

PUBLIC RECORD



Australian Government
**Department of Industry,
Science and Resources**

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 (Cth) - PART XV B

FINAL REPORT NO. 618

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

ANTAI TECHNOLOGY CO., LTD.

13 June 2023

CONTENTS

CONTENTS..... 2

ABBREVIATIONS..... 3

1 SUMMARY AND RECOMMENDATION 4

1.1 BACKGROUND4

1.2 APPLICATION OF LAW TO FACTS4

1.3 FINDINGS4

1.4 RECOMMENDATION5

2 BACKGROUND..... 6

2.1 THE GOODS6

2.2 ACCELERATED REVIEWS8

2.3 EXISTING MEASURES8

2.4 NOTIFICATION AND PARTICIPATION.....8

2.5 INFORMATION GATHERED9

2.6 PUBLIC RECORD10

2.7 SUBMISSIONS.....10

3 EXPORT PRICE 12

3.1 FINDINGS12

3.2 THE IMPORTERS.....12

3.3 THE EXPORTER.....12

3.4 ARMS LENGTH ASSESSMENT12

4 NORMAL VALUE..... 14

4.1 FINDING.....14

4.2 CONSTRUCTED NORMAL VALUE, ADJUSTMENTS AND PROPER COMPARISON14

5 DUMPING ASSESSMENT..... 16

6 COUNTERAVAILABLE SUBSIDIES 17

6.1 FINDINGS17

6.2 LEGISLATIVE REQUIREMENT FOR COUNTERAVAILABLE SUBSIDIES17

6.3 PROGRAMS REVIEWED17

7 NON-INJURIOUS PRICE..... 20

7.1 LEGISLATIVE FRAMEWORK.....20

7.2 THE COMMISSION’S ASSESSMENT20

8 FORM OF MEASURES 21

8.1 CURRENT FORM OF MEASURES21

8.2 RECOMMENDED FORM OF MEASURES21

9 EFFECT OF THE ACCELERATED REVIEW 22

10 RECOMMENDATIONS..... 23

11 APPENDIX A – LIST OF COUNTERAVAILABLE PROGRAMS IN REP 543..... 25

12 ATTACHMENTS..... 29

PUBLIC RECORD

ABBREVIATIONS

ADN	Anti-Dumping Notice
Antai	Antai Technology Co., Ltd (the applicant)
the accelerated review period	1 January 2022 to 31 December 2022
the Act	<i>Customs Act 1901</i> (Cth)
aluminium extrusions	certain aluminium extrusions (also referred to as the goods)
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
CTM	cost to make
Customs Tariff Regulation	<i>Customs Tariff (Anti-Dumping) Regulation 2013</i>
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
EPR	electronic public record
EXW	ex-works
GAAP	generally accepted accounting principles
GOC	Government of China
the goods	the goods the subject of the accelerated review (also referred to as the 'goods under consideration')
ICD	interim countervailing duty
IDD	interim dumping duty
the former Minister	the minister for Industry, Science and Technology
the Minister	the Minister for Industry and Science
NIP	non-injurious price
the notices	the dumping duty notice and countervailing duty notice
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
REP 148	<i>Anti-Dumping Commission Report No. 148</i>
REP 543	<i>Anti-Dumping Commission Report No. 543</i>
REQ	response to the exporter questionnaire
SIE	state-invested enterprise
SOE	state-owned enterprise
VAT	value added tax

1 SUMMARY AND RECOMMENDATION

1.1 Background

On 3 March 2023, Antai Technology Co., Ltd. (Antai) made an application to the Anti-Dumping Commission (the commission), seeking an accelerated review of the dumping duty notice and the countervailing duty notice (collectively, the notices) applying to certain aluminium extrusions (aluminium extrusions, or the goods) exported to Australia from the People's Republic of China (China).¹

Antai is currently subject to the combined rate of interim dumping duty (IDD) and interim countervailing duty (ICD) of 77.4%. This rate reflects the combined rate for 'all other exporters' as determined by the then Minister for Industry, Science and Technology (the former Minister) following *Anti-Dumping Commission Report No. 543* (REP 543).²

Antai's application sought an accelerated review on the basis that the rates of duty set out in the notices for 'all other exporters' should not apply to Antai's exports of the goods

The Commissioner recommends that the Minister for Industry and Science (the Minister) alter the notice, so as to apply to Antai as if different variable factors had been fixed relevant to the determination of IDD and ICD.

As part of this accelerated review, the commission has calculated a dumping margin of **negative 1.6%** and subsidy margin of **2.1%** in respect of the goods exported by Antai during the inquiry period.

This report sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) is basing his recommendations to the Minister.

1.2 Application of law to facts

Division 6 of Part XVB of the *Customs Act 1901* (Cth) (the Act)³ allows 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 in conducting accelerated reviews for the purpose of making a report to the Minister and
- enables the Minister, after consideration of such reports, to leave the notices unchanged or to modify them as appropriate.

1.3 Findings

The commission has found that Antai did not export the goods to Australia during the original investigation period. Consequently, Antai meets the definition of a 'new exporter' under section 269T(1) and is eligible to apply for an accelerated review.

¹ Electronic public record (EPR) for case 618, document no. 1.

² EPR 543, document no 61.

