



Customs Act 1901 – Part XV B

Anti-Dumping Notice No. 2018/138

Aluminium extrusions

Exported from the People's Republic of China

Extension of a Review of Anti-Dumping Measures to include Revocation

Relating to Guangdong Zhongya Aluminium Company Ltd

Notice under subsection 269ZCC(4) of the Customs Act 1901

I, Dale Seymour, the Commissioner of the Anti-Dumping Commission have decided not to reject an application and extend a review of anti-dumping measures, applying to certain aluminium extrusions (the goods), to include a revocation review of measures applying to the goods exported to Australia from the People's of China (China). The revocation review will be limited to examining whether the countervailing duty notice, in relation to Guangdong Zhongya Aluminium Company Ltd (Zhongya), should be revoked.

The Goods

The goods subject to anti-dumping measures relevant to Zhongya, in the form of a countervailing duty notice 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.

The goods include aluminium extrusion products that have been further processed or fabricated to a limited extent, after aluminium has been extruded through a die. For example, aluminium extrusion products that have been painted, anodised, or otherwise coated, or worked (e.g. precision cut, machined, punched or drilled) fall within the scope of the goods.

The goods subject to the anti-dumping measures do not include intermediate or finished products that are processed or fabricated to such an extent that they no longer possess

the nature and physical characteristics of an aluminium extrusion, but have become a different product.

The goods are currently classified to the following tariff subheadings and statistical codes in Schedule 3 to the *Customs Tariff Act 1995*.

Tariff subheading	Statistical code
7604.10.00	06
7604.21.00	07, 08
7604.29.00	09, 10
7608.10.00	09
7608.20.00	10
7610.10.00	12
7610.90.00	13

Background to the measures

The anti-dumping measures were initially imposed by public notice on 28 October 2010 by the former Attorney-General following consideration of *Trade Remedies Branch Report No. 148* (REP 148).

On 20 October 2015, in response to the findings of *Continuation Inquiry No. 287*, the then Assistant Minister for Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science (the former Parliamentary Secretary) continued the measures for a further five years, until 28 October 2020.

A subsequent review of anti-dumping measures applying to the goods resulted in the former Parliamentary Secretary accepting the recommendations following consideration of *Anti-Dumping Commission Report No. 392* (REP 392) and varying the variable factors relevant to the taking of anti-dumping measures as they affect all exporters of the goods from China. The current measures were implemented on 11 November 2017.

The current anti-dumping measures are applicable to all exporters from China, with the exception that the dumping duty notice and countervailing duty notice do not apply to Guangdong Jiangsheng Aluminium Co Ltd (formerly known as Tai Ao Aluminium Tai Shan Co Ltd) and the dumping duty notice does not apply to Guangdong Zhongya Aluminium Company Limited.

The current review

The Anti-Dumping Commission (the Commission) is currently conducting a review of variable factors in relation to the goods. The review of variable factors was initiated on 12 July 2018 in Anti-Dumping Notice (ADN) 2018/111.

An application was lodged by Zhongya under subsection 269ZCA of the *Customs Act 1901* (the Act) to extend the review of variable factors, outlined in ADN 2018/111, to include a revocation review of the countervailing duty notice in relation to the goods exported to Australia from China by Zhongya.

Particulars of the reasons for the decision not to reject the application made by Zhongya are shown in Attachment A.

The revocation review period is 1 July 2017 to 30 June 2018 and covers Zhongya from China. The revocation review will examine whether the measures are no longer warranted with respect to Zhongya.

After concluding the revocation review, in conjunction with the review of variable factors (ADN 2018/111), I will recommend to the Minister for Industry, Science and Technology (the Minister) that the countervailing duty notice relevant to Zhongya:

- i. remain unaltered; or
- ii. have effect as if different variable factors had been ascertained; or
- iii. be revoked.

Affected parties are invited to lodge submissions with the Commissioner concerning the extended review.¹

Future Reviews

Under subsection 269ZA(2), an application for a review must not be made earlier than 12 months after the publication of the notice implementing the original measure or the notice declaring the outcome of the last review. Once a notice declaring the outcome of this revocation review is published (regardless of the outcome), an application for a review of measures in relation to the countervailing duty notice that is the subject of this revocation review cannot be made for a period of 12 months.

Public Record

A public record must be maintained for each review. The public record must contain, among other things, a copy of all submissions from interested parties.

Documents included in the public record may be examined at the Commission's office by contacting the case manager on the details provided below. Alternatively, the public record is available at www.adcommission.gov.au

¹ In accordance with ss.269ZCC(8) of the Act.

Lodgement of submissions

Interested parties, as defined by subsection 269T(1) of the Act, are invited to lodge written submissions concerning the extension of the current review (ADN 2018/111 refers) to include a revocation review relevant to Zhongya, no later than the close of business on **15 October 2018**, addressed to:

The Director
Operations 4,
GPO Box 2013
Canberra ACT 2601

or email investigations4@adcommission.gov.au or fax to +61 3 8539 2499.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (i) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- (ii) satisfy me that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "FOR OFFICIAL USE ONLY".

Interested parties making submissions must also provide a non-confidential version for the public record (clearly marked "PUBLIC RECORD").

