



Reconsideration of an original decision in the anti-dumping investigation into aluminium extrusions from the People's Republic of China (AD0012)

February 2024



1 Introduction / Executive Summary

1. On 16 December 2022, the Secretary of State for Business and Trade (the Secretary of State) made the decision to accept our recommendation for measures on certain aluminium extrusions originating from the People's Republic of China (PRC) and gave effect to that decision in the public notice dated 16 December 2022.¹
2. The Trade Remedies Authority (the TRA) published its finding of a final negative determination on certain large aluminium extrusions on 16 December 2022, effective the same date².
3. An application from Hydro Aluminium UK Limited (the Applicant) (applicant in the original investigation) was received on 17 January 2023, requesting a reconsideration of the following two decisions.
4. Decision 1: the TRA's recommendation to the Secretary of State in relation to the anti-dumping amount for aluminium extrusions
5. Decision 2: the TRA's finding of a final negative determination in relation to the exclusion of large extrusions from the measure.
6. A reconsideration was initiated³ on 22 February 2023.
7. This report is in respect of the reconsideration of decision 1: the TRA's recommendation to the Secretary of State in relation to the anti-dumping amount.
8. The reconsideration undertook to establish whether the decisions made during the original investigation, when assessed against the grounds in the application for reconsideration, were reasonable.

¹ [Trade remedies notices: definitive anti-dumping duties on certain aluminium extrusions from China - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/definitive-anti-dumping-duties-on-certain-aluminium-extrusions-from-china)

² <https://www.trade-remedies.service.gov.uk/public/case/AD0012/submission/f0403051-4eef-4959-a1d4-f773f18b66be/> AD0012-Aluminium Extrusions Notice Final Negative Determination.pdf

³ <https://www.trade-remedies.service.gov.uk/public/case/AD0012/submission/cdf36162-9f7c-48a4-8b50-f3aed3dfddce/> AD0012 – Reconsideration Notice of Initiation



1.1 Reconsidered decision

9. Having completed the reconsideration, the TRA concludes to uphold the original decision in respect of the affirmative determination of dumping of certain aluminium extrusions and the anti-dumping amount.



2 Background

10. On 30 April 2021 the TRA received an application for a trade remedies investigation (the original application) lodged by Hydro Aluminium UK Limited. The Applicant alleged that certain aluminium extrusions imported into the UK from the PRC are being dumped and are causing injury to the UK Industry.
11. The original application contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the anti-dumping investigation. The case was initiated by the TRA on 21 June 2021, and the Notice of Initiation⁴ was published on the same date.
12. On 13 October 2022, in accordance with paragraphs 11(5) and (6) of Schedule 4 to the Taxation (Cross-border Trade) Act 2018 (the Act)⁵, the TRA made its final determination. Pursuant to paragraph 17(3) of the Act, the TRA made its recommendation to the Secretary of State for an ad-valorem anti-dumping duty for a period of five years for the goods concerned which are subject to the final affirmative determination.
13. In [Trade remedies notice 2022/11: definitive anti-dumping duties on certain aluminium extrusions originating from China](#), published on 16 December 2022, the Secretary of State gave effect to the TRA's recommendation.
14. Further to the TRA's conclusion in the anti-dumping investigation into aluminium extrusions, and the subsequent decision of the Secretary of State, the TRA received an application⁶ from the Applicant on 17 January 2023 which in part requested a reconsideration of the TRA's recommendation to the Secretary of State regarding the determination for an anti-dumping amount on certain aluminium extrusions.

⁴ <https://www.trade-remedies.service.gov.uk/public/case/AD0012/submission/58db49f3-2ec8-4b8d-9acc-82d85bb69037/> Notice of Initiation original investigation

⁵ [Taxation \(Cross-border Trade\) Act 2018 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2018/12/schedule/4)

⁶ <https://www.trade-remedies.service.gov.uk/public/case/AD0012/submission/cdf36162-9f7c-48a4-8b50-f3aed3dfddce/> Reconsideration Application from UK producer



15. The Applicant's grounds for requesting a reconsideration in relation to the recommendation to applying an anti-dumping measure are -
- i. Ground 1 – The TRA erred in finding the market price in China for aluminium extrusions was an appropriate comparable price for determining the normal value of Shandong Nanshan Aluminium Co. Ltd (Shandong Nanshan).
 - ii. Ground 2 – The dumping margin of Press Metal International (PMI) was incorrect due to errors in the approach and the calculation.
 - iii. Ground 3 – The dumping margin for Haomei New Materials Company (Haomei) does not reflect the market distortions effecting aluminium extrusions.
 - iv. Ground 4 – The period of investigation (PoI) should be amended to reflect the distortions allegedly caused by the European Commission's (EC) investigation into aluminium extrusions.

2.1 Timings of reconsideration application

16. The Secretary of State's public notice, [Trade remedies notice 2022/11: definitive anti-dumping duties on certain aluminium extrusions originating from China, accepted and](#) gave effect to the TRA's recommendation for an anti-dumping measure on 17 December 2022.
17. In accordance with regulation 10(2) of the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019 (the R&A Regulations)⁷, the TRA must reject an application for a reconsideration of an original decision that was published in a public notice unless it was received within one month beginning on the day after the notice was published, or (if later) within one month beginning on the day after the notice came into effect.
18. The application for reconsideration was received on 17 January 2023.

⁷ [The Trade Remedies \(Reconsideration and Appeals\) \(EU Exit\) Regulations 2019 \(legislation.gov.uk\)](#)



19. In accordance with regulation 12 of the R&A Regulations⁸, the TRA initiated⁹ a reconsideration on 22 February 2023. In this report, we present our findings for grounds one to four.
20. Under regulation 13(9) of the R&A Regulations¹⁰, the TRA has wide discretion to reconsider an original decision in whatever way it considers appropriate in the circumstances, subject to any contrary provisions in the R&A Regulations. In the absence of provisions dictating a contrary approach, the TRA considers that the appropriate approach to a reconsideration is to review whether the original decision made by the TRA was correct and reasonable at the time it was made.

⁸ [The Trade Remedies \(Reconsideration and Appeals\) \(EU Exit\) Regulations 2019 \(legislation.gov.uk\)](#)

⁹ [AD0012 Reconsideration Notice of Initiation](#)

¹⁰ [The Trade Remedies \(Reconsideration and Appeals\) \(EU Exit\) Regulations 2019 \(legislation.gov.uk\)](#)



3 Analysis of grounds: TRA's recommendation for anti-dumping amount

22. In support of its application that the TRA's approach to determining whether there was a particular market situation (PMS) in the aluminium extrusions market in the People's Republic of China (PRC) was flawed, the Applicant has submitted four grounds, each with a number of arguments which we describe as sub grounds.
23. This report will consider each of the sub grounds in turn setting out our understanding of the Applicant's sub ground and an explanation of the original investigation's conduct in relation to that sub ground. This is then set out together with the detail of any additional analysis undertaken as part of the reconsideration. The TRA's finding as the result of the reconsideration for the sub ground is then set out.

3.1 Ground 1 – The normal value used by the TRA for Shandong Nanshan Aluminium was based on distorted aluminium extrusions sales prices in China in breach of Regulation 7 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (the D&S Regulations)

3.1.1 Applicant's sub ground: Methodology for determining a PMS and the decision to find the domestic (Chinese) sales price appropriate to determine normal value for Shandong Nanshan was flawed.