³ All legislative references in this report are to the *Customs Act 1901* (Cth) unless otherwise specified.

PUBLIC RECORD

Based on all relevant and available information, concerning the variable factors for Antai's exports of the goods to Australia, the Commissioner considers that:

- the export price should be determined under section 269TAB(1)(a)
- the normal value should be constructed under section 269TAC(2)(c) in accordance with sections 43, 44 and 45 of the *Customs (International Obligations) Regulation 2015* (the Regulation)
- Antai received countervailable subsidies in relation to the goods during the accelerated review period, such that the amount of countervailable subsidy should be changed.

1.4 Recommendation

Based on the above findings and pursuant to section 269ZG(1)(b), the Commissioner recommends that:

- (a) the Minister alter the notices, so as to apply to Antai as if different variable factors had been fixed (excluding the non-injurious price (NIP)) and
- (b) the NIP be the same as the current NIP applicable to all exports of the goods from China.

Further, the Commissioner recommends that:

- the Minister determine that the IDD be worked out on Antai's exports to Australia in accordance with the floor price method at a rate pursuant to sections 5(4) and 5(5) of the *Customs Tariff (Anti-Dumping) Regulation 2015 (Customs Tariff Regulation)*; and
- the ICD applicable to Antai's exports to Australia is **2.1%**.

If accepted by the Minister, the recommendations applicable to Antai will take effect retrospectively from 3 March 2023 (the date the application was lodged).

2 BACKGROUND

2.1 The goods

2.1.1 Description

The goods subject to anti-dumping measures, in the form of the notices, are outlined in the table below.

Full description of the goods the subject of the application						
Aluminium extrusions that: <ul style="list-style-type: none"> • are produced by an extrusion process; • are 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); • have finishes being: <ul style="list-style-type: none"> ○ as extruded (mill); ○ mechanically worked; ○ anodized; or ○ painted or otherwise coated, whether or not worked; • have a wall thickness or diameter greater than 0.5 mm; • have a maximum weight per metre of 27 kilograms; and • have a profile or cross-section fitting within a circle having a diameter of 421 mm. 						
Further information						
The goods under consideration 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 under consideration do not extend to intermediate or finished product 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 importers and brokers to assist in the categorisation of aluminium extrusions into the types covered by interim duties (GUC), and those not covered (Non GUC). In most cases, extrusions classified to headings 7604 or 7608 would be subject to IDD and/or ICD. Importers should use the table to categorise their goods and decide whether dumping and countervailing duties apply.						
< Goods Under Consideration (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	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	Kits that, at time of import, comprise all necessary parts to assemble finished goods. For example, shower frame kits, unassembled unitised curtain walls	Unglazed window or door frames	Windows, doors

Table 1: The goods the subject of the application

PUBLIC RECORD

Further information on the goods and existing measures is available on the Dumping Commodity Register on the commission website at: www.adcommission.gov.au.

2.1.2 Tariff classification

The goods are generally, but not exclusively, classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995* (Cth):⁴

Tariff subheading	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

Table 2: Tariff classifications of the goods

2.1.3 Like goods

Section 269T(1) defines like goods as “goods that are identical in all respects to the goods under consideration or that, although not alike in all respect to the goods under consideration, have characteristics closely resembling those of the goods under consideration.”

The commission’s framework for assessing like goods is outlined in Chapter 2 of the commission’s *Dumping and Subsidy Manual*.⁵

The commission examined Antai’s domestic sales of aluminium extrusions in China having regard to the description of the goods in the table above and the applicable model control code structure.

The commission considers that the aluminium extrusions sold domestically in China by Antai have characteristics closely resembling those of the exported aluminium extrusions and are, therefore, ‘like goods’ in accordance with section 269T(1).

⁴ These tariff classifications and statistical codes may include goods that are both subject and not subject to the anti-dumping measures. The listing of these tariff classifications and statistical codes is for convenience and reference only and does not form part of the goods description. Please refer to the goods description for authoritative detail regarding goods subject to the anti-dumping measures.

⁵ *Dumping and Subsidy Manual*, November 2018. Available on the Commission website at: www.adcommission.gov.au.

2.2 Accelerated reviews

The legislative framework that underpins the making of, and the Commissioner's consideration of, an application for an accelerated review of dumping and countervailing duty notices is contained in Divisions 1 and 6 of Part XVB of the Act.

If the Commissioner does not terminate an accelerated review, no later than 100 days after the application is lodged the Commissioner must provide the Minister with a report. That report must recommend that the notices, the subject of the application:⁶

- (a) remain unaltered⁷ or
- (b) be altered so as to apply to Antai as if different variable factors had been fixed⁸

and set out the reasons for so recommending.⁹

Following the Minister's decision, a notice is published on the commission's website advising of the decision.¹⁰

2.3 Existing measures

On 12 October 2020, the Minister revised the variable factors and effective rates of duty applicable to the goods following a continuation inquiry (see REP 543).¹¹ Antai is currently subject to the 'all other exporter' rate of 77.4%, while its application for accelerated review is being considered.

No IDD and ICD can be collected on Antai's exports of the goods while its application for the accelerated review¹² is being considered, but the Commonwealth is requiring and taking securities.