Statement of Essential Facts

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Minister within the legislative timeframe. A statement of essential facts (SEF) will be placed on the public record by **30 October 2018**, or by such later date as allowed in accordance with section 269ZHI of the Act.² The SEF will set out the essential facts on which I propose to base a recommendation to the Minister. Interested parties are invited to lodge submissions in response to the SEF within 20 days of the SEF being placed on the public record

Report to the Minister

Submissions received in response to the SEF will be taken into account in preparing the report and recommendation to the Minister. A recommendation to the Minister will be made in a report on or before **14 December 2018** (or such later date as the Minister may allow).

² On 14 January 2017, the Parliamentary Secretary delegated the powers and functions of the Minister under section 269ZHI of the Act to the Commissioner of the Anti-Dumping Commission. Refer to Anti-Dumping Notice No. 2017/10 for further information.

Anti-Dumping Commission contact

Enquiries about this notice may be directed to the Case Manager on telephone number +61 2 6276 1404 or email investigations4@adcommission.gov.au

Dale Seymour
Commissioner
Anti-Dumping Commission

6 September 2018

Reasons for decision not to reject an application to extend review 482 to include a revocation review with respect to measures relevant to Guangdong Zhongya Aluminium Company Limited

Background

The Anti-Dumping Commission (the Commission) is currently reviewing anti-dumping measures applying to certain aluminium extrusions (the goods) exported from the People's Republic of China (China) to Australia. The Commission will examine exports to Australia during the period 1 July 2017 to 30 June 2018 (the review period). Public notice of this review was published on the electronic public record (EPR) on 12 July 2018, Anti-Dumping Notice (ADN) No. 2018/111 refers, stating that the review will examine whether the variable factors (export price, normal value and the amount of countervailable subsidy received) relevant to the taking of the anti-dumping measures as they affect exporters of the goods from China generally have changed.

On 17 August 2018, Guangdong Zhongya Aluminium Company Limited (Zhongya) submitted an application to extend the current review (Review 482) to include revocation. The application states that Zhongya considers there are reasonable grounds for determining that the anti-dumping measures are no longer warranted with respect to the countervailing duty notice relevant to Zhongya only³.

Legislative background

Division 5 of Part XVB of the *Customs Act 1901* (the Act)⁴ sets out, among other things, the procedures to be followed by the Commissioner in assessing applications to extend a variable factors review to include a revocation review.

ADN 2018/111 notifies affected parties that an application can be made to extend the review of anti-dumping measures to include a revocation, where an affected party considers it can provide evidence to satisfy the Anti-Dumping Commissioner (the Commissioner) that there are reasonable grounds for determining that anti-dumping measures are no longer warranted.⁵ Affected parties were required to lodge an application no later than 20 August 2018.

Subsection 269ZCB(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 269ZCB(2) provides that an application must include evidence of the circumstances that in the applicant's view indicate that the anti-dumping measures are no longer warranted.

³ Zhongya is exempt from Interim Dumping Duties.

⁴ All references are to the *Customs Act 1901*, unless otherwise stated.

⁵ As per s269ZCA of the *Customs Act 1901*.

Subsection 269ZCC(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 269ZCB; and
- the Commissioner is satisfied that there appear to be reasonable grounds for recommending that the anti-dumping measures are no longer warranted.

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 extending a review of measures to include a revocation, as requested in the application.

Findings

The Commissioner is satisfied that the application submitted by Zhongya complies with subsections 269ZCB(1) and (2) and there appear to be reasonable grounds for recommending that the anti-dumping measures are no longer warranted. The Commissioner decided not to reject the application to extend the review.

Reasons for not rejecting an application to extend a review to include revocation

The Commission considers the application complies with subsection 269ZCB(1) in that it has been provided in writing, in the form that is approved by the Commissioner, contains such information as is required by the form and is signed in the manner indicated by the form. The Commission received the application within the legislative time frame of 37 days from the date ADN 2018/111 was published.

The Commission did not assess whether anti-dumping measures, relevant to the taking of interim dumping duties, are no longer warranted as Zhongya is exempt from this measure.

With respect to the countervailing duty notice, relevant to the taking of interim countervailing duties, Zhongya submitted evidence that details the determined subsidy margins obtained in the last ten duty assessments pertaining to Zhongya from 2010. Each determined subsidy margin was zero or *de minimis*⁶.

Zhongya states that the calculated subsidy margins demonstrate that Zhongya is not in receipt of countervailable subsidies, and the history of not receiving countervailable subsidies demonstrates that it is unlikely that subsidisation will recur should the measure be revoked.

Zhongya also claims its exports of the goods to Australia are not causing material injury to the Australian industry. Zhongya directed the Commission to a number of submissions made by Australian importer Darley Aluminium Pty Ltd (Darley) with respect to a recent alleged dumping investigation involving Zhongya.⁷ The submissions made by Darley argued there is no evidence of volume injury, displacement or suppressed return on investment caused by the exporter, Zhongya.

⁶ Below the actionable subsidy margin for a new investigation (2 percent in the case of China)

⁷ Refer to the EPR for investigation 442 to view submissions. Investigation 442 was terminated in July 2018.

The Commission considers that, particularly having regard to the subsidy margin levels determined for Zhongya over an extended period, there appear to be reasonable grounds for recommending that the anti-dumping measures, as they apply to Zhongya, are no longer warranted.