



Australian Government
Department of Industry,
Innovation and Science

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

CONSIDERATION REPORT NO. 408

**APPLICATION FOR AN ACCELERATED REVIEW OF A
DUMPING DUTY NOTICE AND COUNTERVAILING DUTY
NOTICE APPLYING TO**

**ZINC COATED (GALVANISED) STEEL EXPORTED FROM
THE PEOPLE'S REPUBLIC OF CHINA**

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ABBREVIATIONS

the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
Angang	Angang Steel Co., Ltd
China	the People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
galvanised steel	zinc coated steel
the goods	the goods the subject of the application (also referred to as the goods under consideration)
ICD	interim countervailing duty
IDD	interim dumping duty
the Parliamentary Secretary	the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
REP 190	<i>International Trade Remedies Branch Report No. 190</i>
REP 193	<i>International Trade Remedies Branch Report No. 193</i>
Shandong	Shandong Guanzhou Dingxin Plate Technology Co., Ltd (the applicant)

1 SUMMARY AND RECOMMENDATION

This report provides the results of the Commissioner of the Anti-Dumping Commission's (the Commissioner's) consideration of an application by Shandong Guanzhou Dingxin Plate Technology Co., Ltd (Shandong, the applicant) for an accelerated review of the dumping and countervailing duty notices applying to zinc coated (galvanised) steel¹ exported to Australia from the People's Republic of China (China), in so far as those notices affect Shandong.

1.1 Recommendation

The Anti-Dumping Commission (the Commission) recommends that the Commissioner not reject the application.

1.2 Application of law to facts

Division 6 of Part XVB of the *Customs Act 1901* (the Act)² sets out, among other things, the procedures to be followed by the Commissioner in dealing with an application for an accelerated review of a dumping duty notice and countervailing duty notice by certain exporters of goods covered by the respective notices.

1.3 Findings and conclusions

The Commission has examined the application and is satisfied that:

- the application satisfies the requirements of subsection 269ZF(1);
- the conditions for rejection under subsection 269ZE(2) were not met; and
- the circumstances in which an accelerated review can be sought under subsection 269ZE(1) have been satisfied.

Accordingly, the Commission concludes that the applicant is eligible to apply for, and has lodged a valid application for, an accelerated review, and recommends that the Commissioner not reject the application.

¹ Refer to the full description of the goods in Section 2.3.1 of this report.

² Unless stated otherwise, all legislative references in this report are to the *Customs Act 1901*.

2 BACKGROUND

2.1 Existing anti-dumping measures

2.1.1 Investigation 190 (Original Investigation)

On 5 September 2012, a dumping investigation into zinc coated steel ('galvanised steel' or 'the goods') and aluminium zinc coated steel exported from China, Korea and Taiwan was initiated following an application by BlueScope Steel Limited (BlueScope).

On 26 November 2012, a countervailing investigation into galvanised steel and aluminium zinc coated steel exported to Australia from China was initiated following a further application by BlueScope.

The dumping investigation, as outlined in *International Trade Remedies Branch Report No. 190* (REP 190),³ found that:

- galvanised steel exported to Australia from China, Korea and Taiwan during the investigation period was dumped with margins ranging from 2.6% to 62.9%;
- aluminium zinc coated steel exported to Australia from China and Korea was dumped with margins ranging from 5.5% to 19.3%;
- the volume of dumped goods from each of these countries, and the dumping margins were not negligible;
- the dumped exports caused material injury to the Australian industry producing like goods; and
- continued dumping may cause further material injury to the Australian industry.

The countervailing investigation, as outlined in *International Trade Remedies Branch Report No. 193* (REP 193),⁴ found that:

- galvanised steel and aluminium zinc coated steel exported to Australia from China was subsidised with margins ranging from 5.2% to 22.8%;
- aluminium zinc coated steel exported from China to Australia was subsidised with margins ranging from 5.0% to 21.7%;
- the dumped and subsidised exports from China caused material injury to the Australian industry producing like goods;
- the volume of subsidised goods from China was not negligible, and the subsidy margins were not negligible;
- the subsidised goods caused material injury to the Australian industry producing like goods; and
- continued subsidisation may cause further material injury to the Australian industry.

³ REP 190 investigated the dumping of galvanised steel and aluminium zinc coated steel exported from China, Korea and Taiwan. Due to the close nature of these products and common interested parties, findings concerning both products were detailed in one report.

