



Application for review of a Ministerial decision

Customs Act 1901 s 269ZZE

This is the approved¹ form for applications made to the Anti-Dumping Review Panel (ADRP) on or after 19 February 2020 for a review of a reviewable decision of the Minister (or his or her Parliamentary Secretary).

Any interested party² may lodge an application to the ADRP for review of a Ministerial decision.

All sections of the application form must be completed unless otherwise expressly stated in this form.

Time

Applications must be made within 30 days after public notice of the reviewable decision is first published.

Conferences

The ADRP may request that you or your representative attend a conference for the purpose of obtaining further information in relation to your application or the review. The conference may be requested any time after the ADRP receives the application for review. Failure to attend this conference without reasonable excuse may lead to your application being rejected. See the ADRP website for more information.

Further application information

You or your representative may be asked by the Member to provide further information in relation to your answers provided to questions 9, 10, 11 and/or 12 of this application form (s269ZZG(1)). See the ADRP website for more information.

Withdrawal

You may withdraw your application at any time, by completing the withdrawal form on the ADRP website.

¹ By the Senior Member of the Anti-Dumping Review Panel under section 269ZY *Customs Act 1901*.

² As defined in section 269ZX *Customs Act 1901*.

Contact

If you have any questions about what is required in an application refer to the ADRP website. You can also call the ADRP Secretariat on (02) 6276 1781 or email adrp@industry.gov.au.

PART A: APPLICANT INFORMATION**1. Applicant's details**

| |
|--|
| Applicant's name: Foshan Lvqiang Metal Product Co., Ltd |
| Address: No. 12, Dazhen Sizhong Industrial Zone, Dali, Nanhai, Foshan, China |
| Type of entity (trade union, corporation, government etc.): Corporation |

2. Contact person for applicant

| |
|---|
| Full name: Mr David Lee |
| Position: Sales Manager |
| Email address: fslqsales@163.com |
| Telephone number: +86 (757) 8557 0563 |

3. Set out the basis on which the applicant considers it is an interested party:

| |
|--|
| Foshan Lvqiang Metal Product Co., Ltd is named as a residual exporter in Report 543. |
|--|

4. Is the applicant represented?

Yes No

If the application is being submitted by someone other than the applicant, please complete the attached representative's authority section at the end of this form.

****It is the applicant's responsibility to notify the ADRP Secretariat if the nominated representative changes or if the applicant become self-represented during a review.****

PART B: REVIEWABLE DECISION TO WHICH THIS APPLICATION RELATES

5. Indicate the section(s) of the *Customs Act 1901* the reviewable decision was made under:

- Subsection 269TG(1) or (2) – decision of the Minister to publish a dumping duty notice
- Subsection 269TH(1) or (2) – decision of the Minister to publish a third country dumping duty notice
- Subsection 269TJ(1) or (2) – decision of the Minister to publish a countervailing duty notice
- Subsection 269TK(1) or (2) – decision of the Minister to publish a third country countervailing duty notice
- Subsection 269TL(1) – decision of the Minister not to publish duty notice
- Subsection 269ZDB(1) – decision of the Minister following a review of anti-dumping measures
- Subsection 269ZDBH(1) – decision of the Minister following an anti-circumvention enquiry
- Subsection 269ZHG(1) – decision of the Minister in relation to the continuation of anti-dumping measures

Please only select **one** box. If you intend to select more than one box to seek review of more than one reviewable decision(s), **a separate application must be completed.**

6. Provide a full description of the goods which were the subject of the reviewable decision:

The goods the subject of the anti-dumping measures in relation to China 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.”

7. Provide the tariff classifications/statistical codes of the imported goods:

The goods are generally, but not exclusively, classified to the following tariff subheadings of Schedule 3 to the Customs Tariff Act 1995 (Cth):

| Tariff Classification | Statistical code |
|-----------------------|------------------|
| 7604.10.00 | 06 |
| 7604.21.00 | 07, 08 |
| 7604.29.00 | 09, 10 |
| 7608.10.00 | 09 |
| 7608.20.00 | 10 |
| 7610.10.00 | 12 |
| 7610.90.00 | 13 |

8. Anti-Dumping Notice details:

| |
|--|
| Anti-Dumping Notice (ADN) number: ADN No. 2020/103 |
| Date ADN was published: 15 October 2020 |

****Attach a copy of the notice of the reviewable decision (as published on the Anti-Dumping Commission's website) to the application****

PART C: GROUNDS FOR THE APPLICATION

If this application contains confidential or commercially sensitive information, the applicant must provide a non-confidential version of the application that contains sufficient detail to give other interested parties a clear and reasonable understanding of the information being put forward.

