



**Australian Government**  
**Anti-Dumping Review Panel**

# **Application for review of a Ministerial decision**

***Customs Act 1901 s 269ZZE***

This is the approved<sup>1</sup> form for applications made to the Anti-Dumping Review Panel (ADRP) on or after 2 June 2021 for a review of a reviewable decision of the Minister (or his or her Parliamentary Secretary).

Any interested party<sup>2</sup> 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 (s 269ZZG(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.

## **Contact**

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

<sup>2</sup> As defined in section 269ZX *Customs Act 1901*.

NON-CONFIDENTIAL

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](mailto:adrp@industry.gov.au).

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

Applicant's name: Milleon Extruder Sdn. Bhd
Address: Lot 946 Sungai Choh Mukim Serendah 48000, Rawang Selangor Malaysia
Type of entity (trade union, corporation, government etc.): Manufacturer, exporter

**2. Contact person for applicant**

Full name: Alice Kyo
Position: PA to Director
Email address: <a href="mailto:mesb@milleonextruder.com">mesb@milleonextruder.com</a>
Telephone number: Tel: 03-6092 1128

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

<p>Pursuant to Section 269ZZC of the Customs Act 1901 ("the Act") a person who is an interested party in relation to a reviewable decision may apply for a review of that decision.</p> <p>Under Section 269T of the Act an "interested party" for the purpose of that kind of a reviewable decision is defined as including, amongst others, any person who is or is likely to be directly concerned with the importation or exportation into Australia of the goods the subject of the application; and any person who is or is likely to be directly concerned with the production or manufacture of the goods the subject of the application or of like goods that have been, or are likely to be, exported to Australia.</p> <p>Milleon Extruder is a manufacturer and exporter of the goods to which the decision relates, namely aluminium extrusions, and is thus an "interested party" for the purposes of the Act and this application</p>
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**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:**

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) (excluding all other surface finishes), 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 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 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 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.

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

Import of the goods are generally, but not exclusively, classified to the following tariff subheadings in Schedule 3 to the Customs Tariff Act 1995:

7604.10.00 Statistical code 06

7604.21.00 Statistical code 07

7604.21.00 Statistical code 08  
 7604.29.00 Statistical code 09  
 7604.29.00 Statistical code 10  
 7608.10.00 Statistical code 09  
 7608.20.00 Statistical code 10  
 7610.10.00 Statistical code 12  
 7610.90.00 Statistical code 13

**8. Anti-Dumping Notice details:**

Anti-Dumping Notice (ADN) number:  
 2021/033

Date ADN was published:  
 31/05/2021

***\*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 **highlighted in yellow**, and the document 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 verification report was placed on the public record on 28 August 2020.  
 Milleon made the following submissions;

1. **The first submission of 11 pages, placed on the public record on 21 September 2020.** “Case 540 Aluminium extrusions (mill finish); Case 541 Aluminium extrusions (surface finished) Submission to the Case manager by Milleon Extrusions Malaysia”
2. **A response to Capral – placed on the public record on 27 October 2020 (7 pages).** Case 540 Aluminium extrusions (mill finish); Case 541 Aluminium extrusions (surface finished)”
3. **A submission to the case manager placed on the public file on 19 November 2020 (12 pages).** “Case 540 Aluminium extrusions (mill finish); Case 541 Aluminium extrusions (surface finished)”
4. **A response to the SEF placed on the public file on 7 January 2021 (11 pages).** “RE: Dumping investigations – exports of certain aluminium extrusions from Malaysia – Investigations Nos 540 and 541 – Milleon Extruder –Statements of Essential Facts – Normal Value Determination”

The submissions contained attachments providing the supporting evidence and these are referenced within the submissions.

Milleon has not included these submissions in this application to the Review Panel because it assumes that the Commission will supply the information to the Review Panel. However, were there a need Milleon can provide it.

An ‘Information Request’ from the ADC of 18 November; and Milleon’s response (in TABLE format plus an accompanying submission): “Dumping Investigations Nos 540 & 541 - Aluminium Extrusions from Malaysia Request for Information”

In addition to four Submissions referenced above Milleon responded to an ‘Information Request’ from the Anti-Dumping Commission. That request was sent to Milleon on 18 November 2020, concerning normal value.

