



**Australian Government**  
**Department of Industry,  
Innovation and Science**

**Anti-Dumping  
Commission**

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***CUSTOMS ACT 1901 - PART XVB***

**CONSIDERATION REPORT  
NO. 392**

**CONSIDERATION OF APPLICATIONS FOR  
REVIEWS OF ANTI-DUMPING MEASURES**

**ALUMINIUM EXTRUSIONS EXPORTED TO AUSTRALIA FROM  
THE PEOPLE'S REPUBLIC OF CHINA BY:**

**GUANGDONG HAOMEI ALUMINIUM CO., LTD  
GUANGDONG YAOSHAN ALUMINIUM CO., LTD  
PANASIA ALUMINIUM (CHINA) CO., LTD; AND  
GUANGDONG JINXIECHENG AL MANUFACTURING CO., LTD**

**MARCH 2017**

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## ABBREVIATIONS

<b>Abbreviation</b>	<b>Full title</b>
ABF	Australian Border Force
ADN	Anti-Dumping Notice
ACBPS	Australian Customs and Border Protection Service
the Act	the <i>Customs Act 1901</i>
Capral	Capral Limited
China	the People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
the goods	aluminium extrusions
Haomei	Guangdong Haomei Aluminium Co., Ltd
ICD	interim countervailing duty
IDD	interim dumping duty
Jinxiecheng	Guangdong Jinxiecheng AL Manufacturing Co., Ltd
LME	London Metal Exchange
MJP	Major Japanese Ports
NIP	non-injurious price
PanAsia	PanAsia Aluminium (China) Co., Ltd
the Parliamentary Secretary	the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science <sup>1</sup>
review period	1 April 2013 to 31 March 2014
SG&A	selling, general and administrative
SHFE	Shanghai Futures Exchange
YaoYinShan	Guangdong YaoYinShan Aluminium Co., Ltd

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<sup>1</sup> On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of these reviews, the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

## 1 SUMMARY AND RECOMMENDATION

### 1.1 Background

This report provides the results of the Anti-Dumping Commission's (the Commission's) consideration of separate applications lodged by Guangdong Haomei Aluminium Co., Ltd (Haomei), Guangdong YaoYinShan Aluminium Co., Ltd (YaoYinShan), PanAsia Aluminium (China) Co., Ltd (PanAsia) and Guangdong Jinxiecheng AL Manufacturing Co., Ltd (Jinxiecheng) for reviews in respect of the anti-dumping measures (in the form of a dumping duty notice and a countervailing duty notice) relevant to their respective exports of aluminium extrusions (the goods) to Australia from the People's Republic of China (China).

Each applicant considers it appropriate to review the anti-dumping measures because one or more of the variable factors relevant to the taking of the anti-dumping measures have changed. The variable factors that have allegedly changed are the export price, normal value, countervailable subsidy and non-injurious price (NIP).<sup>2</sup>

Jinxiecheng is also seeking a review of the anti-dumping measures on the basis that the anti-dumping measures are no longer warranted in relation to its exports of the goods.

The Commission has examined the applications separately, however for administrative convenience has published this combined consideration report.

### 1.2 Legislative background

Division 5 of Part XVB of the *Customs Act 1901* (the Act)<sup>3</sup> sets out, among other things, the procedures to be followed by the Commissioner of the Anti-Dumping Commission (the Commissioner) in dealing with an application for a review of anti-dumping measures.

Division 5 empowers the Commissioner to reject or not reject an application for review of anti-dumping measures. If the Commissioner does not reject an application, he is required to publish a notice indicating that he is proposing to review the anti-dumping measures covered by the application.

### 1.3 Findings and conclusions

The Commission is satisfied that, in relation to each application for a change in the variable factors:

- the applications comply with subsections 269ZB(1) and (2); and
- there appear to be reasonable grounds for asserting that the variable factors relevant to the taking of anti-dumping measures have changed.

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<sup>2</sup> It is noted that not all applicants sought a review of all of these variable factors.

<sup>3</sup> All legislative references in this report are to the *Customs Act 1901*, unless otherwise specified.

The Commission considers that the variable factors are likely to have changed for all exporters of the goods to Australia from China.

