



Australian Government
Department of Industry and Science

Anti-Dumping Commission

CUSTOMS ACT 1901 - PART XVB

CONSIDERATION REPORT NO. 292

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

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

CHANGZHOU SCIENCE AND TECHNOLOGY CO. LTD.

MAY 2015

PUBLIC RECORD

TABLE OF CONTENTS

1	SUMMARY AND RECOMMENDATIONS	4
1.1	Recommendations	4
1.2	Legislative background	4
1.3	Findings and conclusions	4
2	BACKGROUND	5
2.1	Goods under review	5
2.2	Existing measures.....	5
2.3	Initiation of a review of measures (Division 5 of Part XVB of the Act) ..	6
2.4	Consideration of the application for an accelerated review (Division 6 of Part XVB of the Act).....	6
2.4.1	Review process	7
2.4.2	Public record.....	7
2.4.3	Matters excluded from the accelerated review.....	7
2.4.4	Key dates.....	8
3	APPLICATION FOR AN ACCELERATED REVIEW – COMPLIANCE WITH SECTION 269ZF	9
3.1	Legislative background	9
3.2	Assessment of the application – compliance with section 269ZF	9
4	CIRCUMSTANCES IN WHICH AN ACCELERATED REVIEW MAY BE SOUGHT – COMPLIANCE WITH SECTION 269ZE	10
4.1	Background	10
4.2	Status as a new exporter	10
4.2.1	Evidence of exports during the new exporter period.....	10
4.2.2	Declaration under subsection 269ZG(3)(b)(ii).....	11
4.3	Cooperation in regards to the application for a dumping duty notice and countervailing duty notice	11
4.3.1	Relationship with exporters.....	11
4.4	Findings under section 269ZE	12
5	CONCLUSION AND RECOMMENDATIONS	13
6	SECURITIES AND INTERIM DUMPING AND COUNTERVAILING DUTY	14
7	ATTACHMENTS	15

ABBREVIATIONS

Abbreviation	Full title
ACBPS	Australian Customs and Border Protection Service
the Act	<i>Customs Act 1901</i>
the applicant	Changzhou Science and Technology Co. Ltd.
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
Changzhou	Changzhou Science and Technology Co. Ltd.
the goods	the goods to which the anti-dumping measures apply
the Parliamentary Secretary	the Parliamentary Secretary to the Minister for Industry and Science
REP 181	International Trade Remedies Report No. 181
Review period	1 April 2014 to 31 March 2015

1 SUMMARY AND RECOMMENDATIONS

This report provides the results of the Anti-Dumping Commission's (the Commission's) consideration of an application by Changzhou Science and Technology Co. Ltd. (the applicant or Changzhou) for an accelerated review of the dumping duty and countervailing duty notices applying to aluminium road wheels¹ exported to Australia from the People's Republic of China (China) in so far as the notices affect the applicant.

1.1 Recommendations

The Commission recommends that the Commissioner of the Anti-Dumping Commission (the Commissioner) not reject the application.

1.2 Legislative background

Division 6 of Part XVB of the *Customs Act 1901* (the Act)² 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 notice.

Subsection 269ZE(2) provides that the Commissioner may reject the application for an accelerated review of a dumping duty or countervailing duty notice if satisfied that the conditions set out in this subsection have been met.

1.3 Findings and conclusions

Changzhou's application for an accelerated review of the dumping duty and countervailing duty notices applying to aluminium road wheels exported to Australia from China has been examined and 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) have not been met; and
- the application satisfies the requirements of section 269ZF.

Accordingly, the Commission concludes that the applicant is eligible to apply for and has lodged a valid application for an accelerated review under the Act, and recommends that the Commissioner not reject the application.

¹ Refer to the full description of the goods in Section 2.1 of this report.

² A reference to a division, section or subsection in this report is a reference to a provision of the *Customs Act 1901*, unless otherwise specified.

2 BACKGROUND

2.1 Goods under review

The goods subject to anti-dumping measures, in the form of dumping duty and countervailing duty notices, 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.

The goods are currently classified to the following tariff subheadings of 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).

2.2 Existing measures

On 7 November 2011, an investigation into the dumping and subsidisation of aluminium road wheels exported to Australia from China was initiated following an application lodged by Arrowcrest Group Pty. Ltd. (the original investigation).