Milleon’s response listed the questions on the left side of the table and the answers were on the right of that TABLE (13 pages in all). The public version of that submission was placed on the public record on 2 December 2020. (The nature of the questions and answers was such that most of the information was confidential).

Accompanying the response to the Information Request was a 7 page submission dated 27 November 2020.

Again this submission has not been included with this application for the same reason expressed above. Milleon draws the Review Panel’s attention to this response to the ‘Information Request’ – at page 9 (after the TABLE) is some commentary on normal value.

Grounds on which the applicant believes that the reviewable decision is not the correct or preferable decision

The normal value for exports of the goods by Milleon was determined under section 269TAC(1) as there were sufficient volumes of sales of like goods sold for home consumption in the country of export that were arms-length transactions and at prices that were within the OCOT.

All domestic sales were used in the normal value determination.

The particular grounds on which the decision is not the correct or preferable decision are listed below:

1. Trade level – the Commission failed to properly address the trade level difference identified by Milleon;

The Commission retained all sales of high priced premium goods in the normal value determination. That is to say, the domestic sales spreadsheet included all sales of standard profiles and all sales of the goods that had been made via the additional production process.

This was so from the first verification report which was placed on the public record in August 2020. Milleon's submissions concerning trade level did not get any response or dialogue from the Commission until after the Commission had received Milleon's 3<sup>rd</sup> submission in November 2020. This explains why Milleon considered it was compelled to make the number of submissions that it did.

Milleon's submissions demonstrated that some domestic sales are produced via an additional process. Milleon provided details of the processes involved in the additional process. Milleon gave evidence of a price premium. For example, see the first submission in September 2020; and the response to the Information Request of November 2020.

The Commission did not make the correct nor preferable decision because it did not treat these sales as being at a different trade level from the point of view of the customer and the additional processes involved.

These premium goods sales are not supplied to Australia. The Australian customers only buy 'standard' profiles which come of the main extrusion line. The Australian customers do not buy extrusions from the additional process which relates only to certain domestic customers.

To summarise:

- The high proportion of 'standard profiles' that are sold domestically; and the entire amount of the sales to Australia; do not go through the additional production process;
- The 3 customers buying the premium profiles made via this additional process are only located in Malaysia.

Milleon submitted that the level of trade is not a difference between the roles of the seller, rather it arises from the fact that the buyers of the high quality product are located in Malaysia. No comparable customers exist in Australia because the special products are not exported.

From the point of view of the buyer there is a difference in the level of sales between the high quality customers in Malaysia, and the customers in Australia who only buy standard grade. The Commission had not addressed this important distinction adequately.

Trade level in this case needs to focus on the buyer given the special circumstances. It is a matter of fact to be determined because 'trade level' is not defined in the Customs Act - and the case



circumstances must be examined.

The 'special' nature of the products which are high quality due to an additional production process, are uniquely associated with 3 identified customers for the particular goods. The 'standard' product that does not have the same high quality is not a product which comes out of the additional production process. In other words, the product trades at different levels because of these important differences in quality/premium nature of the goods that are a result of the additional production process.

For **customer** and **customer** – two of the Customers buying via this additional production process - their purchases are, in their entirety, produced in the additional quality assurance process. This fact supports Milleon's claim that there is a different trade level from the point of view of the buyer.

The Commission therefore has reasonable grounds to determine that there is a different trade level so far as the high quality goods are concerned. However, the Commission has retained all of these sales in the normal value determination and made an inadequate adjustment based on some costs incurred by just one of these 3 customers.

They are certified as being of a higher quality and as a higher quality product command a higher price that is paid by the domestic customers, thereby evidencing that it is a different product to the 'standard' product and trades at a different level to the 'standard' product.

The significance of this is that when there are a substantial proportion of the domestic sales which are at the same or substantially the same trade level as the customers in Australia – that is the standard profiles which do not go through the additional production process which are 82% of all of the domestic sales by Milleon – then the normal value is worked out as a weighted average of all such sales.

This effectively 'carves out' those sales which are at the same, or substantively the same, trade level (i.e. the standard profiles). This treatment of sales at different level is permitted in the Commission's manual (*page 66*).