Further details of the measures in place on exports of the goods from China are available in the Dumping Commodity Register on the commission website.¹³

2.4 Notification and participation

On 3 March 2023, Antai lodged an application for an accelerated review of the notices applying to aluminium extrusions exported to Australia from China, insofar as the notices affect Antai. The Commissioner considered the application to determine if it was made in accordance with sections 269ZE and 269ZF. The Commissioner did not reject the application because:

- the circumstances in which an accelerated review can be sought under section 269ZE(1) were satisfied
- the conditions for rejection under section 269ZE(2) were not satisfied and

⁶ Section 269ZG(2).

⁷ Section 269ZG(1)(a).

⁸ Section 269ZG(1)(b).

⁹ Section 269ZG(1).

¹⁰ Section 269ZG(3).

¹¹ Refer to REP 543 and Anti-Dumping Notice (ADN) No. 2020/103.

¹² Section 269ZH.

¹³ www.adcommission.gov.au.

PUBLIC RECORD

- the application satisfied the requirements of section 269ZF(1).

The commencement of this accelerated review was notified in ADN No. 2023/015, which was published on 24 March 2023 and made available on the public record on the Commission's website.¹⁴ ADN No. 2023/015 advised that the Commissioner's recommendation will be made in a report on, or before, **12 June 2023**.¹⁵

For the purposes of the accelerated review, the period examined is 1 January 2022 to 31 December 2022 (the accelerated review period).

2.5 Information gathered

2.5.1 Exporter questionnaire

Upon the commencement of the accelerated review, the commission sent an exporter questionnaire to Antai for completion.

On 14 April 2023, the commission received the completed response to the exporter questionnaire (REQ) from Antai. A non-confidential version of the REQ is available on the public record.¹⁶

This REQ contained information and data in relation to Antai'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)
- adjustments requested (if any) to ensure fair comparison of export prices and normal values.

In addition, the REQ responded to questions concerning countervailable subsidy programs, including those that the ADC identified in REP 543 in respect of aluminium extrusions.

The commission also sought clarification and further responses from Antai on a range of matters throughout the conduct of this review. Antai cooperated and provided responses to the queries within the designated timeframes. This includes further information on the goods exported by Antai to Australia. The commission also validated Antai's data by comparing Antai's export prices, costs and domestic selling prices with other verified exporters of aluminium extrusions from China as part of Review 609, which is concurrently running with this case.

Consequently, the commission is satisfied

- that Antai is an exporter of the goods
- as to the accuracy, relevance and completeness of the data supplied by Antai, upon which the findings of this accelerated review are based and

¹⁴ Section 2.6 refers.

¹⁵ As this is a public holiday, the effective date becomes the next working day, Tuesday 13 June 2023.

¹⁶ EPR 618, [document no. 3](#).

PUBLIC RECORD

- that the information provided by Antai is accurate and reliable for the purpose of ascertaining variable factors.

2.6 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.adcommssion.gov.au.

2.7 Submissions

The commission invited interested parties to lodge submissions concerning this accelerated review before 2 May 2023.¹⁷

The commission received one submission in relation to this accelerated review. The submission was received from Capral Limited (Capral).¹⁸ The commission has addressed the matters raised by Capral below.

- Capral noted that Antai had been involved 'for some time' in the manufacture and sale (both domestic and export) of aluminium extrusions. Capral claimed that the commission must be satisfied that the requirements of section 269ZE(3)(b) of the Act had been met. The commission has examined the ABF importation database for the original investigation period. The commission did not identify Antai or any of its related parties or previous entities, as having exported to Australia during the original investigation period.
- Capral also noted that in the most recent continuation inquiry, normal values had been constructed under section 269TAC(2)(c) due to a finding that the particular market situation continued to apply in China for aluminium extrusions. The commission confirms that Antai's normal value for this accelerated review was determined under section 269TAC(2)(c) because the situation in the market of the country of export was such that sales in that market were not suitable for use in determining a price under section 269TAC(1).
- Capral further noted that Antai was likely in receipt of a range of subsidies. The commission has examined the subsidies received by Antai, including any reduced tax benefits and new subsidy programs. Chapter 5 of this report provides further details of the commission's assessment.
- Capral submitted that the Minister was not required to consider the lesser duty rule. The commission confirms that the Minister is not required to consider the application of the lesser duty rule in relation to the exports because the commission did not ascertain these exporter's normal values under section 269TAC(1) due to the operation of section 269TAC(2)(a)(ii). Chapter 6 provides further details of the commission's assessment in relation to the lesser duty rule.
- Capral further submitted that the duty method payable should be based upon the combination method, as this currently applies to Chinese exporters of aluminium extrusions to Australia. For the reasons specified in Chapter 7, the commission

¹⁷ See in ADN No. 2023/015. EPR 618, [document no. 2](#).

¹⁸ EPR 618, [document no. 5](#).

PUBLIC RECORD

has recommended that the IDD be worked out on Antai's exports to Australia in accordance with the floor price method.

3 EXPORT PRICE

3.1 Findings

In respect of Australian sales of the goods by Antai, the Commissioner recommends that the export price be determined under section 269TAB(1)(a), as the price paid (or payable) for the goods by the importer, other than any part of that price that represents a charge in respect of any other matter arising after exportation.

The commission's export price calculation is set out in **Confidential Attachment 1**.