24. The original investigation had found the aluminium extrusions market in the PRC was distorted and the prices on the aluminium extrusions market should be higher. The TRA concluded it could not use domestic prices to determine the normal value for two of the three sampled overseas exporters (PMI and Haomei). On this basis the Applicant argues that the domestic price for the sampled overseas exporter, Shandong Nanshan cannot be used.

Relevant legislation and guidance



25. The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019¹¹ (the D&S Regulations) make provision for the TRA to determine a normal value. Regulation 7(1) states -

The TRA must use the comparable price to determine the normal value unless it is not appropriate to use that price.

26. Regulation 2 of the D&S Regulations defines comparable price in relation to goods as the price of the goods, in the ordinary course of trade, destined for consumption in the exporting country or territory.

27. Regulation 7(2) goes on to state -

For the purpose of paragraph 1(2) of Schedule 4 to the Act, it is not appropriate to use the comparable price to determine the normal value of the goods concerned where—

(a) there are no sales of the like goods in the ordinary course of trade in the domestic market of the exporting country or territory;

(b) because of a particular market situation or the low volume of sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison between the like goods destined for consumption in the exporting country or territory and the goods concerned; or

(c) the overseas exporter in the exporting country or territory does not sell the like goods on the domestic market of the exporting country or territory.

28. Regulation 7(4) of the D&S Regulations provides that - For the purpose of paragraph (2)(b), a "particular market situation" includes situations where—

(a) prices are artificially low;

(b) there is significant barter trade;

¹¹ [The Trade Remedies \(Dumping and Subsidisation\) \(EU Exit\) Regulations 2019 \(legislation.gov.uk\)](https://www.legislation.gov.uk)



(c) prices reflect non-commercial factors.

29. Where it is not appropriate to use the comparable price, regulation 8(1) of the D&S Regulations sets out alternative methodologies that the TRA must use to determine normal value. These include, at regulation 8(1)(a), determining an exporter's costs of production, plus a reasonable amount for administrative, selling and general (A, S & G) costs and for profits.
30. Under regulation 11(1) of the D&S Regulations, when determining the cost of production in accordance with regulation 8(1)(a), the TRA must normally use records kept by the overseas exporter where these are (a) in accordance with the country's generally accepted accounting principles and (b) reasonably reflect the costs associated with the production and sale of the like goods in the exporting country.
31. Regulation 12 governs the determination of reasonable A, S & G costs for the purposes of regulation 8(1)(a). Under regulation 12(2), this determination must be based on actual data pertaining to the exporter's production and sale of the like goods, in the ordinary course of trade, in its domestic market.
32. Both regulation 11 and 12 of the D&S Regulations are subject to the TRA's power to make adjustments under regulation 13 of the D&S Regulations.
33. Under paragraph 34 of Schedule 4 of the Trade Act 2021, the TRA must have regard to the Secretary of State guidance¹².

Original investigation

34. Paragraph 144 of the final determination sets out that when assessing allegations of a PMS the TRA:

¹²[Trade Remedies Authority \(TRA\) dumping, subsidisation and safeguarding investigations guidance - Particular market situation and costs adjustments - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/trade-remedies-authority-TRA-dumping-subsidisation-and-safeguarding-investigations-guidance-particular-market-situation-and-costs-adjustments)



- examined whether the PMS allegations were specific in the way they affected the market for the Goods Concerned or the market for the key cost inputs;
 - analysed the supporting evidence to ensure it was specific to the aluminium extrusions industry or cost area, and was within a reasonable time period of the POI;
 - examined whether the alleged distortions have either a negligible or material impact on the costs and final prices of the Goods Concerned.
35. The final determination goes on to state that once a PMS was identified a suitable benchmark was found to assess the impact of the distortion.
36. Benchmark analysis was conducted to assess whether the identified distortions would prevent a proper comparison. It was found that when compared to the benchmarks, the actual input costs of the two affected sampled overseas exporters PMI and Haomei were approximately 5-20% lower for aluminium input costs and 25 – 55% lower for energy costs¹³.
37. For two of the three sampled exporters, PMI and Haomei it was found that a proper comparison was not possible.
38. However, for Shandong Nanshan, it was found that due to its vertical integration in relation to aluminium billet and energy costs, they were not impacted by these distortions. Therefore, it was deemed that as Shandong Nanshan's domestic prices were not distorted by the PMS in the energy and aluminium billet markets so could be deemed an appropriate price.
39. The analysis resulted in the original investigation concluding that though these distortions did prevent a proper comparison for the two sampled overseas exporters, PMI and Haomei, it did not prevent a proper comparison for Shandong Nanshan. This assessment was based on verified information provided by

¹³ [Final determination AD0012](#) published on August 2022. Para 199



Shandong Nanshan in their questionnaire responses and the verification activities of the original investigation.

Reconsideration finding

40. The original investigation has treated Shandong Nanshan in accordance with regulation 7. Regulation 7(2) sets out situations in which it is not appropriate to use comparable price. However, it does not necessarily place an obligation on the TRA to construct normal value for all exporters in any or all of those circumstances. It is for the TRA to decide whether or not it is appropriate (or reasonable) in the case of an individual exporter to use comparable price where the situations at regulation 7(2) exist. The legislation does not prevent a different treatment of parties where their individual circumstances are different to other interested parties.
41. The original investigation also acted in accordance with the Secretary of State guidance which says –

*The assessment of whether adjustments are justified should be made on an exporter-by-exporter basis. For example, where government intervention affects a production input in the domestic market, the purchasing behaviour of a particular exporter should be examined to determine whether the input has been supplied at a price substantially determined by market forces.*¹⁴
42. It was found the domestic price of Shandong Nanshan was appropriate in order to determine normal value. Shandong Nanshan's domestic price is not affected by the distortions responsible for causing a PMS, seen in the markets of aluminium billet and energy which affected the other sampled overseas exporters.
43. For the above reasons, though the market was distorted it did not prevent a proper comparison between the like goods destined for use in the exporting

¹⁴ [Trade Remedies Authority \(TRA\) dumping, subsidisation and safeguarding investigations guidance - Particular market situation and costs adjustments - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/trade-remedies-authority-tra-dumping-subsidisation-and-safeguarding-investigations-guidance-particular-market-situation-and-costs-adjustments)



country and the goods concerned. We find the original investigation had acted reasonably in its decision that Shandong Nanshan's comparable price could be used to determine normal value.

3.1.2 Applicant's sub ground: The treatment of Shandong Nanshan

44. As the TRA found PMS in two principal cost areas of the production of aluminium extrusions in the PRC, which equates to 95% of the costs of production and this evidenced the PMS in the aluminium extrusions market in the PRC then the TRA should have determined the final market of the goods concerned is distorted for all exporters. Therefore, it cannot use the domestic price as an appropriate price for determining normal value for Shandong Nanshan.

Original investigation

45. It was found that the two input markets of aluminium billet and energy were distorted. It did not find distortions in other input markets.
46. At paragraph 243 of the final determination the original investigation concluded that the distortions caused by the PMS in relation to the two input cost areas of aluminium billet and energy impacted the normal value of the goods concerned for two sampled overseas exporters, PMI and Haomei.
47. The TRA found that Shandong Nanshan, was not impacted by the distortions in the aluminium input and energy market due to its integrated production processes.
48. In line with the Secretary of State Guidance¹⁵ the assessment of whether adjustments are justified is made on an exporter-by-exporter basis.
49. As the costs incurred by Shandong Nanshan in aluminium extrusion production were not impacted by the distortions caused by PMS in those markets, it was

¹⁵ [Trade Remedies Authority \(TRA\) dumping, subsidisation and safeguarding investigations guidance - Particular market situation and costs adjustments - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/trade-remedies-authority-tra-dumping-subsidisation-and-safeguarding-investigations-guidance-particular-market-situation-and-costs-adjustments)



deemed that the domestic prices of Shandong Nanshan were appropriate for normal value purposes.

