and practical for Qingyuan and Foshan Lvqiang and other stakeholders. This balances concerns related to the effectiveness of the measures and those concerns raised by Capral, against providing notice to interested parties of the changed interim duty rates through the SEF and the opportunity for importers to lodge a duty assessment on related imports.

#### **7.6.3 Conclusion**

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 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 the SEF, 8 June 2023.

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.

## 8 RECOMMENDATIONS

### 8.1 Findings

In respect of aluminium extrusions exported to Australia from China, for all exporters except Antai and XinYueYa the Commissioner found that:

- the AEP has changed
- the ANV has changed
- the amount of countervailable subsidy received in respect of the goods has changed.

### 8.2 Recommendations

**The Commissioner recommends the Minister declare:**

- in accordance with sections 269ZDB(1)(a)(iii) of the Act and the Dumping Duty Act, that the dumping duty notice, and the countervailing duty notice in relation to exports of the goods to Australia from China:
  - with effect from the date of publication of the notice declaring the outcome of the review, are taken to have effect as if different variable factors had been fixed relevant to the determination of duty in relation to particular exporters, namely all exporters except Qingyuan, Foshan Lvqiang, Antai and XinYueYa.<sup>74</sup>
  - with effect from the date of publication of SEF 609, being 8 June 2023, are taken to have effect as if different variable factors had been fixed relevant to the determination of duty in relation to particular exporters, namely Qingyuan and Foshan Lvqiang.

**The Commissioner recommends the Minister Direct:**

- in accordance with section 269TAB(2)(c), that, for the purpose of the prescribed deductions under section 269TAB(1)(b), in relation to the sales of the goods that have been exported to Australia from China by Kam Kiu, the rate of profit as set out in Confidential Attachment 11 of REP 609, is to be regarded as the rate of profit on the sale by the importer.

**The Commissioner recommends the Minister determine:**

- for the purpose of section 269TAC(2)(c)(i), and in accordance with sections 269TAC(5A), 269TAAD(4) and the Regulation, the amounts for the cost of production or manufacture of the goods produced by Goomax, Jinxiecheng, Kam Kiu and Xingfa are as set out in chapter 4 of REP 609 and Confidential Attachments 2, 7, 12 and 18.

---

<sup>74</sup> The dumping duty notice and countervailing duty notice were recently altered so as to fix different variable factors for Antai and XinYueYa following AR 618 and AR 619. The Minister accepted recommendations in REP 618 on 11 July 2023 refer [ADN 2023/037](#) and for REP 619 on 31 July 2023 refer ADN 2023/039. The variable factors for Antai were declared to have effect from 3 March 2023 and for XinYueYa from 24 March 2023 following completion of AR 618 and AR 619.

## PUBLIC RECORD

- for the purpose of section 269TAC(2)(c)(ii), and in accordance with sections 269TAC(5A), 269TAAD(4) and the Regulation, the administrative, selling and general costs associated with the sale of the goods produced by Goomax, Jinxiecheng, Kam Kiu and Xingfa are as set out in chapter 4 of REP 609 and Confidential Attachments 2, 7, 12 and 18.
- for the purpose of section 269TAC(2)(c)(ii), and in accordance with section 269TAC(5B) and the Regulation, the profit on the sale of the goods produced by Goomax, Jinxiecheng, Kam Kiu and Xingfa is as set out in chapter 4 of REP 609 and Confidential Attachments 3, 8, 13 and 19.
- being satisfied that section 269TAB(1)(a) applies, that the export price for the goods exported to Australia from China by Goomax, Jinxiecheng and Xingfa is the price paid by the importer to the exporter, less transport and other costs arising after exportation, as set out in chapter 4 of REP 609 and Confidential Attachments 1, 6, 11 and 17.
- being satisfied that section 269TAB(1)(b) applies, that the export price for goods exported to Australia from China by Kam Kiu, through importer KHK, is the price at which the goods were sold by KHK to a person who is not an associate of the importer, less prescribed deductions, as set out in chapter 4.6.3 of REP 609 and Confidential Attachment 11.
- in accordance with section 269TACAB(2)(c), that the export price of the goods exported to Australia from China by exporters categorised as 'residual exporters', is a price not less than the weighted average export price for like goods of selected cooperative exporters from China, as set out in chapter 4.8.21 of REP 609 and Confidential Attachment 21.
- in accordance with section 269TAB(3), having regard to all relevant information, the export price of the goods exported to Australia from China by exporters categorised as 'uncooperative exporters', as set out in chapter 4.9.1 of REP 609 and Confidential Attachment 21.
- in accordance with section 269TAC(2)(c), the normal value of the goods exported to Australia from China by Goomax, Jinxiecheng, Kam Kiu and Xingfa, as set out in chapter 4 of REP 609 and Confidential Attachments 3,8,13 and 19.
- in accordance with section 269TAC(9), adjustments be made so as to ensure the normal value of the goods exported from China by Goomax, Jinxiecheng, Kam Kiu and Xingfa is properly comparable with the corresponding export price of the goods exported from China by each exporter, as set out in Tables 12, 13, 14 and 15 of REP 609 and Confidential Attachments 3, 8,13 and 19.
- In accordance with section 269TACAB (2)(d) the normal value of the goods exported to Australia from China by exporters categorised as 'residual exporters', being a price not exceeding the weighted average normal value for like goods of selected cooperative exporters from China, as set out in chapter 4.8.2 of REP 609 and Confidential Attachment 21.
- in accordance with section 269TAC(6), normal values of the goods exported to Australia from China by exporters categorised as 'uncooperative exporters' from China, as set out in chapter 4.9.2 of REP 609 and Confidential Attachment 21.