3.2 The importers

The commission considers Antai's Australian customer who purchased the goods to be the beneficial owner of the goods at the time of importation and, therefore, the importer.

3.3 The exporter

The commission considers Antai to be the exporter of the goods,¹⁹ as Antai is:

- the manufacturer of the goods, located in the country of export, knowing that they are destined for Australia
- named on relevant commercial documentation as the supplier (e.g. commercial invoices and purchase orders)
- named as the exporter on the Certificate of Origin
- responsible for arranging and paying for costs relevant to export, including the inland transport to the port of export.

3.4 Arms length assessment

In determining export prices under section 269TAB(1)(a), the Act requires that the relevant sales are 'arms length' transactions.

Section 269TAA outlines the circumstances in which the price paid (or payable) shall not be treated as being at 'arms length'. These circumstances include where:

- there is any consideration payable for, or in respect of, the goods, other than price
- the price appears to be influenced by a commercial (or other) relationship between the buyer (or an associate of the buyer) and the seller (or an associate of the seller), or
- in the opinion of the Minister, the buyer (or an associate of the buyer) will, directly (or indirectly), be reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.²⁰

¹⁹ The commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; Or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

²⁰ Refer to Chapter 5 of the manual for the commission's approach to the assessment of arms' length transactions.

PUBLIC RECORD

In respect of Antai's Australian sales of the goods (which are to unrelated customers) during the accelerated review period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than price
- the price appeared to be influenced by a commercial (or other) relationship between the buyer (or an associate of the buyer) and the seller (or an associate of the seller) or
- the buyer (or an associate of the buyer) was directly (or indirectly) reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

The commission therefore considers that all export sales made by Antai to its unrelated Australian customer during the accelerated review period were 'arms length' transactions.²¹

²¹ Section 269TAA refers.

4 NORMAL VALUE

4.1 Finding

The commission has found that the normal value for Antai is different to that currently applicable to exports subject to the 'all other exporters' rate and should be constructed under section 269TAC(2)(c), in accordance with sections 43, 44 and 45 of the Regulation.

4.2 Constructed normal value, adjustments and proper comparison

The commission is satisfied that, as a result of the findings in REP 543 and the preliminary findings in Review 609 regarding a situation in the domestic aluminium extrusions market in China, domestic selling prices are not suitable for use in determining a normal value under section 269TAC(1).

It was determined in REP 543, and preliminarily determined in recent Review 609, that the presence of a particular market situation affects the Chinese market for aluminium extrusions, primarily through distortion of primary aluminium prices as a key cost component of the goods. The commission found that Government of China (GOC) influence in the primary aluminium and aluminium extrusion sectors has resulted in a significant variance in aluminium extrusion prices, in comparison to an environment where markets operated without significant GOC intervention. As a result, Chinese exporters enjoy a cost advantage that either manifests as an increased margin at the prevailing level of competitive pricing in the Australian market, a low export price that undercuts the prevailing level of competitive pricing, or a combination thereof, whereby the Chinese manufacturer can enjoy a higher margin while still undercutting other market participants. The effect of the market situation on export prices is to modify the conditions of competition in Australia to the benefit of Chinese exporters and, to the extent that benefit manifests as a low price that undercuts the prevailing level of competitive pricing in Australia, to the detriment of all other participants in that market.

On the other hand, the effect of the particular market situation on domestic sales prices in China does not result in any competitive advantages or disadvantages between the key market players, being Chinese producers. Consequently, the particular market situation modifies the conditions of competition in a consistent manner for the key market participants in China.

The commission therefore finds that the relative effect of the particular market situation on domestic and export prices is materially different in the relevant markets. For the reasons outlined above, and consistent with REP 543 and Review 609, the commission finds that Antai's domestic sales prices are not suitable to use as the basis for normal value, pursuant to section 269TAC(1), because they would not permit a proper comparison with export prices for the purposes of determining the existence and margin of dumping into the Australian market.

The commission has, therefore, calculated a normal value under section 269TAC(2)(c), using the sum of:

- the cost of production of the goods in China, which was calculated using the cost to make (CTM) expenses for Antai, with its primary aluminium costs adjusted by reference to a benchmark plus

PUBLIC RECORD

- domestic selling, general and administrative costs based on the company's records in accordance with section 44(2) of the Regulation plus
- an amount for profit, based on data relating to the production and sale of like goods on the domestic market in the ordinary course of trade in accordance with section 45(2) of the Regulation.

The commission has assessed the raw material input costs in the CTM for Antai. The commission notes that Antai kept its records relating to the goods in accordance with the relevant generally accepted accounting principles (GAAP) and that the records reasonably reflect the costs associated with the production and sale of the goods.

However, the commission is not satisfied that Antai's costs reasonably reflect competitive market costs associated with the production of like goods, due to the influence of the GOC in the domestic Chinese market for primary aluminium. As a result, section 43(2) of the Regulation, which requires the commission to use a producer's records to determine the cost of production of goods in the country of export where those records reasonably reflect competitive market costs, is not enlivened.

In this case, the commission considers it is not appropriate to rely on the primary aluminium costs in Antai's records to determine the cost of production of the goods in China, because to do so would reintroduce the factors that warranted the commission's decision to construct the normal value in the first place. The commission considers it appropriate to adjust primary aluminium costs in Antai's records by reference to an international benchmark cost for primary aluminium. The commission has not adjusted any of the other items recorded in Antai's cost of production.

