



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

**Anti-Dumping  
Commission**

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*CUSTOMS ACT 1901 - PART XV B*

**CONSIDERATION REPORT  
NO. 402**

**APPLICATION FOR AN ACCELERATED REVIEW OF THE  
DUMPING DUTY NOTICE AND COUNTERVAILING DUTY  
NOTICE APPLYING TO**

**CERTAIN ALUMINIUM ROAD WHEELS EXPORTED FROM  
THE PEOPLE'S REPUBLIC OF CHINA BY**

**TAIAN QICHENG WHEEL MANUFACTURING CO., LTD.**

**4 April 2017**

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## PUBLIC RECORD

### ABBREVIATIONS

the Act	the <i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
ARWs	aluminium road wheels (the goods)
China	the People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
the notices	the dumping duty notice and countervailing duty notice
the Parliamentary Secretary	the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
REP 181	<i>International Trade Remedies Report No. 181</i>
REP 263	<i>Anti-Dumping Commission Report No. 263</i>
Taian or the applicant	Taian Qicheng Wheel Manufacturing Co., Ltd.

## 1 SUMMARY AND RECOMMENDATION

### 1.1 Background

This report provides the results of the Commissioner of the Anti-Dumping Commission's (the Commissioner) consideration of an application by Taian Qicheng Wheel Manufacturing Co., Ltd. ('Taian' or 'the applicant') for an accelerated review of the dumping duty notice and the countervailing duty notice (the notices) applying to certain aluminium road wheels ('ARWs' or 'the goods')<sup>1</sup> exported to Australia from the People's Republic of China (China) in so far as the notices affect the applicant.

The application is based on the applicant being a new exporter of ARWs to Australia.

### 1.2 Application of law to facts

Division 6 of Part XVB of the *Customs Act 1901* (the Act)<sup>2</sup> sets out, among other things, the procedures to be followed by the Commissioner in dealing with an application for an accelerated review of a dumping duty or countervailing duty notice by certain exporters of goods covered by the respective notices.

### 1.3 Findings and conclusions

Taian's application for an accelerated review of the notices applying to ARWs exported to Australia from China has been examined.

The Anti-Dumping Commission (the Commission) finds that:

- the circumstances in which an accelerated review can be sought under subsection 269ZE(1) have been satisfied;
- the conditions for rejection under subsection 269ZE(2) were not met; and
- the application satisfies the requirements of subsection 269ZF(1).

Accordingly, the Commission concludes that the applicant is eligible to apply for, and has lodged a valid application for an accelerated review.

### 1.4 Recommendation

The Commission recommends that the Commissioner not reject the application.

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<sup>1</sup> Refer to the full description of the goods in section 2.2 of this report.

<sup>2</sup> Unless stated otherwise, all legislative references in this report are to the *Customs Act 1901*.

## 2 BACKGROUND

### 2.1 Existing measures

On 7 November 2011, an investigation into the alleged dumping and subsidisation of ARWs exported to Australia from China was initiated following an application lodged by Arrowcrest Group Pty Ltd. In that investigation, as outlined in *International Trade Remedies Report No. 181* (REP 181), it was found that:

- ARWs exported to Australia from China were:
  - with the exception of Zhejiang Shuguang Industrial Co. Ltd., dumped with margins ranging from 5.6 per cent to 29.3 per cent; and
  - with the exception of two exporters, Zhejiang Shuguang Industrial Co. Ltd. and CITIC Dicastal Wheel Manufacturing Co. Ltd., subsidised with margins ranging from 2.8 per cent to 58.8 per cent;
- the dumped and subsidised exports caused material injury to the Australian industry producing like goods; and
- continued dumping and subsidisation may cause further material injury to the Australian industry.