## PUBLIC RECORD

- having applied section 269TACB(2)(a) and in accordance with section 269TACB(1), the dumping margins for all exporters from China in respect of the goods exported to Australia is the difference between the weighted average export prices of the goods over the whole of the review period and the weighted average of corresponding normal values over the whole of that period, as set out in chapter 4 of REP 609 and Confidential Attachments 5, 10, 15, 20 and 21.
- in accordance with sections 269TACC(1),(2) and (3) having regard to all relevant information that the financial contributions provided under the countervailable subsidies set out in chapter 5 of REP 609 have conferred a benefit.
- having regard to sections 269TAAC(2) and (3), and in accordance with sections 269TAAC(4) and (5), that the subsidies identified as countervailable in chapter 5.4 of REP 609.
- in accordance with section 269TACD(1) and (2), the amount of countervailable subsidy received in respect of the goods exported to Australia from China by:
  - Goomax, as the amount set out in chapter 5.5.1, which when expressed as a percentage of the export price, is 0.7% and Confidential Attachment 22.
  - Kam Kiu, as the amount set out in chapter 5.5.2 which when expressed as a percentage of the export price, is 2.0% and Confidential Attachment 23.
  - Jinxi Cheng, as the amount set out in chapter 5.5.3, which when expressed as a percentage of the export price, is 0.0% and Confidential Attachment 24.
  - Xingfa, as the amount set out in chapter 5.5.4 which when expressed as a percentage of the export price, is 0.3% and Confidential Attachment 25.
  - exporters categorised as 'residual exporters,' as the amount set out in chapter 5.5.5, which when expressed as a percentage of the weighted average export price of selected exporters, is 0.5% and Confidential Attachment 26.
- in accordance with section 269TAACA, after having regard to all the facts available and having made reasonable assumptions, that a countervailable subsidy has been received in respect of the goods exported to Australia by exporters categorised as 'non-cooperative entities' from China and that the amount of the countervailable subsidy received is as set out in chapter 5.5.6 of REP 609 and Confidential Attachment 26.

### **The Commissioner recommends that the Minister be of the opinion that:**

- in accordance with section 269TAF(1), if comparison of export prices of goods exported to Australia from China and corresponding normal values requires a conversion of currencies, the rate of exchange that best establishes the material terms of the sale is as set out in Confidential Attachments 1, 6, 11 and 17.

### **The Commissioner recommends the Minister be satisfied:**

- in accordance with section 269TAC(2)(a)(ii), the normal value of the goods exported to Australia from China cannot be ascertained under section 269TAC(1) because the situation in the market of China is such that sales in that market are not suitable for use in determining a price under section 269TAC(1).



## PUBLIC RECORD

- in accordance with section 269TAB(3), sufficient information has not been furnished and is not available, to enable the export price of the goods exported to Australia by exporters categorised as 'non-cooperative entities' from China to be determined under section 269TAB(1).
- in accordance with section 269TAC(6), sufficient information has not been furnished and is not available to enable the normal value of the goods exported to Australia by exporters categorised as 'uncooperative and exporters' from China to be ascertained under the preceding provisions of section 269TAC (other than section 269TAC(5D)).
- in accordance with section 269TACD(1), countervailable subsidies have been received in respect of the goods by Goomax, Jinxiecheng, Kam Kiu and Xingfa, exporters categorised as 'residual exporters' and exporters categorised as 'non-cooperative entities', as set out in chapter 5 of REP 609 and Confidential Attachments 22, 23, 24 and 25.

### **The Commissioner recommends that the Minister ascertain and declare that:**

- in accordance with sections 8(5) and 8(5BB) of the Dumping Duty Act, that the IDD payable on the goods exported to Australia from China by Kam Kiu and exporters categorised as 'uncooperative and exporters' is an amount which will be worked out in accordance with the combination duty method, as set out in chapter 7.5 of this report, in accordance with sections 5(2) and 5(3)(a) of the *Customs Tariff (Anti-Dumping) Regulation 2013*, with effect from the date of publication of the signed notice with the exception of Qingyuan and Foshan Lvqiang where IDD payable will take effect from the publication of the SEF, as set out in chapter 7.6 of this report.
- in accordance with sections 8(5) and 8(5BB) of the Dumping Duty Act, the IDD payable on the goods exported to Australia from China by Goomax, Jinxiecheng, Xingfa and exporters categorised as 'residual exporters' is an amount which will be worked out in accordance with the floor price duty method, as set out in chapter 7.5 of this report, in accordance with section 5(4) of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

