



Australian Government
Department of Industry,
Innovation and Science

Anti-Dumping
Commission

CUSTOMS ACT 1901 - PART XVB

FINAL REPORT NO. 313

**ACCELERATED REVIEW
OF THE DUMPING DUTY NOTICE AND COUNTERVAILING
DUTY NOTICE APPLYING TO**

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

GUANGDONG NANFANG ALUMINIUM CO., LTD

22 DECEMBER 2015

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ABBREVIATIONS

ABF	Australian Border Force
accelerated review period	1 July 2014 to 30 June 2015
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
the applicant	Guangdong Nanfang Aluminium Co., Ltd (also referred to in this report as Nanfang)
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
CON 313	<i>Consideration Report No. 313</i>
CTMS	Cost to make and sell
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
FOB	Free on board
the goods	the goods the subject of the accelerated review (also referred to as the goods under consideration)
LME	London Metal Exchange
NIP	Non-injurious price
the notices	the dumping duty notice and countervailing duty notice
OCOT	ordinary course of trade
the Parliamentary Secretary	Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary)
the Regulations	<i>Customs (International Obligations) Regulations 2015</i>
REP 148	<i>Trade Remedies Branch Report No. 148</i>
REP 248	<i>Anti-Dumping Commission Report No. 248</i>
Review 248	<i>Review of Measures No. 248</i>
SEF	Statement of essential facts
SG&A	Selling, general and administrative costs
VAT	Value added tax

1 SUMMARY AND RECOMMENDATION

1.1 Background

This *Accelerated Review No. 313* is in response to an application from Guangdong Nanfang Aluminium Co., Ltd (Nanfang) seeking an accelerated review of the dumping duty and countervailing duty notices in respect of certain aluminium extrusions (aluminium extrusions) exported to Australia from the People's Republic of China (China) as they relate to the exporter, Nanfang.

Nanfang's application seeks an accelerated review on the basis that the notices are inappropriate because it is currently subject to the combined dumping duty and countervailing duty rate of 48.5 per cent, which reflects the combined rate for uncooperative exporters as determined *Review of Measures No. 248* (Review 248).

Nanfang's application seeks an accelerated review based on the determination of variable factors relating to its own domestic sales, costs and other relevant financial information. This was because Nanfang did not export aluminium extrusions to Australia during the relevant period set out in the definition of 'new exporter' in subsection 269T(1) of the *Customs Act 1901* (the Act).^{1 2}

1.2 Application of law to facts

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

- sets out the procedures to be followed and the matters to be considered by the Commissioner of the Anti-Dumping Commission (the Commissioner) in conducting accelerated reviews in respect of the exporter and the goods covered by the application for the purpose of making a report to the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary);³ and
- empowers the Parliamentary Secretary, after consideration of such reports, to leave the dumping duty notice or countervailing duty notice unaltered or to modify them as appropriate.

1.3 Findings and conclusions

Based on all relevant and available information, the Anti-Dumping Commission (the Commission) has, in relation to the variable factors for Nanfang's exports of aluminium extrusions to Australia, found that:

¹ All legislative references in this report are to the Customs Act 1901 unless otherwise specified.

² On 2 November 2015, following the receipt of the application for this accelerated review, the definition of a new exporter under subsection 269T(1) of the Act was changed with the commencement of the *Customs Amendment (Anti-dumping Measures) Act (No. 1) 2015*. For the purpose of this accelerated review, the definition of a new exporter prior to 2 November 2015 shall apply.

³ On 20 September 2015, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Science. The Minister for Industry, Innovation and Science has delegated his powers and functions under Part XVB of the Customs Act 1901 to the Parliamentary Secretary, and accordingly, the Parliamentary Secretary is the relevant decision maker for this investigation.

- the export price should be determined under subsection 269TAB(3), having regard to all relevant information, being set equal to the normal value determined (Section 3 of this report refers);
- the normal value should be constructed under subsection 269TAC(2)(c) in accordance with the conditions of section 43, 44 and 45 of the *Customs (International Obligations) Regulations 2015* (the Regulations); and
- one countervailable subsidy program applied to Nanfang in relation to aluminium extrusions during the accelerated review period (Section 5 of this report refers) and that the amount of countervailable subsidy received has changed.

