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Date: 7 April 2022

By Email

Dr Bradley Armstrong PSM
Anti-Dumping Commissioner
Anti-Dumping Commission
Melbourne VIC 3000

Dear Commissioner,

RE: Continuation Inquiry 591 – Exports of Certain Aluminium Extrusions from Malaysia and Vietnam – Statement of Essential Facts 591 and PMBA Exporter Verification Report

I refer to the Statement of Essential Facts 591 (**SEF**) and PMBA Exporter Verification Report (**Verification Report**) published on the Anti-Dumping Commission's (**Commission**) electronic public file on, respectively, 18 and 17 March 2022.

This submission is made on behalf of my clients, Press Metal Aluminium (Australia) Pty Ltd and its related bodies corporate, Press Metal Berhad (**PMB**) and PMB Aluminium Sdn Bhd (**PMBA**).

This submission is made in relation to the Verification Report and the preliminary findings of fact and consequent proposed recommendations made in the SEF in relation to exports of aluminium extrusions to Australia from Malaysia purportedly by PMBA. A separate submission will be made in relation to the other preliminary findings of fact and proposed recommendations in the SEF.

1. Submission

- 1.1 My clients concur with your proposed recommendation to the Minister that the anti-dumping measures be allowed to expire on 27 June 2022 for the reasons you specify in the SEF. In particular, my clients submit that:
- (i) you cannot be satisfied on the evidence that the expiration of the anti-dumping measures applying to exports of aluminium extrusions from Malaysia to Australia purportedly by PMBA would lead to, or be likely to lead to, the continuation or recurrence of dumping and the material injury that the measures are intended to prevent;

- (ii) consequently, you cannot recommend the continuation of the anti-dumping measures to apply to exports of aluminium extrusions from Malaysia to Australia purportedly by PMBA; and
- (iii) for these reasons if no others as well, the Minister for Industry, Energy and Emissions Reduction (**Minister**) is precluded from continuing the anti-dumping measures to apply to exports of aluminium extrusions from Malaysia to Australia purportedly by PMBA.

1.2 My clients also submit that, in addition to the foregoing, the anti-dumping measures in their entirety must be allowed to expire for the reasons you set out in the SEF. This is further addressed in the separate additional submission being made on behalf of my clients in response to the SEF.

2. Grounds

The grounds for my clients' submissions set out in paragraph 1 above are set out below.

2.1 Exporter

- 2.1.1 In the SEF and in the Verification Report, you reiterate your finding that PMBA is the 'exporter' of the aluminium extrusions from Malaysia to Australia that it produces in Malaysia and set out the reasons and evidence purportedly in support of that finding.
- 2.1.2 My clients disagree with that finding as they have done so in the past. The reasons why they disagree are well documented and are repeated here and incorporated in this submission.
- 2.1.3 This is not to say that PMBA has not become or will not become the 'exporter' at some point in time. That has been and remains the intent. The only question is whether this has occurred or is still to occur. Obviously, you consider that it has occurred.
- 2.1.4 In any event, nothing appears to turn on whether PMBA is the 'exporter'. This is because the 'export price', whether determined under section 269TAB(1)(a), (b) or (c) of the *Customs Act 1901* is the price paid or payable by PMAA to PMB less, where appropriate, post-exportation expenses represented in that price.

2.2 Export price

- 2.2.1 As noted above, the 'export price' has been preliminary found in the SEF and Verification Report to be the price paid or payable by PMAA to PMB less, where appropriate, post-exportation expenses represented in that price determined under section 269TAB(1)(c) of the *Customs Act 1901*.

- 2.2.2 My clients concur with that preliminary finding, although probably for different reasons than those you set out in the SEF and Verification Report.
- 2.2.3 In any event, it is evident, as a question of fact, that that is the price at which such exports enter into the commerce of Australia consistent with Article 2.1 of the WTO Anti-Dumping Agreement.