The commission consequently worked out the amount for the cost of production in Antai's normal value under section 269TAC(2)(c) using this adjusted cost for primary aluminium and the costs for other items as set out in Antai's records.

In determining Antai's CTM under section 43(2) of the Regulation, the commission has applied a competitive aluminium benchmark, using the benchmark specified in section 6.3.1 of this report.

The commission is satisfied that there is sufficient information to justify the following adjustments in accordance with section 269TAC(9). The commission considers these adjustments to be necessary to ensure a fair comparison of normal values and export prices.

Adjustment type	Deduction/addition
Export inland transport charges	Add an amount for export inland transport
Export handling & other charges	Add an amount for export handling & other charges
Export credit terms	Add an actual amount for export credit terms

Table 3: Assessment of adjustments

The commission's normal value calculation and competitive benchmark cost of aluminium are set out at **Confidential Attachment 3** and **Confidential Attachment 6**, respectively.

5 Dumping assessment

The commission compared the quarterly weighted average of export prices with the quarterly weighted average of corresponding normal values over the inquiry period, in accordance with section 269TACB(2)(a).

The dumping margin for Antai is negative 1.6%.

6 COUNTERAVAILABLE SUBSIDIES

6.1 Findings

The commission has found that the amount of countervailable subsidy for Antai is different to that currently applicable to exports subject to the 'all other exporter' rate. The countervailable subsidy rate for Antai is 2.1%.

6.2 Legislative requirement for countervailable subsidies

A countervailable subsidy is defined at section 269TAAC. Further, sections 269TACC and 269TACD concern determinations by the Minister as to whether a benefit has been conferred by a financial contribution or price support, and the amount of this benefit. Generally, the existence of a benefit is determined by comparison of costs with a benchmarked market price for the respective cost. For example, if the alleged benefit relates to tax revenue foregone, the existence of a benefit is determined by comparing the actual tax rate applied to the tax rates of the country in question.

6.3 Programs reviewed

In REP 543, the commission found that certain programs are countervailable in respect of aluminium extrusions exported to Australia from China. Appendix A (below) provides further details of these countervailable subsidy programs.

For this review, Antai reported that it had received two subsidy programs that are listed in Appendix A and 44 additional programs.

6.3.1 Program 15 – Aluminium provided by government at less than adequate remuneration

In REP 543, the commission found a countervailable subsidy program (Program 15) existed whereby primary aluminium used for the manufacture of aluminium extrusions was being produced and supplied by government owned enterprises at less than adequate remuneration (LTAR).

During this accelerated review, the commission did not find any further information to depart from the finding in REP 543 in relation to the existence of Program 15. As such, the commission adopted the assessment made in REP 543.

Consistent with the original investigation and subsequent cases, the commission sought information from Antai to establish the quantity and cost of primary aluminium purchases, the form (ingot or billet), origin of product, the identity of the supplier (trader or original manufacture) and if the supplier was a State Invested Entity (SIE) or State Owned Entity (SOE).

The benefit received under Program 15 by Antai in relation to its primary aluminium purchases was determined by calculating the difference between its purchases of primary aluminium from SIEs and SOEs with an appropriate objective market price benchmark, being the London Metals Exchange, plus a Major Japanese Port premium and estimated inland costs from the closest Chinese port to Antai. The value of the difference is considered to be the benefit conferred to the exporter.

PUBLIC RECORD

When there is both an adjustment to raw material costs as part of constructing a normal value and a countervailable LTAR subsidy (such as Program 15), the commission will generally 'back out' the relevant subsidy from the dumping margin, in order to avoid any double counting.

Part 20.3 of the Manual provides:

The commission may decide to construct normal value for the goods in question under section 269TAC(2)(c) in certain circumstances. In some of these circumstances, the cost of an input may not reasonably reflect competitive market costs and therefore an adjustment to that input cost is made in constructing normal value. Where that input was also the subject of a less than adequate remuneration subsidy finding, it is necessary to 'back out' the relevant subsidy from the dumping margin in order to avoid any double counting.²²

As Program 15 is in respect of primary aluminium provided at LTAR and the commission has adjusted aluminium as a cost input in constructing the normal value for Antai, it has been necessary for the commission to adjust the floor price that will apply to Antai in order to avoid double counting.

6.3.2 Preferential income tax programs

In its REQ, Antai declared that it had received a benefit from preferential income tax rate under program 47. The reduced income tax rate under this program is a financial contribution by a government which involves the foregoing (or not collecting) of revenue by a government.

Due to the nature of this program (reduced income tax rate), the commission considered that a financial contribution would be made in connection to the production, manufacture or export of Antai's goods.

The commission considers that this constitutes a benefit in relation to the goods exported to Australia.

The financial contributions made under these programs meet the definition of a subsidy under section 269T.

Consequently, the commission is satisfied that Antai did benefit from preferential income tax programs, in the form of reduced company income tax, during the review period.

6.3.3 Grants and preferential policies

In its REQ, Antai indicated that it received benefits from certain grants.

²² The commission notes the WTO Appellate Body's comments in DS379, that 'double remedies' are inconsistent with the requirement in Article 19.3 of the Subsidies and Countervailing Measures Agreement.

