



Australian Government
**Australian Customs and
Border Protection Service**

CUSTOMS ACT 1901 - PART XVB

**INTERNATIONAL TRADE REMEDIES BRANCH
TERMINATION REPORT**

**ACCELERATED REVIEW OF
ANTI-DUMPING AND COUNTERVAILING
MEASURES**

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

LONGKOU CONGLIN ALUMINIUM CO. LTD (LCA)

TERMINATION REPORT NO. 194

3 JANUARY 2013

TABLE OF CONTENTS

1. SUMMARY AND RECOMMENDATIONS	3
1.1 Applicable law	3
1.2 Recommendation	4
1.3 Findings and conclusions	4
2. INTRODUCTION.....	5
2.1 Accelerated review process	5
2.2 Existing measures	5
2.3 Notification and participation	6
2.4 Goods under review	7
3. TERMINATION GROUNDS	8
3.1 Findings.....	8
4. EFFECT OF THE TERMINATION	9
5. RECOMMENDATIONS	10

1. SUMMARY AND RECOMMENDATIONS

This accelerated review is in response to an application received in writing and lodged in accordance with section 269ZF of the Act¹ on behalf of Longkou Conglin Aluminium Co. Ltd (LCA) seeking an accelerated review of the dumping duty notice and countervailing duty notice applying to certain aluminium extrusions exported to Australia from the People's Republic of China (China).

The application made by LCA was considered to determine if it was valid as required by sections 269ZE, 269ZF and the definitions provided in section 269T of the Act.

There were no grounds to reject the application under sub-section 269ZE(2) and the exporter did not export during the new exporter period.

As the circumstances in which an accelerated review can be sought were satisfied, being that the applicant was a new exporter as defined in section 296T, the applicant was eligible to apply for an accelerated review, and thus a review was commenced.

This report sets out the aspects of the review LCA has refused to cooperate with, leading to the recommendation that the accelerated review be terminated.

1.1 Applicable law

Division 6 of Part XVB of the Act enables eligible parties to apply for an accelerated review of measures. The Division, among other matters:

- sets out the procedures to be followed by the Chief Executive Officer of Customs and Border Protection (CEO) in dealing with applications or requests and preparing reports for the Minister; and
- empowers the Minister, after consideration of such reports, to leave the measures unaltered or to modify them as appropriate.

The CEO's powers under this Division have been delegated to certain officers of Customs and Border Protection (the delegate).

The CEO may terminate an accelerated review if satisfied that:

- the exporter is refusing to co-operate with any aspect of the review; or
- the exporter is related to an exporter who was a selected exporter in relation to the application for publication of that notice².

¹ A reference in this report to a provision of legislation, unless otherwise specified, is a reference to the Customs Act 1901.

² Ss 269ZE(3)

1.2 Recommendation

It is recommended that the delegate of the CEO be satisfied that LCA is refusing to co-operate with an aspect of the review, and therefore in accordance with paragraph 269ZE(3)(a) of the Act terminate the review.

1.3 Findings and conclusions

Based on all available information Customs and Border Protection has found that LCA has not provided a response to the exporter questionnaire by the due date.

The refusal to furnish a response to the exporter questionnaire amounts to a refusal to co-operate with an aspect of the review, and it is recommended that the delegate of the CEO terminate the review on this basis.

2. INTRODUCTION

2.1 Accelerated review process

Division 6 of Part XVB of the Act deals with accelerated reviews of anti-dumping measures.

If anti-dumping measures have been taken in respect of certain goods, a new exporter, who has not exported the goods to Australia during the period specified in section 269T may request an accelerated review of those measures as they affect that particular exporter, if they consider the measures are not appropriate to that exporter.

If an application for a review of anti-dumping measures is received and not rejected, Customs and Border Protection has up to 100 days to inquire and report to the Minister on the accelerated review of the measures.

In making recommendations in its final report to the Minister, Customs and Border Protection must consider the application for an accelerated review and make such inquiries as considered appropriate.

The CEO may terminate an accelerated review if satisfied that the exporter is refusing to co-operate with any aspect of the review or the exporter is related to an exporter who was a selected exporter in relation to the application for publication of that notice³.

2.2 Existing measures

On 24 June 2009 a dumping investigation into aluminium extrusions exported from China was initiated following an application by Capral Limited (Capral). In that investigation, and as outlined in Trade Measures Report No. 148, it was found that:

- with the exception of one exporter, Tai Ao (Taishan) Co Ltd (Tai Ao), the goods were exported from China at dumped prices;
- with the exception of Tai Ao, the goods exported from China were subsidised;
- the Australian industry producing like goods had suffered material injury as a result of those dumped and subsidised goods; and
- future exports from China may be dumped and subsidised and that continued dumping and subsidisation may cause further material injury to the Australian industry.

