

CUSTOMS ACT 1901 - PART XVB

REPORT NO. 482

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

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

APRIL 2019

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ABBREVIATIONS

ABF	Australian Border Force
Abra	Abra Aluminium Pty Ltd
the Act	<i>Customs Act 1901</i>
ADA	World Trade Organization Anti-Dumping Agreement
ADN	Anti-Dumping Notice
the former Assistant Minister	the then Assistant Minister for Science, Jobs and Innovation to the then Minister for Jobs and Innovation
ASX	Australian Stock Exchange
Austar	Austar Holdings International Pty Ltd
Capral	Capral Limited
China	The People's Republic of China
Clenergy Australia	KerryJ Investments Pty Ltd trading as Clenergy Australia
Clenergy Xiamen	Clenergy (Xiamen) Technology Co Ltd
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTMS	cost to make & sell
Darley	Darley Aluminium Trading Pty Ltd
the Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
EPR	electronic public record
FOB	Free On Board
Global Windows	Global Windows Pty Ltd
GOC	Government of the People's Republic of China
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
Goomax	Goomax Metal Co Ltd Fujian
GUC	goods under consideration
ICD	interim countervailing duty
IDD	interim dumping duty
Jiawei	Foshan Shunde Beijiao Jiawei Aluminium Factory
Jinxiecheng	Guangdong Jinxiecheng Al Manufacturing Co Ltd
Kam Kiu	Tai Shan City Kam Kiu Aluminium Extrusions Co Ltd
Kam Kiu Australia	Kam Kiu (Australia) Pty Ltd
LME	London Metal Exchange
MCC	Model Control Code
Mega Stone	Mega Stone Aluminium Pty Ltd
Minfa	Fujian Minfa Aluminium Inc
the Minister	Minister for Industry, Science and Technology

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MJP	Major Japanese Port
NIP	non-injurious price
OCOT	ordinary course of trade
PanAsia	PanAsia Aluminium (China) Limited
PanAsia Australia	PanAsia Aluminium Pty Ltd
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
REQ	response to the exporter questionnaire
ROI	return on investment
SEF	statement of essential facts
SG&A	selling, general and administrative costs
SHFE	Shanghai Metals Exchange
SIE	state invested enterprise
SOE	state owned enterprise
Solidi	Solidi Windows & Doors Pty Ltd
US	the United States of America
USP	unsuppressed selling price
VAT	value added tax
Yongya	Foshan City Sanshui Yongya Aluminium Co Ltd
Zhongya	Guangdong Zhongya Aluminium Company Ltd

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This report has been prepared in response to a request by the then Assistant Minister for Science, Jobs and Innovation to the then Minister for Jobs and Innovation (the former Assistant Minister)¹ to a review of the dumping and countervailing measures as they affect exporters of the certain aluminium extrusions (aluminium extrusions or ‘the goods’) exported to Australia from the People’s Republic of China (China).²

An affected party to the review, Guangdong Zhongya Aluminium Company Ltd (Zhongya) requested the review be extended to include a consideration of whether there are reasonable grounds for determining that the anti-dumping measures described in the notice are no longer warranted in respect to goods exported to Australia by Zhongya. The Commissioner of the Anti-Dumping Commission (the Commissioner) did not reject this application with notification of this extension to include a revocation review being made in Anti-Dumping Notice (ADN) No. 2018/138.

This report makes recommendations to the Minister for Industry, Science and Technology (the Minister)³ regarding this review and sets out the findings on which the Commissioner bases those recommendations.

1.2 Recommendations to the Minister

The Commissioner recommends that the dumping duty notice and the countervailing duty notice, in respect of certain aluminium extrusions exported to Australia from China, have effect as if different variables factors had been ascertained.

The Commissioner recommends that the countervailing duty notice relevant to exports of aluminium extrusions exported to Australia by Zhongya have effect as if different variable factors had been ascertained. The Commissioner is unable to make a revocation recommendation in relation to exports by Zhongya because the Commissioner is satisfied that revoking the measures would lead, or be likely to lead to a continuation of subsidisation and the material injury that the measures were intended to prevent.

1.3 Application of law to facts

1.3.1 Authority to make decision

Division 5 of Part XVB of the *Customs Act 1901* (the Act) describes, among other things, the procedures to be followed and the matters to be considered by the Commissioner when undertaking a review of anti-dumping measures for the purpose of making a report to the Minister.

¹ On 20 December 2017, the former Prime Minister appointed the Parliamentary Secretary to the former Minister for Jobs and Innovation as the Assistant Minister for Science, Jobs and Innovation. For the purposes of the decision made to request the Commissioner initiate this review, the Minister was the former Assistant Minister.

² It is noted that the anti-dumping measures apply to all exporters from China, with the exception of Guangdong Jiangsheng Aluminium Co Ltd (formerly known as Tai Ao Aluminium Tai Shan Co., Ltd). It is also noted that Guangdong Zhongya Aluminium Company Limited is subject to the countervailing duty notice only.

³ For the purposes of this decision the Minister of Industry, Science and Technology is the decision maker.

1.3.2 Initiation of the review

Subsection 269ZA(3) permits the Minister, at any time, to request that the Commissioner initiate a review under Division 5 where the Minister considers that it is appropriate to review anti-dumping measures in respect of goods as they affect a particular exporter, or as they affect exporters of those good generally, because:

- (i) one or more of the variable factors relevant to the taking of the measures in relation to that exporter, or those exporters may have changed; or
- (ii) the anti-dumping measures are no longer warranted.

The Minister must provide notice of his or her request in writing.

Having received a written request by the former Assistant Minister, the Commissioner initiated a review on 12 July 2018. Public notification of the initiation of the review was also made on 12 July 2018. ADN No. 2018/111 provides further details relating to the initiation of the review and is available on the Anti-Dumping Commission's (the Commission's) website at www.adcommission.gov.au

1.3.3 Application to extend the review of anti-dumping measures to include revocation

An affected party to a review may, if the party considers that it can provide evidence that may satisfy the Commissioner that there are reasonable grounds for determining that the anti-dumping measures are no longer warranted, make an application under section 269ZCA, requesting the Commissioner consider that evidence.

After examining the application made by Zhongya to revoke the countervailing duty notice as it relates to them, the Commissioner decided not to reject the application to extend the review. The Commissioner was satisfied that the application complied with subsections 269ZCB(1) and (2) with respect to making an application; and that there appeared to be reasonable grounds, for recommending that the anti-dumping measures are no longer warranted.

Public notification of the extension of the review was made on 6 September 2018. ADN No. 2018/138 contains more information on the Commissioner's reasons for not rejecting the application.

1.3.4 Statement of essential facts

The Commissioner must, within 110 days after the initiation of an investigation, or such longer period as allowed under subsection 269ZD(1),⁴ place on the public record a statement of essential facts (SEF) on which the Commissioner proposes to base a recommendation to the Minister in relation to the review.

⁴ On 14 January 2017, the Parliamentary Secretary delegated the powers and functions of the Minister under section 269ZHI of the Act to the Commissioner of the Anti-Dumping Commission. Refer to ADN No. 2017/10 for further information.

On 24 October, the Commissioner, under subsection 269ZHI(3) extended the deadline to publish the SEF, and provide his final report and recommendation.⁵

On 11 December, the Commissioner approved a further extension to the deadline to publish the SEF, and provide his final report and recommendation.⁶

The Commissioner placed SEF 482 on the public record on 22 February 2019.⁷

1.3.5 Final report

This report and the recommendations in relation to this review were provided to the Minister on 8 April 2019.

In making the recommendations in this report, the Commissioner had regard to:

- the Minister's request to initiate the review;
- the application by Zhongya to extend the review to consider if the countervailing duty notice, with respect to its exports of the goods, is no longer warranted;
- all submissions concerning and subsequent to the publication of ADN No.s 2018/111 and 2018/138 to which the Commissioner had regard for the purpose of formulating SEF 482;
- SEF 482 and all supporting evidence;
- all submissions made in response to SEF 482;
- submissions made prior to SEF 482 that, due to their timing, were not considered by the Commissioner for the purposes of the SEF; and
- any other matters that the Commissioner considered to be relevant.

This report includes a statement of the Commissioner's reasons for the recommendations in this report.⁸ The statement of the Commissioner's reasons:

- sets out the material findings of fact on which the recommendations are based; and
- provides particulars of the evidence relied on to support those findings.

⁵ Refer to ADN No. 2018/157.

⁶ Refer to ADN No. 2018/190.

⁷ Document 50 on the electronic public record for review 482.

⁸ In accordance with subsection 269ZDA(5) of the Act.

1.4 Findings and conclusions

A summary of the findings and conclusions is provided below.

1.4.1 Variable factors - dumping duty notice (Chapter 4)

The Commissioner finds that the variable factors relevant to the determination of dumping duty payable under the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) have changed.

1.4.2 Particular market situation (Chapter 4)

The Commission finds that the Government of China (GOC) influence in the Chinese aluminium industry has created a 'market situation' in the domestic aluminium extrusions market, such that sales in that market are not suitable for determining normal value under subsection 269TAC(1).

1.4.3 Dumping margin (Chapter 4)

The Commissioner's assessment of dumping margins is set out in the table below.

Exporter	Dumping margin
Jiawei	20.1%
Jinxiecheng	15.8%
PanAsia	55.2%
Kam Kiu	35.7%
Goomax	42.3%
Residual exporters	29.1%
Uncooperative and all other exporters	95.9%

Table 1 - Dumping margin summary

1.4.4 Variable factors – countervailing duty notice

The Commissioner finds that the variable factors relevant to the determination of countervailing duty payable under the Dumping Duty Act have changed.

1.4.5 Non-injurious price (Chapter 6)

The Commission has calculated the non-injurious price (NIP) for exports of aluminium extrusions from China that are considered to be the minimum price necessary to prevent the injury, or a recurrence of the injury, caused by the dumped and subsidised goods.

However, for reasons set out in Chapter 6, the Commissioner recommends that the Minister not consider the lesser duty rule and that the full dumping and subsidy margins be applicable to the taking of interim dumping duties (IDD) and interim countervailing duties (ICD) in relation to aluminium extrusions exported to Australia from China, due to a finding of a particular market situation in the Chinese market for aluminium extrusions.

1.4.6 Will subsidisation and material injury continue or likely recur if measures relevant to exports by Zhongya are revoked? (Chapter 8)

The Commissioner finds that, if the countervailing duty notice, relevant to exports to Australia from China by Zhongya were to be revoked, it would lead, or be likely to lead, to a continuation of both the subsidisation and material injury that the anti-dumping measures are intended to prevent.

1.4.7 Proposed form of measures (Chapter 11)

The Commissioner proposes to recommend to the Minister that measures be imposed using the combination fixed and variable duty method.

2 BACKGROUND

2.1 Initiation

2.1.1 Review of variable factors

This review was initiated on 12 July 2018 after a request by the former Assistant Minister to review the dumping and countervailing measures as they affect exporters of the goods exported to Australia from China.⁹

The former Assistant Minister considered the current rates of duty applicable to Chinese exports of the goods may not be an accurate reflection of the level of duty necessary to minimise the effects of dumping and subsidisation in the Australian market. In reaching this decision, the former Assistant Minister considered the increase in the London Metal Exchange (LME) price; a global price benchmark relevant to the production of aluminium extrusions, and the corresponding movements of export prices from China and selected other countries exporting aluminium extrusions to Australia as an indication that the variable factors relevant to the taking of measures have changed.

2.1.2 Revocation review

On 6 September 2018, the Commissioner decided not to reject an application made by Zhongya, requesting the review be extended to include a consideration of whether there are reasonable grounds for determining that the anti-dumping measures described in the notice¹⁰ are no longer warranted in respect to goods exported to Australia by Zhongya. The extension of the review to consider revocation in respect of Zhongya's exports was limited to examining whether the countervailing duty notice, in relation to Zhongya, should be revoked.¹¹

2.2 History of anti-dumping measures

The full history in relation to anti-dumping measures relating to certain aluminium extrusions can be found on the Commission's website at www.adcommission.gov.au. A summary of the main cases relevant to certain aluminium extrusions exported from China is outlined in table 2 below.

Report No.	Date notice published	Case description
REP 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 Limited (Capral).</p> <p>Following investigation, the then Attorney-General published a dumping duty notice and countervailing duty notice applying to aluminium extrusions exported from China. (<i>Trade Remedies Branch Report No. 148</i> (REP 148) refers).</p>

⁹ Refer ADN No. 2018/111.

¹⁰ ADN No. 2018/111.

¹¹ Refer ADN No. 2018/138.

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Report No.	Date notice published	Case description
ITRR 175	27/08/2011	The then Attorney-General published new notices as a result of a reinvestigation of certain findings made in REP 148 following a review by the former Trade Measures Review Officer. (<i>International Trade Remedies Report No. 175</i> (ITRR 175) refers).
REP 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>Report No. 241</i> (REP 241) and ADN 2015/17 refers).
REP 248	19/08/2015	The then Parliamentary Secretary published a notice declaring the outcome of Review No. 248. Anti-dumping measures applying to exports of certain aluminium extrusions from China were altered as if different variable factors had been ascertained. A correction to this notice was published on 10 September 2015 with respect to six entities incorrectly identified as residual exporters. (<i>Report No. 248</i> (REP 248) and ADN 2015/96 refers).
REP 287	20/10/2015	The findings of Continuation Inquiry No. 287 were published. 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>Report No. 287</i> (REP 287) and ADN 2015/125 refers).
REP 304	09/02/2016	Publication of the outcome of a review of anti-dumping measures as they applied to Press metal International Ltd (PMI). The review resulted in a fixed interim dumping duty IDD and ICD of zero (0) per cent and a variable amount of duty where the actual export prices is below the ascertained export prices for the aluminium extrusions exported from China by PMI. (<i>Report No. 304</i> (REP 304) and ADN 2016/04 refer).
REP 387	28/04/2017	Publication of the outcome of an accelerated review of the dumping duty notice and countervailing duty notice applying to Foshan Shunde Beijiao Jiawei Aluminium Factory (Jiawei). The accelerated review resulted in a fixed IDD and ICD of zero (0) per cent and a variable amount of duty where the actual export price is below the ascertained export price for the aluminium extrusions exported from China by Jiawei. (<i>Report No. 387</i> (REP 387) and ADN 2017/43 refer).
REP 399	10/07/2017	Publication of the outcome of an accelerated review of the dumping duty notice and countervailing duty notice applying to Goomax Metal Co., Ltd. Fujian (Goomax). The accelerated review resulted in IDD equal to the difference between the actual export prices and the ascertained export prices and ICD of 0.2 per cent. (<i>Report No. 399</i> (REP 399) and ADN 2017/84 refer).
REP 392	10/11/2017	Publication of the outcome of a review of anti-dumping measures with the former Parliamentary Secretary accepting the recommendations and varying the variable factors relevant to the taking of anti-dumping measures as they affect all exporters of certain aluminium extrusions from China. (<i>Report No. 392</i> (REP 392) and ADN 2017/138 refer).

PUBLIC RECORD

Report No.	Date notice published	Case description
REP 442	24/07/2018	An investigation into alleged dumping by two Chinese exporters, Zhongya and Guangdong Jiangsheng Aluminium Co., Ltd, and exporters in general from the Kingdom of Thailand, was initiated following an application lodged by Capral. The Commission found: with respect to the Chinese exporters, that the goods were not dumped; the goods exported from Thailand by United Aluminium Industry Co., Ltd were dumped at a negligible level; and that the injury, if any, caused by goods exported by all other exporters from Thailand was negligible. The investigation was consequently terminated. (<i>Report No. 442</i> (REP 442) and ADN 2018/120 refers).
REP 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>Report No. 447</i> (REP 447) and ADN 2018/155 refers).

Table 2 - History of measures

Table 3 below summarises the anti-dumping measures currently applying to aluminium extrusions exported to Australia from China.

Exporter	Duty Applicable	Effective rate of duty
Guangdong Jiangsheng Aluminium Co Ltd	Exempt	
Guangdong Zhongya Aluminium Company Ltd	ICD	0.1%
PanAsia Aluminium (China) Limited	IDD & ICD	41.3%
Guang Ya Aluminium Industries Co Ltd	IDD & ICD	19.1%
Tia Shan City Kam Kiu Aluminium Extrusion Co Ltd	IDD & ICD	25.5%
Foshan Shunde Beijiao Jiawei Aluminium Factory	IDD	3.6%
Goomax Metal Co Ltd Fujian	IDD & ICD	11.4%
Guangdong Jinxiecheng Al Manufacturing Co Ltd	IDD	3.6%
Foshan City Sanshui Yongya Aluminium Co Ltd	IDD (Floor Price)	0%
Residual exporters	IDD & ICD	27.4%
All other exporters	IDD & ICD	64.4%

Table 3 - Current anti-dumping measures

The current measures are due to expire on 28 October 2020.

2.3 The review process

2.3.1 Variable factors review

If anti-dumping measures have been taken in respect of certain goods, an affected party may consider it appropriate to review those anti-dumping measures as they affect a particular exporter or exporters generally. Accordingly, the affected party may apply for,¹² or

¹² Subsection 269ZA(1).

the Minister may request that the Commissioner conduct,¹³ a review of those anti-dumping measures if one or more of the variable factors has changed.

A review application must not be lodged earlier than 12 months after publication of the notice imposing the original anti-dumping measures or the notice(s) declaring the outcome of the last review.¹⁴ However, the Minister may request a review be initiated at any time.

If an application for a review of anti-dumping measures is received and not rejected, or the Minister requests a review be initiated, the Commissioner has up to 155 days, or such longer time as the Minister may allow, to conduct a review and report to the Minister on the review of the anti-dumping measures.¹⁵

During the course of a review, the Commissioner will examine whether the variable factors have changed.

Variable factors in this particular review are a reference¹⁶ to:

- the non-injurious price;
- the ascertained export price;
- the ascertained normal value; and
- the amount of countervailable subsidy received in respect of the goods.

Within 110 days of the initiation of a review, or such longer time as allowed,¹⁷ the Commissioner must place on the public record a SEF on which he proposes to base recommendations to the Minister concerning the review of the anti-dumping measures.¹⁸

For this review, in making recommendations in his final report to the Minister, the Commissioner must have regard to:¹⁹

- any submission relating generally to the review of the anti-dumping measures to which the Commissioner has had regard for the purposes of formulating the SEF;
- SEF 482; and
- any submission made in response to SEF 482 that was received by the Commissioner within 20 days of it being placed on the public record.

The Commissioner may also have regard to any other matter considered to be relevant to the review.²⁰

¹³ Subsection 269ZA(3).

¹⁴ Subsection 269ZA(2)(a).

¹⁵ Subsection 269ZDA(1).

¹⁶ Subsection 269T(4E).

¹⁷ On 14 January 2017, the former Parliamentary Secretary delegated the powers and functions of the Minister under section 269ZHI to the Commissioner. Refer to ADN No. 2017/10 for further information.

¹⁸ Subsection 269ZD(1).

¹⁹ Subsection 269ZDA(3)(a).

²⁰ Subsection 269ZDA(3)(b).

At the conclusion of the review, the Commissioner must provide a final report to the Minister. In his final report he must make a recommendation to the Minister that the dumping duty notice and countervailing duty notice:²¹

- remain unaltered; or
- have effect, in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained relevant to the determination of duty.

The Minister must make a declaration within 30 days of receiving the 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 give notice of the decision by notice published on the Commission's website.²²

2.3.2 Extension to include revocation

An affected party may apply to extend a review to include a revocation review if the notice published on the Commission's website did not state that the review will examine whether the measures are no longer warranted.²³ An application must be lodged within 37 days of the publication of the notice initiating the review.²⁴

The Commissioner must examine the application, and, if not satisfied that it has met the legislative requirements, reject the application and inform the applicant within 20 days.²⁵ If the Commissioner does not reject the application a notice must be published on the Commission's website.²⁶

After conducting a review of anti-dumping measures, the Commissioner:

- must not make a revocation recommendation in relation to the measures unless a revocation review notice has been published in relation to the review; and
- otherwise, must make a revocation recommendation in relation to the measures unless the Commissioner is satisfied as a result of the review that revoking the measures would lead, or be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that that measures are intended to prevent.²⁷

In addition to the considerations the Commissioner has regard to in making recommendations to the Minister in his final report as set out in section 2.3.1 of this report, the Commissioner must also have regard to any application to extend the review that was not rejected.

²¹ Subsection 269ZDA(1)(a).

²² Subsection 269ZDB(1).

²³ Section 269ZCA.

²⁴ Subsection 269ZCB(1).

²⁵ Subsection 269ZCC(1).

²⁶ Subsection 269ZCC(4).

²⁷ Subsection 269ZDA(1A).

Where the Minister decides to revoke the anti-dumping measures, the Minister can declare that the notice be revoked either in relation to a particular exporter, exporters generally, or in relation to a particular kind of goods.²⁸

2.4 Participation in the review

2.4.1 Australian industry

The Commission contacted a number of Australian manufacturers of aluminium extrusions and asked them to complete a questionnaire for this review. The Commission received one response from Capral.²⁹

The Commission conducted a verification visit to Capral in December 2018. A file note in relation to the visit can be found on the electronic public record (EPR).³⁰

2.4.2 Importers

The Commission performed a search of the Australian Border Force (ABF) import database and identified importers of aluminium extrusions from China during the review period.

The Commission contacted major importers requesting that they provide a response to an importer questionnaire. Other importers were also able to provide the Commission with a response to the importer questionnaire by accessing the relevant documents on the case page on the Commission's website. The Commission received responses to the importer questionnaire from six importers.

- Darley Aluminium Trading Pty Ltd (Darley);
- PanAsia Aluminium Pty Ltd (PanAsia Australia);
- Kam Kiu (Australia) Pty Ltd (Kam Kiu Australia);
- Mega Stone Aluminium Pty Ltd (Mega Stone);
- Global Windows Pty Ltd (Global Windows); and
- KerryJ Investments Pty Ltd trading as Clenergy Australia (Clenergy Australia).

Importer verification visits were conducted to PanAsia Australia and Mega Stone. Importer verification reports are available on the EPR.³¹

2.4.3 Exporters

Sampling

In ADN 2018/111,³² the Commissioner notified interested parties of his intention to make findings and recommendations in relation to this review based on an examination of a limited number of exporters in accordance with section 269TACAA.

²⁸ Subsection 269ZDB(1)(a)(ii).

²⁹ Document 36 on the EPR.

³⁰ Document 41 on the EPR.

³¹ Documents 18 and 15 on the EPR.

³² ADN 2018/111 can be found on the Commission's website at: www.adcommission.gov.au

Where the number of exporters from a particular country of export, in relation to an investigation, review or inquiry, is so large that it is not practicable to examine the exports of all exporters, then the investigation, review or inquiry may be carried out, and findings may be made, on the basis of information obtained from an examination of a selected number of those exporters who:

- constitute a statistically valid sample of those exporters; or
- are responsible for the largest volume of exports to Australia that can reasonably be examined.³³

In considering whether this review should be carried out on the basis of information obtained from an examination of a selected number of exporters, the Commissioner took into account:

- the large number of suppliers/exporters from China;
- the large number of exporters likely to submit completed questionnaires; and
- the current and foreseeable investigation workload of the Commission in other investigations and the resources available to examine exporters of aluminium extrusions from China.

In these circumstances, the Commissioner considered it appropriate to limit the number of exporters to be examined to a sample of the largest exporters by volume to ensure the review is representative, manageable and completed within a reasonable timeframe.

ADN 2018/111 details three categories of exporters and how the dumping and subsidy margins will be calculated for each category. The three categories are described below.

i. Cooperative exporters

Selected exporters

The Commission selected the following five exporters for examination in accordance with subsection 269TACAA(1):

- Foshan Shunde Beijiao Jiawei Aluminium Factory (Jiawei);
- Guangdong Jinxiacheng Al Manufacturing Co Ltd (Jinxiacheng);
- Guangdong Zhongya Aluminium Company Ltd (Zhongya);
- PanAsia Aluminium (China) Limited (PanAsia); and
- Tai Shan City Kam Kiu Aluminium Extrusions Co Ltd (Kam Kiu).

According to data obtained from the ABF import database, the selected exporters represent approximately 82 per cent of the volume of goods³⁴ (measured by quantity reported in kilograms) exported to Australia from China during the review period.

³³ Subsection 269TACAA(1).

³⁴ Subject to current measures.

Each of these five selected exporters cooperated with the review.³⁵

Other cooperative exporters

Under subsection 269TACAA(2), if information is submitted by an exporter that is not selected for examination under section 269TACAA(1), the review must extend to that exporter unless to do so would prevent its timely completion.

Four entities provided the Commission with a response to the full exporter questionnaire (REQ):

- Clenergy (Xiamen) Technology Co Ltd (Clenergy Xiamen);
- Foshan City Sanshui Yongya Aluminum Co Ltd (Yongya);
- Fujian Minfa Aluminium Inc (Minfa); and
- Goomax Metal Co Ltd Fujian (Goomax).

One entity, Clenergy Xiamen, stated in its REQ that it does not manufacture aluminium extrusions, rather they were supplied by two unrelated Chinese manufacturers during the review period. Therefore, for the purposes of this review, the Commission does not consider Clenergy Xiamen to be an exporter of aluminium extrusions. The Commission is of the view that Clenergy Xiamen is an intermediary, with respect to the goods manufactured in China.

As stated in the Dumping and Subsidy Manual (November 2018), which can be found on the Commission's website:

"Typically, the manufacturer, as a principal, and knowingly sent the goods for export to any destination, will be the exporter. The export price will be the prices received by that producer/exporter i.e. the manufacturer. Where an intermediary is involved the export price, for the purposes of calculating a dumping or subsidy margin, will be the prices received by that exporter when selling to the intermediary (even if the intermediary is in the same country as the exporter)";

and

"Depending on the facts, the Commission considers that only in rare circumstances would an intermediary be found to be the exporter. Typically this will only occur where the intermediary has purchased the goods from the manufacturer; the manufacturer has no knowledge at all that the goods are destined for export to any country; and the essential role of the intermediary is that of a distributor rather than a trader and because it is acting more like a distributor the intermediary would usually have its own inventory for all export sales."

³⁵ Cooperative exporter is defined in subsection 269T(1).

In its REQ, Clenergy Xiamen states that:

- it does not manufacture aluminium extrusions, rather produces solar mounting kits;
- it had “*tried the best to persuade both [Suppliers]*” of its aluminium extrusions to cooperate for the purposes of this review; and
- it purchases the goods from its suppliers to produce solar mounting kits to export to Australia.

The Commission does not consider Clenergy Xiamen had exported solar mounting kits, rather the goods being exported to Australia are aluminium extrusions. The Commission also does not consider Clenergy Xiamen has changed the nature of the product at the time of importation into Australia where, although describing the goods as ‘solar-mounting kits’, the components of these ‘kits’ are not packaged as a kit.

