



Australian Government
Anti-Dumping Commission

CUSTOMS ACT 1901 - PART XVB

ANTI-DUMPING COMMISSION

REPORT NUMBER 214

**ACCELERATED REVIEW OF ANTI-DUMPING
MEASURES**

ALUMINIUM EXTRUSIONS

EXPORTED BY

**GUANGDONG JINXIECHENG AL MANUFACTURING
CO LTD**

FROM

THE PEOPLE'S REPUBLIC OF CHINA

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ABBREVIATIONS

Abbreviation	Full title
ACBPS	Australian Customs and Border Protection Service
ADN	Anti-Dumping Notice
Anti-dumping measures	Dumping and countervailing measures
Capral	Capral Ltd
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
Guangdong Jinxiecheng	Guangdong Jinxiecheng Aluminium Manufacturing Co Ltd
Foshan Nanhai Newtime	Foshan Nanhai Newtime Co., Ltd
Inex	Independent Extrusions Limited
LME	London Metal Exchange
Minister	Minister for Industry
NIP	Non-injurious price
SEF	Statement of essential facts
SFE	Shanghai Futures Exchange
SG&A	Selling, general and administration costs
the Act	<i>Customs Act 1901</i>
the Commission	the Anti-Dumping Commission
the Commissioner	the Anti-Dumping Commissioner
the goods	the kind of goods to which the anti-dumping measures apply
USP	Unsuppressed selling price

1 SUMMARY AND RECOMMENDATIONS

1.1 Background

This *Accelerated Review No. 214* is in response to an application¹ from Guangdong Jinxi Cheng Aluminium Manufacturing Co Ltd (Guangdong Jinxi Cheng) seeking an accelerated review of the dumping duty and countervailing duty notices applying to certain aluminium extrusions² exported to Australia from the People's Republic of China (China).

This report sets out the Anti-Dumping Commissioner (the Commissioner) of the Anti-Dumping Commission's (Commission's) recommendations to the Minister for Industry (the Minister) in relation to the accelerated review.

The current accelerated review inquired into whether the original dumping and countervailing notices should be altered in so far as they relate to Guangdong Jinxi Cheng. Section 2.5 of this report highlights matters which were excluded from the scope of the accelerated review.

1.2 Recommendation

The Delegate of the Commissioner³ recommends that under subsection 269ZG(3)(b)(ii) the Minister declare that, from 13 June 2013⁴, the *Customs Act 1901* (the Act) and the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act) have effect as if the original dumping duty and countervailing duty notices had applied to Guangdong Jinxi Cheng but the Minister had fixed specified different variable factors relevant to the determination of duty payable by the applicant.

If the Minister accepts this recommendation, to give effect to the decision, the Minister must sign the relevant notice at **Confidential Attachment 1** and schedules at **Confidential Attachment 2**.

The Delegate of the Commissioner recommends that the Minister determine that the dumping duty amount be worked out in accordance with the floor price duty method. The result of this recommendation is that Guangdong Jinxi Cheng's exports will not attract interim dumping duty as long as its export prices are at or above the floor price established by reference to the normal value determined for Guangdong Jinxi Cheng's export sales of aluminium extrusions, as adjusted.

If the export price falls below the floor price, a variable rate of interim dumping duty will be payable equal to the difference between the actual export price and the floor price. The Delegate of the Commissioner recommends that the Minister accept the recommendation that the countervailing duty amount be

¹ This application was lodged in accordance with section 269ZF of the *Customs Act 1901*.

² Refer to Section 2.6 for a full description of the goods.

³ The terms "Commissioner" and "Delegate of the Commissioner" are used interchangeably in this report.

⁴ The date of lodgement of the application seeking an accelerated review.

worked out as a proportion of the export price of the goods (representing zero %), reflecting the ad valorem duty method⁵.

The result of this recommendation is that Guangdong Jinxiecheng's exports will not attract interim countervailing duty.

1.3 Findings and conclusions

Based on all relevant and available information the Commission's findings and conclusions in respect of Guangdong Jinxiecheng are as follows:

- the export price has been determined having regard to all relevant information (Section 4 of this report refers)⁶;
- the normal value has been determined having regard to Guangdong Jinxiecheng's domestic sales of aluminium extrusions made in the ordinary course of trade (OCOT) in China (Section 5 of this report refers)⁷;
- one countervailable subsidy program (Program 13) applied to Guangdong Jinxiecheng during the review period⁸, however that:
 - under this program while a benefit was conferred, that the resultant countervailable subsidy margin was negligible (Section 6 of this report refers); and
- the non-injurious price (NIP) for aluminium extrusions be established by reference to an unsuppressed selling price (USP) which has been calculated using the cost to make and sell (CTMS) information supplied by two Australian industry members, plus a reasonable amount of profit and minus importation costs (Section 7 of this report refers).

Based on these findings and conclusions, the Delegate of the Commissioner recommends that the Minister fix exporter specific variable factors and alter the anti-dumping measures⁹ in so far as they relate to exports of aluminium extrusions by Guangdong Jinxiecheng.

The Commission recommends that these alterations should take effect retrospectively from 13 June 2013 (the date the application was lodged).

1.4 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. The Division, among other matters:

- sets out the procedures to be followed and the matters to be considered by 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 Minister; and
- empowers the Minister, after consideration of such reports, to leave the measures unaltered or to modify them as appropriate.

⁵ The Minister is not required to determine the countervailing duty method.

⁶ Subsection 269TAB(3) refers.

⁷ Subsection 269TAC(1) refers.

⁸ The review period for the purposes of this accelerated review is 1 June 2012 to 31 May 2013.

⁹ Anti-dumping measures refers to dumping and countervailing measures.