1.4 Recommendation

Based on the above findings and conclusions, the Commissioner, pursuant to subsection 269ZG(1), recommends that the Parliamentary Secretary alter the notices so as to apply to Nanfang as if different variable factors had been fixed.⁴

The Commissioner recommends that:

- for the purpose of this accelerated review, the Parliamentary Secretary should determine that interim dumping duty be worked out on Nanfang's exports to Australia in accordance with the combination fixed and variable duty method. The applicable fixed rate of interim dumping duty is zero per cent, meaning that Nanfang's exports of aluminium extrusions will not attract any fixed (ad valorem) amount of interim dumping duty. However, if Nanfang's actual export prices of aluminium extrusions are less than the ascertained exported price, the variable component of interim dumping duty will be equal to the difference between the actual export price and the ascertained export price; and
- while one countervailable subsidy program applied to Nanfang during the accelerated review period, the countervailable duty rate is zero percent due to the required removal of double count in the dumping and countervailing calculations (Section 5 of this report refers). The Commissioner recommends that the Parliamentary Secretary determine that the countervailing duty amount be worked out as a proportion of the export price of the goods, reflecting the ad valorem duty method. The applicable countervailing duty rate is zero per cent.

If the Parliamentary Secretary accepts these recommendations, to give effect to the decision, the Parliamentary Secretary must declare (by signing and publishing the notice at **Non-Confidential Attachment 1**) that, with effect from the date the application is lodged, the Act and the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act) have effect as if the dumping duty notice and countervailing duty notice had applied to Nanfang but the Parliamentary Secretary had fixed specified different variable factors relevant to the determination of duty payable by Nanfang.

⁴ On 2 November 2015, following the receipt of the application for this accelerated review, the recommendations available to the Commissioner under subsection 269ZG(1) of the Act were changed with the commencement of the *Customs Amendment (Anti-dumping Measures) Act (No. 1) 2015*. The Commissioner's recommendations will therefore be based on the legislation in place prior to 2 November 2015.

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If accepted by the Parliamentary Secretary, the individual rates applicable to Nanfang will take effect retrospectively from 21 September 2015 (the date the application was lodged).

2 BACKGROUND

2.1 The goods

2.1.1 Description

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 >						
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: Goods under consideration and like goods

2.1.2 Tariff classification

The goods are classified to the following tariff 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

Table 2: Aluminium extrusions tariff classifications

The goods exported to Australia from China are subject to a rate of duty of 5 per cent.

2.2 Accelerated review process

On 2 November 2015, a range of legislative reforms to the anti-dumping system commenced. In regards to accelerated reviews these changes amended the definition of a new exporter under subsection 269T(1) and removed the Commissioner's ability to recommend and the Minister's ability to declare that a dumping duty notice or countervailing duty notice not apply to the applicant. These amendments apply to applications for accelerated reviews made on or after 2 November 2015. Given this application was lodged prior to this date, the legislative provisions in place before 2 November 2015 apply to this accelerated review.

If a dumping duty notice or a countervailing duty notice has been published in respect of certain goods, a new exporter, as defined in subsection 269T(1) prior to 2 November 2015, who has not exported the goods to Australia during the period specified in the definition of new exporter, may request an accelerated review of that notice as it affects that particular exporter⁵.

If an application for an accelerated review of a dumping duty notice or countervailing duty notice is received and not rejected, the Commissioner has up to 100 days to inquire and report to the Parliamentary Secretary on the accelerated review (subsection 269ZG(2)).

In making recommendations in his final report to the Parliamentary Secretary, the Commissioner must consider the application for an accelerated review and make such inquiries as considered appropriate.

⁵ Subsection 269ZE(1)

Under subsection 269ZG(1), the Commissioner must then recommend to the Parliamentary Secretary that the dumping duty notice or countervailing duty notice:

- remain unaltered; or
- be altered:
 - so as not to apply to the particular exporter; or
 - so as to apply to the particular exporter as if different variable factors had been fixed.

Following the Parliamentary Secretary's decision, a notice is published on the Commission's website advising of the decision.

