



Termination report number: 391

Application for an accelerated review of a dumping duty notice
and countervailing duty notice

Submitted by: Tongliao Jiaojian Aluminium Co., Ltd

In relation to certain aluminium extrusions exported to Australia
from the People's Republic of China

April 2017

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Abbreviations

Abbreviation	Full title
ABF	Australian Border Force
the Act	<i>Customs Act 1901</i>
the applicant	Tongliao Jiaojian Co., Ltd.
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CON 391	Anti-Dumping Commission Consideration Report No. 391
the goods	the goods to which the anti-dumping measures apply
the Parliamentary Secretary	The Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
REP 248	Anti-Dumping Commission Report No. 248
Review period	1 January 2016 to 31 December 2016
Tongliao Jiaojian Co., Ltd.	Jiaojian

1 Summary and recommendations

This termination report is in response to an application by Tongliao Jiaojian Aluminium Co., Ltd. (the applicant/Jiaojian) for an accelerated review of the dumping duty and countervailing duty notices applying to certain aluminium extrusions exported to Australia from the People's Republic of China (China) in so far as the notices affect Jiaojian.

1.1 Recommendation

The Anti-Dumping Commission (the Commission) recommends that the Commissioner of the Anti-Dumping Commission (the Commissioner) be satisfied that Jiaojian is refusing to co-operate with aspects of the accelerated review. Therefore, the Commission recommends that, in accordance with subsection 269ZE(3)(a) of the *Customs Act 1901* (the Act),¹ the Commissioner terminate the accelerated review.

1.2 Legislative background

Division 6 of Part XVB of the Act 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 or countervailing duty notice by certain exporters of goods covered by the notice.

Subsection 269ZE(3) provides that the Commissioner may terminate an accelerated review if during the course of a review, he becomes satisfied that:

- the exporter is refusing to co-operate with any aspect of the review; or
- the exporter is related to an exporter whose exports were examined in relation to the application for publication of that notice.

1.3 Findings and conclusions

The Commission sent an exporter questionnaire to Jiaojian requesting certain information necessary to complete the accelerated review. On the due date specified for a response to the exporter questionnaire, Jiaojian did not provide this information. Jiaojian subsequently requested two extensions of time to provide a response to the exporter questionnaire, however when Jiaojian provided a response following the second request for an extension of time, it did not provide sufficient information to complete the accelerated review.

Accordingly, the Commission considers that Jiaojian's failure to provide the Commission with the information necessary to complete the accelerated review amounts to a refusal to co-operate with aspects of the accelerated review under subsection 269ZE(3)(a). Therefore, the Commission considers that there are grounds for the Commissioner to terminate the accelerated review in accordance with subsection 269ZE(3)(a).

¹ A reference to a division, section or subsection in this report is a reference to a provision of the *Customs Act 1901*, unless otherwise specified.

2 Background

2.1 Goods under review

The goods the subject of the application (the goods) are:

Aluminium extrusions produced via an extrusion process, of alloys having metallic elements falling within the alloy designations published by The Aluminium Association commencing with 1, 2, 3, 5, 6 or 7 (or proprietary or other certifying body equivalents), with the finish being as extruded (mill), mechanical, anodized or painted or otherwise coated, whether or not worked, having a wall thickness or diameter greater than 0.5 mm., with a maximum weight per metre of 27 kilograms and a profile or cross-section which fits within a circle having a diameter of 421 mm.

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

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

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).

