



CUSTOMS ACT 1901 - PART XVB

**TERMINATION REPORT
NO. 280**

**ACCELERATED REVIEW
OF A DUMPING DUTY NOTICE AND COUNTERVAILING DUTY
NOTICE APPLYING TO**

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

INOVIT (SUQIAN) CORP. LTD.

March 2015

PUBLIC RECORD

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ABBREVIATIONS

ADN	Anti-Dumping Notice
China	People's Republic of China
CITIC Dicastal	CITIC Dicastal Wheel Manufacturing Co Ltd
Commission	Anti-Dumping Commission
Commissioner	the Commissioner of the Anti-Dumping Commission
CON 280	Consideration Report No 280
CTMS	Cost to make and sell
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
ICD	Interim countervailing duty
IDD	Interim dumping duty
PDW	Zhejiang Shuguang Industrial Co Ltd, also known as PDW International Co
review period	1 October 2013 to 30 September 2014
The Act	<i>Customs Act 1901</i>
the applicant	INOVIT (Suqian) Corp Ltd (Inovit)
the goods or ARWs	the kind of goods to which the anti-dumping measures apply, and in this case aluminium road wheels
the Parliamentary Secretary	the Parliamentary Secretary to the Minister for Industry and Science

1 SUMMARY AND RECOMMENDATION

1.1 Background

This *Accelerated Review No. 280* is in response to an application from INOVIT (Suqian) Corp Ltd. (Inovit) seeking an accelerated review of the dumping duty and countervailing duty notices applying to aluminium road wheels (ARW's) exported to Australia from the People's Republic of China (China)¹.

1.2 Recommendation

The Anti-Dumping Commission (the Commission) recommends that the Commissioner of the Anti-Dumping Commission (the Commissioner) be satisfied that Inovit is refusing to co-operate with any aspect of the accelerated review. Accordingly, the Commission recommends that, in accordance with subsection 269ZE(3)(a) of the *Customs Act 1901* (the Act), the Commissioner terminate the accelerated review.²

1.3 Application of law to facts

Division 6 of Part XVB of the Act enables eligible parties to apply for an accelerated review of anti-dumping measures.³ The Division, among other matters:

- sets out the procedures to be followed by the Commissioner in dealing with applications or requests and preparing reports for the Parliamentary Secretary to the Minister for Industry and Science (Parliamentary Secretary); and
- empowers the Parliamentary Secretary, after consideration of such reports, to leave the measures unchanged or to modify them as appropriate.⁴

The Commissioner may terminate an accelerated review if satisfied that:

- the exporter is refusing to co-operate with any aspect of the review; or
- the exporter is related to an exporter whose exports were examined in relation to the application for publication of that notice.⁵

1.4 Findings and conclusions

The Commission sent Inovit an exporter questionnaire in relation to the accelerated review. The exporter questionnaire requests the provision of essential information that is relevant to the accelerated review applied for by the applicant. Inovit failed to provide a complete exporter questionnaire response within the timeframe requested. The Commission considers that this amounts to a refusal to co-operate with an aspect of the accelerated review and it is recommended that the Commissioner terminate the accelerated review in accordance with subsection 269ZE(3)(a) of the Act.

¹This application was lodged in accordance with section 269ZF of the *Customs Act 1901*.

²A reference to a division, section or subsection in this report is a reference to a provision of the Act, unless otherwise specified.

³Section 269T provides that 'anti-dumping measures' means the publication of a dumping duty notice or a countervailing duty notice or both; or the acceptance of an undertaking.

⁴In December 2013, the Minister for Industry delegated responsibility for decision making on operational matters under Parts XVB and XVC of the Act and other anti-dumping legislation, to the Parliamentary Secretary.

⁵In terms of subsection 269ZE(3).

2 BACKGROUND

2.1 Accelerated Review process

If anti-dumping measures have been taken in respect of certain goods, a new exporter, who has not exported the goods to Australia during the period specified in subsection 269T(1) of the Act, may request an accelerated review of those measures as they affect that particular exporter, if they consider the measures are not appropriate to that exporter⁶.

If an application for an accelerated review of anti-dumping measures is received and not rejected, the Commission has up to 100 days to inquire and report to the Parliamentary Secretary on the accelerated review of the measures⁷.

In making recommendations in his final report to the Parliamentary Secretary, the Commissioner must consider the application for an accelerated review and make such inquiries as considered appropriate⁸.