⁴ REP 193 investigated the subsidisation of galvanised steel and aluminium zinc coated steel exported from China. Due to the close nature of these products and common interested parties, findings concerning both products were detailed in the one report.

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On 5 August 2013, the then Attorney-General, following consideration of REP 190 and REP 193, published:

- a dumping duty notice applying to galvanised steel exported to Australia from China, Korea (with the exception of Union Steel Co., Ltd) and Taiwan (with the exception of Ta Fong Steel Co., Ltd and Sheng Yu Co., Ltd). The form of anti-dumping measures applying to the dumping duty notice was the combination of fixed and variable duty method (combination duty method);
- a dumping duty notice applying to aluminium zinc coated steel exported to Australia from China and Korea (with the exception of Union Steel Co., Ltd from Korea);
- a countervailing duty notice applying to galvanised steel exported to Australia from China (with the exception of Angang Steel Co., Ltd (Angang) and ANSC TKS Galvanising Co., Ltd); and
- a countervailing duty notice applying to aluminium zinc coated steel exported to Australia from China (with the exception of Angang).

The anti-dumping measures in respect of galvanised steel and aluminium zinc coated steel were outlined in ADN No. 2013/66.

2.1.2 Review by Anti-Dumping Review Panel of Investigation 193

As outlined in ADN No. 2014/12, following a review by the Anti-Dumping Review Panel, the countervailing duty notices were varied so as to reduce the applicable countervailable subsidies by the amounts referable to programs 1 to 3 described in REP 193.

The decision to vary the countervailing duty notices required an amendment to the interim dumping duty (IDD) payable on imports of galvanised steel. This is because the original dumping margins were reduced by the amount of subsidy attributable to subsidy programs 1 to 3 in determining the IDD payable.

2.1.3 Anti-Circumvention Inquiry 290, 298

On 1 April 2015, BlueScope lodged an application requesting an inquiry into the circumvention of measures through slight modification for goods exported from Korea and Taiwan. Subsequent to this, on 1 May 2015 BlueScope lodged an application requesting an inquiry into goods exported from China on the same grounds. *Anti-Dumping Commission Final Report No. 290, 298* recommended that the goods description be altered; the recommendation was accepted by the then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science, and notice of the decision was published on the Commission's website on 18 March 2016.⁵

2.2 Current Measures

The following table summarises the anti-dumping measures currently applying to galvanised steel exported to Australia from China by Shandong:

⁵ ADN No. 2016/23 refers.

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Exporter	Duty applicable	Form of IDD	Combined fixed component of ICD and IDD
All other exporters	IDD and ICD	Combination duty method	69.8%

Figure 2 – current anti-dumping measures

2.2.1 Current rate and form of duty

Exports of galvanised steel from China to Australia by Shandong are currently subject to the all other exporters rate of duty. The form of measures applying to Shandong's exports is the combination duty method with a fixed component of 69.8 per cent and a variable component, payable if the actual export price is below the ascertained export price, of a specified (confidential) amount per tonne. The fixed component percentage is the effective rate of duty, and is inclusive of both dumping and countervailing duties.

2.3 The goods the subject of the application

2.3.1 Description

The goods the subject of the dumping duty notice are:

flat rolled products of iron and non-alloy steel of a width less than 600mm and equal to or greater than 600mm, plated or coated with zinc; and

flat rolled products of alloyed steel of a width less than 600mm and equal to or greater than 600mm, plated or coated with zinc exported from:

- *China by Angang Steel Co., Ltd or Benxi Iron and Steel (Group) International Economic & Trading Co.; or*
- *Taiwan by Yieh Phui Enterprise Co., Ltd.*

The goods the subject of the countervailing duty notice are:

flat rolled products of iron and non-alloy steel of a width less than 600mm and equal to or greater than 600mm, plated or coated with zinc; and

flat rolled products of alloy steel of a width less than 600mm and equal to or greater than 600mm, plated or coated with zinc exported from China by Benxi Iron and Steel (Group) International Economic & Trading Co.

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

- 7210.49.00 (statistical code 55,56,57,58)
- 7212.30.00 (statistical code 61)
- 7225.92.00 (statistical code 38) and
- 7225.99.00 (statistical code 71)

2.4 Consideration of the application for accelerated review

On 17 April 2017, Shandong lodged an application for an accelerated review of the dumping and countervailing duty notices that apply to galvanised steel exported to Australia from China in so far as the notices affect the applicant.