Reconsideration finding

50. The original investigation has assessed each PMS claim individually and considered applying adjustments where it was determined the distortion had an impact on costs and prices. This approach aligns with the Secretary of State Guidance¹⁶ to the TRA to consider the effects of PMS on an exporter-by-exporter basis and that only significant costs are replaced.
51. The analysis undertaken showed that these adjustments were not required for Shandong Nanshan and its domestic price was appropriate.

3.1.3 Applicant's sub ground: Use of non-sampled exporters prices

52. The Applicant claims that the TRA has information from the non-sampled exporters which show these producers set the prices in the domestic market, not Shandong Nanshan¹⁷. Therefore, where the TRA made a finding that the average sales invoice prices were broadly comparable across the sampled exporters must mean that Shandong Nanshan's domestic price is also distorted.

Original investigation

53. As part of the assessment as to whether the distortions identified in the aluminium billet and energy markets prevented a proper comparison between the domestic sales prices and export price, the TRA at paragraph 240 in the final determination, stated that the low cost of aluminium inputs and energy does not give the overseas exporters an advantage in their domestic market when comparing the price. It goes on to say the average sales invoice prices in the PRC are broadly comparable across the sampled overseas exporters.

Reconsideration finding

¹⁶ [Trade Remedies Authority dumping and subsidisation investigations guidance - particular market situation and costs adjustments](#)

¹⁷ [Reconsideration Application, Hydro Aluminium UK Limited](#). Para26



54. The TRA undertook the appropriate analysis in its consideration of whether Shandong Nanshan was affected by the alleged PMS in the aluminium billet and energy markets.
55. As part of the reconsideration, analysis of the average sales invoice price on the domestic market was completed. This showed that there was a marked difference between the two sampled overseas exporters affected by PMS and Shandong Nanshan. In that Shandong Nanshan's prices were generally higher than the other sampled exporters.
56. On this basis it was reasonable for the TRA to determine it was satisfied the domestic sales price of Shandong Nanshan was not subject to distortions caused by PMS.

3.1.4 Applicant's sub ground: Failure to take account of the Applicant's claim in relation to distortions in the market of aluminium extrusions in China

57. The Applicant claims that the TRA did not examine the claim that the aluminium extrusions market in China was distorted. There is no evidence to suggest the TRA examined cross cutting distortions or how they impacted the different markets of cost production examined by the TRA. The TRA only examined the allegations of PMS in the markets of labour, capital, land, government influence, raw materials and energy. It did not examine the allegation of a PMS in the market of aluminium extrusions.

Original investigation

58. In its original application¹⁸ the Applicant, in the section on Normal value at pages 24 – 46, provides a narrative as to the allegations of distortions affecting price in the aluminium extrusions market in PRC and the input markets to that industry.
59. The allegation of the distortion to the aluminium extrusions market is described around the state control and influence of the Chinese Communist Party (CCP) in all core functions of economic activity. The allegations put forward by the

¹⁸ [Non-confidential Application From Hydro Aluminium Ltd](#): Published 21 June 2021, pages 24-46



Applicant in the original application for distortions in the aluminium sector outlines the presence of large state-owned enterprises and their increase in capacity, though acknowledging privately owned enterprises have driven the growth.

60. The allegations go onto describe the distortions in the aluminium market as those relating to state intervention in areas of export taxation, the energy sector, subsidies and involvement at different stages of the aluminium value chain.
61. In addition to the above allegations pertaining to the aluminium extrusions sector, information is provided on specific sectors –
- Energy,
 - Capital,
 - Raw materials and other material inputs,
 - Labour
 - Land
62. The TRA assessed the allegations put forward by the Applicant in its original application for a dumping investigation. The areas covered are as the Applicant states in the ground above.
63. Following the publication of the Statement of Essential Facts (SEF) the Applicant alleged there were further distortions due to die costs. The original investigation assessed this new allegation at that stage and found no positive evidence to support whether distortions in die costs would have an impact on the price and costs of the goods concerned.¹⁹
64. The areas assessed by the original investigation are –
- Labour,
 - Capital,
 - Land,
 - Government influence,

¹⁹ [Final determination AD0012](#), Paras 170 to 172 *Die Costs*.



- Raw materials,
- Energy, and
- Die costs

65. The final determination at section F, addressed the Applicant's subsequent comments following the SEF, in relation to the assessment of distortions in the aluminium extrusions market. The TRA lays out that they had assessed the allegations.

Reconsideration analysis

66. Cross referencing the allegations made in the original application to the final determination it is apparent the TRA had considered the alleged distortions in the aluminium extrusions markets in relation to government influence including the existence of party cells of the CCP existed within companies.
67. The original investigation's assessment of the other factors of production (energy, raw materials, labour, land, capital) also showed consideration of government influence in those sectors.

Reconsideration finding

68. The TRA did consider the allegations of distortion to the aluminium extrusions market in the PRC in respect to PRC government's influence on companies and decision making.
69. It also examined the distortions in the other factors of production and how these impacted the aluminium extrusions market.
70. It is deemed the original investigation did take into account the claims of distortions in the aluminium extrusions market in PRC and it did consider the cross-cutting distortions of government influence on the other factors of production.



3.1.5 Applicant's sub ground: TRA misapplied the approach taken by the Australian Anti-Dumping Commission in A4 Copy Paper

71. The Applicant alleges the TRA misapplied the approach taken by the Australian Anti-Dumping Commission (ADC) in a case relating to A4 Copy Paper in respect of the TRA's assessment of PMS.
72. The Applicant, in paragraphs 38-44 of the reconsideration application, refers to paragraphs 7.21, 7.22 and 7.27 of the WTO Panel Report²⁰ for A4 Copy paper and stated that the information contained in these paragraphs confirms that Australia first found a PMS in the market of A4 copy paper which then allowed them to conclude that it was not appropriate to use that market price as the comparable price for the normal value.²¹ Subsequent to that finding of PMS in the market of A4 copy paper, Australia then went on to finding of distortion of a main input of production, this was a secondary step.
73. The Applicant refers to paragraph 221 of the Final determination, where the TRA are said to have taken guidance from the WTO Panel report. The Applicant claims the TRA had not followed the approach as guided in the Panel decision on A4 Copy Paper. The Applicant asserts the TRA must find a PMS in the domestic market for the goods concerned in the first instance and then evaluate the markets for the main factors of production for any distortions in those markets.²²

Original investigation

74. At paragraph 221 of the final determination the TRA refers to considering the Panel Report for the Australia – A4 Copy Paper measures in the context of proper comparison; not the assessment of PMS.
75. The TRA assessed the allegations of distortions made in the original investigation to assess whether the input prices were distorted and not determined by market forces.

²⁰ [WTO | dispute settlement - the disputes - DS529](#) A4 Copy Paper

²¹ [Reconsideration Application from Hydro Aluminium Ltd](#) Paragraph 38 - 44

²² [Reconsideration Application from Hydro Aluminium Ltd](#) Paragraphs 43



76. The TRA then assessed whether the identified distortions affected the normal value and export price differently in that it would not permit a proper comparison.