< 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
< Examples >				< Examples >		
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

Table 1: Aluminium extrusion categories

2.2 Tariff classification

The goods are classified to the tariff subheadings and rates of duty as documented in Schedules 3 and 12 of the *Customs Tariff Act 1995*.²

- 7604.10.00 / 06 non alloyed aluminium bars, rods and profiles
- 7604.21.00 / 07 aluminium alloy hollow angles and other shapes
- 7604.21.00 / 08 aluminium alloy hollow profiles
- 7604.29.00 / 09 aluminium alloy non hollow angles and other shapes
- 7604.29.00 / 10 aluminium alloy non hollow profiles
- 7608.10.00 / 09 non alloyed aluminium tubes and pipes
- 7608.20.00 / 10 aluminium alloy tubes and pipes
- 7610.10.00 / 12 doors, windows and their frames and thresholds for doors
- 7610.90.00 / 13 other

The goods exported to Australia from China are subject to Customs duty at rates ranging from 1.7 – 3 percent.

2.2 Existing measures

A history of the anti-dumping measures applying to aluminium extrusions exported to Australia from China is summarised below. Further information is also available on the Commission's electronic public record at www.adcommission.gov.au

2009 – 2011: The then Australian Customs and Border Protection Service initiated an investigation, following an application from Capral Limited. The investigation resulted with the then Attorney-General publishing a dumping duty notice and a countervailing duty notice applying to aluminium extrusions exported from China – *International Trade Remedies Branch Report No. 148* (REP 148) refers.

Following a review by the former Trade Measures Review Officer, the then Attorney-General published new notices as a result of a reinvestigation of certain findings made in REP 148. *International Trade Remedies Branch Report No. 175* refers.

2015: The Commission conducted a continuation inquiry following an application lodged by Capral Limited. *Anti-Dumping Commission Report No. 287* refers. The then Parliamentary Secretary to the Minister for Industry, Innovation and Science secured the continuation of the anti-dumping measures for a further five years, until 28 October 2020.

Jiaojian's exports of aluminium extrusions to Australia are subject to the 'uncooperative and all other exporters' rate of duty, which is an effective rate of 28.3% interim dumping duty (IDD) and 20.2% interim countervailing duty (ICD).

² These tariff classifications and statistical codes may include goods that are both subject and not subject to the review. The listing of these tariff classifications and statistical codes are for convenience or reference only and do not form part of the goods description. Please refer to the goods description for authoritative detail regarding goods the subject of this accelerated review.

2.3 Accelerated review process

Subsection 269ZE(1) provides that a 'new exporter' can apply for an accelerated review of a notice, in so far as it affects that exporter, 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) defines a 'new exporter' as follows:

in relation to goods the subject of an application for a dumping duty notice or a countervailing duty notice or like goods, means an exporter who did not export such goods to Australia at any time during the investigation period in relation to the application.

Pursuant to subsections 269ZG(1) and (2), the Commissioner must, no later than 100 days after an accelerated review application is lodged, provide the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary)³ with a report recommending:

- a) that the dumping duty notice or countervailing duty notice the subject of the application remain unaltered; or
- b) that the dumping duty notice 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.

Pursuant to subsection 269ZE(3), the Commissioner may terminate an accelerated review if, during the course of the review, the Commissioner becomes satisfied that the exporter is refusing to co-operate with any aspect of the review or the exporter is related to an exporter whose exports were examined in relation to the application for publication of that notice.

2.4 The current review

On 31 January 2017, Jiaojian lodged an application⁴ for an accelerated review of the dumping duty and countervailing duty notices applying to certain aluminium extrusions exported to Australia from China in so far as the notices affect Jiaojian.

The Commissioner considered the application made by Jiaojian as required by sections 269ZE and 269ZF of the Act.

The Commissioner concluded that:

- the circumstances in which an accelerated review can be sought under subsection 269ZE(1) were satisfied;

³ 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.

⁴ The application letter is contained on the public record which can be found on the Commission's website at www.adcommission.gov.au.

PUBLIC RECORD

- there was no reason to reject the application under subsection 269ZE(2) of the Act; and
- the application satisfied the requirements of subsection 269ZF.

As the circumstances in which an accelerated review can be sought were satisfied, the Commissioner did not reject the application and commenced the accelerated review. *Consideration Report No. 391* provides further details in relation to the Commission's consideration of the application and the decision of the Commissioner. The report is available on the Commission's website at www.adcommission.gov.au.

