



**ANTI-DUMPING COMMISSION  
REPORT TO THE ANTI-DUMPING REVIEW PANEL**

**REINVESTIGATION OF CERTAIN FINDINGS  
REPORT 326**

**CERTAIN ALUMINIUM EXTRUSIONS  
EXPORTED FROM  
THE PEOPLE'S REPUBLIC OF CHINA**

**TAI SHAN CITY KAM KIU  
ALUMINIUM EXTRUSIONS CO., LTD**

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### ABBREVIATIONS

the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
AEP	Ascertained export price
AUD	Australian dollar
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
China	the People's Republic of China
FOB	Free on board
the goods	the goods the subject of the application (also referred to as the goods under consideration)
Kam Kiu	Tai Shan City Kam Kiu Aluminium Extrusions Co Ltd and its related bodies corporates, Kam Kiu (Australia) Pty Ltd and Kam Kiu Aluminium Products Sdn Bhd
the Minister	the Minister for Industry, Innovation and Science
the Parliamentary Secretary	Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary)
Review 248	<i>Anti-Dumping Commission Report No. 248</i>
RBA	Reserve Bank of Australia
RMB	Chinese Yuan Renminbi
SEF 248	<i>Statement of Essential Facts No. 248</i>

## 1. INTRODUCTION AND FINDINGS

### 1.1 Introduction

This report provides the results of the reinvestigation by the Commissioner of the Anti-Dumping Commission (the Commissioner) of certain findings in *Report No. 248* (Review 248), relating to a review of the anti-dumping measures in respect of certain aluminium extrusions (aluminium extrusions or the goods) exported to Australia from the People's Republic of China (China) as they relate to exporter, Tai Shan City Kam Kiu Aluminium Extrusions Co Ltd and its related bodies corporate, Kam Kiu (Australia) Pty Ltd and Kam Kiu Aluminium Products Sdn Bhd (jointly referred to in this report as Kam Kiu).

In particular, the Anti-Dumping Review Panel (ADRP) requested that the Commissioner reinvestigate:

1. the ascertained export price (AEP) of aluminium extrusions for Kam Kiu using an appropriate exchange rate; and
2. whether any consequential amendments to Kam Kiu's dumping and/or subsidy margin are necessary as a result of any recalculated AEP.

### 1.2 Summary of findings

The Anti-Dumping Commission (the Commission) has conducted the reinvestigation as requested by the ADRP. The Commission has found that:

1. In Review 248, Kam Kiu's AEP was calculated incorrectly. In particular, after converting export prices transacted in Australian Dollars (AUD) to Chinese Yuan Renminbi (RMB) for the purposes of comparing export price and normal value as required by subsection 269TAF(1) of the *Customs Act 1901* (the Act)<sup>1</sup>, the Commission unnecessarily converted the export prices expressed in RMB back to AUD in determining the AEP. Effectively, there was an unnecessary double currency conversion. The removal of the double currency conversion results in a revision to Kam Kiu's AEP from \$█████ to \$█████ AUD per kilogram at free-on board (FOB) terms (section 3 refers); and
2. As a result of amending Kam Kiu's AEP and reinvestigating the reasons why the removal of the double currency conversion affected the AEP so significantly, the Commission has found that the exchange rates provided by Kam Kiu in its exporter questionnaire response, which were used for the purposes of the currency conversion to allow comparison of export prices to normal values, do not best establish the material terms of sale of the exported goods as required by subsection 269TAF(1). The Commission recommends that the exchange rates originally applied in relation to Kam Kiu for Review 248 be replaced with exchange rates from the Reserve Bank of Australia (RBA). As a result, Kam Kiu's dumping margin should be revised from 2.0% to 20.1%. Furthermore, the Commission finds that the subsidy margin, which is calculated using a weighted average export price in RMB, should also be revised from 1.8% to 2.1% (section 4 refers).

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

## **2. BACKGROUND**

### **2.1 Review of Measures No. 248**

On 12 June 2014, the Commissioner initiated a review of the anti-dumping measures in respect of certain aluminium extrusions exported from China by all exporters following an application by PanAsia Aluminium (China) Co., Ltd (Review 248). Notification of the initiation of Review 248 was made in *The Australian* newspaper on 12 June 2014 and Anti-Dumping Notice (ADN) No. 2014/46.