2.3 Normal value

- 2.3.1 The normal value of exports of aluminium extrusions from Malaysia to Australia by PMBA has been based on sales of like goods by PMBA in the domestic Malaysian aluminium extrusion market to its retailer and distributor customers.
- 2.3.2 My clients concur with determining the normal value on this basis. However, my clients do not agree with the adjustments that have been or have not been made in the determination of the normal value to ensure a proper comparison (i.e., 'fair comparison) with export prices, specifically, the failure to make an adjustment relating to differences in level of trade affecting prices. The reasons for this are set out below.

Level of trade adjustment

- 2.3.3 In its response to the exporter questionnaire, PMBA claimed an adjustment was required to reflect and take account of differences in levels of trade in domestic sales that affected prices for the purposes of comparison with prices in export sales to Australia. This was because, as well as selling to distributors in Malaysia, PMBA also sold directly to retailers through its division JB, and this difference in level of trade was reflected in prices with prices in sales to distributors being less than those to retailers. This obviously was necessary to enable distributors to include their overheads and profit margins to be competitive when reselling at the retail of trade.
- 2.3.4 In other words, this difference in levels of trade in domestic prices modified those prices differently from export prices precluding a proper comparison of a normal value based on those domestic prices with export prices unless the requisite adjustments are made to take account of such difference.
- 2.3.5 In all prior investigations and reviews where this adjustment was claimed it was made by the Minister on your recommendation to the Minister without exception. Extracts from relevant investigations and review are set out at Attachment A along with weblinks to the relevant reports.
- 2.3.6 In the SEF and the Verification Report you stated that a level of trade adjustment was not made because:

- (i) while acknowledging that there was a level of trade difference, that difference was not 'material'; and
- (ii) the verification team had not been advised whether all JB's customers were 'retailers'.

2.3.7 Putting aside temporarily the deficiencies in the methodology used to determine whether differences existed between levels of trade in domestic sales, it is evident from the Commission's assessment that there was a difference between domestic prices to retail customers and domestic prices to distributors. That is not in doubt.

2.3.8 While 'materiality' is not a relevant consideration for making an adjustment required by section 269TAC(8)(c) of the *Customs Act 1901* and Article 2.4 of the WTO Anti-Dumping Agreement, the issue is the Commission's assessment of the level of trade difference. Regrettably, the Commission's assessment falls short of a final quantification of that difference nor was any criteria provided as to what constituted a 'material' difference as opposed to one that was not and whether and why 'materiality' is a relevant consideration.

2.3.9 However, the Commission's assessment of domestic prices by sales volumes by MCC revealed a difference between prices to retail customers and prices to distributor customers of [REDACTED] plus on unit prices ranging from approximately [REDACTED] to [REDACTED] for distributors as opposed to [REDACTED] for retailers. That is a difference of approximately [REDACTED]%, which is material on any analysis. Even if materiality is a relevant concept in this context (which my clients dispute) such a difference is material, and required to be accounted for in an adjustment to the normal value to enable a proper comparison of the normal value with export prices which involve no sales to retail customers.¹

2.3.10 Further, when the assessment of the difference in domestic prices at different levels of trade is properly undertaken consistent with prior practice by the Commission, as set out in **Attachment A**, the 'materiality' of the difference is confirmed. Obviously, an adjustment to the normal value is required to enable a proper comparison of the normal value with export prices.

2.3.11 On the question of 'materiality', while what is 'material' will vary according to the circumstances of each case, [REDACTED]% or thereabouts of a price is 'material' on any analysis and certainly would be in reporting obligations such as in financial statements and accounts, to stock exchanges and in due diligence reports. It also is important to note that the *de minimis* threshold in dumping is less than 2% and,

¹ Please see :Commission's confidential workbook:'591 - PMBA - GP7-C - Level of trade analysis for domestic sales', Workbook 1 'Price by LoT and MCC' Table 'Sum of WA net invoice value (MYR/kg)'.

clearly the difference in prices between levels of trade is greater than that threshold and, hence, 'material'.

