



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

**Anti-Dumping
Commission**

Exemption Inquiry Report: EX0051

Certain Aluminium Road Wheels Exported to Australia from the People's Republic of China

Applicant:

The Trustee for the TWA Trust trading as Tyres4U

July 2017

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Abbreviations

Abbreviations	Full reference
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
ARW	aluminium road wheels
Arrowcrest	Arrowcrest Group Pty Ltd
China	the People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
the Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
the duties	interim dumping duty, dumping duty, interim countervailing duty and countervailing duty
exemption goods	the goods subject of the inquiry as described in section 3.3
Parliamentary Secretary	the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
PDW	Zhejiang Shuguang Industrial Co., Ltd
REP 181	<i>International Trade Remedies Report No. 181</i>
the Tariff Act	<i>Customs Tariff Act 1995</i>
TCO	Tariff Concession Order
Tyres4U, the applicant	The Trustee for TWA Trust trading as Tyres4U

1. Summary and recommendations

This report sets out the findings of the Anti-Dumping Commission (the Commission) in response to an application by The Trustee for the TWA Trust trading as Tyres4U (Tyres4U) requesting an exemption from interim dumping duty, dumping duty, interim countervailing duty and countervailing duty (the duties) under subsections 8(7)(b) and 10(8)(aa) of the *Customs Tariff (Anti-Dumping) Act 1975*¹ (the Dumping Duty Act) in relation to the export of certain aluminium road wheels (ARW) from the People's Republic of China (China).

This report sets out the Commission's findings upon which the Commissioner of the Anti-Dumping Commission (the Commissioner) relied on to make a recommendation to the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary)² on whether or not to exempt goods from the duties.

1.1 Application of law to facts

1.1.1 Authority to make the decision

Subsections 8(7) and 10(8) of the Dumping Duty Act set out, amongst other things, the matters to be considered by the Parliamentary Secretary in deciding whether to exercise their discretion to exempt goods from the duties.

1.1.2 Initiation of inquiry

After examining the application, the Commission initiated an inquiry on 6 March 2017. The details of the initiation are contained in Anti-Dumping Notice (ADN) No. 2017/11.

1.2 Findings and conclusions

The Commission has found that a Tariff Concession Order (TCO) under Part XVA of the *Customs Act 1901* (the Act) is in force in respect of the goods subject to the inquiry (referred to as the 'exemption goods' in this report).

The Commission considers the conditions of subsections 8(7)(b) and 10(8)(aa) of the Dumping Duty Act for granting an exemption are satisfied.

1.3 Recommendation

The Commissioner recommends to the Parliamentary Secretary that the exemption goods be exempted from the duties.

¹ All legislative references in this report are to the *Customs Tariff (Anti-Dumping) Act 1975* unless otherwise specified.

² 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.

2. Background

2.1 Original investigation

Anti-dumping measures, in the form of a dumping duty notice and a countervailing duty notice, were initially imposed on ARW by public notice on 5 July 2012 by the then Minister for Home Affairs following consideration of *International Trade Remedies Report No. 181* (REP 181). These measures are applicable to all exporters from China with the exception of Zhejiang Shuguang Industrial Co., Ltd (PDW).³ The countervailing duty notice does not apply to CITIC Dicastal Wheel Manufacturing Co., Ltd.⁴

On 8 May 2013, the then Minister for Home Affairs accepted the recommendations in *International Trade Remedies Report No. 204* and published a new notice under section 269ZZM of the Act which revised the countervailable subsidy margin for one exporter, YHI Manufacturing Co. Ltd, following a reinvestigation into certain findings made in REP 181.

On 4 August 2014, Jiangsu Yaozhong Aluminium Wheels Co., Ltd applied for a review of the anti-dumping measures 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 (as set out in *Anti-Dumping Commission Report No. 263*) found that the variable factors in relation to all exporters subject to the anti-dumping measures had changed.

On 27 October 2016, the Commissioner initiated an inquiry into whether the continuation of the anti-dumping measures applying to ARW exported from China is justified. For the reasons set out in *Anti-Dumping Commission Report No. 378*, the Parliamentary Secretary has decided to continue the measures from 5 July 2017 for a further five years.⁵

2.2 Exemption application

On 23 December 2016, Tyres4U requested an exemption from the duties in relation to its imports of the exemption goods. Tyres4U's application outlined the following grounds for an exemption from the duties:

- a TCO, TC 9314927, exists to cover the exemption goods; and
- as shown by the successful TCO application, the only local domestic producer cannot produce the goods covered by TC 9314927.

2.3 Exemption inquiry

The Commission accepted Tyre4U's application for an exemption of the duties.

³ The dumping and countervailing investigation as it related to PDW was terminated on 8 June 2012 on the basis that the dumping margin and subsidy margin for PDW were both negligible.

⁴ The countervailing investigation as it related to CITIC Dicastal Wheel Manufacturing Co., Ltd was terminated on 8 June 2012 on the basis that the subsidy margin was negligible.