2.3 Existing measures

A history of the anti-dumping measures applying to aluminium extrusions exported to Australia from China is 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).
28 October 2009	The then Attorney-General published a dumping duty notice and a countervailing duty notice applying to aluminium extrusions exported from China - <i>Trade Remedies Branch Report No. 148</i> refers.
27 August 2011	The then Attorney-General published new notices as a result of a reinvestigation of certain findings made in <i>Trade Remedies Branch Report No. 148</i> following a review by the former Trade Measures Review Officer. <i>International Trade Remedies Report No. 175</i> refers.
21 November 2012	Publication of the outcome of a review of the anti-dumping measures as they apply to Wuxi Xisha Photoelectric Aluminium Products Co., Ltd. <i>International Trade Remedies Report No. 186</i> refers. Anti-dumping measures applicable to Wuxi Xisha Photoelectric Aluminium Products Co., Ltd. were altered as if different variable factors applied.
4 September 2013	The Federal Court ruled that dumping duty and countervailing duty notices cannot impose different variable factors for each finish of aluminium extrusion. ⁶
8 May 2014	Publication of the outcome of a review of anti-dumping measures as they apply to Alnan Aluminium Co., Ltd. Anti-

⁶ *PanAsia Aluminium (China) Limited v Attorney-General of the Commonwealth* [2013] FCA 870

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	dumping measures applicable to Alnan Aluminium Co., Ltd remained unaltered. <i>Final Report No. 229</i> 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) Co., Ltd. <i>Final Report No. 241</i> refers.
19 August 2015	The then Parliamentary Secretary to the Minister for Industry and Science published a notice declaring the outcome of Review 248. Anti-dumping measures applying to exports of certain aluminium extrusions from China were altered as if different variable factors had been ascertained.

Continuation of Measures Inquiry No.287

Anti-dumping measures applying to aluminium extrusions exported to Australia from China were due to expire on 28 October 2015. On 27 March 2015, Capral lodged an application for the continuation of the anti-dumping measures.

Following consideration of the application, the inquiry was initiated and public notification of initiation of the inquiry was made in *The Australian* newspaper on 24 April 2015.

After accepting recommendations from the Commissioner, the Parliamentary Secretary declared that, with effect from 14 October 2015, the dumping duty notice and the countervailing duty notice applying to certain aluminium extrusions exported to Australia from China should continue in force after 28 October 2015 for a period of five years (ADN 2015/125 refers).

In making this decision to continue the anti-dumping measures and countervailing measures applying to aluminium extrusions exported from China, the Parliamentary Secretary determined:

- that the variable factors of export price, normal value and amount of countervailable subsidy received that were determined following Review 248 remain unaltered; and
- that the full dumping and subsidy margins determined in Review 248 be applied to any interim dumping duty and interim countervailing duty taken in relation to aluminium extrusions exported to Australia from China; and,
- not to have regard to the desirability of fixing a lesser amount of duty that does not exceed the non-injurious price (NIP), and therefore, the NIP was determined to have no future application.

2.4 Notification and participation

On 21 September 2015, Nanfang lodged an application for an accelerated review of the notices applying to aluminium extrusions exported to Australia from China in so far as the notices affect Nanfang.

The Commissioner considered the application to determine if it was made in accordance with sections 269ZE and 269ZF. The Commissioner was satisfied that:

- the application was lodged in accordance with subsection 269ZF(2);
- the circumstances in which an accelerated review can be sought under subsection 269ZE(1) have been satisfied;
- the conditions for rejection under subsection 269ZE(2) were not satisfied; and
- the application was in writing and contained a description of the kind of goods to which the dumping duty and countervailing duty notices relate and a statement of the basis on which Nanfang considers that the dumping duty and countervailing duty notices are inappropriate in so far as Nanfang is concerned (subsection 269ZF(1)).

Accordingly, the Commissioner did not reject the application and commenced the accelerated review. *Consideration Report No. 313* (CON 313) provides further details in relation to the Commissioner's consideration of the application. CON 313 should be read in conjunction with this report and is available on the Commission's website at www.adcommission.gov.au.

The commencement of this accelerated review was notified in ADN No. 2015/120, which was published on 12 October 2015 and made available on the Commission's website at www.adcommission.gov.au.

This ADN advised that the Commissioner's recommendation to the Parliamentary Secretary will be made in a report on or before 30 December 2015.

For the purposes of the accelerated review, the period examined is 1 July 2014 to 30 June 2015 (herein referred to as the accelerated review period).

2.5 Submission received regarding new exporter

2.5.1 Capral Limited

Following publication of CON 313, Capral made a submission on 12 November 2015 raising concerns over the grounds for initiation of the accelerated review. In particular, Capral questioned whether Nanfang was related to an exporter whose exports were examined in the original investigation, noting that the Commissioner may reject the application if satisfied of those grounds pursuant to subsection 269ZE(2)(b).