- 2.3.12 Assuming, however, for the sake of argument that the difference in prices between levels of trade in domestic sales was not 'material', why not make the adjustment in any event. If it was not 'material', it should not affect the outcome. However, when the adjustment is applied using the amounts determined by the Commission in its analysis of differences in domestic prices between different levels of trade and applied in a manner consistent with the Commission's policy and practice, that is a comparison of the difference in the weighted average OCOT selling prices of like goods at EXW terms sold by JB to the weighted average OCOT selling prices of like goods at EXW terms sold by all other customers, the result is that exports purportedly by PMBA are exported at 'un-dumped' prices.
- 2.3.13 As noted, at any rate my clients contend that whether differences are 'material' is not a relevant consideration in determining whether to make an adjustment required by section 269TAC(8)(c) of the *Customs Act 1901* and Article 2.4 of the WTO Anti-Dumping Agreement.
- 2.3.14 There is no 'materiality' threshold specified in section 269TAC(8)(c) of the *Customs Act 1901* and Article 2.4 of the WTO Anti-Dumping Agreement. If difference exists affecting price, which you have found to be the case, then an adjustment must be made. This is consistent with WTO jurisprudence and adjustments made for other differences in this inquiry and in other investigations, reviews and inquiries. It also is consistent with the Commission's administrative policies and practices set out in its Dumping and Subsidy Manual.
- 2.3.15 When the differences in prices between levels of trade in domestic sales are properly assessed as set out in **Attachment A** and **Confidential Attachment B** and properly applied to the normal value in the comparison with export prices, consistent with the Commission's prior practice and in accordance with the law, both domestic and international, the result is that PMBA's exports are exported at 'un-dumped' prices with a significant negative dumping margin.
- 2.3.16 It is submitted, therefore, that the claimed level of trade adjustment must be made, in accordance with **Confidential Attachment B**, and that the result should be that exports of aluminium extrusions from Malaysia to Australia by PMBA during the investigation period be found based on the evidence to not have been at dumped export prices.

2.4 Findings in other prior investigations and review

- 2.4.1 Findings in prior investigations and reviews of the anti-dumping measures the subject of this inquiry as to whether exports of aluminium extrusions from Malaysia

to Australia by PMB and/or PMBA have been at dumped export prices are as follows:

Investigation/Review	Exporter	DM Finding	Comment
INV 362	PMB	No dumping	
REV 544	PMB	No dumping	No longer an exporter
REV 544	PMBA ('all other exporters' DM)	DM 10.7%	Based on lowest export prices and highest normal values of cooperating exporters (i.e. on 'all other exporters' margin – refer sections 4.7.5 and 4.7.6 of Report 544, See also ACC 577 below and separate submission in response to SEF)
ACC 577	PMBA	DM 2.6%	Overlaps with investigation period for INQ 591 & No dumping if correct freight rates used (see commentary below)
INQ 591	PMBA	[No dumping]	[in dispute]

- 2.4.2 In Review 544, exports attributed to PMBA had only entered Australia in one month during the review period and, consequently, did not provide a reliable indicator of whether such exports were at dumped export prices. Given their negligible volumes, they also could not have caused or contributed to any injury incurred by the Australian industry at that time, had this been investigated in that review of anti-dumping measures. Hence, the findings in that review concerning PMBA are not relevant for present purposes.
- 2.4.3 In Accelerated Review 577, the determination of a dumping margin of 2.6% for exports the subject of that review was due to the erroneous deduction from the 'export price' of post-exportation charges for overseas freight. The amount deducted was not the amount represented in the export price payable and paid by PMAA. That amount was an amount less than the full amount charged by the logistics company but a lesser amount based on verified historical overseas freight charges.

