



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

**Anti-Dumping
Commission**



Application for an
accelerated review of
anti-dumping measures

**APPLICATION UNDER SECTION 269ZE OF THE *CUSTOMS ACT 1901*
FOR AN ACCELERATED REVIEW OF ANTI-DUMPING MEASURES**

In accordance with section 269ZE of the *Customs Act 1901* (the Act), I request that the Commissioner of the Anti-Dumping Commission conduct an accelerated review of a dumping duty notice and/or countervailing duty notice (the notice(s)) insofar as it affects this exporter.¹

NB: Only a new exporter is eligible to apply for an accelerated review. A new exporter means that, in relation to goods the subject of an application for a dumping duty notice or countervailing duty notice or like goods, an exporter who did not export such goods to Australia at any time during the investigation period in relation to the application (ss 269ZE(1) and 269T(1) refers).

DECLARATION

I believe that the information contained in this application:

- provides reasonable grounds for an accelerated review of the dumping or countervailing duty notice(s) in so far as it relates to the applicant; and
- is complete and correct.

Signature: 

Name: ZHAO Mingxian

Position: General Manager

Company: Foshan Minghua Doors & Windows Aluminium Co., Ltd

Date: 10 May 2019

¹ All legislative references are to the *Customs Act 1901*.

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Signature requirements

Where the application is made:

By a company - the application must be signed by a director, servant or agent acting with the authority of the body corporate.

By a joint venture - a director, employee, agent of each joint venturer must sign the application. Where a joint venturer is not a company, the principal of that joint venturer must sign the application form.

On behalf of a trust - a trustee of the trust must sign the application.

By a sole trader - the sole trader must sign the application.

In any other case - contact the Anti-Dumping Commission's (Commission's) client support section for advice.

NB: Where an application is made by an agent acting with authority on behalf of a company, joint venture, trust or sole trader, an authority to act letter must be provided with this application.

Assistance with the application

The Commission's client support section can provide information about dumping and countervailing procedures and the information required by the application form. Contact the team on:

Phone: 13 28 46 or +61 2 6213 6000 (outside Australia)

Fax: (03) 8539 2499 or +61 3 8539 2499 (outside Australia)

Email: clientsupport@adcommission.gov.au

Other information is available from the Commission's website at www.adcommission.gov.au.

Required information

1. Provide details of the current anti-dumping measure(s) the subject of this review application, including:
 - identify the notice(s) imposing measures that the applicant seeks an accelerated review of; and
 - a description of the goods to which the notice(s) relates.
2. Provide details of the name, street and postal address, of the applicant seeking the accelerated review;
3. Provide details of the name of a contact person, including their position, telephone number and facsimile number, and e-mail address;
4. Describe the applicant's role in the exportation of the goods (e.g. producer or manufacturer, distributor or trader of the goods);
5. Confirm that the applicant is a 'new exporter', meaning, in relation to goods the subject of an application for a dumping duty notice or countervailing duty notice or like goods, an exporter who did not export such goods to Australia at any time during the investigation period in relation to the application (ss 269ZE(1) and 269T(1) refers).
6. Confirm whether the applicant has previously applied for an accelerated review in relation to the notices the subject of this application.
7. Confirm whether the applicant is related to an exporter whose exports were examined in relation to the application for publication of the notice(s), and the nature of the relationship (s 269ZE(2)(b) refers).

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In determining whether the applicant is an associate of an exporter whose exports were examined in relation to the application for publication of the notice(s), answer the following (s 269TAA(4) refers):

- (a) Are both natural persons?
If yes:
(i) Are they members of the same family? Or;
(ii) Is one of them an officer or director of a body corporate controlled, directly or indirectly, by the other?
- (b) Are both body corporates?
If yes:
(i) Are both of them controlled by a third person (whether or not a body corporate)? Or;
(ii) Do both of them together control, directly or indirectly, a third body corporate? Or;
(iii) Is the same person (whether or not a body corporate) in a position to cast, or control the casting of, 5% or more of the maximum number of votes that might be cast at a general meeting of each of them?
- (c) Is one of them, being a body corporate, directly or indirectly, controlled by the other (whether or not a body corporate)?
- (d) Is one of them, being a natural person, an employee, officer or director of the other (whether or not a body corporate)?
- (e) Are they members of the same partnership?