On 19 August 2015, the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary)<sup>2</sup> published a notice declaring the outcome of Review 248 (ADN No. 2015/96 also refers).

Anti-dumping measures applying to exports of certain aluminium extrusions from China were altered as if different variable factors had been ascertained. A variation to this notice was published on 10 September 2015 with respect to six entities incorrectly identified as residual exporters.<sup>3</sup>

Review 248 is available on the electronic public record on the Commission's website [www.adcommission.gov.au](http://www.adcommission.gov.au).

As a result of Review 248, the dumping duty and countervailing duty rates currently applicable to Kam Kiu are as follows:

Exporter	Dumping Margin	Subsidy Margin	Effective rate of combined interim countervailing duty and interim dumping duty <sup>4</sup>	Duty Method
Tai Shan City Kam Kiu Aluminium Extrusion Co Ltd.	2.0%	1.8%	3.8%	Dumping – combination of fixed ( <i>ad valorem</i> ) and variable duty method. Countervailing – ( <i>ad valorem</i> )

### **2.2 The Goods Subject to Measures**

The goods the subject of the application (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),*

<sup>2</sup> On 20 September 2015, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Science.

<sup>3</sup> This variation only affected the six entities incorrectly categorised as residual exporters and did not affect any other aspect of the notice. Kam Kiu was not one of those entities. The variation had effect from 19 August 2015.

<sup>4</sup> 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. The actual duty liability may be higher than the effective rate of duty due to a number of factors.

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*mechanical, anodized or painted or otherwise coated, whether or not worked, having a wall thickness or diameter greater than 0.5 mm., with a maximum weight per metre of 27 kilograms and a profile or cross-section which fits within a circle having a diameter of 421 mm.*

The goods include aluminium extrusion products that have been further processed or fabricated to a limited extent, after aluminium has been extruded through a die. For example, aluminium extrusion products that have been painted, anodised, or otherwise coated, or worked (e.g. precision cut, machined, punched or drilled) fall within the scope of the goods.

The goods do not extend to intermediate or finished products that are processed or fabricated to such an extent that they no longer possess the nature and physical characteristics of an aluminium extrusion, but have become a different product.

### 2.3 Legislative framework for a review

Division 9 of Part XVB of the Act sets out procedures for review by the ADRP of certain decisions made by the Parliamentary Secretary or the Commissioner.

Interested parties<sup>5</sup> can apply to the ADRP to review certain decisions of the Parliamentary Secretary (reviewable decisions)<sup>6</sup> in relation to anti-dumping matters.<sup>7</sup> If an application for review is not rejected, the ADRP must make a report to the Parliamentary Secretary on the application recommending:

- that the Parliamentary Secretary affirm the reviewable decision; or
- that the Parliamentary Secretary revoke the reviewable decision and substitute a specified new decision.<sup>8</sup>

If the ADRP has not rejected an application for review, before making a recommendation under subsection 269ZZK(1), the ADRP may, by written notice, require the Commissioner to:

- reinvestigate a specific finding or findings that formed the basis of the reviewable decision; and
- report the result of the reinvestigation to the ADRP within a specified period.<sup>9</sup>

### 2.4 Review by the ADRP

On 18 September 2015, the ADRP received applications from two interested parties, both exporters from China, seeking a review of certain decisions made by the Parliamentary Secretary following Review 248. The applicants were PanAsia Aluminium (China) Limited jointly with related entity Opal Macao Commercial Offshore (collectively referred to as PanAsia) and Kam Kiu.

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<sup>5</sup> As defined in section 269ZX

<sup>6</sup> As defined in subsection 269ZZA(1)

<sup>7</sup> Section 269ZZC

<sup>8</sup> Subsection 269ZZK(1)

<sup>9</sup> Subsection 269ZZL(1)

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On 21 October 2015, the ADRP invited the Commissioner to provide comments in relation to certain findings that formed the basis of the reviewable decision. The Commissioner provided his response to the ADRP on 11 November 2015. A non-confidential version of that response was published on the ADRP's website at [www.adreviewpanel.gov.au](http://www.adreviewpanel.gov.au).

