



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

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XV B

FINAL REPORT NO. 581

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

QINGYUAN CITY HUANAN COPPER & ALUMINUM CO., LTD.

21 June 2021

CONTENTS

CONTENTS	2
ABBREVIATIONS	3
1 SUMMARY AND RECOMMENDATION	4
1.1 BACKGROUND.....	4
1.2 APPLICATION OF LAW TO FACTS.....	4
1.3 FINDINGS	4
1.4 RECOMMENDATION.....	5
2 BACKGROUND	6
2.1 THE GOODS	6
2.2 ACCELERATED REVIEWS.....	7
2.3 EXISTING MEASURES	8
2.4 NOTIFICATION AND PARTICIPATION	8
2.5 INFORMATION GATHERED	8
2.6 PUBLIC RECORD.....	9
2.7 SUBMISSIONS.....	9
3 EXPORT PRICE	10
3.1 FINDING.....	10
4 NORMAL VALUE	11
4.1 FINDING.....	11
4.2 CONSTRUCTED NORMAL VALUE, ADJUSTMENTS AND PROPER COMPARISON.....	11
5 COUNTERAVAILABLE SUBSIDIES	13
5.1 FINDINGS	13
5.2 LEGISLATIVE REQUIREMENT FOR COUNTERAVAILABLE SUBSIDIES.....	13
5.3 PROGRAMS REVIEWED.....	13
5.4 AMOUNT OF COUNTERAVAILABLE SUBSIDY RECEIVED.....	18
6 NON-INJURIOUS PRICE	19
6.1 LEGISLATIVE FRAMEWORK	19
6.2 THE COMMISSION’S ASSESSMENT	19
7 FORM OF MEASURES	21
7.1 CURRENT FORM OF MEASURES	21
7.2 RECOMMENDED FORM OF MEASURES.....	21
8 EFFECT OF THE ACCELERATED REVIEW	22
9 RECOMMENDATIONS	23
10 ATTACHMENTS	25

PUBLIC RECORD

ABBREVIATIONS

ADN	Anti-Dumping Notice
the accelerated review period	1 January 2020 to 31 December 2020
the Act	<i>Customs Act 1901</i>
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
GOC	Government of China
the goods	the goods the subject of the accelerated review (also referred to as the goods under consideration)
Huanan	Qingyuan City Huanan Copper & Aluminum Co., Ltd.
ICD	interim countervailing duty
IDD	interim dumping duty
the Minister	the Minister for Industry, Science and Technology
NIP	non-injurious price
the notices	the dumping duty notice and countervailing duty notice
the Regulation	<i>Customs (International Obligations) Regulation 2015</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 12 March 2021, Qingyuan City Huanan Copper & Aluminum Co., Ltd. (Huanan) 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

Huanan's application seeks an accelerated review on the basis that the notices are inappropriate insofar as they apply to Huanan because it is currently subject to the combined rate of interim dumping duty (IDD) and interim countervailing duty (ICD) of 77.4 per cent. This rate reflects the combined rate for 'all other exporters' as determined by the Minister for Industry, Science and Technology (the Minister) following *Anti-Dumping Commission Report No. 543* (REP 543).²

Huanan did not export the goods to Australia during the period subject to the original investigation and is therefore a 'new exporter' as defined in section 269T(1) of the *Customs Act 1901* (the Act).³

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 Act allow 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

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

- the export price should be determined under section 269TAB(3), having regard to all relevant information, being the normal value determined in this accelerated review;
- 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); and

¹ Electronic public record (EPR) for case 581, [document no. 1](#).

² EPR 543, [document no 61](#).

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

PUBLIC RECORD

- Huanan 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 because of section 269ZG(1)(b), the Commissioner recommends that:

- (a) the Minister alter the notices so as to apply to Huanan 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 Huanan's exports to Australia in accordance with the floor price duty method pursuant to section 5(4) of the *Customs Tariff (Anti-Dumping) Regulation 2013* (Customs Tariff Regulation); and
- the ICD applicable to Huanan's exports to Australia is **1.7 per cent**.

If Huanan's actual export prices of the goods are less than the floor price calculated, the IDD payable will be equal to the difference between the actual export price and the ascertained export price.

If the Minister accepts these recommendations, to give effect to the decision, the Minister must, by notice:

- declare that the Act and the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) have effect as if the notices had applied to Huanan but the Minister had fixed different variable factors relevant to the determination of the duty payable by Huanan; and
- determine that because of section 8(5) of the Dumping Duty Act, the IDD payable on the goods exported to Australia from China by Huanan is an amount worked out in accordance with the floor price duty method as set out in section 5(4) of the Customs Tariff Regulation.
- direct that because of section 10(6) of the Dumping Duty Act, the ICD payable on the goods exported to Australia from China by Huanan is an amount worked out as a proportion of the export price of the goods as set out in section 10(3B)(a) of the Dumping Duty Act.