Jinxiecheng's application for a revocation of the anti-dumping measures in relation to its exports of the goods did not contain information that the Commissioner's approved application form requires and did not provide evidence to establish reasonable grounds for asserting that the anti-dumping measures are no longer warranted. Therefore, Jinxiecheng's application for a revocation review does not comply with subsections 269ZB(1)(c) and 269ZB(2)(d).

#### **1.4 Recommendation**

The Commission recommends that the Commissioner:

- not reject each of the applications for a review of the variable factors for the reasons outlined at sections 1.3 and 3.2 of this report;
- in accordance with subsection 269ZC(4)(b), recommend to the Parliamentary Secretary that a review of variable factors be extended to include all exporters of the goods to Australia from China; and
- in accordance with subsection 269ZC(2), reject Jinxiecheng's application for revocation of the anti-dumping measures in relation to its exports.

## 2 BACKGROUND

### 2.1 History of the existing anti-dumping measures

Since 2009, the Commission has conducted numerous investigations, reviews and inquiries relating to aluminium extrusions. Full details can be found on the Commission's electronic public record at [www.adcommission.gov.au](http://www.adcommission.gov.au). The matters relevant to the applications are summarised below.

24 June 2009	The then Australian Customs and Border Protection Service initiated an investigation into the alleged dumping and subsidisation of aluminium extrusions exported to Australia from China following an application by Capral Limited (Capral). ACDN No. 2009/20 refers.
28 October 2010	The then Attorney-General published a dumping duty notice and a countervailing duty notice applying to aluminium extrusions exported from China - Trade Remedies Branch Report No. 148 and Australian Customs Dumping Notice (ACDN) No. 2010/40 refers.
27 August 2011	The then Attorney-General published new notices as a result of a reinvestigation of certain findings made in Trade Remedies Branch Report No. 148 following a review by the former Trade Measures Review Officer. International Trade Remedies Report No. 175 and ACDN No. 2011/31 refers.
18 December 2013	Publication of the outcome of an accelerated review of anti-dumping measures as they apply to Jinxiecheng. The review resulted in a fixed interim dumping duty (IDD) and interim countervailing duty (ICD) of zero (0) per cent and a variable amount of duty where the actual export price was below the ascertained export price for aluminium extrusions manufactured by Jinxiecheng and supplied by Foshan Nanhai Newtime Trading Co., Ltd. Accelerated Review No. 214 and Anti-Dumping Notice (ADN) No. 2013/74 refers.
19 February 2015	Publication of the outcome of an anti-circumvention inquiry into the avoidance of the intended effect of duty concerning certain aluminium extrusions exported to Australia by PanAsia Aluminium (China) Limited. Final Report No. 241 and ADN No. 2015/17 refers.
24 April 2015	Following an application by Capral the Commissioner initiated an inquiry into whether the anti-dumping measures imposed on aluminium extrusions exported to Australia from China should be continued. ADN No. 2015/48 refers
19 August 2015	The then Parliamentary Secretary to the Minister for Industry and Science published a notice declaring the outcome of Review No. 248. Anti-dumping measures applying to exports of certain aluminium extrusions from China were altered as if different variable factors had been ascertained. ADN No. 2015/96 refers. A correction to the public notice was

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	published in the <i>Commonwealth of Australia Gazette</i> on 10 September 2015 with respect to six entities incorrectly identified as residual exporters. Final Report No. 248 and its corrigendum also refer.
20 October 2015	The findings of Continuation Inquiry No. 287 were published. This inquiry followed an application by Capral. The then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science continued the anti-dumping measures for a further five years, from 28 October 2015. ADN No. 2015/125 refers.
9 February 2016	Publication of the outcome of a review of anti-dumping measures as they apply to Press Metal International Ltd (PMI). The anti-dumping measures were altered as if different variable factors had been ascertained in relation to PMI. The review resulted in a fixed IDD and ICD of zero (0) per cent and a variable amount of duty where the actual export price is below the ascertained export price for the aluminium extrusions exported from China by Press Metal Ltd. Review No. 304 and ADN No. 2016/04 refers.

### 2.2 The current applications

The Commission received the following applications for a review of the anti-dumping measures applying to aluminium extrusions from China:

#### Haomei

On 10 February 2017, an application was lodged by Haomei requesting a review of the variable factors of normal value and the amount of countervailable subsidy applicable to its exports of the goods.