Reconsideration finding

77. The original investigation acted reasonably by having regard to the Panel's report of A4 Copy Paper in relation to proper comparison.
78. Furthermore, the original investigation acted in accordance with the Secretary of State guidance which provides a framework for the TRA to assess whether the effects of the distortions require an adjustment. It states -

The TRA should only make adjustments in relation to significant cost or profit elements. The TRA should use its judgement on what constitutes a significant cost or profit element in light of the circumstances of the case.

The assessment of whether adjustments are justified should be made on an exporter-by-exporter basis. For example, where government intervention affects a production input in the domestic market, the purchasing behaviour of a particular exporter should be examined to determine whether the input has been supplied at a price substantially determined by market forces.²³

79. It does not automatically follow that all overseas exporters will be impacted by the distortions in a manner that would impact their domestic selling prices. It was therefore reasonable to treat Shandong Nanshan differently to the other sampled overseas exporters based on their own circumstances.

3.1.6 Applicant's sub ground: Cross-cutting distortions are not reflected when considering the individual markets

80. The Applicant alleges, (paragraph 45 of the application) that the TRA failed to take into account the cross-cutting distortions on all markets in China. Where the

²³ [Trade Remedies Authority \(TRA\) dumping, subsidisation and safeguarding investigations guidance - Particular market situation and costs adjustments - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/trade-remedies-authority-tra-dumping-subsidisation-and-safeguarding-investigations-guidance-particular-market-situation-and-costs-adjustments)



original investigation examined markets for land, capital and labour, the Applicant claims the TRA did not consider the impact of the cross-cutting distortions on those markets.

Original investigation

81. The Applicant made the same claim following the publication of the SEF that the original investigation had not considered cross cutting distortions and how these affected individual markets.
82. As part of their assessment for the individual cost markets, the TRA considered the effects of government influence, answering the specific claims from the original application. The final determination sets out what it assessed at paragraphs 148 to 169.

Reconsideration finding

83. The approach taken by the original investigation was in accordance with the Secretary of State guidance²⁴. The guidance on government interventions says –

Where claims are made that government intervention results in a particular market situation by causing domestic sales prices to be artificially low, the TRA should consider whether there is sufficient evidence that substantial government intervention exists, which has had a material impact on domestic sales prices such that they would not permit a proper comparison with export prices. The aims and the objectives of the government intervention are not relevant - only the effects on prices are.
84. The TRA has demonstrated they have considered the cross-cutting distortions and considered if, where distortions were identified, had an impact on the prices of the goods concerned and the like goods on the domestic market. This is a reasonable approach for the original investigation to take.

²⁴ [Trade Remedies Authority \(TRA\) dumping, subsidisation and safeguarding investigations guidance - Particular market situation and costs adjustments - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/trade-remedies-authority-tra-dumping-subsidisation-and-safeguarding-investigations-guidance-particular-market-situation-and-costs-adjustments).



3.1.6.1 Subsidies

Applicant's sub ground

85. In its application for a reconsideration the Applicant states the TRA failed to address the use of subsidies in the PRC aluminium market, citing the Organisation for Economic Co-Operation and Development (OECD) Report of 2019, highlighting where it states –

“...the provision of coal, alumina, or electricity by Chinese SoEs to other companies..... for prices at below market..... This example illustrates the broader tendency for provincial and municipality government [in China to] subsidize purchases of raw materials.....”

Original investigation

86. The allegation of subsidies in the aluminium market reported in the OECD report relates to electricity (energy) or capital sectors. The original investigation has considered these sectors including whether the sampled overseas exporters had received any form of government grant or subsidy in these sectors.

87. As part of its assessment of the individual markets the original investigation had considered loan interest subsidies and government grants. These are stated at paragraphs 153 – 157 of the final determination.

88. The TRA examined the financial accounts and verifiable information provided in the confidential questionnaire responses from the three sampled overseas exporters. They were able to identify the type and value of any government grants or loans they had received. They assessed whether the value of the grants / loans would impact the pricing of the goods concerned. The outcome of the assessment found that there was minimal impact on the pricing of the goods concerned, so determined that any subsidies received by the sampled overseas exporters did not lead to artificially lowering their prices in the aluminium extrusions market.

Reconsideration finding



89. The TRA has assessed whether any loans / grants received by the sampled overseas exporters impacted the pricing of the goods concerned or like goods on the domestic market.
90. In accordance with the Secretary of State guidance²⁵, the TRA determined an adjustment was not necessary as it is not a significant cost or profit element in this case.

3.1.6.2 Labour

Applicant's sub ground

91. The Applicant argues that the TRA's evaluation of the labour market was not comprehensive enough to make a finding that there was no distortion as an input into the aluminium extrusions market. The argument put forward is that the government controls resident permits which in turn controls the labour market.
92. The Applicant quotes from comments made by the United Nations Committee on Economic, Social and Cultural Rights in 2005 and claims that while the situation in China may have evolved since then it has not changed significantly.
93. The Hukou (household registration) system controls who has access to the labour market, so those without residency permits are discriminated against by employers which leads to potential impacts on labour costs as there is a pool of illegal migrants which distort the overall employment situation in those enterprises.

Original investigation

94. As part of the examination of the allegation of PMS in the labour market, the TRA considered, alongside the confidential questionnaire responses of the sampled overseas exporters, PRC's legislation, Labour Law of the PRC²⁶ stating that they

²⁵ [Trade Remedies Authority \(TRA\) dumping and subsidisation investigations guidance - particular market situation and costs adjustments - Guidance – GOV.UK](#)

²⁶ [Labour Law of PRC: https://english.www.gov.cn/archive/laws_regulations/2014/08/23/content_281474983042473.htm](#)



did not find any evidence to suggest employers in the aluminium extrusions market did not act as independent entities.²⁷

95. Verifiable information provided by the sampled overseas exporters was assessed and it was determined there was no evidence to suggest government involvement with regard to the staffing of the sampled overseas exporters operations.
96. The conclusion of the original investigation was that the labour market for aluminium extrusions and in particular of the sampled overseas exporters, was not artificially low.

Reconsideration finding

97. In accordance with Secretary of State guidance, the TRA makes an assessment of PMS on a case-by-case basis.
98. The Secretary of States guidance²⁸ tells the TRA should only make adjustments in relation to significant cost of profit elements. As energy and aluminium billet make up 95% of the costs of production in the aluminium extrusions market, the labour market is not a significant element.
99. The guidance goes on to say that the TRA should use its judgment on what constitutes a significant cost or profit element in light of the circumstance of the case.
100. The examination of whether the sampled overseas exporters were impacted by any alleged distortions in the labour market are deemed reasonable when taking into account the significance of any distortion on the final price of the goods concerned.

3.1.6.3 Capital

Applicant's sub ground

²⁷ [Final determination AD0012](#), on Public File at gov.uk. Paragraph 149

²⁸ [Trade Remedies Authority \(TRA\) dumping, subsidisation and safeguarding investigations guidance - Particular market situation and costs adjustments - Guidance - GOV.UK \(www.gov.uk\)](#)



101. The Applicant asserts the capital market in China is distorted. Its view is that the TRA did not undertake an adequate examination to make a proper evaluation as to whether the credit ratings of the sampled overseas exporters were in line with international credit rating benchmarks, and the original investigation did not provide evidence on file that they had evaluated the credit ratings of the sampled exporters.

Original investigation

102. The TRA compared the interest rates applied to the loans of the sampled exporters to the World Bank's lending interest rate to identify whether the interest rates were comparable to international interest rates.