If accepted by the Minister, the recommendations applicable to Huanan will take effect retrospectively from 12 March 2021 (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
<p>Aluminium extrusions that:</p> <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
<p>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.</p> <p>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.</p>

Table 1: The goods the subject of the application

Further information on the goods and existing measures is available on the Dumping Commodity Register on the Commission website, 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

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.

PUBLIC RECORD

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

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 reject an application, or terminate an accelerated review, the Commissioner must, no later than 100 days after the application is lodged, provide the Minister a report recommending that the notices the subject of the application:⁶

- (a) remain unaltered;⁷ or
- (b) be altered so as to apply to Huanan as if different variable factors had been fixed;⁸

and set out the reasons for so recommending.⁹

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

⁶ Section 269ZG(2).

⁷ Section 269ZG(1)(a).

⁸ Section 269ZG(1)(b).

⁹ Section 269ZG(1).

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 of anti-dumping measures as they affect exporters from China following REP 543.¹¹ Huanan is currently subject to the all other exporters rate of 77.4 per cent, while its application for accelerated review is being considered.¹²

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

2.4 Notification and participation

On 12 March 2021, Huanan lodged an application for an accelerated review of the notices applying to aluminium extrusions exported to Australia from China insofar as the notices affect Huanan. 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
- the application satisfied the requirements of section 269ZF(1).

The commencement of this accelerated review was notified in ADN No. 2021/52, which was published on 4 May 2021 and made available on the public record on the Commission's website.¹⁴ ADN No. 2021/52 advised that the Commissioner's recommendation will be made in a report on or before **20 June 2021**.¹⁵

For the purposes of the accelerated review, the period examined is 1 January 2020 to 31 December 2020 (the accelerated review period).

2.5 Information gathered

2.5.1 Exporter questionnaire and verification

Upon the commencement of the accelerated review, the Commission sent an exporter questionnaire to Huanan for completion.

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.

¹⁴ Section 2.6 refers.

¹⁵ As this is a Sunday, the effective date becomes the next working day, Monday 21 June 2021.

PUBLIC RECORD

On 10 May 2021, the Commission received the completed response to the exporter questionnaire (REQ) from Huanan, having addressed minor deficiencies identified in its original response, received by the Commission to 28 April 2021. A non-confidential version of the REQ is available on the public record.¹⁶

Huanan cooperated with the accelerated review and provided financial data in its REQ within the required timeframe.

The Commission conducted a desktop verification of Huanan's REQ and a number of tests were undertaken on Huanan's data for the purposes of this accelerated review. Those tests include comparison of Huanan's data to the data of other previously verified exporters of aluminium extrusions from China as part of REP 543, and verification to source documents. Consequently, the Commission is satisfied:

- that Huanan is a producer of like goods;
- as to the accuracy, relevance and completeness of the data supplied by Huanan upon which the findings of this accelerated review are based; and
- that the information provided by Huanan is accurate and reliable for the purpose of ascertaining variable factors applicable to exports of the goods.

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

ADN No. 2021/52, published on 4 May 2021, invited interested parties to lodge submissions concerning this accelerated review before 3 June 2021.¹⁷

The Commission received one submission before 3 June 2021 in relation to this accelerated review, from Capral Limited (Capral).¹⁸

In its submission, Capral claims that Huanan has a sister company, Gansu Zhongsheng Aluminium Industry Co Ltd, and that the Commission must be satisfied that the requirements of section 269ZE have been met.

As a result of Capral's submission, the Commission has further examined the customs importation database for the initial investigation period. The Commission did not identify Gansu Zhongsheng Aluminium Industry Co Ltd in the customs importation database and is therefore satisfied that there are no grounds for this accelerated review to be terminated as set out in section 269ZE.

¹⁶ EPR 581, [document no. 3](#).

¹⁷ EPR 581, [document no. 2](#).

¹⁸ EPR 581, [document no. 4](#).

3 EXPORT PRICE

3.1 Finding

The Commission found that Huanan did not export the goods to Australia during the accelerated review period.

As such, the export price of the goods cannot be determined under section 269TAB(1). Specifically, sufficient information is not available to determine the export price of the goods:

- paid or payable the importers;¹⁹
- in Australia less prescribed deductions;²⁰ or
- having regard to all the circumstances of exportation.²¹

Therefore, the Commission determined an export price under section 269TAB(3) having regard to all relevant information.

In circumstances where an applicant has not yet exported the goods to Australia, and there is an absence of other relevant information such as an all exporter investigation or review, the Commission's practice is to determine the export price as being equal to the ascertained normal value.