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If the Commissioner does not reject the application or terminate the accelerated review, pursuant to subsections 269ZG(1) and (2) the Commissioner must, no later than 100 days after the application is lodged, provide the Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary)⁶ a report recommending:

- a) that the dumping duty notice and/or countervailing duty notice the subject of the application remain unaltered; or
- b) that the dumping duty notice and/or countervailing duty notice the subject of the application be altered so as to apply to the applicant as if different variable factors had been fixed;

and set out the Commissioner's reasons for so recommending.

In relation to this accelerated review application, this report must be made no later than **27 July 2017**.

2.5 Public record

There is no legislative requirement for the Commissioner to maintain a public file for accelerated reviews. However, in the interests of ensuring the process is conducted in an open and transparent manner, a public file will be maintained.

This Consideration Report, along with a non-confidential version of the application and response to the exporter questionnaire, will be published on the Electronic Public Record, available at www.adcommission.gov.au.

⁶ 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 this accelerated review the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

3 APPLICATION FOR ACCELERATED REVIEW - COMPLIANCE WITH SECTION 269ZF

3.1 Legislative Background

Section 269ZF provides that an application for an accelerated review must:

- be in writing (subsection 269ZF(1));
- be lodged in a manner approved under section 269SMS⁷ (subsection 269ZF(1));
- contain a description of the goods to which the dumping duty notice or countervailing duty notice relates (subsection 269ZF(1)(a)); and
- contain a statement of the basis on which the exporter considers that the particular notice is inappropriate in so far as the exporter is concerned (subsection 269ZF(1)(b)).

3.2 Assessment of the application – compliance with section 269ZF

The application made by Shandong was in writing (email), lodged in a manner approved under section 269SMS (subsection 269ZF(1)), and contains a description of the goods to which the dumping and countervailing duty notices relate (subsection 269ZF(1)(a)).

In accordance with the requirements of subsection 269ZF(1)(b), the application also contains a statement from Shandong that outlines the reasons why the current dumping and countervailing duty notices are inappropriate in so far as the notices affect it. Shandong states that the current measures applying to new exporters were ascertained using verified data of other exporters. As Shandong was not a participant in the original investigation or the subsequent review of measures, it claims that the ascertained rates are not appropriate for determining its duty payable. For this reason, Shandong requests the Commissioner to ascertain the relevant variable factors based on Shandong's own financial information.

Noting the above information, the Commission is satisfied that the application complies with subsection 269ZF(1).

3.3 Lodgement date

Subsection 269ZF(2) states that an application for accelerated review is taken to have been lodged when the application is first received by a Commission staff member doing duty in relation to applications for accelerated reviews.

On 17 April 2017, Shandong lodged an application for an accelerated review.

If the Commissioner does not reject the application, the initiation date will be taken to be the application lodgement date.

⁷ A copy of the Commissioner's instrument under section 269SMS can be found at <http://www.adcommission.gov.au/accessadsystem/Documents/Forms%20and%20Guidelines/Lodging%20and%20withdrawing%20applications.pdf>.

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A copy of Shandong's application is at **Confidential Attachment 1**. A non-confidential version of the application will be made available on the public record.

4 CIRCUMSTANCES IN WHICH AN ACCELERATED REVIEW MAY BE SOUGHT – COMPLIANCE WITH SECTION 269ZE

4.1 Background

Section 269ZE sets out the circumstances in which an accelerated review may be sought.

The conclusions in this section are made on the basis of all currently available information. If, during the accelerated review, evidence becomes available that satisfies the Commissioner that the requirements of subsection 269ZE(3) are met, the Commissioner may terminate the accelerated review.

4.2 Status as a new exporter

4.2.1 Background

Subsection 269ZE(1) sets out that only a “new exporter” may apply for an accelerated review. A new exporter is defined in subsection 269T(1) as, in relation to the goods the subject of the application for a dumping or countervailing duty notice or like goods, an exporter who did not export such goods to Australia at any time during the investigation period in relation to the application.

Subsection 269ZE(1) provides that a new exporter can apply for an accelerated review if a dumping duty or countervailing duty notice has been published in respect of goods exported from a particular country of export or in respect of goods exported by new exporters from a particular country of export, provided a declaration has not already been made in respect of that exporter under subsection 269ZG(3)(b).

Subsection 269T(1) also defines “application” in relation to a dumping duty notice or a countervailing duty notice as meaning an application for the publication of such a notice.

