



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

**Anti-Dumping  
Commission**

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*CUSTOMS ACT 1901 - PART XVB*

**CONSIDERATION REPORT  
NO. 407**

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

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

**BY QINHUANGDAO SINOLION WHEELS CO. LTD.**

**May 2017**

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### ABBREVIATIONS

the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
China	the People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
the goods	the goods the subject of the application (also referred to as the goods under consideration)
PDW	Zhejiang Shuguang Industrial Co., Ltd
Qinhuangdao	Qinhuangdao Sinolion Wheels Co. Ltd. (the applicant)
REP 181	<i>International Trade Remedies Report No. 181</i>
REP 263	<i>Anti-Dumping Commission Report No. 263</i>
SEF 378	<i>Statement of Essential Facts No. 378</i>
the Parliamentary Secretary	the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science

## 1 SUMMARY AND RECOMMENDATION

This report provides the results of the Commissioner of the Anti-Dumping Commission's (the Commissioner's) consideration of an application by Qinhuangdao Sinolion Wheels Co. Ltd. (Qinhuangdao) for an accelerated review of the dumping and countervailing duty notices in respect of aluminium road wheels<sup>1</sup> exported to Australia from the People's Republic of China (China), in so far as those notices affect Qinhuangdao.

### 1.1 Recommendation

The Anti-Dumping Commission (the 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)<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 notice and countervailing duty notice by certain exporters of goods covered by the respective notices.

### 1.3 Findings and conclusions

The Commission has examined the application and is satisfied that:

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

Accordingly, the Commission concludes that the applicant is eligible to apply for, and has lodged a valid application for, an accelerated review, and 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 2.3.1 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 Previous Cases

A history of the anti-dumping measures applying to aluminium road wheels exported to Australia from China is summarised in the following table:

Case no. <sup>3</sup>	ADN No.	Date	Findings
Investigation No. 181 (the original investigation)	2012/33	5/7/2012	As a result of the investigation: <ul style="list-style-type: none"> <li>• with the exception of Zhejiang Shuguang Industrial Co., Ltd (PDW),<sup>4</sup> a dumping duty notice was published in respect of the goods, with dumping margins ranging between 5.6 and 29.3 per cent; and</li> <li>• with the exception of PDW and CITIC Dicastal Wheel Manufacturing Co., Ltd,<sup>5</sup> a countervailing duty notice was published in respect of the goods, with subsidy margins ranging between 2.8 and 58.8 per cent.</li> </ul>
Reinvestigation No. 204	2013/34	8/5/2013	Following a review by the then Trade Measures Review Officer, a reinvestigation was conducted into certain findings made in the original investigation. <i>International Trade Remedies Report No. 204 (REP 204)</i> sets out the findings affirmed, and new findings made, as a result of the reinvestigation.  The then Minister for Home Affairs accepted the recommendations in REP 204 and published a new notice under section 269ZZM, which revised the level of the anti-dumping measures for one exporter, YHI Manufacturing Co. Ltd.
Accelerated Review No. 257	2014/105	17/11/2014	Following completion of an accelerated review, the dumping duty notice as it affected the applicant, Shandong Hengyu Auto Parts Co. Ltd., remained unchanged. However, the then Parliamentary Secretary to the Minister for Industry declared that, with effect from 17 November 2014, the countervailing duty notice applied to the applicant as if different variable factors had been fixed.
Review of Measures No. 263 (the review of measures)	2015/113	22/10/2015	On 4 August 2014, Jiangsu Yaozhong Aluminium Wheels Co. Ltd (Jiangsu Yaozhong) applied for a review of the anti-dumping measures as they applied to its exports of the goods to Australia from China. The company applied for a review on the basis that certain variable factors in respect of the goods had changed. The application was not rejected and the review was extended to include all Chinese exporters of the goods subject to the anti-dumping measures.  The review of measures found that the variable factors in relation to all exporters subject to the anti-dumping measures had changed. Dumping margins ranged from 8.4 per cent to

<sup>3</sup> Reports and documents relating to these matters are available on the Commission's public record at [www.adcommission.gov.au](http://www.adcommission.gov.au).

