



**Australian Government**  
**Australian Customs and  
Border Protection Service**

R E P O R T

***CUSTOMS ACT 1901 - PART XVB***

**INTERNATIONAL TRADE REMEDIES BRANCH  
REPORT TO THE MINISTER**

**REPORT 186**

**REVIEW OF NORMAL VALUE, EXPORT PRICE,  
COUNTERAVAILABLE SUBSIDY AND NON-INJURIOUS  
PRICE**

**ALUMINIUM EXTRUSIONS EXPORTED FROM  
THE PEOPLE'S REPUBLIC OF CHINA**

23 October 2012

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## ABBREVIATIONS

ACDN	Australian Customs Dumping Notice
B&D	B&D Aluminium (Aust) Pty Ltd
Capral	Capral Ltd
Customs and Border Protection	Australian Customs and Border Protection Service
LME	London Metal Exchange
Minister	Minister for Home Affairs
NIP	Non injurious price
SEF	Statement of essential facts
SFE	Shanghai Futures Exchange
SG&A	Selling, general and administration costs
the Act	<i>Customs Act 1901</i>
the goods	the kind of goods to which the anti-dumping and countervailing measures apply
USP	Unsuppressed selling price
WXPAP	Wuxi Xisha Photoelectric Aluminium Products Co. Ltd

## 1 SUMMARY AND RECOMENDATIONS

This review is in response to an application from B & D Aluminium (Aust) Pty Ltd (B&D) to review the anti-dumping measures of aluminium extrusions exported to Australia from the People's Republic of China (China) applying to Wuxi Xisha Photoelectric Aluminium Products Co. Ltd (WXPAP)<sup>1</sup>.

The Australian Customs and Border Protection Service (Customs and Border Protection) examined information relating to the export prices, normal values, countervailable subsidies and NIFOBS during the period 1 April 2011 to 31 March 2012 (the review period) to determine if the variable factors relevant to the taking of the anti-dumping measures had changed.

This report sets out the facts on which the delegate of the Chief Executive Officer (CEO) of Customs and Border Protection (the delegate) is basing his recommendations to the Minister for Home Affairs (the Minister) for the measures applicable to aluminium extrusions exported from China by WXPAP

### 1.1 Recommendation

The delegate recommends to the Minister that the dumping duty notice and countervailing duty notice have effect in relation to WXPAP as if different variable factors had been ascertained. The result would be that the variable factors for each type of aluminium extrusion have changed. The net effect of the change in variable factors leads to an increase in the combined dumping and countervailing levels of interim duty.

The delegate recommends that the Minister sign the attached public notice (**Confidential Attachment 1**) and the attached schedule (**Confidential Attachment 2**) to declare that the dumping duty notices in respect of aluminium extrusions exported from China by WXPAP have effect as if different variable factors had been ascertained.

### 1.2 Findings and conclusions

Based on all available information Customs and Border Protection's findings are:

- the export prices for B&D have been determined having regard to all relevant information (section 4)<sup>2</sup>;
- the normal values for WXPAP have been determined having regard to all relevant information (section 5)<sup>3</sup>
- countervailing subsidy programs 2, 3, 4, 5, 6, 7, 9, 13, 15, 26, 29, 32, and 35 to apply, (section 6);
- the non-injurious price for aluminium extrusions be established by reference to an unsuppressed selling price (USP) which has been calculated using the cost to make and sell information supplied by an

<sup>1</sup> A full description of the goods is at section 3.2.

<sup>2</sup> Section 269 TAB(3)

<sup>3</sup> Section 269 TAC(6)

Australian industry member, plus a reasonable amount of profit.  
(section 7).

Based on these findings, the delegate recommends to the Minister that normal values, export prices, countervailable subsidies, and NIFOBS be re-ascertained for aluminium extrusions exported from China by WXPAP.