On 14 December 2015, in accordance with subsection 269ZZL(1), the ADRP asked the Commissioner to reinvestigate the following:

- 1. The ascertained export price (AEP) of certain aluminium extrusions for Kam Kiu. In particular, you should consider the calculation of the AEP involved a double currency conversion from Australian dollars to Chinese Yuan Renminbi (RMB) and then to Australian dollars. The double currency conversion is unnecessary. Please recalculate using the appropriate exchange rate...; and*
- 2. Any consequential amendments to the dumping and/or subsidy margin for Kam Kiu as a result of the recalculated AEP.*

The Commissioner's reinvestigation report is due to be submitted to the ADRP by 22 February 2016. The Commission has addressed the ADRP's request below in section 3 (Kam Kiu's AEP) and section 4 (dumping and subsidy margin) of this report.

### 2.5 Relevant information

In conducting a review and making a recommendation to the Parliamentary Secretary, subsection 269ZZK(4) provides that the ADRP must, subject to subsections 269ZZK(4A) and (5), only have regard to relevant information and any conclusions based on the relevant information that are contained in the application for the review, or in any submissions received under section 269ZZJ within the period of 30 days referred to in that section.

Under paragraph 269ZZK(6)(c), relevant information where the reviewable decision was made because of an application for a review of measures is the information to which the Commissioner had regard, or was required to have regard, under subsection 269TZDA(3)(a) when making the findings in Review 248. This comprises the application for review, submissions relating generally to the review to which the Commissioner had regard to for the purpose of the Statement of Essential Facts No. 248 (SEF 248), SEF 248, submissions in response to SEF 248, Review 248 and any other matters considered relevant by the Commissioner in the course of the review.

If the ADRP gives the Commissioner notice under subsection 269ZZL(1), then the ADRP must also have regard to this reinvestigation report in making a recommendation to the Parliamentary Secretary.<sup>10</sup>

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<sup>10</sup> Subsection 269ZZK(4A).

### 3. KAM KIU'S ASCERTAINED EXPORT PRICE

#### 3.1 Summary of reinvestigation findings

The Commissioner's reinvestigation finds that Kam Kiu's AEP as calculated in Review 248, is incorrect. The double currency conversion carried out by the Commission was unnecessary and no currency conversion was required to calculate the AEP. After removing the double currency conversion, the Commission has recalculated Kam Kiu's AEP to be \$[REDACTED] AUD.

#### 3.2 Findings to be reinvestigated

In its application to the ADRP, Kam Kiu contended that the Commission erred in the calculation of its AEP on the basis that a double currency conversion from AUD to RMB and then back to AUD was unnecessarily applied. The ADRP asked the Commissioner to recalculate Kam Kiu's AEP using the appropriate exchange rate.

The AEP is relevant to the imposition of interim dumping duty, which in this case is calculated in accordance with the combination fixed and variable duty method. The interim dumping duty includes:

- a fixed (*ad valorem*) amount of interim dumping duty; and
- if Kam Kiu's actual export price of aluminium extrusions is less than the AEP, a variable component of interim dumping duty equal to the difference between the actual export price and the AEP.

#### 3.3 The original finding

In Review 248, Kam Kiu's AEP of \$[REDACTED] AUD was determined by the Commission, under subsection 269TAB(1), in part by:

- converting Kam Kiu's export sales from AUD to RMB using the exchange rates provided by Kam Kiu in its exporter questionnaire response. This step was carried out pursuant to subsection 269TAF(1) for the purpose of comparing export prices and normal values in accordance with section 269TACB in calculating Kam Kiu's dumping margin; and
- converting the export prices in RMB back to AUD. This conversion relied on a different set of exchange rates published by the RBA.

