



ANTI-DUMPING NOTICE NO. 2021/023

**Application for an Accelerated Review No. 577 of a
dumping duty and countervailing duty notice**

Submitted by PMB Aluminium Sdn Bhd

**applying to certain aluminium extrusions exported to
Australia from Malaysia**

Customs Act 1901 – Part XVB

Introduction

I, Dale Seymour, the Commissioner of the Anti-Dumping Commission, have commenced an accelerated review of the anti-dumping measures applying to certain aluminium extrusions exported to Australia from Malaysia, in so far as they relate to a new exporter, PMB Aluminium Sdn Bdn (PMBA or 'the applicant').

The lodgement date of 2 February 2021 is the commencement date of the accelerated review.¹

The goods

The goods subject to anti-dumping measures (the goods), in the form of a dumping duty and a countervailing duty notice (the notices), are outlined in the table below.

¹ Section 269ZF(2) states that an application for accelerated review is taken to have been lodged when the application is first received by a Commission staff member doing duty in relation to applications for accelerated reviews. Section 269ZF(3) states that the day on which an application is taken to be lodged must be recorded on the application.

Full description of the goods the subject of the application

Aluminium extrusions that:

- are produced by an extrusion process;
- are 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);
- have finishes being:
 - as extruded (mill);
 - mechanically worked;
 - anodized; or
 - painted or otherwise coated, whether or not worked;
- have a wall thickness or diameter greater than 0.5 mm;
- have a maximum weight per metre of 27 kilograms; and
- have a profile or cross-section fitting within a circle having a diameter of 421 mm.

Further information

The goods under consideration 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 under consideration do not extend to intermediate or finished product 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.

Further details on the goods and existing measures is available on the Dumping Commodity Register on the Anti-Dumping Commission's website (www.adcommission.gov.au).

Accelerated reviews

The legislative framework that underpins the making of, and my consideration of, an application for accelerated review of dumping duty and countervailing duty notices is contained in Divisions 1 and 6 of Part XVB of the *Customs Act 1901*.²

If I do not reject an application or terminate an accelerated review, pursuant to sections 269ZG(1) and (2) I must, no later than 100 days after the application is lodged, provide the Minister for Industry, Science and Technology a report recommending:

- (a) that the dumping duty and countervailing duty notice the subject of the application remain unaltered; or
- (b) that the dumping duty and countervailing duty notice the subject of the application be altered so as to apply to the applicant as if different variable factors had been fixed;

² Unless stated otherwise, all legislative references in this notice are to the *Customs Act 1901*.

and set out my reasons for so recommending.

In relation to this application, this recommendation must be made no later than Thursday 13 May 2021.

There is no legislative requirement to maintain a public file for accelerated reviews. However, in the interests of transparency, a public record will be maintained. This notice, along with a non-confidential version of the application, response to the exporter questionnaire and any non-confidential submissions that are received, will be published on the public record, available at www.adcommission.gov.au.

Submissions

Written submissions concerning this accelerated review must be lodged within 30 days from date this notice is published. Submissions should be lodged via email to investigations3@adcommission.gov.au.

Parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (i) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- (ii) satisfy me that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "**OFFICIAL: Sensitive**" on each page. A non-confidential version, or a summary, of the submission must also be lodged, clearly marked "**PUBLIC RECORD**" on each page.

Circumstances in which an accelerated review may be sought

Section 269ZE sets out the circumstances in which an accelerated review may be sought. If the circumstances of section 269ZE(2) are met, I may reject the application.

Requirement	Assessment
Applicant meets the definition of new exporter ³ (section 269ZE(1)) To fall within the definition of a new exporter, the period within which the applicant must not have exported the goods to Australia is 1 July 2015 to 30	The applicant was incorporated in Malaysia in August 2019 and therefore could not have been an exporter at the time of the original investigation. The Commission has confirmed that there is no evidence of exports by the applicant during the investigation period for the original investigation. A search of the Australian Border Force's import database did not reveal

³ A new exporter is defined in section 269T(1) as, in relation to the goods the subject of the application for a dumping 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. Section 269T(1) also defines 'application' in relation to a dumping duty notice or a countervailing duty notice as meaning an application for the publication of such a notice.

Requirement	Assessment
June 2016 (the investigation period for the original investigation).	<p>the applicant as a supplier of the goods during this period.</p> <p>Accordingly, I consider that the applicant should be considered a new exporter for the purposes of the accelerated review.</p>
Declaration has not already been made in respect of the applicant under section 269ZG(3)(b) (section 269ZE(1))	No such declaration has been made.
The applicant did not refuse to co-operate, in relation to the application for publication of the notices (section 269ZE(2)(a))	<p>There is no evidence of exports by the applicant during the investigation period for the original investigation and, therefore, cooperation was not sought from the applicant during the original investigation as the applicant would not have been identified as an exporter.</p> <p>The applicant became an incorporated entity in Malaysia in August 2019 and commenced being a producer of the goods in late 2019. Based on these findings it did not exist at the time of the original investigation.</p> <p>Accordingly, the applicant did not, nor could not refuse to cooperate with the original investigation.</p>
<p>The applicant is not related to an exporter whose exports were examined in relation to the application for publication of the notices (section 269ZE(2)(b)).</p> <p><i>Section 269ZE(4) provides that, for the purposes of section 269ZE, an exporter is taken to be related to another exporter if the two exporters are associates of one another under section 269TAA(4).</i></p>	<p>PMBA (formerly named PMB (Klang) Sdn Bhd (PMBK)), stated in its application that it is related to Press Metal Berhad (PMB). PMB was a producer and exporter whose exports were examined in relation to the application for the notices.</p> <p>Both PMBA and PMB are entities within the body corporate of the group of companies under the control of Press Metal Aluminium Holdings Berhad (PMAH).</p> <p>PMB and PMBA are also related through the existence of individuals who hold director office positions in both companies.</p> <p>Exports by PMB are not currently subject to anti-dumping measures (on account of the findings that it had not dumped the goods and was not in receipt of above de minimis subsidies in relation to the application for the notices).⁴ PMB has stated to the Commission that the December 2019 sale of its extrusion business to PMBA was undertaken for commercial reasons unrelated to the anti-dumping measures.⁵ The Commission has no evidence to the contrary. Therefore, whilst there is a basis for the Commissioner to reject the</p>

