



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

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

**CONSIDERATION REPORT
NO. 497**

**Consideration of an application for
a review in relation to the anti-dumping measures
applying to aluminium extrusions
exported to Australia from the
People's Republic of China by**

Guangdong Huachang Aluminium Factory Co., Ltd

January 2019

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ABBREVIATIONS

Abbreviation	Full title
the Act	the <i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
Capral	Capral Ltd
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
the goods	aluminium extrusions
Huachang or the applicant	Guangdong Huachang Aluminium Factory Co., Ltd.
REP 392	<i>Anti-Dumping Commission Report No. 392</i>

1 SUMMARY AND RECOMMENDATIONS

1.1 Background

This report provides the results of the Anti-Dumping Commission's (the Commission's) consideration of an application lodged by Guangdong Huachang Aluminium Factory Co., Ltd (Huachang or 'the applicant'). Huachang's application requests a review of anti-dumping measures (in the form of a dumping duty notice and a countervailing duty notice) relating to its exports of aluminium extrusions (the goods) to Australia from the People's Republic of China (China).

Huachang considers it appropriate to review the anti-dumping measures because one or more of the variable factors relevant to the taking of anti-dumping measures have changed.

The variable factors that Huachang allege have changed are export price, normal value and amount of countervailable subsidy received.

1.2 Legislative background

Division 5 of Part XVB of the *Customs Act 1901* (the Act)¹ sets out, among other things, the procedures to be followed by the Commissioner of the Anti-Dumping Commission (the Commissioner) in assessing applications for a review of anti-dumping measures.

Division 5 empowers the Commissioner to reject or not reject such applications. If the Commissioner does not reject an application, he is required to publish a notice indicating that he is proposing to review the anti-dumping measures covered by the application.

1.3 Findings and conclusions

The Commission is satisfied that, in relation to Huachang's application for a review of the variable factors:

- the application complies with subsections 269ZB(1) and (2); and
- there appear to be reasonable grounds for asserting that the variable factors relevant to the taking of anti-dumping measures have changed.

1.4 Recommendation

The Commission recommends that the Commissioner not reject the application by Huachang seeking a review of the variable factors, for the reasons outlined at chapter 3 of this report.

¹ All references in this report are to the *Customs Act 1901*, unless otherwise stated.

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As the Commission is satisfied that there are reasonable grounds to establish that there has been a change in the variable factors referred to in subsection 269ZC(2), it recommends that the Commissioner not reject the application under subsection 269ZC(1), and inform the applicant, by notice in writing, accordingly.

It is recommended that in ascertaining the variable factors, a review period of 1 January 2018 to 31 December 2018 be examined.

2 BACKGROUND

2.1 History of the existing anti-dumping measures

Anti-dumping measures currently apply to aluminium extrusions exported to Australia from China,² Malaysia³ and the Socialist Republic of Vietnam.⁴

A history of the main cases relating to aluminium extrusions exported to Australia are summarised below. Further information is available on the Commission’s electronic public record at www.adcommission.gov.au.

Previous investigations	
2009-2011	<p>The then Australian Customs and Border Protection Service initiated an investigation (Investigation No. 148) in relation to aluminium extrusions exported to Australia from China, following an application from Capral Ltd (Capral). Following the investigation, the then Attorney-General published a dumping duty notice and a countervailing duty notice (<i>Trade Remedies Branch Report No. 148</i> (REP 148) refers).</p> <p>Following a review by the former Trade Measures Review Officer, the then Attorney-General amended the dumping duty notice and countervailing duty notice as a result of a reinvestigation of certain findings made in REP 148. <i>International Trade Remedies Report No. 175</i> refers.</p>
2015	<p>The Commissioner initiated an all exporter review (Review No. 248) of aluminium extrusions exported to Australia from China following an application from PanAsia Aluminium (China) Co., Ltd. Following Review No. 248, the then Parliamentary Secretary to the Minister for Industry and Science published a notice declaring that she had altered the dumping duty notice and countervailing duty notice as if different variable factors had been ascertained for exporters generally (Report No. 248 (REP 248) refers).</p> <p>The Commission conducted a continuation inquiry (Report No. 287 refers), following an application by Capral. The then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science continued the measures for a further five years, until 28 October 2020.</p>

² The anti-dumping measures in respect of China (in the form of a dumping duty notice and a countervailing duty notice), apply to all exporters with the exception of Jiangsheng Aluminium, and noting that Zhongya Aluminium is subject to the countervailing duty notice only.