With respect to the remaining three entities that provided a REQ, the review was extended to include one entity, Goomax. To ensure that a consideration of Goomax’s information would not prevent the timely completion of this review, careful consideration was given to the following factors:

- the level of cooperation from the selected exporters;
- the number of the other exporters seeking individual examination; and
- the available resources within the Commission to undertake verification activities.

ii. Residual exporters

Following initiation of the review, exporters of the goods, other than the selected cooperative exporters named above, were requested to provide information via an information request. The information request and associated spreadsheets were made available on the Commission’s website at www.adcommission.gov.au. Through this process the Commission identified the following exporters who have been classified as ‘residual exporters’³⁶ for the purposes of this review:

- Foshan City Nanhai Yongfeng Aluminium;
- Foshan City Sanshui Yongya Aluminium Co Ltd;
- Foshan JMA Aluminium Co Ltd;
- Foshan Yatai PVC & Alu Co Ltd;
- Fujian Minfa Aluminium Inc;
- Guang Ya Aluminium Industries Co Ltd;
- Guangdong JMA Aluminium Profile Factory (Group) Co Ltd;³⁷
- Guangdong Xingfa Aluminium Co Ltd;

³⁶ A residual exporter is defined in subsection 269T(1). The *Dumping and Subsidy Manual – November 2018* describes in Chapter 6 who the Commission considers to be exporters of the goods. Two entities, Mounting Systems GmbH and Welco Displays International Ltd, reported in SEF 482 as residual exporters do not meet this definition and are not eligible to receive the residual rate.

³⁷ The name reported in SEF 482 has been corrected from “Guangdong JMA Aluminium Profile Factory Co Ltd”.

- Press Metal International Ltd; and
- Guangdong Huachang Aluminium Factory Co Ltd.³⁸

iii. **Uncooperative exporters and non-cooperative entities**

An uncooperative exporter, in relation to the review of the dumping duty notice, is defined in subsection 269T(1) as an exporter that did not cooperative with the review by providing information considered to be relevant to the review, or an exporter that significantly impeded the review.

A non-cooperative entity is an entity, in relation to the review of the countervailing duty notice that did not provide information considered to be relevant to the review within the specified timeframe, or an entity that significantly impeded the review.

The Commissioner considers that the exporters who meet the criteria set out in subsections 269T(1) and/or 269TAACA(1) are for the purpose of this review uncooperative exporters and non-cooperative entities.

The Commissioner considers that the exporters who are not identified as either a 'cooperative exporter' or 'residual exporter' are for the purposes of this review uncooperative exporters and non-cooperative entities.

2.5 Submissions received with respect to initiation

Following the initiation of the review, the Commission has received submissions from a number of interested parties.

2.5.1 Capral Limited

In Capral's submission of 17 August 2018,³⁹ Capral advised that it is the largest manufacture of aluminium extrusions in Australia and was the applicant in the original anti-dumping investigation, INV 148, with respect to exports of aluminium extrusions to Australia from China. In its submission, Capral detailed the following points:

- a. LME aluminium prices have increased between the previous review period for REP 392 (1 January 2016 to 31 December 2016) to the current review period (1 July 2017 to 30 June 2018). Capral states that due to this increase in prices the current anti-dumping measures applicable to Chinese exports are inadequate.
- b. Capral referred to the finding in REP 392 that there exists a particular market situation in the aluminium extrusion market and states this has continued into the current review period. Capral submitted that it will be necessary for the Commission to replace the cost for exporters' primary aluminium costs with a benchmark price.
- c. Capral noted the different finish types of aluminium extrusions and identified that the Commission has previously matched aluminium extrusion models on this basis. Capral also noted that in INV 442, in addition to finish, the Commission matched

³⁸ The Commission received a PRI response from Guangdong Huachang Aluminium Factory Co Ltd within the prescribed period. The exporter was omitted in the list of residual exporters reported in SEF 482.

³⁹ Document 5 on the EPR.

models on the basis of alloy type, temper grade and micron level. Capral stated that in their view the approach taken in INV 442 was “*correctly considered*”.

In a further submission dated 8 October 2018,⁴⁰ Capral highlighted recent changes in manufacturing costs that it submits has been borne by all producers of aluminium extrusions in China.

Capral identified changes which, in Capral’s view would increase China’s manufacturing costs, including the:

- LME cash rate for aluminium;
- Major Japanese Port (MJP) premium; and
- Chinese cost of living and labour expenses.

On 1 November 2018,⁴¹ the Commission received a submission from Capral, requesting that the Commission contact an importer, Austar Holdings International Pty Ltd (Austar), to verify their information.

On 14 November 2018,⁴² Capral provided a submission to the Commission that discussed the findings outlined in the importer verification report for Mega Stone.⁴³ Capral questioned the finding that sales of the goods to Mega Stone from the Chinese exporter were at arm’s length given the verification team were unable to determine a profit.

In their submission of 4 December 2018,⁴⁴ Capral advised that on 5 September 2018 the GOC announced its intention to raise value added tax (VAT) rebates⁴⁵ on the exports of certain products. Capral claims that the higher VAT rebate is aimed at assisting Chinese exporters penetrate new export markets outside the United States of America (US).

Capral submits that it expects this rebate will reduce export prices, resulting in increases in Chinese exports of aluminium extrusions to Australia and requested the Commission address the intended effect of the increased VAT rebate in this review.

On 10 December 2018,⁴⁶ Capral provided a submission to the Commission again referring to increases in the LME aluminium price and the MJP premium following the end of the previous review, REV 392. Capral provided analysis on these price movements and provided a comparison of average Chinese export prices to Australian prices of aluminium extrusions. Capral stated that Chinese exporters delay increases in export prices with Australian importers only paying the IDD liability that is due at the time of importation, resulting in the IDD not being effective in removing the effect of dumped goods.

⁴⁰ Document 28 on the EPR.

⁴¹ Document 34 on the EPR.

⁴² Document 35 on the EPR.

⁴³ Document 15 on the EPR.

⁴⁴ Document 37 on the EPR.

⁴⁵ http://english.gov.cn/premier/news/2018/08/30/content_281476282621026.htm

⁴⁶ Document 40 on the EPR.

In this submission, Capral also noted that aluminium prices on the Shanghai Metals Exchange (SHFE) have increased, but not at the same rates as the LME and MJP.

Capral further recommended that the Commission conduct regular annual reviews of measures applying to aluminium extrusions.

On 11 December 2018,⁴⁷ as an accompaniment to its submission of 10 December 2018, Capral provided the Commission a copy of its Australian Stock Exchange (ASX) announcement concerning its half year 2018 results. Capral advised that the ASX announcement refers to a “recent ‘spike’ in low-priced imports” and “sustained high levels of aluminium costs”.

Capral also referred to higher LME aluminium costs, and claims it has been unable to recover the cost of these increases as Chinese import prices have not increased in line with LME aluminium costs. Capral advised that the current measures are ineffective as they are based on lower costs that precede the LME increases.

2.5.2 CW Products

CW Products provided the Commission with a submission, dated 17 August 2018,⁴⁸ that states it is an Australian manufacturer of aluminium roller shutters that sources aluminium extrusions from both local and Chinese suppliers.

In its submission, CW Products referred to a previous review, REV 392, and the resulting outcome with respect to its Chinese exporter. CW Products submitted that in REV 392, only the top five (in volume terms) exporters were advised of the review. CW Products further stated that it, and its exporter, were not made aware of the review, and on becoming aware, CW Products, and its exporter, were unable to meet the specified timeframe to participate in the review.

2.5.3 Minfa

Minfa provided the Commission with a submission, dated 19 October 2018,⁴⁹ in response to Capral’s submission dated 8 October 2018.⁵⁰ Capral stated that the recent changes in manufacturing costs will have been borne by all producers of aluminium extrusions in China. Minfa submitted that the fluctuation of the US Dollar does not impact its production costs. Additionally, Minfa submits that, as its production capacity and efficiency is higher than other Chinese manufacturers, it is now more competitive than it has been in previous years.

2.5.4 Extrusions Australia

In its submission dated 18 October 2018,⁵¹ Extrusions Australia referred to a file note on the EPR for the review, document 27, which states that the Commission did not intend to

⁴⁷ Document 38 on the EPR.

⁴⁸ Document 7 on the EPR.

⁴⁹ Document 31 on the EPR.

⁵⁰ Document 28 on the EPR.

⁵¹ Document 32 on the EPR.

individually examine the information provided by Clenergy Xiamen, a non-selected entity for the purposes of this review.

Extrusions Australia noted Clenergy Xiamen's response to the exporter questionnaire and stated that claims made by Clenergy Xiamen are incorrect. Extrusions Australia also submitted that the Commission should not consider Clenergy Xiamen to be a manufacturer of aluminium extrusions exported to Australia.

2.5.5 The Commission's response

2.5.5.1 Capral

The Commission notes the submissions provided by Capral, which highlight the increased costs associated with aluminium extrusion manufacturing.

In response to the point raised by Capral regarding Austar, in undertaking this review the Commission considered a range of factors, including ABF import data and information from cooperating exporters and importers. Publication of ADN 2018/111 served public notice as to the initiation of the review and detailed the timeline by which interested parties could cooperate by providing information to the Commission.

Neither Austar, nor its supplier, provided information to the Commission. As the date for providing responses had passed, in addition to an assessment of the potential probative value of seeking information from Austar against the information already before the Commission, the Commission was satisfied that seeking to verify Austar's information would unnecessarily delay this review.

In regard to Capral's submission in relation to Mega Stone, the Commission is satisfied that, although the profit for Mega Stone's selected shipments was not able to be determined, the verification team were able to determine that Mega Stone was profitable.⁵² Further, the verification team did not find any evidence that the importer is related to its suppliers of aluminium extrusions.

The Commission notes Capral's comments on the announced increase of Chinese VAT rebates for certain exports. This increase came into effect on 1 November 2018. With respect to this review the Commission does consider the increased rebate relevant for consideration as to the examination of the likelihood of future subsidisation and injury. The Commission has not considered the in Chinese VAT rebates for certain exports in the calculation of variable factors as this change occurred outside the review period.

In respect of the revocation review relevant to exports of aluminium extrusions by Zhongya, the Commission has considered the potential impact of the increased Chinese VAT rebate in order to examine if the revoking of measures will lead, or be likely to lead, to a continuation of, or a recurrence of, the subsidisation and material injury that the measures are intended to prevent.

⁵² Document 15 on the EPR.

2.5.5.2 CW Products

The Commission makes public all investigations of dumping and/or countervailing allegations, as well as any review of such measures, by publishing notices on its website. Interested parties are also able to subscribe to receive updates of notices relevant to exports or imports of goods subject to anti-dumping measures. With respect to this review, the Commission published a notice on the EPR detailing the initiation of the review.⁵³

Where importers consider that any interim duties they pay on goods exceeds the actual dumping margin they are able to apply to the Commission, within specified time limits, for an assessment of final duty payable under the Dumping Duty Act. Further information about duty assessments is available on the Commission's website.

2.5.5.3 Minfa

The Commission notes the submission received from Minfa on 3 September 2018.⁵⁴ The Commission did not select Minfa for examination in this review as extending the review to verify Minfa's information would prevent the timely completion of the review. Therefore, Minfa is considered a residual exporter.

2.5.5.4 Extrusions Australia

The Commission, as detailed in **section 2.4.3** of this report, does not consider Clenergy Xiamen an exporter of aluminium extrusions for the purposes of this review.

2.6 SEF 482

SEF 482 sets out the facts on which the Commissioner proposed to base his recommendations to the Minister. SEF 482 informed interested parties of the facts established as of the date SEF 482 was placed on the public record and allowed them to make submissions in response.

Following its publication on the public record, interested parties had 20 days to respond to SEF 482. Responses to the SEF were to be provided to the Commissioner by no later than 14 March 2019.

The Commissioner considered all timely submissions received in response to SEF 482 in making this report and recommendations to the Minister.

2.7 Submissions received in response to the SEF

The Commission received submissions from eight interested parties in response to the SEF within the prescribed period.

The Commission also received a submission from Kam Kiu prior to publishing the SEF. The Commissioner had insufficient time to consider this submission prior to publication of the SEF and this submission has been considered in preparing this report.

⁵³ ADN 2018/111 refers.

⁵⁴ Minfa requested an extension of time on 17 August 2019, by which to provide a response to the exporter questionnaire. An extension of time was granted with an effective due date of 3 September 2018.

These submissions are considered in the relevant sections in this report.

Four submissions were received after the period prescribed in the Act and did not seek an extension of time by which to provide the Commission with a submission. The Commissioner did not have regard to any submission received by the Commission after the prescribed period in the Act, as to have done so would, in the Commissioner's opinion, prevent the timely preparation of this report to the Minister.

A list of the submissions received is at **Non-confidential Appendix 1**.

2.7.1 Submissions received in general to the review

2.7.1.1 Minfa

On 12 March 2019, Minfa wrote to the Commission offering the Minister a price undertaking.

In its letter, Minfa stated that it has shown considerable cooperation to the Commission with respect to review 482 and offers an undertaking with the following characteristics:

- the undertaking to take effect from the date of the Minister's acceptance of the undertaking;
- future exports from Minfa to Australia will not be at dumped prices; and
- Minfa agrees not to circumvent the undertakings.

Minfa stated that prices suitable for inclusion in the undertaking be based on its profitable domestic sales prices during the last six months of the review period.

Minfa also acknowledged that such an undertaking may need to be changed from time to time.

2.7.1.2 Abra Aluminium Pty Ltd

On 14 March 2019, Abra Aluminium Pty Ltd (Abra) made a submission to the Commission seeking an exemption from measures with respect to goods it imports from China, that it claims the Australian industry do not, and cannot, produce.

Abra provided emails it had received from various Australian aluminium extrusion manufacturers, in support of its submission, stating that the extrusions required by Abra cannot be produced by these industry members.

Abra indicated by email on 15 March 2019, that it intends to lodge an exemption application to the Commission in the near future.

2.7.1.3 Capral

On 14 March 2019, Capral made a submission to the Commission in response to the publication of SEF 482.

In general, Capral views that Commission's findings in the SEF confirm that the variable factors relevant to the taking of anti-dumping measures, have changed for Chinese exporters and notes the preliminary calculated dumping margins.

Capral requests the Commissioner finalise its recommendations to the Minister quickly and without further delay to minimise additional injury to the Australian industry.

Capral also states that the Commission's findings confirm that Chinese exporters of aluminium extrusions continue to receive subsidies from the GOC and notes the preliminary calculated subsidy margins.

The points raised by Capral regarding specific exporters and elements of the review are discussed below in the relevant sections.

2.7.2 The Commission's response

2.7.2.1 Minfa

The Act permits the Minister to accept an undertaking offered by an exporter, prior to publishing of any notice by the Minister, with respect to the goods it exports that would otherwise become subject to any notice at the conclusion of a dumping and/or subsidy investigation.

With respect to aluminium extrusions exported to Australia from China, dumping and countervailing duty notices have been published and in force for some time, therefore those notices are the only measures that the Minister can review under Division 5 of the Act.

Therefore, the Commissioner has no power to recommend that the Minister consider an undertaking offer by Minfa as part of this Review.

2.7.2.2 Abra

The Commissioner has considered the submission made by Abra as part of this Review. In the Commission's view, the time taken to effectively review, verify and assess the information provided in its submission, in relation to the exemption issue raised, would delay the timely preparation and provision to the Minister of the final report for this Review.

As Abra has indicated it intends to make a separate application for an exemption for certain aluminium extrusions it imports from China, outside this review process, the Commission has not addressed this submission in detail in this report.

2.7.2.3 Capral

The Commission notes Capral's support of the proposed recommendations detailed in the SEF.

The Commissioner will provide his recommendations to the Minister in a timely manner, as allowed under the Act, having completely considered all submissions received by interested parties within the legislative period.

2.8 Public record

The EPR contains non-confidential submissions made by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. The EPR is available for inspection online at www.adcommission.gov.au. Documents on the public record should be read in conjunction with this report.

3 THE GOODS AND LIKE GOODS

3.1 The goods

The goods the subject of the current anti-dumping measures, and therefore 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 include aluminium extrusion products that have been further processed or fabricated to a limited extent, after aluminium has been extruded through a die. Aluminium extrusion products that have been painted, anodised, or otherwise coated, or worked (e.g. precision cut, machined, punched or drilled) fall within the scope of the goods.

The goods do not extend to 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.

Consistent with previous investigations, the review will also rely upon the information shown in the table below in its assessment of the goods under consideration (GUC) and like goods.

< 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 4 - Goods under consideration

3.2 Tariff classification

The goods are currently classified to the following tariff subheadings and statistical codes in Schedule 3 of the *Customs Tariff Act 1995*:

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 5 - Tariff Schedule

These tariff classifications and statistical codes may include goods that are both subject and not subject to the review. The listing of these tariff classifications and statistical codes are for convenience or reference only and do not form part of the goods description. Please refer to the goods description for details of the goods the subject of this review.

3.3 Like goods

Subsection 269T(1) defines like goods as:

“...goods that are identical in all respects to the goods under consideration of 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 dumping duty notice and countervailing duty notice. The Commission’s framework for assessing like goods is outlined in Chapter 2 of the Commission’s *Dumping and Subsidies Manual – November 2018*.⁵⁵

⁵⁵ Available on the Commission’s website at www.adcommission.gov.au

3.4 Submissions received regarding model matching

3.4.1 3.4.1 Capral Limited

On 20 August 2018,⁵⁶ Capral provided a submission with respect to what it considers to be an appropriate model matching methodology for this review. Capral highlighted the methodology used for model matching in INV 442 during the verification of data for a Thai exporter, Thailand United Aluminium Industries Co Ltd, where the Commission considered it appropriate to match models on the basis of:

- Finish;
- Alloy type;
- Temper grade; and
- Further processing, including cutting, machining, punching or drilling.

Capral submitted that the Commission follow this same methodology for this review.

The Commission notes the submission provided by Capral, which highlights the model criteria by which the Commission should consider for model matching purposes.

Subsequent to the initiation of this review, the Commission published a notice on 9 August 2018 on its website introducing the Model Control Code (MCC).⁵⁷ The MCC sets out the methodology used by the Commission to match models when comparing export prices and normal values.

The Commission notes that the MCC notice is not relevant to this review as the review was initiated prior to the publication of the MCC notice.

However, the Commission undertook model matching by identifying key characteristics of the goods and like goods, having regard to differences in physical characteristics that amount to distinguishable differences in price.

Where exporters sales and cost data was available, the Commission was able to match on the following key characteristics:

- finish;
- alloy ;
- temper code; and
- further processing, e.g. cutting or machining.

⁵⁶ Document 6 on the EPR.

⁵⁷ ADN 2018/128, available on the Commission's website at: www.adcommission.gov.au, refers.

4 VARIABLE FACTORS – DUMPING DUTY NOTICE

4.1 Finding

The Commissioner finds that the variable factors relevant to the determination of dumping duty payable under the Dumping Duty Act have changed.

The Commissioner recommends that the dumping duty notice have effect as if different variable factors had been ascertained. The revised variable factors have resulted in different dumping margins relevant to the taking of IDD.

4.2 Approach to calculating variable factors

4.2.1 Selected exporters

Consistent with the sampling approach outlined in ADN 2018/111, the Commission sent exporter questionnaires to the five selected exporters for examination under subsection 269TACAA(1). The five selected exporters are:

- Kam Kiu;
- Zhongya;
- PanAsia;
- Jinxiacheng; and
- Jiawei.

All five selected exporters lodged an REQ by the requested due date.

Exporter specific variable factors have been calculated for each of the selected exporters, noting that a dumping margin has not been determined for Zhongya as exports by this exporter are currently subject to interim countervailing measures only.

4.2.2 Entities not selected under subsection 269TACAA(1)

As detailed in ADN 2018/111 and as required by subsection 269TACAA(2), if information is submitted by an exporter not initially selected under subsection 269TACAA(1) for the purposes of a review, the review must extend to that exporter unless to do so prevents the review's timely completion. The Commission's ability to examine the REQs lodged by residual exporters was contingent on a number of factors, including:

- the level of cooperation from the selected exporters;
- the number of other exporters seeking an individual examination; and
- the available resources within the Commission to undertake individual examination which in relation to this review would have involved on-site or remote verification.

The Commission extended the review to Goomax on the basis that it submitted information relevant to the review, exports a larger volume of the goods in comparison to other non-selected Chinese exporters, and examination of this data would not prevent the timely completion of the review. Exporter-specific variable factors have therefore been calculated for Goomax.

The Commission did not extend the review to other exporters who submitted REQ's for this review as to do so would have prevented the timely completion of the review. For the purposes of this review, the Commission considers these exporters, namely Yongya and Minfa, to be residual exporters.

4.2.3 Residual exporters

Export prices for residual exporters have been established in accordance with subsection 269TACAB(2)(c) using the weighted average export price determined for the cooperating exporters.

The normal value for residual exporters has been established in accordance with subsection 269TACAB(2)(d) being the weighted average normal values for the like goods of the selected cooperative exporters.

4.2.4 Uncooperative exporters

Pursuant to subsection 269T(1), an exporter is an “uncooperative exporter”, where the Commissioner is satisfied that an exporter did not give the Commissioner information that the Commissioner considered to be relevant to the investigation, within a period the Commissioner considered to be reasonable, or where the Commissioner is satisfied that an exporter significantly impeded the investigation.

Section 8 of the *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Direction) states 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 do so within the legislated period. After having regard to the Direction, the Commissioner determined that all exporters which did not provide a REQ or a response to the information request, or which did not request a longer period to provide a response within the legislated period (being 37 days, concluding on 20 August 2018), are uncooperative exporters for the purposes of this review.

As provided for in subsection 269TACAB(1), for uncooperative exporters, export price and normal value were worked out in accordance with subsection 269TAB(3) and subsection 269TAC(6) respectively by having regard to all relevant information. The Commission considers that the exporters who meet the criteria in subsection 269T(1) are, for the purposes of this review, uncooperative exporters.

4.3 Importer questionnaires and verification

The Commission performed a search of the ABF import database and identified importers of aluminium extrusions from China during the review period.

The Commission contacted major importers requesting that they provide a response to an importer questionnaire. The Commission received and reviewed importer information from:

- Darley;
- PanAsia Australia;
- Mega Stone;

- Global Windows; and
- Clenergy Australia.

Importer verification visits were conducted to PanAsia Australia and Mega Stone. Importer verification reports are available on the EPR.⁵⁸

Solidi Windows & Doors Pty Ltd (Solidi) was identified in the ABF import database as one of the largest importers of aluminium extrusions sourced from China during the review period. Accordingly, the Commission attempted to contact Solidi on initiation of the review.⁵⁹ Solidi did not respond to the Commission's request for information.

4.4 Export prices

The following outlines the export prices determined for each selected exporter, residual exporters and uncooperative exporters.

4.4.1 Jiawei

The Commission conducted an on-site verification visit to Jiawei's facilities in China during September 2018, to verify the information disclosed in its REQ. A copy of the Commission's verification report is available on the public record.⁶⁰

Verification of Jiawei's REQ indicated that the goods had been exported to Australia otherwise than by the importer and that the goods had been purchased by the importer from the exporter. However, as the major importer for Jiawei, Solidi, did not cooperate with the review and Jiawei's exports to other importers were less than three per cent of their total exports to Australia, the Commission cannot be satisfied that these purchases of aluminium extrusions were arms length transactions, as, amongst other considerations, the Commission is unable to determine whether Solidi's sales are profitable or sales at a loss.⁶¹

In order to assess the profitability of Solidi's Australian sales of the goods, and the arms length nature of its purchases of the goods from Jiawei, the Commission made the additional attempts to obtain relevant information.

On 25 February 2019 and again on 28 February 2019, the Commission contacted Solidi and provided until 27 February 2019 and 1 March 2019 respectively, to respond to its requests.

In response, Solidi stated on 28 February 2019 that it did not receive the original correspondence sent by the Commission in July 2018. Solidi stated it was willing to cooperate with the review, however advised its owner and senior manager were not available to provide requested information until late March.

⁵⁸ Documents 18 and 15 on the EPR.

⁵⁹ At the time of initiation, the Commission obtained an address for Solidi from the ABF import database. The Commission was not able to locate a current telephone number or email address for Solidi from internet searches. The Commission later obtained a Current & Historical Company Extract from the Australian Securities and Investment Commission, confirming that the registered address at the time of initiation was correct.

⁶⁰ Document 46 on the EPR.

⁶¹ Section 269TAA

On 4 March 2019, the Commission responded to Solidi, requesting that Solidi provide the requested information by 15 March 2019. In response on 5 March 2019, Solidi advised its manager will not return to work until the end of March.

The Commission requested, on 21 March 2019, that Solidi provide requested information by 22 March 2019. The Commission advised that it is in the interests of all parties to ensure their views and evidence are taken into account with respect to the review. Solidi replied on 22 March 2019, stating it had forwarded the Commission's request to its manager.

At the time of providing the final report to the Minister, Solidi had not cooperated by providing information requested. Therefore, the Commission is not able to satisfy itself that the invoiced price to Solidi is an arms-length export price.

The Commission is therefore unable to determine export price under subsection 269TAB(1)(a). Further, as Solidi did not cooperate with the review, the Commission is unable to determine Jiawei's export price:

- under subsection 269TAB(1)(b), as it does not have access to the sales price of the goods sold by the importer to determine that the purchase of the goods by the importer was an arms length transaction ; or
- under subsection 269TAB(1)(c), as it is not possible to determine all the circumstances of the exportation based on the information available.

The Commission is satisfied that sufficient information has not been furnished, or is not available, to enable the export price of goods exported by Jiawei to be ascertained under subsection 269TAB(1), therefore the export price must be determined having regard to all relevant information.⁶²

The Commission examined the invoiced prices from Jiawei to its customers during on-site verification at Jiawei's premises, however as stated above, the Commission is not satisfied that the invoiced price to its major customer is an arms-length price, therefore the Commission considers this price to be unreliable and has not had regard to it.⁶³

For these reasons, the Commission has determined export prices, relevant to Jiawei, to be equal to the quarterly weighted average export prices by finish type from the exporter with the lowest export price.

4.4.2 Jinxiecheng

The Commission conducted an on-site verification visit to Jinxiecheng's facilities in China during November 2018, to verify the information disclosed in its REQ. A copy of the Commission's verification report is available on the public record.⁶⁴

Jinxiecheng sold aluminium extrusions to Australian importers through unrelated traders. The goods were therefore not purchased by the importer from the exporter and for this

⁶² Subsection 269TAB(3)

⁶³ Subsection 269TAB(4)

⁶⁴ Document 43 on the EPR.

reason export prices for Jinxiecheng cannot be established under subsection 269TAB(1)(a) or subsection 269TAB(1)(b). Accordingly, the Commission determined export prices in accordance with subsection 269TAB(1)(c). Specifically, the export price has been determined to be the price paid by the trader, paid to Jinxiecheng in arm's length transactions, less the prescribed deductions.

