



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

**Anti-Dumping  
Commission**

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*CUSTOMS ACT 1901 - PART XVB*

**FINAL REPORT**  
**NO. 407**

**ACCELERATED REVIEW  
OF A DUMPING DUTY NOTICE AND A  
COUNTERVAILING DUTY NOTICE APPLYING TO  
CERTAIN ALUMINIUM ROAD WHEELS  
EXPORTED TO AUSTRALIA  
FROM THE PEOPLE'S REPUBLIC OF CHINA BY  
QINHUANGDAO SINOLION WHEELS CO. LTD**

**July 2017**

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**ABBREVIATIONS**

accelerated review period	1 April 2016 to 31 March 2017
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
ARW or the goods	aluminium road wheels
the applicant	Qinhuangdao Sinolion Wheels Co. Ltd (also referred to in this report as Sinolion Wheels)
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CON 407	<i>Consideration Report No. 407</i>
CTM	cost to make
CTMS	cost to make and sell
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
GOC	Government of China
ICD	interim countervailing duty
IDD	interim dumping duty
NIP	non-injurious price
the notices	the dumping duty notice and the countervailing duty notice applicable to the goods
OCOT	ordinary course of trade
the Parliamentary Secretary	the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
REP 378	<i>Anti-Dumping Commission Report No. 378</i>
SG&A	selling, general and administrative
SIE	state-invested enterprises
SOE	state-owned enterprises

# 1 SUMMARY AND RECOMMENDATIONS

## 1.1 Background

This report has been prepared in response to an application under section 269ZF of the *Customs Act 1901* (the Act)<sup>1</sup> from Qinhuangdao Sinolion Wheels Co. Ltd (Sinolion Wheels or ‘the applicant’) seeking an accelerated review of the dumping duty notice and countervailing duty notice (the notices) applying to certain aluminium road wheels (ARW or ‘the goods’) exported to Australia from the People’s Republic of China (China), in so far as the notices affect Sinolion Wheels.

Sinolion Wheels did not export the goods to Australia during the investigation period for the original investigation and is therefore a ‘new exporter’ as defined in subsection 269T(1).

This report sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) is basing his recommendations to the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary).<sup>2</sup>

## 1.2 Application of law to facts

Division 6 of Part XVB provides for eligible parties to apply for an accelerated review of anti-dumping measures. This Division, among other matters:

- sets out the procedures to be followed and the matters to be considered by the Commissioner in conducting accelerated reviews for the purpose of making a report to the Parliamentary Secretary; and
- empowers the Parliamentary Secretary, after consideration of such a report, to leave the notices unchanged, or to declare that the notices have effect with regard to the applicant as if different variable factors had been specified relevant to the determination of duty.

Subsection 269ZE(1) sets out that a new exporter may apply for an accelerated review. A new exporter is defined in subsection 269T(1) as an exporter who did not export such goods to Australia at any time during the investigation period in relation to the original application for anti-dumping measures.

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<sup>1</sup> All legislative references in this report are to the *Customs Act 1901* unless otherwise specified.

<sup>2</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 accelerated review, the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

### 1.3 Findings and conclusions

After considering the application and making further enquiries, the Commissioner has, in relation to the variable factors for Sinolion Wheels' exports of the goods to Australia, found that:

- the export price be determined under subsection 269TAB(3), having regard to all relevant information, being set equal to the normal value determined. Consequently the export price has changed;
- the normal value be constructed under subsection 269TAC(2)(c) in accordance with section 43, 44 and 45 of the *Customs (International Obligations) Regulation 2015* (the Regulation). Consequently the normal value has changed; and
- the amount of countervailable subsidy received has changed.<sup>3</sup>

### 1.4 Recommendations

Based on the above findings and conclusions, the Commissioner, pursuant to subsection 269ZG(1), recommends that the Parliamentary Secretary alter the notices so as to apply to Sinolion Wheels as if different variable factors had been fixed.