The commencement of the accelerated review was publicly notified in Anti-Dumping Notice (ADN) No. 2017/26, which was published on 2 March 2017.

This ADN advised that the Commissioner's recommendation to the Parliamentary Secretary will be made in a report on or before 11 May 2017. The ADN is available on the Commission's website at www.adcommission.gov.au.

3 Grounds for termination

Jiaojian was sent an exporter questionnaire seeking information necessary to complete the accelerated review on 24 February 2017, with a due date of 29 March 2017 to submit its response to the Commission.

On 29 March 2017, Jiaojian did not provide the information requested in the exporter questionnaire. However, Jiaojian, through its representative, requested an extension of time to 5 April 2017 to complete the exporter questionnaire. The extension requested by Jiaojian was granted, and Jiaojian was also informed that if a sufficient response to the questionnaire was not provided by this new date, it may leave insufficient time for the Commission to have regard to Jiaojian's information and to complete the accelerated review.

On 3 April 2017, Jiaojian requested another extension of time to provide a completed exporter questionnaire. This request for an extension was granted, making the new due date to provide a response to the exporter questionnaire, 7 April 2017.

Following the second request for an extension of time, the Commission received a response to the exporter questionnaire from Jiaojian and it was noted by the Commission that significant deficiencies were present in the response. The Commission notes that the data and information provided by Jiaojian in its response to the exporter questionnaire was not clear or complete. In particular, to complete the accelerated review the Commission required domestic sales and cost to make and sell information in relation to like goods sold on the domestic market in China, however Jiaojian did not provide this information.

Without this information, the Commissioner is unable to ascertain whether the dumping duty notice or countervailing duty notice should be altered so as to apply to the applicant as if different variable factors had been fixed.

Having regard to the time specified under the Act to complete an accelerated review, and noting that Jiaojian has been granted two extensions of time to provide the information required, but has failed to provide this information, the Commission considers that Jiaojian is refusing to co-operate with the accelerated review. Accordingly, the Commission considers that there are grounds for the Commissioner to terminate the accelerated review in accordance with subsection 269ZE(3)(a).

4 Effect of the termination

If the Commissioner accepts the Commission's recommendation to terminate this accelerated review, Jiaojian's exports of aluminium extrusions will remain subject to the 'All other and uncooperative exporters' rates of interim dumping duty and interim countervailing duty as specified in the notice published under subsection 269ZHG(1)(b) in *The Australian* and the *Commonwealth of Australia Gazette* on 20 October 2015.⁵

Under section 269ZH, the Commonwealth may require and take securities under section 42 upon the importation of aluminium extrusions exported by Jiaojian, in respect of IDD and ICD that may be payable on those goods.

In accordance with section 269ZH, securities were required and taken in relation to exports of aluminium extrusions by Jiaojian that were imported and entered for home consumption in Australia from 20 February 2017 onwards.

Termination of the accelerated review will mean that securities taken between 20 February 2017 and the date of termination will be converted to IDD and ICD at the rate applicable to 'uncooperative and all other exporters' of aluminium extrusions exported from China. Future exports of aluminium extrusions by Jiaojian will also be subject to these rates of duty.

Termination of the accelerated review will not affect Jiaojian's right to apply for another accelerated review in accordance with sections 269ZE and 269ZF.

⁵ See also ADN 2015/125 on the Commission's website at www.adcommission.gov.au for details.

5 Recommendation

For the reasons outlined in this report, the Commission recommends that the Commissioner be satisfied that Jiaojian is refusing to cooperate with aspects of this accelerated review, and therefore, in accordance with subsection 269ZE(3)(a), terminate the accelerated review and sign the instrument at **Confidential Attachment 1**.

6 Attachments

Attachments	Confidentiality	Title
Attachment 1	Confidential	Subsection 269ZE(3)(a) instrument