**9 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



**PUBLIC RECORD**

<b>Confidential Attachment 22:</b> Goomax – Subsidy Margin
<b>Confidential Attachment 23:</b> Kam Kiu – Subsidy Margin
<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> Non-injurious Price
<b>Confidential Attachment 28:</b> Aluminium Benchmark
<b>Non-confidential Attachment 29:</b> Announcement on Deferred Payment of Income Tax
<b>Confidential Attachment 30:</b> Residual Exporter Analysis
<b>Confidential Attachment 31:</b> Export Volume Analysis – Qingyuan and Foshan Lvqiang
<b>Confidential Attachment 32:</b> Proper Comparison Market Analysis
<b>Confidential Attachment 33:</b> Aluminium Price Analysis
<b>Confidential Attachment 34:</b> Australian Market
<b>Confidential Attachment 35:</b> Market Situation – Chinese market
<b>Confidential Attachment 36:</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>75</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.

---

<sup>75</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.

## **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 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>76</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*

---

<sup>76</sup> The Manual, p. 36.

*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>77</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>78</sup>

### **A3 Assessing particular market situation in this inquiry**

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 (DISR)
- information from third party information providers
- OECD Trade Policy Paper, *Measuring distortions in international markets: Below-market finance*<sup>79</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>80</sup>
- the US International Trade Administration's memorandum on *China's Status as a Non-Market Economy*<sup>81</sup>
- other desktop research
- particular market situation assessments in relation to relevant cases between 2010 and 2020, such as:
  - Investigation No 148 in relation to aluminium extrusions
  - Investigation No 181 in relation to aluminium road wheels
  - Reinvestigation No 204 in relation to aluminium road wheels
  - Review No 248 in relation to aluminium extrusions
  - Review No 263 in relation to aluminium road wheels
  - Inquiry No 287 in relation to aluminium extrusions.
  - Inquiry No 378 in relation to aluminium road wheels
  - Review No 392 in relation to aluminium extrusions
  - Investigation No 442 in relation to aluminium extrusions
  - Review No 482 in relation to aluminium extrusions
  - Inquiry No 543 in relation to aluminium extrusions

---

<sup>77</sup> The Manual, p. 29.

<sup>78</sup> The Manual, p. 29.

<sup>79</sup> OECD Trade Policy Paper, *Measuring distortions in international markets: Below-market finance* (May 2021).

<sup>80</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>81</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.

## PUBLIC RECORD

The commission did not receive a response to the government questionnaire from the GOC for this review. This has impeded 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>82</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.

### **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:

---

<sup>82</sup> 609 – SEF – Confidential Attachment 31 – Proper Comparison Market Analysis – Aluminium % of total CTM.

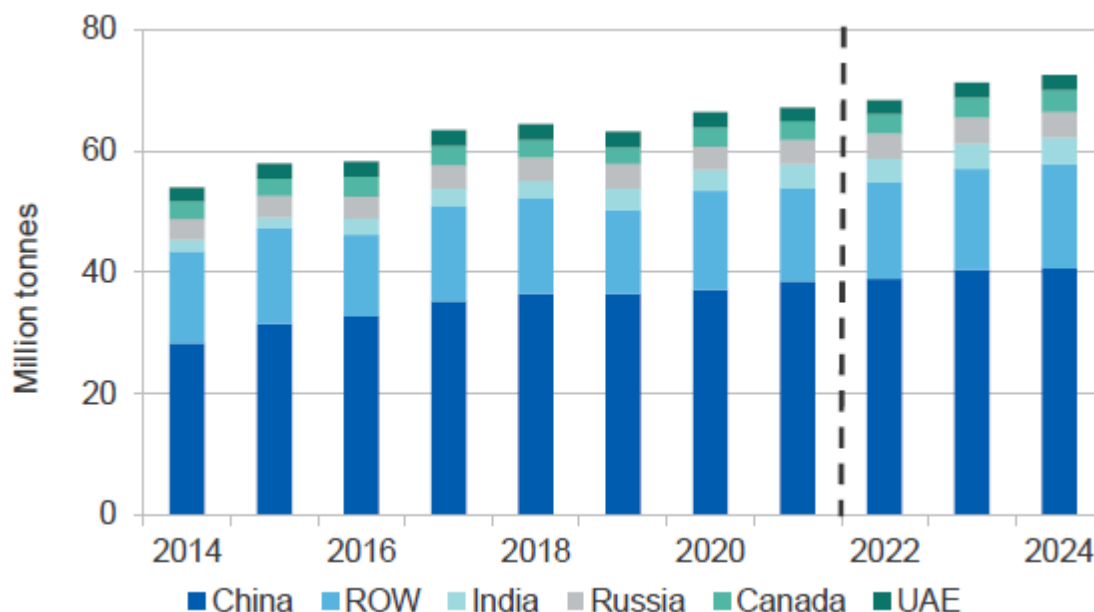


Figure 2: World primary aluminium production<sup>83</sup>

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>84</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>85</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>86</sup>

The LME sport 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>87</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

<sup>83</sup> Office of the Chief Economist, DISR, Resources and Energy Quarterly June 2022, p. 114.