If the Parliamentary Secretary accepts these recommendations, to give effect to the decision the Parliamentary Secretary must declare (by signing and publishing the notice at **Non-Confidential Attachment 1**) that, with effect from the date the application is lodged, the Act and the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act) have effect as if the notices had applied to Sinolion Wheels but the Parliamentary Secretary had fixed different variable factors relevant to the determination of duty payable on exports from Sinolion Wheels.

The Commissioner further recommends that the Parliamentary Secretary determine that:

- interim dumping duty (IDD) be worked out on Sinolion Wheels' exports to Australia in accordance with the *floor price duty* method. If Sinolion Wheels' actual export prices of the goods are less than the ascertained normal value, i.e. the floor price, the IDD will be equal to the difference between the actual export price and the ascertained normal value; and
- the interim countervailing duty (ICD) be worked out as a proportion of the export price of those particular goods, at the applicable countervailing duty margin of zero per cent.

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<sup>3</sup> The Commission notes that, as part of the recently completed continuation inquiry into the goods (*Anti-Dumping Commission Report No. 378* refers), the Parliamentary Secretary exercised his discretion not to have regard to the lesser duty rule on the basis that a particular market situation exists in respect of the goods in China such that sales in that market are not suitable for determining a price under subsection 269TAC(1). Therefore, the variable factor of non-injurious price does not apply to the notices.

No evidence has been provided by the applicant to warrant a departure from those findings. Accordingly, the non-injurious price has not been reviewed as part of this accelerated review and will continue to have no application to the notices.

## **PUBLIC RECORD**

If accepted by the Parliamentary Secretary, the recommendations of this accelerated review in relation to Sinolion Wheels will take effect retrospectively from 12 April 2017 (the date the application was lodged).

## 2 BACKGROUND

### 2.1 The goods

#### 2.1.1 Description

The goods subject to the 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. 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.*

#### 2.1.2 Tariff classification

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

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

### 2.2 Accelerated review process

If a dumping duty notice or a countervailing duty notice has been published in respect of certain goods, a new exporter may request an accelerated review of that notice as it affects that particular exporter.<sup>4</sup>

If an application for an accelerated review of a dumping duty notice or countervailing duty notice is received and not rejected, the Commissioner has up to 100 days after the application is lodged to inquire and report to the Parliamentary Secretary on the accelerated review (subsection 269ZG(2)).

Under subsection 269ZG(1), the Commissioner must, after considering the application and making such inquiries as the Commissioner thinks appropriate, recommend to the Parliamentary Secretary that the dumping duty notice and/or countervailing duty notice:

- remain unaltered; or
- be altered so as to apply to the applicant as if different variable factors had been fixed.

Following the Parliamentary Secretary's decision, a notice is published on the Anti-Dumping Commission (the Commission) website<sup>5</sup> advising of the decision.

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<sup>4</sup> Subsection 269ZE(1).

<sup>5</sup> [www.adcommission.gov.au](http://www.adcommission.gov.au).

## **2.3 Previous cases and existing measures**

The history of the anti-dumping measures applying to ARW exported to Australia from China is summarised in *Consideration Report No. 407* (CON 407).<sup>6</sup> Subsequent to the publication of CON 407, the Commission completed a continuation inquiry in respect of the goods; a notice was published on the Commission's website on 19 June 2017 advising the outcome of that inquiry.<sup>7</sup>

## **2.4 Notification and participation**

On 12 April 2017, Sinolion Wheels lodged an application for an accelerated review of the notices applying to the goods exported to Australia from China in so far as the notices affect Sinolion Wheels.

The Commissioner considered the application to determine if it was made in accordance with sections 269ZE and 269ZF. The Commissioner considered that:

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

Accordingly, the Commissioner did not reject the application. CON 407 provides further details in relation to the Commissioner's consideration of the application. CON 407 should be read in conjunction with this report.

The commencement of the accelerated review was notified in Anti-Dumping Notice (ADN) No. 2017/61, published on 4 May 2017, and advised that the Commissioner's recommendation to the Parliamentary Secretary will be made in a report on or before 21 July 2017.

For the purposes of the accelerated review, the period examined is 1 April 2016 to 31 March 2017 (herein referred to as the accelerated review period).