⁴ Investigation 362 was terminated on 24 May 2017 in relation to PMB, ADN 2017/074 refers.

⁵ "In December 2019, the extrusion business of Press Metal Berhad was transferred to PMBK", PMAH 2019 Annual Report, Significant and Subsequent Events, Item (v), page 112.

Requirement	Assessment
	application because PMBA is related to PMB (an exporter whose exports were examined in relation to the application for the notices), the Commission recommends that the Commissioner exercise discretion not to reject the application in this instance.

For the reasons set out above, I consider that the application complies with section 269ZE(1).

There are presently no grounds to reject the application under section 269ZE(2)(a).

There are grounds under section 269ZE(2)(b) for me to reject the application.

However, due to the circumstances set out above, I have decided to not reject the application.

Application for accelerated review – compliance with section 269ZF

Section 269ZF(1) requires that an application for accelerated review must:

- be in writing and be lodged in a manner approved under section 269SMS (section 269ZF(1));
- contain a description of the goods to which the dumping duty notice and the countervailing duty notice relates (section 269ZF(1)(a)); and
- contain a statement of the basis on which the exporter considers that the particular notice is inappropriate so far as the exporter is concerned (section 269ZF(1)(b)).

Requirement	Assessment
Lodged with the Commissioner in writing and in a manner approved under section 269SMS	The application was in writing and lodged in a manner approved in an instrument made under section 269SMS, being by email to the Commission's nominated email address.
Contains a description of the goods to which the dumping duty notice and countervailing duty notice relates	The application contained a description of the goods to which the notices relate.
Contains a statement of the basis on which the applicant considers that the particular notice is inappropriate in so far as the exporter is concerned	<p>The application included a statement from the applicant as to the grounds on which it deems the notices inappropriate so far as it is concerned as follows:</p> <p>The applicant states that the applicable rate was determined at a time when the applicant did not exist as a producer or exporter of the goods. As the applicant is a new exporter, the applicant states that the anti-dumping measures that apply on the exports of the goods by the applicant do not reflect or relate to, the export prices and/or normal values of exports of the goods by the applicant.</p>

Based on the information submitted by the applicant, I consider that the application complies with section 269ZF(1).

Conclusion

I am satisfied that, on the basis of currently available information in the application that:

- the circumstances in which an accelerated review can be sought under section 269ZE(1) have been satisfied;
- there are no grounds to reject the application under section 269ZE(2)(a);
- the condition for rejection under section 269ZE(2)(b) is satisfied, however due to the unique circumstances of this case I will not exercise my discretion to reject the application; and
- the application satisfies the requirements of section 269ZF.

In view of the above, I have decided that the application should not be rejected. My decision has been made on the basis of all currently available information. If, during the accelerated review, evidence becomes available that satisfies me that the requirements of either section 269ZE(2) or section 269ZE(3) are met, I may reject the application or terminate the accelerated review.

The review period for the accelerated review is set as 1 January 2020 to 31 December 2020.

Securities

When an application for an accelerated review of a dumping duty notice or countervailing duty notice is lodged, section 269ZH(a) provides that no interim duty can be collected from the applicant in respect of consignments of goods, to which the application relates, entered for home consumption after the application is lodged and until the completion of the review.

However, pursuant to section 269ZH(b), the Commonwealth may require and take securities under section 42 in respect of interim dumping duty and interim countervailing duty that may be payable on importation of the goods to which the application relates.

I declare that the Commonwealth will require and take securities, as shown in **confidential table 1**, under section 42 from 2 February 2021 in respect of interim dumping duty and interim countervailing duty that may be payable on the importation of the goods to which the application under section 269ZE(1) relates.

The interim dumping duty that has been determined is an amount that has been worked out in accordance with the combination method pursuant to section 5(2) of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

The interim countervailing duty that has been determined is an amount that has been ascertained as a proportion of the export price of the goods pursuant to section 10(3B)(a) of the *Customs Tariff (Anti-Dumping) Act 1975*.

Contact

Enquiries about this notice may be directed to the Case Manager by email to investigations3@adcommission.gov.au, or telephone number +61 3 8539 2418.

Dale Seymour
Commissioner of the Anti-Dumping Commission
17 February 2021

Appendices and attachments

Confidential table 1	Ascertained variable factors and rates of duty for the collection of securities
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