PUBLIC FILE

The Commissioner's powers under this Division have been delegated to certain officers of the Commission.

2 INTRODUCTION

2.1 Accelerated Review process

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 of the Act 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 (**Non-Confidential Attachment 1** refers).

If an application for an accelerated review of anti-dumping measures is received and not rejected, the Commission 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, the Commissioner must consider the application for an accelerated review and make such inquiries as considered appropriate.

In respect of a dumping duty notice or countervailing duty notice, the Commissioner must recommend to the Minister that the dumping duty notice or countervailing duty notice:

- remain unaltered; or
- be altered:
 - so as not to apply to the particular exporter; or
 - to have effect in relation to the particular exporter as if different variable factors had been ascertained.

Following the Minister's decision, a notice is published advising interested parties of the decision.

2.2 History of anti-dumping measures

On 24 June 2009, the Australian Customs and Border Protection Service (ACBPS) initiated an investigation into the alleged dumping of certain aluminium extrusions exported from China. This investigation followed an application by Capral Limited (Capral), representing the Australian industry manufacturing aluminium extrusions. During the investigation, and as outlined in Trade Measures Report No. 148 (REP 148), the ACBPS found that:

- with the exception of one exporter, Tai Ao (Taishan) Co Ltd (Tai Ao), aluminium extrusions were exported from China at dumped prices;
- with the exception of Tai Ao, aluminium extrusions 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 aluminium extrusions from China may be dumped and subsidised and continued dumping and subsidisation may cause further material injury to the Australian industry.

Accordingly, the ACBPS recommended that the Attorney-General publish dumping and countervailing duty notices in respect of aluminium extrusions exported to Australia from China. The Attorney-General accepted these recommendations and on 28 October 2010, anti-dumping measures were imposed on aluminium extrusions exported from China. Notification of the Attorney-General's decision was published in *The Australian* newspaper and in the *Gazette* (Australian Customs Dumping Notice (ACDN) No. 2010/40 also refers).

Following a review by the Trade Measures Review Officer (TMRO), the TMRO recommended that the Attorney-General direct the Chief Executive Officer (CEO) of the ACBPS to conduct a reinvestigation into certain findings made in REP 148. International Trade Remedies Report No. 175 (REP 175) sets out the findings affirmed and new findings made by the ACBPS as a result of the reinvestigation.

Subsequently, the Attorney-General accepted the reinvestigation findings. To give effect to this decision the Attorney-General published new notices under section 269ZZM of the Act. 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 to the extent of any inconsistencies.

Several parties sought judicial review¹⁰ of various decisions made by the Attorney-General in respect of an aluminium extrusion investigation. The outcome of a recent Federal Court decision in respect of this matter is not detailed in this report.

2.3 Notification and participation

On 13 June 2013, Guangdong Jinxiacheng lodged an application for an accelerated review of the anti-dumping measures applicable to aluminium extrusions exported to Australia from China.

The Commission considered the application¹¹ to determine if it was valid as required by sections 269ZE, 269ZF and the definitions provided in section 269T of the Act. The Commission was satisfied that:

- Guangdong Jinxiacheng was a new exporter as defined by section 269T of the Act;
- the application satisfied the requirements of section 269ZF of the Act;
- the conditions for rejection under subsection 269ZE(2) of the Act were not met; and
- that therefore, the circumstances in which an accelerated review can be sought were satisfied.

As the circumstances in which an accelerated review can be sought were satisfied the Commission did not reject the application and commenced the

¹⁰ *Panasia Aluminium (China) Limited v Attorney-General of the Commonwealth* [2013] FCA 870.

¹¹ In accordance with section 269ZG of the Act.

accelerated review. Consideration Report No. 214 (CON214) provides further details in relation to the Commission's consideration of the application. CON 214 should be read in conjunction with this report. CON 214 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. 2013/57, which was published on 2 July 2013. ADNs are available on the Commission's website at www.adcommission.gov.au.

This ADN highlighted that interested parties had until 12 August 2013 to lodge submissions in relation to the accelerated review.

For the purposes of the accelerated review the period examined is 1 June 2012 to 31 May 2013 (herein referred to as the review period).

2.4 Public record

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

2.5 Current accelerated review (No. 214) – excluded matters

As highlighted in ADN No. 2013/57, having regard to the expedited nature of an accelerated review, the Commission considered that it was not the relevant mechanism to reassess certain aspects of the anti-dumping measures applying to aluminium extrusions. The ADN specified that the accelerated review would not:

- reassess the finding of whether or not a market situation exists such that sales in that market are not suitable for use in determining normal value as specified in REP 148, Appendix 2 (Section 4.3 refers);
- reassess the countervailable subsidies other than those already subject to the countervailing duty notice as specified in REP 148 (Section 7.2 refers); and
- reconsider whether or not London Metal Exchange (LME) prices are indicative of what would be competitive market costs for primary aluminium, as specified in REP 148 (Section 6.1.3 refers).

2.6 The goods

2.6.1 Goods description

The goods the subject of the anti-dumping measures (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 mm¹².

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.

2.6.2 Tariff classification

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

Tariff classification and statistical code	Description
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

Figure 1: Tariff classifications, statistical codes and descriptions for the goods

The rates of duty for the goods from China are 4% for goods classified to headings 7604 and 7608 and 5% for goods classified to heading 7610.

¹² REP 148, page 14 refers.

3 EXPORT PRICE

3.1 Findings

The export price for aluminium extrusions exported by Guangdong Jinxiecheng from China has been determined under subsection 269TAB(3) of the Act, having regard to all relevant information.