## **2.5 Exporter questionnaire response**

Upon the commencement of the accelerated review, the Commission sent an exporter questionnaire to Sinolion Wheels to complete.

On 28 May 2017, the Commission received a completed exporter questionnaire response from Sinolion Wheels. A non-confidential version of this response is available on the public record.<sup>8</sup> Sinolion Wheels cooperated with the accelerated review and has provided detailed financial data in its exporter questionnaire response within the required timeframes.

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<sup>6</sup> Document number 2 on the [public record](#) refers.

<sup>7</sup> [Anti-Dumping Notice No. 2017/75](#) refers.

<sup>8</sup> Document number 4 on the [public record](#) refers.



## **PUBLIC RECORD**

The Commission verified Sinolion Wheels' sales and costs data to test for accuracy, relevance and completeness (chapter 3 refers). Following verification, the Commission is satisfied as to the accuracy, relevance and completeness of the data supplied by Sinolion Wheels upon which the findings of this accelerated review are based.

### **2.6 Public record**

There is no legislative requirement for the Commissioner to maintain a public record for accelerated reviews. However, in the interests of ensuring this process is conducted in an open and transparent manner, a public record for this accelerated review has been maintained and is accessible on the Commission website.

## 3 VERIFICATION OF SALES AND COSTS DATA

### 3.1 Exports sales

Having analysed the Australian Border Force import database and verified Sinolion Wheels' sales records, the Commission considers that Sinolion Wheels did not export ARW to Australia during the accelerated review period.

### 3.2 Domestic sales

In its exporter questionnaire response, Sinolion Wheels provided a listing of its domestic sales of ARW during the accelerated review period.

#### 3.2.1 Verification to audited financial statements

The Commission verified the completeness and relevance of Sinolion Wheels' revised domestic sales listing by reconciling it to audited financial statements in accordance with ADN No. 2016/30.

The Commission found that sales of a particular product type were included in the listing which did not meet the definition of like goods. Sinolion Wheels provided a revised domestic sales listing that rectified this issue. No other issues were identified.

Details of the verification process are contained in the verification work program, and relevant attachments, at **Confidential Attachment 1**.

#### 3.2.2 Verification to source documents

The Commission verified the accuracy of Sinolion Wheels' revised domestic sales listing by reconciling it to source documents in accordance with ADN No. 2016/30.

The Commission did not identify any issues during this process. Details of the verification process are contained in the verification work program, and relevant attachments, at **Confidential Attachment 1**.

#### 3.2.3 Related party customers

Based on Sinolion Wheels' exporter questionnaire response, sales data and audited financial statements, the Commission did not identify any information that might suggest any domestic customers were related to Sinolion Wheels.

#### 3.2.4 Arms' length

In respect of domestic sales of ARW made by Sinolion Wheels to its customers during the accelerated review period, the Commission found no evidence in Sinolion Wheels' exporter questionnaire response, sales data or audited financial statements, that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or

## PUBLIC RECORD

- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.<sup>9</sup>

The Commission therefore considers that all domestic sales made by Sinolion Wheels during the accelerated review period were arms' length transactions.

### 3.3 Cost to make and sell

#### 3.3.1 Verification to audited financial statements

The Commission verified the completeness and relevance of Sinolion Wheels' cost to make and sell (CTMS) spreadsheet by reconciling it to audited financial statements in accordance with ADN No. 2016/30. The Commission did not identify any issues.

Details of this verification process are contained in the verification work program, and its relevant attachments, at **Confidential Attachment 1**.

#### 3.3.2 Verification to source documents

The Commission verified the accuracy of Sinolion Wheels' CTMS spreadsheet by reconciling the major cost components to management reports, including raw materials, overheads and selling, general and administrative (SG&A) expenses. The Commission also verified depreciation expenses to management reports.

The Commission removed three expense items associated with inland freight and insurance for export sales, and foreign exchange losses, from the calculation of SG&A expenses to ensure that it only included costs relevant to domestic sales and did not include any export-related expenses. The Commission did not identify any other issues.

Details of the verification process are contained in the verification work program, and relevant attachments, at **Confidential Attachment 1**.

