



Australian Government
Anti-Dumping Commission

PUBLIC RECORD

CUSTOMS ACT 1901 - PART XVB

CONSIDERATION REPORT NO. 257

**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
SHANDONG HENGYU AUTO PARTS CO., LTD**

2 September 2014

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ABBREVIATIONS

\$	Australian dollars
The Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
The applicant	Shangdong Hengyu Auto Parts Co., Ltd
CFR	Cost and freight
COGS	Cost of goods sold
Commission	Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTM	Cost to make
CTMS	Cost to make & sell
CTS	Cost to sell
EBIT	Earnings before interest and tax
EDITA	Earnings before interest, tax, depreciation and amortisation
FOB	Free On Board
GAAP	Generally accepted accounting principles
NIP	Non-injurious Price
PAD	Preliminary Affirmative Determination
SEF	Statement of Essential Facts
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
the Parliamentary Secretary	the Parliamentary Secretary to the Minister for Industry
USP	Unsuppressed Selling Price

1 SUMMARY AND RECOMMENDATION

This report provides the results of the Commissioner of the Anti-Dumping Commission (the Commissioner) consideration of an application by Shangdong Hengyu Auto Parts Co., Ltd (Shangdong Hengyu) 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 Commission recommends the Commissioner of the Anti-Dumping Commission (the Commissioner) decide not to reject the application.

1.2 Application of law to facts

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

The Division empowers the Commissioner to reject or not reject the application for an accelerated review of anti-dumping measures.

1.3 Findings and conclusions

Shandong Hengyu's application for an accelerated review of anti-dumping measures applying to ARWs exported to Australia from China has been examined.

The Commission finds:

- 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.

2 BACKGROUND

2.1 Existing measures

On 7 November 2011, an investigation into ARW exported to Australia from China was initiated following an application lodged by Arrowcrest Group Pty Limited. 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 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, 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. 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 The goods the subject of the application

2.2.1 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.¹

Tariff classification

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

- 8708.70.97 (statistical code 78)
- 8708.70.99 (statistical code 80;) and
- 8716.90.00 (statistical code 39).

¹ ACDN 2011/54, 7 November 2011.

2.3 Consideration of the application for accelerated review

On 4 July 2014, Shangong Hengyu lodged an application for an accelerated review of anti-dumping measures 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 Parliamentary Secretary 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 recommendation must be made no later than 13 October 2014.

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 – 15 September 2014.

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.

2.3.1 Key Dates

4 July 2014	Application lodged
14 August 2014	Response to Exporter questionnaire due
2 September 2014	Submissions by interested parties due
13 October 2014	Final report to the Parliamentary Secretary due

3 APPLICATION FOR ACCELERATED REVIEW - COMPLIANCE WITH SECTION 269ZF

3.1 Legislative Background

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

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

Section 269ZF sets out the manner in which an application for an accelerated review can be made. The application received from Shandong Hengyu 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 Shandong Hengyu that outlines the reasons why the company believes the current anti-dumping and/or countervailing notices are inappropriate to the company.

Shandong Hengyu stated in its application that it is a new entity and has not yet exported ARWs to Australia including at dumped prices.

The Commissioner is satisfied that the application complies with subsections 269ZF(1) and 269ZF(2) of the Act.

3.3 Lodgement date

Shandong Hengyu, formally lodged an application for an accelerated review on 4 July 2014. A copy of their application is at **Attachment 1**. The application is available on the Public Record. On receipt of the application, the Anti-Dumping Commission (Commission) recorded the date on which the application was received as 4 July 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 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 not met, the Commissioner may terminate the 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 (section 269T) 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 before the day the Commissioner places on the Public Record the statement of essential facts in relation to the investigation of the application.

Section 269T 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

The Commissioner considers that, due to the definitions in section 269T, 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 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 Australian Customs and Border Protection Service’s (ACBPS’s) import database for any exports by the exporter did not reveal any exports of the goods, by Shandong Hengyu during the period 1 July 2010 to 26 April 2012.

Based on the available information, the Commissioner considers that Shandong Hengyu should be considered as 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 the exporter refused to cooperate in relation to the application for a dumping duty notice or a

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countervailing duty notice, the exportations from that exporter have not investigated (in the original investigations), the Commissioner may reject the application.

Noting the above finding that there is no evidence of exports by Shandong Hengyu during the investigation period, the Commissioner notes that 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 considers that there are no grounds for rejection in terms of paragraph 269ZE(2)(a).

4.4 Relationships with selected exporters

Paragraph 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 who was a selected exporter in relation to the application for a notice, the Commissioner may reject the application.

On 9 July 2014, in response to an email from the Commission, the applicant confirmed it is not related to any companies that manufacture or export ARWs to Australia.

Given the information available, the Commissioner considers 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 ARWs during the period for which new exporters cannot have exported. 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 selected exporters in the original investigations and the application should not be rejected under paragraph 269ZE(2)(b).

5 CONCLUSION

The Commissioner has considered the application made by Shandong Hengyu to determine if it was valid as required by sections 269ZE, 269ZF and the definitions provided in section 269T of the Act.

The Commissioner 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.

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 July 2013 to 30 June 2014.

6 SECURITIES AND INTERIM DUMPING DUTY

When an application for an accelerated review of a dumping duty notice is lodged, section 269ZH states that no interim duty can be collected in respect of consignments of goods entered for home consumption after the application is lodged and until the completion of the review. Customs and Border Protection may, however, require and take securities under section 42 in respect of IDD that may be payable.

Should the Commissioner not reject the application, and continue an accelerated review, Customs and Border Protection will require and take securities during the course of the accelerated review. 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