3.2 Exporter questionnaire response and verification

3.2.1 Guangdong Jinxiecheng's exporter questionnaire response

Upon the commencement of the accelerated review, the Commission sent an exporter questionnaire to Guangdong Jinxiecheng to complete. Guangdong Jinxiecheng sought and was granted an extension of time to complete its exporter questionnaire response.

On 8 August 2013, the Commission received a completed response to the exporter questionnaire. The non-confidential version of this response was placed on the public record¹³.

This response contained information and data in relation to Guangdong Jinxiecheng's:

- domestic and export (Australian and third country) sales of aluminium extrusions;
- production and selling costs for aluminium extrusions;
- company structure and organisation (and details of income tax paid and payable); and
- adjustments required to ensure fair comparison of export prices and normal values.

In addition, the exporter questionnaire response addressed questions in relation to countervailable subsidy programs, including those that the ACBPS identified in REP 148 in respect of aluminium extrusions¹⁴.

As Guangdong Jinxiecheng provided a properly documented exporter questionnaire response and had not previously been visited by the Commission, the Commission considered that a verification visit was warranted.

3.2.1 Verification visit

During late August to early September 2013, the Commission conducted a verification visit to Guangdong Jinxiecheng's premises in Foshan, China. Subsequent to this visit, a verification report was prepared and is available on the Electronic Public Record which is accessible on the Commission's website at www.adcommission.gov.au.

¹³ Document No. 004 refers.

¹⁴ In REP 148 (published in October 2010) the ACBPS found that 19 programs were countervailable subsidy programs that conferred benefits to aluminium extrusions exported to Australia from China.

3.2.2 Capral's submissions¹⁵

(i) Submission dated 12 August 2013

On 12 August 2013, Capral made a submission to the accelerated review in relation to Guangdong Jinxi Cheng's exporter questionnaire response. This submission set out Capral's views in relation to the following issues:

- Guangdong Jinxi Cheng's claims that it received no countervailable subsidies (this issue is discussed at Section 5 of this report);
- an alternative premium to be included in deriving an international benchmark that will be used to reflect competitive market costs for primary aluminium in China;
- inadequacy of the public version of Guangdong Jinxi Cheng's exporter questionnaire response; and
- suggested verification questions (regarding company information and ownership).

(ii) The Commission's assessment

In relation to Capral's submission, the Commission notes the following:

- the Commission's assessment and findings in respect of countervailable subsidies is detailed at Section 5 of this report;
- interested parties were advised at the commencement of the accelerated review that the Commission would not be assessing alternative benchmarks (to replace the LME) as a basis for a competitive market cost for primary aluminium¹⁶;
 - the Commission has included a premium in the international benchmark, reflecting a similar approach used in REP 148;
- the Commission included Capral's suggested verification questions as part of its verification process; and
- the Commission is satisfied that the information and data provided in the exporter questionnaire response and during the visit (as verified) was complete, relevant and accurate.

(iii) Submission dated 19 September 2013

On 19 September 2013, Capral lodged a submission in response to the *Guangdong Jinxi Cheng exporter verification visit report* that was placed on the Public Record. In this submission Capral claims that there are a number of issues and discrepancies with the report and requested further clarification from the Commission.

¹⁵ Capral's submissions are accessible on the Electronic Public Record on the Commission's website (Document Nos. 005 and 008 refer).

¹⁶ This issue could be considered during a future review under Division 5 of the Act.

(iv) The Commission's assessment

The Commissioner is not required to have regard to a submission received if to do so would, in the Commissioner's opinion, delay the timely preparation of the final report to the Minister. As Capral's submission was received one working day before the due date for the Final Report, Capral's key claims are not reiterated in this report. However, acknowledging the expedited nature of the accelerated review process and short timeframe provided to review the exporter visit report, the Delegate of the Commissioner has considered Capral's claims in making its final recommendations to the Minister.

3.3 Determination of export price

During the review period, Guangdong Jinxiecheng made one indirect export sale to Australia through Foshan Nanhai Newtime Co., Ltd (Foshan Nanhai Newtime). Guangdong Jinxiecheng stated that this export sale was a "test / sample" exportation.

Notwithstanding that Guangdong Jinxiecheng provided information and supporting evidence (which was verified) in respect of its Australian export sale, the Commission considers that sufficient information is not available to determine the export price of the goods under subsection 269TAB(1) of the Act. The Commission is satisfied that the export price cannot be determined under subsections 269TAB(1)(a) and 269TAB(1)(b), as the goods were not purchased from the exporter by the importer. The Commission found that the goods were purchased from the trader (Foshan Nanhai Newtime) by the importer. In addition, the Commission is satisfied that the transaction was not reflective of a normal sale transaction between buyer and seller (which the exporter claims was a "sample" exportation).

For the accelerated review, relevant export sales information was not furnished by Foshan Nanhai Newtime or the relevant importer¹⁷. In the absence of information from the trader and importer, the Commission is satisfied that:

- no conclusions can be made regarding the arms-length nature of the export transaction;
- no conclusions can be made regarding the relationship between the exporter and trader¹⁸; and
- no conclusions can be made in respect of the nature of the sale of the goods by the importer into the Australian market.

Therefore, the Commission is satisfied that the export price cannot be determined under subsections 269TAB(1)(c) as sufficient information in relation to all the circumstances of exportation is not available.

¹⁷ Given the one sale was a sample shipment the importer was not contacted by the Commission.

¹⁸ While the Commission found no evidence during the exporter visit to indicate that Guangdong Jinxiecheng and Foshan Nanhai Newtime were related entities, in the absence of information from the trader, no conclusions on this issue can be made.