## 2 INTRODUCTION

### 2.1 Review process

If anti-dumping measures have been taken in respect of certain goods, an affected party may consider it appropriate to review those measures as they affect a particular exporter or exporters generally. Accordingly the affected party may apply for, or the Minister may request that the CEO conduct, a review of those measures if one or more of the variable factors has changed. The Minister may initiate a review at any time; however, a review application may not be lodged earlier than twelve months after publication of the notice implementing the original anti-dumping measures or the notice(s) declaring the outcome of the last review.

If an application for a review of anti-dumping measures is received and not rejected, Customs and Border Protection has up to 155 days, or such longer time as the Minister may allow, to inquire and report to the Minister on the review of the measures. Within 110 days of the initiation, or such longer time as the Minister may allow, Customs and Border Protection must place on the public record a statement of essential facts on which it proposes to base its recommendation to the Minister concerning the review of the anti-dumping measures.

In making recommendations in its final report to the Minister, Customs and Border Protection must have regard to:

- the application for a review of the anti-dumping measures;
- any submission relating generally to the review of the measures to which the delegate has had regard for the purpose of formulating the statement of essential facts;
- this statement of essential facts; and
- any submission made in response to this statement of essential facts that is received by Customs and Border Protection within 20 days of it being placed on the public record.

Customs and Border Protection may also have regard to any other matter that it considers to be relevant to the inquiry.

During the course of this review, Customs and Border Protection will examine whether the variable factors have changed. Variable factors in this context are a reference to;

- the ascertained export price
- the ascertained normal value
- the ascertained countervailable subsidies; and
- the non-injurious price

In respect of a dumping duty notice or countervailing duty notice, the delegate must provide a proposed recommendation to the Minister that the dumping duty or countervailing duty notice<sup>4</sup>:

- remain unaltered; or
- have effect as if different variable factors had been ascertained;
- or in the case where a revocation of the anti-dumping measures is sought, that the dumping duty or countervailing duty notice be revoked.

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

## 2.2 Notification and participation

On 29 March 2012, B&D lodged an application requesting a review of the dumping duty and countervailing duty notices applying to aluminium extrusions exported to Australia from China. This application met the s. 269ZA(2) requirements because more than 12 months has lapsed since the publication of the last notice.

Customs and Border Protection examined the application and decided not to reject the application. A notice indicating this was published in *The Australian* newspaper on 21 May 2012, with ACDN 2012/18 being released containing additional information about the review.

B&D's review application sought to review the variable factors pertaining to Wuxi Xisha Photoelectric Aluminium Products Co. Ltd only. B&D did not seek the review to be extended to other exporters of aluminium extrusions from China. Customs and Border Protection considered B&D's application for revocation of the anti-dumping measures to be deficient. Consequently, Customs and Border Protection did not publish a revocation review notice.

Submissions were received from Capral Ltd (Capral) a member of the Australian industry and WXPAP the exporter of aluminium extrusions.

The review period for this inquiry is from 1 April 2011 to 31 March 2012.

## 2.3 Responses to the statement of essential facts

Capral provided the only response to the SEF and a copy of the submission was placed on the public record.

## 2.4 History of anti-dumping measures

On 11 May 2009 a dumping investigation was initiated to determine whether Customs and Border Protection should publish a dumping duty and countervailing duty notice for aluminium extrusions exported from China following an application by Capral. In that investigation, and as outlined in Trade Measures Report No. 148, it was found that:

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<sup>4</sup> s. 269ZDA(1)(a) of the *Customs Act 1901* (the Act)

- with the exception of one exporter, Tai Ao (Taishan) Co Ltd (Tai Ao), the goods were exported from China at dumped prices;
- with the exception of Tai Ao, the goods exported from China received countervailable subsidies;
- the Australian industry producing like goods had suffered material injury as a result of those dumped and subsidised goods; and
- future exports from China may be dumped and subsidised and that continued dumping and subsidisation may cause further material injury to the Australian industry.

Accordingly, it was recommended that the Minister impose anti-dumping measures on the goods exported from China. On 28 October 2010, the Attorney-General published a dumping duty and countervailing duty notice for aluminium extrusions exported to Australia from China. Notification of the Attorney General's decision was given in Australian Customs Dumping Notice No. 2010/40.