4.4.3 PanAsia

The Commission conducted an on-site verification visit to PanAsia's facilities in China during September 2018, to verify the information disclosed in its REQ. A copy of the Commission's verification report is available on the public record.⁶⁵

Based on information obtained as part of the exporter verification visit, as well as information obtained as part of the PanAsia Australia importer verification visit, the Commission considered that:

- the goods have been exported to Australia otherwise than by the importer;
- the goods have been purchased by the importer from the exporter; however the transactions between the importer and exporter were not arms length transactions.

In making an assessment that the transactions between the importer and exporter were not arms length, the Commission examined relevant information to determine whether there had been genuine bargaining. The Commission considers that, during the review period, the price for all exports of the goods by the exporter were 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 – subsection 269TAA(1)(b). In particular, the Commission is not satisfied that the price between the importer and exporter is a result of real bargaining and that prices for different finishes of the goods were set according to market conditions.⁶⁶

Accordingly, export prices for PanAsia cannot be determined under subsection 269TAB(1)(a) and have been determined under subsection 269TAB(1)(b). Specifically, the export price has been calculated by reference to the invoice price from PanAsia Australia to its Australian customers, less prescribed deductions under subsection 269TAB(2) to bring the invoiced amount back to a free on board (FOB) price from China.

4.4.4 Kam Kiu

The Commission conducted a desktop benchmark verification of the information Kam Kiu disclosed in its REQ. A copy of the Commission's verification report is available on the public record.⁶⁷

⁶⁵ Document 48 on the EPR.

⁶⁶ In respect of PanAsia's Australian sales of the goods during the period, based on information obtained during the PanAsia Australia importer visit and PanAsia exporter visit, the verification team is aware that negotiations or other kind of bargaining does not take place between PanAsia, its trading entity Opal and PanAsia Australia, and that the price for the goods is not set at market price.

⁶⁷ Document 44 on the EPR.

Pursuant to section 269TAA of the Act, the Commission has determined that prices from Kam Kiu to their two foreign related entities, Kam Kiu Aluminium Products Sdn Bhd and Kam Kiu (Hong Kong) Limited were influenced by a commercial relationship and that a large proportion of the export sales between these related entities were unprofitable. On this basis the Commission has determined that the prices paid are not arms length.⁶⁸

As the goods were subsequently sold by the importer in the condition that they were imported, export price for Kam Kiu has been determined according to subsection 269TAB(1)(b), being the price at which the goods were sold by the importer less the prescribed deductions.

4.4.5 Goomax

The Commission conducted an on-site verification visit to Goomax's facilities in China during October and November 2018, to verify the information disclosed in its REQ. A copy of the Commission's verification report is available on the public record.⁶⁹

Verification of Goomax's REQ found that the goods had been exported to Australia otherwise than by the importer and that the goods had been purchased by the importer from the exporter.

Accordingly, export prices for Goomax can be established under subsection 269TAB(1)(a). Specifically, the export price has been determined to be the price paid by the importer, less transport and other costs arising after exportation.

4.4.6 Residual exporters

Export prices for the residual exporters listed in section 2.4.3 were established in accordance with subsection 269TACAB(2)(c), using the weighted average export price determined for the cooperative exporters.

4.4.7 Uncooperative exporters and all other exporters

Export prices for uncooperative exporters were established under subsection 269TACAB(1)(d), which provides that export prices for uncooperative exporters be worked out under subsection 269TAB(3), having regard to all relevant information. The export price is based on the lowest weighted average export price of the selected exporters during the review period.

⁶⁸ In its REQ, Kam Kiu did not provide any evidence suggesting that the nature of the non-arms length transactions between its importers had changed from the previous review, REV 392. Further discussion can be found in the verification report, Document 44 on the EPR.

⁶⁹ Document 45 on the EPR.

4.5 Submissions regarding export price

4.5.1 Jiawei

On 14 March 2019, Jiawei made a submission in response to the publication of the SEF.

Jiawei notes the Commission's decision to rely on the facts available in determining Jiawei's export price, in particular, the Commissioner's decision to determine Solidi as a "*non-cooperative importer*".

Jiawei referred to Article 6.8 of the Anti-Dumping Agreement (ADA) which states that an investigating authority may only make preliminary findings on the basis of facts available, where an 'interested party refuses access to, or otherwise does not provide necessary information within a reasonable period'.

Jiawei states that this assumes that the investigation authority has complied with its requirements outlined in Article 6.1 of the ADA which requires interested parties to be given notice of information which the authority requires and ample opportunity to present evidence.

Jiawei states that it understands Solidi was not notified of this review. It claims it is unreasonable to penalise Jiawei on the basis of the lack of cooperation by an interested party that Jiawei has no control over.

Jiawei also claims there has been a lack of procedural fairness and transparency offered by the Commission with regards to the information relied upon in determining its export price. Jiawei states that the Commission has refused to provide the preliminary export prices or the final dumping margin calculations determined in relation to them and therefore they cannot establish whether errors exist in the calculations.

In addition, Jiawei states that Commission has refused to identify the source of information used in determining the export prices or other relevant information that would allow it to comment on whether further adjustments are necessary to ensure proper comparison with its normal values. In addition, Jiawei state that there has been no claim of confidentiality on the public record.

In any event, Jiawei claims there is no legitimate claim of confidentiality given that:

- i) the data relates to historic export prices that would not provide competitive advantage to Jiawei; and
- ii) the export prices are quarterly weighted average prices which would not have a significant adverse effect on the party supplying the information.

Use of adverse facts is unreasonable:

Jiawei claims that the Commission has not undertaken an objective investigation. Jiawei claims there is sufficient information available that is both relevant and reliable for establishing arms-length export prices. Further to this, Jiawei claims that the Commission has not complied with its own policy and its obligations under the ADA to evaluate and

assess all relevant information in deciding which information is best for the particular circumstances.

Jiawei submits that the Commission has failed to undertake an assessment of all relevant information available as it failed to detail an evaluation of the information it relied on in SEF 482.

Export prices to other importers:

Jiawei claims there is no basis for the Commission to conclude that export sales it made to its other two importers, were not arms-length transactions as neither of these importers were requested to provide information. Jiawei states that the Commission should rely on these prices to assess whether sales to Solidi were arms length, and that these sales must be considered the best available information for determining export prices given their relevance and reliability.

4.5.2 PanAsia

The Commission received a submission, dated 18 March 2019, from PanAsia in response to the SEF, regarding various aspects of their dumping margin calculations.

With respect to the determination of export price, PanAsia state that the deductive export prices determined do not allow for a proper comparison with their respective normal value as the comparison does not take into account that the goods were sold on different dates, and that the selling, general and administrative costs (SG&A) for PanAsia Australia is overstated as it ignores certain sales⁷⁰ made during the review period.

Sales at different times adjustment

PanAsia contend that there is an average of three months between when the goods are exported from China, to when they are sold in Australia by the importer and for this reason, a sales timing adjustment should be applied to export sales. PanAsia claim that such an adjustment was made in REV 392.

In addition, PanAsia states it was not advised of the Commission's method for determining an export price based on the deductive method at the time of the on-site verification visit and contends that it was working on the basis that no sales timing adjustment would be required as the export sales were at arms-length.

PanAsia Australia SG&A

PanAsia further states that PanAsia Australia does not incur expenses related to stocking and warehousing for certain sales that are delivered directly to the customer from the port of importation. Therefore the SG&A calculated by the Commission, to be used in determining their export price, is overstated.

⁷⁰ PanAsia states it alternatively sourced aluminium extrusions from suppliers other than Chinese exporters.

In addition, PanAsia states that PanAsia Australia's selling prices are understated as they include imports from another source, not currently subject to anti-dumping measures. PanAsia claim that these imports are sold at cheaper prices in Australia. PanAsia provided additional data with its submission to identify these sales.

4.5.3 Capral

In its submission in response to the SEF, Capral request that the Commission re-examine the profitability of sales made by the Australian importer, Mega Stone. This request was made on the basis that the Commission was unable to establish the profitability of the 12 selected shipments verified during the on-site visit to Mega Stone's facilities. Capral states that Mega Stone sources its aluminium extrusions from imports and domestic suppliers and submits that it can sell domestically sourced goods at a profit, while selling imported goods at a loss.

4.5.4 The Commission's assessment

4.5.4.1 Jiawei

The Commission provided a number of opportunities for Solidi to provide information to assist with the review in respect to goods it imports to Australia from China, as detailed in section 4.4.1 above.

At the time of providing this report to the Minister, the Commission has not received the information requested.

The Commissioner is satisfied that Solidi has not provided information considered to be relevant to the case and therefore is unable to reliably assess the nature of its purchases of aluminium extrusions imported from China, particularly in relation to whether those sales are arms-length transactions.

The Commission will, subject to confidentiality, seek to provide an exporter with information that has been used to determine variable factors. However, the Commission is bound by the Australian Privacy Principles in the *Privacy Act 1988*, which regulate how agencies collect, use, disclose and store commercially sensitive information. The Commission complies with these principles in its collection and dissemination of confidential information provided by all interested parties.

As the data relied up on in determining variable factors relevant to Jiawei is not at such an aggregate level that to provide it would not breach the confidentiality and commercial sensitivity of the entity involved, the Commission is not able to provide it to Jiawei.

Use of adverse facts is unreasonable

The Commission is not able to establish that sales between Jiawei and Solidi are arms length transactions and can therefore not reasonable rely on the data provided by Jiawei to reflect the export price that is representative of an arms length transaction. Further, the Commission is unable to assess if the price of the goods imported to Australia by Solidi, sourced from Jiawei, are as a result of real bargaining.

The Commission has assessed the information available in reaching the finding that it is unable to determine an export price with respect to the goods exported to Australia by Jiawei and disagrees that the Commission has used adverse facts to construct Jiawei's export price. The Commission has relied on the information it had available to it to determine Jiawei's export price.

Export prices to other importers

In undertaking this review, the Commission finds that the volume of exports Jiawei sells to Solidi is significant when compared to the volumes exported to other Australia importers. In particular, Jiawei's exports to other Australian importers is less than three per cent of its total Australian sales by volume and less than one per cent by number of invoices. In addition, the Commission did not receive information from these importers to enable an assessment of whether these sales were arms length.

4.5.4.2 PanAsia

Sales at different times adjustment

During the verification to PanAsia, the Commission discussed arms-length issues with PanAsia with regard to determining export price and the method of determining export price using a deductive export price. PanAsia did not raise any issues concerning the different timing of export and domestic sales during the verification. In addition, the Commission has reviewed the calculations and reports from the previous review⁷¹ and has found no evidence of such an adjustment for timing being applied in relation to PanAsia.

The Commission holds the view that a timing adjustment in relation to determining a deductive export price is not appropriate in circumstances where no evidence was provided to enable an assessment of the appropriateness of such an adjustment. Neither PanAsia nor PanAsia Australia provided evidence to the Commission at the time of the respective on-site verification visits to substantiate that a timing adjustment between sales made to PanAsia Australia and PanAsia Australia's Australian customers should be applied.

Despite stating in its submission that sufficient evidence exists to confirm that there is a timing lag between sales to PanAsia Australia and from PanAsia Australia, PanAsia did not provide any evidence to support its claim, either at the on-site exporter or importer verification visits, or in its submission in response to the SEF.

PanAsia Australia SG&A

The Commission does not agree that the SG&A determined for PanAsia has been overstated. The Commission has determined PanAsia's SG&A based on their total operating expenses apportioned across total sales revenue during the review period. The Commission agrees that certain sales did not incur expenses associated with warehousing and other associated expenses, however the verified proportion of these sales is minimal in

⁷¹ Review 392. Further information on review 392 can be found on the Commission's website at www.adcommission.gov.au

comparison to imports that are further fabricated and sold as finished goods to other Australian customers.

The Commission, in calculating the SG&A amount for PanAsia Australia, considers all sales relevant. This balances the effect of both high and low transactions throughout the review period and provides a balanced outcome.

The Commission considers that the new information provided by PanAsia with respect to the source of aluminium extrusions, other than China, is unverified and not able to be relied on for the Commission's assessment. Therefore, the Commission has no ability to verify the sales information and therefore cannot accept the claim that the selling price of the alternatively sourced aluminium extrusions leads to an understatement of PanAsia's selling prices.

4.5.4.3 Capral

The Commission verified the particular mix of Mega Stone's imported and domestically sourced aluminium extrusions and found that a large proportion is imported from China. The Commission is satisfied that, on examination of financial statements, sales of aluminium extrusions imported by Mega Stone are profitable.

4.6 Construction of normal value – particular market situation

4.6.1 Applicable legislation

Under subsection 269TAC(1) the 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.

Subsection 269TAC(2) sets out how normal value is to be ascertained if it cannot be ascertained under subsection 269TAC(1). In particular, if, in accordance with subsection 269TAC(2)(a)(ii), the Minister is satisfied that the normal value of the goods exported to Australia cannot be ascertained under subsection 269TAC(1) because *'the situation in 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 269TAC(1)]'*, normal value is such amount as the Minister determines in accordance with subsection 269TAC(2)(c).

Where the Minister is satisfied that such a market situation exists, normal value cannot be established on the basis of domestic sales in the country of export, and may be constructed as the sum of the following:

- the cost of production or manufacture of the exported goods;
- the selling, general and administrative costs that would be incurred on the assumption that the exported good is sold on the domestic market; and
- an amount of profit.

The methodology used to construct normal values is discussed in detail in section 5.7 of this report.

4.6.2 Particular market situation - the Commission's assessment

On initiation of this review, the Commission sent a questionnaire to the GOC requesting the following information in relation to the aluminium extrusions market in China:

- identification of the names of the government departments, bureaus or agencies that are responsible for the administration of any GOC measures concerning the aluminium industry;
- details of all manufacturers/traders of aluminium extrusions in China including location, whether they are a State Invested Enterprise (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 operating of the Price Law of the People's Republic of China; 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 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.

In light of 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.

The Commission found that GOC influence in the primary aluminium and aluminium extrusion sectors has resulted in significantly different aluminium extrusion prices, compared to what would have been the case if the relevant markets operated without significant GOC intervention.

The Commission found that the impact of the GOC influence on supply are extensive, complex and manifold, and their resulting impact on the price of aluminium extrusions is not able to be easily quantified. However, available information and the Commission's analysis indicates that this influence is likely to have had a material impact on the domestic price of aluminium extrusions during the review period.

The Commission therefore considers that GOC influence in the Chinese aluminium industry has created a 'market situation' in the domestic aluminium extrusions market, such that sales in that market are not suitable for determining normal value under subsection 269TAC(1).

Further detail and evidence for this finding is set out in **Non-confidential Attachment 1**.

4.6.3 Establishing normal values for selected exporters

The Commissioner has found that there is a particular market situation in China such that domestic selling prices are not suitable for determining normal value under subsection 269TAC(1).

Where the Minister is satisfied that normal value cannot be determined under subsection 269TAC(1), subsection 269TAC(2)(c) provides that the normal value is:

(c) ... 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 subsections 269TAC(5A) and 269TAC(5B), the construction of normal values under subsection 269TAC(2)(c) is required to be undertaken in accordance with Regulation 43, 44 and 45 of *Customs (International Obligations) Regulation 2015* (the Regulation).

4.6.4 Cost of production

To determine costs of manufacture or production in relation to constructing normal values, Regulation 43(2) of the Regulation requires that if:

- an exporter or producer of the goods keeps records relating to the goods that are in accordance with generally accepted accounting principles in the country of export; and*
- those records reasonably reflect competitive market costs associated with the production or manufacture of the goods;*

the Minister must work out the cost of production or manufacture using the information set out in the exporter or producer's records.

4.6.5 Reasonableness of exporters' cost of production

The Commission's view is that, due to the influence of the GOC in the domestic market for primary aluminium, the exporters' records do not reasonably reflect competitive market costs for the production or manufacture of the goods. Specifically, the Commission considers that aluminium costs in China, which make up a major proportion of the total costs of production of aluminium extrusions are distorted by GOC influence and do not reasonably reflect competitive market costs associated with the production or manufacture of the goods in terms of subsection 43(2)(b)(ii) of the Regulation (**Non-confidential Attachment 1** refers).

In these circumstances, the Commission is not required to work out an amount for the cost of production using the information set out in the exporters' records. Accordingly, the

Commissioner considers it appropriate that aluminium costs relating to the costs of production in the exporters' records be adjusted to reflect competitive market costs and that the methodology outlined below be applied in making such adjustments.

4.6.6 Aluminium cost replacement

For the reasons set out in this section, the Commission has determined that the constructed normal values should not consist solely of the actual aluminium costs incurred by exporters in the relevant costs of production. The Commission has considered all relevant information and considers it appropriate, with the exception of Goomax,⁷² to use the exporters' records, but only after an adjustment is made to the records relating to the costs of aluminium, as submitted by each selected exporter in its exporter questionnaire. Such adjustment ensures that each exporter's records reflect competitive market costs. In doing so, the Commission has considered the individual circumstances of each exporter's purchases of aluminium and to the greatest extent possible has ensured that the exporter's adjusted records reflect costs that would be incurred in China without the distortion resulting from the influence of the GOC.

Where the Commission has been unable to rely on an exporter's data, as is the case for Goomax, normal values have been determined in accordance with subsection 269TAC(6), having regard to all relevant information.

The methodology used is outlined below.

The Commission has established in previous cases⁷³ 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 above components have been included in establishing a competitive benchmark cost for aluminium, as set out below. The Commission considers that this benchmark acts as an appropriate proxy for a competitive market cost of aluminium in the Chinese domestic market.

Primary aluminium – LME cash price

The Commission has relied on the average monthly LME official cash price data.

⁷² Discussed in further detail in section 4.3.2 of this report.

⁷³ REV 392

Regional premium

The Commission has relied on the published MJP regional premium. Shipments under the MJP premium are made on a Cost, Insurance and Freight (CIF) basis. This means that the premium is inclusive of all costs associated with transporting the goods from the country of export to the destination port except for those costs relating to port of arrival charges and inland transport from the port of arrival to the final destination.

Inland transport costs

In the absence of verified actual inland transport costs for primary aluminium purchases, the Commission has calculated and applied the verified weighted average inland transport costs incurred by two exporters for their export sales of aluminium extrusions to Australia.

Billet premiums

The Commission has determined a billet premium using the Australian industry's billet price schedules relevant to the review period.

4.6.7 Calculation of adjustments

The aluminium costs have been determined by comparing the competitive benchmark cost to the exporter's actual costs and applying the resulting percentage difference as an adjustment to the exporter's records.

Where an exporter has purchased ingot and/or billet, the adjustment to the aluminium costs will be reflective of the same proportion to the amount of billet and/or ingot purchased by the exporter during the review period.

Where an exporter imports aluminium ingot and billet the Commission has not adjusted these costs.

4.6.8 Determination of profit for constructed normal values

Regulation 45(2) requires that, where reasonably practicable, profit for constructed normal values under subsection 269TAC(2)(c)(ii) must be worked out using data relating to the production and sale of like goods by the exporter or producer of the goods in the OCOT.

Accordingly, the Commission has separately calculated a weighted average profit rate, measured as a percentage mark-up on the full cost to make and sell, for each selected exporter, using the actual records relating to the costs of production. This profit rate has been used to calculate an amount of profit for the purposes of subsection 269TAC(2)(c)(ii).

4.7 Submissions regarding constructed normal value

4.7.1 Kam Kiu

In response to the Commission's exporter verification report, Kam Kiu provided a submission dated 18 February 2019, stating that:

- the high-end models it sold domestically are not like goods to those falling under this review;
- in the alternative, if the high-end models are like goods, then to allow for a fair comparison to be made between the constructed normal value and the export price, the profit from these domestic sales should be excluded from the construction; and
- the Act and the Regulations permit:
 - the exclusion of the high-end models from the goods used to calculate profit component of the constructed normal value;
 - an adjustment to the profit component of the constructed normal value; and/or
 - an adjustment to the costs component of the constructed normal value.

Like goods:

Kam Kiu provided information to show that it considers the high-end models are not identical or alike to GUC. Kam Kiu also submits that in Review 392, the Commission found that the high-end models were not exported to Australia by Kam Kiu and this finding is relevant to the current review.

Fair comparison:

Kam Kiu submits that an allowance for the difference in profit should be made to allow for price comparability of domestic to export models. Further, Kam Kiu states that the failure to make such an allowance will result in an inflated normal value.

Exclusion of profit is permitted:

Kam Kiu argues that, unlike Regulation 45(3) of the Regulation, the Minister is not required to include the profit from all sales of like goods in OCOT when determining an amount of profit pursuant to Regulation 45(2). Kam Kiu pointed to the recent Steelforce decision⁷⁴ and argues that the language in Regulation 45(3) is more prescriptive than Regulation 45(2) and provides scope for the Minister to use only some of the “data relating to the production and sale of like goods”. Kam Kiu provided an example of where not to use all the data being to allow for a fair comparison between normal value and export price. Kam Kiu states that this is supported by Article 2.2 of the ADA.

Adjustments to allow for profits of high-end models are permitted:

Kam Kiu argues that the Commission must make an adjustment to the normal value, if the profit of high-end models is included in the calculation of the constructed normal value to ensure a fair comparison. Kam Kiu states that there is nothing in the Act, the Regulations or the ADA that prevent an adjustment being made in the determination of normal value.

⁷⁴ *Steelforce Trading Pty Ltd v Parliamentary Secretary to the Minister for Industry, Innovation and Science* FCAFC 20 (19 February 2018).

4.7.2 PanAsia

In its submission dated 18 March 2019, PanAsia states that in applying an adjustment to the primary aluminium costs, a number of errors were made, including that:

- for mill finish goods, the ‘uplift’ percentage was applied to the ‘material costs’ in its cost to make and sell (CTMS) data which also included the costs of non-aluminium inputs, such as energy, other raw materials, overheads, utilities and labour;
- the ‘uplift’ percentage for powder coated and anodised models has been applied twice as the material cost for these models includes the cost of the mill finished models;
- the ratio calculated for the ‘uplift’ percentage of aluminium costs was incorrect as it erroneously included imported ingot from overseas; and
- the ratios have been applied to the materials incorrectly on the basis that it did not factor in separate aluminium ingot costs, aluminium billet costs and aluminium recovery costs.

PanAsia stated its recognition that the error resulting from the misclassification of imports as domestic aluminium ingot purchases had been corrected by the Commission. However, PanAsia states that when correcting the error of applying the ‘uplift’ percentage of aluminium costs the Commission should apply the ratio of domestic and imported aluminium ingot to only the ingot purchases, the billet ratio to the billet purchases and all ratios to aluminium recovery. PanAsia provided a new detailed costing spreadsheet outlining the suggested approach.

4.7.3 Commission’s assessment

4.7.3.1 Kam Kiu

Like goods:

The Commission notes that this same claim was submitted during REV 392. The Commission remains of the view that, although the high-end models may differ from other models manufactured by Kam Kiu, the differences do not change the fundamental nature of the high-end models such that they are not like goods.

Kam Kiu has not provided evidence to support that the high-end models it manufactures should be considered non GUC or non like goods. Therefore the Commission considers the high-end models to be like goods as defined in section 269T.

Fair Comparison and profit:

A key element in the construction of normal value is an amount of profit. An amount for profit is worked out in accordance with Regulation 45.

Regulation 45(2) provides that the Minister must, if reasonably practicable, determine profit using data relating to the production and sale of like goods by the exporter or producer of the goods in the ordinary course of trade.

The Commission considers the high-end models to be like goods. The information provided by Kam Kiu in its REQ, relating to its domestic CTMS of the goods, does not separate costs to a level where the costs of all high-end models, and therefore profit, can be differentiated from other models. Therefore, the Commission is of the view that, the profit on the sale of these like goods sold in OCOT should be included in the determination of profit.

Where normal value is to be ascertained pursuant to subsection 269TAC(2)(c), subsection 269TAC(9) provides that the Minister make such adjustments as are necessary to ensure that the normal value so ascertained is properly comparable with the export price of the goods. On the basis that the Commission has determined that the profit from like goods should be included in determining normal value, the Commission does not consider that an adjustment for the profit of like goods is appropriate.

4.7.3.2 PanAsia

The Commission has reviewed the cost replacement adjustment it applied to PanAsia's aluminium purchases and has amended the calculation such that it only applies the adjustment to aluminium purchases and not to all material costs. The Commission, in applying the adjustment, has removed the double counting issue identified with respect to powder coated and anodised models.

However, the Commission did not accept PanAsia's submission of applying discreet ratios to ingot, billet and scrap aluminium purchases. The data provided by PanAsia in support of this claim contains new unverified information than that provided prior to, and during the on-site verification visit. This new information has not been verified, to do so would prevent the timely completion of this report, and therefore the Commission is unable to separately identify the purchased aluminium ingot from the purchased aluminium billet.

4.8 Normal values

4.8.1 Cooperative exporters

The normal value for each cooperative exporter, with the exception of Goomax, was established in accordance with subsection 269TAC(2)(c), using the relevant exporter's quarterly weighted average CTMS (as adjusted to reflect competitive market costs), by model, and an amount for profit determined as outlined in **section 4.6.7** above. Where applicable, adjustments to the normal value for each cooperative exporter were made under subsection 269TAC(9) to ensure comparability with the corresponding export price.

Adjustments to normal value were made for differences in:

- packaging;
- inland transport;
- handling and other expenses;
- credit;
- trader's costs; and
- non-refundable VAT.

With respect to Goomax, the Commission finds that Goomax had no models with sufficient volumes of domestic sales of the goods, exported to Australia, that were arms-length

transactions and at prices that were within the OCOT. The Commission is therefore not satisfied that the prices paid in respect of domestic sales of these models of the goods are suitable for assessing normal value under subsection 269TAC(1).

The Commission has determined that the cost data submitted by Goomax was not reliable⁷⁵ for determining normal value under subsection 269TAC(2)(c), as Goomax does not have data that reasonably reflects the cost of production of the goods.⁷⁶

The Commission has therefore established Goomax's normal value pursuant to subsection 269TAC(6), with reference to the residual normal value.

4.8.2 Residual exporters

The normal value for residual exporters has been determined under subsection 269TACAB(2)(d) being the weighted average normal value for the like goods of the cooperative exporters.

4.8.3 Uncooperative and all other exporters

The normal value for uncooperative and all other exporters has been determined under subsection 269TACAB(1)(e), being the normal value worked out in accordance with subsection 269TAC(6), having regard to all relevant information. Specifically, the normal value is based on the highest weighted average normal value of the selected exporters during the review period.

4.9 Submission with respect to normal value

4.9.1 Goomax

In its submission, dated 11 March 2019, Goomax noted that the Commission established Goomax's normal value in line with subsection 269TAC(6), with reference to the residual normal value.

Goomax argues that the weighted average normal values of the selected exporters in this review are unreasonably high. Goomax submits that the normal values applied to Goomax in this review are more than 30 per cent higher than those calculated in REV 392.