⁵ The report is available on the Commission [website](#).

On 6 March 2017, the Commissioner initiated an inquiry by publishing ADN No. 2017/11, which advised that an inquiry had been initiated, provided details of the goods subject to the inquiry and outlined the procedures to be followed during the inquiry.

The Commission sent Arrowcrest Group Pty Ltd (Arrowcrest), representing the Australian industry, an invitation to respond to Tyre4U's application on 7 March 2017, by completing the 'Response to Exemption Application' questionnaire and requested that a response be received by 12 April 2017.

A completed response from Arrowcrest was received on 8 March 2017. Arrowcrest stated in its response that it is aware of the TCO applicable to the exemption goods and does not intend to seek its revocation. Arrowcrest does not oppose the granting of an exemption of the duties in respect of the exemption goods.

A further member of the Australian industry producing like goods, Dragway Performance Engineering Pty Ltd, was also sent an invitation to respond to the application on 9 March 2017. A response was not received.

2.4 Legislative requirements for an exemption

Tyres4U has applied for an exemption under subsection 8(7)(b) and 10(8)(aa) of the Dumping Duty Act.

Subsection 8(7) provides:

(7) The Minister may, by notice in writing, exempt goods from interim dumping duty and dumping duty if he or she is satisfied:

...

(b) that a Tariff Concession Order under Part XVA of the *Customs Act 1901* in respect of the goods is in force.

Subsection 10(8) provides:

(8) The Minister may, by notice in writing, exempt goods from interim countervailing duty or countervailing duty if he or she is satisfied:

...

(aa) that a Tariff Concession Order under Part XVA of the *Customs Act 1901* in respect of the goods is in force.

In determining whether a TCO in respect of the exemption goods is in force, regard is given to whether the exemption goods are correctly classified to the tariff heading to which the TCO is linked. Close scrutiny will then be made of the terms of the TCO to ensure that the exemption goods meet each of those terms. If the exemption goods do more than what is described in the TCO, but otherwise meet its terms and are classified correctly to the tariff heading to which the TCO is linked, legal authority supports the eligibility of those particular goods for that TCO.⁶

Tyres4U requests that the Parliamentary Secretary exercise their discretion to exempt the exemption goods from the duties on the basis that a TCO under Part XVA of the Act in respect of the exemption goods is in force.

⁶ *Robert Bosch Australia Pty Ltd v Collector of Customs*, AAT, 29 August 1986; *Re Klockner Moeller Pty Ltd v Collector of Customs*, AAT, 18 January 1989.

3. The anti-dumping measures and exemption goods

3.1 The goods subject to anti-dumping measures

The goods exported from China, covered by the anti-dumping measures (in the form of a dumping duty notice and a countervailing duty notice) 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 unpainted, painted, chrome plated, forged or with or without tyres.

3.2 Tariff classification

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

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

3.3 The exemption goods

The goods subject to the application for exemption (“the exemption goods”) are:

Certain ARW meeting the specific characteristics covered by TC 9314927.

The goods covered by TC 9314927 are:⁷

*Wheels, forged aluminium, having a rim diameter exceeding 445 mm.*⁸

The exemption goods are classified to the tariff subheading 8708.70.99 (statistical code 80) of Schedule 3 to the *Tariff Act*. These goods are duty free.

There is no difference between the exemption goods and the goods covered by the TCO.

⁷ TC 9314927 is available on the following [website](#).

⁸ The Commission notes that 445 mm is approximately equivalent to 17.52 inches. As a result, the exemption sought from the duties would have effect only on ARW with a rim diameter of greater than 17.52 inches, up to and including a rim diameter of 22 inches.

4. Goods subject to TCO

4.1 Assessment

The Commission has found that, on 6 September 1993, the decision to grant tariff concession TC 9314927 was published in the *Commonwealth of Australia Tariff Concessions Gazette*. TC 9314927 has been operative from 1 July 1993 and refers to ARW corresponding to tariff classification 8708.70.99.

Accordingly, the conditions for granting an exemption are satisfied.

4.2 Conclusion

The Commission recommends that the Parliamentary Secretary exempt the exemption goods from the duties, under subsection 8(7)(b) and 10(8)(aa) of the Dumping Duty Act on the basis that a TCO in respect of the exemption goods is in force.

4.3 Effective date of exemption

Tyres4U's application for exemption, examined in this report, was made on 23 December 2016.

The timing in relation to the granting of an exemption is at the discretion of the Parliamentary Secretary. Subsections 8(8A) and 10(9A) of the Dumping Duty Act provide that if an exemption is given because of an application for exemption, then the date of effect must not be earlier than the day the application is made.

The Commission recommends that the exemption, if granted, have effect from the date of the application, that is, on and from 23 December 2016.

5. Attachments

Attachments	Confidentiality	Title	Electronic public record identifier
Attachment 1	Not confidential	Application	001
Attachment 2	Not confidential	Australian industry questionnaire response	003