<sup>4</sup> The dumping investigation, as it related to this exporter, was terminated in accordance with section 269TDA on 8 June 2012, on the basis the dumping margin was negligible.

<sup>5</sup> The countervailing investigation, as it related to these exporters, was terminated in accordance with section 269TDA on 8 June 2012, on the basis that the subsidy margins for both were negligible.

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			40.3 per cent (with the exception of Jiangsu Yaozhong). Subsidy margins ranged from 2.2 per cent to 57.6 per cent.
Accelerated Review No. 280	2015/21	3/3/2015	During the accelerated review, the applicant, INOVIT (Suqian) Corp Ltd., failed to provide a complete response to the exporter questionnaire within an adequate timeframe, and the accelerated review was terminated in accordance with subsection 269ZE(3)(a).
Accelerated Review No. 292	2015/94	30/7/2015	The applicant, Changzhou Science and Technology Co. Ltd, withdrew its application and the accelerated review ceased.
Accelerated Review No. 321	2016/03	13/1/2016	The applicant, Changzhou Science and Technology Co. Ltd, withdrew its application and the accelerated review ceased.
Accelerated Review No. 336	2016/49	27/5/2016	Having considered <i>Anti-Dumping Commission Report No. 336</i> , the then Parliamentary Secretary to the Minister for Industry, Innovation and Science declared that, with effect from 29 January 2016, anti-dumping measures applied to the applicant, Danyang Jingyi Aluminum Industry Co., Ltd, as if different variable factors had been fixed.
Reinvestigation No. 340	NA	18/8/2016	Following a review by the Anti-Dumping Review Panel (ADRP), <sup>6</sup> a reinvestigation was conducted into certain findings made in Review of Measures No. 263.  As a result, the dumping and subsidy margins were subsequently revised in respect of Pilotdoer Wheels Co. Ltd (2.7 per cent for dumping) and Zhejiang Yueling Co., Ltd. (8.3 per cent for dumping and 3 per cent for subsidies).

**Figure 1 – history of anti-dumping measures**

## 2.2 Current Measures

The following table summarises the anti-dumping measures currently applying to aluminium road wheels exported to Australia from China:

Exporter	Duty applicable	Form of IDD	Combined fixed component of ICD and IDD
CITIC Dicastal Co., Ltd	IDD only	Combination duty method	8.4%
Ningbo Pilotdoer Wheel Co Ltd	IDD and ICD	Combination duty method	4.2%
Zhejiang Yueling Co., Ltd	IDD and ICD	Combination duty method	8.7%
Jiangsu Yaozhong	IDD only	Floor price	NA
Danyang Jingyi Aluminium Industry Co. Ltd	IDD and ICD	Combination duty method	0%
Zhejiang Jinfei Kaida Wheel Co., Ltd	IDD and ICD	Combination duty method	9.0%
Residual exporters	IDD and ICD	Combination duty method	13.9%
All other exporters	IDD and ICD	Combination duty method	50.9%

**Figure 2 – current anti-dumping measures**

<sup>6</sup> Details of the ADRP review are available at [www.adreviewpanel.gov.au](http://www.adreviewpanel.gov.au).

## **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 for passenger motor vehicles, including wheels used for caravans and trailers, in diameters ranging from 13 inches to 22 inches. The goods include finished or semi-finished aluminium road wheels whether un-painted, painted, chrome plated, forged or with tyres, and exclude aluminium wheels for go-carts and all-terrain vehicles.

The goods are classified to the following tariff sub-headings in Schedule 3 of the *Customs Tariff Act 1995*:

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

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

On 12 April 2017, Qinhuangdao lodged an application for an accelerated review of the dumping and countervailing duty notices that apply to aluminium road wheels exported to Australia from China in so far as the notices affect the applicant.

If the Commissioner does not reject the application or terminate the accelerated review, pursuant to subsections 269ZG(1) and (2) the Commissioner must, no later than 100 days after the application is lodged, provide to the Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary)<sup>7</sup> 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 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 accelerated review application, this report must be made no later than **21 July 2017**.