NB: Please include appropriate evidence in support of your view that the applicant is or is not related to another company whose exports were examined in relation to the application for publication of the notice(s) (i.e. during the original investigation). This should include an overview of your corporate structure, including entities that the applicant has an interest in and entities that have an interest in the applicant, list of directors and annual report(s) where applicable.

8. Provide a statement setting out the basis on which you consider the particular dumping or countervailing duty notice is inappropriate, so far as the applicant is concerned.

Impact of an all exporter review of measures

Where a review of measures applies to all exporters of the goods generally (that is, not a single exporter), the changes to the notice(s) that result from the review may apply to all relevant exporters of the goods, including past applicants for an accelerated review. This means that changes to a notice as an outcome of an all exporter review of measures may replace an earlier published outcome of an accelerated review.

Lodgement of the application

This application, together with the supporting evidence, must be lodged in the manner approved by the Commissioner under subsection 269SMS(2) of the Act. The Commissioner has approved lodgement of this application by either:

- preferably, email, using the email address clientsupport@adcommission.gov.au, or
- pre-paid post to:

The Commissioner of the Anti-Dumping Commission
GPO Box 2013

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Canberra ACT 2601, or

- facsimile, using the number (03) 8539 2499 or +61 3 8539 2499
(outside Australia)

Public Record

There is no legislative requirement to maintain a public record for accelerated reviews. However, in the interests of transparency, a public record for an accelerated review will be opened and accessible on the Commission's website at www.adcommission.gov.au. The public record will contain, among other things, a copy of the application, all submissions from interested parties and Commission reports.

At the time of making the application, the Commission requests both a confidential version (for official use only) and non-confidential version (public record) of the application be submitted. Please ensure each page of the application is clearly marked "FOR OFFICIAL USE ONLY" or "PUBLIC RECORD". The non-confidential application should enable a reasonable understanding of the substance of the information submitted in confidence, clearly showing the reasons for seeking the accelerated review, or, if those reasons cannot be summarised, a statement of reasons why summarisation is not possible. If you cannot provide a non-confidential version, contact the Commission's client support section for advice.

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APPLICATION FOR ACCELERATED REVIEW

FOSHAN MINGHUA DOORS & WINDOWS ALUMINIUM CO., LTD

- 1. Provide details of the current anti-dumping measure(s) the subject of this review application, including:**
 - identify the notice(s) imposing measures that the applicant seeks an accelerated review of; and
 - a description of the goods to which the notice(s) relates.

The current measures were imposed pursuant to Anti-Dumping Notice No. 2010/40. The goods subject to these duty notices 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. For example, 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.

- 2. Provide details of the name, street and postal address, of the applicant seeking the accelerated review.**

Company Name: Foshan Minghua Doors & Windows Aluminium Co., Ltd
Address: East side Chaungye South Road, Shishan Zhaoda, Zhaonan Industry Zone, Nanhai District, Foshan, Guangdong Province, CHINA

- 3. Provide details of the name of a contact person, including their position, telephone number and facsimile number, and e-mail address.**

Name: Zhao Mingxian
Position: General Manager
Phone: [REDACTED]
Fax: n/a
Email: [REDACTED]

- 4. Describe the applicant's role in the exportation of the goods (e.g. producer or manufacturer, distributor or trader of the goods).**

Minghua is a manufacturer of the goods subject to review.

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5. **Confirm that the applicant is a ‘new exporter’, meaning, in relation to goods the subject of an application for a dumping duty notice or countervailing duty notice or like goods, an exporter who did not export such goods to Australia at any time during the investigation period in relation to the application (ss 269ZE(1) and 269T(1) refers).**

Minghua is a domestic private entity that has never exported aluminium extrusions to Australia, whether during the original investigation period or since the imposition of measures.

6. **Confirm whether the applicant has previously applied for an accelerated review in relation to the notices the subject of this application.**

Minghua has not previously applied for an accelerated review.