The Commission considers that the normal value is relevant to ascertain the export price, for the purposes of this accelerated review, as it is:

- contemporary;
- specific to Huanan;
- representative of an un-dumped export price; and
- likely to resemble models that may be exported to Australia by Huanan in the future.

As such, the Commission considers it appropriate to determine the ascertained export price to be the same amount as that determined to be the normal value (refer to chapter 4 of this report). The Commission has ascertained the export price at the ex-works (EXW) level.

The Commission's export price calculation is at **Confidential Attachment 1**.

¹⁹ Section 269TAB(1)(a).

²⁰ Section 269TAB(1)(b).

²¹ Section 269TAB(1)(c).

4 NORMAL VALUE

4.1 Finding

The normal value for Huanan 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 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 that 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 price 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 market participants in that market.

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

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

- the cost to make (CTM) of the goods that reasonably reflects competitive market costs in accordance with section 43(2) of the Regulation; plus
- 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 considered that because the normal value was calculated at EXW terms that no adjustments were necessary under section 269TAC(9) and that the normal value is properly comparable with the export price of the goods.

The Commission has assessed the aluminium input costs in Huanan's CTM and determined that the costs do not reasonably reflect competitive market costs associated with the production of like goods due to the influence of the Government of China (GOC) in the domestic market for primary aluminium in China.

PUBLIC RECORD

In determining Huanan's CTM under section 43(2) of the Regulation, the Commission has applied a competitive aluminium benchmark as detailed in section 5.3.1 of this report.

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

5 COUNTERAVAILABLE SUBSIDIES

5.1 Findings

The amount of countervailable subsidy for Huanan is different to that currently applicable to exports subject to the ‘all other exporters’ rate. The countervailable subsidy rate for Huanan is **1.7 per cent**.

5.2 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.

5.3 Programs reviewed

In REP 543, the Commission found that the following programs are countervailable in respect of aluminium extrusions exported to Australia from China:

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

PUBLIC RECORD

Program Number	Program Name	Program Type	Countervailable in relation to the goods (Yes/No)
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
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

PUBLIC RECORD

Program Number	Program Name	Program Type	Countervailable in relation to the goods (Yes/No)
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
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

PUBLIC RECORD

Program Number	Program Name	Program Type	Countervailable in relation to the goods (Yes/No)
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
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

Table 3: Countervailable subsidy programs²²

5.3.1 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.

²² For additional information on the countervailable subsidy programs refer to REP 543.

PUBLIC RECORD

The benefit received under Program 15 by an exporter in relation to its primary aluminium purchases was determined by comparing the prices of its purchases of primary aluminium from government owned enterprises to an appropriate competitive market price benchmark, being the London Metals Exchange, plus a premium. The value of the difference is considered to be the benefit conferred to the exporter.

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 543.²³

To establish whether the exporter in this accelerated review received a benefit under Program 15, the Commission collected information (in the form of a fully completed REQ) to establish whether the exporter's primary aluminium was supplied by and/or manufactured by a public body in the form of either a State Owned Enterprise (SOE) or State Invested Enterprise (SIE).

Huanan did not give the Commission evidence that showed whether or not its suppliers of aluminium were SOEs or SIEs. Given the Commission's understanding of the primary aluminium market in China and the degree to which that market is distorted by GOC influence, the Commission considers it reasonable to conclude that Huanan has received a benefit under Program 15, where it has not provided evidence to establish otherwise.

The subsidy rate applying to Program 15 is deducted from the floor price to determine the effective floor price. This approach avoids any overlap or double-counting that may arise in the current circumstances where there are domestic subsidies (Program 15) and a constructed normal value both relating to a major cost component (primary aluminium) based on surrogate data.

5.3.2 Preferential income tax programs

In its REQ, Huanan claimed that it had not received a benefit from preferential income tax programs because it did not earn any profits for the last three years and therefore was not subject to any income tax liability.

Consequently, the Commission is satisfied that Huanan did not benefit from preferential tax programs, in the form of company income tax, during the period.

5.3.3 Grants and preferential policies

In its REQ, Huanan indicated that it received benefits from certain grants. Huanan was not able to identify to which programs the grants related. The grants are considered countervailable by the Commission in accordance with section 269TAACA(b)(i). 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.

²³ See REP 543, page 107 to 111.

PUBLIC RECORD

5.3.4 Tariff and VAT exemptions on imported materials and equipment

Huanan advised that it had not benefitted from tariff and value added tax (VAT) exemptions. Since 1 April 2019, a full refund exists for VAT paid on exports of the goods. Therefore no difference exists between export and domestic sales, as neither of these types of sales have a non-refundable VAT component.

The Commission found no evidence in its assessment of all available information and data that Huanan had benefitted under such a program.

5.4 Amount of countervailable subsidy received

Huanan 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 at the ex-works level, is **1.7 per cent**.

The Commission's subsidy margin calculation is at **Confidential Attachment 5**.

