



**Australian Government**  
**Anti-Dumping Commission**

---

**CUSTOMS ACT 1901 - PART XVB**

**ANTI-DUMPING COMMISSION**  
**CONSIDERATION REPORT NO. 263**

**CONSIDERATION OF AN APPLICATION FOR REVIEW OF**  
**ANTI-DUMPING AND COUNTERVAILING MEASURES**

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

**BY**

**JIANGSU YAOZHONG ALUMINIUM WHEELS CO., LTD**

**August 2014**

# CONTENTS

CONTENTS .....	2
1 SUMMARY AND RECOMMENDATIONS .....	3
1.1 Recommendation .....	3
1.2 Application of law to facts.....	3
1.3 Findings and conclusions.....	4
2 BACKGROUND .....	5
2.1 Existing measures .....	5
2.2 Concurrent reviews .....	6
2.3 The current review application .....	6
2.4 The goods subject to the measures .....	6
2.5 Tariff classification of the goods.....	7
2.6 Australian industry producing like goods .....	7
3 CONSIDERATION OF THE APPLICATION.....	8
3.1 Findings.....	8
3.2 Legislative framework .....	8
3.3 Compliance with section 269ZB.....	8
3.4 Variable factors .....	9
3.5 Extending the review to include all exporters.....	14
3.6 Conclusions and recommendations.....	14

# 1 SUMMARY AND RECOMMENDATIONS

This report provides the results of the Anti-Dumping Commission's (the Commission's) consideration of an application lodged by Jiangsu Yaozhong Aluminium Wheels Co., Ltd (Jiangsu Yaozhong) for the review of the dumping duty notice and countervailing duty notice as they apply to its exports of certain aluminium road wheels (ARWs) to Australia from the People's Republic of China (China).

The application is based on a change in the variable factors. The variable factors relevant to the review are the normal value, export price and the amount of countervailable subsidy received in respect of the goods. The application states that the normal value, export price and the amount of countervailable subsidy received in respect of the goods have changed.

Jiangsu Yaozhong did not make itself known to the original investigation and did not respond to the Exporter Questionnaire. As such Jiangsu Yaozhong was considered a selected non-cooperating exporter and is subject to the current anti-dumping and countervailing measures for selected non-cooperating exporters as prescribed in Australian Customs Dumping Notice (ACDN) No. 2012/33.

## 1.1 Recommendation

The Commission recommends that the Anti-Dumping Commissioner (the Commissioner) decide not to reject the application and initiate a review into the current anti-dumping measures, being both the dumping duty notice and the countervailing duty notice. It is also recommended that the Parliamentary Secretary to the Minister for Industry (Parliamentary Secretary)<sup>1</sup> be asked to extend the review to cover all Chinese exporters of ARWs to Australia.

## 1.2 Application of law to facts

Division 5 of Part XVB of the *Customs Act 1901*<sup>2</sup> (the Act) sets out, among other things, the procedures to be followed by the Commissioner in dealing with an application for the review of measures.

Division 5 empowers the Commissioner to reject or not reject an application for review of anti-dumping measures.

If the Commissioner accepts the application, he is required to publish a notice indicating that it is proposed to review the measures covered by the application.

Subsection 269ZC(4) provides that the Commissioner, if he decides to not reject the application, may recommend to the Parliamentary Secretary that the review be

---

<sup>1</sup> Prior to 25 September 2013, anti-dumping matters were the responsibility of the Minister for Home Affairs. On 25 September 2013, responsibility for anti-dumping matters was transferred to the Minister for Industry. The Minister for Industry subsequently delegated responsibility for anti-dumping matters to the Parliamentary Secretary to the Minister for Industry.

<sup>2</sup> 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.

extended to include any additional matters. For example, if the change in variable factors affects all exporters, it may be recommended that the review is extended to include all exporters.

### **1.3 Findings and conclusions**

The Commission is satisfied that:

- the application complies with section 269ZB of the Act; and
- there appear to be reasonable grounds for asserting that variable factors relevant to the taking of the measures have changed.