Following a review by the Trade Measures Review Officer, Customs and Border Protection conducted a reinvestigation into certain findings made in Trade Measures Branch Report No. 148. International Trade Remedies Report No. 175 sets out the findings affirmed and new findings made by Customs and Border Protection as a result of the reinvestigation.

To give effect to this decision the Attorney-General published new notices under section 269ZZM<sup>5</sup>. These notices are in substitution of the dumping duty and countervailing duty notices published 28 October 2010. The new notices are effective from 27 August 2011 and replace the earlier notices.

The effect of the new notice is that

- the dumping duty notice no longer applies to Zhaoqing New Zhongya Aluminium Co Ltd now called Guangdong Zhongya Aluminium Co. Ltd.; and
- ascertained export prices, ascertained normal values and non-injurious prices for the purpose of calculating interim dumping duty and interim countervailing duty should be set by finish type.

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<sup>5</sup> Minister's responsibilities following a reinvestigation by Customs and Border Protection



### 3 GOODS SUBJECT TO REVIEW

#### 3.1 Finding

The Australian industry produces aluminium extrusions that have characteristics closely resembling those of aluminium extrusions manufactured in China and exported to Australia by WXPAP. Therefore aluminium extrusions manufactured by the Australian industry are like goods.<sup>6</sup>

#### 3.2 The goods

The goods the subject of the current anti-dumping measures (the goods) are

*Aluminium extrusions produced via an extrusion process, of alloys having metallic elements falling within the alloy designations published by The Aluminium Association commencing with 1, 2, 3, 5, 6 or 7 (or proprietary or other certifying body equivalents), with the finish being as extruded (mill), mechanical, anodized or painted or otherwise coated, whether or not worked, having a wall thickness or diameter greater than 0.5 mm., with a maximum weight per metre of 27 kilograms and a profile or cross-section which fits within a circle having a diameter of 421 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 do not extend to intermediate or finished products that are processed or fabricated to such an extent that they no longer possess the nature and physical characteristics of an aluminium extrusion, but have become a different product.

#### 3.2 Tariff classification of the goods

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

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;

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<sup>6</sup> In terms of s.269T.

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

In most cases where goods are correctly classifiable to tariff codes with the prefix 7604 or 7608, those goods would be the goods subject of this investigation and subject to any resulting securities or duties.

### **3.3 Imports**

Since the imposition of measures, Chinese exporters have continued to supply the Australian market with aluminium extrusions. Customs and Border Protection found that B&D is an importer, and is importing the goods manufactured by WXPAP.

### **3.4 Like goods**

During the original investigation Customs and Border Protection found that:

- there was an Australian industry producing like goods;
- a substantial process of manufacture was carried out in Australia in producing the like goods;
- the like goods were wholly manufactured in Australia; and
- there is an Australian industry consisting of eight Australian companies that produce like goods in Australia.

Further, on the basis of information provided by Capral during this inquiry and previous investigations, Customs and Border Protection considers Capral continues to be a producer of like goods.

## 4 EXPORT PRICE

### 4.1 Findings

The export price for aluminium extrusions exported from China by WXPAP can be determined pursuant to s.269TAB (3) of the Act, having regard to all relevant information. **(Confidential appendix 1)**

### 4.2 WXPAP's exporter questionnaire response

Customs and Border Protection wrote to WXPAP seeking it to complete the exporter questionnaire. WXPAP's exporter questionnaire response was received within 40 days of initiation. The response contained information with regard to its domestic and export sales, its customers and its cost to make and sell worksheets. It also provided details of company ownership and the details of tax paid and payable.

The export questionnaire was accompanied with a number of exhibits to support its narrative in the exporter questionnaire responses.

WXPAP responded to the questions of market situation and in particular to the range of countervailable programs Customs and Border Protection identified in the original investigation.

WXPAP provided schedules, relevant to certain programs, as a requirement of the exporter questionnaire.