#### 3.3.3 Verification of raw material purchases

The Commission verified the accuracy, completeness and relevance of Sinolion Wheels' primary aluminium purchases listing by reconciling it to audited financial statements in accordance with ADN No. 2016/30.

A duplication of purchases in a particular month was identified in the raw material purchases listing. An error with respect to the type of aluminium purchased was also identified in the raw material purchases listing. Sinolion Wheels provided a revised listing which rectified these issues. Details of the verification process are contained in the verification work program, and relevant attachments, at **Confidential Attachment 1**.

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<sup>9</sup> Section 269TAA refers.

### **3.3.4 Related party purchases**

Based on Sinolion Wheels' exporter questionnaire response, primary aluminium purchase listing and audited financial statements, the Commission did not identify any information that might suggest any suppliers were related to Sinolion Wheels.

### **3.4 Verification – summary**

Having verified Sinolion Wheels' revised domestic sales and CTMS data, the Commission considers that the data is complete, relevant and accurate, and can be used for assessing normal value under subsection 269TAC(2)(c).

## 4 EXPORT PRICE

Having analysed the Australian Border Force import database and verified Sinolion Wheels' sales data, the Commission has found that Sinolion Wheels did not export the goods to Australia during the accelerated review period.

It is the Commission's view that the application of subsection 269TAB(1) would require Sinolion Wheels to have exported the goods to Australia. As such, sufficient information is not available to determine the export price of the goods under subsection 269TAB(1). Specifically, sufficient information is not available to determine the export price of the goods using:

- the price paid or payable by the importer to the exporter;<sup>10</sup>
- the price in Australia less prescribed deductions;<sup>11</sup> or
- the price having regard to all the circumstances of the exportation.<sup>12</sup>

As such, the Commission has determined an export price under subsection 269TAB(3) having regard to all relevant information. Consistent with its usual practice, the Commission considers it appropriate to determine the ascertained export price to be the same amount as that determined to be the ascertained normal value for the purposes of this accelerated review.

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<sup>10</sup> Subsection 269TAB(1)(a).

<sup>11</sup> Subsection 269TAB(1)(b).

<sup>12</sup> Subsection 269TAB(1)(c).

## 5 NORMAL VALUE

### 5.1 Findings

Due to there being a particular market situation in the Chinese domestic ARW market, the normal value has been established in accordance with subsection 269TAC(2)(c), using the constructed normal value method. Relevant adjustments have been made to the normal value to ensure comparability to the export price of Sinolion Wheels' future exports of the goods to Australia.

### 5.2 Particular market situation

#### 5.2.1 Previous findings

The original investigation, (as reported in *Anti-Dumping Commission Report No. 181*) found that there was a situation in the Chinese ARW market during the investigation period, such that domestic ARW sales were not suitable for use in determining normal values under subsection 269TAC(1).<sup>13</sup> Similar findings were made in the review of measures reported in *Anti-Dumping Commission Report No. 263*<sup>14</sup> and in REP 378<sup>15</sup>, which caused the Commission to conclude that a market situation had continued to affect the domestic selling prices of ARW in China.

The Commission has consistently found that:

- the Government of China (GOC) has continued to influence the upstream Chinese aluminium industry via broad macroeconomic policies, as well as implementing associated policies and taxation initiatives;
- this influence was likely to have materially distorted competitive conditions, and directly affected both the price and supply of the main raw material used in the manufacture of aluminium road wheels (primary aluminium and aluminium alloys A356 and A356.2); and
- given the primary and alloyed aluminium markets are upstream to the ARW market, the aluminium costs incurred by Chinese ARW manufacturers during the inquiry period did not reasonably reflect competitive market costs in terms of subsection 43(2)(b)(ii) of the Regulation.

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<sup>13</sup> The relevant investigation period was 1 July 2010 to 30 June 2011.

<sup>14</sup> The relevant review period was 1 July 2013 to 30 June 2014.

<sup>15</sup> The relevant inquiry period was 1 July 2015 to 30 June 2016.