PUBLIC RECORD

Antai reported 44 grants that are not identified in REP 543 or Review 609. Based on the information assessed by the commission in this accelerated review, these grants are considered countervailable under section 269TAACA(b)(i).²³

In accordance with section 269TACD(2), the subsidy margin for these programs has been calculated based on the unit subsidy amount attributed to the goods as a percentage of the ascertained export price. The subsidy amount attributed to the goods has been calculated based on the total benefit received as a proportion of company turnover or export turnover, as is relevant to the grant received.

6.3.4 Amount of countervailable subsidy received

Antai has received benefits from countervailable subsidies and the commission has determined that the subsidy margin, when expressed as a percentage of the ascertained export price determined, is **2.1%**.

The commission's subsidy margin calculation is set out in **Confidential Attachment 5**.

²³ The commission notes that in Review 609, which the commission has been undertaking concurrently with this accelerated review, the commission sent a questionnaire to the Government of China (GOC) seeking information regarding previously identified subsidy programs, any changes to those programs and other programs not previously addressed. The GOC did not provide a response to the government questionnaire.

7 NON-INJURIOUS PRICE

7.1 Legislative framework

Where a dumping duty notice and countervailing duty notice apply to the same goods, and the notices were published at the same time, the Minister must have regard to the desirability of specifying a method such that the sum of the ascertained export price, the IDD payable and the ICD payable do not exceed the NIP.²⁴

However, the Minister is not required to have regard to the desirability of fixing a lesser amount of duty in the following circumstances:²⁵

- where there is a situation in the market that makes domestic selling prices unsuitable for the purpose of determining a normal value under section 269TAC(1)
- there is an Australian industry in respect of the goods consisting of at least two small to medium sized enterprises (as defined in the *Customs (Definition of "small-medium enterprise") Determination 2013*) or
- the country in relation to which the subsidy has been provided, has not complied with Article 25 of the *Agreement on Subsidies and Countervailing Measures*²⁶ for the compliance period.

Where any of the above exceptions apply, the Minister is not required to have mandatory consideration of the lesser duty rule but may still wish to exercise a discretion to do so.

7.2 The commission's assessment

The commission recommends that the NIP applicable to exports by Antai be the same as the current NIP applicable to all exports of the goods from China.

For the reasons outlined in REP 543 and Review 609, the commissioner recommends that the Minister be satisfied that, in accordance with section 269TAC(2)(a)(ii), the situation in the aluminium extrusion market in China is such that sales in that market are not suitable for use in determining a price under section 269TAC(1).

As such, the Minister is not required to have regard to the desirability of fixing a lesser amount of duty, due to the operation of section 8(5BAAA) and 10(3DA) of the Dumping Duty Act.

The Commissioner recommends that the Minister not consider the desirability of applying the lesser duty rule under section 8(5BA) and 10(3D) of the Dumping Duty Act. As such, the full dumping and subsidy margins will be applied to any IDD and ICD applying to aluminium extrusions exported by Antai to Australia from China.

²⁴ Section 10(3D) of the Dumping Duty Act.

²⁵ Section 10(3DA) of the Dumping Duty Act.

²⁶ Marrakesh Agreement Establishing the World Trade Organization, 1867 UNTS 3 (entered into force 1 January 1995) annex 1A ('Agreement on Subsidies and Countervailing Measures').

8 FORM OF MEASURES

8.1 Current form of measures

Antai's exports of the goods are currently subject to the 'all other exporters' effective rate of duty of 77.4%.²⁷

In respect of any IDD that may become payable, duty is collected using the combination of fixed and variable duty method. In respect of any ICD that may become payable, duties are calculated as a proportion of the export price of the goods.

8.2 Recommended form of measures

The Commissioner recommends to the Minister that duties be calculated:

- in respect of any IDD that may become payable, using the floor price method, pursuant to section 5(4) and 5(5) of the Customs Tariff Regulation
- in respect of any ICD that may become payable, as a proportion of the export price of the goods (ad valorem method).

With regards to IDD, the floor price method is considered appropriate given the commission calculated a negative dumping margin for Antai. This is on the basis that, where a floor price is set equal to an exporter's normal value, exports of the goods will only attract interim dumping duties when exported at dumped prices. In setting the floor price, the commission has removed any double count, specified as the amount per kilogram that arises as a result of the finding relation to Program 15

²⁷ As determined in REP 543.

9 EFFECT OF THE ACCELERATED REVIEW

If the Minister accepts the recommendations in this report, in respect of aluminium extrusions exported by Antai to Australia from China:

- the notices will be altered, so as to apply to Antai as if different variable factors had been fixed
- the NIP will be the same as the current NIP applicable to all exports of the goods from China
- IDD will be worked out using the floor price method and
- ICD will be payable for the exported goods, as a proportion of the export price, at a rate of **2.1%**.

If the Minister accepts the recommendations in this report, these changes will take effect retrospectively from 3 March 2023 (being the date the application was lodged).

The commission notes that if the Minister declares that the Act and Dumping Duty Act have effect as if the notices had applied to Antai, but the Minister had fixed specified different variable factors relevant to the determination of duty, pursuant to section 269ZG(3)(b), Antai will not be eligible to seek another accelerated review.²⁸

²⁸ Section 269ZE(1).