In the *Guangdong Jinxiecheng exporter verification visit report*, the verification team preliminary considered that the export sale was not an arms-length transaction. However in considering all relevant information to assess whether price was influenced by the commercial relationship between the relevant entities (including comparing export prices for equivalent types of aluminium extrusions exported during the review period by other Chinese exporters), the Delegate of the Commissioner cannot be satisfied that there is sufficient evidence to support this preliminary conclusion.

The Commission has determined the export price of the goods under subsection 269TAB(3), having regard to all relevant information. Section 3.3.1 details other relevant considerations that support the determination of export price under subsection 269TAB(3) of the Act.

3.3.1 Other considerations – circumstances of Australian export sale

In addition to the issues discussed at Section 3.3., the Commission considers that there are certain limitations in deriving an export price for aluminium extrusions based on one “sample” export sale by Guangdong Jinxiecheng. The Commission considers that due to the circumstances of this export sale, sufficient information is not available to ascertain a representative export price for the review period. These circumstances include; sale type, period of sale, limited sales volume, and specific finish type. These circumstances are considered below.

During the review period, in one specific month, Guangdong Jinxiecheng indirectly exported one “sample¹⁹” consignment of aluminium extrusions (manufactured with a mill finish) to an importer. Based on the data in ACBPS’ import database, the relevant trader / supplier and importer have not previously been involved in the importation of aluminium extrusions. Guangdong Jinxiecheng claims that it intends on exporting aluminium extrusions in other finishes (including anode oxidation, electrophoresis coating and powder coating) to Australia in the future.

Based on previous anti-dumping investigations and inquiries concerning aluminium extrusions, the Commission is cognisant that export prices vary for aluminium extrusions with different finishes. Export prices for aluminium extrusions with a mill finish are relatively lower compared to prices for aluminium extrusions with other finishes. This is supported by Guangdong Jinxiecheng’s domestic sales data, which includes sales of aluminium extrusions with different finishes.

The Commission considers that an export price for aluminium extrusions with a mill finish is not indicative or representative of export prices for aluminium extrusions with other finishes (which would be expected to be higher). Therefore, the Commission considers that there are limitations in deriving and ascertaining a representative export price for aluminium extrusions (of varying finishes) based on one export sale of a specific type of goods made in one

¹⁹ Guangdong Jinxiecheng claims that this shipment was a “sample” shipment.

month. This export price would not be representative of the price of aluminium extrusions with other finishes, which the exporter has indicated it intends on exporting to Australia in the future.

3.4 The Commission's assessment – export price

As the Commission considers that sufficient information is not available to determine the export price of the goods to be ascertained under subsection 269TAB(1) of the Act, the Commission has determined the export price of the goods manufactured by Guangdong Jinxiecheng and exported indirectly through Foshan Nanhai Newtime under subsection 269TAB(3), having regard to all relevant information.

The export price (at Free-On-Board (FOB) terms) has been ascertained to be equal to the normal value of the goods (including aluminium extrusions of varying finishes). This has the effect of setting a floor price for aluminium extrusions exported by Guangdong Jinxiecheng.

Export price calculations are at **Confidential Attachment 1**.

4 NORMAL VALUE AND DUMPING MARGIN

4.1 Findings

The normal value for aluminium extrusions sold on the domestic market in China exported by Guangdong Jinxi Cheng was determined under subsection 269TAC(1) of the Act.

4.2 Determination of cost of production

4.2.1 REP148

In assessing whether the price paid for domestic sales of like goods is taken to have been paid in the ordinary course of trade, the Commission examines whether prices are less than the cost of such goods, and whether the seller will be able to recover the cost of such goods within a reasonable period (section 269TAAD refers).

Subsection 269TAAD(4) establishes that the cost of goods is the amount determined by the Minister to be the cost of production of those goods in the country of export and the amount determined by the Minister to be the administrative, selling and general costs associated with the sale of those goods. Subsection 269TAAD(5) requires that those amounts must be worked out in such manner, and taking account of such factors, as the regulations provide.

Regulation 180(2) requires that if an exporter keeps records relating to like goods that are in accordance with generally accepted accounting principles (GAAP) in the country of export, and reasonably reflect competitive market costs associated with the production or manufacture of like goods, the Minister must work out the cost of production using information set out in the exporter's records.

In REP 148, the ACBPS found that sufficient evidence existed to consider that the cost of aluminium ingot²⁰ reflected in the records of the exporters' did not reasonably reflect competitive market costs. Appendix 2 of REP 148 provides an overview of these findings.

Therefore, for the purposes of assessing whether domestic sales were sold in the ordinary course of trade, the ACBPS considered it appropriate to determine the cost of production for aluminium extrusions sold domestically by replacing the cost of primary aluminium with a competitive market cost. The ACBPS considered that an appropriate replacement cost for aluminium ingot was the price of primary aluminium quoted on the LME (to reflect competitive market costs in China). The ACBPS identified additional expenses incurred in purchasing domestic primary aluminium and added these to the LME price to ensure similar delivery and payment terms to the exporter's actual purchase costs of primary aluminium in the Chinese domestic market during the investigation period. These additional expenses included trading premiums, delivery charges and interest charges.

²⁰ The terms "aluminium ingot" and "primary aluminium" are used interchangeably in this report.

After substituting the exporter's purchase cost of aluminium ingot with an equivalent LME adjusted cost, the ACBPS calculated revised monthly CTMS data for each of the selected exporters. The revised CTMS was then used to assess whether domestic sales were sold in the ordinary course of trade

4.2.2 Current accelerated review (No. 214)

For this accelerated review, the Commission has adopted the same methodology used in REP 148, and has substituted Guangdong Jinxiecheng's purchase cost of primary aluminium with an equivalent LME adjusted cost (including trading premium, delivery charges and other charges) to calculate revised quarterly CTMS data. The premium was based on actual costs incurred by Chinese manufacturers in the original investigation²¹. The Commission used this approach as Guangdong Jinxiecheng was not able to provide details regarding its premium (and it was also not able to provide information regarding delivery costs). The substitution of the revised costs has resulted in a downwards adjustment to CTMS data throughout the review period. The revised CTMS was used to conduct an ordinary course of trade assessment.