This would mean that the weighted average normal value would be exclusive of sales that had undergone the additional production process. It follows that no adjustment for quality differential would be necessary because the 'special quality' sales would not be a part of the calculations for normal value.

Milleon claims domestic sales of high quality domestic sales of like goods that are not exported to Australia should not be included in the determination of normal value

The several submissions to the Anti-Dumping Commission showed, with relevant evidence, that the aluminium extrusions supplied by Milleon into the Malaysian domestic market may be categorised into two broad categories, namely, standard products and special products.

The submissions showed that the standard product is supplied by Milleon to both the domestic market in Malaysia and to its export markets including to Australia. The higher priced special product, however, is only supplied in Malaysia and only to three customers in Malaysia at their request to meet their specifications and requirements, and is not exported.

The difference between the two is that the special products undergo additional production processes as compared with the standard product. These additional production processes are undertaken at the request of three customers to meet their specifications and requirements. The result is that the special product is of a higher quality and price than the standard product, as has been submitted to the Commission, again with relevant supporting evidence.

The inclusion of those high value domestic sales results in an incorrectly inflated dumping margin of 13.1%.

The response to the SEF (submission number 4 above) provided a table which is reproduced below showing the trade level difference – only standard profiles are sold to Australia and these sales do not go through the additional production process.

For two of the domestic customers **customer** and **customer** their purchases are, in their entirety, produced via the additional production process designed to meet their quality assurance requirements. They do not buy standard profiles. For **customer**, purchases of the special product account for % of its purchases from Milleon.

These three domestic customers prefer the special product due to the *additional production processes* and they pay a premium for the additional quality to the product that they perceive that process impart.

Customer	Additional production process
Customers buying the product via this additional production process.	<b>customer</b> ; <b>customer</b> , and <b>customer</b> for a model <b>number</b>
Do customers in Australia buy product via this additional production process?	No. Australian customers only buy standard products which are direct from the extrusion line
Do other domestic customers buy product via this additional production process?	No. Other domestic customers only buy standard products which are direct from the extrusion line

Milleon has shown that the decision concerning trade level is not a correct decision based on a careful evaluation of the evidence.

Ordinary course of trade –the Commission failed to address issues raised: Milleon addressed the question of ‘*ordinary course of trade*’ in the response to the SEF and in the response to the Information Request. Milleon showed that the standard profiles are not sold to the 3 high quality customers as their requirements come from the additional production process. The profiles exported to Australia are entirely standard profiles. (These facts have been examined in trade level. It is Milleon’s contention that they are relevant also to ‘ordinary course of trade’).

Section 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 ordinary course of trade..*”.

The ordinary course of trade is not defined except in relation to certain sales which are *not* to be in the ordinary course of trade (when unprofitable).

The “ordinary course of trade’ as noted in the excerpt from s. 269TAC(1) relates to the determining of a normal value for the exported goods. The exports to Australia are standard grade. No exports came from the special additional production process which only services domestic customers.

It is not the ordinary course of trade for standard goods to be sold via the additional production process as the detailed submissions have shown. This is so because standard goods exported are, as a matter of fact, not subject to any of these additional processes. The ordinary course of trade for the like goods sold in Malaysia from which a normal value is required - for the standard grade export sales - is to be found in the domestic sales of the same standard product.

The high quality sales can reasonably be regarded as not being in the ‘ordinary course of trade’ for the purposes of working out the normal value for the exported goods for the reasons noted.

The Commission, so far as Milleon is aware, did not examine such ordinary course of trade issues. It only did so in relation to the usual profit test which is but one circumstance where sales may not be in the ‘ordinary course of trade’.

2. Having retained all domestic sales in the normal value determination the Commission failed to have a proper regard to the evidence of the price premium for making an adjustment; and in choosing a relatively minor cutting cost for one of the 3 special domestic customers to make an adjustment for all three special customers it made an incorrect and unreasonable decision.

Introduction:

The Commission retained all domestic sales in the normal value. It made an adjustment. This item addresses why the decisions made in relation to the adjustment are not correct, and not preferable.

Milleon’s first submission on September 2020 explained how the premium added for these services is a separate amount in the pricing calculation worksheet. It explained the separate row that related to the effect of the LME price.