- 2.4.4 The reason for the lesser amount being agreed between the parties as opposed to the full amount of the overseas freight charges was because (i) 'export prices' are agreed ahead of shipment of the aluminium extrusions being purchased and hence it is only possible to include an estimate of freight charges in the price, which is consistent with commercial practice and (ii) at the time freight charges and container charges in particular, had been unexpectedly and frequently increasing due to the pandemic as is common knowledge and future prices could not be accurately predicted. Hence, the historical freight charge was a reasonable commercial basis for the parties to agree on the cost of freight in advance, with each sharing in the unexpected increases in freight charges due to the pandemic.
- 2.4.5 Section 269TAB(1) of the *Customs Act 1901* only requires the deduction of post-exportation expenses as are 'represented' in the price. The amount of overseas freight represented in the export price paid by PMAA was the amount agreed between the parties, not some other amount arbitrarily substituted. It is not the Commission's role to substitute its consideration of what should have been the amount of freight 'represented' in an export price but to identify and verify as a question what such amount was agreed between the parties and reflected in their respective audited financial statements and accounts. It is the parties commercial decision that is relevant and if they elect not to pass on the full amount of a cost or expense, that is a matter for commercial decision by them. There is no legal obligation to do so, nor is it a requirement of applicable generally accepted accounting standards and, in any event, the transactions remained profitable as the Commission verified.
- 2.4.6 If the correct amount of overseas freight had been deducted from the export prices paid by PMAA, the result is that the exports in question would have been at un-dumped export prices. The Commission's own calculations would confirm this. Hence, once the erroneous calculation a dumping margin is corrected, exports of aluminium extrusions to Australia from Malaysia purportedly by PMBA were at un-dumped export prices.

3. Further observations on dumping margin determination

- 3.1 The dumping margin determined in Accelerated Review 577 for PMBA's exports to Australia, which determination was approved by the Minister, was 2.6%. The preliminary dumping margin determined in this inquiry for PMBA's exports to Australia is 6.7%.
- 3.2 The review period in Accelerated Review 577 was 1 January 2020 to 31 December 2020. The investigation period in this inquiry is 1 July 2020 to 30 June 2021. There is, therefore, an overlap of six (6) months in the review/investigation periods.

- 3.3 Given that overlap and the difference in dumping margins, it would indicate that in the second half of the investigation period in this inquiry export prices significantly decreased and/or domestic selling prices in Malaysia significantly increased to result in a dumping margin of 6.7% for exports during the entire investigation period.
- 3.4 However, in the SEF the Commission determined that PMBA's export prices of its exports to Australia increased in the second half of the investigation period. Consequently, domestic selling prices in Malaysia must have significantly increased in the second half of the investigation period. However, there is no evidence that they did. Further, as prices of aluminium extrusions generally reflect increases and decreases in LME prices, such variations would apply similarly to its export and domestic sales prices.
- 3.5 In the absence of material changes in export prices and domestic selling prices, the difference in dumping margins found in Accelerated Review 577 and this inquiry can only be explained by a change in the methodology in determining the dumping margin, specifically not making the level of trade adjustment for a proper comparison of the normal value with export prices. That is, the difference in dumping margins is not due to a change in prices but to a change in the Commission's methodology in determining the dumping margin.

4. Statutory requirements for the continuation of the anti-dumping measures

- 4.1 Having regard to the foregoing, it is useful to revisit the statutory requirements for the continuation of the anti-dumping measures. They consist of:
- (i) your obligation, after conducting an inquiry, to report to the Minister with your findings of fact supported by evidence as to whether you are satisfied that the expiry of the anti-dumping measures would lead to, or be likely to lead to, the continuation of dumping and the material injury that the measures are intended to prevent; and
 - (i) the Minister's obligation, after considering your report and any other information the Minister considers relevant, to decide whether to allow the measures to expire or to continue them for a further five years and, if so, in relation to all or only some exporters and with the variable factors altered or unaltered.
- 4.2 Importantly, your obligation to report to the Minister does not preclude you from including additional information that you may consider relevant to the Minister's decision provided that a recommendation that the anti-dumping measures be continued can be made only if you are satisfied that the expiry of the anti-dumping measures would lead to, or be likely to lead to, the continuation of dumping and the material injury that the measures are intended to prevent.

- 4.3 In other words, even though you may have the requisite satisfaction that the expiry of the anti-dumping measures would lead to, or be likely to lead to, the continuation of dumping and the material injury that the measures are intended to prevent, there may be other information you consider relevant to the Minister's decision whether to continue the measures that should be brought to the Minister's attention as a relevant consideration for the Minister in the exercise of his statutory discretion.
- 4.4 However, for the purposes of this submission the question only is whether, based on the evidence, you are satisfied that the expiry of the anti-dumping measures applying to exports by PMBA would lead to, or be likely to lead to, the continuation or recurrence of dumping of such exports and, if so, the material injury that the measures are intended to prevent.