#### 3.4 The reinvestigation

The Commission's reinvestigation has found that Kam Kiu's export sales were reported in AUD at FOB delivery terms. As outlined in section 27.3 of the *Commission's Dumping and Subsidies Manual*, available at [www.adcommission.gov.au](http://www.adcommission.gov.au), the Commission's practice is to express the AEP in the currency in which the export sales are made. On this basis, no currency conversion was necessary to establish the AEP. Therefore, the ADRP's request to recalculate Kam Kiu's AEP using an appropriate exchange rate is not applicable and the AEP should simply be calculated as a weighted average of the export sales in the currency to which they relate (in this case AUD).

After removal of the double currency conversion, the Commission has recalculated Kam Kiu's AEP to be \$[REDACTED] AUD (see **Appendix 1**).



## 4. DUMPING AND SUBSIDY MARGIN

### 4.1 Summary of reinvestigation findings

As a result of reinvestigating Kam Kiu's AEP and applying an exchange rate which best establish the material terms of sale of the exported goods for the purposes of comparing export prices and normal values, the Commission has determined that the dumping margin should change from 2.0% to 20.1%. The Commission has also found that the subsidy margin should change from 1.8% to 2.1%.

### 4.2 Findings to be reinvestigated

In its application to the ADRP, Kam Kiu did not address potential changes to the dumping and subsidy margin arising from reinvestigation of its AEP.

However, the ADRP requested that the Commissioner consider whether any subsequent amendments to Kam Kiu's dumping and/or subsidy margin are necessary, as a result of reinvestigating the AEP.

Reinvestigation of Kam Kiu's AEP and in particular the need to apply a currency conversion from AUD to RMB is relevant to the calculation of export prices in RMB for the purposes of:

- calculating the dumping margin in accordance with section 269TACB due to the need to compare export prices and normal values in the same currency; and
- calculating the subsidy margin. Pursuant to subsection 269TACD(2), the Commissioner is required to quantify the amount of countervailable subsidy received by reference to a unit of goods determined by weight, volume or otherwise pursuant to. The calculation of a subsidy margin for aluminium extrusions is as follows:

$$\text{Subsidy margin (\%)} = \frac{\text{amount of countervailable subsidy received (in RMB)}}{\text{sales volume / weighted average export price (in RMB)}}$$

### 4.3 The original finding

In Review 248:

- Kam Kiu's dumping margin of 2.0% was determined under subsection 269TACB(2). As outlined at section 3.3 of this report, in calculating Kam Kiu's dumping margin, Kam Kiu's exports sales were converted from AUD to RMB using the exchange rates provided by Kam Kiu in its exporter questionnaire response for the purpose of comparing export prices and normal values pursuant to subsection 269TAF(1); and
- pursuant to subsection 269TAAC(1), the Commissioner considered that Kam Kiu received financial contributions conferring a benefit in respect to the goods, in the form of subsidies from four programs that were deemed to be countervailable in Review 248. The Commission determined the applicable subsidy margin for Kam Kiu was 1.8%, expressed on a unit (per kilogram) basis pursuant to section 269TACD. This calculation relied on a weighted average export price calculated in

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RMB using the exchange rates provided by Kam Kiu in its exporter questionnaire response.

### 4.4 The reinvestigation

#### 4.4.1 Exchange rate

To identify the underlying factors that led to Kam Kiu's ADRP application, the Commission's analysis shows that the exchange rates provided by Kam Kiu in its exporter questionnaire response were not consistent with the exchange rates published by the RBA and the exchange rates reported by the other exporters who were selected for verification in Review 248 (see **Confidential Appendix 3**).

In Review 248, Kam Kiu's exporter questionnaire was subject to onsite verification in China in January 2015. During verification, Kam Kiu explained that the exchange rate it provided was based on the spot rate on the last day of the previous month. For the purpose of this reinvestigation, Kam Kiu was invited to comment on the Commission's observations regarding the disparity in the exchange rates it provided.

In an email from its representative dated 15 January 2016, Kam Kiu accepted that the exchange rates it provided as part of Review 248 were incorrect. Kam Kiu stated:

*Kam Kiu accepts that the exchange rates provided in column AH of Appendix A-4 [see confidential appendix 1] were incorrect. Having reviewed its exporter questionnaire response to seek to understand the reason for that error, it appears that the error arose because a formula used to calculate the exchange rates was entered incorrectly. Specifically, a division between two underlying exchange rates was erroneously undertaken, rather than a multiplication.*

Whilst, as outlined in section 3, it was not necessary to apply the double currency conversion in calculating the AEP, the double currency conversion has served to highlight the disparity between the exchange rates provided by Kam Kiu and other benchmarks. Was it not for this disparity, the Commission considers that the effect of the double currency conversion would have been negligible.