³ In the form of a dumping duty notice and a countervailing duty notice for all exporters except Press Metal Berhad, LB Aluminium Berhad, Superb Aluminium Industries Sdn Bhd, Kamco Aluminium Sdn Bhd, Milleon Extruder Sdn Bhd and Genesis Aluminium Industries Sdn Bhd.

⁴ In the form of a dumping duty notice for all exporters.

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2016	<p>The Commissioner initiated an investigation (Investigation No. 362), following an application by Capral, into the alleged dumping and subsidisation of aluminium extrusions exported to Australia from Malaysia and Vietnam.</p> <p>On 27 June 2017, the then Assistant Minister for Industry, Innovation and Science and the then Parliamentary Secretary to the Minister for Industry, Innovation and Science published a dumping notice in respect of the goods exported from Malaysia and Vietnam and a countervailing notice in respect of Malaysia. Certain aspects of this decision were reviewed by the Anti-Dumping Review Panel (ADRP).⁵ The ADRP affirmed the Commission's decision in all respects.</p>
2017	<p>The Commissioner initiated an all exporter review (Review No. 392) in relation to aluminium extrusions from China following applications from four Chinese exporters. Review No. 392 examined the review period 1 January 2016 to 31 December 2016 to determine whether the variable factors relevant to the taking of the existing anti-dumping measures in relation to China should be changed. The Commission published <i>Final Report No. 392 (REP 392)</i> on 10 November 2017.</p> <p>The Commissioner initiated an investigation (Investigation No. 442), following an application by Capral, into the alleged dumping of aluminium extrusions exported to Australia from China by two exporters, Guangdong Jiangsheng Aluminium Co., Ltd and Guangdong Zhongya Aluminium Company Limited, and the Kingdom of Thailand. The Commissioner terminated this investigation on 24 July 2018.</p>
2018	<p>The Commissioner initiated an all exporter review (Review No. 482) in relation to aluminium extrusions from China following a request by the then Assistant Minister for Science, Jobs and Innovation to the Minister for Jobs and Innovation. Review No. 482 is examining the period 1 July 2017 to 30 June 2018 to determine whether the variable factors relevant to the taking of the existing anti-dumping measures in relation to China should be changed. At the time of this report, Review No. 482 is ongoing. A statement of essential facts is to be placed on the public record by 22 February 2019, or by such later date as allowed in accordance with section 269ZHI.</p>

Table 1 – History of anti-dumping measures for aluminium extrusions

2.2 Current anti-dumping measures

The current anti-dumping measures relating to aluminium extrusions from China, applying to Huachang, were ascertained as part of Review No. 392. Review No. 392 examined the period of 1 January 2016 to 31 December 2016.

As a result of this review, exports of aluminium extrusions to Australia by Huachang from China are subject to the 'uncooperative and all other exporters' rates. This includes a fixed rate of interim dumping duty and interim countervailing duty of 64.4

⁵ ADRP Review No. 61 available at www.adreviewpanel.gov.au.

per cent, and a variable amount of interim dumping duty where the actual export prices is below the export price ascertained in Review No. 392.

2.3 The current application

On 5 December 2018, the Commission received an application from Huachang for a variable factors review of the anti-dumping measures applying to aluminium extrusions exported to Australia from China insofar as they relate to Huachang.

The application is not prevented by subsection 269ZA(2), which requires that an application for review of anti-dumping measures must not be made earlier than 12 months after the publication of a dumping duty notice, or countervailing duty notice, declaring the outcome of the investigation or the last review of those notices.⁶

Pursuant to subsection 269ZC(1), the Commissioner must examine the application and, within 20 days after receiving it, decide whether to reject the application.

As such, the decision to reject the application must be made no later than 27 December 2018.⁷

If the Commissioner is not satisfied, having regard to an application and to any other information that he considers relevant, of one or more of the matters referred to in subsection 269ZC(2), the Commissioner must reject the application.

⁶ This last occurred on 10 November 2017, ADN No. 2017/138 refers.

⁷ The actual due date is 25 December 2018. As this day and the following day is a public holiday, the effective due date is the next business day, being 27 December 2018.