10 RECOMMENDATIONS

The Commissioner found that, in relation to aluminium extrusions exported to Australia from China by Antai:

- the ascertained export price should be altered
- the ascertained normal value should be altered and
- the amount of countervailable subsidy received should be altered.

The Commissioner recommends that the Minister consider this report, and if agreed, issue a public notice to:

- declare under section 269ZG(3)(b) that, with effect from 3 March 2023, the Act and the Dumping Duty Act have effect as if the notices had applied to Antai but different variable factors (with the exception of the NIP) had been fixed in respect of Antai, relevant to the determination of duty
- determine, pursuant to section 8(5) of the Dumping Duty Act, that the amount of IDD on the goods exported to Australia from China by Antai is an amount worked out in accordance with the floor price duty method as set out in section 5(4) and 5(5) of the Customs Tariff Regulation, with effect from 3 March 2023 and
- direct, pursuant to section 10(3B) of the Dumping Duty Act, that the amount of ICD payable on the goods the subject of the countervailing notice be ascertained as a proportion of the export price of the goods. The rate of countervailing duty applying to Antai's export of aluminium extrusions shall be 2.1%.

The Commissioner recommends that the Minister be satisfied that:

- sufficient information is available to enable the export price of the goods exported to Australia from China by Antai the subject of this accelerated review to be ascertained under the preceding subsections of section 269TAB
- the normal value of the goods exported to Australia from China by Antai cannot be ascertained under section 269TAC(1) because the situation in the market of China is such that sales in that market are not suitable for use in determining a price under section 269TAC(1) and
- in accordance with section 269TACD(1), countervailable subsidies have been received in respect of the goods by Antai.

The Commissioner recommends that the Minister determine:

- having regard to section 269TAAC(2), and (3), and in accordance with sections 269TAAC(4) and (5), that the subsidies set out in chapter 6.3 and Confidential Attachment 5 to Anti-Dumping Commission Report No. 618 (REP 618) are specific on the assumption, in accordance with s269TAACA(1)(d), that access to the subsidies are limited to particular enterprises
- in accordance with section 269TAAD(4), and for the purpose of working out the cost of goods and determining whether the price paid for like goods sold in the country of export in sales that are arms-length transactions are taken to have been in the ordinary course of trade, that the amount for the cost of production or manufacture of the goods in China and the administrative, selling and general

PUBLIC RECORD

costs associated with the sale of those are as set out in Confidential Attachment 2 to REP 618

- in accordance with section 269TAB(1)(a), the export price for the goods exported to Australia from China by Antai as the price paid or payable for the goods by the importer, less transport and other costs arising after exportation, as set out in Confidential Attachment 1 and Chapter 3 of REP 618.
- in accordance with section 269TAC(2)(c), the normal value for the goods exported to Australia from China by Antai is the sum of:
 - the cost of production or manufacture of the goods in China set out in Confidential Attachments 2 and 3 to REP 618 as detailed in chapter 4.2 to REP 618 and
 - the administrative, selling and general costs and the profit set out in Confidential Attachments 2 and 3 to REP 618 as detailed in chapter 4.2 to REP 618.
- having regard to section 269TACC(1), the financial contributions received under the subsidy programs set out in chapter 6 and Confidential Attachment 5 to REP 618 would confer a benefit in relation to goods exported to Australia by Antai.
- the amount of countervailable subsidy received in respect of aluminium extrusions exported to Australia from China by Antai are the amounts set out in Confidential Attachment 5 to REP 618 and the amount of countervailable subsidy applicable to Antai's exports, expressed as a percentage of the ascertained export price determined at the FOB (free on board) level, is 2.1% (chapter 6.3.4 to REP 618 refers).

PUBLIC RECORD

11 APPENDIX A – LIST OF COUNTERAVAILABLE PROGRAMS IN REP 543

Program Number	Program Name	Program Type	Countervailable in relation to the goods (Yes/No)
2	One-time Awards to Enterprises Whose Products Qualify for 'Well-Known Trademarks of China' and 'Famous Brands of China'	Grant	Yes
3	Provincial Scientific Development Plan Fund	Grant	Yes
4	Export Brand Development Fund	Grant	Yes
5	Matching Funds for International Market Development for Small and Medium Enterprises (SME)	Grant	Yes
6	Superstar Enterprise Grant	Grant	Yes
7	Research & Development (R&D) Assistance Grant	Grant	Yes
8	Patent Award of Guangdong Province	Grant	Yes
9	Training Program for Rural Surplus Labour Force Transfer Employment	Grant	Yes
15	Aluminium provided at less than adequate remuneration	Less than adequate remuneration	Yes
18	Preferential tax policies in the Western Regions	Tax	Yes
21	Tariff and VAT Exemptions on Imported Materials and Equipment	Tariff and VAT Exemptions	Yes
26	Innovative Experimental Enterprise Grant	Grant	Yes
29	Special Support Fund for Non-State-Owned Enterprises	Grant	Yes
32	Venture Investment Fund of Hi-Tech Industry	Grant	Yes
35	Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment	Grant	Yes
47	Preferential tax policies for high and new technology enterprises	Tax	Yes
48	Provincial Government of Guangdong (PGOG) tax offset for R&D	Tax	Yes
56	PGOG special fund for energy saving technology reform	Grant	Yes
58	Development assistance grants from the Zhaoqing New and High Tech Industrial Development Zone (ZHTDZ)	Grant	Yes
59	Processing trade special fund	Grant	Yes
60	Trade insurance support fund	Grant	Yes