Following receipt of Nanfang's exporter questionnaire response, Capral made a further submission on 17 November 2015 regarding Nanfang's relationship to another entity, Foshan City Nanhai Nanfang Aluminium Co. Ltd (Foshan City Nanhai).

2.5.2 The Commission's assessment

Nanfang's application for an accelerated review as new exporter, was assessed in CON 313 having regard to the definition of a new exporter as defined in subsection 269(T)(1) of the Act.

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 2008, the start of the investigation period, to 28 February 2010, the day before the SEF for Investigation 148 (the original investigation) was placed on the Public Record.

A search of the Australian Border Force's import database did not reveal any exports of the goods by Nanfang during the period 1 July 2008 to 28 February 2010. On this basis, the Commissioner was satisfied that Nanfang's application for an accelerated review should not be rejected pursuant to subsection 269ZE(2)(b).

In response to Capral's 17 November 2015 submission, the Commission further examined the import database to establish whether Foshan City Nanhai had exported to Australia during the new exporter period. This is relevant for establishing where there are grounds to terminate an accelerated review under subsection 269ZE(3)(b) if the Commissioner becomes satisfied that the exporter is related to an exporter whose exports were examined in relation to the application for publication of the original notice.

Capral's submission was based on information obtained from a third party credit reporting agency which listed Foshan City Nanhai as a sister company to Nanfang. Following further enquiries with the exporter, it was established that Foshan City Nanhai is the previous name of Nanfang. The Commission conducted a further review of the ABF import database to establish if aluminium extrusions had been exported under the name Foshan City Nanhai Nanfang Aluminium Co., Ltd. The search did not result in any records to show that Foshan City Nanhai had exported to Australia during or after the original investigation.

The Commission is therefore satisfied that it is not appropriate to terminate Nanfang's application for an accelerated review under subsection 269ZE(3)(b) of the Act.

2.6 Exporter questionnaire response

2.6.1 Nanfang's exporter questionnaire response

Upon the commencement of the accelerated review, the Commission sent an exporter questionnaire to Nanfang to complete.

On 30 October 2015, the Commission received a completed exporter questionnaire response from Nanfang. A non-confidential version of this response is available on the public record.⁷

Nanfang's response contained information and data in relation to:

⁷ Document No. 4 on the electronic public record refers.

PUBLIC RECORD

- company structure and organisation chart;
- business licence registration;
- product brochure;
- turnover, audited financial statements and income tax records;
- domestic sales with supporting documentation for sales;
- purchase of raw materials;
- domestic production and selling costs for aluminium extrusions;
- fixed asset list;
- supply of inputs including water and electricity; and
- production process and production volumes.

The Commission elected not to conduct an on-site verification of the information and data provided in Nanfang's exporter questionnaire response. Nanfang has co-operated with the accelerated review and has provided detailed financial data in its exporter questionnaire response within the required timeframe.

The Commission has various other means for testing the accuracy, relevance and completeness of data to a satisfactory level. A number of tests have been undertaken on Nanfang's data for the purpose of this accelerated review. Those tests include comparison of Nanfang's data to data verified in Review 248, data from the Australian Border Force import database and verification to source documents.

In particular, the Commission sought clarification and further responses from Nanfang in regards to the following:

- income tax and audit report records;
- domestic production and selling costs;
- raw material costs and supporting documentation;
- ownership and related entities; and
- subsidies.

Nanfang co-operated and provided responses to the queries within the set deadlines. After further verification and testing of the information, the Commission is satisfied as to the accuracy, relevance and completeness of the data supplied by Nanfang upon which the findings of this accelerated review are based.

2.7 Public record

There is no legislative requirement for the Commissioner to maintain a public record for accelerated reviews. However, in the interests of ensuring this process is conducted in an open and transparent manner, a public record for this accelerated review has been maintained and is accessible on the Commission's website at www.adcommission.gov.au.

2.8 Submission regarding the exporter questionnaire response

2.8.1 Capral Limited

On 17 November 2015, Capral made a submission expressing concern with certain aspects of Nanfang's exporter questionnaire response. In particular, Capral considered that:

- Nanfang's export price should be set equal to its normal value, on the basis that it did not export to Australia during the accelerated review period, consistent with the Commission's past practice for new exporters;
- Nanfang's normal value should be determined in accordance with subsection 269TAC(2)(c) on the basis of recent findings that a market situation exists in relation to aluminium extrusions sold on the Chinese domestic market. Further to this, Capral expressed concern with the reliability of Nanfang's cost of production data and suggested that, in the absence of a full on-site verification of Nanfang's cost of production, the Commission should rely on normal value information for residual exporters as detailed in Review 248; and,
- the Commission should further investigate Nanfang's claims that it did not receive any benefit under Program 15 (primary aluminium at less than adequate remuneration) and Program 44 (preferential lending programs).