In that investigation, as outlined in *International Trade Remedies Report No. 181* (REP 181), it was found that:

- aluminium road wheels exported from China to Australia were:
 - with the exception of Zhejiang Shuguang Industrial Co. Ltd., also known as PDW International Co. (PDW), dumped with margins ranging from 5.6 per cent to 29.3 per cent; and
 - with the exception of two exporters, PDW 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 from China, with the exception of those exporters noted above. The then Minister for Home Affairs accepted these recommendations and on 5 July 2012, notice of the decision was published in Anti-Dumping Notice No. 2012/33.

2.3 Initiation of a review of measures (Division 5 of Part XVB of the Act)

On 15 September 2014, a review of measures³ was commenced for all exporters of aluminium road wheels⁴. This review of measures will reassess aspects of the existing anti-dumping measures including whether one or more of the variable factors have changed.

A statement of essential facts for the review of measures is due to be placed on the public record by 30 June 2015. A recommendation to the Parliamentary Secretary will be made in a report due on or before 14 August 2015.

While the review of measures is distinct from this accelerated review, the findings and recommendations of the review of measures, if accepted by the Parliamentary Secretary, may amend the existing dumping duty or countervailing notices in respect of exporters generally, and may affect the level of measures determined by this accelerated review.

2.4 Consideration of the application for an accelerated review (Division 6 of Part XVB of the Act)

On 16 April 2015, Changzhou Science and Technology Co. Ltd. lodged an application for an accelerated review of the dumping duty and countervailing duty notices applying to aluminium road wheels exported to Australia from China in so far as the notices affect the applicant (refer **Attachment 1**).

If the Commissioner does not reject the application, the date of lodgement (16 April 2015) is the date on which the 100 day accelerated review timeframe commences.⁵

The assessment of this application is discussed in sections 3 and 4 of this report.

³ A review of measures is undertaken in accordance with the provisions in Division 5 of the Act, which is distinct from the accelerated review provisions in Division 6, which are considered in this report.

⁴ Reference is made to electronic public record number 263 on the Commission's website

⁵ Subsection 269ZG(2).

2.4.1 Review process

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

- a) that the dumping duty notice or countervailing duty notice the subject of the application remain unaltered; or
- b) that the dumping duty notice or countervailing duty notice the subject of the application be altered:
 - (i) so as not to apply to the applicant; or
 - (ii) so as 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, this report must be made no later than 27 July 2015.

2.4.2 Public record

There is no legislative requirement for the Commissioner to maintain a public file for this accelerated review. However, in the interests of ensuring the process is conducted in an open and transparent manner, a public file 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 at <http://www.adcommission.gov.au>.

Interested parties can make submissions to the Commissioner in relation to this accelerated review application. However, given the expedited nature of accelerated reviews and the short timeframe for the Commissioner to produce a final report, any submissions by interested parties should be lodged by 15 June 2015.

The Commissioner may not be able to have regard to submissions received after this date if to do so would, in the Commissioner's opinion, delay the timely preparation of the final report to the Parliamentary Secretary.

2.4.3 Matters excluded from the accelerated review

The Commission considers that an accelerated review is not the relevant mechanism to reassess certain aspects of the anti-dumping measures applying to aluminium road wheels. As such, this accelerated review will not reassess the finding made in REP 181 that a market situation exists in China in relation to domestic sales of aluminium road wheels. Further, this accelerated review will not reassess whether other subsidies exist beyond those originally investigated.

In conducting this accelerated review, the Commission will adopt the aluminium and/or aluminium alloy cost benchmarking methodology applied in the original investigation.

PUBLIC RECORD

2.4.4 Key dates

16 April 2015	Application lodged
25 May 2015	Response to exporter questionnaire due
15 June 2015	Submissions by interested parties due
27 July 2015	Final report to Parliamentary Secretary due

PUBLIC RECORD

3 APPLICATION FOR AN ACCELERATED REVIEW – COMPLIANCE WITH SECTION 269ZF

3.1 Legislative background

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

- be in writing (subsection 269ZF(1));
- contain a description of the goods to which the dumping duty or countervailing duty notice relates (subsection 269ZF(1)(a));
- 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)); and
- be lodged in accordance with subsection 269ZF(2).

3.2 Assessment of the application – compliance with section 269ZF

The application received from the applicant was in writing, lodged in accordance with subsection 269ZF(2) and contains a description of the goods to which the dumping duty and countervailing duty notices relate (subsection 269ZF(1)(a)).

In accordance with the requirements of subsection 269ZF(1)(b), the application also contains a statement from the applicant that outlines the reasons why the company considers the current dumping duty and countervailing duty notices are inappropriate in so far as the notices affect the applicant. This was because the applicant did not export aluminium road wheels to Australia during the relevant period set out in the definition of a ‘new exporter’ in subsection 269T(1) (further discussed in section 4.2.1 of this report).