103. The interest rates charged by the financial institutions are done so at their risk, the assessment by the original investigation was to consider whether there were any distortions which materially impacted the pricing of the goods concerned. Where this was shown the original investigation would assess exporter by exporter as to whether any adjustments were required. The original investigation did not find this to be the case for the sampled overseas exporters.

Reconsideration finding

104. The Secretary of State guidance²⁹ states that the TRA should only make adjustments in relation to significant cost of profit elements. As energy and aluminium billet make up 95% of the costs of production in the aluminium extrusions market, the capital market is not a significant element.

105. The guidance goes on to say that the TRA should use its judgment on what constitutes a significant cost or profit element in light of the circumstance of the case.

106. The examination of whether the sampled overseas exporters were impacted by any alleged distortions in the capital market is deemed reasonable, when taking

²⁹ [Trade Remedies Authority \(TRA\) dumping, subsidisation and safeguarding investigations guidance - Particular market situation and costs adjustments - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/trade-remedies-authority-tra-dumping-subsidisation-and-safeguarding-investigations-guidance-particular-market-situation-and-costs-adjustments)



into account the significance of any distortion on the final price of the goods concerned.

3.1.6.4 Land

Applicant's sub ground

107. The Applicant has claimed the TRA has not addressed “the very fact that the producers in China *have land* at all to be able to manufacture the goods concerned”³⁰. They claim that as control is exerted by the Government of PRC over land use and price, this results in certain enterprises benefiting from low-cost land prices and thereby impacts the final price.

Original investigation

108. The TRA concluded that whilst the PRC had exercised control over land use there was no evidence to support the allegation this impacted the costs or final price of the goods concerned.

109. Though finding there was government influence in the land market, the TRA examined the verifiable confidential information provided in the original application³¹ and assessed it against the information provided by the sampled overseas exporters in their questionnaire responses and confidential submissions. No evidence was found to result in making adjustments to the source data for dumping calculations.

Reconsideration finding

110. The TRA acted in accordance with the Secretary of State guidance³², that it should consider whether there is sufficient evidence that substantial government intervention exists which has had a material impact on costs or

³⁰ [Reconsideration Application, Hydro Aluminium UK Ltd](#) Paragraph 68 of the Reconsideration Application

³¹ [Original Application for a dumping investigation, Hydro Aluminium UK Ltd](#) page 39 of the Non-confidential application

³² [Trade Remedies Authority \(TRA\) dumping, subsidisation and safeguarding investigations guidance - Particular market situation and costs adjustments - Guidance - GOV.UK \(www.gov.uk\)](#)



profits such that they are unrepresentative. “The aims and the objectives of the government intervention are not relevant – only the effects on prices and costs are.”

111. The guidance goes on to say -

“A determination by the TRA that there is a particular market situation does not automatically imply that adjustments should be made according to regulation 13 (D&S Regulations) when constructing normal value.”

112. As stated previously, the guidance states that the TRA should only make adjustments in relation to significant cost or profit elements. The cost of land is not deemed a significant element in the cost of production in the aluminium extrusions market.

113. The TRA acted in accordance with the guidance published by the Secretary of State and considered the allegations of government intervention in the land sector and whether this distorted the information being provided by the sampled overseas exporters.

3.1.6.5 Coal (energy for Shandong Nanshan)

Applicant’s sub ground

114. In its original application and subsequent comments on the SEF the Applicant claims the Government of PRC has substantial influence over the coal industry. In the reconsideration application, it alleges that the TRA failed to take this into account when determining that Shandong Nanshan energy prices were not distorted.

Original investigation

115. In the final determination at paragraphs 213 to 217, the original investigation has demonstrated that this factor was considered.



116. The original investigation assessed the information provided by Shandong Nanshan in its submission made on 14 March 2022³³ and concluded that steam coal was domestically procured, the purchasing prices during the PoI were demonstrated to be undistorted.
117. The TRA compared the confidential data in the IHS Report, which includes prices from major producing countries or regions of steam coal worldwide, i.e. South Africa, Russia, Australia and Indonesia with other publicly available sources.
118. The TRA determined the purchase price paid by Shandong Nanshan during the PoI was comparable to the prices seen on the international market and did not have an impact on the final price of the goods concerned.

Reconsideration finding

119. Though the coal input market may be affected by PMS, the examination of confidential information and other secondary sources by the original investigation led to the conclusion that the coal prices in the PRC were not artificially low when compared to the international market. The Secretary of State guidance states -

The TRA should consider whether there is sufficient evidence that substantial government intervention exists which has had a material impact on costs or profits such that they are unrepresentative.

120. The TRA found that the prices for coal in the PRC during the PoI were representative when compared to other international markets. It was reasonable for the original investigation determined the input costs for coal were not artificially low and as such did not prevent a proper comparison between normal value and export price.

³³ [Non Confidential Submission, Allbright Law Offices representing Shandong Nanshan](#)



3.2 Ground 2 – The dumping margin calculations for PMI are incorrect

3.2.1 Applicant's sub ground: Constructed normal value for PMI

121. The input markets of labour, land and capital were affected by PMS and therefore PMI's figures relating to these markets should not be used in calculating a constructed normal value for PMI. The Applicant argues this is also the case for Haomei in ground 3 below.

Original investigation

122. Each claim of distortion within an input market was assessed. Paragraphs 84 to 112 of the final determination demonstrates the findings with regards to the other input markets of land, capital, labour.

123. Where distortions were identified, an assessment for proper comparison has been undertaken and where the PMS prevents a proper comparison, as found in the aluminium billet sector and energy sector, a benchmark price from an undistorted country was used to construct the normal value in the case of PMI and of Haomei.

Reconsideration finding

124. The TRA has acted in accordance with the guidance³⁴ published by the Secretary of State relating to adjustments when constructing a normal value, which guides the TRA to only make adjustment in relation to significant cost or profit elements. The TRA determined the raw material of aluminium billet and energy was a significant cost element referred to at paragraph 177³⁵ of the final determination. The cost elements of land, capital and labour were not a significant element.

³⁴ [Trade Remedies Authority \(TRA\) dumping, subsidisation and safeguarding investigations guidance - Particular market situation and costs adjustments - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/trade-remedies-authority-TRA-dumping-subsidisation-and-safeguarding-investigations-guidance-particular-market-situation-and-costs-adjustments)

³⁵ [AD0012-Aluminium-Extrusions-Final-Determination](#)



3.2.2 Applicant's sub ground: Reasonable level of profit

125. The reasonable level of profit should be based on all information available to the TRA. It is reasonable for the calculation to be based on profits achieved by the groups as a whole; using the overall profitability of an enterprise is more appropriate for determining profit levels as this removes the potential of manipulation by allocating costs to certain production lines.

Original investigation

126. The TRA determined that a reasonable level of profit could not be established on the basis of actual data for the PoI because of the economic impact of COVID-19.³⁶

127. A reasonable level of profit was calculated in line with regulation 12(3)(c) of the D&S Regulations –

“(3) Where the TRA cannot determine reasonable amounts in accordance with paragraph (2), it may determine them on the basis of— [...]

(c) any other reasonable method provided that the amount for profit so established does not exceed the profit normally realised by other overseas exporters on sales of goods of the same general category in the domestic market of the exporting country or territory”.

128. The TRA decided to use the average profit of two sampled exporters over the periods 1 June 2017 to 31 May 2018 and 1 June 2018 to 31 May 2019 to establish a reasonable level of profit.