The effect of the premium for the additional production process was further examined in the response to the SEF (Submission number 4 above). There is a lengthy discussion on prices and it was demonstrated that the price effect of the special premium added for the additional production process was present at the outset when LME price was the same between the 3 customers and other customers. The premium remained an element in the prices being compared regardless of the subsequent LME changes which occurred.

Milleon gave suitable evidence of the existence of the price premium based on its usual records. The Commission made an incorrect decision by not using that information to make an adjustment. The Commission stated that a ‘price list’ would have been acceptable.

*A : Disregarding the evidence provided from Milleon’s internal records of a price premium for the sales to 3 domestic customers:*

Companies do not always have a price list. In the case of Milleon a ‘price list’ was not produced for

the 3 domestic customers who buy goods via the additional production process. However, relevant data was provided from their records showing how the price had been set in the negotiations, and supported by final invoices as listed in the domestic sales spreadsheet.

Milleon submits that this information is no less relevant than any 'price list', or any attachment to a price list; or pricing 'extras' that may be listed in a price list.

The evidence that Milleon provided – as set out in the first and fourth submissions - shows that the records in relation to these parties recognized the need for a pricing premium to account for the additional processes undertaken. (Processes which are not applicable to the standard profiles).

The absence of a 'price list' does not negate the price effect that has been demonstrated in the submissions.

*It was for this reason that Milleon noted in its submission to the SEF that “ ... the Commission does not dispute that the customers in question did not pay the premium in question or that it could not verify the prices that these customers had paid for these ‘special’ aluminium extrusions. It is unclear what other evidence could be required or that would be ‘better’ evidence than that Milleon actually incorporated a premium in its pricing calculations which predated this investigation, and the customers actually paid a premium for these additional post-production processes”.*

The Commission made an error in looking for 'evidentiary materials', such as price lists' or 'invoices', when in fact evidence from company records which predated this investigation showed how a special premium existed. Invoices were provided which supported the price in the spreadsheet and the internal worksheets provided showed how the premium had been built into the price (see the first submission).

Evidence has been provided showing an effect on price for a process related to certain domestic sales for three customers and which is unrelated to export sales.

What the three customers actually pay for the products that undergo the additional post-production elements' above the 'standard products' accurately reflects and is evidence of the additional value those 'post-production elements' have for those customers in the end products.

*B Use of a cutting cost for one of the customers as the adjustment for all 3 special customers*

The Commission made an adjustment using a cutting cost for one of the three domestic customers. Milleon submits that this is not the correct or preferable decision and had the effect of incorrectly calculating the normal value.

The adjustment the Commission made used a cutting cost quotation for one of the customers, **customer**. This is not the correct or preferable decision because:

- Those cutting costs reflected that one customer's circumstances only;
- As such, it significantly undervalues the correct adjustment required to ensure a proper comparison across all three special customers. The adjustment by the Commission for the

cutting costs for one customer are only part of the special additional production process as illustrated in the Table below:

Customer	Adjustment for cutting cost as a % of the premium that was added to price for the additional production processes
customer	%
customer	%
customer	%

Section 269TAC(8) provides:

“Where the normal value of goods exported to Australia is the price paid or payable for like goods and that price and the export price of the goods exported: (a) relate to sales occurring at different times; or (b) are not in respect of identical goods; or (c) are modified in different ways by taxes or the terms or circumstances of the sales to which they relate; that price paid or payable for like goods is to be taken to be such a price adjusted in accordance with directions by the Minister so that those differences would not affect its comparison with that export price.”

Under s 269TAC(1) domestic sales prices are used. These prices are required to be adjusted where the export sales prices to which they are compared are modified by different terms or circumstances of the sales.