#### YaoYinShan

On 10 February 2017, an application was lodged by YaoYinShan, formerly known as Foshan YaoYinShan Aluminium Co Ltd, requesting a review of the variable factors of export price, normal value and the amount of countervailable subsidy applicable to its exports of the goods.

#### PanAsia

On 10 February 2017<sup>4</sup>, an application was lodged by PanAsia requesting a review of the variable factors of export price and normal value applicable to its exports of the goods.

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<sup>4</sup> It is noted that the applications of PanAsia and Jinxi Cheng are signed prior to 10 February 2017, but were sent to the Commission and received by a Commission staff member on 10 February 2017. Accordingly they are taken to have been lodged on that day pursuant to subsection 269ZB(3).

Jinxiecheng

On 10 February 2017, an application was lodged by Jinxiecheng requesting a review of the variable factors of export price, normal value, the amount of countervailable subsidy and the NIP applicable to its exports of the goods.

Jinxiecheng is also seeking a review of the anti-dumping measures on the basis that the anti-dumping measures are no longer warranted in relation to its exports of the goods.

Current variable factors

The current variable factors of export price, normal value and the amount of countervailable subsidy applicable to the applicants were established in Review No. 248. Review No. 248 examined a period of 1 April 2013 to 31 March 2014 (review period).

It is also noted that, as a result of Continuation Inquiry No. 287, the then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science exercised her discretion not to have regard to the lesser duty rule, meaning that the NIP currently does not apply. This was on the basis that, as part of Continuation Inquiry No. 287 (and relying partly on the outcome of Review No. 248), the Commission found that two prescribed circumstances existed pursuant to subsection 8(5BAAA) of the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act) in relation to the calculation of dumping duty and subsection 10(3DA) of the Dumping Duty Act in relation to the calculation of countervailing duty. That is:

- there is a situation in the market that makes domestic selling prices for Chinese aluminium extrusions unsuitable for the purpose of determining normal value under subsection 269TAC(1); and
- China, the country in relation to which the subsidy has been provided, had not complied with Article 25 of the *Agreement on Subsidies and Countervailing Measures* for the compliance period.

Consideration of the applications

The applications are not prevented by subsection 269ZA(2), which requires that an application for review of anti-dumping measures must not be made earlier than 12 months after the publication of a dumping duty notice or a notice declaring the outcome of the last review of the dumping duty notice.<sup>5</sup>

Pursuant to subsection 269ZC(1), the Commissioner must examine the applications and, within 20 days after receiving them, decide whether to reject the applications.

As such, the decision to reject the applications must be made no later than 2 March 2017.

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<sup>5</sup> The last time this occurred was the 9 February 2016.

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If the Commissioner is not satisfied, having regard to the application and to any other information that he considers relevant, of one or more of the matters referred to in subsection 269ZC(2), the Commissioner must reject the application.

### **2.3 The goods subject to the anti-dumping measures**

The goods the subject of the current anti-dumping measures (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), 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. 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.

The table below provides guidance to assist the categorisation of aluminium extrusions into the types covered by interim duties (GUC) and those that are not covered (non-GUC).

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< GUC >				< Non-GUC >		
1	2	3	4	5	6	7
Aluminium extrusions	Aluminium extrusions with minor working	Aluminium extrusions that are parts intended for use in intermediate or finished products	Aluminium extrusions that are themselves finished products	Unassembled products containing aluminium extrusions, e.g. 'kits' that at time of import comprise all necessary parts to assemble finished goods	Intermediate or partly assembled products containing aluminium extrusions	Fully assembled finished products containing aluminium extrusions
<b>&lt; Examples &gt;</b>						
Mill finish, painted, powder coated, anodised, or otherwise coated aluminium extrusions	Precision cut, machined, punched or drilled aluminium extrusions	Aluminium extrusions designed for use in a door or window	Carpet liner, fence posts, heat sinks	Shower frame kits, window kits, unassembled unitised curtain walls	Unglazed window or door frames	Windows, doors

### 2.4 Tariff classification

The goods are classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

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

## 3 CONSIDERATION OF THE APPLICATIONS

### 3.1 Legislative background

Subsection 269ZB(1) requires that the application be in writing, be in a form approved by the Commissioner for the purposes of this section, contain such information as the form requires, be signed in the manner indicated by the form and be lodged in a manner approved under section 269SMS.