#### 4.2.1 Deficiencies

In examining the exporter's questionnaire response, Customs and Border Protection identified the following deficiencies and provided the exporter with an opportunity to remedy those deficiencies prior to deciding whether a verification visit was warranted;

- the public file version of the report had not been provided;
- all domestic sales of goods under consideration had not been provided; and,
- significant inconsistencies in the costing information presented.

WXPAP could not satisfy Customs and Border Protection with regard to the cost to make and sell figures presented. On this basis, Customs and Border Protection considered that the exporter's questionnaire response was not verifiable.

#### 4.2.2 Visit to the Importer

Following an examination of its commercial database, Customs and Border Protection found that there was only one party importing aluminium extrusions from WXPAP.

Customs and Border Protection visited B&D to confirm it was the importer of the goods and to gather sufficient information to establish the price it paid for those goods.

### **4.3 Determination of export price**

Sufficient information has not been furnished to enable export prices of aluminium extrusions exported to Australia by the exporter to be determined under sections 269TAB(1)(a), (b) or (c). Accordingly, Customs and Border Protection has determined in accordance with s.269TAB(3), after having regard to all relevant information, export prices of aluminium extrusions by reference to verified import sales information provided by the importer, B&D.

## 5 NORMAL VALUE

### 5.1 Findings

Normal Values for aluminium extrusions exported by WXPAP from China can be determined having regard to all relevant information pursuant to s.269TAC(6) of the Act. (**Confidential appendix 1**)

### 5.2 All relevant information

WXPAP could not satisfy Customs and Border Protection with regard to the cost to make and sell figures as presented. On this basis Customs and Border Protection considered the cost to make and sell unreliable for the purposes of determining the normal values pursuant to ss.269 TAC(1) or (2) of the Act.

The cost to make and sell information submitted to Customs and Border Protection by WXPAP was considered unreliable<sup>7</sup>. Consequently Customs and Border Protection considers that normal values should be determined pursuant to s.269 TAC(6) of the Act.

### 5.3 Normal value

Sufficient information is not available to enable the normal value of aluminium extrusions exported to Australia from China by the exporter to be determined under subsections 269TAC(1) or (2).

Customs and Border Protection has established normal values by having regard to relevant information determined during the original investigation period. Normal values for this review have been based on the normal values determined for non-cooperating exporters in the original investigation. These prices have then been adjusted to reflect the movement in LME primary aluminium prices between the original investigation period (1 July 2008 – 30 June 2009) and the current review period (1 April 2011 – 31 March 2012).

Capral raised a number of issues that it contends would impact on an exporter's cost of production and in their opinion do not reasonable reflect competitive market costs. Whilst the review has been unable to examine these issues in any great depth due to the lack of cooperation by WXPAP, this does not preclude Customs and Border Protection from addressing them in future reviews.

#### 5.3.1 Dumping margin

Measurement of a dumping margin is not required for the purposes of revising the variable factors.

However a comparison of the weighted average export price and the weighted average normal value for the review period shows that the exporter's goods were dumping by 19.1%.

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<sup>7</sup> Section 269TAC(7) allows the Minister to disregard any information they consider unreliable.

## 6 COUNTERVAILABLE SUBSIDIES

### 6.1 Findings

Pursuant to s.269TAAC(7) of the Act, Customs and Border Protection considers that the exporter received benefits under programs 2, 3, 4, 5, 6, 7, 9, 13, 15, 26, 29, 32, and 35.

### 6.2 Original investigation

Following the original investigation the Attorney General signed countervailing duty notices with the effect that WXPAP's exports were subject to the 'all other exporter countervailing duty rate' of 18.4%. This rate was calculated based on the following programs.