Accordingly, it was recommended that the then Minister for Home Affairs impose anti-dumping measures in the form of interim dumping duty and interim countervailing duty on the goods exported to Australia from China, with the exception of those exporters noted above. The then Minister for Home Affairs accepted the recommendations in REP 181 and on 5 July 2012, notice of the decision was published in the *Commonwealth of Australia Gazette*, *The Australian* newspaper and notified in Anti-Dumping Notice (ADN) No. 2012/33.<sup>3</sup>

On 15 September 2014, the Commissioner initiated a review of the anti-dumping measures in respect of ARWs exported to Australia from China by all exporters following an application by Jiangsu Yaozhong Aluminium Wheels Co., Ltd (Jiangsu Yaozhong). As a result of this review, the Commissioner found that the variable factors of normal values, export prices, non-injurious prices and the amount of countervailable subsidies received be altered.

As outlined in *Final Report No. 263* (REP 263), it was found that:

- ARWs exported to Australia from China were:
  - with the exception of Jiangsu Yaozhong, dumped with margins ranging from 7.8 per cent to 40.3 per cent; and
  - with the exception of two exporters, Jiangsu Yaozhong and CITIC Dicastal Wheel Manufacturing Co. Ltd., subsidised with margins ranging from 2.5 per cent to 57.6 per cent.

The then Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science accepted the recommendations in REP 263 and on

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<sup>3</sup> ADN 2012/33 can be found on the Anti-Dumping Commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

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22 October 2015, notice of the decision was published in the *Commonwealth of Australia Gazette*, *The Australian* newspaper, and notified in ADN No. 2015/113.<sup>4</sup>

On 8 August 2016, a notice was published on the Commission's website ([www.adcommission.gov.au](http://www.adcommission.gov.au)) inviting certain persons to apply for the continuation of anti-dumping measures regarding the goods exported to Australia from China, in accordance with subsection 269ZHB(1).

On 29 September 2016, an application for continuation of the anti-dumping measures was received from Arrowcrest Group Pty Ltd, representing the Australian industry for ARWs. On 27 October 2016, having considered the application, the Commissioner decided not to reject the application and initiated an inquiry into whether the continuation of the anti-dumping measures is justified.

In relation to this continuation inquiry, a recommendation to the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary)<sup>5</sup> will be made in a report on or before 28 April 2017 (or such later date as allowed in accordance with subsection 269HI(3)).

## 2.2 The goods

### 2.2.1 Description

The goods the subject of the application are:

*Aluminium road wheels for passenger motor vehicles, including wheels used for caravans and trailers, in diameters ranging from 13 inches to 22 inches. For clarification, the goods include finished or semi-finished aluminium road wheels whether unpainted, painted, chrome plated, forged or with tyres and exclude aluminium wheels for go-carts and All-Terrain Vehicles.*

### 2.2.2 Tariff classification

The goods are currently classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

- 8708.70.91 (statistical code 78);
- 8708.70.99 (statistical code 80); and
- 8716.90.00 (statistical code 39).

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<sup>4</sup> ADN 2015/113 can be found on the Anti-Dumping Commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

<sup>5</sup> On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of this accelerated review, the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

## **PUBLIC RECORD**

### **2.3 Consideration of the application for accelerated review**

As outlined at section 4.3, Taian's application was lodged on 15 March 2017.

Pursuant to subsections 269ZG(1) and (2) the Commissioner must, no later than 100 days after the application is lodged, provide the Parliamentary Secretary with a report recommending:

- a) that the dumping duty notice and/or countervailing duty notice the subject of the application remain unaltered; or
- b) that the dumping duty notice and/or countervailing duty notice the subject of the application be altered to apply to the applicant as if different variable factors had been fixed;

and set out the Commissioner's reasons for so recommending.

In relation to this application, the Commissioner's recommendation must be made no later than 23 June 2017.

### **2.4 Public record**

There is no legislative requirement for the Commissioner to maintain a public record for accelerated reviews. However, in the interests of ensuring the process is conducted in an open and transparent manner, a public record will be maintained.

This consideration report, along with a non-confidential version of the application and response to the exporter questionnaire, will be published on the electronic public record, available at [www.adcommission.gov.au](http://www.adcommission.gov.au).

## **3 COMPLIANCE WITH SECTION 269ZE**

### **3.1 Background**

Section 269ZE sets out the circumstances in which an accelerated review may be sought.

The conclusions in this chapter are based on currently available information. If, during the accelerated review, evidence becomes available that satisfies the Commissioner that the requirements of subsection 269ZE(3) are met, the Commissioner may terminate the accelerated review.