129. Following the publication of the SEF, the Applicant submitted that the reasonable level of profit did not reflect the financial statements of Shandong Nanshan and PMI. The final determination at paragraph 341 clarifies the reasonable level of profit was calculated on the data of the goods concerned provided by two of the

³⁶ [Final determination for AD0012](#) para 339



sampled overseas exporters. This information was based on confidential questionnaire responses.

Reconsideration finding

130. Regulation 12 of the D&S Regulations provides how to determine the amounts of administrative, selling and general costs and for profits.

131. The TRA established the reasonable level of profit under Regulation 12(3) (c), as stated above. The TRA therefore has the discretion to decide on a reasonable method. The original investigation took into account the facts of the case based on confidential questionnaire responses and used information of two of the sampled exporters.

132. In view of the Applicant's claim that the reasonable level of profit should be calculated on all goods, not just the goods concerned, a reassessment of the data provided in the confidential questionnaire responses was undertaken. A recalculation of the profit levels for the companies based on all goods produced of the two sampled overseas exporters resulted in a level of profit rate to be the same as found in the original investigation.

133. We would disagree with the Applicant's assertion that "the TRA must find a reasonable level of profit and that reasonable level of profit must be based on all information available to the TRA and thus the reasonable level of profit must be based on all three overseas exporters"³⁷.

134. The original investigation was carried out in accordance with the Regulations. As it was not possible to determine a reasonable amount for profit under regulation 12(2), the TRA used another reasonable method under regulation 12(3)(c).

3.2.3 Applicant's sub ground: Constructed export price

3.2.3.1 Relationship between PMI and PMUK

Applicant's sub ground

³⁷ [Hydro's Reconsideration Application](#) published on Gov.uk. Para 77



135. In its application at paragraphs 80-85, the Applicant questions whether the calculation of the export price is affected by the relationship between PMI and Press Metal UK Ltd (PMUK), as they are an associated company. In particular the Applicant asks whether the costs incurred by PMUK are reliable and free from transfer pricing within the Press Metal Group.
136. The Applicant asserts that in the case of a constructed export price, costs between importation and resale would be based on those incurred by an independent importer into the UK, unless it could be demonstrated that the related party's costs and profits were not affected by the relationship with the producing exporter.

Original investigation

137. Verification activities assessed the relationship between the associated parties of PMI, including Press Metal International Technology (PMIT), PMUK, and Press Metal International Group with respect to ownership, management, and selling relationships and level of integration between the companies. The confidential verification report detailed original costs, profit margins as well as the transfer price between PMI/PMIT and PMUK.
138. It was determined the export price of PMI was affected by this relationship between an exporter and importer; the export price was therefore constructed under the provisions of regulation 15(4)(a) of the D&S Regulations, on the basis of the price at which the imported products, the goods concerned, are first sold to an independent buyer in the UK.
139. Verifiable sales data of PMUK was adjusted for actual costs incurred by PMUK for the importation and resale of the goods concerned to establish the price at which imported goods would be sold to the first independent buyer.
140. The reasonable level of profit was calculated in accordance with regulation 15(5)(b) of the D&S Regulations, determining the level of profit that would normally be accrued by an importer of the goods concerned. Section G2.2 Export



Price of the final determination provides the process taken to arrive at a constructed export price.

141. This same argument was submitted³⁸ by the Applicant following the publication of the SEF.

142. The TRA responded in the final determination. Paragraph 275 states -

“The TRA has considered the relationship between PMI (PRC) and PMUK. During verification no issues were identified that would have affected PMUK’s costs based on its relationship with PMI (PRC). We analysed the financial accounts for PMUK in previous years and concluded that the figure used is reflective of normal operations’.

Reconsideration finding

143. The relationship between PMI and PMUK does impact the export price. The TRA determined the export price needed to be constructed.

144. The TRA acted in accordance with regulation 15 of the D&S regulations, constructing the export price on the basis on regulation 15(4)(a) –

the price at which the goods concerned are first sold to an independent buyer in the United Kingdom;

and then constructed the export price under the provisions of regulation 15(5) of the D&S regulations -

145. Where the export price of the goods concerned is constructed in accordance with paragraph (4), the TRA may make adjustments—

(a) for actual costs incurred by the importer or exporter of the goods concerned in the United Kingdom; and

³⁸ [Hydro's Submission following the SEF](#): Page 10 section headed ***The costs reported by PMUK are not reliable as they are influenced by the relationship with PMI***



(b) for profits that would usually be accrued by an importer of the goods concerned in the United Kingdom that is not an associate of or does not have a compensatory arrangement with the overseas exporter.

146. As outlined above and in the final determination the TRA had constructed the export price on the basis of the price to the first independent buyer in the UK with appropriate adjustments made in accordance with the domestic legislation.

3.2.3.2 Costs incurred between importation and resale are more than the administrative costs used by the TRA

Applicant's sub ground

147. At paragraph 81 and 86 – 92 of the reconsideration application, the Applicant questioned whether the costs incurred by PMUK between importation and resale are more than the administrative costs which the TRA used.

Original investigation

148. Following publication of the SEF the Applicant made the same claim. The TRA addressed this point in the final determination at paragraphs 274-277, where the TRA revised the level of administrative costs from 2.9% to 5.2% of the total sales revenue after re-evaluating the calculations made at SEF stage. The revision amended the administrative costs percentage to include associated salary costs after considering Note 7 to PMUK's Financial Statements³⁹.

149. A breakdown of the costs included in PMUK's trial balance was verified and assurance gained for the completeness of the administration costs by reconciliation of the cost balance reported in the questionnaire responses to the trial balance and financial statements.

150. The importation and resale cost percentage was based on the following costs:

- Factory wages including pension and other staff related costs

³⁹ [Companies House](#) Press Metal UK Ltd. Financial Statements for year ended 31 December 2021, page 16



- Sales wages including pension and other staff related costs.
- Warehouse security costs and other staff related costs.
- Administration wages and other staff related costs.
- Rent & Demurrage costs
- Advertising and marketing costs
- Waste and disposal costs.
- Other administration costs.

Reconsideration finding

151. This same argument was submitted⁴⁰ by the Applicant following the publication of the SEF. The revision of the calculations made after the Applicant's submission following the SEF does not appear to have been considered by the Applicant in its reconsideration application.

152. From review of the work undertaken when calculating the importation and resale percentage, the original investigation had undertaken a reconciliation of the costs from the accounts of PMUK to its trial balance. This resulted in the revision of the level of administrative costs to 5.2%. The TRA had acted reasonably in its reassessment of the calculation ahead of the final determination.

153. The Applicant lists a number of costs that would normally be incurred by any importers of the goods concerned into the UK⁴¹. The Applicant claims that the TRA can construct the export price by only taking all these costs into consideration, as it requires the removal of all costs between import and sales in the UK.

⁴⁰ [Hydro's Submission following the SEF](#): Page 10-11 section headed ***The costs incurred between importation and resale are more than the administrative costs used by the TRA***

⁴¹ Paragraph 91 of Hydro's Reconsideration Application



154. The original investigation, in its construction of the export price for PMI had made adjustments in relation to

- Removing the costs between importation and resale (based on the calculation using PMUKs financial accounts and trail balance)
- Removing the carriage duty / freight forwarder costs which included the relevant import duties and import handling charges (based on the actual data)
- And calculating the reasonable level of profit (based on an independent importer).

This was a reasonable approach to construct the export price for fair comparison purposes.