Without otherwise limiting the matters that can be required by the form, subsection 269ZB(2) provides that an application must include:

- a description of the kind of goods to which the anti-dumping measures the subject of the application relate; and
- a description of the anti-dumping measures the subject of the application; and
- if the application is based on a change in variable factors, a statement of the opinion of the applicant concerning:
  - the variable factors relevant to the taking of the anti-dumping measures that have changed; and
  - the amount by which each such factor has changed; and
  - the information that establishes that amount;
- if the application is based on circumstances that in the applicant's view indicate that anti-dumping measures are no longer warranted, evidence (in accordance with the form) of the circumstances.

Subsection 269ZC(2) specifies the matters which must be considered in making a decision whether to reject an application. These matters are:

- that the application complies with section 269ZB; and
- that there appear to be reasonable grounds for asserting either, or both, of the following:
  - that the variable factors relevant to the taking of anti-dumping measures have changed;
  - that the anti-dumping measures are no longer warranted.

### 3.2 Assessment of the applications for a review of variable factors

#### 3.2.1 Variable factors - Compliance with subsections 269ZB(1) and (2)

When considering the requirements of subsections 269ZB(1) and (2), the Commission notes that each of the applications for a review of the variable factors submitted:

- are in writing;
- are in the approved form (*Form B602 – Application for a review of measures*) and contain such information as the form requires (including evidence in support of the amount by which the variable factors have changed since last

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ascertained and information on the causes of the change to the variable factors and whether these causes are likely to persist);

- are signed in the manner required by the form;
- were lodged in a manner approved under section 269SMS, being by email to the Commission's nominated email address (as nominated in the Commissioner's instrument made under section 269SMS);
- provide a description of the kind of goods to which the anti-dumping measures the subject of the applications relate;
- provide a description of the anti-dumping measures the subject of the applications; and
- include a statement of the opinion of the applicant concerning the variable factors relevant to the taking of the anti-dumping measures have changed; the amount by which the variable factors have changed; and information that establishes that amount.

The following sections will address each applicant's claims that there has been a change in variable factors.

### 3.2.2 Haomei

Haomei's variable factors are those currently applicable to 'uncooperative and all other' exporters. As such, Haomei is subject to a combined fixed IDD and ICD of 48.5 per cent and a variable component of IDD where the actual export price is below the ascertained export price.

#### Ascertained export price

In its application, Haomei did not provide a statement that its ascertained export price has changed. As part of the Commission's consideration, the Commission reviewed the Australian Border Force (ABF) import database for the calendar year 2016 and did not identify any exports of the goods from Haomei during this period.

#### Ascertained normal value

In the Review No. 248, it was established that, the Government of China influenced the Chinese aluminium industry, and that this influence is likely to have materially distorted competitive market conditions directly affecting both the price of the primary input used in the manufacture of aluminium extrusions, as well as supply within that industry. The Commission determined that, in accordance with subsection 269TAC(2)(a)(ii), a situation exists in the domestic Chinese aluminium extrusions market that renders domestic selling prices in that market unsuitable for the purpose of determining the normal value for aluminium extrusions under subsection 269TAC(1). The Commission constructed the normal values of selected exporters subject to the dumping duty notice in Review No. 248 under subsection 269TAC(2)(c).

Subsection 269TAC(2)(c) provides that, where the normal value cannot be ascertained under subsection 269TAC(1), the normal value of the goods is to be calculated as:

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- the cost of production or manufacture of the goods in the country of export; and
- on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export, the selling, general and administrative costs associated with such a sale and the profit on that sale.

As required by subsections 269TAC(5A) and 269TAC(5B), the costs of production or manufacture, the selling, general and administrative (SG&A) costs and profit are established in accordance with the regulations. The relevant regulations are sections 43, 44 and 45 of the *Customs (International Obligations) Regulation 2015*, respectively.

In constructing the normal values in Review No. 248, Chinese exporters' costs for primary aluminium were not considered reflective of competitive market costs and were adjusted to reflect a benchmark competitive market cost for aluminium (the benchmark). The benchmark included the monthly average London Metal Exchange (LME) cash price for aluminium billet, the Major Japanese Ports (MJP) premium and a verified billet premium paid by one of the cooperative exporters.

