



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**

**GUANGDONG JINXIECHENG AL.
MANUFACTURING CO., LTD**

TERMINATION REPORT NO. 205

11 APRIL 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 Guangdong Jinxiecheng Al. Manufacturing Co., Ltd (Guangdong Jinxiecheng) 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 Guangdong Jinxiecheng was considered to determine if it was valid as required by sections 269ZE, 269ZF of the Act 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 that Guangdong Jinxiecheng 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 be satisfied that Guangdong Jinxicheng is refusing to co-operate with an aspect of the accelerated review, and therefore terminate the review in accordance with paragraph 269ZE(3)(a) of the Act.

1.3 Findings and conclusions

Guangdong Jinxicheng has not provided a response to the exporter questionnaire by the due date, 18 March 2013. 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 11 May 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 of 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 measures on the goods exported from China. On 28 October 2010, the Attorney-General published dumping and countervailing duty notices for aluminium extrusions exported to Australia from China. Notification of the

³ Ss 269ZE(3)

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 these decisions 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 18 January 2013 Guangdong Jinxiecheng, a new exporter of the goods, lodged an application for an accelerated review of the dumping and countervailing duty notices⁴ 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 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 met the definition of a new exporter and satisfied 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 was not be rejected under paragraph 269ZE(2)(a), and;
- The applicant did not appear to be related to any selected exporters in the original investigation and the application was not be rejected under paragraph 269ZE(2)(b).

The review of the measures commenced on the day the application was received. The period of 1 January 2012 to 31 December 2012 was set as the review period.

Public notification of initiation of an accelerated review was provided through the publication of ACDN 2013/16 on 8 February 2013.

A public file for the accelerated review was opened and is available at <http://www.customs.gov.au/anti-dumping/cases/EPR205.asp>

⁴ S.269ZF

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

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

Guangdong Jinxiecheng was sent an exporter questionnaire and given a due date of 18 March 2013 to submit its response to Customs and Border Protection. Guangdong Jinxiecheng contacted Customs and Border Protection seeking an extension to this due date on account of public holidays in China. Given the expedited nature of accelerated reviews, Customs and Border Protection did not grant Guangdong Jinxiecheng any extensions to the due date to submit its response to the exporter questionnaire.

Customs and Border Protection emailed Guangdong Jinxiecheng on 8 February 2013 and 19 February 2013 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 contacted Guangdong Jinxiecheng on 7 March 2013 to reiterate the points in the email referred to above and provide Guangdong Jinxiecheng information regarding the possible outcomes of an accelerated review and options for calculating an export price.

No response to the exporter questionnaire was received by Guangdong Jinxiecheng by 18 March 2013. On 28 March 2013 we received a letter from Guangdong Jinxiecheng. In this letter Guangdong Jinxiecheng stated that it was unable to meet the 18 March 2013 deadline to complete its exporter questionnaire and notified the withdrawal of its application for an accelerated review.

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, Guangdong Jinxiecheng's 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 on 27 August 2011. The effect of the termination of the accelerated review was communicated to Guangdong Jinxiecheng. Securities were imposed by the delegate on 18 January 2013 on exports by Guangdong Jinxiecheng while the accelerated review proceeded.

In accordance with section 269ZH of the Act, if Guangdong Jinxiecheng has exports of aluminium extrusions that were subject to securities (i.e. aluminium extrusions exported by Guangdong Jinxiecheng that were imported and entered for home consumption in Australia between 18 January 2013 and 11 April 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 duty.

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

5. RECOMMENDATIONS

It is recommended that the delegate of the CEO be satisfied that Guangdong Jinxiecheng 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.