7. **Confirm whether the applicant is related to an exporter whose exports were examined in relation to the application for publication of the notice(s), and the nature of the relationship (s 269ZE(2)(b) refers).**

Minghua confirms that it is not related to any Chinese producer or exporter of aluminium extrusions which were originally investigated. To demonstrate this, Minghua submits its corporate structure (**Confidential Attachment A**) which shows that it is stand-alone private entity with no subsidiaries or entities that are shareholders of Minghua.

Minghua’s shareholders comprise two natural persons, with neither having any ownership or controlling interest in other Chinese producer of aluminium extrusions.

In determining whether the applicant is an associate of an exporter whose exports were examined in relation to the application for publication of the notices(s), answer the following (s 269TAA(4) refers):

- (a) Are both natural persons?**

If yes:

- i. Are they members of the same family? Or;**
- ii. Is one of them an officer or director of a body corporate controlled, directly or indirectly, by the other?**

- (b) Are both body corporates?**

If yes:

- i. Are both of them controlled by a third person (whether or not a body corporate)? Or;**
- ii. Do both of them together control, directly or indirectly, a third body corporate? Or;**
- iii. Is the same person (whether or not a body corporate) in a position to cast, or control the casting of, 5% or more of the maximum number of votes that might be cast at a general meeting of each of them?**

- (c) Is one of them, being a body corporate, directly or indirectly, controlled by the other (whether or not a body corporate)?**

- (d) Is one of them, being a natural person, an employee, officer or director of the other (whether or not a body corporate)?**

- (e) Are they members of the same partnership?**

8. Provide a statement setting out the basis on which you consider the particular dumping or countervailing duty notice is inappropriate, so far as the applicant is concerned.

Minghua seeks an accelerated review of the notice as it is currently subject to the country-wide combined dumping and countervailing duty rate of 101.9% outlined in ADN 2019/44 following completion of review 482. This rate reflects the dumping and countervailing margins determined for non-cooperating exporters, and which were based on the following:

- ascertained export price was based on the 'export price for the cooperative exporters that exhibited the highest quarterly dumping margin for a specific model.';
- ascertained normal value was based on facts available having regard to all relevant information;
- ascertain amount of countervailable subsidy received was based on facts available and determined that financial contributions conferring a benefit were received under 65 subsidy programs found to be countervailable.

As Minghua did not export the goods to Australia during the original investigation period or the more recent review periods, it was not contacted and investigated by the Commission, and as such did not have the opportunity to participate in the original investigation and recent reviews, to allow it to seek an individual determination of its ascertained variable factors. Given the methods used to determine the ascertained variable factors for non-cooperating exporters, the current and proposed interim dumping and countervailing duties are clearly inappropriate, as they do not reflect Minghua's actual circumstances.