Haomei states that the LME cash price for the calendar year 2016 significantly reduced compared to the review period. Haomei calculated that the simple average price for the review period was approximately \$1,774 per tonne which had dropped by 11 per cent to \$1,604 per tonne for the calendar year 2016.

On this basis, Haomei submits that, should the Commission remain satisfied that it is necessary to construct its normal value, the benchmark used in the normal value should be calculated based on contemporary LME cash prices.

The Commission considers that the methodology applied to determine normal values in Review No. 248 remains relevant in determining any changes to the ascertained normal value for the purposes of this report. The Commission notes its findings in its 2016 report, *Analysis of Steel and Aluminium Markets Report to The Commissioner of the Anti-Dumping Commission*, where it was found that:

*“... analysis of subsidies and tax arrangements for the Chinese steel and aluminium industries, and the operation of state-owned enterprises, indicates that many ... market interventions have been economically inefficient and have resulted in distortions to market outcomes.”<sup>6</sup>*

The Commission notes that in addressing the likely change in normal value, Haomei did not provide information relating to the MJP premium and billet premium relevant to determining the benchmark. Nor did it comment as to whether the amount of conversion costs, SG&A and profit included in the constructed normal value might

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<sup>6</sup> Page 57, *Analysis of Steel and Aluminium Markets Report to the Commissioner of the Anti-Dumping Commission*, August 2016 which is available on the Commission's website at <http://www.adcommission.gov.au/adsystem/referencematerial>

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have changed. However, the Commission has observed in the past that the LME cash price represents a significant proportion of constructed normal values and recognises that an applicant subject to the 'uncooperative and all other exporters' variable factors would not have information regarding SG&A and conversion costs which comprise the ascertained normal value.

The Commission considers that Haomei has provided sufficient evidence to establish the statement of its opinion concerning the amount by which the normal value has changed.

### Ascertained amount of countervailable subsidies

Haomei states that the highest countervailable subsidy amount is applicable to its exports because the company did not participate in Review No. 248. Haomei claims that this amount would have been lower had its exports been individually examined.

Haomei provided a comparison between the LME cash prices and the Shanghai Futures Exchange (SHFE) prices for the calendar year 2016. It claims that this comparison demonstrates that during the calendar year 2016 the LME cash prices for aluminium were consistently lower than the equivalent SHFE prices. On this basis, Haomei consider it reasonable to conclude that it did not receive a benefit from the provision of primary aluminium at less than adequate remuneration.

However, the Commission notes that, by failing to take into account the MJP premium and billet premium which also formed part of the benchmark used to make an assessment as to whether a benefit was received by Chinese exporters in respect of the provision of aluminium at less than adequate remuneration in Review No. 248, Haomei's comparison between LME cash prices and SHFE prices is incomplete and inconclusive. It is also relevant to note that in Review No. 248:

- in determining the amount of benefit in relation to primary aluminium at less than adequate remuneration, the Commission compared the benchmark to exporter's purchase prices of aluminium and not the SHFE prices. Haomei has not provided any evidence to demonstrate that its purchase prices of aluminium correlate with the SHFE prices; and
- a number of other countervailable subsidy programs were found to apply to the 'uncooperative and all other' exporters and Haomei has made no comment on whether the amount of countervailable subsidy ascertained in respect of these programs have changed.

The Commission does not consider that Haomei has provided sufficient evidence to establish the statement of its opinion concerning the amount by which the amount of countervailable subsidy has changed.

### Commission's assessment

The Commission is satisfied that, there appears to be reasonable grounds to assert that one or more of Haomei's variable factors relevant to the taking of anti-dumping measures have changed, being the variable factor of normal value.

### **3.2.3 YaoYinShan**

YaoYinShan's variable factors are those currently applicable to 'uncooperative and all other' exporters. As such, YaoYinShan is subject to a combined fixed IDD and ICD of 48.5 per cent and a variable component of IDD where the actual export price is below the ascertained export price.

#### Ascertained export price

YaoYinShan states that the average AUD:RMB exchange rate during the review period and the year ending June 2016 shows that the Australian dollar has fallen by approximately 22 per cent. As such, YaoYinShan claims that when the ascertained export price is converted to RMB for the two periods, the current ascertained export price would be 22 per cent lower than those of the review period.