### **5.2.2 Determination for accelerated review**

The Commission notes that the inquiry period examined as part of the continuation inquiry overlaps the accelerated review period for a period of three months. The Commission has not received any new information as part of this accelerated review which would warrant a departure from its previous findings.

The Commission has considered all relevant information, including the evidence in REP 378 and other contemporaneous market intelligence<sup>16</sup>, and determined that there is a particular market situation in the Chinese ARW market that renders sales in that market not suitable for use in determining a price under subsection 269TAC(1) for the purposes of this accelerated review. Therefore, the normal value of the goods has been ascertained under subsection 269TAC(2)(c).

### **5.3 Constructed normal value**

Subsection 269TAC(2)(c) provides that, where the normal value cannot be ascertained under subsection 269TAC(1), the normal value of the goods may be determined on the basis of a cost construction, calculated as the sum of:

- such amount as the Minister determines to be the cost of production or manufacture of the goods in the country of export; and
- on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade (OCOT) in the country of export, the SG&A costs associated with such a sale and the profit on that sale.

### **5.4 The Commission's assessment of normal value**

#### **5.4.1 Cost of production**

As required by subsection 269TAC(5A)(a), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the cost of production of the goods was established in accordance with section 43 of the Regulation.

As Sinolion Wheels has made no export sales of the goods during the accelerated review period, there is no cost to make data (CTM) relating to exports which may be used as a basis to construct the normal value. As a result, the Commission considers it reasonable to use Sinolion Wheels' CTM for like goods sold domestically during the accelerated review period for the purpose of constructing normal values.

Section 43 of the Regulation provides that the cost of production must be worked out by using the information set out in Sinolion Wheels' records if the records are in accordance with generally accepted accounting principles in China and reasonably reflect competitive market costs associated with the production or manufacture of like goods.

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<sup>16</sup> Including the prevailing international primary aluminium prices on the London Metal Exchange and other prevailing costs to convert that primary aluminium to aluminium alloy for manufacturers in China.

## PUBLIC RECORD

In REP 378, after having regard to all relevant information, the Commission found that the GOC has influenced the Chinese aluminium industry, and it was concluded that, in determining the cost of manufacture of ARW in China, the records of Chinese exporters of ARW did not reasonably reflect competitive market costs associated with the production or manufacture of those goods for the purposes of section 43 of the Regulation. In the current accelerated review, the Commission performed a comparative analysis of Sinolion Wheels' actual aluminium alloy purchase price with that of aluminium alloy bought competitively from the international market. Similar to REP 378, the Commission found that Sinolion Wheels' actual aluminium alloy purchase prices procured domestically were consistently below the Commission's assessment of competitive market benchmark prices for aluminium alloy. Hence the Commission considers that Sinolion Wheels' aluminium alloy costs are not competitive market costs.

As a result, the Commission has adjusted Sinolion Wheels' reported primary aluminium alloy costs. Consistent with the findings in REP 378, Sinolion Wheels' aluminium alloy costs have been adjusted to reflect aluminium alloy costs which are considered to be competitive market benchmark prices for aluminium alloy. The aluminium alloy benchmark is based on contemporaneous London Metal Exchange cash prices plus an uplift for alloys and other reasonable costs, port premiums and charges (such as delivery).

The Commission compared Sinolion Wheels' actual aluminium alloy costs to the competitive market benchmark for each quarter of the accelerated review period. The variance between the actual reported costs and the benchmark was then applied to uplift the aluminium alloy costs reported in Sinolion Wheels' CTM by the weighted average percentage of the variance for each relevant quarter.

The competitive market benchmark used for the purpose of this accelerated review is at **Confidential Appendix 1**.

Sinolion Wheels CTM and uplifted aluminium alloy costs are at **Confidential Appendix 3**.

### 5.4.2 Selling, general and administrative costs

As required by subsection 269TAC(5A)(b), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the SG&A costs were established in accordance with section 44 of the Regulation.

Sinolion Wheels provided information on SG&A costs associated with domestic sales.