## 2 BACKGROUND

### 2.1 Existing measures

On 7 November 2011, the Australian Customs and Border Protection Service (ACBPS)<sup>3</sup> initiated dumping and subsidy investigations into ARWs exported from China following an application by Arrowcrest Group Pty Ltd (Arrowcrest). In that investigation, and as outlined in International Trade Remedies Report No. 181, it was found that:

- with the exception of one exporter, Zhejiang Shuguang Industrial Co. Ltd (PDW) the goods were exported from China at dumped prices;
- with the exception of two exporters, PDW and CITIC Dicastal Wheel Manufacturing Co. Ltd (CITIC Dicastal), the goods exported from China were subsidised;
- the Australian industry producing like goods had suffered material injury as a result of those dumped and subsidised goods; and
- future exports from China may be dumped and subsidised and that continued dumping and subsidisation may cause further material injury to the Australian industry.

On 8 June 2012, the ACBPS terminated its dumping investigation into goods exported from the Chinese exporter, PDW and its subsidy investigation with respect to two exporters, PDW and CITIC Dicastal. Termination Report No. 181 sets out the reasons for these terminations.

The ACBPS recommended that the then Minister for Home Affairs impose anti-dumping measures on the goods exported from China. On 5 July 2012, the Minister published a dumping duty notice and a countervailing duty notice applying to ARWs exported to Australia from China. Notification of the Minister's decision was given in Australian Customs Dumping Notice No. 2012/33.

Following a review by the Trade Measures Review Officer, the ACBPS conducted a reinvestigation into certain findings made in International Trade Remedies Report No. 181. International Trade Remedies Report No. 204 sets out the findings affirmed and new findings made by the ACBPS as a result of the reinvestigation.

To give effect to the recommendations contained in International Trade Remedies Report No. 204, the Minister for Home Affairs published a new notice under section 269ZZM. This additional notice, published on 8 May 2013, revokes the earlier notice published on 5 July 2012 only to the extent of any inconsistency between the notices. The effect of the new notice was that the level of the measures changed for one exporter, YHI Manufacturing Co. Ltd.

Jiangsu Yaozhong exported ARWs to Australia during the original investigation period however, it did not make itself known to the original investigation and did not

---

<sup>3</sup> Prior to 1 July 2013, the Anti-Dumping Commission was known as the Australian Customs and Border Protection Service.

respond to the Exporter Questionnaire. As such Jiangsu Yaozhong was considered a selected non-cooperating exporter and is subject to the current anti-dumping and countervailing measures for selected non-cooperating exporters.

## **2.2 Concurrent reviews**

On 4 July 2014, the Commission commenced an accelerated review<sup>4</sup> of the ARWs anti-dumping and countervailing measures in so far as they relate to exporter, Shangdong Hengyu Auto Parts Co., Ltd, on the basis that it is a new exporter of ARWs. A recommendation to the Parliamentary Secretary in respect of this accelerated review is due on or before 13 October 2014.

## **2.3 The current review application**

On 4 August 2014, Jiangsu Yaozhong lodged an application requesting a review of the anti-dumping measures as they apply to its exports of ARWs to Australia from China. Jiangsu Yaozhong claims that certain variable factors relevant to the taking of the anti-dumping measures have changed.

The application is supported by Shanghai Aruis Motor Co., Ltd (Shanghai Aruis) which the application describes as being engaged in the exportation of ARWs from China. It would appear from the application that Shanghai Aruis operates as a trader, while the applicant, Jiangsu Yaozhong is the manufacturer of the ARWs.

The application is not precluded by section 269ZA(2), which requires that an application for review must not be lodged earlier than 12 months after the publication of a dumping duty notice or countervailing duty notice or a notice declaring the outcome of the last review of measures.

Jiangsu Yaozhong's application was lodged after the 12 months period following the publication of the original notice on 5 July 2012.<sup>5</sup>

Pursuant to section 269ZC(1), the Commissioner must examine the application and, within 20 days after the lodgement date, decide whether to reject the application. The decision must be made no later than 25 August 2014.