## **2.5 Public record**

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](http://www.adcommission.gov.au).

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<sup>7</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 inquiry, the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

### 3 APPLICATION FOR ACCELERATED REVIEW - COMPLIANCE WITH SECTION 269ZF

#### 3.1 Legislative Background

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

- be in writing (subsection 269ZF(1));
- be lodged in a manner approved under section 269SMS<sup>8</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)).

#### 3.2 Assessment of the application – compliance with section 269ZF

The application made by Qinhuangdao was in writing, lodged in a manner approved under section 269SMS (subsection 269ZF(1)), and contains a description of the goods to which the dumping 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 Qinhuangdao that outlines the reasons why the company believes the current dumping and countervailing duty notices are inappropriate in so far as the notices affect it. Qinhuangdao states that the current measures applying to new exporters was ascertained using verified data based on the lowest weighted average export price, the highest weighted average normal value (inclusive of an aluminium cost substitute) and thirty-two countervailable subsidies. As Qinhuangdao was not a participant in the original investigation or the subsequent review of measures, it claims that the ascertained rates do not reflect its actual normal values and hinders its ability to access the Australian market. For this reason, Qinhuangdao requests a determination of ascertained variable factors based on its own financial information.

The Commissioner is satisfied that the application complies with subsection 269ZF(1).

#### 3.3 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.

On 12 April 2017, Qinhuangdao lodged an application for an accelerated review. A copy of its application is at **Confidential Attachment 1**. A non-confidential version of the application will be made available on the public record. On receipt of the application, the Commission recorded the date on which the application was received as 12 April 2017 in accordance with subsection 269ZF(3) of the Act. If the Commissioner does not reject the application, the initiation date will be taken to be the application lodgement date.

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<sup>8</sup> A copy of the Commissioner's instrument under section 269SMS can be found at <http://www.adcommission.gov.au/accessadsystem/Documents/Forms%20and%20Guidelines/Lodging%20and%20withdrawing%20applications.pdf>.



## **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(3) are met, the Commissioner may terminate the application for an accelerated review.

### **4.2 Status as a new exporter**

#### **4.2.1 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 the goods the subject of the application for a dumping 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) 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).

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.

#### **4.2.2 New exporter period**

To fall within the definition of a new exporter 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 dumping duty and countervailing duty notices in respect of the goods).

#### **4.2.3 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 Qinhuangdao during the new exporter period, 1 July 2010 to 30 June 2011. Based on the available information, the Commissioner considers that Qinhuangdao should be considered as a new exporter for the purposes of the accelerated review.

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

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

A declaration under subsection 269ZG(3)(b) has not been made 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 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.

A review of the information from the original investigation reveals that Qinhuangdao was not identified as an exporter. Further, there is no evidence of exports of the goods to Australia by Qinhuangdao during the investigation period for the original investigation. As a result, Qinhuangdao's cooperation was not sought during the original investigation.

The Commission considers that there are no grounds for rejection in terms of subsection 269ZE(2)(a).

### **4.4 Relationships with selected exporters**

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

Based on the information available, the Commission considers there are no grounds for rejection in terms of subsection 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 original investigation period and is not an exporter in respect of whom a declaration has 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 publication of the dumping duty notice and countervailing duty notice in relation to 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).

## **5 CONCLUSION**

The Commission has considered the application made by Qinhuangdao to determine if it satisfied the requirements of sections 269ZE, 269ZF and the definitions provided in section 269T.

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

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

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

The Commission recommends that the Commissioner:

- decide not to reject the application for an accelerated review of the dumping and countervailing duty notices applying to the goods exported to Australia from China in so far as the notices affect the applicant;
- continue the accelerated review; and
- set the review period as 1 April 2016 to 31 March 2017.

## 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 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 accelerated 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.

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

**7 APPENDICES AND ATTACHMENTS**

<b>Confidential Appendix 1</b>	Application by Qinhuangdao (Confidential)
<b>Confidential Attachment 2</b>	Table outlining variable factors for the calculation of securities