4.2.2 New exporter period

To fall within the definition of a new exporter in subsection 269T(1), the period within which the applicant must not have exported to Australia (the new exporter period) is from 1 July 2011 to 30 June 2012 (the investigation period for the original investigation in relation to the application for publication of the dumping duty and countervailing duty notices in respect of the goods).

4.2.3 Evidence of exports during the new exporter period

A search of the Australian Border Force’s import database did not reveal any exports of the goods by Shandong during the new exporter period, 1 July 2011 to 30 June 2012.

Based on the available information, the Commissioner considers that Shandong should be considered as a new exporter for the purposes of the accelerated review.

4.2.4 Declaration under subsection 269ZG(3)(b)

Pursuant to subsection 269ZE(1)(b), a new exporter cannot apply for an accelerated review if it had previously applied for an accelerated review that resulted in a declaration being made in respect of that exporter under subsection 269ZG(3)(b).

A declaration under subsection 269ZG(3)(b) has not been made in respect of the applicant.

4.3 Cooperation in regards to the application for a dumping duty notice and countervailing duty notice

Subsection 269ZE(2)(a) provides that, if the Commissioner is satisfied that, because the exporter refused to cooperate in relation to the application for publication of a dumping duty notice or a countervailing duty notice, the exportations from that exporter were not investigated (in the original investigation), the Commissioner may reject the application.

A review of the information from the original investigation reveals that Shandong was not identified as an exporter. Further, there is no evidence of exports of the goods to Australia by Shandong during the investigation period for the original investigation. As a result, Shandong's cooperation was not sought during the original investigation.

The Commission considers that there are no grounds for rejection under subsection 269ZE(2)(a).

4.4 Relationships with selected exporters

Subsection 269ZE(2)(b) of the Act provides that, if the Commissioner is satisfied that the exporter (i.e. the applicant for an accelerated review) is related to an exporter that had its exports examined in relation to the application for the publication of a dumping duty notice or countervailing duty notice, the Commissioner may reject the application.

The Commission undertook checks that Shandong is not related to an exporter whose exports were examined during the original investigation. Based on the information available, the Commission considers there are no grounds for rejection in terms of subsection 269ZE(2)(b).

4.5 Summary of findings

In accordance with section 269ZE, on review of the application and all information currently available, the following findings have been made about whether the circumstances exist in which accelerated reviews may be sought:

- the applicant did not export the goods during the original investigation period and is not an exporter in respect of whom a declaration has been made under subsection 269ZG(3)(b). Consequently, the applicant meets the definition of a new exporter and satisfies the requirements for requesting an accelerated review under subsection 269ZE(1);
- the applicant did not refuse to cooperate in relation to the application for publication of the dumping duty notice and countervailing duty notice in relation to the goods, and the application should not be rejected under subsection 269ZE(2)(a); and

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- the applicant does not appear to be related to any exporter that had its exports examined in the original investigation and therefore the application should not be rejected under subsection 269ZE(2)(b).

5 CONCLUSION

The Commission has considered the application made by Shandong to determine if it satisfied the requirements of sections 269ZE and 269ZF.

The Commission concludes, on the basis of currently available information, that:

- the application satisfies the requirements of subsection 269ZF(1);
- the conditions for rejection under subsection 269ZE(2) are not met; and
- the circumstances in which an accelerated review can be sought under subsection 269ZE(1) have been satisfied.

Accordingly, the Commission is satisfied that Shandong is eligible to apply for, and has lodged a valid application for, an accelerated review.

The Commission recommends that the Commissioner:

- decide not to reject the application for an accelerated review of the dumping and countervailing duty notices applying to the goods exported to Australia from China in so far as the notices affect the applicant;
- continue the accelerated review; and
- set the review period as 1 April 2016 to 31 March 2017.

6 SECURITIES

When an application for an accelerated review of a dumping duty and/or countervailing duty notice is lodged, subsection 269ZH(a) provides that no interim duty can be collected in respect of consignments of goods, to which the application relates, entered for home consumption after the application is lodged and until the completion of the accelerated review.

However, pursuant to subsection 269ZH(b), the Commonwealth will, on the importation of goods to which the application relates, require and take securities under section 42 in respect of interim dumping duty and interim countervailing duty that may be payable.

7 APPENDICES AND ATTACHMENTS

Confidential Appendix 1

Application by Shandong