The Commission therefore recommends that the Commissioner be satisfied that the application complies with subsection 269ZF(1) and was lodged in accordance with subsection 269ZF(2).

4 CIRCUMSTANCES IN WHICH AN ACCELERATED REVIEW MAY BE SOUGHT – COMPLIANCE WITH SECTION 269ZE

4.1 Background

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

The conclusions in this section are made on the basis of 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 review.

4.2 Status as a new exporter

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

Subsection 269T(1) defines a 'new exporter', in relation to goods the subject of an application for a dumping duty notice or a countervailing duty notice, as an exporter who did not export such goods to Australia at any time during the period:

- (a) starting at the start of the investigation period in relation to the application; and
- (b) ending immediately the day before the Commissioner places on the public record the statement of essential facts in relation to the investigation of the application.

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 in relation to the original investigation.

4.2.1 Evidence of exports during the new exporter period

To meet the definition of a new exporter, the period during which the applicant must not have exported aluminium road wheels to Australia (the new exporter period) is from 1 July 2010, the start of the original investigation period, to 26 April 2012, the day before the statement of essential facts for the original investigation was placed on the public record.

A search of the Australian Customs and Border Protection Service (ACBPS) import database by the Commission did not reveal any exports of aluminium road wheels (classified to tariff subheadings 8708.70.91; 8708.70.99 and 8716.90.00 of Schedule 3 to the *Customs Tariff Act 1995*) by the applicant during the period 1 July 2010 to 26 April 2012.

4.2.2 Declaration under subsection 269ZG(3)(b)(ii)

Pursuant to subsection 269ZE(1)(b) of the Act, 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)(ii).

The applicant has not previously applied for an accelerated review and as such the Parliamentary Secretary has not previously made a declaration under subsection 269ZG(3)(b)(ii) in respect of the applicant.

4.3 Cooperation in regards to the application for a dumping duty notice and countervailing duty notice

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

Noting the above finding that there is no evidence of exports by the applicant during the new exporter period, the Commission notes that the applicant's cooperation would not have been sought during the original investigation as it would not have been identified as an exporter.

The Commission therefore recommends that the Commissioner consider that there are no grounds for rejection in terms of subsection 269ZE(2)(a).

4.3.1 Relationship with exporters

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

To determine if the applicant is related to an exporter whose exports were examined in relation to the original investigation in accordance with subsection 269ZE(2)(b), the Commission reviewed the list of exporters from the original investigation. The ACBPS import database was also examined for any relevant company information.

The Commission did not find any information to indicate that the applicant is related to any of the exporters considered in the original investigation.

Given the information available, the Commission recommends that the Commissioner consider there are no grounds for rejection in terms of subsection 269ZE(2)(b).

4.4 Findings under section 269ZE

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

- the applicant did not export aluminium road wheels during the new exporter period. Therefore, 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 a dumping duty and a countervailing duty notice, and therefore the application should not be rejected under subsection 269ZE(2)(a); and
- the applicant does not appear to be related to any exporters whose exports were examined in the original investigation, and therefore the application should not be rejected under subsection 269ZE(2)(b).

5 CONCLUSION AND RECOMMENDATIONS

The Commission has considered the application made by the applicant in accordance with sections 269ZE, 269ZF and the definition of a new exporter provided in subsection 269T(1) of the Act.

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) have not been met; and
- the application satisfies the requirements of section 269ZF.

Accordingly, the Commission recommends that the Commissioner not reject the application for an accelerated review of the dumping duty and countervailing duty notices applying to aluminium road wheels exported to Australia from China, in so far as the notices affect the applicant.

Should the Commissioner decide not to reject this application for an accelerated review, the Commission recommends that the review period for the accelerated review be from 1 April 2014 to 31 March 2015.

6 SECURITIES AND INTERIM DUMPING AND COUNTERVAILING DUTY

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 entered for home consumption after the application is lodged and until the completion of the review.

Pursuant to subsection 269ZH(b), the ACBPS may, however, 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.

Should the Commissioner not reject the application, and an accelerated review is conducted, the ACBPS may require and take securities under section 42 in respect of interim dumping duty and interim countervailing duty that may be payable.

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

7 ATTACHMENTS

Attachment 1	Changzhou Science and Technology Co. Ltd. – application
Confidential Attachment 2	Table outlining variable factors for calculation of securities