#### Preferential Income Tax Programs

- **Program 1:** Preferential tax policies for enterprises with foreign investment established in the coastal economic open areas and economic and technological development zones
- **Program 10:** Preferential Tax Policies for Foreign Invested Enterprises – Reduced Tax Rate for Productive FIEs scheduled to operate for a period of not less than 10 years.
- **Program 13:** Exemption of tariff and import VAT for imported technologies and equipment
- **Program 16:** Preferential tax policies for enterprises with foreign investment established in Special Economic Zones (excluding Shanghai Pudong area);
- **Program 17:** Preferential tax policies for enterprises with foreign investment established in Pudong area of Shanghai
- **Program 18 -** Preferential tax policies in the Western Regions

#### Grants and Preferential Policy Programs

- **Program 2:** One-time Awards to Enterprises Whose Products Qualify for 'Well-Known Trademarks of China' and 'Famous Brands of China';
- **Program 3:** Provincial Scientific Development Plan Fund
- **Program 4:** Export Brand Development Fund;
- **Program 5:** Matching Funds for International Market Development for SMEs;
- **Program 6:** Superstar Enterprise Grant;
- **Program 7:** Research & Development (R&D) Assistance Grant
- **Program 8:** Patent Award of Guangdong Province;
- **Program 9:** Training Program for Rural Surplus Labour Force Transfer Employment
- **Program 15:** Goods provided at less than adequate remuneration

- **Program 26:** Innovative Experimental Enterprise Grant;
- **Program 29:** Special Support Fund for Non-State-Owned Enterprises
- **Program 32:** Venture Investment Fund of Hi-Tech Industry,
- **Program 35:** Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment

### **6.3 Current review**

In this review Customs and Border Protection wrote to WXPAP seeking it to provide relevant information with regard to the above programs and to provide information that may relate to any benefit it has, or is receiving that is not covered by the above programs.

#### **6.3.1 Preferential Income Tax Programs**

WXPAP provided substantial information with regard to its ownership and income tax matters. Information included, financial statements, tax audit reports prepared by independent parties, and evidence of tax payments that reconciled to the tax payable schedules. Any additional income identified in the taxation audits was reported and tax payment adjustments were made where necessary.

WXPAP also provided its business licence and the share ownership register. It identified the changes in shareholding and their names and addresses of these shareholders and the dates of any share transactions. Customs and Border Protection found that WXPAP is not a foreign invested entity, but rather a private company owned by Chinese nationals that reside in China.

Apart from Program 13, Customs and Border Protection is therefore satisfied that WXPAP does not receive any benefit with regard to the Preferential Income Tax Programs.

#### **6.3.2 Preferential Income Tax Programs - Program 13**

Although WXPAP indicated it did not receive any benefits under this program during the investigation period, Customs and Border Protection considers that, due to the life of an asset, a benefit may accrue over many years.

In the absence of necessary information to establish whether the exporter has received benefits under this program, Customs and Border Protection has had regard to verified information during the original investigation and determined that a benefit has been received.

#### **6.3.3 Grants and Preferential Policies Programs**

WXPAP indicated that it did not receive any benefits that could be considered to be benefits under the grants and preferential policies programs. In addition to its responses in the exporter questionnaire, Customs and Border Protection requested that WXPAP provide comments with regard to the various awards and certificates identified on its website. Customs and Border Protection was

advised that it did not receive any benefits for obtaining these awards and certificates.

Customs and Border Protection could not verify WXPAP's claims of no benefits for the grants and preferential policy programs. However, Customs and Border Protection is satisfied that the location of the factory in Jiangsu Province precludes it from being eligible for benefits under program 8.

In relation to potential new programs identified on the exporter's website, it is noted that the company appears to have been awarded and classified as a 'Chinese Famous Trademark'. Customs and Border Protection has not investigated this program further as it appears to be a duplicate of Program 2.

### **6.3.4 Grants and Preferential Policies - Program 15**

Customs and Border Protection was not able to verify the information provided with regard to WXPAP's aluminium purchases. Consistent with the original investigation, Customs and Border Protection considers program 15 to be a specific subsidy in accordance with s.269TAAC(4) of the Act.

Consistent with the approach used in the original investigation, Customs and Border Protection has deemed all purchases of aluminium from Chinese suppliers to be from state owned enterprises. For this review, Customs and Border Protection has not been provided with any information to change its original position.