2.4 The goods subject to the anti-dumping measures

The goods the subject of this application are:

Aluminium extrusions produced via an extrusion process, of alloys having metallic elements falling within the alloy designations published by The Aluminium Association commencing with 1, 2, 3, 5, 6 or 7 (or proprietary or other certifying body equivalents), with the finish being as extruded (mill), mechanical, anodized or painted or otherwise coated, whether or not worked, having a wall thickness or diameter greater than 0.5 mm, with a maximum weight per metre of 27 kilograms and a profile or cross-section which fits within a circle having a diameter of 421 mm.

Table 2 below provides examples of the coverage of the goods and like goods (and intended end-use applications) and is being used for this review. Examples of the goods and like goods are outlined in columns 1-4 and non-subject goods are outlined in columns 5 to 7.

< GUC >				< Non GUC >		
1	2	3	4	5	6	7
Aluminium extrusions	Aluminium extrusions with minor working	Aluminium extrusions that are parts intended for use in intermediate or finished products	Aluminium extrusions that are themselves finished products	Unassembled products containing aluminium extrusions, e.g. 'kits' that at time of import comprise all necessary parts to assemble finished goods	Intermediate or partly assembled products containing aluminium extrusions	Fully assembled finished products containing aluminium extrusions
< Examples >						
Mill finish, painted, powder coated, anodised, or otherwise coated aluminium extrusions	Precision cut, machined, punched or drilled aluminium extrusions	Aluminium extrusions designed for use in a door or window	Carpet liner, fence posts, heat sinks	Shower frame kits, window kits, unassembled unitised curtain walls	Unglazed window or door frames	Windows, doors

Table 2 - The goods and like goods

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.

2.5 Tariff classification

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

Tariff code	Statistical code	Unit	Description
7604.10.00	06	Kg	Non alloyed aluminium bars, rods and profiles
7604.21.00	07	Kg	Aluminium alloy hollow angles and other shapes
7604.21.00	08	Kg	Aluminium alloy hollow profiles
7604.29.00	09	Kg	Aluminium alloy non hollow angles and other shapes
7604.29.00	10	Kg	Aluminium alloy non hollow profiles
7608.10.00	09	Kg	Non alloyed aluminium tubes and pipes
7608.20.00	10	Kg	Aluminium alloy tubes and pipes
7610.10.00	12	Kg	Doors, windows and their frames and thresholds for doors
7610.90.00	13	Kg	Other

Table 3 - Tariff classifications of the goods

3 CONSIDERATION OF THE APPLICATION

3.1 Legislative background

Subsection 269ZB(1) requires that an application be in writing, be in a form approved by the Commissioner for the purposes of this section, contain such information as the form requires, be signed in the manner indicated by the form and be lodged in a manner approved under section 269SMS.

Without otherwise limiting the matters that can be required by the form, subsection 269ZB(2) provides that an application must include:

- a description of the kind of goods to which the anti-dumping measures the subject of the application relate; and
- a description of the anti-dumping measures the subject of the application; and
- if the application is based on a change in variable factors, a statement of the opinion of the applicant concerning:
 - the variable factors relevant to the taking of the anti-dumping measures that have changed; and
 - the amount by which each such factor has changed; and
 - the information that establishes that amount;
- if the application is based on circumstances that in the applicant's view indicate that anti-dumping measures are no longer warranted, evidence (in accordance with the form) of the circumstances.

Subsection 269ZC(2) specifies the matters which must be considered in making a decision whether to reject an application. These matters are:

- that the application complies with section 269ZB; and
- that there appear to be reasonable grounds for asserting either, or both, of the following:
 - that the variable factors relevant to the taking of anti-dumping measures have changed;
 - that the anti-dumping measures are no longer warranted.

3.2 Assessment of the application for a review of variable factors

3.2.1 Variable factors - Compliance with subsections 269ZB (1) and (2)

When considering the requirements of subsections 269ZB(1) and (2), the Commission notes that the application submitted:

- is in writing;
- is in the approved form (*Form B602 – Application for a review of measures*) and contains such information as the form requires. This includes evidence in support of the view that there are reasonable grounds for asserting that the variable factors relevant to the taking of anti-dumping measures have changed;

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- is signed in the manner required by the form;
- was lodged in a manner approved under section 269SMS, being by email to the Commission's nominated email address (as nominated in the Commissioner's instrument made under section 269SMS);
- provides a description of the kind of goods to which the anti-dumping measures the subject of the application relates;
- provides a description of the anti-dumping measures the subject of the application; and
- includes a statement of the opinion of the applicant concerning the variable factors that, in applicant's view, have changed.