### **3.2 Compliance with subsection 269ZE(1)**

#### **3.2.1 Background**

Subsection 269ZE(1) sets out that only a “new exporter” may apply for an accelerated review. A new exporter is defined in subsection 269T(1) as, in relation to goods the subject of an application for a dumping duty notice or countervailing duty notice or like goods, an exporter who did not export such goods to Australia at any time during the investigation period in relation to the application.

Subsection 269ZE(1) further provides that a new exporter can apply for an accelerated review if a dumping duty notice or a countervailing duty notice has been published in respect of goods exported from a particular country of export or by a new exporter, provided a declaration has not already been made in respect of that exporter under subsection 269ZG(3)(b).

Subsection 269T(1) also defines “application” in relation to a dumping duty notice or a countervailing duty notice as meaning an application for the publication of such a notice.

#### **3.2.2 New exporter period**

To fall within the definition of a new exporter as defined in subsection 269T(1), the period within which the applicant must not have exported to Australia (the new exporter period) is from 1 July 2010 to 30 June 2011 (the investigation period for the original investigation in relation to the application for publication of the notices in respect of the goods).

#### **3.2.3 Evidence of exports during the new exporter period**

A search of the Australian Border Force’s import database did not reveal any exports of the goods by Taian during the new exporter period, 1 July 2010 to 30 June 2011.

Based on currently available information, the Commissioner considers that Taian should be considered as a new exporter for the purposes of the accelerated review.

#### **3.2.4 Declaration under subsection 269ZG(3)(b)**

Pursuant to subsection 269ZE(1)(b), a new exporter cannot apply for an accelerated review if they had previously applied for an accelerated review that resulted in a declaration being made in respect of that exporter under subsection 269ZG(3)(b). Taian has not previously



applied for an accelerated review and no such declaration has been made in respect of Taian.

### **3.3 Compliance with subsection 269ZE(2)**

#### **3.3.1 Non-cooperation during the original investigation**

Subsection 269ZE(2)(a) provides that, if the Commissioner is satisfied that, because the exporter refused to cooperate in relation to the application for publication of a dumping duty notice or a countervailing duty notice, the exportations from that exporter were not investigated (in the original investigation), the Commissioner may reject the application.

Given that there is no evidence of exports by Taian during the investigation period for the original investigation (i.e. the new exporter period) and that Taian's cooperation was not sought during the original investigation, the Commission considers that there are no grounds for rejection pursuant to subsection 269ZE(2)(a).

#### **3.3.2 Relationship with an exporter whose exports were previously examined**

Subsection 269ZE(2)(b) provides that, if the Commissioner is satisfied that the exporter (i.e. the applicant for an accelerated review) is related to an exporter whose exports were examined in relation to the application for the publication of a dumping duty notice or a countervailing duty notice, the Commissioner may reject the application.

To determine whether subsection 269ZE(2)(b) applies, the exporter questionnaire responses and visit reports for the selected exporters from the original investigation were reviewed for company information and shareholding arrangements. There is no evidence to suggest that Taian is related to a selected exporter from the original investigation. Therefore, the Commission considers there are no grounds for rejection pursuant to subsection 269ZE(2)(b).

### **3.4 Summary of findings**

In accordance with section 269ZE, on review of the application and all information currently available, the following findings have been made about whether the circumstances exist in which accelerated reviews may be sought:

- the applicant did not export ARWs to Australia during the new exporter period and is not an exporter in respect of whom a declaration has already been made under subsection 269ZG(3)(b). Consequently, the applicant meets the definition of a new exporter and satisfies the requirements for requesting an accelerated review under subsection 269ZE(1);
- the applicant did not refuse to cooperate in relation to the application for the publication of the notices in respect of the goods, and the application should not be rejected under subsection 269ZE(2)(a); and
- the applicant does not appear to be related to any exporter that had its exports examined in the original investigation and therefore the application should not be rejected under subsection 269ZE(2)(b).