<sup>84</sup> Office of the Chief Economist, DISR, Resources and Energy Quarterly September 2022, p. 117.

<sup>85</sup> Office of the Chief Economist, DISR, Resources and Energy Quarterly December 2022, p. 114.

<sup>86</sup> Office of the Chief Economist, DISR, Resources and Energy Quarterly June 2022, p. 118.

<sup>87</sup> Ibid p. 118.

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>88</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>89</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>90</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>91</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 impact in terms of resolving the underlying causes of market distortions, principally excess production capacity.

---

<sup>88</sup> Office of the Chief Economist, DISR, Resources and Energy Quarterly September 2022, p. 115.

<sup>89</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/timthreadgold/2019/12/03/aluminum-surplus-worsens-signalling-a-price-fall-and-plant-closures-in-the-new-year/>.

<sup>90</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>91</sup> AME Group, *Aluminium Strategic Market Study 2018 Q2*; Office of the Chief Economist, DISR, *Resources and Energy Quarterly Report March 2018*.



## 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>92</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>93</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>94</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>92</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>93</sup> Terence Bell, *The Biggest Aluminum Producers of 2018* (1 April 2020) *ThoughtCo* <https://www.thoughtco.com/the-10-biggest-aluminum-producers-2339724>.

<sup>94</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.



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>95</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

---

<sup>95</sup> 《国务院关于进一步加强的通知》 [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').

- implementing and encouraging environmental measures.<sup>96</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 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>97</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>98</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>99</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

---

<sup>96</sup> See EPR 263 Item 51, p. 85.

<sup>97</sup> See EPR 263 Item 51, p. 85.

<sup>98</sup> Office of the Chief Economist, DISR, *Resources and Energy Quarterly (December 2015)*, p. 47.

<sup>99</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/>.

## PUBLIC RECORD

- 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>100</sup>
    - promoting innovation in science and technology<sup>101</sup>
    - support regional development and the development of special regions<sup>102</sup>
    - promoting economical and intensive resource use.<sup>103</sup>
  3. 12<sup>th</sup> Five-Year Plan of China (2011–2015):<sup>104</sup>
    - promoting the restructuring of key industries<sup>105</sup>
    - promoting the orderly relocation of urban enterprises for non-ferrous metals<sup>106</sup>
    - planning of mergers and reorganisation of enterprises<sup>107</sup>
    - promoting the development of small and medium enterprises.<sup>108</sup>
  4. The GOC Guidelines:
    - objectives for structural adjustment within the Chinese primary aluminium industry<sup>109</sup>
    - measures to accelerate structural adjustment of the primary aluminium industry.<sup>110</sup>
  5. *Non-Ferrous Metal Industry Adjustment and Revitalisation Plan*:<sup>111</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.

---

100 《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).

101 《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.

102 Ibid chs. 37, 40.

103 Ibid ch. 43.

104 《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).

105 Ibid ch. 9.

106 Ibid ch. 9.

107 Ibid ch. 9.

108 Ibid ch. 9.

109 GOC Guidelines ch. 2.

110 Ibid ch. 3.

111 《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).

6. *Chinese Non-Ferrous Metal Industry Development Plan (2016–2020)*:<sup>112</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
  - 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>113</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>114</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.

---

<sup>112</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>113</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>114</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).

### 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>115</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>116</sup>

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>117</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>118</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>119</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>120</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)

---

<sup>115</sup> Electricity accounts for around 40% of primary aluminium production costs: see EPR 263 Item 51, p. 100.

<sup>116</sup> EC 2017 Report p. 218.

<sup>117</sup> EC 2017 Report p. 390.

<sup>118</sup> AME Group, *Aluminium Strategic Market Study 2018 Q2*, ch. 3.

<sup>119</sup> OECD, *Measuring Distortions in International Markets: The Aluminium Value Chain* (OECD Trade Policy Paper 218, published 2019).

<sup>120</sup> OECD, *Measuring distortions in international markets: Below-market finance* (OECD Trade Policy Paper, May 2021) p.66.

or below-market equity (e.g., government equity infusions and below-market equity returns)<sup>121</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>122</sup>
- below-market finance has found to play a key role in favoring certain aluminium and semiconductor producers<sup>123</sup>
- 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>124</sup>
- below-market energy inputs improved the profitability of certain aluminium smelters<sup>125</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>126</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>127</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

---

<sup>121</sup> Ibid p.5.

<sup>122</sup> OECD, *Measuring distortions in international markets: Below-market finance* (OECD Trade Policy Paper, May 2021) p.4.

<sup>123</sup> Ibid p.5.

<sup>124</sup> Ibid p.9.

<sup>125</sup> Ibid p.32.

<sup>126</sup> Ibid p.40.

<sup>127</sup> Ibid p.49.



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>128</sup> An example of the SBMR's market interventions includes the purchase and sale of aluminium from its stockpile to support the domestic market.