Goomax noted Kam Kiu's submission with respect to the use of profit from high-end models in the construction of normal value and stated that it does not manufacture high-end aluminium extrusions and that the high dumping margin determined was influenced by this factor. Goomax submits that this and other differences in factors between Goomax and selected exporters results in a high average normal value.

Goomax states that the differences between it and other selected exporters should be made to ensure a fair comparison.

⁷⁵ Subsection s.269TAC(7).

⁷⁶ Document 45 on the EPR.

4.9.2 PanAsia

PanAsia also stated in its submission of 18 March 2019, that the normal value calculations contained errors relating to upwards adjustments for ocean freight, marine insurance and inland freight. However, PanAsia acknowledged that the Commission had corrected the errors with respect to the adjustments for ocean freight and marine insurance. PanAsia also accepts that the upwards adjustment applied for inland freight was appropriate.

Also included in this submission was a claim for an adjustment for non-refundable VAT, PanAsia advised that in May 2017 the applicable rate of VAT with respect to aluminium extrusions changed from 17 per cent to 16 per cent. Therefore, PanAsia argues that the effective rate from May 2017 for the non-refundable VAT adjustment that should be applied to PanAsia's normal value for fair comparison is three per cent, as opposed to four per cent. PanAsia state that this was verified by the Commission during its onsite visit.

4.9.3 Capral

In its submission in response to the SEF, Capral notes that the verification report with respect to Goomax, does not refer to an adjustment to normal value for non-refundable VAT, where most other exporters' normal values are adjusted accordingly. Capral also notes that the verification report with respect to Goomax for accelerated review 374 also did not make mention of an adjustment to normal value for non-refundable VAT.

4.9.4 The Commission's response

4.9.4.1 Goomax

The Commission was unable to rely on Goomax's CTMS data for the purposes of constructing a normal value. As a result, the Commission has had regard to all relevant verified information and determined a normal value for Goomax with reference to the residual rate. The residual normal value is a weighted average of all cooperative exporters, including allowable adjustments.

4.9.4.2 PanAsia

The Commission confirms that the May 2017 change in the VAT applicable to aluminium extrusions was verified at the time of the on-site visit to PanAsia's facilities. The Commission has amended PanAsia's normal value adjustment, with respect to non-refundable VAT, from May 2017 to 3 per cent.

4.9.4.3 Capral

The Commission was unable to rely on data provided by Goomax in order to establish its normal value. The Commission has determined Goomax's normal value with reference to the residual rate. Accordingly, the Commission has not made exporter specific adjustments to normal value for Goomax.

4.10 Dumping margins

The Commission has calculated dumping margins based on the revised variable factors. For this review the dumping margins for the review period have been calculated by

comparing weighted average of corresponding normal values in accordance with subsection 269TACB(2)(a) .

The dumping margin for each exporter is listed below:

Exporter	Dumping margin
Jiawei	20.1%
Jinxiecheng	15.8%
PanAsia	55.2%
Kam Kiu	35.7%
Goomax	42.3%
Residual exporters	29.1%
Uncooperative and all other exporters	95.9%

Table 6 - Dumping margins

A summary of the export price, normal value and dumping margin calculations is at **Confidential Appendix 2**.

5 VARIABLE FACTORS – COUNTERVAILING NOTICE

5.1 Finding

The Commissioner finds that the variable factors relevant to the determination of ICD under the Dumping Duty Act have changed.

The Commissioner recommends to the Minister that the countervailing duty notice have effect as if different variable factors (the export price and amount of countervailable subsidy received) had been ascertained. The revised variable factors have resulted in different subsidy margins relevant to the taking of ICD.

5.2 Legislation

Sections 269TACC and 269TACD concern determinations by the Minister whether a benefit has been conferred by a financial contribution or price support, and the amount of this benefit. Generally, the existence of a benefit is determined by comparison with a benchmarked market-place, or if it involves claims of a benefit received from revenue foregone, from a comparison of the actual tax rate applied to the tax rates of the country in question.

5.3 Programs reviewed

The Commission examined the 66 subsidy programs as part of this review. This includes the 32 programs deemed to be countervailable subsidies received by exporters in respect of aluminium extrusions in the Commission's previous review, REV 392, as well as 34 additional subsidy programs⁷⁷ which were identified during this review.

To assess these programs in relation to aluminium extrusions exported to Australia, the Commission included questions relating to each program in a questionnaire sent to the GOC and exporter questionnaire to all known exporters of aluminium extrusions from China, shortly after initiation of the review. A follow-up supplementary questionnaire was sent to the GOC following the exporter verification visits.

A public record version of the responses received from cooperating exporters from China are on the Commission's website⁷⁸. The GOC has not provided any responses to the government questionnaire nor to the supplementary government questionnaire. The GOC has also not made any submissions to the Commission in relation to this review.

5.4 Export prices

The export prices relating to all exporters other than Zhongya were outlined previously in Chapter 4. Zhongya's export price is only relevant to the countervailing duty notice therefore the assessment of its export price is outlined in this chapter below.

⁷⁷ All 34 new subsidy programs were grants provided by the GOC.

⁷⁸ www.adcommission.gov.au

5.4.1 Zhongya

The Commission conducted a benchmark verification of the information Zhongya provided in its REQ. A copy of the Commission's verification report is available on the public record.⁷⁹

Verification of Zhongya's REQ found that the goods had been exported to Australia otherwise than by the importer but the goods had not been purchased by the importer from the exporter, rather they had been purchased by the importer from Zhongya's related trading company based in Hong Kong.⁸⁰

Accordingly, export prices for Zhongya have been determined in accordance with subsection 269TAB(1)(c), having regard to all the circumstances of the exportation. Specifically, the export price has been determined as the price paid by the importer less transport and other costs arising after exportation.

5.5 Summary of countervailable programs

After assessing all relevant information available, the Commission has found that the following programs are countervailable⁸¹ in respect of aluminium extrusions exported to Australia from China.

The findings in relation to each program are outlined in the table below.

Program Number	Program Name	Program Type	Countervailable in relation to the goods (Yes/No)
2	One-time Awards to Enterprises Whose Products Qualify for 'Well-Known Trademarks of China' and 'Famous Brands of China'	Grant	Yes
3	Provincial Scientific Development Plan Fund	Grant	Yes
4	Export Brand Development Fund	Grant	Yes
5	Matching Funds for International Market Development for Small and Medium Enterprises (SME)	Grant	Yes
6	Superstar Enterprise Grant	Grant	Yes
7	Research & Development (R&D) Assistance Grant	Grant	Yes
8	Patent Award of Guangdong Province	Grant	Yes
9	Training Program for Rural Surplus Labour Force Transfer Employment	Grant	Yes
15	Aluminium provided at less than adequate remuneration	Less than adequate remuneration	Yes
18	Preferential tax policies in the Western Regions	Tax	Yes

⁷⁹ Document 42 on the EPR.

⁸⁰ See page 3 of Zhongya's Verification report, document 42 on the EPR.

⁸¹ Under section 269TAAC of the Act.

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Program Number	Program Name	Program Type	Countervailable in relation to the goods (Yes/No)
21	Tariff and Value Added Tax (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
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

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Program Number	Program Name	Program Type	Countervailable in relation to the goods (Yes/No)
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
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

Program Number	Program Name	Program Type	Countervailable in relation to the goods (Yes/No)
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

Table 7 - Countervailable subsidy summary

The Commission's findings in relation to each program investigated are outlined in **Non-Confidential Attachment 2**.

5.6 Calculation of subsidies margins

5.6.1 Cooperative exporters

The Commission has reviewed all available information, including data provided by the cooperative exporters, and determined that the selected exporters listed in table 8 below have received a financial contribution conferring a benefit⁸² in respect to the goods, in the form of subsidies listed in table 7 in section 5.5.

The amount of benefit received for each exporter has been attributed to each unit of aluminium extrusions (per tonne) using volume of sales of the goods by each selected exporter.

Exporter specific subsidy margins have been calculated using the amount of the unit benefit expressed as a percentage of export price for each selected exporter.

5.6.2 Residual exporters

Residual exporters for the purpose of this review are listed in **section 2.4.3** of this report.

The subsidy margin for residual exporters has been calculated based on a weighted average of the six selected cooperative exporters (subject to the countervailing notice) subsidy margins, weighted by their export volumes of the goods.

The subsidy margins of the four selected exporters were individually calculated as per **section 5.6.1** of this report.

The subsidy calculations for residual exporters are provided at **Confidential Appendix 2**.

⁸² Subsections 269TACC(2)(a)-(b) of the Act.

5.6.3 Non-cooperative and all other Chinese exporters

In the absence of information from non-cooperative and all other exporters, the Commission has acted on the basis of all the facts available and made such assumptions as considered reasonable in determining whether a countervailable subsidy has been received in respect of particular goods and in determining the amount of countervailable subsidy for non-cooperative exporters.

The Commissioner finds that the goods exported to Australia by non-cooperative exporters benefited from all 65 programs found to be countervailable in respect of aluminium extrusions, and the subsidy margin for each program is the total of the highest per unit subsidisation amount received by the selected exporters under each subsidy program category over the lowest weighted average export price amongst the selected exporters.

5.6.4 Subsidy margins

The subsidy margins calculated by the Commission for Chinese selected cooperative exporters, residual exporters and non-cooperative and all other exporters is detailed in table 8 below:

Exporter	Subsidy margin
Jiawei	0%
Jinxiecheng	0%
PanAsia	2.6%
Kam Kiu	3.6%
Goomax	1.2%
Zhongya	0.2%
Residual exporters	0.7% ⁸³
Non-cooperative and all other exporters	8.2% ⁸⁴

Table 8 - Subsidy margin summary

The Commission's subsidy calculations are at **Confidential Appendix 2**.

The Commission's finding in relation to each program investigated (including the method of calculation of subsidy margins) for China are detailed in **Non-confidential Attachment 2**.

⁸³ The residual subsidy margin calculation also includes data of the selected exporters that did not receive subsidy to ensure the sample is more representative of all exporters. Data for these exporters had not been included in the figure reported in the SEF.

⁸⁴ The non-cooperative and all other exporters subsidy margin calculation also includes data of the selected exporters that did not receive subsidy to ensure the sample is more representative of all exporters. Data for these exporters had not been included in the figure reported in the SEF.

5.7 Submissions by interested parties

5.7.1 Capral

On 6 February 2019, Capral provided a submission with respect to Zhongya's exporter verification report.⁸⁵ Capral queried whether the Commission had examined whether there were any new programs provided by the GOC that Zhongya may have received a benefit from in the period following REV 392. Capral also queried whether the Commission had examined the ownership of the entities listed by Zhongya as suppliers of its aluminium ingots.

The Commission confirms that it has examined the non-operating income ledger for Zhongya for the current review period and is satisfied no additional grants were received by Zhongya in the review period.

The Commission is satisfied Zhongya's suppliers of aluminium ingot were not SOE's on the basis of the ownership and registration information provided by Zhongya, in addition to previous findings of the Commission that Zhongya's suppliers of aluminium ingot in previous reviews (the same suppliers as found in this review) have been previously verified not to be SOEs.

⁸⁵ Document 044 on the EPR.

6 NON-INJURIOUS PRICE

6.1 Introduction

Where goods are subject to a dumping duty notice only, the level of dumping duty imposed by the Minister cannot exceed the margin of dumping, but, where the NIP of the goods is less than the normal value of the goods, the Minister must also have regard to the desirability of fixing a lesser amount of duty.⁸⁶

Where a dumping duty notice and countervailing duty notice apply to the same goods, and the notices were published at the same time, the Minister must have regard to the desirability of specifying a method such that the sum of the ascertained export price, the interim dumping duty payable and the interim countervailing duty payable do not exceed the NIP.⁸⁷

However, the Minister is not required to, but may still have regard to the desirability of fixing a lesser amount of duty where circumstances exist such that:

- there is a situation in the market that makes domestic selling prices unsuitable for the purpose of determining normal value under subsection 269TAC(1);
- there is an Australian industry in respect of the goods consisting of at least two small to medium sized enterprises (as defined in the *Customs (Definition of “small-medium enterprise”) Determination 2013*); or
- the country in relation to which the subsidy has been provided, has not complied with Article 25 of the *Agreement on Subsidies and Countervailing Measures* for the compliance period.

In REV 392, the Commissioner found that two of the prescribed circumstances mentioned above existed. Therefore, the then Assistant Minister for Industry, Innovation and Science, and Parliamentary Secretary to the Minister for Industry, Innovation and Science, was not required to have regard to the desirability of fixing a lesser amount of duty due to the operation of subsections 8(5BAAA) and 10(3DA) of the Dumping Duty Act.

6.2 Final assessment

For the reasons outlined in chapter 4 and **Non-confidential Attachment 1**, the Commissioner recommends that the Minister be satisfied that, in accordance with subsection 269TAC(2)(a)(ii), the situation in the Chinese aluminium extrusions market is such that sales in that market are not suitable for use in determining a price under subsection 269TAC(1).

Accordingly, for this review, the Commissioner considers that subsections 8(5BAAA)(a) and 10(3DA)(c) of the Dumping Duty Act apply, and as a result, the Minister is not required to

⁸⁶ Subsection 8(5B) of the Dumping Duty Act.

⁸⁷ Subsections 5(5BA) and 10(3D) of the Dumping Duty Act.

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consider the lesser duty rule for the purposes of subsections 8(5BA) and 10(3D) of the Dumping Duty Act.

The Commissioner recommends that the full dumping and subsidy margins be applied to any IDD and ICD taken in relation to aluminium extrusions exported to Australia from China. The Commissioner notes that, notwithstanding his proposed recommendation, the Minister is not obliged to, but still may, consider applying a less amount of duty.

The Commission's calculation of the NIP is at **Confidential Appendix 3**.

7 REVOCATION REVIEW OF MEASURES – ZHONGYA

7.1 Findings and recommendations

The Commissioner finds that revoking the anti-dumping measures, relevant to the exports of aluminium extrusions by Zhongya from China:

- would lead to, or be likely to lead to, the continuation or recurrence of the subsidisation that the measures are intended to prevent; and
- would lead to, or be likely to lead to, the continuation or recurrence of the material injury that the measures are intended to prevent.

Based on the findings outlined below, the Commissioner recommends to the Minister the countervailing duty notice, with respect to Zhongya, not be revoked.

7.2 Applicant's claims

In its application to extend the variable factors review, Zhongya claimed there are grounds to assert that the anti-dumping measures, relevant to exports of the goods from China by Zhongya, are no longer warranted and should be revoked.

Zhongya states that the calculated subsidy margins determined in duty assessments over the last 10 year period are evidence that:

- a. it is not receiving countervailable subsidies; and
- b. it is unlikely that subsidisation will recur should the measures be revoked.

Zhongya also claims that its exports of the goods to Australia are not causing material injury to the Australian industry and refers to a submission provided to the Commission with respect to INV 442 that argued there is no evidence of volume injury, displacement or suppressed return on investment caused by Zhongya.⁸⁸

7.3 Legislative background

Under section 269ZDA, the Commissioner must make a revocation recommendation to the Minister in relation to the measures, unless the Commissioner is satisfied as a result of the review that revoking the measures would lead, or be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the measures are intended to prevent.

7.4 Economic performance of the Australian industry

7.4.1 Period of analysis

The Commission has used data from Capral along with other data, such as import statistics from the ABF import database where relevant, in its analysis of the economic condition of the Australian industry for the injury analysis period from 1 July 2014. In addition, the Commission has had regard to relevant previous investigations into aluminium extrusions

⁸⁸ Document 58 on the EPR for INV 442.

exported from China, including the original investigation imposing measures, INV 148, REV 248, CON 287 and INV 442.

Following initiation of this review, the Commission sought information and data in the form of a questionnaire from Australian aluminium extrusion producers in order to assess the economic condition of the Australian industry.⁸⁹ The Commission received a response from Capral on 28 November 2018.⁹⁰ As Capral holds a large proportion of the Australian market, the Commission views it appropriate to consider it is representative of the Australian market as a whole. Capral's response confirms that the market structure in Australia, with respect to aluminium extrusions, has not changed significantly since REV 148.

In Capral's questionnaire response to this review, injury indices were presented on a financial year basis from 2013-14 to 2017-18. As noted in ADN 2018/111 (for REV 482) and ADN 2018/132 (for REV 490)⁹¹, the review period was set for the 12 months ending June 2018. The injury analysis period was set to commence on 1 July 2014 which is consistent with the Commission's convention of including the preceding three years to the review period in the injury analysis period.

As part of REV 248, Capral advised that the market structure in Australia, with respect to aluminium extrusions, has not changed significantly since the original investigation. Capral confirmed in their REQ for this review that the main market segments are:

- 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.

Capral also advised that the key drivers of market demand are:

- housing construction and commercial building activity;
- general industrial activity;
- major infrastructure projects; and
- the level of finished product substitution (for local manufacture).

The Commission is satisfied that information provided in the questionnaire is representative of the Australian Industry and along with previous findings of the Commission, is reliable for the purpose of assessing the economic condition of the Australian industry.⁹²

⁸⁹ The due date for responses was 2 November 2017.

⁹⁰ Document 36 on the EPR

⁹¹ The Commission is in the process of reviewing measures relevant to aluminium extrusions exported to Australia from Malaysia by Alamac Industries Sdn Bhd. Capral provided a response for both REV 482 and REV 490.

⁹² Document 41 on the EPR.

All analyses in this following sections relate only to Capral's domestic sales of aluminium extrusions and is based on financial years ending June, unless noted otherwise.

7.4.2 Volume effects

Sales volume

In its questionnaire response, Capral did not indicate that it experienced volume injury. However, Capral's sales volumes have been analysed to provide for a complete examination of injury.

Capral's sales volumes of all finish types of aluminium extrusions for the injury analysis period is illustrated in figure 1. Figure 1 shows growth achieved in sales volumes across the injury analysis period, with a very small increase in the review period. Overall, Capral's sales volumes increased by approximately 12 per cent across the injury analysis period.

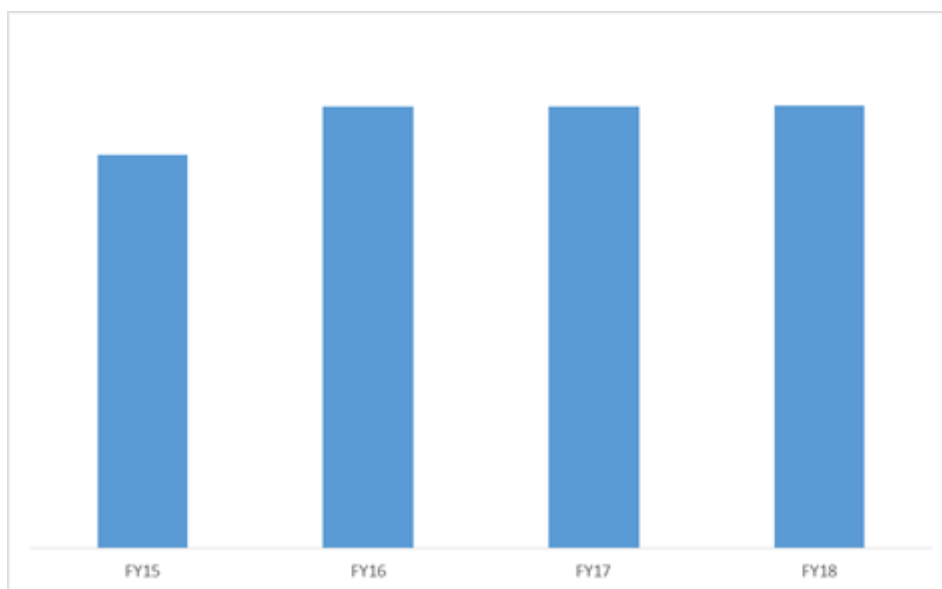


Figure 1 - Capral's sales volume

Market share

CON 287 identified that the Australian market for aluminium extrusions is supplied by Australian manufacturers and imported goods predominately from China.

INV 442, which was finalised in July 2018, found that aluminium extrusions are supplied to Australia by multiple countries, with China continuing to be the substantially larger import source. In addition, the Commission found that during the investigation period, October 2016 to 30 September 2017, import volumes from China had increased to approximately 65 per cent of total imports. INV 442 also found that the size of the Australian market during the investigation period was approximately 177,000 tonnes.⁹³

⁹³ In INV 362, the Australian market was estimated to have a size of 178,000 tonnes for the period between 1 July 2015 and 30 June 2016. Given the need to more accurately determine the proportion of imports from Thailand in this investigation, the Commission undertook a more detailed and forensic analysis of import volumes. This has resulted in a variation in the vicinity of 3 per cent in estimated import volumes between the investigations.

For this review the Commission has estimated that the size of the Australian market in this review period was close to 200,000 tonnes, which is higher than the volume found in INV 442.⁹⁴ The Commission estimates that Capral currently accounts for approximately 45 per cent of domestically manufactured aluminium extrusions, and almost a third of the overall Australian market (including imports).

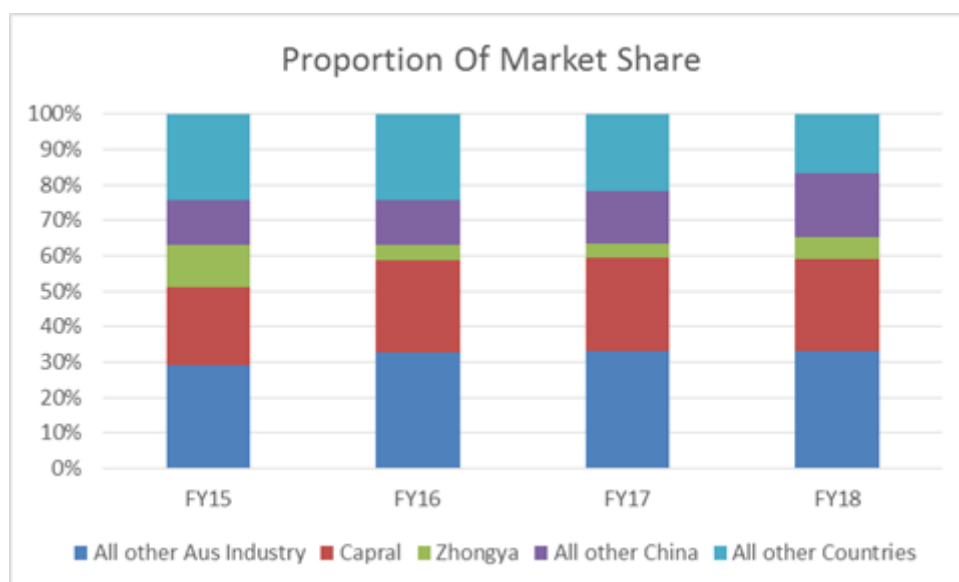


Figure 2 - Australian market share

7.4.3 Price effects

In its questionnaire response, Capral claimed that it had been injured through price suppression.

The Commission completed both a price suppression and price depression analysis based on data from Capral. This analysis excluded export sales of aluminium extrusions by Capral.

Price suppression

Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. In determining whether price suppression has occurred the Commission may examine:

- a comparison of prices with costs to assess whether over time (e.g. the injury analysis period) or within a specified period (e.g. the review period) – prices have not increased at the same rate as cost increases; and/or

⁹⁴ See page 23 of Termination Report 442.

- an assessment as to whether the prices for Capral's product are lower than prices that may have been achieved in the absence of dumping.

Figure 3 below illustrates movements in Capral's domestic weighted average unit CTMS and unit sales revenue for aluminium extrusions during the injury analysis period.

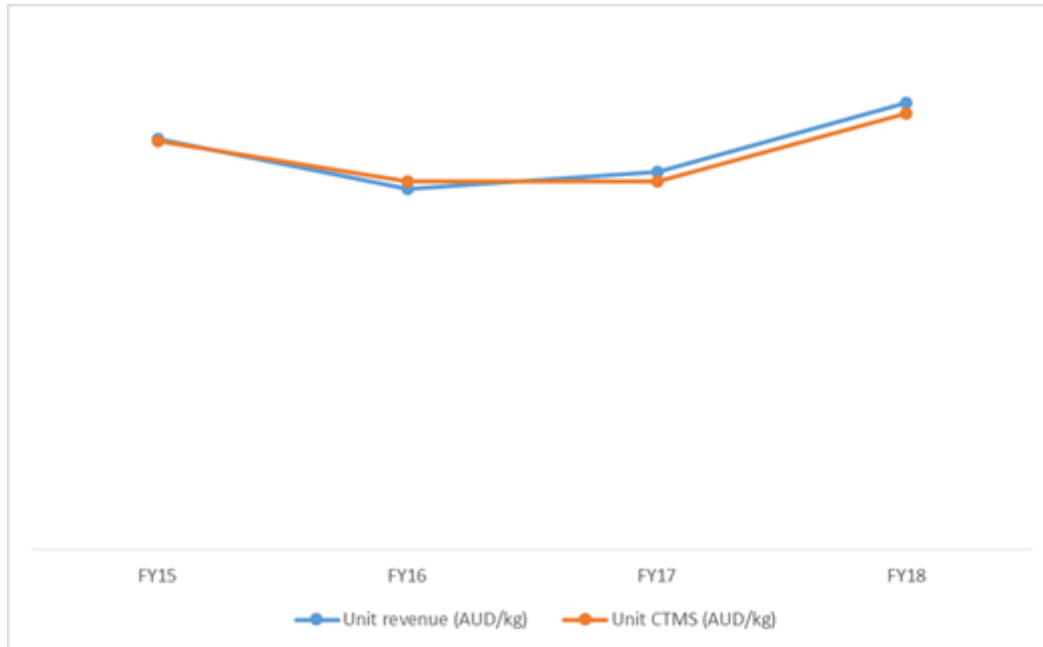


Figure 3 - Capral's unit CTMS and unit sales revenue

Capral experienced fluctuating unit sales revenue, with a slight increase over the review period. Capral also experienced a slight increase in unit costs in the review period.

Unit sales revenue and unit CTMS have been relatively aligned, with unit sales revenue breaking above unit CTMS in the last two years.

The main driver of Capral's CTMS is the cost of aluminium which is priced at the LME, plus a MJP premium price. In addition, Capral produces extrusions from aluminium billet which incurs additional cost. Capral's prices are generally set based on a spread it is able to achieve above LME. The spread in Capral's pricing structure is an amount that includes manufacturing costs above the LME, selling and general administration costs, and an amount of profit.

Figure 4 below compares Capral's unit CTMS and unit sales revenue with the LME plus MJP premium and billet premium, and the spread achieved over the injury analysis period.