## 4 COMPLIANCE WITH SECTION 269ZF

### 4.1 Application requirements

Section 269ZF requires that an application for an accelerated review must:

- be in writing (subsection 269ZF(1)) and be lodged in a manner approved under section 269SMS<sup>6</sup> (subsection 269ZF(1));
- contain a description of the goods to which the dumping duty notice or countervailing duty notice relates (subsection 269ZF(1)(a)); and
- contain a statement of the basis on which the exporter considers that the particular notice is inappropriate in so far as the exporter is concerned (subsection 269ZF(1)(b)).

### 4.2 Compliance with section 269ZF

#### 4.2.1 Compliance with subsection 269ZF(1)

Taian's application was in writing and lodged in a manner approved in the Commissioner's instrument made under section 269SMS, being by email to the Commission's nominated email address.

#### 4.2.2 Compliance with subsection 269ZF(1)(a)

Page 2 of Taian's application contained a description of the goods to which the notices relate.

#### 4.2.3 Compliance with subsection 269ZF(1)(b)

Taian's application contained a statement that outlined the reasons why it believes the notices are inappropriate in so far as they affect it. In its application, Taian states that the notices are inappropriate to the company, and refers to the following:

- it did not export the goods, subject to the measures to Australia during the new exporter period (as discussed at section 3.2.2);
- as a result, it is subject to the 'uncooperative and all other exporters' rate which includes a fixed interim dumping duty and interim countervailing rate of 50.9 per cent;
- the basis used to establish the variable factors for uncooperative and all other exporters do not apply to its particular circumstances; and
- raw material inputs (primary aluminium traded on the London Metals Exchange) have reduced since the variable factors were last ascertained.

#### 4.2.4 Conclusion - compliance with section 269ZF

The Commission considers that Taian's application complies with section 269ZF.

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<sup>6</sup> The Commissioner has approved the manner for lodging applications made under Part XVB of the *Customs Act 1901*. The Commissioner's approval is provided in an instrument made under section 269SMS, which can be found on the Commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

### **4.3 Lodgement date**

Subsection 269ZF(2) states that an application for accelerated review is taken to have been lodged when the application is first received by a Commission staff member doing duty in relation to applications for accelerated reviews.

Further, subsection 269ZF(3) states that the day on which an application is taken to be lodged must be recorded on the application.

On 15 March 2017, Taian submitted an application for an accelerated review of the notices applying to ARWs exported to Australia from China in so far as the notices affect the applicant.

The application was received on 15 March 2017.

A copy of the application is at **Attachment 1**. A non-confidential version of the application is available on the public record.

## **5 CONCLUSION**

The Commission concludes, on the basis of currently available information, that:

- the circumstances in which an accelerated review can be sought under subsection 269ZE(1) have been satisfied;
- the conditions for rejection under subsection 269ZE(2) are not met; and
- the application satisfies the requirements of subsection 269ZF(1);

Accordingly, the Commission is satisfied that Taian is eligible to apply for, and has lodged a valid application for an accelerated review.

The Commission recommends that the Commissioner:

- not reject the application for an accelerated review of the notices applying to ARWs exported to Australia from China in so far as the notices affect the applicant and continue with the accelerated review; and
- set the review period as 1 January 2016 to 31 December 2016.

## 6 SECURITIES

When an application for an accelerated review of a dumping duty and/or countervailing duty notice is lodged, subsection 269ZH(a) provides that no interim duty can be collected (from the applicant) in respect of consignments of goods, to which the application relates, entered for home consumption after the application is lodged and until the completion of the review.

However, pursuant to subsection 269ZH(b), the Commonwealth may, on the importation of goods to which the application relates, require and take securities under section 42 in respect of interim dumping duty and interim countervailing duty that may be payable.

It is recommended that the Commonwealth require and take securities under section 42 of the Act from 15 March 2017 in respect of interim dumping duty and interim countervailing duty that may be payable on the importation of ARWs exported from China to which the application under subsection 269ZE(1) of the Act relates.

A table outlining the variable factors relevant to calculating the amount of securities is provided at **Confidential Attachment 2**.

**7 APPENDICES AND ATTACHMENTS**

<b>Attachment 1</b>	Application by Taian
<b>Confidential Attachment 2</b>	Table outlining variable factors for the calculation of securities