Consistent with the requirements of subsection 44(2) of the Regulation, the Commission is satisfied that Sinolion Wheels' records are in accordance with the generally accepted accounting principles in China, and the records reasonably reflect the SG&A costs associated with the sale of like goods. As such, the Commission has used Sinolion Wheels' SG&A costs in constructing its normal value (as adjusted under subsection 269TAC(9), explained below).



### **5.4.3 Profit**

As required by subsection 269TAC(5B), when ascertaining the normal value of the goods under subsection 269TAC(2)(c), the amount of profit included in the normal value was determined having regard to section 45 of the Regulation.

Subsection 45(2) of the Regulation provides that, if reasonably practicable, profit is to be determined by using data relating to the production and sale of like goods by the exporter of the goods in the OCOT.

The Commission calculated a weighted average profit margin based on the different models of like goods sold domestically in accordance with subsection 45(2) of the Regulation. The calculation of this profit margin was based on domestic sales of ARW in the OCOT, the selling prices of which were compared to Sinolion Wheels' verified domestic CTMS prior to the adjustments made to the aluminium alloy costs discussed above.

OCOT and profit calculations can be found in **Confidential Appendix 2**.

### **5.4.4 Adjustments**

As the normal value has been ascertained in accordance with subsection 269TAC(2)(c), the Commission considers the following adjustments are required in accordance with subsection 269TAC(9), in order to ensure the normal value is properly comparable with the export price of the goods at a free on board level:

- domestic credit adjustment – a downwards adjustment was made to account for domestic credit costs;
- inland freight – an upwards adjustment was made to account for export related inland transport cost to the port of export;
- port charges – an upward adjustment was made to account for port charges related to export sales; and
- export credit adjustment – an upwards adjustment was made to account for export credit costs.<sup>17</sup>

Normal value, export price and adjustment calculations are at **Confidential Appendix 4**.

### **5.4.5 Submissions**

No submissions were received in relation to this accelerated review.

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<sup>17</sup> The Commission notes that, as there were no export sales to Australia, the adjustments outlined above are reasonable amounts based on costs incurred by Sinolion Wheels in relation to its export sales to other countries.

## 6 COUNTERAVAILABLE SUBSIDIES

### 6.1 Findings

The Commission has found that Sinolion Wheels did not receive any countervailable subsidies during the accelerated review period in respect of ARW manufactured by Sinolion Wheels.

### 6.2 Legislative requirement for countervailable subsidies

Section 269TAAC defines a countervailable subsidy as follows:

- (1) *For the purposes of this Part, a subsidy is a countervailable subsidy if it is specific.*
- (2) *Without limiting the generality of the circumstances in which a subsidy is specific, a subsidy is specific:*
  - (a) *if, subject to subsection (3), access to the subsidy is explicitly limited to particular enterprises; or*
  - (b) *if, subject to subsection (3), access is limited to particular enterprises carrying on business within a designated geographical region that is within the jurisdiction of the subsidising authority; or*
  - (c) *if the subsidy is contingent, in fact or in law, and whether solely or as one of several conditions, on export performance; or*
  - (d) *if the subsidy is contingent, whether solely or as one of several conditions, on the use of domestically produced or manufactured goods in preference to imported goods.*
- (3) *Subject to subsection (4), a subsidy is not specific if:*
  - (a) *eligibility for, and the amount of, the subsidy are established by objective criteria or conditions set out in primary or subordinate legislation or other official documents that are capable of verification; and*
  - (b) *eligibility for the subsidy is automatic; and*
  - (c) *those criteria or conditions are neutral, do not favour particular enterprises over others, are economic in nature and are horizontal in application; and*
  - (d) *those criteria or conditions are strictly adhered to in the administration of the subsidy.*
- (4) *The Parliamentary Secretary may, having regard to:*
  - (a) *the fact that the subsidy program benefits a limited number of particular enterprises; or*
  - (b) *the fact that the subsidy program predominantly benefits particular enterprises; or*
  - (c) *the fact that particular enterprises have access to disproportionately large amounts of the subsidy; or*
  - (d) *the manner in which a discretion to grant access to the subsidy has been exercised;*

*determine that the subsidy is specific.*
- (5) *In making a determination under subsection (4), the Parliamentary Secretary must take account of:*
  - (a) *the extent of diversification of economic activities within the jurisdiction of the subsidising authority; and*
  - (b) *the length of time during which the subsidy program has been in operation.*

**PUBLIC RECORD**

Sections 269TACC and 269TACD concern determinations by the Parliamentary Secretary whether a benefit has been conferred by a financial contribution or price support, and the amount of this benefit.