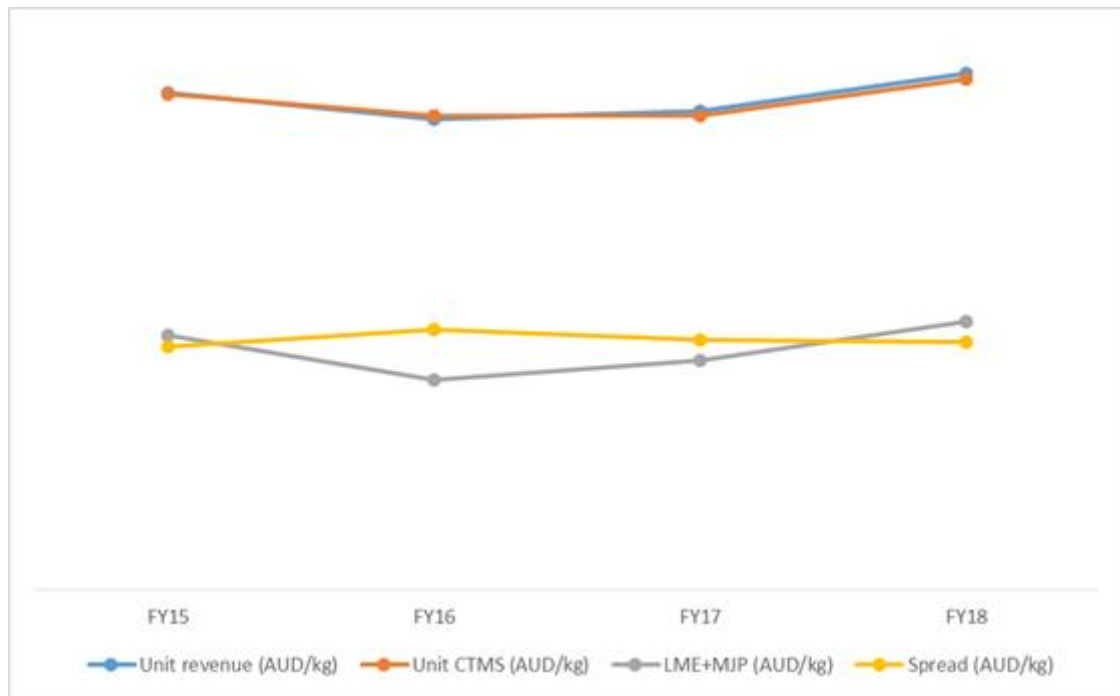


Figure 4 - Capral's spread comparison

Capral's unit CTMS and unit sales revenue generally follow a combination of the LME, MJP and billet premium, and there has been a slight decline in spread in the review period. Meaning that while costs are rising, Capral has not been able to maintain its spread and achieve a desirable price.

Price depression

Price depression occurs when a company, for some reason, lowers its prices.

As indicated in Figures 3 and 4, unit sales revenue has fluctuated over the injury analysis period, with an increase in the review period.

This reduction of the spread indicates price suppression or a price ceiling in the market that Capral is following.

Suppressed profits and profitability

Subsection 269TAE(3)(e) refers to the level of profits earned in an industry as a relevant economic factor that may be considered in assessing material injury.

In its questionnaire response, Capral claimed that it was suffering injury in the form of suppressed profit and profitability. Figure 5 shows Capral's profit and profitability for aluminium extrusions over the injury analysis period.

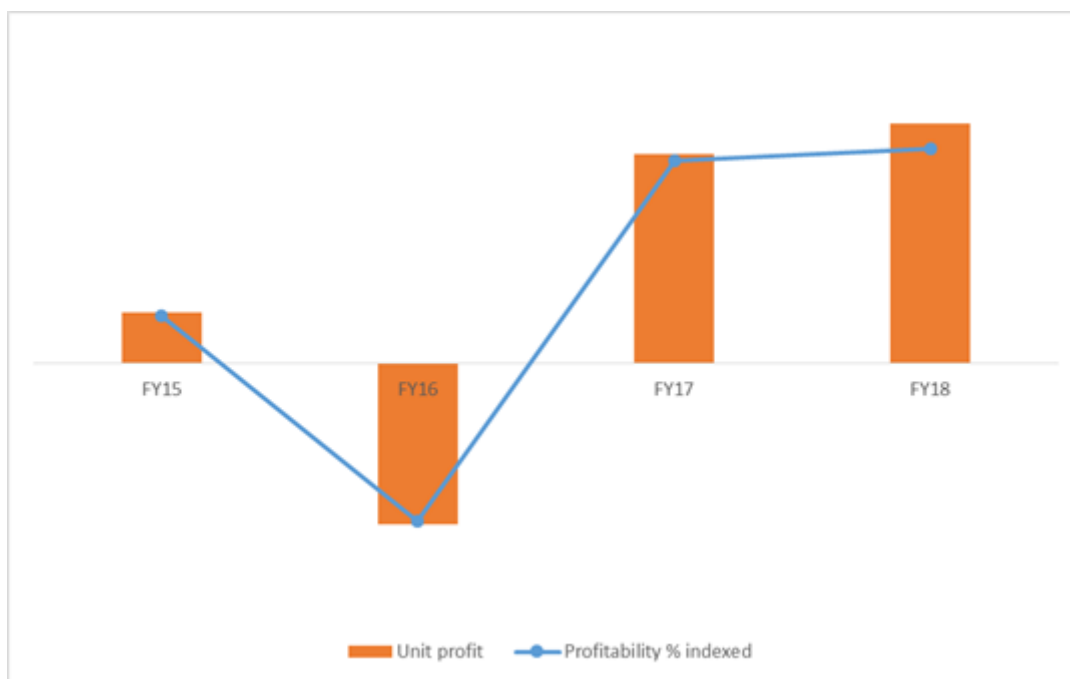


Figure 5 - Capral's profit and profitability

As illustrated in figure 5, Capral was profitable in the final two years of the injury analysis period, with an improvement in performance in the review period.

The Commission has considered what the possible impact on the profit of Capral would be, were they able to maintain the spread achieved in the year ending June 2017, as well as the year ending June 2016, the time in which the LME started to increase during the injury analysis period. In both scenarios, if Capral were able to maintain this spread during the review period its profit and profitability would likely have been higher.

The analysis of Capral's price injury, unit profits and profitability is contained in **Confidential Appendix 4**.

7.4.4 Other economic factors

In its questionnaire response, Capral claimed injury in relation to suppressed return on investment. Figure 6 indicates there has been a decline in Capral's return on investment in the review period.



Figure 6 - Capral's return on investment (%)

7.4.5 The Commission's assessment

The Commission is of the view that overall measures have been effective in remedying injury from dumping and subsidisation, noting that for the majority of the injury period Capral has been profitable. This contrasts with the injury period for the original investigation which imposed measures (INV 148) where Capral was consistently making growing losses. However, the Commission considers that the Australian industry's economic performance has continued to experience pressure in terms of price depression, price suppression, profit and profitability. The volume of market share achieved by Australian industry decreased at the same time as market share for Chinese exports, including Zhongya increased.

8 LIKELIHOOD THAT SUBSIDISATION AND MATERIAL INJURY WILL CONTINUE OR RECUR

8.1 Continuation or recurrence of subsidisation

In examining the likelihood of subsidisation and material injury continuing or recurring, the Commissioner has considered the legislative test as outlined in subsection 269ZDA(1A). In doing so, the word “likely” was taken to mean “more probable than not” as discussed in *Siam Polyethylene Co Ltd v Minister for Home Affairs (No. 2)* [2009] FCA 838 at [49].⁹⁵

In its application to extend the review to include a revocation review, Zhongya provided evidence relating to the subsidy margins calculated by the Commission in the last ten assessments of final duties payable pertaining to its exports from 2010. In each case, the subsidy margin determined was low.⁹⁶ Zhongya submits that these assessments demonstrate that Zhongya receives no subsidy and that subsidisation is unlikely to recur if measures were revoked. However, the Commission notes that these assessments showed that Zhongya did receive subsidies and in none of these assessments of final duty payable has Zhongya’s importer received a full refund.

INV 148, REV 248, CON 287 and REV 392 each separately examined whether countervailable subsidies were received by Zhongya in respect of the goods from China exported in the period October 2010 to December 2016. In INV 148 the Commission determined that Zhongya’s subsidy margin was 7.6 per cent. In the most recent review of Zhongya’s variable factors, the Commission determined that Zhongya’s subsidy margin had reduced to 0.1 per cent.⁹⁷

As set out in **section 5.6**, the Commission has reviewed all available information, including data provided by Zhongya and determined that they have received a financial contribution conferring a benefit in respect to the goods, in the form of subsidies listed in table 7 during the review period. The amount of benefit received by Zhongya was attributed to each unit of aluminium extrusions (per tonne) using Zhongya’s total volume of sales of the goods. The Commission finds that Zhongya’s subsidy margin has increased to 0.2 per cent over the review period.

In INV 148, the original investigation imposing anti-dumping measures on exporters of aluminium extrusions from China, Zhongya stated in its REQ that it had received benefits under two countervailable programs:

- Program 10 – *Preferential tax policies for foreign invested enterprises*; and
- Program 13 – *exemption of tariff and import VAT for imported technologies and equipment*.

⁹⁵ Available at <https://www.adcommission.gov.au/cases/Pages/Federal-Court-Cases.aspx>

⁹⁶ Below the actionable subsidy margin for a new investigation (2 per cent in the case of China).

⁹⁷ REV 392.

However, during the on-site verification of Zhongya's information,⁹⁸ the Commission found that Zhongya had purchased significant quantities of aluminium ingot from SOEs. On examination, the Commission found that Zhongya had received a benefit through its purchase of ingot from SOEs, and had therefore received a benefit under a third countervailable program, *aluminium provided at less than adequate remuneration*. On the basis of the findings made by the Commission in INV 148, the subsidy margin determined with respect to aluminium extrusions exported to Australia by Zhongya was 7.6 per cent.

Since March 2012, Darley (the sole importer of Zhongya's goods into Australia), has applied for a number of assessments of final duty payable with respect to ICD paid on its imports from Zhongya. The Commission has examined all Darley's duty assessments from March 2012. In all final assessments of duty payable Darley has received partial repayments of duty paid. The partial repayment of final duties payable was attributed to a finding that Zhongya had stopped purchasing aluminium raw material from SOEs. This has resulted in a reduction in the subsidy margin attributable to program 15. Specifically, subsidy margins relating to program 15 were determined to be 0.3 per cent and 1.7 per cent in the initial applications for final assessment of duty and then shifted to the Commission not finding that Zhongya received any benefit under this program in recent years.

The Commission considers, based on its examination of Darley's applications for assessment of final duty, that since the implementation of measures in 2010, Zhongya, has largely ceased purchasing aluminium raw material from SOEs at less than adequate remuneration.

The Commission considers that, without the imposition of measures, Zhongya will likely return to its former purchasing behaviour by purchasing aluminium raw materials from SOEs. In the Commission's view, there is an increased likelihood that the removal of measures would be likely to lead to a recurrence of the subsidisation and material injury that measures imposed on Zhongya's exports are intended to prevent. Therefore, the Commission considers that it is more probable than not that Zhongya will export the goods at injurious subsidised prices, similar to those seen in the original investigation, INV 148.

The Commission considers that, based on all available evidence, Zhongya continues to receive subsidisation in respect of their production of aluminium extrusions exported to Australia from China and this is likely to continue.

8.2 Is material injury likely to continue or recur?

Zhongya, in its application for a revocation of measures, relies on submissions made by Darley during INV 442.⁹⁹ Darley submitted that Zhongya's exports have not caused injury to the Australian industry on the basis that in the investigation period there was an increasing market for the goods and increasing volumes of exports sourced from China, Malaysia and Vietnam, however Zhongya's export volumes in the same period did not materially increase.

⁹⁸ Document 344 on the EPR for archived case INV 148.

⁹⁹ See the EPR records for INV 442, particularly documents 24, 30, 34 and 58.

Darley's submission also contends that the findings in INV 362 imply that exports from Zhongya were not a cause of material injury during the 2015-16 period because of the dumped exports from Malaysia and Vietnam.

The Commission notes that the submissions refer to investigations into material injury caused by dumped goods exported from China, Malaysia and Vietnam. In neither investigation was the Commission required to consider what, if any, injury was caused by Zhongya as their exports were found not to be dumped.

The Commission does not consider that the claims relied on by Zhongya are conclusive in terms of whether Zhongya's subsidised exports are likely to lead to a continuation or recurrence of the material injury that the anti-dumping measures are intended to prevent. CON 287, which was finalised in September 2015, is the most recent investigation looking at material injury in the aluminium extrusions market relevant to Chinese exports. This investigation found that the expiration of the measures would lead, or would be likely to lead, to a continuation of the material injury that the measures were intended to prevent.

More recently, in July 2018, the Commission terminated an investigation into the alleged dumping of aluminium extrusions by two exporters from China, including Zhongya.¹⁰⁰ While the Commission terminated this investigation on the basis that the goods exported to Australia from China by Zhongya and Guangdong Jiangsheng Aluminium Co Ltd were not at dumped prices, the investigation did not consider whether injury had been caused due to exports of subsidised goods from China. Relevantly, for this review, the Commission found that the Australian industry experienced injury during the period under consideration (from 1 October 2013 to September 2017).

The Commission found during INV 442 that Capral's claims that its selling prices during 2017 have not recovered to the levels they were at in 2014-15 were borne out by the data analysed by the Commission which showed a fluctuation in unit sales revenue over the four year period with an increase in the investigation period. However, the increase in the investigation period was not to the levels achieved in the year ending September 2015. The Commissioner was therefore satisfied that the Australian industry suffered injury in the form of suppressed profit and profitability due to its suppressed prices during the investigation period.

At the consideration stage of INV 442, the Commission noted that the injury analysis period has been affected in various ways by past cases examining dumping and subsidisation of the goods from China, Malaysia and Vietnam. This results in the consideration of material injury in respect of Zhongya's exports in isolation to other exports challenging.

The analysis in this section has focussed on pricing and what the subsequent impact on profit would be in the future in two scenarios:

- a. Where measures are removed from Zhongya's importation of goods; and

¹⁰⁰ Termination report, document 73 on the EPR for INV 442 refers.

- b. What could happen if Zhongya returned to its pre measures behaviour of sourcing raw materials from SOEs.

Pricing Analysis

Zhongya has been subject to low levels of measures on their exports. On a simple analysis it would be expected that the current subsidy margin of 0.2 per cent would have a marginal impact on the selling prices of the goods in Australia.

The Commission has undertaken a range of in-depth analyses to compare Zhongya's and Australian industry's prices to examine the likelihood of material injury continuing or recurring as a result of revoking measures on Zhongya's exports.

One approach taken was a price undercutting analysis,¹⁰¹ comparing Zhongya's and Capral's prices for mill, coated and anodised finish goods, during the review period to a common end customer. Zhongya's prices were uplifted to a delivered price from an FOB level using unit import costs of verified importers to ensure a fair comparison with Capral's prices. This analysis demonstrates that Zhongya's prices undercut Capral's by approximately 7 per cent or higher during this period.

The Commission then undertook a comparison of Australian industry's unsuppressed selling price (USP) and the NIP with Zhongya's ascertained export prices, see figure 7 below. This graph indicates that Zhongya's prices are lower than both the NIP and the USP.

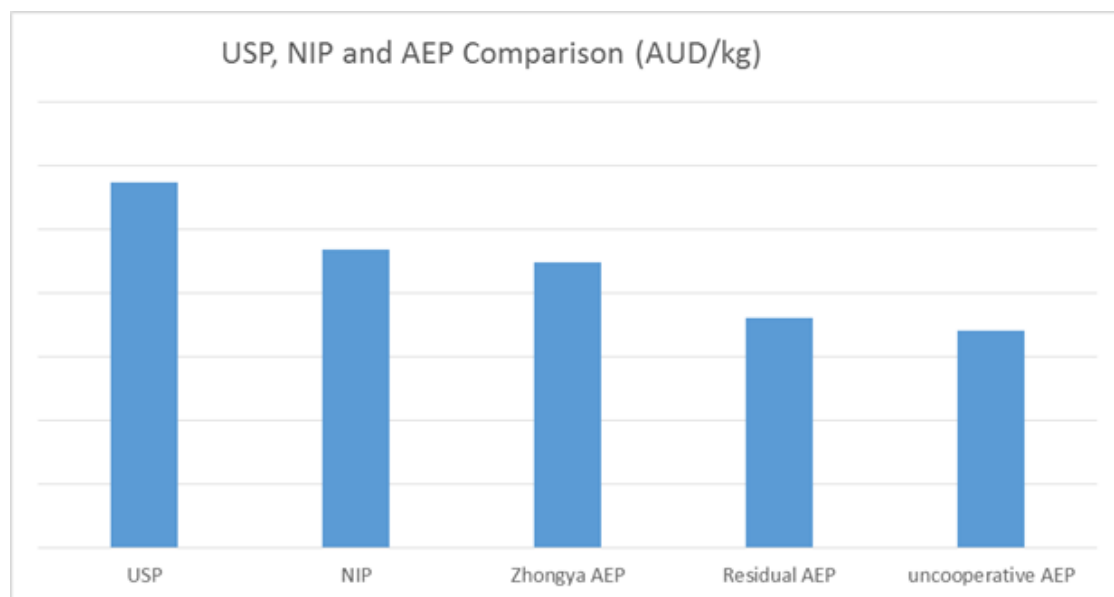


Figure 7 Price Comparison

The Commission also considered any potential effect to the price of Zhongya's exports, given the GOC's announcement relating to an increase in the VAT rebate for exports of aluminium extrusions.¹⁰² The Commission considers that if an increased rebate was

¹⁰¹ Confidential Appendix 4 Market and Injury Analysis

¹⁰² http://english.gov.cn/premier/news/2018/08/30/content_281476282621026.htm

afforded to Zhongya in respect of exports of aluminium extrusions this could result in reduced export prices and allow for further price undercutting.

Additionally, as discussed above, in the absence of measures, there is incentive for Zhongya to recommence purchasing inputs from lower priced SOE suppliers.

In the Commission's view, revoking the measures for Zhongya would lead, or be likely to lead, to Zhongya's exports continuing to undercut the Australian industry's selling prices, and this undercutting is likely to increase. As discussed in chapter 7, the Australian industry remains susceptible to injury from subsidisation, and any further price undercutting would likely lead to further pressure on Australian industry's prices resulting in further price depression and suppression. The resulting price effects would flow through to a deterioration of the Australian industry's profit performance.

Volume analysis

The Commission has analysed the data obtained from Zhongya's REQ and import data obtained from ABF and, as shown in figure 8 below, the volume of Zhongya's exports of the goods has been increasing at a similar level to overall Chinese exports. From FY 2017 to FY 2018, Zhongya's volumes have increased by 57 per cent. This increasing volume is in contrast to Darley's claims in its submission that Zhongya has not materially increased its volumes and could therefore not be causing material injury to Australian industry.

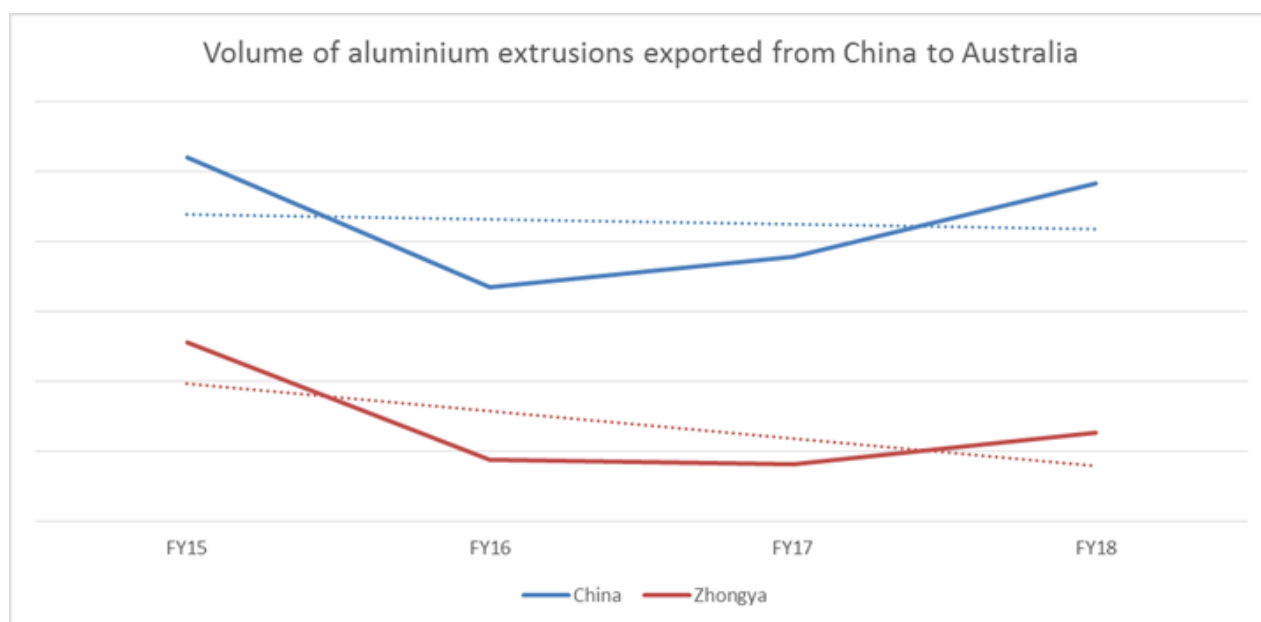


Figure 8 Volume of Aluminium Extrusions

The Commission also undertook analysis of the correlation between Zhongya's prices and volume of exports to analysis if prices are effected by the volume sold. Figure 9 below indicates that Zhongya's export prices are not related to the level of volumes of goods exported. The analysis shows that approximately 6 per cent of Zhongya's volumes are dependent on price and the remaining 94 per cent related to other factors. The correlation analysis, combined with the market share held by Zhongya, suggests Zhongya is a price

setter in the Australian market. A price setter, or price maker, is able to influence the market price and holds pricing power.

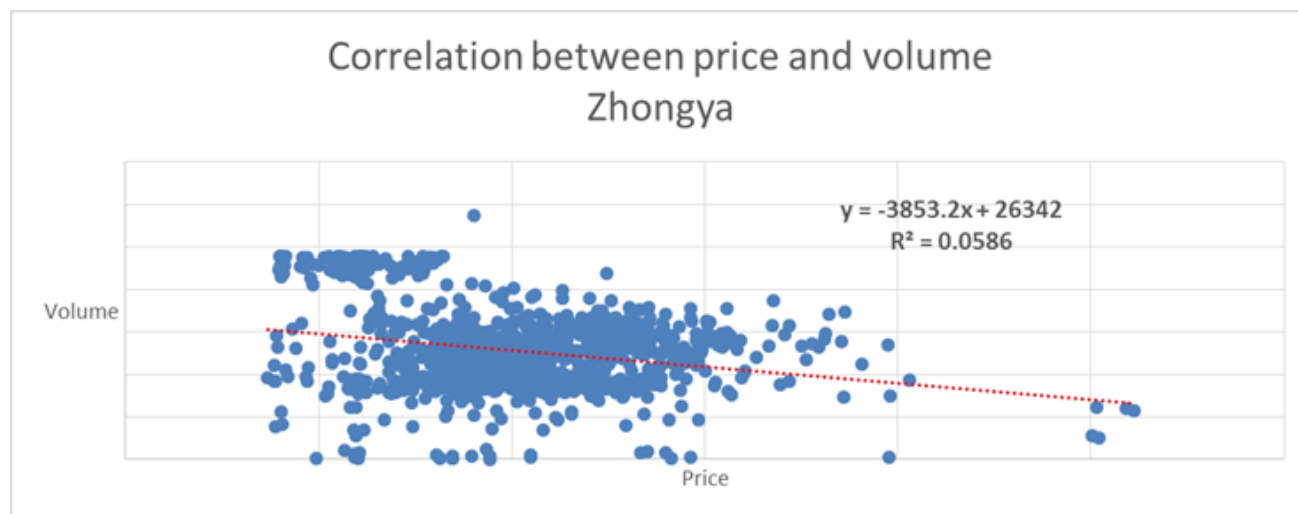


Figure 9 Price and Volume Correlation in the review period

8.3 Submissions regarding material injury if the measures were revoked

8.3.1 Zhongya

In its response to the SEF, dated 14 March 2019, Zhongya noted that the Commission confirmed that Zhongya appears to have ceased purchasing raw materials from SOEs since the original investigation. Zhongya states that the comment in SEF 482 'Zhongya will likely return to its former purchasing behaviour by purchasing aluminium raw materials from SOEs' is a presumption of guilt and that it assumes the Commission has come to this conclusion on the basis of the original investigation.

Zhongya claim there is no commercial benefit or incentive for Zhongya to change its existing supply arrangement. Zhongya states that its domestic and international business are growing and that its relationships with raw materials suppliers is strong. Further, Zhongya states that even if it did return to its former purchasing behaviour, it would still have purchased raw materials from non SOEs. In support of this statement, Zhongya claims that the Commission was incorrect in its previous finding that Zhongya purchased significant quantities of aluminium ingot from SOEs. Zhongya claims that it provided information to the Commission with respect to its suppliers of raw aluminium during the original investigation and that this information showed that all 9 suppliers were non-SOEs.

Zhongya further states that the pricing of its exports of aluminium extrusions to Australia is higher than other exporters from China and should the measures be removed, will still remain higher and, as such its exports are not a cause of material injury. In support of this,

Zhongya provided the following analysis:

- Price analysis:

Zhongya cannot be the cause of price suppression of the Australian industry if its prices are higher than all other Chinese exporters. Zhongya states it sets its prices higher than Australian industry members as it uses the three month LME to fix its prices, as opposed to Australian industry, who use the LME cash rate.

In addition, Zhongya states that the 'spread' used in setting prices is lower for an Australian industry member, with the effect of higher prices for Zhongya's exports.

- Volume analysis:

Zhongya refers to figure 8 on page 65 of the SEF (refer figure 8 of this report) and states that this shows its total volumes have decreased since the 2015 financial year and states that this downwards trend is steeper than that of other Chinese exporters. Zhongya also state that its volume of exports and price are independent.

8.3.2 Commission's assessment

8.3.2.1 Zhongya

Any recommendation relating to the revocation of measures requires an assessment of future events occurring. That recommendation must be based on facts and past conduct is probably the most reliable indication of future conduct.¹⁰³ Therefore the Commission has referenced the facts from previous investigation and reviews involving Zhongya as part of this revocation inquiry.

In the original investigation, INV 148, the information relating to Zhongya's suppliers of primary aluminium was not received by the Commission until the late stages of the investigation and could therefore not be verified or relied on. The Commission's decision not to have regard to the information was reviewed by the Trade Measures Review Officer (the Review Officer). The Review Officer recommended that the information received from Zhongya in response to SEF 148 should be reinvestigated.

In the reinvestigation, the former Trade Remedies Branch of Customs and Border Control stated that Zhongya, where it was aware that the supplier was also the manufacturer, was able to identify whether the manufacturer was a SOE. However, where the supplier was not the manufacturer, Zhongya provided mill certifications to identify the manufacturers but was unable to identify whether these manufacturers were SOEs or not.