Confidential or commercially sensitive information must be marked '**CONFIDENTIAL**' (bold, capitals, red font) at the top of each page. Non-confidential versions should be marked '**NON-CONFIDENTIAL**' (bold, capitals, black font) at the top of each page.

- Personal information contained in a non-confidential application will be published unless otherwise redacted by the applicant/applicant's representative.

For lengthy submissions, responses to this part may be provided in a separate document attached to the application. Please check this box if you have done so:

9. Set out the grounds on which the applicant believes that the reviewable decision is not the correct or preferable decision:

The Minister's decision in ADN 2020/103 is based upon Anti-Dumping Commission Report No. 543 (REP 543). In that report, Foshan Lvqiang Metal Product Co., Ltd (Foshan Lvqiang) is determined to be a residual exporter. The residual exporter dumping duty rate was calculated as:

- the weighted average of export prices for like goods of the selected exporters from China; and
- the weighted average of normal values for like goods of the selected exporters from China.

The Commission selected the following exporters for individual examination:

- Foshan City Sanshui Yongya Aluminium Co Ltd ;
- Foshan Shunde Beijiao Jiawei Aluminium Factory;
- Goomax Metal Co Ltd Fujian;
- Guangdong Jinxiecheng Al Manufacturing Co Ltd;
- PanAsia Aluminium (China) Limited ; and
- Tai Shan City Kam Kiu Aluminium Extrusion Co Ltd.

In response to Statement of Essential Facts Report 543 (SEF), the selected exporters, PanAsia Aluminium (China) Limited (Panasia) and Tai Shan City Kam

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Kiu Aluminium Extrusion Co Ltd (Kam Kiu), contested a number of issues with the Commission's approach to the calculation of their individual export prices and normal values. The issues raised include:

- Kam Kiu: non-refundable VAT adjustment applied to normal value
- Kam Kiu: credit cost adjustment applied to normal value
- Panasia: incorrect deduction of duties applied to export price
- Panasia: credit cost adjustment applied to normal value

Foshan Lvqiang also notes that the residual exporter, Fujian Minfa Aluminium Inc (Minfa), made a submission to the SEF in support of Panasia's position and contention that the Commission had erred in making deductions for calculating Panasia's export price.

Given the 22.3% and 70.0% dumping margins determined for Kam Kiu and Panasia, it is expected that the contested issues raised by both parties have a material impact on their individual dumping margins. For example, Panasia has been subject to the highest duty rates amongst Chinese exporters, and any material refund of the interim duties paid would have a corresponding material impact on their individual export price.

Foshan Lvqiang has reviewed the submissions of Kam Kiu, Panasia and Minfa and considers the points raised by the exporters to be valid and worthy of further consideration by the ADRP. As the residual rate applying to Foshan Lvqiang's exports are directly linked to the individual export prices and normal values of the selected exporters, any change in the individual dumping margins of the selected exporters will alter the residual exporter's weighted average export price and weighted average normal value.

Therefore, in the event that Kam Kiu and/or Panasia apply for a review to the ADRP, and the ADRP concludes that the reviewable decisions are not the correct or preferable decisions, it then also follows that the determination of Foshan Lvqiang's residual export price and/or normal value are not the correct or preferable decision. So any recommendation by the ADRP which leads to a revocation of the original decision relating to the selected exporters and a substituted new decision, should include a revised calculation of the residual rate applying to Foshan Lvqiang's exports.

As Foshan Lvqiang does not have access to information relevant to the claims made by Kam Kiu and Panasia, it is unable to comment on their validity at this time. However, in the event that applications are made to the ADRP setting out their grounds of appeal, Foshan Lvqiang will consider and comment on the specific grounds raised by the selected exporters during the course of the ADRP's review.

Should none of the selected exporters apply for review of the reviewable decision, Foshan Lvqiang intends to immediately withdraw its application for review.

10. Identify what, in the applicant's opinion, the correct or preferable decision (or decisions) ought to be, resulting from the grounds raised in response to question 9:

The correct and preferable decision as it applies to Foshan Lvqiang's residual rate is the determination of export price and normal values that properly reflect the weighted average export price and weighted average normal value of the nominated selected exporters. So any change in the individual export prices and/or normal values of the selected exporters following review by the ADRP, must be reflected in the revised calculation of the weighted average export price and normal value.

It would be incorrect for the Minister to revoke and substitute a new decision which revises the export prices and/or normal values of the selected exporters, without also revising the corresponding residual export rate.