If the Commissioner is not satisfied, having regard to the application and to any other relevant information, of one or more matters referred to in section 269ZC(2), the application must be rejected.

## **2.4 The goods subject to the measures**

The goods the subject of the current anti-dumping measures (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.*

---

<sup>4</sup> An accelerated review is undertaken in accordance with the provisions of Division 6 of the *Customs Act 1901*, which is distinct from the boarder review provisions of Division 5, considered in this report.

<sup>5</sup> The additional notice published following the reinvestigation, on 8 May 2013, takes effect from the date of the original notice, 5 July 2012.

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.

### 2.5 Tariff classification of the goods

The goods subject to the measures may be classified to the following subheadings in Schedule 3 of the *Customs Tariff Act 1995*:

8708.70.91/ 78	Road wheels of a kind used as components in passenger motor vehicles
8708.70.99/ 80	Road wheels other than of a kind used as components in passenger motor vehicles
8716.90.00/ 39	Road wheels for trailers and caravans

### 2.6 Australian industry producing like goods

During the original investigation, the Commission found that:

- the ARWs manufactured or produced by Australian industry are like goods;
- the like goods were wholly manufactured in Australia; and
- there was an Australian industry consisting of one main manufacturer, Arrowcrest.

The Commission remains satisfied that there is an Australian industry producing like goods.

## **3 CONSIDERATION OF THE APPLICATION**

### **3.1 Findings**

Having regard to the applicant's claims and other relevant information, the Commission is satisfied that the application complies with section 269ZB in respect of two of the variable factors (normal values and the amount of countervailable subsidy received in respect of the goods). The Commission is also satisfied that there appear to be reasonable grounds for asserting that two variable factors relevant to the taking of anti-dumping measures have changed.

### **3.2 Legislative framework**

Subsection 269ZB(1) requires that the application be in writing, be in an approved form, contain such information as the form requires and be signed in the manner indicated by the form.

Subsection 269ZB(2) requires that the application must include:

- a description of the kind of goods to which the measures the subject of the application relate; and
- a description of the measures the subject of the application; and
- if the application is based on a change in variable factors, a statement of the opinion of the applicant concerning:
  - the variable factors relevant to the taking of the measures that have changed; and
  - the amount by which each such factor has changed; and
  - the information that establishes that amount.

Subsection 269ZC(2) specifies the matters which must be considered in making a decision whether to reject the application. These matters are:

- that the application complies with section 269ZB; and
- that there appear to be reasonable grounds for asserting either, or both, of the following:
  - that the variable factors relevant to the taking of anti-dumping measures have changed; or
  - that the anti-dumping measures are no longer warranted.

### **3.3 Compliance with section 269ZB**

The application lodged by Jiangsu Yaozhong:

- is in writing;
- provides a description of the goods subject to the measures; and
- provides a description of the measures the subject of the application.



Paragraph 269ZB(2)(c) of the Act requires that the application must also include, if the application is based on a change in variable factors, a statement of the opinion of the applicant concerning:

- the variable factors relevant to the taking of the measures that have changed;
- the amount by which each such factor has changed; and
- the information that establishes that amount.

In addition, the approved form requires that the application include information about the applicant's opinion on the causes of the change in the variable factor(s) and whether these causes are likely to persist.

The Commission's consideration of whether the application complies with paragraph 269ZB(2)(c) of the Act and whether it contains all information required by the approved form is addressed in section 3.4 of this report under each variable factor. Section 3.4 also considers whether there appear to be reasonable grounds for asserting that the variable factors relevant to the taking of the anti-dumping measures have changed.

### **3.4 Variable factors**

The Commission considers that to comply with section 269ZB of the Act, the applicant must provide information to establish that, in the applicant's opinion, one or more of the variable factors have changed. The applicant does not have to provide information to establish that all the variable factors have changed.