¹⁰³ ADRP REPORT NO. 44 Clear Float Glass from the Peoples Republic of Indonesia and the Kingdom of Thailand, December 2016, p 9 at [36] – [38].

The reinvestigation report REP 175 made the following observations:

- *the SOE status of certain manufacturers of New Zhongya's primary aluminium is an assertion; and*
- *the evidence advanced in support of the assertion was unverified information, and given the lack of timeliness of that submission, was incapable of being verified, as the information was provided in an untranslated format, and there was insufficient time to obtain a reasonable translation of materials.*

The Commission requested information from Zhongya with respect to two duty assessment applications made by Darley subsequent to the original investigation, where it was found that Zhongya purchased primary aluminium from SOEs. Zhongya did not provide evidence to the Commission in the information it provided to indicate that it was not purchasing primary aluminium from SOEs.

The Commission is of the view that the information provided by Zhongya with respect to the current review, remains unsubstantiated and unverified. It was, again, received in the final stages of the review in response to the publication of the SEF and is unable to be verified.

In addition, the Commission observed in Zhongya's data that for the two duty assessment periods following the implementation of measures, Zhongya was found to be purchasing primary aluminium extrusions from suppliers the Commission determined in the reinvestigation to be SOEs. Therefore, the Commission has no reliable evidence to depart from the findings of the original investigation.

As noted in the SEF and this report, Zhongya is one of the largest exporters of aluminium extrusions to Australia. In considering the overall volume of Zhongya's exports and market share it is reasonable to find that its prices affect the market, as discussed in section 8.2 above. In addition, as noted previously, Zhongya's prices continue to undercut those of Capral's by approximately 7 per cent or higher during this period.

The Commission also notes, that although figure 8 above shows an overall declining trend in exports from the 2015 financial year, the volume of aluminium extrusions being exported from China by Zhongya and other Chinese exporters is showing an increase in volume between the 2017 and 2018 financial year.

The Commission considers that:

- Zhongya is continuing to receive subsidisation, and that it is likely to continue to receive subsidisation on their exports of aluminium extrusions; and
- the Australian industry of aluminium extrusions is being caused material injury as a result of exports of aluminium extrusions from China and is likely to continue to experience injury should the measures relevant to Zhongya's exports be revoked.

8.4 Findings

The Commission finds that on the basis that:

- Zhongya is continuing to receive subsidisation for their exports of the goods and that the level of subsidisation, , is increasing;
- it is more probable than not that levels of subsidisation will increase as a result of recently announced increased VAT rebates;
- the prior behaviour of Zhongya in switching to purchasing raw materials from SOE's to private companies as a result of the imposition of measures; and
- the evidence available that Zhongya's exports are likely to further undercut Australian industry's prices in the absence of measures;

if the anti-dumping measures were to be revoked, it would lead, or be likely to lead, to a continuation of, or a recurrence of, both the subsidisation and material injury that the anti-dumping measures are intended to prevent.

9 FINDINGS AND EFFECT OF THE REVIEW

9.1 Findings

The Commissioner finds that, in relation to exports of aluminium extrusions to Australia from China for all exporters generally during the review period:

- the ascertained export price has changed;
- the ascertained normal value has changed; and
- the amount of countervailable subsidy has changed.

With respect to the revocation review of measures relevant to exports by Zhongya only, the Commissioner finds that:

- if the anti-dumping measures were to be revoked, it would lead, or be likely to lead, to a continuation of, or a recurrence of, the subsidisation that the anti-dumping measures are intended to prevent; and
- if the anti-dumping measures were to be revoked, it would lead, or be likely to lead, to a continuation of, or a recurrence of, the material injury that the anti-dumping measures are intended to prevent.

9.2 Effect of the review

9.2.1 Review of variable factors

With respect to Chinese exporters generally, the Commissioner recommends to the Minister that the dumping duty notice and countervailing duty notice in respect of exports of aluminium extrusions from China have effect as if different variable factors had been ascertained.

Consistent with the current form of anti-dumping measures, the Commissioner recommends that duties be calculated:

- in respect of any ICD that may become payable, as a proportion of the export price of the goods;¹⁰⁴ and
- in respect of any IDD that may become payable, using the combination of fixed and variable duty method.¹⁰⁵

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

- the subsidy rate calculated for all countervailable programs; and
- 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).

This approach avoids any overlap or double-counting that may arise from the circumstances of a situation where there are domestic subsidies and a constructed normal

¹⁰⁴ In accordance with subsection 10(3B)(a) of the Dumping Duty Act.

¹⁰⁵ Pursuant to subsection 5(2) of the Regulation.

value both relating to a major cost component based on surrogate data, in this case, primary aluminium.

The table below sets out the proposed measures that will apply.

Exporter	Fixed rate of combined IDD and ICD	Variable component of IDD
Zhongya	0.2%	Applicable only where the actual export price is below the ascertained export price.
PanAsia	55.7%	
Kam Kiu	39.2%	
Jiawei	20.1%	
Goomax	43.5%	
Jinxiecheng	15.8%	
Residual exporters	29.5%	
All other exporters	101.9%	

Table 9 - Proposed Measures

9.2.2 Revocation review – Zhongya

The Commissioner proposes **NOT** to recommend to the Minister that the countervailing duty notice in respect of exports of aluminium extrusions from China from Zhongya be revoked as the Commissioner is satisfied that Zhongya continues to receive subsidies in relation to their exports and this is likely to continue and if measures were to be revoked there would be a continuation of the material injury that the measures are intended to prevent.

10 RECOMMENDATIONS

On the basis of the reasons contained in this report, and in accordance with subsection 269ZDA, the Commissioner recommends that the Minister consider this report and if agreed, **be satisfied that**:

- in accordance with subsection 269TAB(3) , that sufficient information has not been furnished, and is not available, to enable the export price of aluminium extrusions exported to Australia from China by the categories of 'residual' and 'uncooperative and all other' exporters, and in relation to goods exported to Australia by Jiawei, to be ascertained under subsections 269TAB(1);
- in accordance with subsection 269TAC(2)(a)(ii) , the normal value of aluminium extrusions exported to Australia from China cannot be ascertained under subsection 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 subsection 269TAC(1) and pursuant to subsection 8(5BAA) of the Dumping Duty Act, the Minister is therefore not required to have regard to the lesser duty rule in subsections 8(5BA) and 10(3D) of the Dumping Duty Act.;
- in accordance with subsection 269TAC(6) , sufficient information has not been furnished and is not available to enable the normal value of aluminium extrusions exported to Australia from China to be ascertained under the preceding provisions of subsection 269TAC for the categories of 'residual' and 'uncooperative and all other' exporters, and in relation to like goods sold domestically by Goomax.
- in accordance with subsection 269TAA(2)(b) , the goods exported to Australia by Kam Kiu were sold in Australia by the importer at a loss; and
- in accordance with subsection 269TACD(1), countervailable subsidies have been received in respect of the goods exported to Australia, in the amounts set out in Confidential Appendix 2.

The Commissioner recommends that the Minister **treat**:

- in accordance with subsection 269TAA(2)(b), in relation to the goods exported to Australia by Kam Kiu, having regard to the matters set out in subsection 269TAA(3) and being satisfied that the importer sells those goods at a loss, the sale of those goods at a loss as indicating that the importer will be directly or indirectly compensated, reimbursed, or otherwise receive a benefit for, or in respect of the whole or part of the price.

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

- in accordance with subsection 269TAA(1)(c), in relation to goods exported to Australia by Kam Kiu, the buyer or an associate of the buyer will, subsequent to the purchase or sale, directly or indirectly be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

The Commissioner recommends that the Minister **determine**:

- in accordance with subsection 269TAB(1)(a), that the export price of aluminium extrusions exported to Australia from China by Goomax as set out in Confidential Appendix 2;
- in accordance with subsection 269TAB(1)(b), that the export prices of aluminium extrusions exported to Australia from China by Kam Kiu and PanAsia, are as set out in Confidential Appendix 2;
- in accordance with subsections 269TAB(c) that the export prices of aluminium extrusions exported to Australia from China by Zhongya and Jinxiecheng are as set out in Confidential Appendix 2;
- in accordance with subsection 269TAB(3), the export prices for Jiawei and the categories of 'residual' and 'uncooperative and all other' exporters, as set out in Confidential Appendix 2, having regard to all relevant information;
- in accordance with subsection 269TAC(2)(c) , the ascertained normal values for aluminium extrusions exported to Australia from China for the review period for all cooperative exporters, other than Goomax, as the cost of production or manufacture of the goods in China plus the SG&A costs and the profit associated with such sales, as adjusted in accordance with subsection 269TAC(9) ;
- in accordance with subsection 269TAC(6) , normal values for Goomax and for the categories of 'residual' and 'uncooperative and all other' exporters having regard to all relevant information;
- in accordance with subsections 269TAAC(2) and (3) , and having regard to subsections 269TAAC(4) and (5), that the subsidies set out in Confidential Attachment 2 are specific;
- in accordance with subsection 269TACC(1) and 269TACC(2), and having regard to subsection 269TACC(3), that the financial contributions as set out in Confidential Appendix 2 have conferred a benefit;
- in accordance with subsection 8(5) of the Dumping Duty Act, that the interim dumping duty payable in respect of the goods exported to Australia from China by all exporters is an amount which will be worked out in accordance with the combination duty method pursuant to subsections 5(2) and 5(3) of the Dumping Duty Regulation, with effect from the date of signature of the determination; and
- in accordance with subsection 10(6) of the Dumping Duty Act that the interim countervailing duty payable in respect of the goods exported to Australia from China by all exporters, be ascertained under subsection 10(3B)(a) as a proportion of the export price of the goods, with effect from the date of signature of the determination.

PUBLIC RECORD

The Commissioner recommends that the Minister by notice published on the Commission's website that **declare:**

- in accordance with subsection 269ZDB(1)(a)(iii), with effect from the date of signature of the determination, and for the purposes of the Dumping Duty Act, the dumping duty notice and countervailing duty notice in respect of exports of aluminium extrusions exported to Australia from China is taken to have effect in relation to all exporters as though different variable factors, as set out in Confidential Appendix 2, had been fixed relevant to the determination of duty.

11 ATTACHMENT AND APPENDICES

Non-confidential Appendix 1	List of submissions received during the review
Non-confidential Attachment 1	Market situation assessment
Non-confidential Attachment 2	Assessment of countervailability of subsidies
Non-confidential Attachment 3	Assessment of whether state invested enterprises are public bodies
Confidential Appendix 2	Summary of dumping and subsidy margin calculations
Confidential Appendix 3	Non-injurious price calculations
Confidential Appendix 4	Injury analysis

NON-CONFIDENTIAL APPENDIX 1 - LIST OF SUBMISSIONS
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Date	Interested party	EPR document no. ¹⁰⁶
17/08/2018	Capral	5
17/08/2018	CW Products	7
20/08/2018	Capral	6
8/10/2018	Capral	28
16/10/2018	Capral	30
18/10/2018	Extrusions Australia	32
19/10/2018	Minfa	31
31/10/2018	Capral	34
14/11/2018	Capral	35
4/12/2018	Capral	37
10/12/2018	Capral	40
11/12/2018	Capral	38
6/02/2019	Capral	47
18/02/2019	Kam Kiu	49
27/02/2019	Kam Kiu	51
11/03/2019	Goomax	52
12/03/2019	Minfa	57
14/03/2019	Capral	53
14/03/2019	Jiawei	54
14/03/2019	Zhongya	55
14/03/2019	Abra	56
18/03/2019	PanAsia	58 ¹⁰⁷
19/03/2019	Aluminium Shapemakers Pty Ltd	59 ¹⁰⁸

¹⁰⁶ Electronic public record, available at: <https://adcommission.gov.au/cases/Pages/CurrentCases/482.aspx>

¹⁰⁷ The Commission provided a four day extension to the due date for PanAsia to provide a submission in response to the SEF.

¹⁰⁸ A submission was received from Aluminium Shapemakers Pty Ltd, but was not considered by the Commission. The Commissioner is not obliged to have regard to any submission received by the Commission after 14 March 2019, being 20 days from the date of publication of the SEF, as to do so would, in the Commissioner's opinion, prevent the timely preparation of his report to the Minister.

PUBLIC RECORD

Date	Interested party	EPR document no. ¹⁰⁶
25/03/2019	Capral	60 ¹⁰⁹
27/03/2019	PanAsia	61 ¹¹⁰
1/04/2019	Capral	62 ¹¹¹

¹⁰⁹ A further submission was received from Capral but was not considered by the Commission. The Commissioner is not obliged to have regard to any submission received by the Commission after 14 March 2019, being 20 days from the date of publication of the SEF, as to do so would, in the Commissioner's opinion, prevent the timely preparation of his report to the Minister.

¹¹⁰ A further submission was received from PanAsia but was not considered by the Commission. The Commissioner is not obliged to have regard to any submission received by the Commission after 14 March 2019, being 20 days from the date of publication of the SEF, as to do so would, in the Commissioner's opinion, prevent the timely preparation of his report to the Minister.

¹¹¹ Capral provided the Commission a submission on 1 April 2019 in response to PanAsia's submission, document number 61 on the EPR. The Commissioner is not obliged to have regard to any submission received by the Commission after 14 March 2019, being 20 days from the date of publication of the SEF, as to do so would, in the Commissioner's opinion, prevent the timely preparation of his report to the Minister.

NON-CONFIDENTIAL ATTACHMENT 1 – MARKET SITUATION ASSESSMENT

A1 Introduction

Having regard to all available information, it is the Commission's view that a market situation exists in respect of the domestic market for aluminium extrusions in China, such that sales in that market are not suitable for use in determining a normal value under subsection 269TAC(1).

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 World Trade Organization (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 'market situation' such that sales in that market are not suitable for use in determining a price, as outlined below.

A2.1 Legislation

Market situation

Subsection 269TAC(1) provides that the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the OCOT for home consumption in the country of export in arms length transactions by the exporter or, if like goods are not sold by the exporter, by other sellers of like goods.

However, subsection 269TAC(2)(a)(ii) provides that the normal value of the goods exported to Australia cannot be determined under subsection 269TAC(1) where the Minister is satisfied that '*...because the situation in 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)*'.

Where such a market situation exists, normal value cannot be established on the basis of domestic sales. Instead, the normal value may be determined using another method in section 269TAC. Therefore, a determination as to whether there is a market situation has potential consequences for the assessment of normal value.

A2.2 Policy and practice

Market situation

In relation to market situation assessments, the Commission's Manual states that:

[i]n considering whether sales are not suitable for use in determining a normal value under s. 269TAC(1) because of the situation in the market of the country of export the Commission may have regard to factors such as:

- *whether the prices are artificially low; or*
- *whether there are other conditions in the market which render sales in that market not suitable for use in determining prices under s. 269TAC(1).*

Government influence on prices or costs could be one cause of “artificially low pricing”. Government influence means influence from any level of government.

In investigating whether a market situation exists due to government influence, the Commission will seek to determine whether the impact of the government’s involvement in the domestic market has materially distorted competitive conditions. A finding that competitive conditions have been materially distorted may give rise to a finding that domestic prices are artificially low or not substantially the same as they would be if they were determined in a competitive market.

For subsection 269TAC(2)(a)(ii) to apply, the Commission is required to identify where a ‘market situation’ exists, and if found to exist, be satisfied that the ‘market situation’ renders sales in that market not suitable for normal value purposes before rejecting actual selling prices.

Although it is for the Commission to establish the nature and consequence of the ‘market situation’, including an evaluation of whether there is an impact on domestic prices, the Commission considers that the pricing effect does not necessarily have to be quantified.

A3 Assessing market situation in this review

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

- stated policies and plans of the GOC;
- REQs by cooperative exporters and residual exporters;
- information obtained from Department of Industry, Innovation and Science resources;
- information from third party information providers;
- the Commission’s 2016 report, *Analysis of Steel and Aluminium Markets Report to The Commissioner of the Anti-Dumping Commission*;
- 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)*¹¹²;
- The US Department of Commerce’s memorandum on *China’s status as a Non Market Economy, 2017 (the USDOC 2017 Report)*¹¹³;
- other desktop research; and
- market situation assessments in relation to relevant cases between 2010 and 2018, such as:
 - Investigation No. 181 in relation to aluminium road wheels;
 - Reinvestigation No. 204 in relation to aluminium road wheels
 - Review No. 263 in relation to aluminium road wheels;
 - Inquiry No. 378 in relation to aluminium road wheels;
 - Investigation No. 442 in relation to aluminium extrusions
 - Investigation No. 148 in relation to aluminium extrusions;
 - Review No. 392 in relation to aluminium extrusions;
 - Review No. 248 in relation to aluminium extrusions; and
 - Inquiry No. 287 in relation to aluminium extrusions.

¹¹² http://trade.ec.europa.eu/doclib/docs/2017/december/tradoc_156474.pdf

¹¹³ <https://enforcement.trade.gov/download/prc-nme-status/prc-nme-review-final-103017.pdf>

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 analysed all available information

When assessing the conditions within the Chinese primary aluminium market, the Commission has focused on the period 2012 to 2018, paying particular attention to the impact of conditions for exporters of aluminium extrusions in the review period.

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

Typically, the cost of primary aluminium accounts for over 80 per cent of the total cost to make aluminium extrusions for exporters in China.¹¹⁴ Therefore, in considering whether a 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.

The Commission considers that aluminium is the key raw material input into aluminium extrusions. Therefore, in considering whether a 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 input.

A4 Conditions in the Chinese primary aluminium market

Factors considered by the Commission when assessing conditions within the Chinese 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, Chinese aluminium production increased by approximately 71 per cent between 2013 and 2018, such that China was responsible for producing approximately 37 million tonnes of the total global aluminium production of 65 million tonnes. Representing 56.8% of global supply.¹¹⁵

Over the review period of the 2017/2018 financial year and years prior Chinese aluminium supply has grown modestly compared to historical precedents constrained somewhat by Chinese supply side reforms. These reforms include crackdown on illegal capacity and a program of winter production cuts to reduce pollution. However total supply continues to grow as new more efficient plants replace old, non-winter production accelerated and idle capacity resumes to meet underlying demand growth.

The aluminium price rose significantly from 2016 to 2018, reaching 7 year high in 2018.¹¹⁶ AME research group (AME) suggests the price will moderate and that price upside will be

¹¹⁴ Based on cost data provided by selected exporters.

¹¹⁵ AME Aluminium Strategic Market Study 2018 Q2

¹¹⁶ Department of Industry, Innovation and Science - Office of the Chief Economist "Resources and Energy Quarterly September 2018" page 76.

constrained by china's large capacity overhang, although price volatility remains possible in response to any dramatic Chinese supply side policy or global trade developments.¹¹⁷

Chinese supply of Aluminium is expected to continue growing moderately in the medium term at 4.3% Compound Annual Growth Rate (CAGR) with China further expanding its proportion of global supply.¹¹⁸

In terms of demand, Chinese aluminium consumption increased by approximately 68% between 2013 and 2018 from 24.9 million tonnes to 36.7 million tonnes. Making Chinas share of global aluminium demand reach 55.1% in 2018. Chinese demand of Aluminium is expected to continue growing moderately in the medium term at 3.5% CAGR with China further expanding its share of global demand.¹¹⁹

Demand growth in China won't reach historic rates seen between 2009 and 2015 as driven by construction and manufacturing demand. However as the economy advances new opportunities do exist for other aluminium products such as automotives. Nevertheless as the world's largest consumer of aluminium, the market remains extremely sensitive to china's underlying growth and any economic contraction in China would have a significant impact on the market¹²⁰

China's large shares of global aluminium supply and consumption leave only a small proportion of supply available for export. This volume of exports did grow substantially over the last two years in response to the higher aluminium price and uncertainty related to US trade policy and sanctions.¹²¹ This export volume may continue to rise if prices remain high and Chinese supply growth continues to outpace local demand growth.

Exports of aluminium have 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. The VAT rebate for semi-fabricated aluminium exports recently increased in late 2018.¹²² There is some evidence to suggest this differential is exploited in the export of minimally transformed aluminium products called "fake semi's" intended to be melted back down the primary metal.¹²³

Between 2012 and 2016 both Global LME and Chinas SHFE official aluminium stockpiles were in decline. However this changed during the review period when LME continued to decrease while SHFE began to rise. In China the low volume of official SHFE aluminium stocks reported remains at odds with observed smelting production. AME suggests there are other significant stocks held, or potentially stocks of downstream value-added products.¹²⁴

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

¹¹⁷ AME Aluminium Strategic Market Study 2018 Q2

¹¹⁸ AME Aluminium Strategic Market Study 2018 Q2

¹¹⁹ AME Aluminium Strategic Market Study 2018 Q2

¹²⁰ AME Aluminium Strategic Market Study 2018 Q2

¹²¹ <https://aluminiuminsider.com/aluminium-year-in-review-and-what-to-expect-in-2019/>

¹²² <https://www.reuters.com/article/metals-lmeweek-aluminium-china/lmeweek-china-aluminium-exports-to-surge-on-trade-war-cru-idUSL8N1WP20E>

¹²³ <https://www.reuters.com/article/china-aluminium-ahome-idUSL5N0ZT2D020150713>

¹²⁴ AME Aluminium Strategic Market Study 2018 Q2

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. The Commission also notes that the 2017 EC report identifies that the Chinese Non-Ferrous Metal Industry Development Plan (2016-2020) provides for stockpiling. The EC report further identifies specific occasions where the GOC has purchased primary aluminium via the SBMR and references other information sources suggesting the SBMR's involvement in these stockpiling activities has occurred as recently as 2016.¹²⁵

In addition to the identified distortive impacts of the stockpiling activities, the Commission's research indicates that there is a significant amount of idle production capacity in the Chinese market resulting in low capacity utilisation. This potential excess capacity has been estimated from various sources to be in the vicinity of 14 per cent to 20 per cent of annual global aluminium supply.¹²⁶ The Commission's assessment of there being significant excess capacity is broadly in line with the major themes of the GOC's planning documents and directives before and after 2010.

The aluminium price rose significantly from 2016 to 2018, reaching 7 year high in mid-2018.¹²⁷ The same trend applied to both the SHFE and LME price.¹²⁸ The price has declined since the end of the review period.

This rallying of prices is consistent with global demand for aluminium outstripping global growth in supply over this period¹²⁹. Market commentary suggests that rising prices during the review period also contained a speculative element driven by uncertainty over the ongoing impact of Chinese supply side reforms in addition to US trade policy and sanctions.¹³⁰

Harbour Aluminium in a September 2017 report¹³¹ notes that based on prices at that time all operating smelters in China were turning a profit as margins had reached 5+all-time highs of around 20%, while the newest capacity was making cash profits of more than 30%. The Commission considers it likely that these profit levels will drive smelters to lift output which will ultimately work against the GOC's supply-side reform agenda and add to downward pricing pressures. This is further supported by Harbour Aluminium's analysis in the same report which suggests that physical market indicators continue to suggest that a considerable underlying surplus was continuing to develop.

The above analysis suggests that there has been a somewhat improving alignment between Chinese production and consumption of aluminium. There is evidence that supply side reform has been introduced to address oversupply of aluminium, and that environmental reform has also help constrain supply growth. However Chinese supply continues to grow, reach higher efficiency and idle capacity still leaves a capacity overhang in the market.¹³²

¹²⁵ Pages 381 - 392 of EC 2017 report.

¹²⁶ Information sourced from the AME Aluminium Strategic Market Study and Department of Industry, Innovation and Science – Office of the Chief Economist "Resources and Energy Quarterly Report March 2018.

¹²⁷ Department of Industry, Innovation and Science - Office of the Chief Economist "Resources and Energy Quarterly September 2018" page 76.

¹²⁸ <https://metals.argusmedia.com/metal/base-metals-aluminium>

¹²⁹ AME Aluminium Strategic Market Study 2018 Q2

¹³⁰ AME Aluminium Strategic Market Study 2018 Q2

¹³¹ Harbour Aluminium, Aluminium Alet, 29 September 2017

¹³² AME Aluminium Strategic Market Study 2018 Q2

Further there is evidence of distortions in the aluminium market in areas such as stockpiles, fake semi exports and downstream stockpiles.

In assessing all of the factors impacting upon the Chinese aluminium market during the review period, the Commission recognises that the GOC continues to take significant steps to restructure and reorganise the domestic aluminium industry to better manage the level of excess production capacity, oversupply and environmental concerns. The GOC introduced and implemented a 'supply-side reform' policy aiming at cutting domestic production and removing excess capacity. The Government also introduced a 'new for old' policy in 2016, to replace old and inefficient capacity with new and cost-effective capacity. Policies also include crackdowns on illegal capacity, stricter approval of new capacity and the "blue sky" environmental production cuts. These efforts are reflected in the GOC's plans and directives, which further support the Commission's view that there are significant distortions within the domestic Chinese market. The Commission considers, based on the information available to it, that these directives, and associated programs, have had a limited impact in terms of addressing the underlying causes of market distortions, principally excess production capacity.

The Commission considers that key constraints on the effectiveness of these directives includes the divergence in economic and social objectives between the different levels of the GOC, and the availability of financing to support the restructuring and reorganisation. With regard to the objectives of provincial and local governments, aluminium smelters are typically major employers, sources of significant tax revenue and providers of health care and education services within their respective regions. It is also the Commission's understanding that aluminium smelters are often used by local governments to support the establishment of electrical generation facilities, particularly in the developing regions of western China. As such, there are significant incentives for provisional and local governments to resist directives from the central government to remove excess capacity and to provide ongoing support to local producers.¹³³

A5 GOC influence in the Chinese aluminium market

The Commission considers that the GOC materially contributed to the excess supply of aluminium in the domestic Chinese market and hence 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 programmes;
- taxation and tariff policies;
- distortion of electricity production costs and pricing;
- aluminium stockpiling programmes; and
- provision of financial support to loss making aluminium smelters.

¹³³ AME Aluminium Strategic Market Study (Quarter 1 2016), pages 9 and 94. Page 9 notes that, in spite of the recently implemented 'supply side reform' policy, local governments within Gansu, Shanxi and Xinjiang provinces have reportedly been offering incentives for extra production. Page 94 notes that, while the official position has been that overcapacity in China's aluminium sector is to be addressed, in practice, there has been little in the way of practical effects in limiting discretionary production start-ups or restarts. Difficulties include local governments being directly involved in state smelting projects and subsidies being provided to maintain unviable operations. Indirect official intervention, such as requiring smelters to achieve emissions targets and efficiency levels, does not seem to have had the dramatic impact expected.

The extent of the GOC's direct involvement within the Chinese aluminium industry is also reflected in the extent of productive 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 per cent of productive capacity.¹³⁴ A 2017 report commissioned by WVMetalle referenced the actions of six Chinese SOEs which together accounted for about 42% Chinese aluminium output.¹³⁵

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 the GOC plans and directives will be adhered to.¹³⁶ Based on past cases, the Commission also considers that this status enables these entities to obtain preferential treatment by 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 (State Council) 'guidance on the promotion of central enterprises restructuring and reorganisation'.