In its submission to the SEF, Capral queried whether the benefit calculations outlined in the SEF were consistent with the approach adopted in the original investigation, whereby the net benefit took account of all months regardless of whether the monthly LME spot aluminium price was greater than or less than the Shanghai Futures Exchange (SFE) spot aluminium price.

A review of the calculations revealed an unintentional error which did not properly take account of months where the LME price was less than the equivalent SFE price. This has been corrected to ensure that the net benefit includes those months where the LME price was less than the SFE price.

The benefits in each month were multiplied by the volume of aluminium purchased by WXPAP in the respective month to calculate a weighted average unit amount of benefit for the review period.

## **6.4 Subsidy Margins**

Customs and Border Protection considers programs 2, 3, 4, 5, 6, 7, 9, 13, 15, 26, 29, 32, and 35 to apply and calculated a countervailable subsidy rate of 10.7%. **(Confidential appendix 2)**

Apart from program 15, the countervailing subsidy rate was based on the original investigation findings used for all other exporters and updated to reflect the change in the weighted average export price.



## 7 NON-INJURIOUS FREE ON BOARD PRICES

### 7.1 Findings

Non-injurious free on board prices (NIFOB) can be established for aluminium extrusions exported from China by WXPAP based on the Capral's cost to make and sell plus a reasonable rate of profit. (**Confidential appendix 3**)

### 7.2 Introduction

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

The calculation of the NIFOB provides the mechanism whereby this lesser duty provision is given effect. The NIFOB is the minimum price necessary to prevent the injury, or a recurrence of the injury, caused to the Australian industry by the dumping<sup>8</sup>.

Anti-dumping duties are usually based on free on board (FOB) prices in the country of export. Therefore a NIFOB is calculated in FOB terms for the country of export.

### 7.3 Unsuppressed selling price

Customs and Border Protection's approach to establishing a USP follows one of the following approaches:

1. market approach – industry selling prices at a time when the Australian market was unaffected by dumping;
2. construction approach – the Australian industry's cost to make and sell plus a reasonable rate of profit;
3. selling prices of un-dumped imports in the Australian market.

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

The NIP will be calculated by deducting the post FOB exportation costs incurred by B&D during the investigation period. Customs and Border Protection has not deducted B&D's rate of profit as it considers that this would be a distortion to the level of trade comparison.

#### 7.3.1 Australian Industry claims

Customs and Border Protection wrote to known Australian industry manufacturers of aluminium extrusions seeking the Australian industries' cost

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<sup>8</sup> The non-injurious price is defined in s.269TACA

to make and sell of like goods. Capral was the only Australian industry member to supply cost to make and sell information for verification.

Capral submitted the most appropriate method for determining the unsuppressed selling price was to use its costs to make and sell like goods and to add a rate of profit. It contended the current profitability being generated does not properly reflect a market unaffected by dumping or subsidization. It considers the rate of profit is too low when considering other financial metrics such as weighted average cost of capital.

Capral stated the rate of profit should be based in its weighted average cost of capital.

Capral also requested that any construction of unsuppressed selling prices should take account of anticipated cost impacts such as increases in the Japanese ports premium for Qtr 3 and Qtr 4, base billet premiums and introduction of the carbon tax. Whilst these costs did not occur during the review period, they are either now present or highly likely to materialise.

In its response to the SEF, Capral indicated that it supported the proposed calculation of the NIP, however considered the rate of profit as not being sufficient. It argued that the rate of profit proposed is too low as it was derived from industries which included the primary metals industries and all industries in this sector have been suffering from the effects of dumped goods.

#### **7.4 Customs and Border Protection's assessment of USP and NIP**

The preferred methodology listed at section 7.3 and the views of Australian industry were again considered.

Customs and Border Protection recommends a USP should be based on Capral's cost to make and sell. A reasonable rate of profit has been added which is based on relevant industry rates of profits compiled by the Australian Bureau of Statistics (ABS)<sup>9</sup>. The ABS publication reports the economic and financial performance for each division of industry, including manufacturing. The time series for this publication also provides a further breakdown of the data at a sub-divisional level. The relevant sub-division for the aluminium extrusion industry is 'Primary metal and metal product manufacturing', with basic non-ferrous metal manufacturing representing approximately 65% of the sub-division.