2.8.2 The Commission's assessment

Export price

As outlined in section 3.1, the Commission has set Nanfang's export price equal to its normal value.

Normal Value

As outlined in section 2.6, the Commission is satisfied as to the accuracy, relevance and completeness of the data supplied by Nanfang upon which the findings of this accelerated review are based. The Commission's approach to calculating normal value is at chapter 4.

Subsidies

In relation to Program 15 (primary aluminium provided at less than adequate remuneration), this program was found to be countervailable (section 5.1 refers).

In relation to Program 44 (preferential lending programs), the Commission notes the findings of Review 248 which were accepted by the Parliamentary Secretary on 19 August 2015, did not identify that subsidies were being received in the form of preferential lending to exporters of aluminium extrusions from China. As a result, the Commission did not consider this program to be countervailable for this review.

3 EXPORT PRICE

3.1 Findings

The Commission has found that Nanfang did not export the goods to Australia during the accelerated review period. As such, sufficient information is not available to determine the export price of the goods under subsection 269TAB(1) for the purposes of this accelerated review. Application of subsection 269TAB(1) would require Nanfang to have exported the goods to Australia. Since this is yet to occur, none of provisions under subsection 269TAB(1) can apply.

Specifically, there is insufficient information to determine the export price of the goods using:

- the price paid or payable by the importer;⁸
- the price in Australia less prescribed deductions;⁹ or
- the price having regard to all the circumstances of the exportation.¹⁰

Therefore, the Commission considers it appropriate to determine an export price, for the purposes of this accelerated review, under subsection 269TAB(3) having regard to all relevant information.

Specifically, the Commission considers it appropriate to determine the ascertained export price to be the same amount as that determined to be the normal value for the purposes of this accelerated review.

After making an adjustment for inland transport and export related costs, this price has been determined at the free on board (FOB) level.

8 Subsection 269TAB(1)(a).

9 Subsection 269TAB(1)(b).

10 Subsection 269TAB(1)(c).

4 NORMAL VALUE AND DUMPING MARGIN

4.1 Findings

The Commission considers that there is suitable information in Nanfang's exporter questionnaire response to allow for the calculation of a normal value.

For the purposes of this accelerated review, the normal value has been established in accordance with subsection 269TAC(2)(c), using the constructed normal value method. Relevant adjustments have been made to the normal value to ensure comparability to the export price of Nanfang's future exports to Australia.

The Commission recommends that any interim dumping duty be calculated in accordance with the combination fixed and variable duty method. For this accelerated review, as the ascertained export price is equal to the ascertained normal value, the dumping margin and fixed component of any interim dumping duty is zero per cent. A variable component of interim dumping duty will be applicable where the actual export price is below the ascertained export price.

4.2 Particular market situation

In Review 248, it was established 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 reasons for this finding are contained in *Anti-Dumping Commission Report No. 248* (REP 248) at Non-Confidential Appendix 1 – Market Situation Assessment.

During this accelerated review, the Commission did not find any information to warrant departing from the finding in Review 248 on market situation. Accordingly, the Commission has not departed from the finding in Review 248 and the normal value of the goods has been ascertained under subsection 269TAC(2)(c).

4.3 Constructed normal value

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:

- the cost of production 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 (OCOT) in the country of export, the SG&A costs associated with such a sale and the profit on that sale.

4.4 The Commission's assessment of normal value

4.4.1 Cost of production

As noted above, subsection 269TAC(2)(c) requires that the cost of production of the goods be used in determining constructed normal values. As Nanfang has made no

export sales of the goods during the review period, there is no cost to make and sell data (CTMS) relating to exports which may be used as basis to construct the normal value. As a result, the Commission considers it reasonable to use Nanfang's CTMS for like goods sold domestically during the accelerated review period for the purpose of constructing normal values.

In Review 248, it was concluded that, after having regard to all relevant information, the Commission found that the Government of China (GOC) has influenced the Chinese aluminium industry, and it was concluded that, in determining the cost of manufacture of aluminium extrusions in China, the records of Chinese exporters of aluminium extrusions did not reasonably reflect competitive market costs associated with the production or manufacture of those goods, for the purposes of section 43 of the Regulations.