In the original investigation key raw materials used in ARW production – aluminium and aluminium alloy in China were found to not reasonably reflect competitive market costs because of the nature and degree of government intervention in that market. As a consequence:

- a) domestic sales of ARWs in China were considered unsuitable for determining normal values and consequently normal values were constructed in accordance with section 269TAC(2)(c) of the Act<sup>6</sup>;
- b) in determining normal values and dumping margins for Chinese exporters aluminium and aluminium alloy costs were substituted with international benchmark aluminium prices, based on London Metal Exchange prices (LME)<sup>7</sup>. This approach has the effect of increasing normal values and therefore dumping margins; and

---

<sup>6</sup> In the original investigation, the Commission determined there was a situation in the Chinese ARW market during the investigation period such that sales in that market were not suitable for use in determining normal values under section 269TAC(1). Appendix A of Report 181 contains the Commission assessment of the existence of a market situation in the Chinese ARW market during the investigation period.

<sup>7</sup> In the aluminium extrusions investigation ACBPS found that the benchmark price of most metals worldwide are based on LME prices. The LME is an open and transparent stock exchange that operates without any restrictions. In the original ARWs investigation, the data reported by the LME was considered to be a reasonable reflection of competitive market costs for aluminium in China.

- c) the benchmark aluminium prices were also taken into consideration in relation to subsidy Program one - Aluminium provided by the government at less than fair market value. The original investigation calculated the amount of benefit attributable to Program one as the difference between adequate remuneration (determined by reference to the benchmark LME aluminium prices) and the actual purchase price paid for aluminium and or alloy incurred by selected cooperating exporters purchasing from state invested enterprises (SIEs). For selected non-cooperating exporters the amount of benefit conferred by Program one was calculated with reference to the highest subsidy rate of the selected exporters.

Because the calculation of subsidy and dumping margins derive from the reference to the same substitute value for the raw material aluminium and/ or aluminium alloy, the double-count has been removed in the calculation of dumping margins. Therefore if the subsidy margin is varied as a result of this review the dumping margin will similarly need to be updated.

The following sections consider Jiangsu Yaozhong's claims that the normal value, export price and amount of countervailable subsidy have changed.

### **3.4.1 Normal value**

#### **3.4.1.1 Applicant's claims**

Jiangsu Yaozhong described the methodology used to calculate the current ascertained normal values for selected non-cooperating exporter's exports of ARWs to Australia. Normal values for all selected non-cooperating exporters were established in accordance with section 269TAC(6) of the Act. That is, the highest weighted average normal value for the entire investigation period from the selected cooperating exporters, by diameter.

Jiangsu Yaozhong asserts that the normal values calculated for selected non-cooperating exporters do not reflect the actual normal values of Jiangsu Yaozhong, claiming that using the company's actual data would result in lower normal values.

As discussed above, certain factors found to be impacting the ARW industry in China during the original investigation period resulted in each Chinese exporter's costs of aluminium and aluminium alloy being replaced with a reasonably competitive market cost for these inputs. The Commission used costs based on the LME data, plus an adjustment for alloy manufacture where appropriate.

In its application, Jiangsu Yaozhong provided monthly LME aluminium prices for the original investigation period (July 2010 to June 2011) and for the period August 2013 to July 2014. A comparison of the simple averages for the two periods shows that average LME aluminium prices in the period April 2013 to March 2014 were approximately 25 per cent lower than during the original investigation period. Jiangsu Yaozhong considers it is reasonable to expect that normal values have decreased by a minimum of 25 per cent.

### **3.4.1.2 The Commission's assessment**

As discussed above, the Commission considered that the costs incurred by ARW manufactures in China for aluminium and aluminium alloy did not reasonably reflect competitive market costs<sup>8</sup> and therefore replaced these costs for each Chinese exporter, with costs based on the LME data plus an adjustment for alloy manufacture where appropriate (described as the benchmark cost)<sup>9</sup>.

The Commission applied the benchmark cost to all purchases of aluminium and aluminium alloy by selected cooperating exporters to arrive at a percentage uplift to be applied to the raw material cost recorded in the exporter's records. For selected non-cooperating exporters, the highest percentage uplift found in relation to the selected cooperating exporters was used.