11. Set out how the grounds raised in question 9 support the making of the proposed correct or preferable decision:

The determined export prices and normal values of each individual selected exporter are directly relevant to the calculation of the weighted average export price and weighted average normal value, used to calculate Foshan Lvqiang's residual exporter dumping duty rate. Therefore, any revision to the export price and/or normal values of the selected exporters, has a direct bearing on the residual export dumping duty rate.

This is confirmed in Report 543, which states:

The dumping margins for the residual exporters as listed in section 2.4.7 above have been determined in accordance with section 269TACB(2) as detailed below.

Section 269TACAB(2) (c) requires that the export price for residual exporters must not be less than the weighted average export price for like goods of selected cooperative exporters.

Section 269TACAB(2) (d) requires that the normal value for residual exporters must not exceed the weighted average of normal values for like goods of selected cooperative exporters.

Therefore, the highlighted subsections of the domestic legislation supports the making of the proposed correct or preferable decision, should the ADRP receive applications from any of the selected exporters that results in a revision of their individual dumping margins.

12. Set out the reasons why the proposed decision provided in response to question 10 is materially different from the reviewable decision:

The proposed decision would be materially different to the reviewable decision by the weighted change in the individual dumping margin of the selected exporters. In the case of Kam Kiu's VAT adjustment claim, this would amount to an approximate reduction in its normal value of 4%. This would then translate to a reduction in the residual normal value by an amount reflecting Kam Kiu's weighting of the residual normal value.

Likewise, Panasia's claim relating to the deduction of its interim dumping duties would amount to a maximum increase in its export price of 55.2%, which is the amount of interim dumping duties imposed from the previous review. Again, an increase in Panasia's export price of this magnitude would translate to a material increase in the residual export price, reflecting Panasia's weighting of the selected exporter volume.

13. Please list all attachments provided in support of this application:

Attachment 1. ADN No. 2020/103

PART D: DECLARATION

The applicant's authorised representative declares that:

- The applicant understands that the Panel may hold conferences in relation to this application, either before or during the conduct of a review. The applicant understands that if the Panel decides to hold a conference *before* it gives public notice of its intention to conduct a review, and the applicant (or the applicant's representative) does not attend the conference without reasonable excuse, this application may be rejected; and
- The information and documents provided in this application are true and correct. The applicant understands that providing false or misleading information or documents to the ADRP is an offence under the *Customs Act 1901* and *Criminal Code Act 1995*.

Signature:

Name: [REDACTED]

Position: [REDACTED]

Organisation: [REDACTED]

Date: 13 / 11 / 2020

PART E: AUTHORISED REPRESENTATIVE

This section must only be completed if you answered yes to question 4.

Provide details of the applicant's authorised representative:

| | |
|------------------------------|------------|
| Full name of representative: | [REDACTED] |
| Organisation: | [REDACTED] |
| Address: | [REDACTED] |
| Email address: | [REDACTED] |
| Telephone number: | [REDACTED] |

Representative's authority to act

****A separate letter of authority may be attached in lieu of the applicant signing this section****

The person named above is authorised to act as the applicant's representative in relation to this application and any review that may be conducted as a result of this application.

Signature: 

Name: Mr Baixian Xu

Position: General Manager

Organisation: Foshan Lvqiang Metal Product Co. Ltd

Date: 13 / 11 / 2020



ANTI-DUMPING NOTICE NO. 2020/103

Customs Act 1901 – Part XVB

Aluminium Extrusions

Exported to Australia from the People’s Republic of China

Findings of the Continuation Inquiry No. 543 into Anti-Dumping Measures

Public Notice under section 269ZHG(1) of the Customs Act 1901 and sections 8(5), 8(5BA), 10(3B), and 10(3D) of the Customs Tariff (Anti-Dumping) Act 1975

The Commissioner of the Anti-Dumping Commission (the Commissioner) has completed an inquiry, which commenced on 13 February 2020, into whether the continuation of the anti-dumping measures in the form of a dumping duty notice and countervailing duty notice applying to aluminium extrusions exported to Australia from the People’s Republic of China (China) is justified. Exports of Guangdong Jiangsheng Aluminium Co Ltd and Guangdong Zhongya Aluminium Company Ltd are not covered by this inquiry, as the measures currently in place in relation to aluminium extrusions do not apply to exports of the goods by these companies.

Recommendations resulting from that inquiry, reasons for the recommendations, and material findings of fact and law in relation to the inquiry are contained in *Anti-Dumping Commission Report No. 543 (REP 543)*.

