



Australian Government
Anti-Dumping Commission

PUBLIC RECORD

CUSTOMS ACT 1901 - PART XVB

CONSIDERATION REPORT NO. 280

**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
INOVIT (SUQIAN) CORP LTD**

20 January 2015

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ABBREVIATIONS

ACBPS	Australian Customs and Border Protection Services
Act	<i>Customs Act 1901</i>
AND	Anti-Dumping Notice
CITIC Dicastal	CITIC Dicastal Wheel Manufacturing Co Ltd
Commission	Anti-Dumping Commission
Commissioner	the Commissioner of the Anti-Dumping Commission
ICD	Interim countervailing duty
IDD	Interim dumping duty
PDW	Zhejiang Shuguang Industrial Co Ltd, also known as PDW International Co
the applicant	INOVIT (Suqian) Corp Ltd
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
the Minister	the Minister for Industry and Science

1 SUMMARY AND RECOMMENDATION

This report provides the results of the Anti-Dumping Commission's (the Commission's) consideration of an application by INOVIT (Suqian) Corp Ltd (Inovit) for an accelerated review of the dumping and countervailing duty notices in respect of Aluminium Road Wheels (ARWs) from the People's Republic of China (China).

1.1 Recommendations

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

1.2 Application of law to facts

Division 6 of Part XVB of the *Customs Act 1901* (the Act)¹ sets out, among other things, the procedures to be followed by the Commissioner in dealing with an application for the accelerated review of a dumping or countervailing duty notice by certain exporters of goods covered by the notices.

Subsection 269ZE(2) of the Act provides that the Commissioner may reject the application for an accelerated review of a dumping or countervailing duty notice if he is not satisfied of the elements set out in subsection (2).

1.3 Findings and conclusions

Inovit's application for an accelerated review of the dumping and countervailing duty notices applying to ARWs exported to Australia from China has been examined.

The Commission finds that:

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

Accordingly the Commission concludes that the applicant is eligible to apply for an accelerated review, and recommends that the Commissioner not reject the application.

¹ A reference to a part, division, section or subsection is a reference to a part, division, section or subsection of the *Customs Act 1901* unless stated otherwise

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

- ARWs 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 (CITIC Dicastal), 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 (IDD) and interim countervailing duty (ICD) on the goods exported from China, with the exception of those exporters noted above. The 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 (ADN 2012/33).

2.2 Initiation of a review of measures (Division 5)

On 15 September 2014, a review of measures² was commenced for all exporters of ARWs. Division 5 of Part XVB of the Act provides that a review of measures is available to affected parties (as defined). An application for a review of measures cannot be made earlier than twelve months after a dumping and countervailing duty notices have been published (or last revisited). A review of measures may apply in respect of a particular exporter of goods or as they affect exporters of those goods generally.

A review of measures under Division 5 of Part XVB of the Act may reassess aspects of anti-dumping measures including whether one or more of the variable factors relevant to the taking of measures in relation to an exporter or exporters have changed.

² A review of measures is undertaken in accordance with the provisions of Division 5 of the Act, which is distinct from the accelerated review provisions of Division 6, considered in this report.

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As a result of a review of measures, the Minister may amend the dumping and countervailing duty notices. Where a review of measure applies to exporters of goods generally (that is, not a single exporter), those notices will apply to all relevant exporters.

The current review of measures does not impact on this accelerated review. However, the findings and recommendations of the review of measures, if accepted by the Minister, may update the level of measures for all exporters, including the level of measures determined by this accelerated review.

The Commission is also reconsidering aspects of the ARWs anti-dumping measures following the outcome of litigation in the matter of GM Holden Limited v Commissioner of the Anti-Dumping Commission. Any subsequent decisions with regard to this matter may also alter the anti-dumping measures applying to ARWs from China.

2.3 The goods the subject of the application

2.3.1 Description

The goods, the subject of the application (the goods) are:

aluminium road wheels (ARWs) for passenger motor vehicles, including wheels used for caravans and trailers, in diameters ranging from 13 inches to 22 inches.³ For clarification, the goods include finished or semi-finished ARWs whether unpainted, painted, chrome plated, forged or with tyres and exclude aluminium wheels for go-carts and All-Terrain Vehicles.

Tariff classification

The goods are 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).

2.4 Consideration of the application for accelerated review

On 19 December 2014, Inovit lodged an application for an accelerated review of the dumping and countervailing duty notices that apply to ARWs exported to Australia from China by the applicant.

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

³ ACDN 2011/54, 7 November 2011.

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- a) that the dumping or countervailing duty notices, the subject of the application, remains unaltered; or
- b) that the dumping or countervailing duty notices, 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 30 March 2015.

There is no legislative requirement for the Commissioner to maintain a public file for accelerated reviews. 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, available at www.adcommission.gov.au.