6 NON-INJURIOUS PRICE

6.1 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.

The Commission has found that there is a situation in the market that renders domestic selling prices unsuitable for the purpose of determining normal value 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) of the Dumping Duty Act.

6.2 The Commission's assessment

For the reasons outlined in REP 543, 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).

In REP 543, the Commissioner considered that sections 8(5BAAA)(a) and 10(3DA)(c) of the Dumping Duty Act applied, and as a result, the Minister was not required to consider the lesser duty rule for the purposes of sections 8(5BA) and 10(3D) of the Dumping Duty Act.

The Commission has reviewed the evidence available for this accelerated review and is satisfied that circumstances have not changed. The Commission therefore recommends that the NIP applicable to export by Huanan be the same as the current NIP applicable to all exports of the goods 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').

PUBLIC RECORD

The Commissioner recommends that the full dumping and subsidy margins be applied to any IDD and ICD applying to aluminium extrusions exported to Australia from China.

The Commissioner notes that, notwithstanding his recommendation, the Minister is not obliged to, but still may, consider applying a lesser amount of duty.

7 FORM OF MEASURES

7.1 Current form of measures

Huanan's exports of the goods are currently subject to the 'all other exporters' effective rate of duty of 77.4 per cent.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.

7.2 Recommended form of measures

The Commissioner recommends to the Minister that duties be calculated:

- in respect of any ICD that may become payable, as a proportion of the export price of the goods (ad valorem method); and
- in respect of any IDD that may become payable, as an amount worked out in accordance with the floor price duty method, pursuant to section 5(4) of the Customs Tariff Regulation.

The Commissioner considers that, in circumstances where an exporter has not exported the goods to Australia, as is the case with respect to Huanan, the floor price duty method is the most suitable method of collecting IDD. 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 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.

When collecting dumping and countervailing duties applicable to Huanan's exports of aluminium extrusions, the IDD and ICD payable will be the sum of:

- the amount by which the actual export price of the goods is below the floor price applicable to Huanan exports; and
- the subsidy rate determined at chapter 5.4 of this report, i.e. 1.7 per cent be applied as a proportion of the actual export price of the goods. No change is required to the form of measures currently used to determine the ICD.

²⁷ As determined in REP 543.

8 EFFECT OF THE ACCELERATED REVIEW

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

- the notices will be altered so as to apply to Huanan 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 duty method; and
- ICD will be payable for the exported goods, as a proportion of the export price at a rate of **1.7 per cent**.

If the Minister accepts the recommendations in this report, these changes will take effect retrospectively from 12 March 2021 (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 Huanan, but the Minister had fixed specified different variable factors relevant to the determination of duty, pursuant to section 269ZG(3)(b), Huanan will not be eligible to seek another accelerated review.²⁸

²⁸ Section 269ZE(1).

9 RECOMMENDATIONS

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

- 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 12 March 2021, the Act and the Dumping Duty Act have effect as if the notices had applied to Huanan but different variable factors (with the exception of the NIP) had been fixed in respect of Huanan, 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 Huanan is an amount worked out in accordance with the floor price duty method as set out in section 5(4) of the Customs Tariff Regulation, with effect from 12 March 2021; 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 Huanan's export of aluminium extrusions shall be **1.7 per cent**.

The Commissioner recommends that the Minister be satisfied that:

- in accordance with section 269TAB(3), sufficient information is not available to enable export prices for the goods exported to Australia from China by Huanan the subject of this accelerated review to be ascertained under the preceding sections of section 269TAB;
- in accordance with section 269TAC(2)(a)(ii), the normal value of the goods exported to Australia from China by Huanan 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), a countervailable subsidy has been received in respect of the goods by Huanan.

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 5.3 and **Confidential Attachment 5** are specific;
- having regard to section 269TACC(1), the financial contributions as set out in chapter 5 have conferred a benefit;
- 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**.

- in accordance with section 269TAB(3), the export price for the goods exported to Australia from China by Huanan be the same amount as that determined to be the normal value, as set out in **Confidential Attachments 1 and 3**.
- in accordance with section 269TAC(2)(c), the normal value for the goods exported to Australia from China by Huanan is the sum of Huanan's:
 - cost of production or manufacture of the goods in China as set out in **Confidential Attachments 2 and 3**; and
 - on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in China, the administrative, selling and general costs associated with such a sale and the profit on that sale as set out in **Confidential Attachments 2 and 3**; and
- in accordance with section 269TACD(1):
 - the amount of countervailable subsidy received in respect of aluminium extrusions by Huanan are the amounts set out in **Confidential Attachment 5**;
 - and the amount of countervailable subsidy applicable to Huanan's exports, expressed as a percentage of the ascertained export price, is **1.7 per cent**.

PUBLIC RECORD

10 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