I, KAREN ANDREWS, the Minister for Industry, Science and Technology, have considered REP 543 and have decided to accept the recommendations and reasons for the recommendations including all the material findings of facts and law set out in REP 543.

Under section 269ZHG(1)(b) of the *Customs Act 1901* (the Act), I declare that I have decided to secure the continuation of the anti-dumping measures currently applying to aluminium extrusions exported to Australia from China.

I determine that pursuant to section 269ZHG(4)(a)(iii) of the Act, the dumping duty notice continues in force after 28 October 2020 (the specified expiry date), but that after this day, the notice has effect as if different specified variable factors had been fixed in relation to all exporters generally.

I determine that in accordance with section 8(5) of the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act), and the *Customs Tariff (Anti-Dumping) Regulation 2013* (the Regulation), the amount of interim dumping duty payable on goods the subject of the dumping duty notice is an amount worked out in accordance with:

- (i) for Goomax Metal Co Ltd Fujian, Guangdong Jinxiecheng Al Manufacturing Co Ltd and Foshan City Sanshui Yongya Aluminium Co Ltd; the floor price duty method, as specified in section 5(4) of the Regulation; and
- (ii) for all other exporters; the combination of fixed and variable duty method pursuant to subsections 5(2) and (3) of the Regulation.

I determine that pursuant to section 269ZH(4)(a)(iii) of the Act, the countervailing duty notice continues in force after 28 October 2020 (the specified expiry date), but that after this day the notice has effect in relation to all exporters as if different specified variable factors had been fixed relevant to the determination of duty as specified in REP 543.

I direct that pursuant to section 10(3B)(a) of the Dumping Duty Act, the interim countervailing duty referred to in section 10(3A) of the Dumping Duty Act in respect of certain aluminium extrusions exported from the China by all exporters be ascertained as a proportion of the export price of those particular goods.

Particulars of the dumping and subsidy margins established for each of the exporters and the effective rates of duty are also set out in the following table.

| Exporter | Dumping Margin | Subsidy Margin | Effective rate of interim countervailing duty and interim dumping duty* | Duty Method |
|--|-----------------------|-----------------------|--|---|
| Goomax Metal Co Ltd Fujian | -6.0% | 1.0% | 1.0% | Fixed rate of ICD. Variable component of IDD equal to the amount, if any, by which the actual export price is below the ascertained normal value. |
| Guangdong Jinxiecheng Al Manufacturing Co Ltd | -4.4% | 0.0% | 0.0% | |
| Foshan City Sanshui Yongya Aluminium Co Ltd | -13.8% | 0.0% | 0.0% | |
| Tai Shan City Kam Kiu Aluminium Extrusion Co Ltd | 22.3% | 6.4% | 25.6% | Combination of fixed and variable duty method, consisting of a fixed rate of IDD and ICD, plus a variable component of IDD equal to the amount, if any, by which the actual export price is below the ascertained export price. |
| PanAsia Aluminium (China) Limited | 70.0% | 0.4% | 70.3% | |
| Residual exporters | 11.1% | 0.7% | 11.5% | |
| Uncooperative, non-cooperative and all other exporters | 71.9% | 9.9% | 77.4% | |

* The calculation of combined dumping and countervailing duties is not simply a matter of adding the dumping and subsidy margins together for any given exporter, or group of exporters. Rather, the collective interim dumping duty and interim countervailing duty imposed in relation to the goods, is the sum of:

- the subsidy rate calculated for all countervailable programs, and
- the dumping rates calculated, less an amount for the subsidy rate applying to Program 15.

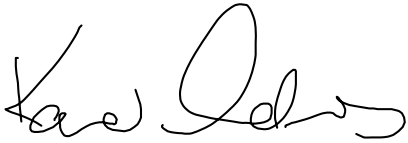
Interested parties may seek a review of this decision by lodging an application with the Anti-Dumping Review Panel (www.adreviewpanel.gov.au), in accordance with the

requirements in Division 9 of Part XVB of the Act, within 30 days of the publication of this notice.

REP 543 has been placed on the public record, which may be examined at the Anti-Dumping Commission Office by contacting the case manager on the details provided below. Alternatively, the public record is available at www.adcommission.gov.au

Enquiries about this notice may be directed to the Case Manager on telephone number +61 3 8539 2437, fax number +61 3 8539 2499 or email investigations4@adcommission.gov.au.

Dated this 12th day of October 2020.

A handwritten signature in black ink, appearing to read 'Karen Andrews', written in a cursive style.

KAREN ANDREWS
Minister for Industry, Science and Technology