Given the expedited nature of accelerated reviews and the shortened timeframe for the Commissioner to produce a final report, any submissions by interested parties should be lodged before 1 March 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 Minister.

2.4.1 Key Dates

19 December 2014	Application lodged
20 January 2015	Initiation
28 January 2015	Response to Exporter questionnaire due
1 March 2015	Submissions by interested parties due
30 March 2015	Final report to the Minister due

3 APPLICATION FOR ACCELERATED REVIEW - COMPLIANCE WITH SECTION 269ZF

3.1 Legislative Background

Subsection 269ZF(1) requires that an application for an accelerated review must:

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

3.2 Assessment of the application – compliance with section 269ZF

Subsection 269ZF(1) sets out the manner in which an application for an accelerated review can be made. The application received from Inovit was in writing, lodged in accordance with subsection 269ZF(2), and contains a description of the goods to which the dumping and countervailing duty notices relate. The application also contains a statement from Inovit that outlines the reasons why the company believes the current dumping and countervailing duty notices are inappropriate to the company.

[REDACTED] (commercial in confidence).

The Commission notes that a dumping and subsidy investigation into PDW was terminated in June 2012 as there was found to be no dumping of the goods by that exporter and that the exporter was not in receipt of countervailable subsidisation in respect of the goods.

Australian Customs and Border Protection Service's (ACBPS's) import database shows that Inovit did not export ARWs from China during the investigation period (being 1 July 2010 to 26 April 2012).

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

3.3 Lodgement date

Inovit formally lodged an application for an accelerated review on 19 December 2014. A copy of its application is at **Attachment 1**. The application will be available on the Public Record. On receipt of the application, the Commission recorded the date on which the application was received as 19 December 2014 in accordance with subsection 269ZF(3). If the Commissioner does not reject the application, the initiation date is said to be the date of lodgement of the application.

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 all currently available information. If, during the accelerated review, evidence becomes available that satisfies the Commissioner that the requirements of subsection 269ZE are met, the Commissioner may terminate the review.

4.2 Status as a new exporter

4.2.1 Background

Section 269ZDC provides that a “new exporter” may apply for an accelerated review.

A new exporter is defined (see subsection 269T(1)) as an exporter who did not export the goods, the subject of an application for a dumping duty notice or a countervailing duty notice 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 before the day the Commissioner places on the Public Record the statement of essential facts in relation to the investigation of the application.

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

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.

4.2.2 New exporter period

The Commissioner considers that, due to the definition 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, the start of the original investigation period, to 26 April 2012, the day before the SEF for Investigation 181 was placed on the Public Record.

4.2.3 Evidence of exports during the new exporter period

A search of the ACBPS’s import database did not reveal any exports of the goods by Inovit during the period 1 July 2010 to 26 April 2012.

Based on the available information, the Commission recommends that the Commissioner consider Inovit a new exporter for the purposes of the accelerated review.

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

Paragraph 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, the exportations from that exporter have not investigated (in the original investigation), the Commissioner may reject the application.

Noting the above finding that there is no evidence of exports by Inovit during the investigation period, the Commission notes that the applicant's cooperation would not have been sought during the original investigations in any case (as the company would not have been identified as an exporter).

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

4.4 Relationships with exporters examined

Paragraph 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 publication of a dumping or 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)(a), 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 paragraph 269ZE(2)(b).

4.5 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 the goods during the relevant period. Consequently, the applicant meets the definition of a new exporter and satisfies the requirements for requesting an accelerated review as stated at subsection 269ZE(1);
- the applicant did not refuse to cooperate in relation to the application for a dumping duty notice or a countervailing duty notice, and the application should not be rejected under paragraph 269ZE(2)(a); and
- the applicant does not appear to be related to any exporters whose exports were examined in the original investigation and the application should not be rejected under paragraph 269ZE(2)(b).

5 CONCLUSION

The Commission has considered the application made by Inovit to determine if it was valid as required by sections 269ZE, 269ZF and the definition of 'new exporter' provided in subsection 269T(1) of the Act.

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

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

The Commission therefore recommends that the Commissioner not reject the application.

Should the Commissioner decide to not reject this application and the accelerated review continues, it is recommended that the review period for the accelerated review be 1 October 2013 to 30 September 2014.

6 SECURITIES AND INTERIM DUMPING DUTY

When an application for an accelerated review of a dumping duty and/or a countervailing notice is lodged, section 269ZH 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. ACBPS may, however, require on the importation of goods to which the application relates, require and take securities under section 42 in respect of IDD and ICD that may be payable.

Should the Commissioner not reject the application, and continue an accelerated review, ACBPS may require and take securities under section 42 in respect of IDD and ICD that may be payable. A table outlining the variable factors relevant to calculating the amount of securities is provided at Confidential Attachment 2.

7 APPENDICES AND ATTACHMENTS

Non-confidential attachment 1	Application
Confidential attachment 2	Table outlining variable factors for calculation of securities