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 A5.2 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

---

<sup>128</sup> The SBMR is situated in the NDRC.

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>129</sup>

Previous commission cases into aluminium extrusions exported to Australia from China have identified several subsidy programmes received by Chinese exporters. Chapter 5 discusses 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>130</sup>
- 13<sup>th</sup> Five-Year Plan of China (2016–2020, made effective 2016)<sup>131</sup>
- 12<sup>th</sup> Five-year Plan of China (2011–2015, made effective 2011)<sup>132</sup>
- *Guidelines for Accelerating the Restructuring of the Aluminium Industry* (2006)<sup>133</sup>
- *Non-Ferrous Metal Industry Adjustment and Revitalisation Plan* (2009)<sup>134</sup>
- *Chinese Non-Ferrous Metal Industry Development Plan (2016–2020)*<sup>135</sup>
- *Industrial Structure Adjustment Guidance Catalogue* (2011, amended 2013).<sup>136</sup>  
The commission notes this catalogue has been replaced by a new version effective 1 January 2020.<sup>137</sup>

---

<sup>129</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>130</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/>

<sup>131</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>132</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>133</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/zwqk/2006-04/28/content\\_268675.htm](http://www.gov.cn/zwqk/2006-04/28/content_268675.htm).

<sup>134</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/zwqk/2009-05/11/content\\_1310436.htm](http://www.gov.cn/zwqk/2009-05/11/content_1310436.htm).

<sup>135</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>136</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/zxqzf/zf\\_ztzt/qyfw/qyzcfb/864520173205128.html](http://www.zhenxing.gov.cn/zxqzf/zf_ztzt/qyfw/qyzcfb/864520173205128.html).

<sup>137</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).



- the GOC Guidelines (2010)
- *Normalisation Criteria on the Aluminium Industry* (2013).<sup>138</sup> The commission notes these criteria have been replaced by a new version effective 28 February 2020<sup>139</sup>
- *General Office of the State Council on Promoting Central Enterprises: Guidance on Structural Adjustment and Restructuring* (2016).<sup>140</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>141</sup>

- *Notice on Several Opinions to Guide the Healthy Development of Industry: Curbing Overcapacity and Redundant Construction in Certain Industries* (2009)<sup>142</sup>
- *Guiding Opinions on Accelerating the Merger and Acquisition and Reorganisation in Key Industries* (2013)<sup>143</sup>
- *Three-Year Action Plan to Win the Blue Sky War* (2018–2020, published 2018).<sup>144</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.

---

138 《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.

139 《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.

140 《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).

141 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).

142 《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).

143 《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).

144 《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).

## **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, 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.

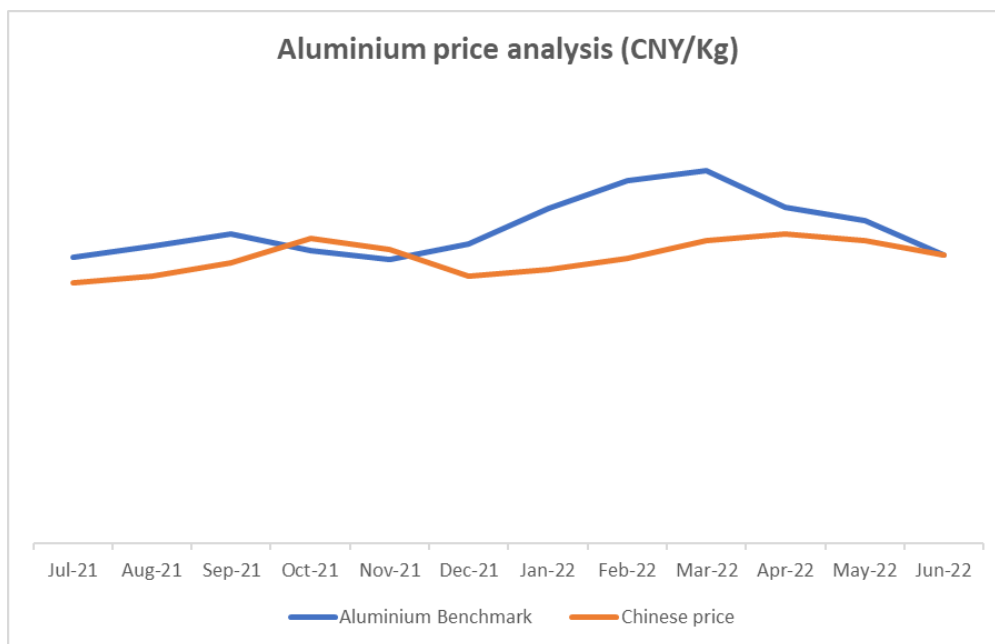


Figure 3: Monthly primary aluminium prices<sup>145</sup>

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

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 inquiry period which may result in domestic sales in China being found not suitable 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 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.

---

<sup>145</sup> Confidential Attachment 33 – Aluminium price analysis.

## **PUBLIC RECORD**

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 **APPENDIX B**.