The time series data shows that over the last 5 years, sub-division profit margins peaked in 2006-07 at 11.1%, before falling to 5.4% in 2008-09 reflecting the impact of the global financial crisis in late 2008. In the two most recent financial years, profits have remained steady at around 3.5%. Customs and Border Protection considers that a 3.5% rate of profit is a reasonable measure of profits that could be achieved in a market unaffected by dumping.

With regard to the additional costs, anticipated or otherwise, due to their timing being past the 31 March 2012 end date of the investigation period, Customs and Border Protection considers they cannot be considered, as to do

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<sup>9</sup> *Australian Industry, 2010-11* (cat. no. 8155.0) – Table 1 Key data by industry subdivision

so, would be prejudicial against WXPAP whose normal values would also need to be updated.

To calculate the NIP, Customs and Border Protection has deducted the following from the USP:

- overseas freight and marine insurance;
- Australian landing and port charges;
- Customs and quarantine clearances; and
- delivery charges from the port to the warehouse.

## **8 EFFECT OF THE REVIEW**

The effect of the review has seen both increases and decreases in the variable factors for the various finishes of exported aluminium extrusions. Another measure of the effect of the review is to compare the original dumping and countervailing rates applicable to WXPAP to those established for this review. The combined rates from the original investigation were 27.6% compared to 29.8% for the review.

## 9 RECOMMENDATIONS

The delegate of the CEO recommends that the Minister considers this report, and if agreed:

- declare, by public notice under s. 269ZDB, that the dumping duty notice and countervailing duty notice applying to exports of aluminium extrusions exported from China by WXPAP, have the effect as if different variable factors had been ascertained. **Confidential Attachment 1**
- re-ascertain the export prices, normal values, countervailable duties and non-injurious free on board prices as set out in **Confidential attachment 3**; and

Customs and Border Protection recommends that the Minister **be satisfied** that:

- in accordance with s. 269TAB(3) of the Act, sufficient information has not been furnished or is not available to enable export prices for aluminium extrusions exported to Australia from China by WXPAP to be ascertained under the preceding subsections of s. 269TAB of the Act;
- in accordance with s. 269TAC(6) of the Act, sufficient information has not been furnished or is not available to enable the normal value of like goods to aluminium extrusions exported from China by WXPAP to be ascertained under the preceding subsections of s. 269TAC;
- in accordance with s.269TACC(7) that subsections 269TACC(2), (3), (4) and (5) are inappropriate for determining whether a benefit has been conferred, or subsection 269TACC(6) is inappropriate for determining the total amount of subsidy attributable to a conferred benefit:

Customs and Border Protection recommends that the Minister **determine**:

- in accordance with s.269TAAC(4), subsidy Program 15 (Goods Provided at Less than Adequate Remuneration) is specific;
- in accordance with s.269TAB(3), the export price of like goods to the goods exported to Australia from China by WXPAP by having regard to all relevant information.
- in accordance with s. 269TAC(6), the normal value of like goods to the goods exported to Australia from China by WXPAP by having regard to all relevant information;
- in accordance with s.269TACC(7), an alternative basis for deciding whether a benefit has been conferred or for working out the amount of subsidy attributable to the benefit.

Customs and Border Protection recommends that the Minister:

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

To give effect to these recommendations, the delegate of the CEO recommends that the Minister sign the attached public notice (**Confidential Attachment 1**) and sign the attached schedule (**Confidential Attachment 2**)

**10 ATTACHMENTS AND APPENDICES**

Confidential Attachment 1	Public Notice - Review
Confidential attachment 2	Schedule
Confidential attachment 3	Tables
Confidential Appendix 1	Ascertained Export prices and Ascertained normal values
Confidential Appendix 2	Countervailable subsidy margins
Confidential Appendix 3	Non-injurious free on board prices