The Commission notes that in REP 148, the "net" LME cost was used as a substitute for the cooperative exporters, regardless of whether the LME was above or below the exporter's actual aluminium cost (although the "net" LME cost was above the exporters' actual costs, which resulted in an upwards adjustment to the CTMS). The Commission has adopted a consistent approach for this accelerated review, however during the review period the LME price (as adjusted) was consistently below Guangdong Jinxiecheng's purchase price of primary aluminium.

As discussed at Section 2.5, the Commission has not considered whether the LME represents an appropriate benchmark for determining a competitive market cost for primary aluminium (supplied in China). As discussed at Section 3.2.2, while Capral consider the LME prices to be indicative of a competitive market price for primary aluminium that an "appropriate" premium needs to be added. Capral submitted several alternative premium methodologies (and nominated its preferred methodology). Capral considers that its preferred premium is more suitable, as it reflects higher costs for Chinese primary aluminium producers comparative to costs incurred by global manufacturers. However, Capral also acknowledged that due to the expedient nature of an accelerated review that its preferred premium alternative would not be considered. The Commission notes that this issue could be considered during a review under Division 5 of the Act. As discussed above, the Commission has included a premium in constructing an international benchmark price for primary aluminium.

²¹ This approach reflects approach used in REP 148. Verified costs from REP 148 were used as Guangdong Jinxiecheng was not able to confirm certain expenses associated with aluminium purchases.

4.3 The Commission's assessment - normal value

Sufficient information is available to enable the normal value of aluminium extrusions exported to Australia from China by Guangdong Jinxiecheng to be determined under subsection 269TAC(1).

Normal values were determined using domestic sales of aluminium extrusions made by Guangdong Jinxiecheng in China that were made in the ordinary course of trade (and in sufficient volumes). The following adjustments were made to the normal value under subsection 269TAC(8) to ensure fair comparison with the export price:

- credit terms – a downwards adjustment was made to reflect varying credit terms applicable to export and domestic sales;
- inland freight – an upwards adjustment was made to reflect export inland freight to the port;
- trader margin – an upwards adjustment was made to reflect a trader margin applicable to the export sale; and
- Value Added Tax (VAT) difference – an upwards adjustment was made to reflect net VAT liability for the goods.

Normal value calculations are at **Confidential Attachment 2**.

4.4 Dumping margin

Measurement of a dumping margin is not required for the purposes of an accelerated review.

Furthermore, as the Commission has ascertained the export price of the goods equivalent to the normal value of the goods there is no dumping margin.

However, the Commission notes that the exporter verification team calculated a dumping margin of -11.8% when comparing the weighted average export price of the mill finish exported during the review period with the weighted average normal value for all finishes sold domestically²². This result is not unexpected given the prices of finishes other than mill are generally higher.

²² See *Guangdong Jinxiecheng exporter visit report*, which is available on the Electronic Public Record on the Commission's website at www.adcommission.gov.au

5 COUNTERAVAILABLE SUBSIDIES

5.1 Findings

Pursuant to subsection 269TAAC(1) of the Act, the Delegate of the Commissioner considers that under *Program 13 Exemption of Tariff and Import VAT for Imported Technologies and Equipment*, Guangdong Jinxiecheng received countervailable subsidies during the review period. However the countervailable subsidy margin calculated was negligible (less than 1 %).

The Delegate of the Commissioner has not recommended that Guangdong Jinxiecheng should be exempt from the countervailing duty notice applying to aluminium extrusions exported from China.

5.2 Original investigation

In REP 148, the ACBPS found that exporters of aluminium extrusions from China to Australia received financial contributions in respect of the goods that conferred a benefit under 19 subsidy programs (as detailed in Figure 2 below). Subsequent to accepting the recommendations contained in REP 148, the Attorney-General published a countervailing duty notice specifying countervailing duty rates applicable for aluminium extrusions exported from China.

Program No.	Program title (as specified in REP 148)
<i>Preferential Income Tax Programs</i>	
Program 1	<i>Preferential tax policies for enterprises with foreign investment established in the coastal economic open areas and economic and technological development zones</i>
Program 10	<i>Preferential Tax Policies for Foreign Invested Enterprises (FIE) – Reduced Tax Rate for Productive FIEs scheduled to operate for a period of not less than 10 years</i>
Program 13	<i>Exemption of Tariff and Import VAT for Imported Technologies and Equipment</i>
Program 16	<i>Preferential tax policies for enterprises with foreign investment established in Special Economic Zones (excluding Shanghai Pudong area)</i>
Program 17	<i>Preferential tax policies for enterprises with foreign investment established in Pudong area of Shanghai</i>
Program 18	<i>Preferential tax policies in the Western Regions</i>
<i>Grants and Preferential Policy Programs</i>	
Program 2	<i>One-time Awards to Enterprises Whose Products Qualify for ‘Well-Known Trademarks of China’ and ‘Famous Brands of China’</i>
Program 3	<i>Provincial Scientific Development Plan Fund</i>
Program 4	<i>Export Brand Development Fund</i>

Program No.	Program title (as specified in REP 148)
Program 5	<i>Matching Funds for International Market Development for SMEs</i>
Program 6	<i>Superstar Enterprise Grant</i>
Program 7	<i>Research & Development (R&D) Assistance Grant</i>
Program 8	<i>Patent Award of Guangdong Province</i>
Program 9	<i>Training Program for Rural Surplus Labour Force Transfer Employment</i>
Program 15	<i>Goods provided at less than adequate remuneration</i>
Program 26	<i>Innovative Experimental Enterprise Grant</i>
Program 29	<i>Special Support Fund for Non-State-Owned Enterprises</i>
Program 32	<i>Venture Investment Fund of Hi-Tech Industry</i>
Program 35	<i>Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment</i>

Figure 2: REP 148 countervailable subsidy program

5.3 Current review

5.3.1 Guangdong Jinxiecheng’s claims

As discussed at Section 3.2.1, Guangdong Jinxiecheng submitted an exporter questionnaire response, which included relevant information with regard to the subsidy programs listed at Figure 2. Guangdong Jinxiecheng claims that it has not received any benefit or subsidy from the programs identified in REP 148 in the last three years.