## APPENDIX B PROPER COMPARISON OF DOMESTIC AND EXPORT PRICES

### 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 price

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 ADA and the WTO Panel's interpretation of the obligations set out in this Agreement in *Australia – Anti-Dumping Measures on A4 Copy Paper*.<sup>146</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.

---

<sup>146</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).

## **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 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>147</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

---

<sup>147</sup> EPR 543, Item 61.

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 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>148</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

---

<sup>148</sup> Confidential Attachment 28 – Aluminium Benchmark – Exporter purchaser volumes.



percentage of total purchase cost) for all exporters was higher than the total benefit found in REP 543.<sup>149</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.

### **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>150</sup> In REP 543, imports accounted for 41% of sales in the Australian market and of this 41%, China represented 63%.<sup>151</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,

---

<sup>149</sup> Confidential Attachment 28 – Aluminium Benchmark – WA benefit summary.

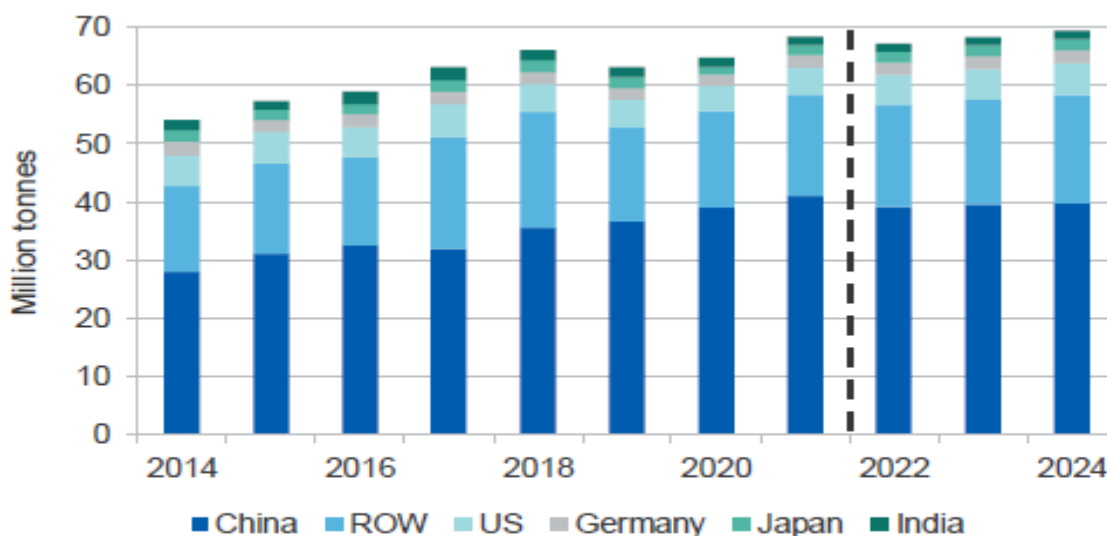
<sup>150</sup> Confidential Attachment 34 – Australian Market.

<sup>151</sup> EPR 543, Item 61.

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.



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

Figure 4: Global consumption primary aluminium<sup>152</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>153</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.

<sup>152</sup> Office of the Chief Economist, DISR, *Resources and Energy Quarterly September 2022*, p.116.

<sup>153</sup> Confidential Attachment 35 – Market situation – Chinese market.

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>154</sup> The commission compared the CTM by finish type for each cooperative exporter between the domestic and Australian markets.

The commission observed that, for Goomax, Jinxi Cheng 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>155</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, Jinxi Cheng 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>156</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 very 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>157</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.

---

<sup>154</sup> Confidential Attachment 32 – Proper Comparison Market Analysis – Aluminium cost % of CTM.

<sup>155</sup> Confidential Attachment 32 – Proper Comparison Market Analysis – Dom v Export CTM.

<sup>156</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>157</sup> Confidential Attachment 32 – Proper Comparison Market Analysis – Dom sales by MCC.

## PUBLIC RECORD

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>158</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, that 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 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>159</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>160</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>161</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>162</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

---

<sup>158</sup> Confidential Attachment 32 – Proper Comparison Market Analysis – Export sales by MCC.

<sup>159</sup> Confidential Attachment 32 – Proper Comparison Market Analysis – CTM margin comparison.

<sup>160</sup> Confidential Attachment 36 – Price Undercutting Analysis – Undercutting by MCC.

<sup>161</sup> Confidential Attachment 36 – Price Undercutting Analysis – Undercutting by MCC.

<sup>162</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.

quarters of the review period.<sup>163</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
  - 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.

---

<sup>163</sup> Confidential Attachment 32 – Proper Comparison Market Analysis – FOB China v other countries.

## **PUBLIC RECORD**

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 VALUE

### 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 value**

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>164</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

---

<sup>164</sup> The Manual, page 51.

## PUBLIC RECORD

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 costs therefore are most relevant to the commission's assessment of whether Chinese exporters' records reflect competitive market costs. The commission has examined in **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 CIF 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 28**.

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 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.

## PUBLIC RECORD

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 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>165</sup> In that case the Appellate 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>166</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.