A search of the ABF import database reveals that YaoYinShan exported to Australia during the 2016 calendar year. However, it did not submit evidence in relation to its actual export prices for comparison to its ascertained export price.

The Commission notes that the ascertained export price applicable to YaoYinShan is not in RMB, therefore there is no requirement to take into consideration exchange rate fluctuations of the nature described in YaoYinShan's application in assessing whether the ascertained export price has changed.

The Commission does not consider that YaoYinShan has provided sufficient evidence to establish the statement of its opinion concerning the amount by which the ascertained export price has changed. However, it is noted that the information available from the ABF import database demonstrates that YaoYinShan's ascertained export price is likely to have changed.

#### Ascertained normal value

YaoYinShan states that the LME cash price (a significant proportion of the constructed normal value) for the review period significantly reduced compared to the period July 2015 to June 2016. YaoYinShan states that the simple average price for the review period was approximately \$1,774 per tonne while it had dropped to \$1,573 per tonne for July 2015 to June 2016. On this basis, YaoYinShan submits that its normal value should be calculated based on the contemporary LME prices and, if it was, that YaoYinShan's normal value would change.

Noting that the evidence provided by YaoYinShan in relation to the ascertained normal value is similar to that of Haomei (albeit for a less contemporaneous period), for the same reasons outlined in section 3.2.2, the Commission is satisfied that YaoYinShan has provided sufficient information to establish the statement of its opinion concerning the amount by which the normal value has changed.

#### Ascertained countervailable subsidy

YaoYinShan provided a comparison between the LME cash prices and SHFE price. It claims that this comparison demonstrates that during the period July 2015 to June

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2016 the LME cash prices for aluminium were consistently lower than the equivalent prices of the SHFE. On this basis, YaoYinShan consider it reasonable to conclude that it did not receive a benefit from the provision of primary aluminium at less than adequate remuneration. YaoYinShan claim this was the only subsidy program applicable to it.

As noted previously in section 3.2.2, the Commission does not accept that a comparison between the LME cash price and SHFE adequately demonstrates a change in the amount of countervailable subsidy. Furthermore, YaoYinShan did not provide evidence to support its claims that it does not receive benefits in relation to the numerous other applicable subsidy programs applicable to the category of 'uncooperative and all other' exporters.

The Commission does not consider that YaoYinShan has provided sufficient evidence to establish the statement of its opinion concerning the amount by which the amount of countervailable subsidy has changed.

### Commission's assessment - YaoYinShan

The Commission is satisfied that, there appears to be reasonable grounds to assert that one or more of YaoYinShan's variable factors relevant to the taking of anti-dumping measures have changed, being the variable factors of normal value and export price.

#### **3.2.4 PanAsia**

PanAsia cooperated with Review No. 248 where its variable factors were individually ascertained. PanAsia is currently subject to a combined fixed IDD and ICD of 21.9 per cent and a variable component of IDD where the actual export price is below the ascertained export price.

#### Ascertained export price

In its application, PanAsia noted the findings of Review No. 248 which determined, due to findings of an anti-circumvention inquiry, that for part of the review period its export prices were determined under subsection 269TAB(3) because importers of PanAsia's goods were found to be selling those goods at a loss.

PanAsia seeks a review on the grounds that the company has restructured its export trading arrangements and no longer exports to the relevant importers found to be circumventing the anti-dumping measures. The company states that the new arrangement ensures that PanAsia's exports are sold profitably into the Australian market at arms length prices. PanAsia provided calculations to support and quantify its claims, including data relating to its export sales to Australia during the calendar year 2016.

The Commission has reviewed PanAsia's export price calculations which were compared to information obtained from the ABF import database. The Commission notes that PanAsia have measured the change in export price in a particular currency, however when expressed in the currency in which the anti-dumping

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measures apply to PanAsia, the ascertained export price determined in Review No. 248 does not appear to have changed.

### Ascertained normal value

As part of its application, PanAsia provided relevant information in relation to each input to a constructed normal value for a contemporaneous period, being the 2016 calendar year, including:

- evidence that the LME cash price for the calendar year 2016 significantly reduced compared to the review period;
- evidence that the MJP premium for the same periods has decreased significantly;
- evidence that the billet premium has decreased for the same periods; and
- a spreadsheet demonstrating the change in quarterly normal values for its different export models.