As noted above in Section 4.2, the Commission is satisfied there was a situation in the Chinese aluminium extrusions market during the accelerated review period such that sales in that market are not suitable for use to determine normal value under subsection 269TAC(1).

As a result, the Commission has replaced Nanfang's reported primary aluminium costs relating to domestic purchase of primary aluminium. Consistent with the findings in Review 248, Nanfang's aluminium costs have been replaced with a primary aluminium cost which is considered a competitive market benchmark price for primary aluminium. The primary aluminium benchmark is based on contemporaneous London Metal Exchange (LME) cash prices plus other reasonable costs, port premiums and charges related to aluminium billet and ingots.

The Commission compared Nanfang's actual primary aluminium costs to the competitive market benchmark price for each month of the review period. The variance between the actual reported costs and benchmark was then applied to the aluminium material costs reported in Nanfang's domestic CTMS. The adjustment was apportioned on the basis the ratio of purchases of ingot and billet reported in each month.

The competitive market benchmark price used for the purpose of this accelerated review is at **Confidential Appendix 1**.

4.4.2 Selling, general and administrative costs

As required by subsection 269TAC(5A)(b), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the SG&A costs are to be established in accordance with section 44 of the Regulations.

Nanfang provided information on SG&A costs associated with the domestic sales of the goods subject to this accelerated review.

Consistent with the requirements of subsection 44(2) of the Regulations, the Commission was satisfied that the information in Nanfang's records are in accordance with the generally accepted accounting principles in China, and the records reflect the SG&A costs associated with the sale of like goods in the China.

4.4.3 Profit

As required by subsection 269TAC(5B), when ascertaining the normal value of the goods under subsection 269TAC(2)(c), the amount of profit included in the normal value is to be determined having regard to section 45 of the Regulations.

Subsection 45(2) of the Regulations provides that, if reasonably practicable, profit is to be determined by using data relating to the production and sale of like goods by the exporter of the goods in the OCOT.

The Commission calculated a weighted average profit margin for the goods. The calculation of this profit margin was based on domestic sales of aluminium extrusions in the OCOT, the selling prices of which were compared to the company's domestic CTMS those goods as reported in the company's response to the exporter questionnaire (prior to the amendments made to the cost of primary aluminium discussed above).

Profit applicable in the OCOT was applied to the CTMS (refer to **Confidential Appendices 3 and 4**);

4.4.4 Adjustments

As the normal value has been ascertained in accordance with subsection 269TAC(2)(c), the Commission considers the following adjustments are required in accordance with subsection 269TAC(9):

- Domestic delivery costs – a downwards adjustment was made to remove delivery costs to domestic customers;
- Inland freight – an upwards adjustment was made to account for export related inland transport cost to the port of export based on comparable data obtained in Review 248;
- Export packaging – an upwards adjustment was made to account for export related packaging costs based on comparable data obtained in Review 248; and
- VAT adjustment – an upwards adjustment was made to account for the difference in the amount of residual value added tax (VAT) that would apply to export sales of the goods. The residual amount has been calculated at the rate of 4 per cent, which is the full VAT rate of 17 per cent less the 13 per cent VAT rebate that applies to export sales of the goods.

Normal value calculations are at **Confidential Appendix 5**.

4.5 Form of measures

4.5.1 Submission by Capral Limited

On 12 November 2015, Capral submitted that the form of measures in respect of this accelerated review should remain as the combination duty method (involving fixed and variable components) as opposed to Nanfang's request for an *ad valorem* rate in its application.

4.5.2 The Commission's assessment

The form of measures which currently applies to aluminium extrusions from China is the combination method. The combination method comprised a fixed ad valorem rate of duty and a variable rate of duty which occurs when the actual export price is below the ascertained export price. In response to Capral's submission regarding the form of measures, the Commission is not proposing to depart from the form of measures currently in place for aluminium extrusions from China.

4.6 Dumping margin and fixed component of duty

As the Commission has determined that the ascertained export price is equal to the ascertained normal value, the dumping margin for the purpose of reviewing variable factors for this accelerated review and the fixed component for determining interim dumping duty is zero per cent.

4.7 Variable component of duty

A variable component of interim dumping duty will be applicable where the actual export price is below the ascertained export price.