---

<sup>165</sup> DS379 United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China.

<sup>166</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].



## **D2.1 Assessment of existing programs**

### **D2.1.1 Program 15 – Aluminium provided at less 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 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 C4) 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 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.



## **PUBLIC RECORD**

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 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 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-cooperative entities would purchase such raw materials to manufacture the goods.

The commission considers that the amount of countervailable subsidy, and in turn the subsidy margin for Program 15 to apply to non-cooperative 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 nee technology**

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 AEP 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.

## PUBLIC RECORD

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 AEP 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.

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 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:

<b>Program Number</b>	<b>Program Name</b>
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

**PUBLIC RECORD**

Program Number	Program Name
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
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

**PUBLIC RECORD**

Program Number	Program Name
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 22: Existing subsidy programs where no benefit was reported during the review period**

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 entities, should be determined by reference to the subsidy margin established in REP 543, being the most recent relevant inquiry.

However, no amount of countervailable subsidy 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)	<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>	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><i>Limited to companies in Fujian province</i></p> <p>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.</p> <p>The eligibility criterion to receive the grant was that enterprises in Nan'an city participated in domestic exhibitions.</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 the 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 enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
609-2	Provincial-level special subsidy for promoting stable production and employment of industrial enterprises	This program was identified by Goomax in its REQ for Review 609.	Goomax provided evidence in its REQ that this program is administered by the Nan'an Municipal Bureau of Industry and	<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</p>	Grants provided under this program are financial contributions by a government which involve the direct	<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</p>

**REP 609 – Aluminium Extrusions – China**

**PUBLIC RECORD**

	during Spring Festival 2021 (2021-Grant 12)	The commission is not aware of any WTO notification for this program.	Information Technology and Nan'an Municipal Finance Bureau.	<p>electricity fees during the Chinese New Year 2021.</p> <p>There were no specific eligibility criteria to receive the grant and no application process.</p>	<p>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>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>
609-3	Reward for increasing production and efficiency of Nan'an City during New Year's Day and Spring Festival 2021 (2021-Grant 13)	<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>	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><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 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>

**REP 609 – Aluminium Extrusions – China**

**PUBLIC RECORD**

					<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>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 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 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>



**PUBLIC RECORD**

609-5	Provincial and municipal level special fund for trade 2021 (2021-Grant 16)	<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	The 3rd batch of talent rewards for supporting enterprise restructuring, listing and over-the-counter listing in 2021 (2021-Grant 17)	<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</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</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</p>

**PUBLIC RECORD**

				<p>was being a Quanzhou listed backup enterprises.</p>	<p>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>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>
609-7	<p>Subsidy fund for exhibitions in the first half of 2021 (2021-Grant 18)</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 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</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>

**PUBLIC RECORD**

					subsidy under section 269T.	
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 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>
609-9	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</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</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</p>

**REP 609 – Aluminium Extrusions – China**

**PUBLIC RECORD**

				<p>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>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>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 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 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>

**REP 609 – Aluminium Extrusions – China**

**PUBLIC RECORD**

					The financial contributions made under this program meet the definition of a subsidy under section 269T.	
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>	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><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 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.</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</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><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>	Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.	<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</p>

**REP 609 – Aluminium Extrusions – China**

**PUBLIC RECORD**

		notification for this program.			<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>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 enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
609-13	Provincial-level reward fund for "Specialized-Refinement-Innovation" small and medium-sized enterprises of 2021 (2022-Grant 2)	<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>	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><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</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</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 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.</p> <p>Eligibility is limited to certain enterprises and therefore favouring particular enterprises</p>

**PUBLIC RECORD**

				<p>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</p> <ul style="list-style-type: none"> <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 development institution. It's research and development expenditures in the past two years accounted for more than 3% of its operating income. It's 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.</li> </ul> <p>Operation and management, the company adopts advanced management methods with a</p>	<p>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>over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
--	--	--	--	--	---	---

**REP 609 – Aluminium Extrusions – China**



**PUBLIC RECORD**

				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.		
609-14	One-time labour service subsidy for enterprise interprovincial labour service cooperation (2022-Grant 3)	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 Human Resources and Social Security Bureau and Nan'an Municipal Finance Bureau.	<i>Limited to companies in Fujian Province.</i>  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.	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).
609-15	Provincial-level reward of green factory (2022-Grant 4)	This program was identified by Goomax in its REQ for Review 609.	Goomax provided evidence in its REQ that this program is administered by the Fujian Provincial	<i>Limited to companies in Fujian Province.</i>	Grants provided under this program are financial contributions by a government which involve the direct	This program is limited to enterprises in Nan'an City.  The commission is satisfied that this meets the criteria of a

**REP 609 – Aluminium Extrusions – China**

**PUBLIC RECORD**

		The commission is not aware of any WTO notification for this program.	department of Industry and Information Technology and Nan'an Finance Bureau.	<p>The evidence provided in Goomax's REQ state that eligibility criteria was based on:</p> <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> <p>Not be classified as dishonest and subject to enforcement.</p>	<p>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>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 enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
609-16	Settlement subsidy for college graduates (2022-Grant 5)	<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>	This program was administered by the Human Resources and Social Security Bureau and Nan'an Finance Bureau.	<p><i>Limited to companies in Fujian Province.</i></p> <p>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).</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>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 enterprises over others.</p>