5. Capral submission

- 5.1 In relation to Capral's submission of 30 March 2022, the following observations are made:
- (i) our clients are equally concerned as Capral with the timeliness of completing and placing verification reports on the Commission's electronic public file regardless of whether the reports relate to exports, importers, members of the Australian industry, including in providing partially complete reports and providing drafts of such partially complete reports for review for accuracy and completeness only a short time ahead of the Statement of Essential Facts. This obviously adversely affects all interested parties from being in a position to properly and adequately defend their respective interests; and
 - (ii) our clients reject that unsubstantiated, speculative claim by Capral that our clients provide "fictitious" information concerning export transactions and costs involved, all of which have been thoroughly verified for accuracy and completeness by the Commission several times. Rather, more productive would be fulsome examination and benchmarking of Capral's and other members of the Australian industry, including pricing of aluminium extrusions and recovery of costs, in particular fixed costs, by forensic accountants and similarly qualified and experienced independent experts to confirm that the cause of injury are their business models, not import competition.

6 Submission

- 6.1 For the foregoing reasons, my clients submit that

- (i) you cannot be satisfied on the evidence that the expiration of the anti-dumping measures applying to exports of aluminium extrusions from Malaysia to Australia purportedly by PMBA would lead to, or be likely to lead to, the continuation or recurrence of dumping of such exports purportedly by PMBA; and
- (ii) the question of whether you could be satisfied that the expiry of the measures would lead or be likely to lead to the continuation or recurrence of material injury caused by dumping of exports purportedly by PMBA that the measures are intended to prevent is otiose/redundant; and
- (ii) consequently, you cannot recommend the continuation of the anti-dumping measures to apply to exports of aluminium extrusions from Malaysia to Australia purportedly by PMBA; and
- (iii) for these reasons, if for no others as well, the Minister is precluded from continuing the anti-dumping measures to apply to exports of aluminium extrusions from Malaysia to Australia purportedly by PMBA.

If you have any questions, please let me know.

Yours faithfully,



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Attachment A

Extracts from Reports 577, 544, 540 & 541 on Level of Trade Adjustments

Report 540

“6.6 PMB

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6.6.7 Adjustments

The Commission is satisfied there is sufficient information to justify the following adjustments in accordance with section 269TAC(8). The Commission considers these adjustments to be necessary to ensure a fair comparison of normal values and export prices.

<i>Domestic level of trade</i>	<i>Add/deduct amounts relevant to differences in price brought about by sales at a non-comparable level of trade.</i>
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[Source: Extract from Table 8 Summary of Adjustments (PMB)]

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6.6.8 Submissions received in response to SEF 540 regarding PMB’s variable factors

Level of trade adjustment

During verification of PMB’s financial records, it was determined that internal transactions from PMB to its Johor Bahru branch (JB Branch) were not sales, as the internal transactions involved a transfer of goods between business units within the PMB company. PMB confirmed with the Commission during verification that the JB Branch was not a legal entity in its own right.

The Commission obtained a full sale listing of like goods sold by the JB Branch to unrelated customers. PMB advised that the JB Branch sales to unrelated customers were not at the same level of trade as its Australian sales and that the price to JB Branch's unrelated customers required an adjustment. After considering the available information, the Commission agreed and made an adjustment which is reflected in the normal value determined for PMB in SEF 540.

At D-1.4 of PMB’s REQ, it indicated that its prices did not vary according to distribution channel. After examining the sales data initially provided in PMB’s REQ (excluding the non-relevant JB Branch data), the Commission did not consider level of trade differences existed and the comparison between the price to PMB’s domestic customers and its Australian export customer was unaffected. As a result, PMB’s REQ response at D-1.4 appeared to be

accurate. Sales via the JB Branch to unrelated customers, however, were not considered to be at the same level of trade.