The uplift of the aluminium and aluminium alloy raw material cost based on LME aluminium prices does not directly correlate to the ascertained normal values of the goods because ascertained normal values include other cost inputs. It cannot be said that a decrease in the LME aluminium price by 25% would correspond to a 25% decrease in normal values without considering the movement of other costs that make up the constructed normal value. However, it is recognised that aluminium and aluminium alloy is major raw material input in the manufacture of ARWs<sup>10</sup> and it would reasonably be expected that a decrease in the LME aluminium prices would result in a decrease in normal values, although the exact value of this decrease would depend on the other cost to make and sell inputs.

The Commission considers that Jiangsu Yaozhong has provided in its application a statement of its opinion concerning the amount by which the normal value has changed and information that establishes that amount. The Commission is satisfied that, in respect to this variable factor, the application complies with section 269ZB of the Act.

From the information available, the Commission also considers that there appears to be reasonable grounds for asserting that the normal value applicable to Jiangsu Yaozhong has changed.

## **3.4.2 Export price**

### **3.4.2.1 Applicant's claims**

Jiangsu Yaozhong's application included a statement outlining the Commission's basis for ascertaining export prices for selected non-cooperating exporters. Export prices for all selected non-cooperating exporters were established in accordance with section 269TAB(3) of the Act. That is, using the lowest weighted average export price for the entire investigation period from the selected cooperating exporters, by diameter, excluding any part of that price that relates to post-exportation charges.

---

<sup>8</sup> As prescribed by Regulation 180(2).

<sup>9</sup> The Commission considered this benchmark cost to be reflective of competitive market costs for aluminium and aluminium alloy. Details of the benchmark used are outlined in Appendix B of Report 181.

<sup>10</sup> The original investigation accepted that primary aluminium is a major cost component in ARWs.

Jiangsu Yaozhong asserts that the calculation of export prices for selected non-cooperating exports does not reflect the actual export price of Jiangsu Yaozhong, claiming that using its data would result in higher export prices.

In support of its claim, Jiangsu Yaozhong provided commercial documents for an example export sale to Australia made in July 2014.

#### **3.4.2.2 The Commission's assessment**

Although Jiangsu Yaozhong provided details concerning one sale of ARWs to Australia it did not state the amount of change in its export price compared to the ascertained export price for selected non-cooperating exporters in the original investigation period, beyond stating that the export price would be higher if its actual export sales data was used.

The Commission considers that Jiangsu Yaozhong has not provided information that establishes the amount by which the export price has changed. The Commission is satisfied that, in respect to this variable factor, the application does not comply with section 269ZB of the Act.

From the information available, the Commission also considers that there do not appear to be reasonable grounds for asserting that the export price applicable to Jiangsu Yaozhong has changed.

#### **Amount of subsidisation**

##### **3.4.2.3 Applicant's claims**

Jiangsu Yaozhong's application replicated the original investigations listing of subsidy programs found to be countervailable in relation to ARWs. The original investigation determined that selected non-cooperating exporters had received financial contributions in relation to each of these countervailable subsidy programs.

Jiangsu Yaozhong's set out in its application the reasons why it had not received financial contributions under each of these countervailable programs, as follows –

- Jiangsu Yaozhong is a general private enterprise, which is not a high tech or foreign invested enterprise and therefore it is not eligible for programs 4 to 7.
- Jiangsu Yaozhong stated that it had not received any benefits from preferential tax policies under programs 8, 9, 11, 13 or 14.
- Jiangsu Yaozhong claims that it has not imported technologies and equipment, has not receive benefits from government grants and is not classified as a 'Superstar Enterprise', 'Well-Known Trademarks of China' or 'Famous Brands of China'. Therefore, programs 21, 29, 31, 32, 35-44, 50, 51, 53 or 56 are not applicable to it.

In respect of the remaining countervailable subsidy, Program one - 'Aluminium provided by government at less than fair market value', Jiangsu Yaozhong provided a comparison of the Shanghai Futures Exchange (SHFE) and LME aluminium prices asserting that this comparison demonstrates that it is not in receipt of benefits from

the provision of goods on the basis of the Commission's approach to determining benefit in the original investigation.