A cutting cost quote to customer has been used by the Commission to make the adjustment because it preferred the use of that quote over the price evidence Milleon had submitted:

Milleon submits that such adjustment is not the correct, nor preferable, decision because:

- (i) Where price evidence exists this must be used *before* a cost based adjustment. Milleon provided suitable evidence of the existence of a premium for the 3 domestic customers. This pricing evidence should have priority over a cutting cost quote for one of the 3 special customers (customer);
- (ii) A ‘price list’ which the Commission stated would have been acceptable ought not have any special standing over the price evidence that was provided, given that Milleon did not use price lists with the 3 customers. It negotiated prices directly and details of this were provided to the Commission;
- (iii) Using a cutting cost quote for Customer ignores the fact that there is a difference in the circumstances of the arrangements between Milleon and each of those 3 customers. (These different circumstances of the 3 customers are set out in the second submission at page 5; the fourth submission (SEF) at page 11; and the information provided in the response to the ‘Information request’ of the ADC of 18 November (the ‘TABLE’);
- (iv) The cutting cost is but part of the additional production processes. The Commissions adjustment therefore significantly undervalues the adjustment needed to ensure any comparison between the special profiles that were made via the additional process and the standard profiles which are taken directly off the end of the main extrusion line. (An adjustment which the Milleon is appealing as not being necessary at all as these special sales should have been excluded when working out a normal value for standard profiles only – a matter addressed in the first point above).

Milleon's submissions (for example submission number 3 above) addressed the costing. That costs have not been recorded to the level of the goods being made in the additional production process does not prevent the use of a price based adjustment. Hence, the Commission's use of one cost quotation for making an adjustment is not correct, nor preferable.

### 3. Adjustment for management costs

The Commission made an error in not making an adjustment for management costs. It did not address the matter in its verification report.

Milleon provided evidence of the management costs associated with certain domestic sales and brought the Commission's attention to its own practice and policy as set out in its Dumping and Subsidy Manual, which provides a clear policy and practice guide on his issue.

Milleon provided details of the relevant account codes for management costs incurred in selling activities and has allocated those costs to its domestic sales. Milleon explained to the Commission that for non-commission domestic sales all of the sales functions are undertaken by management.

The sales activities performed by Milleon management for these non-commission sales are the same as the activities that are undertaken on the domestic market by a sales commission agent.

Management performing these functions receive phone calls from customers, respond to their queries and concerns regarding the supply of product including terms, conditions and prices, meet with the customers where necessary, negotiate and finalise contracts including prices, deal with subsequent issues and problems in fulfilling orders including quality issues and address issues with drawings for product profiles or new fabrications.

No reason has been given by the Commission for not following the policy and practice set out in the Manual for making an adjustment for management costs that are incurred in domestic sales and not in export sales. Milleon identified the costs incurred from relevant ledgers and that they were properly allocated. The Commission did not dispute the incurring of these additional management costs in domestic sales or their allocation, nor sought further clarification of those costs.

In the export sales to Australia there is a dedicated sales agent. A commission is paid on all of the export sales for services provided by the agent. For domestic sales there only some commission and these have been identified in the domestic sales spreadsheets. Most domestic customers have been serviced directly by the management team.

Milleon submits that the decision not to make any adjustment for management costs associated with the domestic sales for which management acted directly, rather than engaging a commission agent, was not correct. It went directly against normal procedures and was a decision the Commission made at the outset in the verification report, without any due regard to its own manual.

**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 or preferable decision ought to be that the Commission concludes that domestic market sales of higher quality domestic sales (that is, the sales to the 3 domestic customers who required Milleon to provide a special additional production process) - and which is not the case for the goods exported to Australia - are not included in normal value calculations.

Alternatively, if the sales to those 3 domestic customers are included – this compels an adjustment which would have to be based on the price evidence that Milleon has submitted of the premium charged for those special sales. The use of a cutting cost quote is not correct, and it is not preferable.

Needless to say, such adjustment is a rather pointless exercise as the correct decision at the outset is to have excluded these special sales to the 3 domestic customers because they are not at the same trade level. Nor are they the sales in the ordinary course of trade for the standard profiles sold to Australia – the ordinary course of trade for the standard profiles in the domestic market are all of the sales directly off the extrusion line.

For management costs, the correct or preferable decision is to have made the adjustment. The Commission did not provide any adequate reasons why the evidence that had been provided concerning those management costs using the relevant ledger accounts was not suitable. Such adjustment is reasonable and reflects what is in the Dumping Manual concerning an adjustment for management costs.