As a result of the above, with respect to the assertion that the variable factors have changed, the Commission considers that the applicant has satisfied the requirements of subsections 269ZB(1) and (2).

3.2.2 Grounds for a review of variable factors

Huachang requests the review on the grounds that Huachang is assigned variable factors relating to exporters found to be uncooperative in Review No. 392.

The outcome of Review No. 392 meant that, in relation to Huachang's exports:

- the ascertained export price was determined pursuant to subsection 269TAB(3), after having regard to all relevant information. Specifically, the Commission used the lowest export prices of those that were established for cooperating exporters in the review period;
- the ascertained normal value was determined pursuant to subsection 269TAC(6), after having regard to all relevant information. Specifically, the Commission used the highest normal values of those that were established for cooperating exporters in the review period; and
- in regard to the amount of countervailable subsidy received, the Commission had regard to the available relevant facts. It was determined that a benefit was received under 32 programs found to be countervailable in the review period.

Huachang has supplied the Commission with data supporting that the variable factors relevant to its exports has changed, as discussed below.

Export price

As part of its application, Huachang calculated an export price for a contemporaneous period (1 July 2017 to 30 June 2018) using its own records relating to export sales to Australia. Based on this data, Huachang claims that its export price is higher, by a specified amount, than the ascertained export price from Review No. 392.

In support of its claims, Huachang provided a sample of sales documents (including a commercial invoice, a packing list, a bill of lading and a disbursement confirmation). The Commission was able to cross reference the export price information submitted

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by Huachang to information obtained from the Australian Border Force import database.

Normal value

Huachang calculated a normal value for a contemporaneous period (1 July 2017 to 30 June 2018) using data relating to its own records. The normal value calculation followed a similar methodology to that used for cooperating exporters in Review No. 392 and consists of amounts for:

- the cost to produce aluminium extrusions;
- selling, general and administrative costs; and
- an amount of profit.

Based on this data, Huachang claims that the normal value is lower, by a specified amount, than the ascertained normal value from Review No. 392.

Amount of countervailable subsidy received

In its application, Huachang claims that it has not received any benefit from preferential tax policies and government grants. Huachang claims that, should the Commission calculate the amount of countervailable subsidy based on its own records, Huachang would have a 0 per cent subsidy rate.

Commission's assessment – variable factors

The Commission considers that Huachang has provided:

- a statement that one or more variable factors, being the export price, normal value and amount of countervailable subsidy have changed;
- a statement of its opinion concerning the amount by which the variable factors have changed; and
- information that establishes those amounts.

3.2.3 Conclusion - section 269ZC

Based on the Commission's analysis in section 3.2.2, there appears to be reasonable grounds in respect of the application for asserting, under subsection 269ZC(2)(b)(i), that the variable factors relevant to the taking of anti-dumping measures have changed.

Therefore, the Commission recommends that the Commissioner not reject the application in respect of the variable factors review, pursuant to subsection 269ZC(1), as it is satisfied of the matters referred to in subsection 269ZC(2).

3.3 Conclusions and recommendations

The Commission has considered Huachang's application in accordance with sections 269ZB and 269ZC.

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The Commission is satisfied, on the basis of the information provided in the application and other relevant information, that, in relation to a review of variable factors, Huachang:

- has submitted an application that complies with section 269ZB; and
- there appear to be reasonable grounds for asserting that the variable factors, relevant to the taking of anti-dumping measures with respect to exports of the goods to Australia from China by Huachang, have changed.

The Commission recommends that the Commissioner:

- **not reject** the application for a review of variable factors with respect to anti-dumping measures, in the form of a dumping duty notice and a countervailing duty notice; and
- initiate a review examining, in relation to Huachang, whether the variable factors relevant to the taking of anti-dumping measures have changed. It is recommended that in ascertaining the variable factors, a review period of 1 January 2018 to 31 December 2018 be examined.

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4 ATTACHMENTS

Confidential Attachment 1	Huachang's confidential application
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