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 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.

A5.2 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;

¹³⁴ 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.

¹³⁵ Taube, M. (2017), Analysis of Market Distortions in the Chinese Non Ferrous Metals Industry, Think!Desk, 24 April

¹³⁶ <https://www.thebalance.com/the-10-biggest-aluminum-producers-2012-2339722>.

- 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, doesn't automatic 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, as it is estimated these entities accounted for around 42 per cent of total primary aluminium capacity between 2010 and 2015. In regards the wording and consistency of themes and objectives between different plans, the Commission notes that these documents, and particularly the Guidelines, are written in such a way that it 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; and
- implementing and encouraging environmental measures.¹³⁷

In regards 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 notice of the State Council on 'Further Strengthening the Elimination of Backward Production Capabilities and 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; and
- restrictions on issuing of new, and cancelling of existing, production licenses.

The Guidelines state that enterprises that do not conform to the industrial policy shall not be provided financial support by financial departments.¹³⁸ 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.¹³⁹

¹³⁷ EPR 263/051, page 85 refers.

¹³⁸ EPR 263/051, page 85 refers.

¹³⁹ Department of Industry, Innovation and Science, Resources and Energy Quarterly (December 2015), page 47.

It is the Commission's view that the effectiveness of the above mentioned mechanisms are reflected in the responsiveness of industry groups and major companies to the GOC's various directives. For example, over the last few years in response to the GOC's 'supply side reform' directives, the Chinese Nonferrous Metals Association indicated that it would continue to limit production over a number of periods.^{140 141 142}

A5.3 GOC directives – summary of themes, objectives and implementation

Below are a list of the major GOC plans and directives concerning the Chinese primary aluminium industry, and some of the key themes emphasised throughout them:

- thirteenth Five Year Plan of China (2016):
 - promoting innovation in science and technology;¹⁴³
 - support regional development and the development of special regions;¹⁴⁴ and
 - promoting economical and intensive resource use;¹⁴⁵
- twelfth Five Year Plan of China (2011):
 - promoting the restructuring of key industries;¹⁴⁶
 - promoting the orderly relocation of urban enterprises for non-ferrous metals;¹⁴⁷
 - planning of mergers and reorganisation of enterprises;¹⁴⁸ and
 - promoting the development of small and medium enterprises.¹⁴⁹
- the Guidelines:
 - objectives for structural adjustment within the Chinese primary aluminium industry;¹⁵⁰
 - measures to accelerate structural adjustment of the primary aluminium industry;¹⁵¹
- non-ferrous metal industry Adjustment and Revitalisation Plan:
 - 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.
- non-ferrous metals Five Year Plan:¹⁵²
 - growth targets

¹⁴⁰ Department of Industry, Innovation and Science, Resources and Energy Quarterly (June 2016), page 63.

¹⁴¹ <https://aluminiuminsider.com/chinese-aluminium-smelters-announce-additional-800-thousand-tpa-in-production-cuts/>

¹⁴² AME Aluminium Strategic Market Study (Quarter 1 2016), page 94.

¹⁴³ Chapter 6 refers.

¹⁴⁴ Chapters 37 and 40 refer.

¹⁴⁵ Chapter 43 refers.

¹⁴⁶ Chapter 9 refers.

¹⁴⁷ Chapter 9 refers.

¹⁴⁸ Chapter 9 refers.

¹⁴⁹ Chapter 9 refers.

¹⁵⁰ Chapter 2 refers.

¹⁵¹ Chapter 3 refers.

¹⁵² <https://www.kslaw.com/blog-posts/china-issues-13th-five-year-plan-non-ferrous-metals-industry>

- coordinating fiscal, taxation, financial, and trade policies
- promoting bank-enterprise cooperation
- increasing financing support to backbone enterprises and major international cooperation projects
- adequately utilizing 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.
- requirements on entry into the primary aluminium industry:
 - speed up the structural reform of primary aluminium industry;
 - regulate behaviour;
 - achievement of environmental goals;
- normalisation criteria on primary aluminium industry:
 - requirements targeting the layout, location, and production scale 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;
- circular of the State Council on accelerating the restructuring of the sectors with production capacity redundancy:
 - promoting of economic restructuring to prevent inefficient expansion of industries that have resulted from blind expansion;
 - intensify the implementation of industrial policies related to the primary aluminium sector to strengthen the examination thereof and to improve them in practice; and
- State Council guidance on the promotion of central enterprises restructuring and reorganisation:¹⁵³
 - 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 programmes, 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.

¹⁵³ http://english.gov.cn/policies/latest_releases/2016/07/26/content_281475402145108.htm.

A5.4 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.¹⁵⁴ The SOEs have strong involvement in the electricity market in various stages of the supply chain, around 50% of the generation capacity is state owned. The entire transmission grid is owned and maintained by two SOEs: State Grid Corporation of China and China Southern Power Grid.¹⁵⁵ Furthermore, the Commission notes that the 2017 European Commission report highlights the central government's and local authorities' involvement in the energy sector, some local governments in China are giving additional energy subsidies to aluminium smelters to help them stay in production and remain competitive against new capacity in northwest regions.¹⁵⁶

Based on information provided in the course of past 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:

- the report by AME that 'government-provided power subsidies are being seen in China to halt individual smelter curtailment plans, or to enable restarts and that this would appear unsustainable in the current market situation';¹⁵⁷
- the report in May 2016 that the state-owned entity, Aluminium Corporation of China Limited, had indicated it would shut down one of its 500 kilotonne (kt) smelters in the Gansu region, due to profitability issues. In response to this announcement, Gansu officials reduced the plant's electricity bill by 30 per cent, with the facility subsequently returning capacity to full production;¹⁵⁸
- the report by AME that the Jinneng Taiyuan Oriental aluminium smelter in the Shanxi province intended to restart production, after being fully curtailed since early 2015, subsequent to receiving a significant power discount from the local government;¹⁵⁹
- the report by AME that the 450 kt expansion project for Jiarun aluminium smelter in the Xinjiang province had been supported by the receipt of electricity at favourable rates from the local grid, significantly below the price from its own captive power source;¹⁶⁰
- the report by AME that the 130 kt Zengshi Anshun Huangguoshu aluminium smelter in Guizhou province had returned to full capacity following the restarting of idle capacity, with the support of local government subsidies enabling the company to achieve favourable electricity prices;¹⁶¹

154 Electricity accounts for around 40 per cent of primary aluminium production costs (EPR 263/051, page 100 refers).

155 The European Commission Report 2017, The Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the Proposes of Trade Defence Investigations, viewed 11 February 2019, page 218.

156 The European Commission report 2017, The Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the Proposes of Trade Defence Investigations, viewed 11 February 2019, page 390.

157 AME Aluminium Strategic Market Study (Quarter 4 2015), page 9.

158 www.wsj.com/articles/chineseexports-surge-amid-overcapacity-at-home-1462746980).

159 Aluminium Outlook, July 2016, page 13.

160 Aluminium Outlook, July 2016, page 13.

161 Aluminium Outlook, July 2016, page 15.

- the report by AME that the Baise Yinhai aluminium smelter in Guangxi province had delayed the planned restart of its full 200 kt smelting capacity, due to its inability to come to terms with the local government for favourable power subsidies to enable a profitable restart;¹⁶² and
- the report by AME that the government of Yunnan province had announced that it was providing assistance to Yunnan Aluminum Holdings for it to lower its total smelting power costs. The report noted that the government may continue to assist Yunnan Aluminum Holdings until further reductions in its power cost has been achieved.¹⁶³
- the report by AME that the aluminium smelting industry in China is currently benefiting 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.¹⁶⁴
- the 2019 OECD paper notes that the GOC provided energy and other non-financial subsidies over 2013 - 2017 to two main aluminium producers (57% of total Chinese electricity subsidies): China Hongqiao and Qinghai Provincial Investment Group.¹⁶⁵

The 2017 Think!Desk report also identified a series of factors within the Chinese power sector which have substantially affected the discounted price of electricity. These include an oversupply of electricity in certain regions, the introduction of electricity subsidies and differential electricity pricing policies.¹⁶⁶

A5.5 GOC taxation and tariff policies

During the course of previous cases the Commission has established that 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 did not obtain any information during the review to indicate that there had been any change to the GOC's VAT rebate and export tariff arrangements in relation to the aluminium industry during the review period.¹⁶⁷

The Commission notes that the 2017 Think!Desk report¹⁶⁸ identified that:

“China is the world’s largest exporter of aluminium products. The country exports almost no aluminium in raw form but supplies the world with semifinished and finished products. Trade policy strongly discourages the exportation of raw materials

¹⁶² Aluminium Outlook, July 2016, page 16.

¹⁶³ Aluminium Outlook, July 2016, page 16.

¹⁶⁴ AME Aluminium Strategic Market Study (Quarter 2 2018), Chapter 3.

¹⁶⁵ The OECD Trade Policy Papers 2019, Measuring distortions in international markets: the aluminium value chain, No. 218, OECD Publishing, Paris, Viewed 11 February 2019. <https://doi.org/10.1787/c82911ab-en>.

¹⁶⁶ Taube, M. (2017), Analysis of Market Distortions in the Chinese Non Ferrous Metals Industry, Think!Desk, 24 April 2017, pages 110 to 115.

¹⁶⁷ The commission did find evidence to suggest that the rebate increased in late 2018

¹⁶⁸ Taube, M. (2017), Analysis of Market Distortions in the Chinese Non Ferrous Metals Industry, Think!Desk, 24 April 2017, page 115.

and primary aluminium but encourages sales of higher value added products. In recent years, Chinese companies have increased exports of semi-processed goods. Arguably, this has been done to circumvent Chinese export restrictions and re-melt the materials into raw aluminium inside target markets. Exporting semis instead of raw aluminium mean exporters can avoid paying a 30% export tax and claim a 15% VAT refund. The phenomenon of “fake semis” has received particular attention through the case of China Zhongwang’s substantial stockpiling activities in Mexico and Vietnam (see section 5.3 for details).

As is the case with other metals reviewed for this study, the GOC has geared its trade policy instruments to shift the composition of exports towards higher value added and more technology intensive products”.

As such, it is the Commission’s view that the GOC’s VAT rebate and export tariff arrangements for primary aluminium, alloy aluminium and aluminium extrusions during the review period 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 for the production of goods such as aluminium extrusions.

Given there was no evidence to suggest a significant change in the tariff and rebate rates between the previous investigations and current review, and given there was evidence to suggest the rebate was increased after the review period.¹⁶⁹ It is the Commission’s view that these arrangements are part of the broader GOC strategy to control the domestic market for primary and alloyed aluminium within China. The aims of which 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.¹⁷⁰ 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 that the ongoing operation of the SBMR’s stockpiling not only reflects the desire of the GOC to influence and control conditions within the

¹⁶⁹ <https://www.reuters.com/article/metals-lmeweek-aluminium-china/lmeweek-china-aluminium-exports-to-surge-on-trade-war-cru-idUSL8N1WP20E>

¹⁷⁰ The SBMR is situated in the NDRC.

domestic primary aluminium market, but also the distortion of market forces and hence 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 constrained due to the lack of response to the government questionnaire from the GOC.

While the Commission was unable to undertake a detailed assessment of the aluminium extrusion market, it considers it highly likely 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 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 (Section A5.5).

A6.2 GOC subsidy programmes to Chinese aluminium extrusion producers

In addition to the support mechanisms listed above, the Commission notes that previous cases into aluminium extrusions exported to Australia from China have identified a number of subsidy programmes that individual producers have received. In noting that these programmes have been reviewed as part of the countervailing section of this inquiry, and hence separately to the assessment of market situation, the Commission refers to **Non-confidential Attachment 2** to demonstrate the nature of support being provided to China's aluminium related industries.

The extent of this support has also been identified by differing investigating bodies which have confirmed that aluminium related industries have consistently benefitted from a variety of subsidy programs. These most recently include the US Department of Commerce investigation into aluminium foil imported from China.¹⁷¹

A5.1 GOC directives

It is the Commission's view that the GOC has maintained a central role in the development of the Chinese aluminium industry, and by virtue of this 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 the numerous planning documents and directives regarding the structure and composition of the Chinese aluminium industry. Examples of these plans and directives include the:

- thirteenth Five Year Plan (2016 to 2020) of China (2016);
- twelfth Five Year Plan (2011 to 2015) of China (2011);
- guidelines for Accelerating the Restructuring of the Aluminium Industry (the Guidelines) (2009);
- non-ferrous metal industry Adjustment and Revitalisation plan (2009);
- non-ferrous metal Five Year Plan (2016);¹⁷²

¹⁷¹ See United States Department of Commerce, 7 August 2017, Decision Memorandum for the Preliminary Affirmative Determination: *Countervailing Duty Investigation of Certain Aluminum Foil from the Peoples Republic of China*, C-570-054.

¹⁷² Replaced the non-ferrous metal industry Five Year Plan (2012).

- directory catalogue on Readjustment of Industrial Structure and the Interim Provisions on Promotion of Industry Structure and Adjustment (2011);
- notice of the State Council on Further Strengthening the Elimination of Backward Production Capabilities;
- requirements on entry into the aluminium industry (2007);
- normalisation criteria on the aluminium industry (2013);¹⁷³
- circular of the State Council on Accelerating the Restructuring of the Sectors with Production Capacity Redundancy (2006); and
- State Council guidance on the Promotion of Central Enterprises Restructuring and Reorganisation (2016).

How these plans and directives relate to conditions within the Chinese primary aluminium industry, as well as the major themes, are discussed in subsequent sections of this attachment.

Other GOC directives, which are likely to have impacted conditions within the Chinese aluminium industry and markets include:¹⁷⁴

- notice of several opinions on curbing overcapacities and redundant constructions in certain industries and guiding the healthy development of industries (2009);
- guiding opinions on pushing forward enterprise mergers and acquisitions and reorganisation in key industries (2013); and
- the directory catalogue on readjustment of industrial structure (version 11) (2013 amendment).
- Blue Sky Pollution Control Plan 2018-2020

A7 Assessment of market situation in the Chinese aluminium extrusions market

A7.1 Assessment of conditions in the Chinese aluminium market

As outlined in the preceding sections, the Commission considers that there continued to be significant GOC induced distortions within the Chinese primary aluminium market during the review period, which rendered pricing outcomes in that market uncompetitive. More specifically, the GOC induced distortion of that market is considered by the Commission to be structural, and will therefore take a significant time to dissipate.

A7.2 Flow through to aluminium extrusions sector

It is the Commission's view that, during the review period, primary aluminium prices in China were lower than they otherwise would have been if the markets operated in a competitive environment without GOC intervention. As primary aluminium is a major cost component in aluminium extrusions (averaging more than 80 per cent across all selected exporters),¹⁷⁵ the Commission considers that this understated aluminium cost would likely have an impact on the end cost and prices of aluminium extrusions.

¹⁷³ Replaced the Requirements on Entry into the Aluminium Industry (2007).

¹⁷⁴ Sourced from market situation assessments at EPR 300/063 (steel reinforcing bar) and 301/038 (rod in coils).

¹⁷⁵ This observation has been made using cost information provided by selected exporters notwithstanding that this information was not considered suitable for establishing normal values.

The Commission further views that the 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, decreasing the cost of production, as well as affecting the supply and hence price of aluminium producing enterprises (and upstream industries that are also likely to have received subsidies);
- decreasing the cost of inputs of aluminium and aluminium extrusions through the encouraged structural adjustment of aluminium and upstream industry entities; and
- directly reducing input prices of products at each stage of production if the subsidies are passed on by the recipient enterprises.

A7.3 Conclusion

The Commission therefore finds that GOC influence in the primary aluminium and aluminium extrusion sectors has resulted in significantly different aluminium extrusion prices, compared to what would have been the case if the relevant markets operated without significant GOC intervention.

The Commission recognises that the impact of these GOC influences on supply are extensive, complex and manifold, and their resulting impact on the price of aluminium extrusions is not able to be easily quantified. However, available information and the Commission's analysis indicates that these influences are likely to have had a material impact on the domestic price of aluminium extrusions in the review period.

The Commission therefore considers that GOC influences in the Chinese aluminium industry have created a 'market situation' in the domestic aluminium extrusions market, such that sales in that market are no longer suitable for determining normal value under subsection 269TAC(1).

NON-CONFIDENTIAL ATTACHMENT 2 – ASSESSMENT OF COUNTERVAILABILITY OF SUBSIDIES

B1 Introduction and summary of findings

This attachment details the Commission's assessment of the 32 subsidy programs that currently apply to aluminium extrusions exported from China. An additional 34 subsidy programs were also investigated in the review.

The findings in relation to all investigated programs, and the Commission's preliminary assessment of the countervailability of each in relation to aluminium extrusions from China, is outlined in the table below.

Table 10 - Countervailable Subsidy Assessment

Program Number	Program Name	Program Type	Countervailable in relation to the goods
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 Value Added Tax (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

PUBLIC RECORD

Program Number	Program Name	Program Type	Countervailable in relation to the goods
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
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

PUBLIC RECORD

Program Number	Program Name	Program Type	Countervailable in relation to the goods
#73	Provincial Market Development Grant for foreign trade exhibitions and SMEs International market development	Grant	Yes
#74	Provincial Market Development Grant for participating in domestic exhibitions	Grant	No
#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
#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

Program Number	Program Name	Program Type	Countervailable in relation to the goods
#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

Denotes programs not previously countervailed in relation to aluminium extrusions.

B2 Relevant legislation

Section 269T defines a 'subsidy' as follows:

"subsidy", in respect of goods exported to Australia, means:

(a) a financial contribution:

(i) by a government of the country of export or country of origin of the goods; or

(ii) by a public body of that country or a public body of which that government is a member; or

(iii) by a private body entrusted or directed by that government or public body to carry out a governmental function;

that involves:

(iv) a direct transfer of funds from that government or body; or

(v) the acceptance of liabilities, whether actual or potential, by that government or body; or

(vi) the forgoing, or non-collection, of revenue (other than an allowable exemption or remission) due to that government or body; or

(vii) the provision by that government or body of goods or services otherwise than in the course of providing normal infrastructure; or

(viii) the purchase by that government or body of goods or services; or

(b) any form of income or price support as referred to in Article XVI of the General Agreement on Tariffs and Trade 1994 that is received from such a government or body;

if that financial contribution or income or price support confers a benefit (whether directly or indirectly) in relation to the goods exported to Australia.

(Emphasis added)

This reflects Article 1.1 of the WTO *Agreement on Subsidies and Countervailing Measures*.

Section 269TAAC defines a countervailable subsidy as follows:

(1) For the purposes of this Part, a subsidy is a countervailable subsidy if it is specific.

(2) Without limiting the generality of the circumstances in which a subsidy is specific, a subsidy is specific:

(a) if, subject to subsection (3), access to the subsidy is explicitly limited to particular enterprises; or

(b) if, subject to subsection (3), access is limited to particular enterprises carrying on business within a designated geographical region that is within the jurisdiction of the subsidising authority; or

(c) if the subsidy is contingent, in fact or in law, and whether solely or as one of several conditions, on export performance; or

(d) if the subsidy is contingent, whether solely or as one of several conditions, on the use of domestically produced or manufactured goods in preference to imported goods.

(3) Subject to subsection (4), a subsidy is not specific if access to the subsidy:

(a) is established by objective criteria or conditions set out in primary or subordinate legislation or other official documents that are capable of verification; and

(b) those criteria or conditions do not favour particular enterprises over others and are economic in nature; and

(c) those criteria or conditions are strictly adhered to in the administration of the subsidy.

(4) Despite the fact that access to a subsidy is established by objective criteria, the Minister may, having regard to:

- (a) the fact that the subsidy program benefits a limited number of particular enterprises; or*
- (b) the fact that the subsidy program predominantly benefits particular enterprises; or*
- (c) the fact that particular enterprises have access to disproportionately large amounts of the subsidy; or*
- (d) the manner in which a discretion to grant access to the subsidy has been exercised;*

determine that the subsidy is specific.

Subsection 269TACC(3) specifies the guidelines that the Minister is to have regard to in determining whether a financial contribution confers a benefit.

B3 Information considered by the Commission

B3.1 Information provided by exporters

The Commission has relied upon information provided by exporters in assessing the alleged subsidy programs. This includes information provided by the selected cooperative exporters in the respective REQs, as well as information provided during verification.

B3.2 Information provided by the GOC

The Commission included questions relating to each program in a Government Questionnaire that was sent to the GOC on 12 July 2018. The deadline for receipt of the questionnaire was 20 August 2018.

The Commission did not receive a response from the GOC to the Government Questionnaire.

A supplementary Government Questionnaire was sent to the GOC on 30 November 2018. The deadline for receipt of the questionnaire was 5 January 2019.

The Commission did not receive a response from the GOC to the supplementary Government Questionnaire.

B3.3 Other information considered

The Commission also considered as part of this assessment findings from other subsidy investigations conducted by the Commission and other jurisdictions.

B4 Category One: Program 15 – Aluminium provided at less than adequate remuneration

B4.1 Background

In the original investigation it was alleged that Chinese exporters of aluminium extrusions have benefited from the provision of goods by the GOC at less than adequate remuneration. In particular it was 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 primary aluminium being provided by the GOC 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 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 SOE.

In determining whether the provision of goods conferred a benefit, the Commission has had regard to the guidelines set out in subsection 269TACC(3).

In establishing a benchmark price for assessing the adequacy of primary aluminium remuneration supplied by SOEs, the Commission considered whether the following sources were an appropriate basis for comparison:

- prices from private enterprises;
- SHFE spot prices; and
- the constructed LME based benchmark which is the same benchmark detailed in section 5.3.

The selected cooperative exporters REQs collectively reported nearly 290,000 tonnes of aluminium purchases.

The exporter's 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 purchased from a SOE or SIE.

The Commission conducted an examination of the six selected cooperative exporter's monthly primary aluminium purchases during the review period and compared these monthly costs with both the SHFE spot price applicable for that month and the constructed LME based benchmarks.

The Commission found that the SHFE and LME price trended similarly over the review period. The price gap between the SHFE and LME reduced with the two benchmarks reaching parity in May 2018. The constructed benchmarks again trended similarly with the SHFE however the additional uplifts saw the benchmarks reach parity with the SHFE price by the middle of the review period.

In terms of selected cooperative exporter's aluminium purchases, the Commission found that the exporters' aluminium cost trends loosely tracked the trends of the SHFE, however the exporters had paid less than the SHFE spot price in every month of the review period.

When comparing the selected cooperative exporters' aluminium purchases to the constructed LME benchmarks the Commission noted that all exporters paid less than the appropriate benchmark in every month of the review period.

In keeping with the position outlined in REV392, the Commission considers that the constructed LME based prices for imported primary aluminium 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.

The definition of a subsidy under subsection 269T (1) includes reference to ‘a financial contribution by a government...or any public body....’.

The Commission’s assessment of whether SOE and SIE smelters providing primary aluminium constitute public bodies as that term is used in the definition of ‘subsidy’ in subsection 269T(1) is discussed at **Non-confidential Attachment 3**.

Under this program, a benefit to exported aluminium extrusions is conferred by being provided by the GOC (through SOE or SIE) at an amount reflecting less than adequate remuneration, having regard to prevailing market conditions in China.

B4.2 Legal Basis

The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOC document has been identified that provides for its establishment).

B4.3 WTO Notification

The Commission is not aware of any WTO notification of this program.

B4.4 Eligibility Criteria

There are no articulated eligibility criteria for enterprises receiving aluminium at less than adequate remuneration.

B4.5 Is there a subsidy?

Financial contribution

Based on the information above, the Commission considers that this program involves a financial contribution that involves the provision of goods, at less than adequate remuneration.

By a government or public body?

In the absence of information from the GOC in relation to its role in the operation of SIEs, and in light of the reasons detailed in **Non-confidential Attachment 3**, the Commission considers that it is reasonable to conclude for the purpose of the current review that SIEs that produce and supply raw materials to manufacturers of aluminium extrusions should be considered public bodies within the meaning of subsection 269T (1).

Conferral of benefit on the goods

As Chinese exporters use primary aluminium in their production of aluminium extrusions, it is considered this financial contribution is made in respect of the production, manufacture or export of the goods.

Where the financial contribution involves a direct transaction between the public bodies and the exporters of the goods, the Commission considers that this financial contribution

confers a direct benefit in relation to the goods exported to Australia, because the goods were provided at less than adequate remuneration, as determined by the Commission.

These benefit amounts are equal to the amount of the difference between the purchase price and the adequate remuneration, i.e. a constructed price based on LME.

Where exporters of the goods during the review period received a financial contribution under the program of primary aluminium at less than adequate remuneration, it would therefore confer a benefit in relation to the goods, and the financial contribution would meet the definition of a subsidy under section 269T.

B4.6 Is the subsidy a countervailable subsidy?

As provided for in paragraph 269TAAC(4)(a), the Minister may determine that a subsidy is specific, having regard to the fact that the subsidy program benefits a limited number of particular enterprises.

As the criteria or conditions providing access to this subsidy favour Chinese manufacturers that purchase primary aluminium, the program is considered to be specific under subsection 269TAAC(2)(a), and the specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).

For this reason the subsidy is determined to be specific.

B4.7 Amount of subsidy in respect of the goods

The Commission found that the following exporters received a financial contribution that conferred a benefit under Program 15 during the review period, in accordance with subsection 269TACC (3) (d);

- PanAsia;
- Kam Kiu
- residual exporters; and
- all other exporters.

In accordance with subsection 269TACC (4), the adequacy of remuneration was determined by reference to a 'benchmark' for adequate remuneration, established having regard to the prevailing market conditions for like goods in China.

In accordance with subsection 269TACD(1), the amount of the subsidy has been determined as the difference between adequate remuneration (as established) and the actual purchase price paid for primary aluminium incurred by the selected exporters in purchasing these goods from SOEs or SIEs.

In accordance with subsection 269TACD(2), the subsidy margin for this program has been calculated based on the unit subsidy amount attributed to the goods as a percentage of the ascertained export price for each selected cooperative exporter. The subsidy amount attributed to the goods has been calculated based on the total benefit received by each selected cooperative exporter as a proportion of the relevant company turnover value or volume.

Non-cooperative and All Other Entities

For the Non-cooperative and all other entities, no information was provided by either the GOC or the individual exporters themselves to identify whether a financial contribution has been received under this program. The Commission considers that these entities have not given the Commissioner information considered to be relevant to the investigation within a reasonable period.

Pursuant to subsections 269TAACA(1)(c) and 269TAACA(1)(d), the Commissioner has acted on the basis of all the facts available and made reasonable assumptions in order to determine whether a countervailable subsidy has been received in respect of the goods.

Based on the Commission's assessment of the costs and sources of primary aluminium purchases made by selected cooperative exporters it is considered likely that non-cooperative and all other entities purchased primary aluminium from SOEs and SIEs at subsidised prices and therefore received a financial contribution under this program.