### 6.3 Programs reviewed

In *Anti-Dumping Commission Report No. 263*, the Commission found that 32 subsidies were countervailable in respect of ARW exported to Australia from China. These are listed in the table below:

Program number	Program name
1	Aluminium provided by government at less than fair value
4	Preferential Income Tax for hi-tech enterprises
5	Preferential Tax Policies for Western Development “Go West” strategy
13	Preferential tax policies for enterprises transferring technology
14	Preferential tax policies for enterprises making little profits
21	Grants for encouraging the establishment of headquarters and regional headquarters with foreign investment
29	Patent award of Guangdong Province
31	Exemption of tariff and import VAT for imported technologies and equipment's
35	Matching funds for international market development for SMEs
36	Innovative Experimental Enterprise Grant
37	Special Support Fund for non-State owned enterprises (NSOEs)
38	Venture Investment Fund for Hi-Tech Industry
39	Superstar Enterprise Grant
40	One-time awards to enterprises whose products qualify for “Well-Known Trademarks of China” or “Famous Brands of China”
41	Technology assist
42	Export subsidies
43	SME Assist
44	Assistance for closing down small thermal power units in Zhejiang Province
46	Government Incentive for the Top Taxpayer of the Year – Qinhuangdao City
47	Financial Support from China Postdoctoral Science Foundation
48	Foreign Trade Public Service Platform Development Fund
50	Patent Application Fee Subsidy
51	Enterprise Development
53	New product Trial Production
56	Patent grants
57	Government quality award
58	Award to open economy
59	Assistance to importer & exporter fair trade program
60	Assistance fund for import
61	Award for the growth of local income tax
62	Refund of local water conservancy fund
63	Award for IPO

**Table 1: REP 263 Countervailable subsidy programs**

The Commission requested that Sinolion Wheels provide data and information relating to all countervailable subsidies it received during the accelerated review period as part of its exporter questionnaire response, including those listed in Table 1 above. After assessing all the information, the Commission found that Sinolion Wheels did not receive any countervailable subsidy, in relation to the above countervailable subsidies or any other subsidy, in respect of ARW manufactured by Sinolion Wheels.

### **6.3.1 Program 1 – Aluminium provided by government at less than fair value**

In REP 378, where an exporter had supply of primary aluminium by the government or public body of China, the Commission determined the benefit received by calculating the difference between the exporter's purchase price and the aluminium benchmark, being the London Metal Exchange.

In its exporter questionnaire response, Sinolion Wheels stated that none of its suppliers of primary aluminium were state-owned enterprises (SOE) or state-invested enterprises (SIE). Accordingly, Sinolion Wheels submitted that it did not receive a financial contribution from the government or from a public body of China with respect to its purchase of primary aluminium.

Having analysed Sinolion Wheels' exporter questionnaire response, primary aluminium purchase listing and audited financial statements, the Commission found no evidence that might suggest Sinolion Wheels' suppliers of primary aluminium were SOE or SIE. As such, the Commission has concluded that Sinolion Wheels did not receive any benefit in relation to Program 1.

### **6.4 Amount of countervailable subsidy received**

After assessing all relevant information and the data provided by Sinolion Wheels, the Commission found that no countervailable subsidies<sup>18</sup> have been received during the accelerated review period in respect of ARW manufactured by Sinolion Wheels. As such, the subsidy margin applicable to Sinolion Wheels in the accelerated review period is zero per cent.

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<sup>18</sup> Subsections 269T(1) and 269T(2AA), and section 269TAAC refer.