The Commission considers that PanAsia have provided sufficient evidence to establish the statement of its opinion concerning the amount by which the normal value has changed.

### Commission's assessment - PanAsia

The Commission is satisfied that there appears to be reasonable grounds to assert that one or more of PanAsia's variable factors relevant to the taking of anti-dumping measures have changed, being the variable factor of normal value.

#### **3.2.5 Jinxiecheng**

Jinxiecheng's variable factors are those applicable to 'residual exporters'. As such it is subject to a combined fixed IDD and ICD of 17.5 per cent and a variable component of IDD where the actual export price is below the ascertained export price.

### Ascertained export price

Other than state that it was not selected to participate in Review No. 248 and that its dumping and subsidy margin would be lower if calculated on Jinxiecheng's own records, no relevant evidence was provided regarding a change in its export price.

The Commission does not consider that Jinxiecheng has provided sufficient evidence to establish the statement of its opinion concerning the amount by which the ascertained export price has changed. However, it is noted that information available from the ABF import database demonstrates that Jinxiecheng's ascertained export price is likely to have changed.

### Ascertained normal value

In support of its application, Jinxiecheng provided:

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- a table showing its monthly average purchase prices for aluminium ingots in calendar year 2016 and an invoice for a purchase of aluminium ingots by Jinxiecheng in March 2016;
- a table detailing its cost to make and sell of the goods for the review period and October 2015 to September 2016; and
- details of domestic sales prices for the review period and the period of October 2015 to September 2016.

As mentioned previously, normal values for selected exporters subject to the dumping duty notice were constructed in Review No. 248, and the Commission has no current information to warrant a departure from this approach. Therefore, the information provided by Jinxiecheng in its application regarding domestic selling prices and domestic purchases of aluminium ingot (which are not considered to be at a competitive market cost) does not establish reasonable grounds for asserting that its ascertained normal value has changed.

However, based on the information provided in relation to its cost to make and sell (in particular conversion costs), when considered in addition to other information before the Commission (including information relating to changes in the benchmark), the Commission is satisfied that Jinxiecheng has provided sufficient information to establish its statement of opinion concerning the amount by which the ascertained normal value has changed.

### Ascertained countervailable subsidy

Jinxiecheng's reasons for asserting that the amount of countervailable subsidy has changed are similar to Haomei and YaoYinShan in that Jinxiecheng provided a comparison between the LME cash prices and Shanghai Metal Exchange prices. It claims that this comparison demonstrates that during the calendar year 2016 the LME cash prices for aluminium were consistently lower than the equivalent Shanghai Metal Exchange prices. On this basis, Jinxiecheng consider it reasonable to conclude that it did not receive a benefit from the provision of primary aluminium at less than adequate remuneration.

As noted previously in section 3.2.2, the Commission does not accept a comparison between the LME cash price and SHFE price adequately demonstrates a change in the amount of countervailable subsidy. The Commission was provided with one invoice for aluminium ingots from March 2016. That invoice shows that the price paid on that purchase was below that of the SHFE price for the relevant month. Furthermore, Jinxiecheng did not provide evidence to support its claims that it did not benefit from other applicable subsidy programs applicable to the category of 'residual exporters'.

The Commission does not consider that Jinxiecheng has provided sufficient evidence to establish the statement of its opinion concerning the amount by which the amount of countervailable subsidy has changed.

Ascertained non-injurious price

In its application, Jinxiecheng sought a review of the ascertained NIP. As outlined at section 2.2, the NIP currently does not apply. No information was provided to evidence how the NIP has changed.

The Commission does not consider that Jinxiecheng has provided sufficient evidence to establish the statement of its opinion concerning the amount by which the NIP has changed.

Commission's assessment - Jinxiecheng

The Commission is satisfied that there appears to be reasonable grounds to assert that one or more of Jinxiecheng's variable factors relevant to the taking of anti-dumping measures have changed, being the variable factors of export price and normal value.

**3.2.6 Assessment of applications – application of section 269ZC**

Based on the Commission's analysis in sections 3.2.2 to 3.2.5, there appear to be reasonable grounds in respect of each application (and by considering the applications collectively) for asserting, under subsection 269ZC(2)(b)(i) that the variable factors relevant to the taking of anti-dumping measures have changed.