For the reasons highlighted above, the Commission does not consider the exchange rates provided by Kam Kiu to be an appropriate exchange rates for the purpose of comparing export prices and normal values pursuant to subsection 269TAF(1).

#### 4.4.2 Export price

Subsection 269TAF(1) provides that:

*If, for the purposes of this Part, a comparison of the export prices of goods exported to Australia and corresponding normal values of like goods requires a conversion of currencies, that conversion, subject to subsection (2), is to be made using the rate of exchange on the date of the transaction or agreement that, in the opinion of the Minister, best establishes the material terms of sale of the exported goods.*

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Essentially, for the purpose of determining Kam Kiu's dumping margin, a conversion of the export prices of the exported goods, which were expressed in AUD, to the domestic currency, in this case RMB, was required.

As outlined in section 4.4.1 of this report, the exchange rates relied on by the Commission in Review 248 to convert Kam Kiu's export prices from AUD to RMB were provided by Kam Kiu in its exporter questionnaire response. Subsequently, it has been established that the exchange rates provided by Kam Kiu are incorrect and therefore in the Commission's opinion, do not best establish the material terms of sale of the exported goods.

For the purposes of the reinvestigation, the Commission has therefore replaced those exchange rates with exchange rates published by the RBA<sup>11</sup>, applicable to the date of each export sale, to calculate Kam Kiu's export prices in RMB for the purposes of calculating Kam Kiu's dumping margin. By applying the RBA exchange rate, the export prices, when expressed in RMB, are now lower than those determined in Review 248.

### 4.4.3 Normal values

For the purposes of this reinvestigation, the normal values applicable to Kam Kiu have not changed. Accordingly, the Commission has not departed from the normal values established in Review 248, which were determined in accordance with paragraph 269TAC(2)(c), using the constructed normal value method.

### 4.4.4 Dumping margin

In accordance with paragraph 269TACB(2)(a), a revised dumping margin was calculated by comparing the weighted average of export prices with the corresponding weighted average of normal values across the whole of the investigation period.

The replacement of the exchange rate provided by Kam Kiu with the RBA exchange rates has resulted in an increase in the dumping margin from 2.0% to 20.1% (**Confidential Appendix 1** refers).

The increase in the dumping margin is a result of the disparity in the exchange rates provided by Kam Kiu in its exporter questionnaire and those published by the RBA. The overall effect, being a higher dumping margin, is due to the reduction in the export prices in RMB, compared to the normal values which have not changed.

### 4.4.5 Subsidy margin

For the purposes of this reinvestigation, the amount of financial contributions conferring a benefit in respect to the goods, in the form of subsidies, determined to have been received by Kam Kiu have not changed from Review 248.

However, as discussed above, the export price when expressed in RMB after applying the RBA rates is now lower than the amount determined in Review 248.

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<sup>11</sup> The Commission considers that the RBA exchanges rates are a reliable source. Additionally, using the exchange rates published by the RBA will also ensure consistency with the exchange rates reported by the other exporters who were selected for verification visits as part of Review 248.

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As a result, in quantifying the amount of countervailable subsidy received, by reference to a unit of those goods determined by weight (in this case kilograms), as required by subsection 269TACD(2), the subsidy margin applicable to Kam Kiu increases from 1.8% to 2.1%. The subsidy margin calculations are provided in **Confidential Appendix 2**.

**APPENDICIES AND ATTACHMENTS**

<b>Confidential Appendix 1</b>	Recalculation of AEP and Dumping Margin
<b>Confidential Appendix 2</b>	Recalculation of Subsidy Margin
<b>Confidential Appendix 3</b>	Foreign Currency Conversion Comparison
<b>Confidential Attachment 1</b>	Kam Kiu Variable Factors