5.3.2 Capral’s submission

In its submission dated 12 August 2013, Capral noted that Guangdong Jinxiecheng indicated in its exporter questionnaire response that it did not receive benefits under subsidy programs in respect of aluminium extrusions. Capral noted that REP 148 identified 19 countervailable subsidy programs. Capral submitted that a number of other similarly titled subsidy programs have been identified in subsequent anti-dumping investigations conducted by anti-dumping administrations (including by the United States). Capral claimed that significant subsidies are received by aluminium smelters and aluminium extrusion manufacturers in China.

Capral claimed that further investigation into Guangdong Jinxiecheng’s claims that it received no subsidies was warranted. To support this claim, Capral noted that:

- Guangdong Jinxiecheng claims that it is a FIE and that several subsidies (as identified in REP 148) are specific to FIEs;
- Guangdong Jinxiecheng’s website identifies a number of “Honours” (in Mandarin) which may be indicative of grants received; and

- the US have identified other countervailable subsidy programs applicable to Chinese aluminium extrusions producers.

The Commission considered Capral's claims in undertaking the verification visit at Guangdong Jinxiecheng's premises in China.

5.3.3 Scope of subsidies assessed

As discussed at Section 2.5, due to the expedient nature of accelerated reviews, the Commission's assessment of whether countervailable subsidies were received by Guangdong Jinxiecheng in respect of aluminium extrusions only relates to the 19 countervailable subsidy programs that are subject to the countervailing duty notice (REP 148 refers).

5.4 The Commission's assessment – countervailable subsidies

5.4.1 Preferential Income Tax Programs

(i) All programs excluding Program 13

In its exporter questionnaire response and as part of the verification process Guangdong Jinxiecheng provided information that was supported by evidence regarding its company ownership and income tax matters. This included financial statements (as audited by an independent party), tax returns, and evidence of tax payments that reconciled to the tax payable schedules (for 2011 to May 2013).

Guangdong Jinxiecheng also provided its "*certificate for approval for foreign investment enterprise*", its business licence and company organisational structure and details regarding its parent company.

The Commission confirmed that while Guangdong Jinxiecheng is an FIE, there was no evidence to indicate that it received benefits under the *Preferential Income Tax* programs (excluding Program 13) deemed to be countervailable in REP 148. The Commission identified (and subsequently verified) that since 2011 Guangdong Jinxiecheng paid income tax at a rate (i.e. 25%) equivalent to non-FIEs.

The Commission is satisfied that Guangdong Jinxiecheng did not receive benefits under the *Preferential Income Tax Programs* (excluding Program 13) during the review period.

(ii) Program 13

In respect of *Program 13 Exemption of Tariff and Import VAT for Imported Technologies and Equipment*, Guangdong Jinxiecheng claims that it has not received any benefit or subsidy from this program in the last three years. However during the exporter verification visit, Guangdong Jinxiecheng was not able to provide sufficient information in relation to the importation of equipment and technologies retrospectively for the period greater than the last

three years²³. In REP 148, the ACBPS found that benefits received under this program would have been received over the “expected period of the benefit” or the expected usable life of the asset. This approach reflected Generally Accepted Accounting Principles. Therefore the ACBPS calculated the benefit conferred under Program 13 and amortised the benefit over this period.

(ii)(a)Benefit conferred

Similar to REP 148, the Commission considers that, due to the life of an asset, a benefit may accrue over many years. Guangdong Jinxiecheng was not able to provide information on its assets for the last ten years or any evidence to substantiate the claim that it did not receive benefits under this program. In the absence of necessary information to establish whether the exporter has received benefits under this program, the Commission has had regard to the available relevant facts and determined that a benefit has been conferred under Program 13 to Guangdong Jinxiecheng during the review period. The Commission calculated this benefit having regard to verified information from the cooperative exporters during the original investigation and unverified information from subsequent reviews and duty assessments in relation to aluminium extrusions.

5.4.2 Grants and Preferential Policies Programs

(i) All programs excluding Program 15

Guangdong Jinxiecheng indicated that it did not receive any benefits under the *Grants and Preferential Policies Programs*.

The Commission considers that the grants provided under these programs are financial contributions by the Government of China (GOC), to the extent that they were made in connection with the production of aluminium extrusions in China, which involves a direct transfer of funds by government to the recipient enterprises. This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium extrusions because of receipt of the respective funds from the government.

The Commission notes Capral’s submission that highlights a number of “*Honours*” have been received by Guangdong Jinxiecheng are shown on the exporter’s website. The Commission notes that the majority of these awards are dated 2006 and 2008-09. Guangdong Jinxiecheng stated (and as shown on the associated certificates) that these awards related to credit ratings, product quality and supply of goods for specific projects. The Commission found no evidence that these awards related to subsidy programs under which grants were provided to Guangdong Jinxiecheng in relation to aluminium extrusions.