**PUBLIC RECORD**

					<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>It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
609-17	<p>The 1st batch of municipal-level special subsidy for energy conservation and circular economy in 2022 (2022-Grant 6)</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>This program was administered by Quanzhou Bureau 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:</p> <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> <p>Not be classified as dishonest and subject to enforcement.</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>This program is limited to enterprises in Quanzhou city and 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 enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>

**PUBLIC RECORD**

609-18	Tax regulation allowing additional tax credits for R&D expenses	<p>This program was identified by during verification of Goomax's REQ in Review 609.</p> <p>The commission is not aware of any WTO notification for this program.</p>	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).	<p>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.</p> <p>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).</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 these programs meet the definition of a subsidy under section 269T.</p>	<p><i>Not countervailable</i></p> <p>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.</p> <p>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).</p>
609-19	Employment Assistance for the recruitment of poverty alleviation population in the fourth quarter of 2021	<p>Kam Kiu reported in its REQ for Review 609 receiving a number of grant programs during the review period.</p> <p>The commission is not aware of any WTO notification for any of these programs.</p>	The commission is not aware of any legal basis for these programs.	<p><i>Limited to companies in Guangdong</i></p> <p>Kam Kiu advised it received these grants through a simple written application and approval procedure, with no application in some instances for smaller grants.</p>	Grants provided under these programs are financial contributions by a government which involve the direct transfer of funds from that government.	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.
609-20	Jiangmen Intellectual Property Support Fund in 2022	The commission is not aware of any WTO notification for any of these programs.		Kam Kiu kept no written records of its grant applications and received no	Due to the nature of the grants, and considering the limited information	The commission considers that these programs appear similar in nature to countervailable grants

**REP 609 – Aluminium Extrusions – China**

**PUBLIC RECORD**

609-21	Science and technology fund subsidy Assistance			other correspondence from the approving authorities.	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).	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.
609-22	2017 Taishan Integrity plan assistance			Kam Kiu advised that most grants do not directly 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.	The commission considers that this constitutes a benefit in relation to the goods exported to Australia.	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.
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					
609-27						
609-37	Subsidy of maintenance of employment stability	This program was identified by Jinxiecheng in its REQ for Review 609.  The subsidy was paid to companies for providing flexible employment conditions	<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</i>	<i>Limited to companies in Nanhai District, Guangdong</i>  The criteria to obtain the subsidy is that the rate of laying off employees is less than the registered unemployment rate at the national	Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.	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).

**REP 609 – Aluminium Extrusions – China**

**PUBLIC RECORD**

		<p>as a response to the COVID pandemic; for paying unemployment insurance; and that it's lay-off rate did not exceed the unemployment rate.</p> <p>The commission is not aware of any WTO notification for this program.</p>	<p><i>Development of Enterprises'</i></p> <p>This program was administered by the Human Resource and Social Safeguard Bureau of Nanhai District in Foshan City.</p>	<p>level and the applicant has paid the unemployment insurance fee.</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>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).</p>
609-38	Deferred payment of income tax	<p>Jinxiecheng did not report this as a subsidy program. The program was identified by the commission during verification.</p> <p>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.</p> <p>The commission is not aware of any WTO notification for this program.</p>	<p><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.</p> <p>See <b>Non-confidential attachment 29</b>.</p>	<p><i>Not region specific</i></p> <p>Eligibility is limited to small, medium and micro enterprises in the manufacturing industry.</p>	<p>The delay in the payment of income tax under this program results in a financial contribution by</p> <p>a government which involves foregoing or not collecting of revenue by a government.</p> <p>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</p>	<p>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).</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 enterprises over others. It therefore does not satisfy the</p>

**PUBLIC RECORD**

					<p>(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>exception to specificity in section 269TAAC(3).</p>
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.	<p>Grants provided under these programs are financial contributions by a government which involve the direct transfer of funds from that government.</p>	<p>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.</p>
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.			<p>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).</p>	<p>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.</p>
609-41	2020 Special Fund for Foreign Economic and Trade Development (Coping with Trade Friction) Project				<p>The commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>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.</p>
609-42	2020 Special Fund Project for Promoting High-Quality Development of Foreign Trade (District Level)				<p>The financial contributions made under these programs</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>

**REP 609 – Aluminium Extrusions – China**



**PUBLIC RECORD**

609-43	2021 Accounts Receivable Financing Incentive Special Fund				meet the definition of a subsidy under section 269T.	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).
609-44	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					
609-49	Patented Technology Transaction Funding					

**PUBLIC RECORD**

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)					

**PUBLIC RECORD**

	expenses) Support Fund					
609-57	2022 Provincial special funds for promoting high-quality economic development (private 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					

**NON-CONFIDENTIAL ATTACHMENT 29 - 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