As previously discussed in section 3.4 of this report, the amount of the benefit received under Program one was calculated by reference to a benchmark, being LME prices for aluminium (with adjustments for delivery and alloy manufacture).

In its application, Jiangsu Yaozhong provided a comparison of monthly SHFE aluminium prices and monthly LME aluminium prices over the period August 2013 to July 2014. The comparison shows that in each month of the period, the SHFE price, when converted to United States dollars, is higher than the LME aluminium price.

Jiangsu Yaozhong claims that as Program one is the only countervailable subsidy program relevant to it, it is reasonable to conclude on the basis of the relationship between the SHFE and the LME in the period August 2013 to July 2014, that the amount of the subsidy it is receiving is zero.

#### **3.4.2.4 The Commission's assessment**

In respect of all subsidy's program found to be countervailable in respect of ARWs (except Program one – discussed below) Jiangsu Yaozhong has stated that it is not eligible for or has not received benefits under these programs for various reasons detailed above and therefore the amount of subsidy it is receiving in respect of these countervailable subsidy programs is zero.

The Commission recognises the difficulty in providing information to establish that a benefit has not been received. Statements provided by Jiangsu Yaozhong which show that it has not received benefits under these countervailable subsidy programs is sufficient information to establish the amount of benefit is zero for the purposes of initiation.

In respect of the remaining subsidy, Program one, Jiangsu Yaozhong claims that based on a comparison of SHFE (presumably as an indication of what Jiangsu Yaozhong pays for aluminium purchased from SIEs) and LME aluminium prices used as the benchmark, it has not received any benefit from this countervailable subsidy.

During the original investigation, selected cooperating exporters advised that their purchase of aluminium and/ or aluminium alloy is based on the SHFE, Yangtze River Exchange or the Chanjiang River Exchange. Assuming that Jiangsu Yaozhong purchases of aluminium reflect the SHFE aluminium prices, and that LME aluminium prices still provide a reasonable estimate of competitive market primary aluminium prices, Jiangsu Yaozhong has provided information to establish that the amount of countervailable subsidy it receives in respect of its exports of ARWs to Australia has changed from the ascertained amount for selected non-cooperating exporters to zero.

In the Commission's view, in respect to the amount of countervailable subsidy received, Jiangsu Yaozhong has provided a statement of its opinion of the amount by which this factor has changed and has provided information that establishes that amount. The Commission is satisfied that, in respect to this variable factor, the application complies with section 269ZB of the Act.

From the information available, the Commission also considers that there appear to be reasonable grounds for asserting that the amount of countervailable subsidy applicable to Jiangsu Yaozhong has changed.

### **3.5 Extending the review to include all exporters**

Subsection 269ZC(4) provides that if the Commissioner decides not to reject an application for review of anti-dumping measures, the Commissioner may, if he or she considers that the review applied for should be extended to include any additional matter, recommend to the Parliamentary Secretary that the review be extended accordingly.

As the change in circumstances upon which Jiangsu Yaozhong's application for review would be commenced (a change in the relationship between the SHFE and the LME) is common to all Chinese ARWs manufacturers, the Commission considers that it would be appropriate to extend the review to ensure that any changes to the measures are applied across all exporters.

### **3.6 Conclusions and recommendations**

The Commission is satisfied that:

- the application complies with section 269ZB of the Act (in respect to the normal value and the amount of countervailable subsidy received by Jiangsu Yaozhong in respect of the goods); and
- there appear to be reasonable grounds for asserting that two of the variable factors (the normal value and the amount of countervailable subsidy received) relevant to the taking of the measures has changed.

The Commission recommends that the Commissioner:

- not reject the application and initiate a review into the current anti-dumping measures, being both the dumping duty notice and the countervailing duty notice;
- the review period be set as 1 July 2013 to 30 June 2014; and
- recommend to the Parliamentary Secretary that the review be extended to all exporters of ARWs from China to Australia.