In light of PMB's submission regarding level of trade adjustments, the Commission has reviewed the approach to PMB's normal value in SEF 540 and taken into account the approach outlined in the Manual regarding price as the basis for level of trade adjustments and the approach cited by PMB in Continuation Inquiry Report No.517 (REP 517).

The price based level of trade adjustment has been worked out by observing the difference in the weighted average OCOT selling prices of like goods at EXW terms sold by the JB Branch and sales by PMB to all other customers, i.e. not through the JB Branch.

The approach outlined above is consistent with PMB's response to its REQ and the Commission's own examination that prices for like goods, other than those sold by the JB branch, were not affected by differences in level of trade. The changes also reflect the method which was adopted in REP 517 and brings the calculation into conformity with the price based method outlined in section 15.3 of the Manual.

PMB's dumping margin at 6.6.9 has been updated to reflect the change in the method to account for level of trade price differences."

[footnote omitted]

Report 541

"6.6 PMB

.....

6.6.7 Adjustments

The Commission is satisfied there is sufficient information to justify the following adjustments in accordance with section 269TAC(8). The Commission considers these adjustments to be necessary to ensure a fair comparison of normal values and export prices.

Domestic level of trade	Add/deduct amounts relevant to differences in price brought about by sales at a non-comparable level of trade.
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[Source: Extract from Table 9 Summary of Adjustments (PMB)]

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6.6.8 Submissions received in response to SEF 541 regarding PMB's variable factors

Level of trade adjustment

During verification of PMB's financial records, it was identified that sales to its Johor Bahru branch (JB Branch) were not found to be valid sales, as the transactions involved a transfer of goods between business units within the PMB company. PMB confirmed with the Commission during verification that the JB Branch was not a legal entity in its own right.

In response to the above observation, the Commission obtained a full sales listing of like goods sold by the JB Branch. PMB advised that the JB Branch sales were not at the same level of trade as its Australian sales and the price to JB Branch customers required an adjustment. After considering the available information the Commission agreed and made the adjustment which is reflected in the normal value determined for PMB in SEF 541.

At D-1.4 of PMB's REQ, it indicated that its prices did not vary according to distribution channel. After examining the sales data initially provided in PMB's REQ (excluding the non-relevant JB Branch data), the Commission did not consider level of trade differences existed and the comparison between the price to PMB's domestic customers and its Australian export customer was unaffected. As a result, PMB's REQ response at D-1.4 appeared to be accurate. Sales via the JB Branch, however, were not considered to be at the same level of trade.

In light of PMB's submission regarding level of trade adjustments, the Commission has reviewed the approach to PMB's normal value in SEF 541 and taken into account the approach outlined in the Manual regarding price as the basis for level of trade adjustments and the approach cited by PMB in Continuation Inquiry Report No.517 (REP 517).

The price based level of trade adjustment has been worked out by observing the difference in the weighted average OCOT selling prices of like goods sold by the JB Branch and sales by PMB to all other customers, i.e. not through the JB Branch.

The approach outlined above is consistent with PMB's response to its REQ and the Commission's own examination that price for like goods other than those sold by the JB branch were not affected by differences in level of trade. This approach also reflects that which was adopted in REP 517.

PMB's dumping margin at 6.6.9 reflects the change in method to account for level of trade price differences."

[footnote omitted]

Report 544

"4.7 PMBA

....

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4.7.5 Export prices

Pursuant to section 269TACAB(1), the Commission has determined an export price pursuant to section 269TAB(3), having regard to all relevant information. Specifically, the Commission has used the lowest of export prices of those that were established for cooperating exporters in the investigation period.

4.7.6 Normal values

Pursuant to section 269TACAB(1), the Commission determined the normal value for the uncooperative exporters pursuant to section 269TAC(6) after having regard to all relevant information. Specifically, the Commission used the highest of normal values of those that were established for the cooperating exporters in the investigation period."

[Underlining added]

Report 577

"5. NORMAL VALUE

5.6 Adjustments to normal value

To ensure the normal value is comparable to the export price of goods exported to Australia at FOB terms, the Commission has considered the following adjustments in accordance with section 269TAC(8).