## 7 EFFECT OF THE ACCELERATED REVIEW

If the Parliamentary Secretary accepts the Commissioner's recommendations in this report, in respect of ARW exported to Australia from China by Sinolion Wheels:

- the notices will be altered so as to apply to Sinolion Wheels as if different variable factors had been fixed;
- the *floor price* duty method will apply, where IDD will be payable only when the actual export price is below the ascertained normal value; and
- the rate of countervailing duty applying to Sinolion Wheels' exports of the goods shall be zero per cent.

If the Parliamentary Secretary accepts the Commissioner's recommendations in this report:

- these changes will take effect retrospectively from 12 April 2017 (being the date the application was lodged); and
- Sinolion Wheels will not be eligible to seek another accelerated review.

A summary of the ascertained variable factors is at **Confidential Appendix 5**.

## 8 RECOMMENDATION

The Commissioner has found that, in relation to ARW exported to Australia from China by Sinolion Wheels:

- the ascertained export price should be altered;
- the ascertained normal value should be altered; and
- the amount of countervailable subsidy received should be altered.

The Commissioner recommends that the Parliamentary Secretary consider this report, and if agreed, sign the attached notice (**Non-confidential Attachment 1**) to declare:

- under subsection 269ZG(3)(b), that, with effect from 12 April 2017, the Act and the Dumping Duty Act have effect as if the notices had applied to Sinolion Wheels but specified different variable factors had been fixed in respect of Sinolion Wheels (as set out in **Confidential Appendix 5**), relevant to the determination of duty.

The Commissioner recommends that the Parliamentary Secretary be satisfied that:

- in accordance with subsection 269TAC(2)(a)(ii), the normal value of the goods exported to Australia from China by Sinolion Wheels cannot be ascertained under subsection 269TAC(1) because the situation in the market of China is such that sales in that market are not suitable for use in determining a price under subsection 269TAC(1); and
- in accordance with subsection 269TAB(3), sufficient information is not available to enable export prices for the goods exported to Australia from China by Sinolion Wheels to be ascertained under the preceding subsections of section 269TAB.

The Commissioner recommends that the Parliamentary Secretary determine:

- in accordance with subsection 269TAB(3), the export price for the goods exported to Australia from China by Sinolion Wheels is the amount as set out in **Confidential Appendix 5**, which has been determined having regard to all relevant information;
- in accordance with subsection 269TAC(2)(c), the normal value for ARW exported to Australia from China is the sum of:
  - Sinolion Wheels' cost of production of the goods in China as set out in **Confidential Appendix 3**; and
  - on the assumption that the goods, instead of being exported, had been sold for home consumption in the OCOT in China, the SG&A costs associated with such a sale and the profit on that sale as set out in **Confidential Appendices 2 and 3**,

as adjusted in accordance with subsection 269TAC(9) and set out in chapter 5.4.4 and **Confidential Appendix 4** of this report to ensure that the normal value so ascertained is properly comparable with the export price;

- that in accordance with subsection 8(5) of the Dumping Duty Act, the IDD payable is an amount which will be worked out in accordance with the floor price duty method pursuant to subsection 5(4) of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

## **PUBLIC RECORD**

- in accordance with subsection TACD(1), no countervailable subsidies have been received by Sinolion Wheels in respect of the goods.

The Commissioner recommends that the Parliamentary Secretary direct:

- in accordance with subsection 10(3B)(a) of the Dumping Duty Act, that the amount of ICD payable on the goods the subject of the countervailing duty notice be ascertained as a proportion of the export price of those particular goods. The rate of countervailing duty applying to Sinolion Wheels' exports of the goods shall be zero per cent.

**PUBLIC RECORD**

**APPENDICES AND ATTACHMENTS**

<b>Non-Confidential Attachment 1</b>	Subsection 269ZG(3)(b) Notice
<b>Confidential Attachment 1</b>	Verification work program
<b>Confidential Attachment 2</b>	Schedule of Determinations
<b>Confidential Appendix 1</b>	Aluminium benchmark
<b>Confidential Appendix 2</b>	Domestic sales, OCOT and profit
<b>Confidential Appendix 3</b>	CTMS with aluminium alloy uplift
<b>Confidential Appendix 4</b>	Normal Value
<b>Confidential Appendix 5</b>	Summary of variable factors