PUBLIC RECORD

Program Number	Program Name	Program Type	Countervailable in relation to the goods (Yes/No)
61	Enterprise employment fixed point monitoring work subsidy	Grant	Yes
62	Special funds for provincial enterprises to transfer and upgrade equipment	Grant	Yes
63	Reserve funds for enterprise development	Grant	Yes
64	High integrity enterprise award 2014	Grant	Yes
65	Jiangmen engineering technology research centre award	Grant	Yes
66	2016 Shanghai Automotive Commodities Exhibition special fee subsidy	Grant	Yes
67	Corporate remuneration survey subsidy	Grant	Yes
68	Energy saving project subsidy	Grant	Yes
69	Science and technology project subsidy	Grant	Yes
70	Provincial engineering and technology research centre 2016	Grant	Yes
71	Foreign trade development fund subsidy of Jiangmen City	Grant	Yes
72	2015 Special Funds of Technology Renovation technical renovation project with environmental protection	Grant	Yes
73	Provincial Market Development Grant for foreign trade exhibitions and SMEs International market development	Grant	Yes
75	Subsidy for Supporting Foreign Trade Enterprises of Nan'an city in 2017	Grant	Yes
76	Fund for Supporting Foreign Trade Export in 2017 of Nan'an Municipal Bureau of Financial	Grant	Yes
77	Power consumption award for production and efficiency increase in December 2016	Grant	Yes
78	Integration of informationization and industrialization management system (Note changed from market development due to info provided from Goomax)	Grant	Yes
79	Subsidy for invention patents	Grant	Yes
80	No. 269: Special project for technology reform- subsidy for technology reform	Grant	Yes
81	Madrid Trademark grant by Fujian Provincial Administration for Industry and Commerce	Grant	Yes
82	2016 Award for brand value from Finance Bureau	Grant	Yes
83	Social security fund Guangzhou Social Insurance Fund	Grant	Yes
84	Patent supporting fund	Grant	Yes

PUBLIC RECORD

Program Number	Program Name	Program Type	Countervailable in relation to the goods (Yes/No)
85	Unemployment fund Guangzhou Social Insurance Fund	Grant	Yes
86	Technology supporting fund	Grant	Yes
87	Special fund Industry technology development and research	Grant	Yes
88	Industry technology R&D fund	Grant	Yes
89	Technology innovation fund	Grant	Yes
90	Social security fund Zencheng City	Grant	Yes
91	2016 Jiangmen support fund for technology development	Grant	Yes
92	Funds for EFT16 technical reform	Grant	Yes
93	Funds for 2016 technical renovation	Grant	Yes
94	EFT provincial Industry and informatization special research expenses supplement fund	Grant	Yes
95	2017 Enterprise Compensation Survey Fund	Grant	Yes
96	VOCs treatment fund for the process of injection workshop	Grant	Yes
97	Economic investigation fund	Grant	Yes
98	2017 Provincial Motor Energy Efficiency Promotion Special Fund	Grant	Yes
99	2017 Jiangmen Enterprise Major technology platform construction Fund	Grant	Yes
100	Receiving the payment from Taishan Finance Bureau	Grant	Yes
101	2017 Jiangmen Enterprise Research and Development Financial Aid Fund	Grant	Yes
102	Taishan High-integrity enterprise project fund	Grant	Yes
103	2017 Provincial Enterprise Research and Development Fund	Grant	Yes
104	Special funds for enterprises in large equipment manufacturing industry	Grant	Yes
105	2017 Provincial New enterprise Technology Reform Fund	Grant	Yes
106	Jiangmen supported science and technology development projects 2018	Grant	Yes
107	2018 special fund support project fund	Grant	Yes
108	Jiangmen municipal support science and technology development funds in 2019	Grant	Yes
109	Subsidy for employment of the disabled	Grant	Yes

PUBLIC RECORD

Program Number	Program Name	Program Type	Countervailable in relation to the goods (Yes/No)
110	Environmental Protection Subsidy from Nan'an City Dongtian Government	Grant	Yes
111	Electricity Incentive Reward for Promoting Industrial Enterprise to Increase Production and Increase Efficiency of April to June of 2018	Grant	Yes
112	Subsidy for Foreign Economic and Trade Enterprise of 2018	Grant	Yes
113	Fund for Natural Disaster Relief	Grant	Yes
114	Subsidy for Chief Technology Officer	Grant	Yes
115	Electricity Incentive Reward of Production Increase and Efficiency Increase for Eligible Enterprise of the First Quarter of 2019	Grant	Yes
116	Trade Promotion Fund of 2019	Grant	Yes
117	Subsidy from Guangzhou Industry and Information Technology Bureau	Grant	Yes

PUBLIC RECORD

12 ATTACHMENTS

Confidential Attachment 1	Export price
Confidential Attachment 2	Cost to make and sell
Confidential Attachment 3	Normal value
Confidential Attachment 4	Dumping margin calculation
Confidential Attachment 5	Subsidy margin calculation
Confidential Attachment 6	Aluminium benchmark