Accordingly, it was recommended that the Attorney-General impose anti-dumping and countervailing measures on the goods exported from China. On 28 October 2010, the Attorney-General published dumping and countervailing

³ Ss 269ZE(3)

duty notices for aluminium extrusions exported to Australia from China. Notification of the Attorney-General's decision was given in Australian Customs Dumping Notice No. 2010/40.

Following a review by the Trade Measures Review Officer, Customs and Border Protection conducted a reinvestigation into certain findings made in Trade Measures Branch Report No. 148. International Trade Remedies Report No. 175 sets out the findings affirmed and new findings made by Customs and Border Protection as a result of the reinvestigation.

To give effect to this decision the Attorney-General published new notices under section 269ZZM. These notices substitute the dumping and countervailing duty notices published on 28 October 2010. The new notices came into effect on 27 August 2011, replacing the earlier notices.

2.3 Notification and participation

On 9 November 2012 LCA, a new exporter of the goods, lodged an application for an accelerated review of the measures⁴ applicable to aluminium extrusions exported to Australia from China.

There is no screening period in an accelerated review, thus the application was considered and deemed to be valid and therefore not rejected. In accordance with section 269ZE, the consideration report on review of the application made the following findings in relation to whether the circumstances exist in which an accelerated review may be sought:

- The applicant did not export aluminium extrusions during the period for which new exporters cannot have exported. Thus the applicant meets the definition of a new exporter and satisfies the requirements for requesting an accelerated review as stated at sub-section 269ZE(1);
- The applicant did not refuse to cooperate in relation to the application for a dumping duty notice, and the application should not be rejected under paragraph 269ZE(2)(a), and;
- The applicant does not appear to be related to any selected exporters in the original investigation and the application should not be rejected under paragraph 269ZE(2)(b).

The review of the measures commences on the day the application was received. The period of 1 October 2011 to 30 September 2012 was set as the review period.

Public notification of initiation of an accelerated review was provided through the publication of ACDN 2012/57 on 26 November 2012.

A public file for the accelerated review was opened and is available at <http://www.customs.gov.au/anti-dumping/cases/default.asp#Thepublicrecord>

The Consideration Report, non-confidential version of the application and this Termination Report are available on the public file.

⁴ S.269ZF

2.4 Goods under review

The goods covered by the dumping and countervailing duty notices 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, anodised 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.

Additional information to assist in understanding the goods is included in ACDN 2009/20 and issues paper 2009/148 – available at www.customs.gov.au.

The goods may be classified to the following subheadings in Schedule 3 of the *Customs Tariff Act 1995*:

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

3. TERMINATION GROUNDS

3.1 Findings

LCA was sent an exporter questionnaire and given a due date of 15 December 2012 (next working day 17 December 2012) to submit a response to this questionnaire to Customs and Border Protection. LCA contacted Customs and Border Protection seeking an extension to this due date on account of end of financial year pressures. Customs and Border Protection granted LCA an extension to submit its response to the exporter questionnaire with the new due date of 2 January 2013.

LCA responded that it would try to meet this 2 January deadline. Customs and Border Protection emailed LCA explaining the in-country verification visit process, the timeframes around arranging visas and travel and the firm legislative deadline of 100 days for completing the accelerated review. Customs and Border Protection sought from LCA a firm indication of whether it would submit a response to the exporter questionnaire by the due date of 2 January 2013.

On 21 December 2012 Customs and Border Protection telephoned LCA to reiterate the points in the email referred to above and seek an understanding of whether LCA would be in a position to provide a response to the exporter questionnaire by the 2 January 2013 due date. On 21 December 2012, after liaising with key departments in LCA, the contact person emailed Customs and Border Protection indicating that it is likely it will not respond to the exporter questionnaire by the due date.

On 2 January 2013, no response to the exporter questionnaire was received by LCA.

Customs and Border Protection considers the lack of a response to the exporter questionnaire a refusal to co-operate with an aspect of the review and therefore provides grounds to terminate the review in accordance with paragraph 269ZE(3)(a).

4. EFFECT OF THE TERMINATION

As a result of this termination, LCA exports of aluminium extrusions will remain subject to the 'selected non-cooperating exporters' anti-dumping duty and countervailing duty rates for China in accordance with the dumping and countervailing duty notice published by Customs and Border Protection on 27 August 2011.

In accordance with section 269ZH, if LCA has exports of aluminium extrusions that are subject to securities (i.e. aluminium extrusions exported by LCA that was imported and entered for home consumption in Australia between 9 November 2012 and 3 January 2013) these securities will now be converted to interim dumping duty and interim countervailing duty at the rate applicable to 'selected non-cooperating exporters' from China. Future exports of aluminium extrusions will also be subject to this level of measures.

This termination does not affect LCA's right to apply for another accelerated review in accordance with section 269ZF of the Act.

5. RECOMMENDATIONS

It is recommended that the delegate of the CEO be satisfied that LCA is refusing to co-operate with an aspect of the review, and therefore in accordance with sub-section 269ZE(3) of the Act terminate the review.