5 COUNTERAVAILABLE SUBSIDIES

5.1 Findings

Pursuant to subsection 269TAAC(1), the Commissioner considers that Nanfang received a subsidy during the accelerated review period under one program that was deemed to be countervailable in Review 248 (Program 15).

However, in order to avoid any double count of duty, the Commission considers that this subsidy should not be countervailed as it has been factored into the variable component of the interim dumping duty payable for Nanfang. As a result, the countervailing margin has been calculated to be zero percent.

The Commissioner recommends to the Parliamentary Secretary that the countervailing duty notice have effect in relation to Nanfang as if the variable factor, the amount of countervailable subsidy received, had been ascertained.

5.2 Programs reviewed

In Review 248, the Commission found that 19 subsidies were countervailable in respect of aluminium extrusions exported to Australia from China.

Program number	Program name (as specified in REP 248)
Preferential Income Tax Programs	
18	Preferential tax policies in the Western Regions
21	Tariff and VAT Exemptions on Imported Materials and Equipment
47	Preferential tax policies for high and new technology enterprises
48	Provincial Government of Guangdong tax offset for R&D
Grants and Preferential Policy Programs	
2	One-time Awards to Enterprises Whose Products Qualify for 'Well-Known Trademarks of China' and 'Famous Brands of China'
3	Provincial Scientific Development Plan Fund
4	Export Brand Development Fund
5	Matching Funds for International Market Development for SMEs
6	Superstar Enterprise Grant
7	Research & Development (R&D) Assistance Grant
8	Patent Award of Guangdong Province
9	Training Program for Rural Surplus Labour Force Transfer Employment
15	Aluminium provided at less than adequate remuneration
26	Innovative Experimental Enterprise Grant
29	Special Support Fund for Non-State-Owned Enterprises
32	Venture Investment Fund of Hi-Tech Industry
35	Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment
56	PGOG special fund for energy saving technology reform
58	Development assistance grants from the Zhaoqing New and High-Tech Industrial Development Zone

Table 3: REP 248 Countervailable subsidy programs

The Commission requested that Nanfang provide data and information relating to all subsidies it received during the accelerated review period as part of its exporter questionnaire response.

After assessing all relevant information and the data provided by Nanfang, the Commission found that countervailable subsidies have been received in respect of the goods manufactured by Nanfang under 'Program 15 – Aluminium provided at less than adequate remuneration'.

The Commission has therefore determined that during the review period, Nanfang has received a financial benefit in respect of the goods.

5.2.1 Program 15 – Aluminium provided at less than adequate remuneration

In Review 248, it was established that a countervailable subsidy program (Program 15) existed whereby the GOC exercises governmental authority on the production of primary aluminium in China. The Commission determined in Review 248 that this has caused suppressed and distorted prices in the market for primary aluminium in China. The benefit to exported aluminium extrusions is conferred by the provision of primary aluminium to aluminium extrusion producers, by a government or public body, at an amount reflecting less than adequate remuneration, have regard to prevailing market conditions. The benefit conferred was calculated by comparing the difference in the prices for Chinese domestic purchases of primary aluminium and a benchmark LME based import price.¹¹

During this accelerated review, the Commission has not found any further information to depart from the finding in Review 248 on the existence of Program 15.

To determine if a benefit was conferred to Nanfang under Program 15, the Commission examined Nanfang's aluminium purchases to determine the quantity of purchases which had been sourced from a government or public body. Nanfang was unable to confirm to the Commission from where its purchases were ultimately sourced. The Commission has therefore concluded that Nanfang has received a benefit on all of its primary aluminium purchases under this program.

5.3 Amount of countervailable subsidy received

To determine the amount of countervailable subsidy received under Program 15, the Commission has compared the prices paid by Nanfang for its domestic purchases primary aluminium to the competitive LME based market benchmark price discussed in section 4.4.1 of this report. The net benefit received is considered to be the amount of countervailable subsidy received under Program 15.

The Commission, with reference to the data and information provided by Nanfang, has determined that the subsidy margin is expressed as a percentage of the ascertained export price.

¹¹ REP 248 Non-confidential Appendix 2, Part 3-A, pp.92-100.

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However, when collecting the dumping duty and countervailing duty applicable to Nanfang's exports of aluminium extrusions, the Commission considers that, for the purposes of this review, this subsidy should not be countervailed because to do so would be double-counting for the benefit received. This is because, where the ascertained export price is equal to the ascertained normal value, the maximum amount of the countervailable subsidy is equal to the difference between the actual cost of primary aluminium and the replacement cost of primary aluminium used in constructing the normal value (when measured on a weighted average basis). This difference has already been incorporated in the constructed normal value.