The Commission is satisfied that Guangdong Jinxiecheng did not receive benefits under the *Grants and Preferential Policies Programs* (excluding Program 15) during the review period.

²³ The exporter claimed that this was due to a change in ownership and company structure.

(ii) Program 15

In REP 148, the ACBPS considered the following factors to indicate the Government's involvement in the domestic aluminium market and the distorting effects on domestic prices:

- export taxes on primary aluminium; and
- purchase of primary aluminium by the GOC.

Under *Program 15 Goods provided at less than adequate remuneration*, it was considered that a benefit to the exporter of aluminium extrusions was conferred by primary aluminium being provided by the GOC at an amount reflecting less than adequate remuneration, having regard to prevailing market conditions in China. The ACBPS found that this program involved a financial contribution to the extent that it was made in connection with the production of aluminium extrusions in China that involved the provision of goods (primary aluminium) by State-Invested Enterprises (SIEs), being public bodies.

In its exporter questionnaire response and during the verification process, Guangdong Jinxiecheng claimed that it did not purchase (primary) aluminium from SIEs. It also claims that it did not receive any benefits under Program 15. Guangdong Jinxiecheng provided a complete list of all aluminium purchases during the review period (which were subsequently verified by the Commission).

The Commission identified that Guangdong Jinxiecheng purchases primary aluminium from traders and not the manufacturers. Guangdong Jinxiecheng claims that for the majority of aluminium purchases, it cannot confirm the identity of the manufacturer.

In the absence of necessary information to establish whether the exporter has received benefits under this program, the Commission has had regard to the available relevant facts.

As the Commission was not able to confirm the identity of the manufacturers of the primary aluminium, the Commission considers that it is appropriate to conclude that all primary aluminium purchases were from SIEs. This reflects REP 148 which found that in the absence of relevant information (from cooperative exporters) that primary aluminium purchases in China were from SIEs.

In addition, the Commission notes that the parent company of a trader that supplies aluminium to Guangdong Jinxiecheng is listed on its website as "the region's largest state-owned enterprise". Therefore, the Commission considers that it is reasonable to conclude that primary aluminium purchased by Guangdong Jinxiecheng was from SIEs.

(ii)(a) Benefit conferred

Notwithstanding that the Commission has found that primary aluminium was purchased by Guangdong Jinxiecheng from SIEs, the Commission is not satisfied that the primary aluminium was provided at less than adequate remuneration.

In determining whether the goods were provided as less than adequate remuneration and conferred a benefit in relation to the exported goods, the

Commission adopted a consistent approach to REP 148 and, the Commission compared Guangdong Jinxiecheng's actual primary aluminium costs to international benchmark prices based on LME prices (as adjusted, plus a premium, delivery costs and other costs) and found that the exporter's actual costs exceeded the international benchmark (as discussed at Section 4.2.2). Therefore the Commission is satisfied that Guangdong Jinxiecheng did not receive benefits under Program 15 during the review period.

In addition, the Commission considers that this finding is consistent with the trends for LME prices and equivalent Shanghai Future Exchange (SFE) prices during the review period. As, consistently throughout the review period the SFE prices were above the LME prices.

5.5 Subsidy Margins

The Commission has determined that during the review period that Guangdong Jinxiecheng received financial contributions in respect of the goods that conferred a benefit, under Program 13.

In the absence of relevant information from the exporter, the Commission has had regard to the available relevant facts to determine the amount of the benefit received. These relevant facts include verified information from the original investigation and unverified information from subsequent reviews and duty assessments in relation to aluminium extrusions.

The Commission calculated a negligible countervailable subsidy margin of less than 1% in respect of benefit conferred under Program 13.

The Commission has determined that the other 18 countervailable subsidy programs identified in REP 148 did not apply to the applicant in the review period

Subsidy margin calculations are at **Confidential Appendix 3**.

6 NON-INJURIOUS PRICES

6.1 Findings

A single NIP for aluminium extrusions (all types) has been derived from a constructed USP based on CTMS data provided by two Australian industry members plus a reasonable rate of profit with deductions for importation costs. The Commission has compared the calculated NIP to the normal value (representing all types of aluminium extrusions) and found that the NIP exceeds the normal value. Therefore the normal value is the operative measure and the lesser duty rule does not apply.

6.2 Introduction

Anti-dumping measures may be applied where it is established that dumped and / or subsidised imports have caused or threaten to cause injury to the Australian industry producing like goods. The level of duty cannot exceed the margin of dumping and subsidisation, but a lesser duty may be applied if it is sufficient to remove the injury.

The calculation of the NIP provides the mechanism whereby this lesser duty provision is given effect. The NIP is the minimum price necessary to prevent the injury, or a recurrence of the injury, caused to the Australian industry by the dumping and subsidisation²⁴.

Dumping and countervailing duties are usually based on FOB prices in the country of export. Therefore a NIP is calculated in FOB terms for the country of export.

6.3 Unsuppressed selling price

The Commission follows one of the following approaches to establish the USP:

1. *Market approach* – industry selling prices at a time when the Australian market was unaffected by dumping;
2. *Construction approach* – the Australian industry's CTMS plus a reasonable rate of profit; or
3. *Other approach* – selling prices of un-dumped imports in the Australian market.

Having calculated the USP, the Commission then calculates a NIP by deducting the importation costs incurred in getting the goods from the FOB point at export (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, duty, insurance, into-store costs and amounts for importer expenses and profit.

6.4 Submissions regarding the USP and the NIP

During the accelerated review, the Commission contacted all Australian manufacturers of aluminium extrusions and requested information in relation to CTMS aluminium extrusions.

²⁴ The NIP is defined in section 269TACA.