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

In question 9 Milleon listed the following issues :

- A different level of trade for the sales to the three domestic customers who require Milleon to undertake the additional production process ( the exported profiles are taken directly from the extrusion line as are the majority of domestic sales being the standard profiles);
- the related but separate issue that the domestic sales in the ordinary course of trade are those domestic sales which do not go through the additional production process;
- the evidence concerning the premium paid by the three domestic customers utilising this additional process was suitable;
- the evidence concerning management costs was suitable
- the ordinary course of trade issues raised by Milleon was not examined

The grounds raised in question 9, [reveal](#) the proposed correct and preferable decision will be materially different from the reviewable decision in that a finding of dumping would be negated.

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

*Do not answer question 11 if this application is in relation to a reviewable decision made under subsection 269TL(1) of the Customs Act 1901.*

The proposed decision is materially different from the reviewable decision in that if the adjustments listed are included in determining normal value the decision will be materially different from the reviewable decision

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

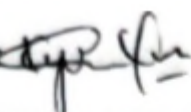
Anti-Dumping Notice (ADN) number: 2021/033



## PART D: DECLARATION

The applicant/the applicant's authorised representative [*delete inapplicable*] 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: Alice Yip Chee Yan

Position: A

Organisation: Milleon Extruder Ltd Bhd

Date: 25/01/2021

## PART E: AUTHORISED REPRESENTATIVE

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

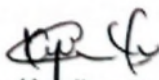
**Provide details of the applicant's authorised representative:**

Full name of representative: John McDermott
Organisation: John McDermott and Associates Pty Ltd
Address: PO Box 3414 Belconnen ACT 2617
Email address: Jmcd49@optusnet.com.au
Telephone number: 0412543792

**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:   
(Applicant's authorised officer)  
Name: Alice Tjo Chee Yan  
Position: PA to Director  
Organisation: Milken External Sdn Bhd  
Date: 25/06/2021



*Customs Act 1901 – Part XVB*

## **Aluminium Extrusions (Mill Finish) Exported to Australia from Malaysia**

### **Findings in Relation to a Dumping Investigation**

**Public notice under subsections 269TG(1) and (2) of the *Customs Act 1901*<sup>1</sup>**

#### ***Anti-Dumping Notice (ADN) No. 2021/033***

The Commissioner of the Anti-Dumping Commission (the Commissioner) has completed the investigation into the alleged dumping of mill finish aluminium extrusions, exported to Australia from Malaysia by:

- Press Metal Sdn Bhd;
- Milleon Extruder Sdn Bhd;
- LB Aluminium Sdn Bhd;
- Kamco Aluminium Sdn Bhd;
- Superb Aluminium Industries Sdn Bhd; and
- Genesis Aluminium Industries Sdn Bhd.

#### **The goods the subject of the investigation (the goods) 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) (excluding all other surface finishes), 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.*

#### **Further information on the goods:**

*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 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 products that are processed or fabricated to such an extent that they no longer possess*

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<sup>1</sup> All legislative references are to the *Customs Act 1901* (the Act), unless otherwise specified.

*the nature and physical characteristics of an aluminium extrusion, but have become a different product.*

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

Tariff classification (Schedule 3 of the Customs Tariff Act 1995)			
Tariff code	Statistical code	Unit	Description
7604.10.00	06	Kg	Non alloyed aluminium bars, rods and profiles
7604.21.00	07	Kg	Aluminium alloy hollow angles and other shapes
7604.21.00	08	Kg	Aluminium alloy hollow profiles
7604.29.00	09	Kg	Aluminium alloy non hollow angles and other shapes
7604.29.00	10	Kg	Aluminium alloy non hollow profiles
7608.10.00	09	Kg	Aluminium tubes and pipes, not alloyed
7608.20.00	10	Kg	Aluminium tubes and pipes, alloyed
7610.10.00	12	Kg	Aluminium doors, windows and their frames and thresholds for doors
7610.90.00	13	Kg	Other aluminium structures and parts thereof

**Table 1 Summary of tariff subheadings**

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

The Commissioner reported his findings and recommendations to me in *Anti-Dumping Commission Report No. 540* (REP 540), in which he outlines the investigations carried out and recommends the publication of a dumping duty notice in respect of the goods. I have considered REP 540 and accepted the Commissioner's recommendations and reasons for the recommendations, including all material findings of fact or law on which the Commissioner's recommendations were based, and particulars of the evidence relied on to support the findings. The report is available at: [www.adcommission.gov.au](http://www.adcommission.gov.au).

