

Arrowcrest rejects MOFCOM's assertions.

Customs has painstakingly detailed at Part II.10 of Appendix B to REP181, the methodology followed that resulted in a comparison of an external benchmark price for aluminium (i.e. the LME) for comparison with prevailing Chinese domestic aluminium and aluminium alloy prices.

REP181 evidences that Customs did consider whether or not the internal domestic selling prices for aluminium and aluminium alloy sold by private enterprises in China were free of influence from the selling prices of SIEs in the sector. On the basis that the selling prices of private enterprises were also unsuitable, an external benchmark price was considered. Customs also noted that the circumstance where an external benchmark (i.e. the LME price) may be used is not limited to the specific circumstances referred to in WTO Appellate Finding DS257.

Having established that circumstances permit referencing an external benchmark for primary aluminium and aluminium alloy prices, Customs was able to then undertake a comparison of prevailing Chinese domestic primary aluminium and aluminium alloy prices with the benchmark prices. Customs was satisfied that the Chinese domestic selling prices were below the benchmark prices thereby evidencing the circumstances of primary aluminium and aluminium alloy sold at less than adequate remuneration (or market prices).

Arrowcrest fully endorses the findings of Customs in determining Chinese domestic prices for primary aluminium and aluminium alloy were at less than adequate remuneration.

MOFCOM has not evidenced any information that was available to Customs that disputes this finding or demonstrates the finding to be erroneous.

MOFCOM has not commented on the two additional grounds identified for reinvestigation. Arrowcrest refers to its submission of 14 February 2013 that addresses these matters.

Arrowcrest therefore re-asserts its recommendation that Customs affirm its original findings contained in Report No. 181.

If you have any questions concerning this letter, please do not hesitate to contact me.

Yours sincerely



Bill Davidson
General Manager



ARROWCREST GROUP

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4 April 2013

Mr. John Bracic
Director, Operations 1
International Trade Remedies Branch
Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

Dear John,

Reinvestigation of certain findings – Certain aluminium road wheels exported from the People's Republic of China – Arrowcrest comments re MOFCOM submission

I refer to the submission by the Ministry of Commerce (MOFCOM) of the People's Republic of China (China) dated 20 March 2013.

Following the review of the Minister's decision to impose measures on Aluminium Road Wheels (ARWs) exported from China, the Minister for Home Affairs directed the Chief Executive Officer of the Australian Customs and Border Protection Service (Customs) to investigate the following three matters:

- (i) The calculation of the dumping margin for 'selected non-cooperating exporters' of ARWs from China to Australia;
- (ii) That YHI Manufacturing (Shanghai) Co., Ltd (YHI) received a benefit under all countervailable subsidies identified by Customs and Border Protection; and
- (iii) That there is a countervailable subsidy of the type described as 'Program 1'.

The above three matters recommended for review by the Trade Measures Review Officer (the Review Officer) do not include the reinvestigation of the finding in Trade Measures Report No. 181 (REP181), concerning a particular market situation in China for ARWs.

The MOFCOM submission however has sought to extend the reinvestigation inquiry beyond the direction of the Minister. Accordingly, Customs is requested to disregard Part C of MOFCOM's submission which relates directly to a particular market situation finding for ARWs sold in China, as this matter has not been referred for reinvestigation.

Taking account of the confines of the reinvestigation, MOFCOM has essentially addressed the third item only i.e. "that there is a countervailable subsidy of the type described as 'Program 1'". MOFCOM has argued that the Chinese state-invested aluminium or alloy producing enterprises are not public bodies and, even if these SIEs were public bodies, the aluminium and or alloys provided to ARW producers by the SIEs were not at less than adequate remuneration. In support of its claims, MOFCOM merely suggests that "there was no evidence" that the sale prices of the aluminium or alloy by the SIEs were at less than adequate remuneration.

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