3.2.3.3 . *Credit adjustment*

Applicant's sub ground

155. The Applicant claims that adjustment made for credit terms, which was previously included in the calculations in the provisional affirmative determination (PAD), should have been maintained in the final determination⁴². It alleges that PMI offer generous terms to its UK customers through PMUK and the cost of providing these terms represents an expense that should be adjusted for.

Original investigation

156. The original investigation included an adjustment for these credit terms in the calculations included in the PAD. This adjustment was not included in the final determination and the intention to remove it was mentioned in the SEF-Dumping Calculations Methodology at the section on Fair Comparison adjustments⁴³.

157. In response to the SEF the Applicant included this ground in their submission dated 30 June 2022 and stated that the credit adjustment should be maintained.

⁴² [Hydro's Reconsideration Application](#) published on Gov.uk. Para 93 – 95 Section headed ***The adjustment for credit should be maintained***

⁴³ [SEF-Dumping-Calculations-Methodology](#) Published on Public File 06 July 2022



158. In paragraph 294 of the final determination the submission was addressed as follows: 'The TRA has considered whether credit adjustments should be maintained. The calculations at the PAD stage were based on unverified data. At verification the credit terms for domestic sales and export sales were established. If a credit adjustment was applied to the export price, a credit adjustment would also have to be applied to the constructed normal value to allow for a fair comparison'.
159. It was established by the TRA that credit terms were offered on both domestic and export sales. In comparing the terms it was established that that 'a credit adjustment was not needed to ensure a fair comparison between export price and normal value because of the nature of the credit terms on both sides'⁴⁴. The examination of the verifiable confidential records showed that the credit terms were comparable for both domestic and export sales.
160. The original investigation conducted analysis whereby the average price per tonne by PCN for PMUK independent sales in the UK were compared to PMI and PMIT domestic sales in the PRC. This showed the percentage of the average selling price as 0.35% (PMUK), 0.21% (PMIT), giving a difference of 0.14% between the selling prices when taking into account of the credit terms on price which would have a minimal impact. The difference once the adjustment had been made to both the domestic and export price was considered marginal and therefore no adjustment was considered necessary.

Reconsideration finding

161. This same argument was submitted⁴⁵ by the Applicant following the publication of the SEF. The original investigation considered the impact of credit terms on both domestic and export prices and concluded that no adjustment was needed to facilitate a fair comparison. The approach taken by the original investigation were

⁴⁴ [AD0012-Aluminium-Extrusions-Final-Determination](#) Paragraph 296

⁴⁵ [Hydro's Submission following the SEF](#): Page 11-12 section headed ***The adjustment for credit should be maintained***



reasonable; examination of the analysis of the confidential data conducted by the original investigation confirms that if an adjustment was made it would have a minimal impact on the dumping margin.

3.3 Ground 3 – The dumping margin for Haomei New Materials Company does not reflect the market distortions effecting aluminium extrusions

3.3.1 Applicant's sub ground: Constructed normal value

162. The Applicant argues that the input markets of labour, land and capital were affected by PMS and therefore their values should not be used in calculating a constructed normal value for Haomei New Materials Company.

Reconsideration finding

163. As stated above the approach taken by the original investigation was to assess each claim of distortion within an input market and apply adjustments on an exporter-by-exporter basis, where there was evidence to show there was an impact on the cost and prices of the goods concerned.

164. The reconsideration findings for each of these claims are applied here.

165. The Secretary of State guidance⁴⁶ states that the TRA should only make adjustments in relation to significant cost of profit elements. As energy and aluminium billet make up 95% of the costs of production in the aluminium extrusions market, the capital, labour and land markets are not significant elements.

166. The guidance goes on to say that the TRA should use its judgement on what constitutes a significant cost or profit element in light of the circumstance of the case.

⁴⁶ [Trade Remedies Authority \(TRA\) dumping, subsidisation and safeguarding investigations guidance - Particular market situation and costs adjustments - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/trade-remedies-authority-tra-dumping-subsidisation-and-safeguarding-investigations-guidance-particular-market-situation-and-costs-adjustments)



167. The examination of whether the sampled overseas exporters were impacted by any alleged distortions in the capital, labour and land markets are deemed reasonable when taking into account the significance of any distortion on the final price of the goods concerned.

3.4 Ground 4 – The period of investigation (PoI) should be amended to reflect the distortions allegedly caused by the EC’s investigation into aluminium extrusions

168. The Applicant asserts that as a consequence of the EC’s investigation into dumping of aluminium extrusion into the European Union (EU), two of the TRA’s sampled overseas exporters (Haomei and PMI, who were the EC’s only two sampled exporters), adjusted their pricing strategy which resulted in minimizing the levels of dumping in the UK investigation. For this reason, the Applicant asks the TRA to reconsider the PoI used by the case team.

169. It suggests that an alternative period of investigation (PoI) should have been used in the original investigation, either an earlier PoI or an extension of the PoI back in time. This backward extension would capture the earlier periods prior to the alleged impacts of the EU investigation which was concluded on 29 March 2021 with the publication of the EC’s definitive measures.

170. In its application for the original investigation the Applicant had proposed a PoI of 1 October 2019 to 30 September 2020. This was to avoid the distorting effect of the provisional EC anti-dumping duties which were put in place from 12 October 2020; as well any distorting effects resulting from the goods being subject to registration throughout the EU which may have impacted the supplies of products into the UK.

171. The Applicant asserts the distorting effects culminate from the fact that the EC’s two sampled exporters, Haomei Group and PMI, were two of the three UK’s sampled exporters. As the EC’s provisional determination demonstrated their intention to find dumping and injury within the EU, this resulted in a reduction in imports from PRC, thereby distorting the picture of exports.



172. The Applicant alleges that during and following the EC's investigation into certain aluminium extrusions, overseas producers / exporters were altering their pricing strategies with a view to minimising their alleged level of dumping into the UK. The Applicant opines that the TRA had not taken this into account when setting the PoI and that this resulted in a distorted finding of dumping levels.
173. The Applicant provided data which illustrated how, over the course of the EC's investigation to November 2022, PRC's unit price per MT to the UK had increased over the period, correlating this to the EC investigation and subsequent provisional and definitive measures.

Original investigation

174. The TRA, by virtue of regulation 2 of the D&S Regulations can choose a PoI either as one being at least 12 months in length ending as close as possible to the date of initiation or such other period the TRA considers appropriate.
175. As part of the pre-initiation of the investigation, the TRA considered the Applicant's claims of the impact of the application of the EU's provisional anti-dumping measures in mid-October 2020 as well as other factors impacting the proposed PoI (1 October 2019 to 30 September 2020).
176. Though the Applicant's proposed POI would include the data of the EU definitive measures and cover most of the data used by the Applicant in its original application, the TRA considered the period to be particularly distorted. For instance, Q1 (October – December 2019) and Q2 (January – March 2020) would be influenced by the effects of shut-downs and COVID-19 furlough schemes in the UK, Q3 (April – June 2020) is influenced by the imposition of provisional measures by the EC, Q4 (July – September 2020) is influenced by the lifting of the EU's provisional measures and cross-border delays caused by the UK leaving the EU.
177. As part of its consideration of accepting the original application for an anti-dumping investigation, the TRA also considered the pricing of aluminium



extrusions over time, including the years which would cover the injury period and the PoI, from various countries exporting to the UK. This confirmed that the pricing of imports from PRC had been increasing over time, but this data also reflected in the increase in prices of imports of aluminium extrusions into the UK from other nations. So, the impact of the EC investigation may have been a contributing factor in the case of PRC imports but not the sole reason.