Based on this assessment, the Commission recommends that the Commissioner not reject the applications in relation to a change in variable factors pursuant to subsection 269ZC(1) as it is satisfied of the matters referred to in subsection 269ZC(2) in respect of each application.

**3.2.7 Extending the review of variable factors to all exporters**

Subsection 269ZC(4) provides that if the Commissioner decides not to reject an application for review of anti-dumping measures, the Commissioner may, if he or she considers that the review applied for should be extended to include any additional matter, recommend to the Parliamentary Secretary that the review be extended accordingly.

As the change in circumstances upon which the applications in relation to a change in the variable factors for review are based are common to all Chinese exporters of the goods, the Commission considers that it would be appropriate to extend any review to ensure that any changes to the anti-dumping measures are applied across all exporters.

**3.2.8 Scope of the review of variable factors**

It is noted that none of the applications for a review of the variable factors established that there appear to be reasonable grounds for asserting that the NIP and the amount of countervailable subsidy have changed. However, subsection 269ZA(1)(b) does not require an application for review to claim that all variable factors relevant to

the taking of the anti-dumping measures have changed; only that 'one or more' of the variable factors have changed. In addition, given that:

- there appear to be reasonable grounds to establish that the export price and normal value of the goods relevant to the dumping duty notice have changed, it follows that the NIP, which is also relevant to the dumping duty notice as outlined in subsection 269T(4E)(a), should be reviewed. Although the NIP currently does not apply, the prescribed circumstances found to exist in Continuation Inquiry No. 287 may have changed; and
- there appear to be reasonable ground to establish that the export price of the goods relevant to the countervailing duty notice have changed, it follows that the NIP and the amount of countervailable subsidy, which is also relevant to the countervailing duty notice, as outlined in subsection 269T(4E)(b), should be reviewed,<sup>7</sup>

in conducting a review(s), the Commission recommends that all variable factors relevant to the dumping duty notice and countervailing duty notice, as referred to in subsection 269T(4E), be reviewed.

### **3.3 Assessment of grounds for a revocation review**

Jinxiecheng sought a revocation of the anti-dumping measures in relation to its exports of the goods.

If an application is based on circumstances that, in the applicant's view indicate that the anti-dumping measures are no longer warranted, subsection 269ZB(2)(d) requires that, the application contain evidence of the circumstances, in accordance with the form.

*Form B602 – Application for a review of measures* specifies that an applicant must provide a detailed statement setting out the reasons why revocation of the anti-dumping measures is justified, including evidence in support of that view.

Jinxiecheng provided no such statement or evidence in support of its application and, accordingly, the requirement under subsections 269ZB(1)(c) and 269ZB(2)(d) are not met.

Therefore, the Commission recommends that the Commissioner not be satisfied under subsection 269ZC(1)(b) that, pursuant to subsection 269ZC(2), there are reasonable grounds for asserting that the anti-dumping measures are no longer warranted in relation to Jinxiecheng's exports of the goods.

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<sup>7</sup> In this context, it is noted that, in relation to aluminium extrusions exported to Australia from China, the export price is relevant to the taking of the anti-dumping measures in the form of the countervailing duty notice because the ICD for the goods is worked out as a proportion of the export price of the goods, as per subsection 10(3B)(a) of the Dumping Duty Act

### **3.4 Conclusions and recommendations**

#### **3.4.1 Review of the variable factors**

The Commission has considered the applications for a change in variable factors in accordance with sections 269ZB and 269ZC. The Commission is satisfied, on the basis of the information provided in the applications and other relevant information, that for each application relating to a change in the variable factors:

- the applications comply with section 269ZB; and
- there appear to be reasonable grounds for asserting that the variable factors relevant to the taking of the anti-dumping measures have changed.

The Commission recommends that the Commissioner:

- not reject the applications for a review of the variable factors;
- recommend to the Parliamentary Secretary that the review be extended to include all Chinese exporters; and
- set the review period as 1 January 2016 to 31 December 2016.

#### **3.4.2 Revocation review**

The Commission recommends that the Commissioner reject Jinxiecheng's application for a revocation of the anti-dumping measures in relation to its exports.