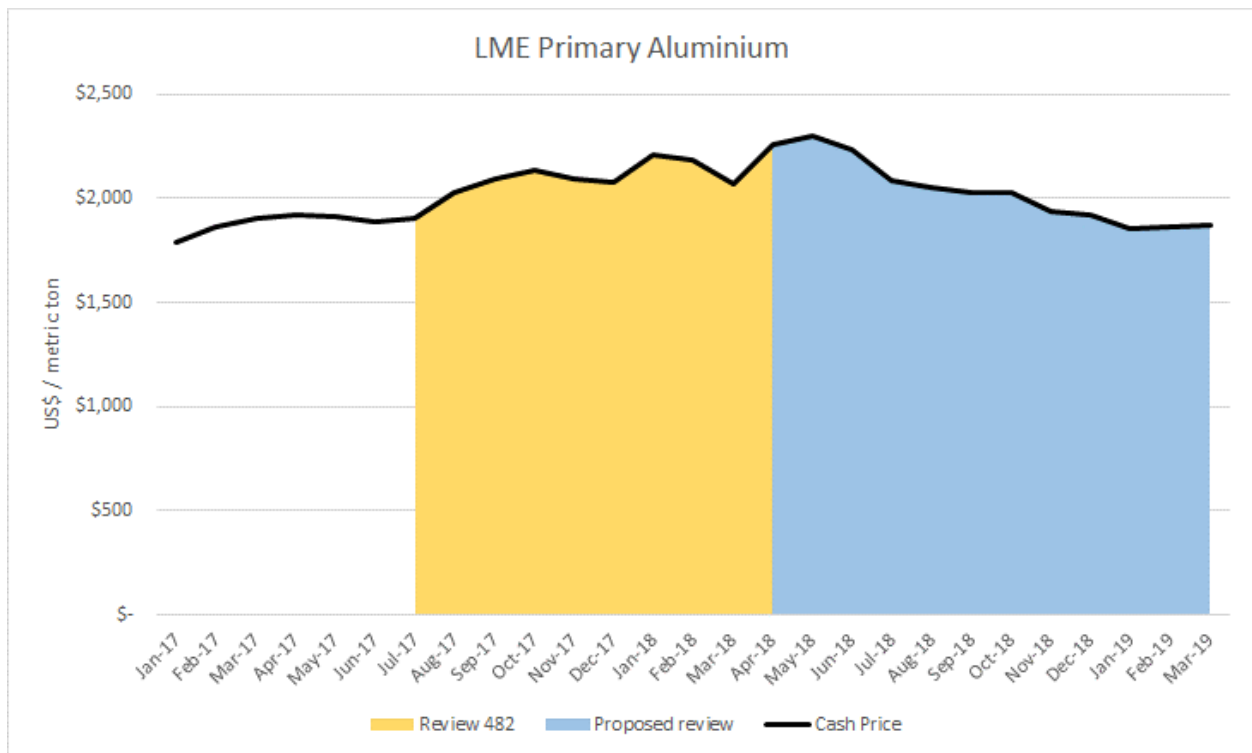
Therefore, Minghua requests the determination of ascertained variable factors based on its own domestic sales, costs and other relevant financial information.

Benchmark primary aluminium

In Report No. 482, the Commission determined a benchmark price for primary aluminium by reference to the published LME monthly cash price. This benchmark was adjusted for additional charges and used to determine whether benefits were conferred under Program 15 and to uplift exporter's primary aluminium purchase costs in calculating constructed normal values.

The chart below shows the movement in monthly LME primary aluminium prices from January 2017 through to March 2019, which covers the review period from Report 482 and a proposed contemporary review period of April 2018 to March 2019. The chart shows that primary aluminium prices peaked in May 2018 before declining by approximately 17% through to March 2019.

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Source: www.indexmundi.com

The movement in the price of LME primary aluminium reflects a 5% decline in value between the average price during the review period for Review 482 and the proposed contemporary review period. Minghua considers that this further supports its view that the ascertained variable factors determined in Report 482 are no longer relevant.

Finally, Minghua only makes domestic sales of [REDACTED] aluminium extrusions. By contrast, the ascertained normal value used to determine the country wide dumping duty rate is based on the highest weighted average normal value from of the selected exporters. Given that this normal value is understood to include [REDACTED] and [REDACTED] extrusions, it is evident that the normal value applicable to Minghua's exports is inappropriate.

Countervailing

Minghua has reviewed the details relating to each of the 65 countervailed subsidy programs to consider which, if any, would be applicable to its particular circumstances. In the case of the grants, the benefits are specific to:

- entities located in certain regions;
- entities meeting certain designations (ie. hi-tech industries); and
- entities engaged in exportation/foreign trade;

Minghua is located in Foshan, Guangdong, and only two of the grant programs (programs 8 and 48) are available to entities in this location. Minghua can confirm that it has not received any financial grants under either of these two programs.

As Minghua does not possess classification as a hi-tech enterprise or any other such classification identified in the list of countervailed grants, it is not entitled to receive benefits under any of those grants.

Likewise, as Minghua has not exported aluminium extrusions, it is not entitled to receive benefits from those grants that are export specific.

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Of the tax programs found to be countervailable, none are applicable to Minghua as it is not a foreign-invested enterprise, does not have exports and is not located in specific regions.

Based on its assessment of the countervailable programs, Minghua contends that the only applicable program relates to Program 15, '*Aluminium provided at less than adequate remuneration*'. However, given that the benefits under this program are addressed through the uplift in aluminium costs in determining the normal value, no countervailing duty is applicable.