Adjustment type	Rationale for adjustment	Calculation method and evidence	Claimed in REQ?	Adjustment required?
Level of trade	A material proportion of PMBA's domestic sales were at a level of trade that was not equivalent to the level of trade of its Australian customers. An examination of price differences and customer profiles aided in establishing the existence of material differences in price on the domestic	The value of the adjustment was worked out by identifying the difference between domestic selling prices between the different levels of trade. The percentage difference in selling prices between these levels of trade was then applied to correspond to the level of trade relevant to PMBA's Australian customers.	Yes	Yes

	<i>market due to level of trade.</i>			

[Source" Extract from Table 9 Assessment of adjustments]

5.6.2 Adjustments

Having regard to the findings outlined above in Table 9, the Commission is satisfied there is sufficient information to justify the following adjustments in accordance with section 269TAC(8). The Commission considers these adjustments to be necessary to ensure a fair comparison of normal values and export prices.

Adjustment Type	Deduction/addition
<i>Level of trade</i>	<i>Deduct an amount arising from the differences in level of trade in domestic sales</i>

[Source: Extract from Table 10 Summary of Adjustments (PMBA)]

Extracts from Verification Reports

PMB Exporter Verification Report – Investigation 541

"9 Adjustments

To ensure the normal value is comparable to the export price of goods exported to Australia at FOB terms, the verification team has considered the following adjustments in accordance with section 269TAC(8).

9.1 Rationale and Method

Adjustment type	Rationale for adjustment	Calculation method and evidence	Claimed in REQ?	Adjustment required?
<i>Level of trade</i>	<i>A material proportion of PMBA's domestic sales were at a level of trade that was not equivalent to the level of trade of its Australian customers. An examination of price differences and customer</i>	<i>The value of the adjustment was worked out by identifying the difference between domestic selling prices between the different levels of trade. The percentage difference in selling prices between these levels of trade was then applied to correspond</i>	<i>Yes</i>	<i>Yes</i>

	<i>profiles aided in establishing the existence of material differences in price on the domestic market due to level of trade.</i>	<i>to the level of trade relevant to PMBA's Australian customers.</i>		

[Source" Extract from Table 10 Assessment of adjustments]

9.3 Adjustments

The verification team considers the following adjustments under section 269TAC(8) are necessary to ensure that the normal value so ascertained is properly compared with the export price of those goods.

Adjustment Type	Deduction/addition
Level of trade	Deduct an amount arising from the differences in level of trade in domestic sales

[Source: Extract from Table 11 Summary of Adjustments (PMBA)]

PMB Exporter Verification Report – Investigation 540

“9 Adjustments

To ensure the normal value is comparable to the export price of goods exported to Australia at FOB terms, the verification team has considered the following adjustments in accordance with section 269TAC(8).

9.1 Rationale and Method

Adjustment type	Rationale for adjustment	Calculation method and evidence	Claimed in REQ?	Adjustment required?
Level of trade	<i>A material proportion of PMBA's domestic sales were at a level of trade that was not equivalent to the level of trade of its Australian customers. An examination of price differences</i>	<i>The value of the adjustment was worked out by identifying the difference between domestic selling prices between the different levels of trade. The percentage difference in selling prices between these levels of trade was then</i>	Yes	Yes

	<i>and customer profiles aided in establishing the existence of material differences in price on the domestic market due to level of trade.</i>	<i>applied to correspond to the level of trade relevant to PMBA's Australian customers.</i>		

[Source: Extract from Table 10 Assessment of adjustments]

9.3 Adjustments

The verification team considers the following adjustments under section 269TAC(8) are necessary to ensure that the normal value so ascertained is properly compared with the export price of those goods.

Adjustment Type	Deduction/addition
<i>Level of trade</i>	<i>Deduct an amount arising from the differences in level of trade in domestic sales</i>

[Source: Extract from Table 11 Summary of Adjustments (PMBA)]

[Note: there was no verification report for Accelerated Review 577 as it was contained in Report 577]

Confidential Attachment B
Level of Trade Adjustment Calculation

[Commercial-in-Confidence containing confidential commercial information]