178. The TRA considered that though allowable, an 18-month PoI would have had a significant impact on the delivery of the investigation in light of the complexity and variety of models in the aluminium extrusions industry.

179. The decision was made to have a PoI of 1 June 2020 to May 2021.

180. When the Notice of Initiation was published on 21 June 2021, no comments were received by the Applicant, or any other interested party regarding the PoI.

Reconsideration finding

181. It was reasonable for the TRA to use its discretion when deciding on the PoI for the investigation. The analysis undertaken by the original investigation at pre-initiation demonstrates that the TRA weighed up the various options available to it.

182. The PoI chosen by the TRA was reasonable in the circumstances.

3.4.1 Applicant's sub ground: The use of information resulting from the EC investigation

183. As part of their reconsideration application, the Applicant provided confidential information resulting from the EC investigation. The Applicant considers this confidential information demonstrates that the dumping margin for PMI should be increased from that calculated by the TRA. The information shows that when the EC removes the UK from its calculations (when the UK leaves the EU), the dumping margin for PMI decreases. The Applicant alleges that this indicates the export prices from the PMI Group to the UK were lower than their export prices to the rest of Europe.



184. Further confidential information from the EC investigation was provided by the Applicant in the form of a copy available for “inspection by interested parties” of the data collected as part of the EC’s sample. This shows the level of sales to the UK as a percentage of the EU sales.

185. The Applicant suggests the figures calculated within the EC investigation can be extrapolated to show the level of dumping should be increased in the UK.

Original investigation

186. The TRA calculated the dumping amounts based on actual data from the sampled exporters for the Pol of the TRA’s investigation.

187. This data was verified, PCN matched to the like goods in the UK and calculations align to the UK’s Pol.

Reconsideration finding

188. The information provided in the Applicant’s reconsideration application was not available to the TRA at the time of the original investigation and therefore would not be data the TRA could have verified at the time of the TRA’s original investigation.

189. The data contained in the reconsideration application at paragraphs 111 and 112 and the subsequent estimation provided by the Applicant of a suggested dumping margin at paragraph 115 of the application is based on the General Disclosure document of the EC’s investigation. We do not have access to the exact calculations or understand what, if any adjustments were made by the EC. The period used is not the same period used by the UK, so it is not reasonable to use this as a basis to adjust the dumping margin calculated in the original investigation using verified transaction by transaction data.

190. It was reasonable for the original investigation to calculate the dumping margins based on verified data provided as part of the TRA’s investigation.



191. Though this information has been submitted now as part of the reconsideration it is not possible to verify the data used by the EC in their investigation. The TRA does not have the corresponding transaction by transaction data and as such it is not verifiable. This is in line with regulation 47(2) of the D&S Regulations, which provides that the TRA is required to have regard to information supplied to it provided that the information is verifiable, is submitted in a format that the TRA can use and is supplied within an applicable time limit.



4 Reconsidered decision

192. The reconsidered decision is to uphold the TRA's original decision made in the final recommendation, as accepted by the Secretary of State in the [Trade remedies notice 2022/11: definitive anti-dumping duties on certain aluminium extrusions originating from China.](#)

193. The reason for this decision is that the approaches and decisions taken in the original investigation were reasonable, as set out above and summarised below.

194. Ground 1 - The normal value used by the TRA for Shandong Nanshan Aluminium was based on distorted aluminium extrusions sales prices in China in breach of Regulation 7:

- The TRA treated Shandong Nanshan in accordance with regulation 7. The Secretary of State guidance directs the TRA to assess the impacts of any PMS on an exporter-by-exporter basis. Therefore, it was reasonable to have considered the individual circumstances of the exporter when determining whether any adjustments are required when calculating dumping margins, not merely whether there is a PMS in a market.
- It was found the decision to use the domestic price of Shandong Nanshan to determine normal value was reasonable.
- Each PMS claim was assessed individually, and adjustments were made where it was determined the distortion had an impact on costs and prices. The guidance issued to the TRA by the Secretary of State says that assessments for PMS must be fact specific and made on a case by case, distortion by distortion basis.
- The TRA used the verifiable data from the sampled overseas exporters to assess PMS.



- The TRA did take into account the claims relating to the existence of PMS in the aluminium extrusions market in PRC and it did consider the cross-cutting distortions of government influence on the other factors of production.
- The TRA demonstrated it considered the cross-cutting distortions and considered whether, where distortions were identified, this had an impact on the prices of the goods concerned and the like goods on the domestic market.

195. Ground 2 – the dumping margins for PMI are incorrect:

- The guidance⁴⁷ published by the Secretary of State relating to adjustments when constructing a normal value guides the TRA to only make adjustment in relation to significant cost or profit elements. The TRA determined the raw material of aluminium billet and energy was a significant cost element referred to at paragraph 177⁴⁸ of the final determination.
- The TRA had made sufficient assessments with regards to the other input markets of land, capital, labour in reaching the conclusion that these input markets are not a significant cost element. The Secretary of State guidance directs the TRA to only make adjustments to significant inputs.
- The position that “the TRA must find a reasonable level of profit and that reasonable level of profit must be based on all information available to the TRA and thus the reasonable level of profit must be based on all three overseas exporters”⁴⁹ is not reflected in the D&S regulations. Under regulation 12(3)(c) the TRA is permitted to use any reasonable method to find a reasonable level of profit. The TRA have acted in accordance with this regulation.
- The TRA did determine the relationship between PMI and PMUK resulted in the need to construct the export price. The TRA acted in accordance with regulation 15 of the D&S regulations and constructed the export price on the

⁴⁷ [Trade Remedies Authority \(TRA\) dumping, subsidisation and safeguarding investigations guidance - Particular market situation and costs adjustments - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/trade-remedies-authority-tra-dumping-subsidisation-and-safeguarding-investigations-guidance-particular-market-situation-and-costs-adjustments)

⁴⁸ [AD0012-Aluminium-Extrusions-Final-Determination](#)

⁴⁹ [Hydro's Reconsideration Application](#) published on Gov.uk. Para 77



basis of the prices of the goods concerned as first sold to an independent buyer in the UK.

- In calculating the costs between importation and resale the TRA had included appropriate costs areas. The TRA revised its calculations following the submission made by the Applicant in response to the SEF.
- The original investigation acted reasonably considered the credit terms were not a significant input which required an adjustment

196. Ground 3 - The dumping margin for Haomei New Materials Company does not reflect the market distortions affecting aluminium extrusions:

- The reconsidered finding for the dumping margin for PMI applies to Haomei New Materials Company.
- The TRA has acted in accordance with guidance and domestic legislation in its assessments of the aluminium extrusion market and other input markets.

197. Ground 4 The period of investigation (PoI) should be amended to reflect the distortions allegedly caused by the EC's investigation into aluminium extrusions:

- The TRA used their discretion reasonably when deliberating the appropriate PoI.
- The information resulting from the EC investigation was not available to the TRA at the time of the original investigation and therefore would not be data the TRA could have verified at the time of the TRA's original investigation.

Even if the information was available at the time of the investigation, the TRA would not have had access to the corresponding transaction by transaction data and as such is not verifiable.



4.1 Next steps

198. Our reconsidered decision will be published in a Notice and can be found in the public file, [Aluminium Extrusions from China - Trade Remedies Service - GOV.UK \(trade-remedies.service.gov.uk\)](https://www.gov.uk/trade-remedies-service).