In the absence of information that demonstrates the quantum of primary aluminium purchased from SOEs and SIEs by non-cooperative and all other entities, in accordance with subsection 269TACD(1), the Commission determines that non-cooperative and all other entities would have had benefits conferred to them under this program by this financial contribution, and has calculated the subsidy margin by reference to the highest unit subsidy amount received by one of the selected cooperative exporters under this program as a proportion of the lowest weighted average export price amongst the selected cooperative exporters.

B5 Category Two: Preferential Tax Policies

B5.1 Program 18 Preferential tax policies in the Western Regions

Program 18 was found to be countervailable in the original investigation and again in REV392. Recent investigations into aluminium road wheels¹⁷⁶, silicon metal¹⁷⁷ and grinding balls¹⁷⁸ have determined this program to be countervailable.

The Commission is not aware of the current status of this program given the GOC has declined to participate in the review. Furthermore, the REQs submitted by exporters did not provide any new information in regard to this program.

The Commission considers that no new information has been provided that would warrant a reconsideration of the determination made in relation to this program in REV482 and has therefore maintained its position that this program is countervailable in relation to exports of aluminium extrusions from China for the review period.

However no amount of countervailable subsidy was determined in relation to this program for the selected cooperative exporters during the review period.

¹⁷⁶ REP 181.

¹⁷⁷ REP 237.

¹⁷⁸ REP 316.

B5.2 Program 47 Preferential Tax Policies for High and New Technology Enterprises (HNTE).

Program 47 was first found to be countervailable in relation to aluminium extrusions in REP 248 and again in REV392. Program 47 has been found to be countervailable in recent investigations into deep drawn stainless steel sinks¹⁷⁹, silicon metal and grinding balls.

In its REQ one exporter indicated it has received a reduced income tax rate of 15 per cent during the review period and prior consecutive years on account of qualifying as a HNTE under Article 28 of the *Enterprise Income Tax law of China 2008*.

On the basis of the Commission's previous findings in relation to Program 47 and the exporters' disclosure during this review, the Commission finds that Program 47 is countervailable in relation to exports of aluminium extrusions from China.

In accordance with subsection 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 subsection 269TACD(2), the subsidy margin for this program has been calculated based on the unit subsidy amount attributed to the goods as a percentage of the ascertained export price for the selected cooperative exporter. The subsidy amount attributed to the goods has been calculated based on the total benefit received the selected cooperative exporter as a proportion of the company turnover value.

B5.3 Program 48 Provincial Government of Guangdong tax offset for R&D

Program 48 was first found to be countervailable in relation to aluminium extrusions in REP 248 and again in REV392.

In its REQ one exporter indicated that it is eligible to receive a tax offset for research and development expenditures under Program 48.

On the basis of the Commission's previous finding in relation to Program 48 and the exporters' disclosure during the review, the Commission finds that Program 48 is countervailable in relation to exports of aluminium extrusions from China.

In accordance with subsection 269TACD (1), the amount of the subsidy has been determined as the amount of additional tax that would have been paid without the offset.

In accordance with subsection 269TACD(2), the subsidy margin for this program has been calculated based on the unit subsidy amount attributed to the goods as a percentage of the ascertained export price for the selected cooperative exporter. The subsidy amount attributed to the goods has been calculated based on the total benefit received the selected cooperative exporter as a proportion of the company turnover value.

¹⁷⁹ REP 238.

B6 Category Three: Tariff and VAT Exemptions - Program 21 Tariff and VAT Exemptions on Imported Materials and Equipment

This program was found to be countervailable in the original investigation and again in REV392, as well as recent investigations into silicon metal and grinding balls.

In REP 248 Zhongya contended that Program 21 ceased to operate on 30 April 2009. The Commission was not able to obtain substantive evidence that this was the case. The Commission sought to establish this contention by reviewing the asset registers of the verified exporters to identify imported purchases of material and equipment that would be eligible under Program 21 since 30 April 2009. The Commission found that the exporters had not purchased imported materials and equipment during that review period and also confirmed that the most recent imported purchases that predated the alleged end of the program was in March 2009. For those imports pre-dating 30 April 2009 that received an exemption under Program 21, the asset registers indicated a depreciation period up to 10 years. The Commission concluded that the benefit received through Program 21 had been amortised over a 10 year period and therefore that the benefit conferred would not expire until at least 30 April 2019.

In REV392 Kam Kiu provided clarification about the operation of program 21. Kam Kiu advised that, with effect from 1 January 2009, the VAT exemption on importation of self-use equipment was terminated, however there was a "buffer period" for the VAT exemption component of this program until 30 April 2009. This is consistent with the Commission's finding in REP 248. Kam Kiu advised however that the change implemented on 1 January 2009 only related to the VAT exemption, and the import tariff on self-use equipment continues to be exempted under this program

To verify the ongoing existence of Program 21 in the current review the Commission sought information from exporters about the operation of this program as well as the exporters' asset registers for imports subject to Program 21 purchased between 1 January 2007 and 30 June 2018

Relying on the information and data provided by two of the selected cooperative exporters, the Commission considers that the Program 21 continues to remain countervailable on exports of aluminium extrusions from China during the review period. The Commission considers that the VAT exemption component of Program 21 will remain countervailable until at least 30 April 2019, while the import tariff exemption component may remain countervailable beyond this date.

In accordance with subsection 269TACD (1), the amount of the subsidy has been determined as the amount of Tariff and VAT exemption appropriately amortized over the review period.

In accordance with subsection 269TACD(2), the subsidy margin for this program has been calculated based on the unit subsidy amount attributed to the goods as a percentage of the ascertained export price for each selected cooperative exporter who received a benefit. The subsidy amount attributed to the goods has been calculated based on the total benefit received by each selected cooperative exporter as a proportion of company turnover value.

B7 Category Four: Grants

B7.1 Programs 56, 59 and 60

Program 56 was first found to be countervailable in REP 248 and again in REV 392. Program 59 and 60 were first found to be countervailable in REV 392.

The Commission's verification of selected cooperative exporters subject to the review established that subsidies had been received under Programs 56, 59 and 60 during the review period.

This finding provides evidence that these particular programs are still operable and are potentially available to other members of the aluminium extrusion industry. The data collected in the review also supports the findings from recent investigations into aluminium road wheels, deep drawn stainless steel sinks, silicon metal and grinding balls which also determined one or more of these programs to be countervailable.

In accordance with subsection 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 subsection 269TACD(2), the subsidy margin for this program has been calculated based on the unit subsidy amount attributed to the goods as a percentage of the ascertained export price for each selected cooperative exporter who received a benefit. The subsidy amount attributed to the goods has been calculated based on the total benefit received by each selected cooperative exporter as a proportion of company turnover value.

B7.2 Programs 2, 3, 4, 5, 6, 7, 8, 9, 26, 29, 32, 35, and 58

Programs 2, 3, 4, 5, 6, 7, 8, 9, 26, 29, 32, and 35 were found to be countervailable in the original investigation and again in REV392. Program 58 was first found to be countervailable in REP 248 and again in REV392. Prior investigations into aluminium road wheels, deep drawn stainless steel sinks, silicon metal and grinding balls also determined one or more of these programs to be 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 in regard to these programs operating during the review period, only that grants in these programs had been received in the years prior to the review period.

The Commission considers it likely that these same or very similar programs are still operating in China and are either no longer being received by the selected cooperating exporters or were declared under new program titles.

The Commission considers that no new information has been provided that would warrant a reconsideration of the determinations made in the REV 392, and has therefore maintained its position that these programs are countervailable.

However no amount of countervailable subsidy was determined in relation to these programs for the selected cooperative exporters during the review period.

B7.3 Programs 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71

Programs 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71 were found to be first countervailable in REV392.

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 in regard to these programs operating during the review period, only that grants in these programs had been received in the years prior to the review period.

The Commission considers it likely that these same or very similar programs are still operating in China and are either no longer being received by the cooperating exporters or were declared under new program titles.

One REQ provided to commission for REV482 did provide an opinion on the accuracy of the countervailability assessment in SEF392 of programs 61 to 71. The REQ stated the programs lacked the specificity necessary to be classified as a countervailable subsidy.

However, the Commission considers that no new information has been provided that would warrant a reconsideration of the determinations made in the REV 392, and has therefore maintained its position that these programs are countervailable.

Nevertheless no amount of countervailable subsidy was determined in relation to these programs for the selected cooperative exporters during the review period.

B7.4 Additional grant programs

In addition to the existing 32 grant programs that were considered as part of this review, the Commission has also had regard to 34 additional grant programs in response to information obtained during exporter verifications. The Commission's assessment of the following additional programs is contained in the table below.

One entity who provided an REQ to the review declared receiving a benefit under 7 additional programs. However this entity was determined not to be an exporter for this review and as such these programs were not investigated or assessed.

ADDITIONAL GRANT PROGRAMS

Program number	Program description	Background	WTO notification	Legal basis	Eligibility criteria	Is there a subsidy?	Is the subsidy countervailable?	Method used to calculate subsidy margin
72	2015 Special Funds of Technology Renovation technical renovation project with environmental protection	One cooperative exporter reported receiving a benefit under this program in its verification.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	Evidence supplied by the exporter indicates grant eligibility and grant amount were determined by the regional local government.	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</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> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	<p><u>Selected Cooperative Exporter</u></p> <p>The subsidy margin for this program has been calculated based on the unit subsidy amount attributed to the goods as a percentage of the ascertained export price for the selected cooperative exporter who received a benefit from this program.</p> <p>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 total company turnover.</p>
73	Provincial Market Development Grant for foreign trade exhibitions and SMEs International market development	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The REQ provided by the exporter suggests that grant eligibility was their participation in foreign trade exhibitions as determined by	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the export of all goods of the recipient enterprise.</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> <p>In accordance with subsection 269TAAC(2)(b),</p>	<p><u>Selected Cooperative Exporter</u></p> <p>The subsidy margin for this program has been calculated based on the unit subsidy amount attributed to the goods as a percentage of the ascertained export price for the selected cooperative exporter who received a benefit from this program.</p>

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					the regional provincial government.	<p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</p>	<p>the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	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 total company export revenue.
74	Provincial Market Development Grant for participating in domestic exhibitions	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	<p>The REQ provided by the exporter suggests that grant eligibility was their participation in domestic trade exhibitions as determined by the regional local government.</p>	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the domestic sales of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>However where exporters of aluminium extrusions during the review period received a grant under this program, this would not confer a benefit in relation to the goods exported to Australia, as such this financial contribution does not meet the definition of a subsidy under section 269T</p>	N/A	N/A
75	Subsidy for Supporting Foreign Trade	One cooperative exporter reported	The Commission is not aware of any	The Commission is not aware of any	The REQ provided by the exporter	Due to the nature of this grant, and in light of the limited information available,	Due to the lack of relevant information provided by the GOC and the exporter, the	As per Program 73 above.

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	Enterprises of Nan'an city in 2017	receiving a benefit under this program in its REQ.	WTO notification of this program.	legal basis for this program.	suggests that grant eligibility was for supporting international market development as determined by the regional local government.	<p>it is considered that a financial contribution under this program would be made in connection to the export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</p>	<p>Commission has based its finding on all the facts available and made such assumptions as considered reasonable.</p> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	
76	Fund for Supporting Foreign Trade Export in 2017 of Nan'an Municipal Bureau of Financial	One cooperative exporter reported receiving a benefit under this program in its REQ .	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	<p>The REQ provided by the exporter suggests that grant eligibility was for supporting international market development as determined by the regional local government</p>	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial</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> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p>	As per Program 73 above.

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						contribution meets the definition of a subsidy under section 269T	Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.	
77	Power consumption award for production and efficiency increase in December 2016	One cooperative exporter reported receiving a benefit under this program in its REQ .	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The REQ provided by the exporter suggests that grant eligibility was determined by the regional local and provincial government	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</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> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	As per Program 72 above.
78	Grant for integration of informationization and industrialization management system	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The REQ provided by the exporter suggests that grant eligibility was determined by the regional local government	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium</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> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises</p>	As per Program 72 above.

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						<p>extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</p>	<p>carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	
79	Subsidy for invention patents	One cooperative exporter reported receiving a benefit under this program in its REQ .	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The REQ provided by the exporter suggests that grant eligibility was determined by the regional local government	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</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> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	As per Program 72 above.
80	No. 269: Special project for technology reform-subsidy for	One cooperative exporter reported receiving a benefit under	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The REQ provided by the exporter suggests that grant eligibility was determined	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made</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</p>	As per Program 72 above.

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	technology reform	this program in its REQ.			by the regional local government	<p>in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</p>	<p>assumptions as considered reasonable.</p> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	
81	Madrid Trademark grant by Fujian Provincial Administration for Industry and Commerce	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The REQ provided by the exporter suggests that grant eligibility was determined by the regional provincial government	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the</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> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy</p>	As per Program 72 above.

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						definition of a subsidy under section 269T	program to be specific, and therefore countervailable.	
82	2016 Award for brand value from Finance Bureau	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The REQ provided by the exporter suggests that grant eligibility was determined by the regional local and provincial government	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</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> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	As per Program 72 above.
83	Social security fund Guangzhou Social Insurance Fund	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</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> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within</p>	As per Program 72 above.

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						Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T	a designated geographical region. The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3). Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.	
84	Patent supporting fund	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise. This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC. Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T	Due to the lack of relevant information provided by the GOC and the exporter, the Commission has based its finding on all the facts available and made such assumptions as considered reasonable. In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region. The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3). Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.	As per Program 72 above.
85	Unemployment fund Guangzhou Social Insurance Fund	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or	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.	As per Program 72 above.

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						<p>export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</p>	<p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	
86	Technology supporting fund	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</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> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	As per Program 72 above.

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87	Special fund Industry technology development and research	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise. This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC. Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T	Due to the lack of relevant information provided by the GOC and the exporter, the Commission has based its finding on all the facts available and made such assumptions as considered reasonable. In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region. The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3). Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.	As per Program 72 above.
88	Industry technology R&D fund	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise. This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC. Where exporters of aluminium extrusions during the review period received a	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. In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.	As per Program 72 above.

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						grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T	The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3). Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.	
89	Technology innovation fund	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise. This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC. Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T	Due to the lack of relevant information provided by the GOC and the exporter, the Commission has based its finding on all the facts available and made such assumptions as considered reasonable. In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region. The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3). Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.	
90	Social security fund Zencheng City	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.	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. In accordance with subsection 269TAAC(2)(b), the Commission considers	As per Program 72 above.

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						<p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</p>	<p>that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	
91	2016 Jiangmen support fund for technology development	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</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> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	As per Program 72 above.
92	Funds for EFT16	One cooperative exporter reported	The Commission is not aware of any	The Commission is not aware of any	The Commission is not aware of the eligibility	Due to the nature of this grant, and in light of the limited information available,	Due to the lack of relevant information provided by the GOC and the exporter, the	As per Program 72 above.

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	technical reform	receiving a benefit under this program in its REQ.	WTO notification of this program.	legal basis for this program.	criteria for this program.	<p>it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</p>	<p>Commission has based its finding on all the facts available and made such assumptions as considered reasonable.</p> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	
93	Funds for 2016 technical renovation	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the</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> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p>	As per Program 72 above.

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						goods, and this financial contribution meets the definition of a subsidy under section 269T	Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.	
94	EFT provincial Industry and informatization Special research expenses supplement fund	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</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> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	As per Program 72 above.
95	2017 Enterprise Compensation Survey Fund	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium</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> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within</p>	As per Program 72 above.

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						<p>extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</p>	<p>a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	
96	VOCs treatment fund for the process of injection workshop	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</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> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	As per Program 72 above.
97	Economic investigation fund	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the</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</p>	As per Program 72 above.

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						<p>production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</p>	<p>assumptions as considered reasonable.</p> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	
98	2017 Provincial Motor Energy Efficiency Promotion Special Fund	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the</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> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	As per Program 72 above.

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						definition of a subsidy under section 269T		
99	2017 Jiangmen Enterprise Major technology platform construction Fund	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</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> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	As per Program 72 above.
100	Receiving the payment from Taishan Finance Bureau	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</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> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within</p>	As per Program 72 above.

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						Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T	a designated geographical region. The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3). Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.	
101	2017 Jiangmen Enterprise Research and Development Financial Aid Fund	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise. This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC. Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T	Due to the lack of relevant information provided by the GOC and the exporter, the Commission has based its finding on all the facts available and made such assumptions as considered reasonable. In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region. The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3). Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.	As per Program 72 above.
102	Taishan High-integrity enterprise project fund	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or	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.	As per Program 72 above.

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						<p>export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</p>	<p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	
103	2017 Provincial Enterprise Research and Development Fund	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</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> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	As per Program 72 above.

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104	Special funds for enterprises in large equipment manufacturing industry	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T</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> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p> <p>The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</p> <p>Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.</p>	As per Program 72 above.
105	2017 Provincial New enterprise Technology Reform Fund	One cooperative exporter reported receiving a benefit under this program in its REQ.	The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program.	The Commission is not aware of the eligibility criteria for this program.	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise.</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions due to receipt of funds from the GOC.</p> <p>Where exporters of aluminium extrusions during the review period received a</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> <p>In accordance with subsection 269TAAC(2)(b), the Commission considers that this subsidy is limited to and predominantly benefits particular enterprises carrying out business within a designated geographical region.</p>	As per Program 72 above.

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						grant under this program, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under section 269T	The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3). Therefore, the Commission considers this subsidy program to be specific, and therefore countervailable.	
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Table 11 - Subsidy Assessment of Additional Grants

B8 Residual Exporter Subsidy Rate

The subsidy margin for residual exporters has been calculated based on a weighted average of the four selected cooperative exporters' subsidy margins, weighted by export volumes of the goods.

The four selected cooperating exporters were the selected cooperative exporters determined to have received a subsidy benefit during the review period.

The subsidy margins for the four selected cooperating exporters were individually calculated as per the specific methodologies described under each subsidy category above.

B8.1 Non-cooperative and All Other Entity's Subsidy Rate

The non-cooperative and all other entity's subsidy rate was calculated on a subsidy program category basis which included:

- Category 1: Less Than Adequate Remuneration (LTAR)
- Category 2: Preferential Tax Policies
- Category 3: Tariff and VAT exemptions
- Category 4(a): General Grants
- Category 4(b): Export Grants

The non-cooperative and all other entity's subsidy rate is the total of the highest per unit subsidisation amount received by one of the four selected cooperative exporters under each subsidy program category over the lowest weighted average export price amongst the selected cooperative exporters.

NON-CONFIDENTIAL ATTACHMENT 3 - ASSESSMENT OF WHETHER STATE INVESTED ENTERPRISES ARE PUBLIC BODIES

C1 Background and Legislative framework

The definition of a subsidy under subs. 269T(1) of the Act requires the financial contribution to be provided by a government, public body or a private body entrusted by that government or public body to carry out a government function.

The State Invested Enterprises (SIEs) involved in the primary aluminium sector in China are not considered by the Commission to be part of the GOC, nor are they private bodies entrusted or directed by the GOC in order to carry out governmental functions. The Commission's focus on considering whether aluminium has been sold at less than fair market value will thereby focus on considering whether these SIEs are acting as a 'public body'.

The term 'public bodies', is not expressly defined under the Act, or the *Agreement on Subsidies and Countervailing Measures*.

The previous investigation's findings were made in view of the determinations made in relation to public bodies through the *WTO Appellate Body in United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China*, dispute DS379.¹⁸⁰

Further guidance on the meaning of public bodies was provided by the WTO Dispute Settlement Body (DSB) in *United States – Countervailing Measures (China)*, dispute DS437 and *United States – Carbon Steel (India)* dispute DS436.

DS379 and DS436 findings

In its findings report, the Appellate Body stated:

*... the determination of whether a particular conduct is that of a public body must be made by evaluating the core features of the entity and its relationship to government in the narrow sense. That assessment must focus on evidence relevant to the question of whether the entity is vested with or exercises governmental authority.*¹⁸¹

[Emphasis added]

The Appellate Body provided further guidance on this point as to how it can be ascertained that an entity exercises, or is vested with government authority, outlining the following indicia that may help assess whether an entity is a public body (vested with or exercising governmental authority):¹⁸²

¹⁸⁰ Appellate Body Report, *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China*, WT/DS379/AB/R

¹⁸¹ *Ibid.*

¹⁸² *Ibid.*

Indicia 1 - where a *statute or other legal instrument* expressly vests government authority in the entity concerned;

Indicia 2 - where there is evidence that an entity is, *in fact, exercising governmental functions* may serve as evidence that it possesses or has been vested with governmental authority; and

Indicia 3 - where there is evidence that a government exercises *meaningful control* over an entity and its conduct may serve, in certain circumstances, as evidence that the relevant entity possesses governmental authority and exercises such authority in the performance of governmental functions.

The Appellate Body considered¹⁸³ that the existence of *mere formal links* (i.e. majority government ownership) between an entity and government was not sufficient to establish the necessary possession of governmental authority.

The Appellate Body further advised that in all cases, an investigating authority must give due consideration to all relevant characteristics of the entity and avoid focussing exclusively or unduly on any single characteristic without affording due consideration to others that may be relevant¹⁸⁴.

The Appellate Body went on to acknowledge (in the context of examining SIEs in China) that:¹⁸⁵

“...determining whether an entity is a public or private body may be a complex exercise, particularly where the same entity exhibits some characteristics that suggest it is a public body, and other characteristics that suggest that it is a private body.”

C2 Findings in previous investigation

In the previous investigation, the the Commission has examined the three indicia outlined in DS379 (described above) and made the following findings:¹⁸⁶

- indicia 1 – the Commission found that a particular enterprise - Aluminum Corporation of China Limited (CHALCO) was vested with some government authority in relation to imposing state mandated pricing policies on its subsidiaries, but did not identify any legal instruments which expressly vested government authority in any aluminium-producing SIEs.¹⁸⁷
- indicia 2 - the Commission found that CHALCO was exercising governmental functions, and that Chinese aluminium industry SIEs, including those that produce aluminium and/or alloy, played a leading and active role in implementing GOC policies and plans and these SIEs were therefore exercising governmental functions.

¹⁸³ *Ibid.*

¹⁸⁴ *Ibid.*

¹⁸⁵ *Ibid.*

¹⁸⁶ ACBPS Report to the Minister No. 181, Appendix B, pp. 9-31.

¹⁸⁷ ACBPS was at this time the administrative authority responsible for anti-dumping matters.

- indicia 3 - the Commission found that the GOC employed policies and implementing measures which enabled the GOC to exercise meaningful control over Chinese SIEs that produce aluminium and/ or aluminium alloy.

The Commission concluded that at least Indicias 2 and 3 were met and hence aluminium SIEs should be considered 'public bodies'.

Similar to the previous investigations, in the current review, the Commission is not aware of any statute or other legal instrument which expressly vests government authority in any SOEs or SIE producing aluminium and/or alloy.

C3 The Commissioner's assessment

The Commission considers that evidence exists to show that at least both Indicia 2 (evidence that an entity is, in fact, exercising governmental functions) and Indicia 3 (evidence that a government exercises meaningful control over an entity and its conduct) are satisfied in relation to Chinese aluminium and/or alloy manufacturers.

After determining that SIEs that produced and supplied aluminium and/or alloy in China are in fact 'public bodies' for the purposes of the Act, the Commission has determined that SIEs conferred a benefit in respect of the goods (i.e. goods were provision of aluminium and/or alloy was at less than adequate remuneration). As discussed above and in **Non Confidential Attachment 1**, there are correlations between the prices of primary aluminium and aluminium alloys which indicate that the sale of primary aluminium at less than adequate remuneration leads to flow-on impacts on the price of aluminium alloy (to the extent that aluminium alloy has been sold at less than fair market value).

The Commissioner considers the sale of aluminium at less than fair market value to be a countervailable subsidy program. This financial contribution provided through this program is considered to confer a benefit to recipient manufacturers of Aluminium extrusions because of receipt of contributions from public bodies (in accordance with subs. 269TACC(2)(b)).

As the criteria or conditions providing access to this subsidy favours Chinese manufacturers that purchase primary or alloyed aluminium, the program is considered to be specific (and the specificity of the subsidy is not excepted by reference to subs. 269TAAC(3)).

The Commission thereby considers that the findings made in REP 148 and subsequent reviews¹⁸⁸ following the investigation remain current, and that aluminium producers in China exercise governmental authority and are therefore public bodies within the meaning of subs. 269T(1) of the Act.

As Chinese exporters use primary and alloyed aluminium to produce Aluminium extrusions, this financial contribution is considered to be made in respect of the production, manufacture or export of the goods.

The methodology for attributing subsidy margins under Program 15 (along with all other countervailable subsidy programs) is discussed in **Non Confidential Attachment 2**.

¹⁸⁸ Reviews Nos.; 248, 287, 392

The Commissioner had regard to the findings by the European Commission (EC) in a report entitled *Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the Purposes of Trade Defence* (EC Report).

The EC Report was prepared for the purposes of Article 2(6a)(c) of *Regulation (EU) 2016/1036*. Article 2(6a)(c) provides that where the EC has well-founded indications of the possible existence of significant distortions in a certain country or a certain sector in that country, the EC must publish a report describing the market circumstances in that country or sector.¹⁸⁹

The EC Report found that the GOC no longer directs SIEs to “adapt to the new market-oriented [...] background” and “promote market-oriented allocation of public resources”¹⁹⁰. Rather the GOC’s current primary goal with respect to SIEs is make the sector larger and stronger; this includes strengthening the sector’s control and influence “in order to better serve the strategic goals of the country”¹⁹¹. The GOC has decided to maintain SIEs as a means for pursuing policy objectives and not primarily commercial considerations¹⁹² and to selectively create large SIEs to serve the GOC’s strategic industrial policies rather than focussing on their own economic performance. The GOC has continued controlling SIEs and planned reforms focus on better controlling state-owned assets.¹⁹³

The GOC is retreating from the market reforms for SIEs that it previously promoted, even as recently as 2013.¹⁹⁴ On that basis, the Commissioner considers that previous findings that SIEs are public bodies are pertinent to this review and are likely to understate the GOC’s involvement with SIEs.

In the absence of information from the GOC in relation to its role in the operation of SIEs in the review period, and in light of the reasons considered above, the Commission considers that it is reasonable to conclude for the purpose of the current review that SIEs that produce and supply raw materials to manufacturers of aluminium extrusions should be considered public bodies.

¹⁸⁹ EC Report at page 2.

¹⁹⁰ EC Report at page 106 citing the GOC’s 13th Five Year Plan

¹⁹¹ EC Report at page 106 citing the GOC’s 13th Five Year Plan

¹⁹² EC Report at page 107-8; the EC Report at page 362 stated that some forms of GOC support in the steel sector were “permanent” and “structural”.

¹⁹³ EC Report at page 108-9.

¹⁹⁴ EC Report at page 106 citing the GOC’s 2013 3rd Plenum Decision.