Two Australian industry members, Capral and Independent Extrusions Limited (Inex), submitted CTMS data to use as the basis of the USP. Aggregate CTMS data was provided for all types of aluminium extrusions to enable the Commission to construct a single USP.

On 18 September 2013, Capral made a submission to the accelerated review regarding an appropriate amount of profit to be used for the USP. Reflecting its previous submission made in the most recent review inquiry in relation to aluminium extrusions (REP 186 refers), Capral support the inclusion of a profit in constructing a USP. For REP 186 the ACBPS determined a reasonable amount of profit using Australian Bureau of Statistics (ABS) data. Capral submitted that while this was not its preferred method that it expected this approach was be maintained. Capral submitted they would provide alternative profit methods in future reviews.

Inex made no submissions in relation to a preferred method for calculating a reasonable amount of profit.

6.5 The Commission's assessment – the USP and the NIP

When establishing a USP / NIP for accelerated reviews, the Commission will not depart from the approach taken in the original investigation or in subsequent reviews, unless there has been a change in circumstances that makes the approach unreasonable and / or less preferable.

During the original investigation (REP 148 refers), the USP was established using the Australian industry's CTMS plus a reasonable rate of profit. The Commission has not received any submission suggesting that this approach is unreasonable and that an alternate method should be used. The Commission considers that it is still reasonable to use this methodology.

As discussed at Section 6.4, CTMS data was provided by two Australian manufacturers (Capral and Inex) for the purposes of constructing a USP. The Commission has calculated the weighted average of these costs to use as a basis to derive the USP.

The Commission found ABS profit data that was previously used for USP calculations indicated negative profits achieved during the review period. However information provided by one Australian manufacturer shows that this company made a profit during the review period. The Commission considers that as anti-dumping measures were in place during the review period, that the profit achieved by this manufacturer during this time was unaffected by dumping. Therefore the Commission considers that this profit level is reasonable and should be used to calculate the USP. The Commission also notes Capral's views that an appropriate amount of profit should be added. The Commission therefore considers that ABS profit data is not reasonable and should not be used in USP calculations (for the accelerated review).

To calculate the NIP (at FOB terms), the Commission has deducted the following costs from the USP:

- overseas freight and marine insurance;

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- into-store costs; and
- selling, general and administrative costs related to the sale of the imported goods by the importer.

These importation costs reflect verified costs relevant to the review period that were provided from importers during duty assessments for aluminium extrusions.

USP and NIP calculations are at **Confidential Attachment 4**.

7 EFFECT OF THE REVIEW

As a result of this accelerated review, in respect of aluminium extrusions exported by Guangdong Jinxi Cheng from China:

- interim dumping duty will be payable only when the export price is below the relevant normal value (reflecting the imposition of a floor price duty mechanism); and
- interim countervailing duty will not be payable (reflecting the imposition of an ad valorem duty mechanism of zero %).

These changes will take effect retrospectively from 13 June 2013.

8 RECOMMENDATIONS

The Commissioner recommends that the Minister considers this report, and if agreed, sign the attached notice (**Confidential Attachment 1**) and sign the attached schedules (**Confidential Attachment 2**) to **declare**:

- under subsection 269ZG(3) of the Act, that, for the purpose of the Act and the Dumping Duty Act, to the extent that the anti-dumping measures concerned involved the publication of a dumping duty notice and a countervailing duty notice, that, with effect from 13 June 2013, the notice is taken to have effect in relation to Guangdong Jinxiacheng as if different variable factors had been fixed in respect of this exporter, relevant to the determination of duty.

The Commissioner recommends that the Minister **be satisfied** that:

- in accordance with subsection 269TAB(3) of the Act, sufficient information is not available to enable export prices for aluminium extrusions exported to Australia from China by Guangdong Jinxiacheng the subject of this review to be ascertained under the preceding subsections of section 269TAB of the Act; and
- in accordance with subsection 269TAC(1) of the Act, the normal value of goods exported to Australia can be determined based on domestic sales of like goods sold by Guangdong Jinxiacheng in the ordinary course of trade.

The Commissioner recommends that the Minister **determine**:

- in accordance with subsection 269TAB(3) of the Act, the export prices for aluminium extrusions exported to Australia from China by Guangdong Jinxiacheng is the amount having regard to all relevant information;
- in accordance with subsection 269TAC(1) of the Act, the normal value for aluminium extrusions exported to Australia from China be based on Guangdong Jinxiacheng's domestic sales of like goods sold in the ordinary course of trade; and
- in accordance with subsection 8(5) of the Dumping Duty Act, that the amount of interim dumping duty payable on the goods the subject of the dumping duty notice be worked out in accordance with the floor price duty method prescribed in subsection 5(4) of the *Customs Tariff (Anti-Dumping) Regulation 2013*²⁵.

The Commission recommends that the Minister:

- decide not to publish the tables attached to the notices because publication would adversely affect the business or commercial interest of interested parties.

²⁵ There is no legislative requirement for the Minister to determine the countervailing duty method.

9 ATTACHMENTS AND APPENDICES

Attachments	
Non-Confidential Attachment 1	Section 269T of the Act – definition of a new exporter
Confidential Attachment 1	Section 269ZG(3) public notice
Confidential Attachment 2	Relevant schedules
Appendices	
Confidential Appendix 1	Export price calculations
Confidential Appendix 2	Normal value calculations
Confidential Appendix 3	Subsidy margin calculations
Confidential Appendix 4	NIP and USP calculations

Non-Confidential Attachment 1

Section 269T of the *Customs Act 1901* – definition of a new exporter

new exporter, 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 period:

(a) starting at the start of the investigation period in relation to the application;
and

(b) ending immediately before the day the Commissioner places on the public record the statement of essential facts in relation to the investigation of the application.