On 29 April 2021, the Commissioner terminated the dumping investigation into the goods exported from Malaysia by Superb Aluminium Industries Sdn Bhd.<sup>2</sup> *Termination Report No. 540* (TER 540) sets out the reasons for that termination. That report is also available at: [www.adcommission.gov.au](http://www.adcommission.gov.au).

Particulars of the dumping margins and an explanation of the methods used to compare export prices and normal values to establish each dumping margin are set out below in Table 2.

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<sup>2</sup> ADN No. 2021/034 refers.



Exporter	Dumping Margin (%)	Method to establish dumping margin
Kamco Aluminium Sdn Bhd	13.2	Weighted average export prices were compared with weighted average corresponding normal values over the investigation period in accordance with subsection 269TACB(2)(aa) of the <i>Customs Act 1901</i> .
LB Aluminium Sdn Bhd	4.9	
Milleon Extruder Sdn Bhd	13.1	

**Table 2 Summary of dumping margins**

I, CHRISTIAN PORTER, the Minister for Industry, Science and Technology (the Minister), have considered, and accepted, the recommendations of the Commissioner, the reasons for the recommendations, the material findings of fact on which the recommendations are based and the evidence relied on to support those findings in REP 540.

I am satisfied, as to the goods that have been exported to Australia, that the amount of the export price of the goods is less than the normal value of those goods and because of that, material injury to the Australian industry producing like goods might have been caused if the security had not been taken. Therefore under subsection 269TG(1) and section 45 of the Act, I DECLARE that section 8 of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) applies to:

- (i) the goods; and
- (ii) subject to section 45 and subsection 269TN(2) of the Act, like goods that were exported to Australia from Malaysia and entered for home consumption on or after 10 December 2020, which is when the Commonwealth took securities, following the Commissioner's Preliminary Affirmative Determination published on 9 December 2020, under section 269TD of the Act, but before the publication of this Notice.

I am also satisfied that the amount of the export price of like goods that have already been exported to Australia is less than the amount of the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods and because of that, material injury to the Australian industry producing like goods has been caused or is being caused. Therefore under subsection 269TG(2) of the Act, I DECLARE that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia after the date of publication of this notice.

This declaration applies in relation to the goods and like goods exported to Australia from Malaysia by Kamco Aluminium Sdn Bhd, LB Aluminium Sdn Bhd and Milleon Extruder Sdn Bhd.<sup>3</sup>

The considerations relevant to my determination of material injury to the Australian industry caused by dumping are the size of the dumping margins, the effect of dumped

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<sup>3</sup> This declaration does not apply to Press Metal Berhad, Superb Aluminium Industries Sdn Bhd and Genesis Aluminium Industries Sdn Bhd for the reasons outlined in REP 540.

imports on prices in the Australian market in the form of price undercutting and the consequent impact on the Australian industry including:

- reduced sales volume;
- reduced market share;
- price depression;
- price suppression;
- reduced profits and profitability;
- reduced revenue;
- reduced return on sales;
- reduced capacity utilisation;
- reduced employment numbers; and
- reduced wages.

In making my determination, I have considered whether any injury to the Australian industry is being caused or threatened by a factor (or factors) other than the exportation of dumped goods, and have not attributed injury caused by other factors to the exportation of those dumped goods.

Interested parties may seek a review of this decision by lodging an application with the Anti-Dumping Review Panel, in accordance with the requirements in Division 9 of Part XVB of the Act, within 30 days of the publication of this notice.

Particulars of the export prices, non-injurious prices, and normal values of the goods (as ascertained in the confidential tables to this notice) will not be published in this notice as they may reveal confidential information.

Clarification about how measures and/or securities are applied to 'goods on the water' is available in ACDN 2012/34 at: [www.adcommission.gov.au](http://www.adcommission.gov.au).

REP 540 and other documents included in the public record 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](http://www.adcommission.gov.au).

Enquiries about this notice may be directed to the case manager on telephone number +61 3 8539 2418 or by email at: [investigations3@adcommission.gov.au](mailto:investigations3@adcommission.gov.au).

Dated this 31 day of 05 2021



CHRISTIAN PORTER

Minister for Industry, Science and Technology