Therefore, in order to avoid any double-count of dumping duty and countervailing duty, the subsidy margin applicable under Program 15 is zero per cent.

The subsidy margin applicable to Nanfang in the review period is zero and therefore an interim countervailing duty rate of zero per cent shall apply as a result.

6 EFFECT OF THE ACCELERATED REVIEW

If the Parliamentary Secretary accepts the recommendations in this report, in respect of aluminium extrusions exported by Nanfang to Australia from China:

- the *ad valorem* rate of fixed interim dumping duty will be set to zero per cent whilst the variable rate of interim dumping duty will be payable only when the export price is below the ascertained export price; and
- no interim countervailing duty will be payable for each consignment of the exported goods, reflecting a countervailing rate of zero per cent.

If the Parliamentary Secretary accepts the recommendations in this report, these changes will take effect retrospectively from 21 September 2015. The Commission notes, if the recommendations in this report are accepted by the Parliamentary Secretary, Nanfang will no longer be eligible to seek another accelerated review at a later date.

Furthermore, the outcome of this accelerated review is subject to any future review and/or changes to the notices for aluminium extrusions from China exported to Australia.

7 RECOMMENDATION

The Commissioner recommends that the Parliamentary Secretary considers this report, and if agreed, sign the attached notice (Non-confidential Attachment 1) and sign the attached schedules (Confidential Attachment 2) to declare:

- under subsection 269ZG(3)(b)(ii) of the Act, that, with effect from 21 September 2015, the Act and the Dumping Duty Act have effect as if the notices had applied to Nanfang as if different variable factors had been fixed in respect of this exporter, relevant to the determination of duty payable by the applicant.

The Commissioner recommends that the Parliamentary Secretary be satisfied that:

- in accordance with subsection 269TAB(3) of the Act, sufficient information is not available to enable export prices for certain aluminium extrusions exported to Australia from China by Nanfang the subject of this accelerated review to be ascertained under the preceding subsections of section 269TAB of the Act; and
- in accordance with subsection 269TAC(2)(c), where the normal value cannot be ascertained under subsection 269TAC(1), the normal value to be determined by having regard all relevant information to Nanfang's cost of production of the goods in the country of export on the assumption that the goods had been sold for home consumption in the ordinary course of trade in the country of export, the administrative, selling and general costs associated with such a sale and the profit on that sale.

The Commissioner recommends that the Parliamentary Secretary determine:

- in accordance with subsection 269TAB(3) of the Act, the export prices for aluminium extrusions exported to Australia from China by Nanfang is the amount having regard to all relevant information;
- in accordance with subsection 269TAC(2)(c) of the Act, the normal value for aluminium extrusions exported to Australia from China is Nanfang's cost of production of the goods in China ; and on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in China, the administrative, selling and general costs associated with such a sale and the profit on that sale; and
- that in accordance with subsection 8(5) of the *Dumping Duty Act*, the interim dumping duty payable is an amount which will be worked out in accordance with the combination of fixed and variable duty method pursuant to subsection 5(2) of the *Customs Tariff (Anti-Dumping) Regulation 2013*. This is consistent with the method used in the original dumping duty notice. The dumping duty payable comprises a fixed component that is zero, and a variable component that will be payable if the actual export price is below the ascertained export price which is a specified (confidential) amount per kilogram.

The Commissioner recommends that the Parliamentary Secretary direct:

- in accordance with subsection 10(3B) of the *Dumping Duty Act*, that the amount of interim countervailing duty payable on the goods the subject of the countervailing duty notice be ascertained as a proportion of the export price which is a specified (confidential) amount per kilogram. The rate of

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countervailing duty applying to Nanfang exports of aluminium extrusions shall be zero per cent.

APPENDICES AND ATTACHMENTS

Non-Confidential Attachment 1	Section 269ZG(3)(b) Notice
Confidential Attachment 2	Confidential tables
Confidential Appendix 1	Aluminium Benchmark
Confidential Appendix 2	Aluminium purchases analysis
Confidential Appendix 3	Domestic Sales OCOT and Profit
Confidential Appendix 4	Cost To Make and Sell
Confidential Appendix 5	Constructed Normal Value
Confidential Appendix 6	Summary of Variable Factors