In respect of a dumping duty notice or countervailing duty notice, the Commissioner must recommend to the Parliamentary Secretary that the dumping duty notice or countervailing duty notice:

- remain unaltered; or
- be altered:
 - so as not to apply to the particular exporter; or
 - to have effect in relation to the particular exporter as if different variable factors had been ascertained.⁹

The Commissioner may terminate a review if satisfied that the exporter has failed to cooperate with any aspect of the review or the exporter is related to an exporter whose exports were examined in relation to the application for publication of that notice.¹⁰

2.2 Existing measures

On 7 November 2011, an investigation into the alleged dumping and subsidisation of ARWs exported to Australia from China was initiated following an application lodged by Arrowcrest Group Pty Limited (original investigation). In that investigation, as outlined in the *International Trade Remedies Report No. 181* (REP 181), it was found that:

⁶ In terms of subsections 269ZE and 269ZF(b)

⁷ In terms of subsection 269ZG(2)

⁸ In terms of subsection 269ZG(1)

⁹ In terms of subsection 269ZG(1)

¹⁰ In terms of subsection 269ZE(3)

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- ARWs exported from China to Australia were:
 - with the exception of Zhejiang Shuguang Industrial Co Ltd, also known as PDW International Co (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 Wheel Manufacturing Co Ltd (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, with the exception of those exporters noted above. 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).

2.3 Initiation of a review of measures (Division 5)

On 15 September 2014, a review of measures¹¹ was commenced for all exporters of ARWs. Division 5 of Part XVB of the Act provides that a review of measures is available to affected parties (as defined). An application for a review of measures cannot be made earlier than twelve months after a dumping and countervailing duty notices have been published (or last revisited). A review of measures may apply in respect of a particular exporter of goods or as they affect exporters of those goods generally.

A review of measures under Division 5 of Part XVB of the Act may reassess aspects of anti-dumping measures including whether one or more of the variable factors relevant to the taking of measures in relation to an exporter or exporters have changed.

As a result of a review of measures, the Parliamentary Secretary may amend the dumping and countervailing duty notices. Where a review of measures applies to exporters of goods generally (that is, not a single exporter), those notices will apply to all relevant exporters.

The current review of measures does not impact on this accelerated review. However, the findings and recommendations of the review of measures, if accepted by the Parliamentary Secretary, may update the level of measures for all exporters, including the level of measures determined by this accelerated review.

¹¹ A review of measures is undertaken in accordance with the provisions of Division 5 of the Act, which is distinct from the accelerated review provisions of Division 6, considered in this report.

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The Commission is also reconsidering aspects of the ARWs anti-dumping measures following the outcome of litigation in the matter of GM Holden Limited v Commissioner of the Anti-Dumping Commission. Any subsequent decisions with regard to this matter may also alter the anti-dumping measures applying to ARWs from China.

2.4 Notification and participation

On 19 December 2014, Inovit lodged an application for an accelerated review of the dumping and countervailing duty notices that apply to ARW's exported to Australia from China.

The Commissioner considered the application¹² to determine if it was valid as required by sections 269ZE, 269ZF and the definitions provided in section 269T of the Act. The Commissioner was satisfied that:

- Inovit was a new exporter as defined by section 269T of the Act;
- the application satisfied the requirements of section 269ZF of the Act; and
- the conditions for rejection under subsection 269ZE(2) of the Act were not met.

As the circumstances in which an accelerated review can be sought were satisfied the Commissioner did not reject the application and the accelerated review commenced. Consideration Report No. 280 (CON 280) provides further details in relation to the Commissioner's consideration of the application. CON 280 is available on the Commission's website at www.adcommission.gov.au.

The commencement of the accelerated review was publicly notified in Anti-Dumping Notice (ADN) No. 2015/06, which was published on 27 January 2015. The ADN is available on the Commission's website at www.adcommission.gov.au.

This ADN highlighted that interested parties had until 1 March 2015 to lodge submissions in relation to the accelerated review. It also advised that the Commissioner's recommendation to the Parliamentary Secretary will be made in a report on or before 30 March 2015.

For the purposes of the accelerated review, the period examined is 1 October 2013 to 30 September 2015 (herein referred to as the review period).

2.5 Public record

There is no legislative requirement for the Commission to maintain a public file for accelerated reviews. However, in the interests of ensuring this process is conducted in an open and transparent manner, a public file for this accelerated review has been maintained and is accessible on the Commission's website at www.adcommission.gov.au.

¹² In accordance with section 269ZG of the Act.

2.6 The goods

2.6.1 Description

The goods the subject of the application (the goods) are:

aluminium road wheels (ARWs) for passenger motor vehicles, including wheels used for caravans and trailers, in diameters ranging from 13 inches to 22 inches.¹³ 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.

2.6.2 Tariff classification

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

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

¹³ ACDN 2011/54, 7 November 2011.

3 TERMINATION GROUNDS

3.1 Findings

Inovit was sent an exporter questionnaire on 19 December 2014, with a due date of 28 January 2015 to submit its response to the Commission.

The Commission advised Inovit at the time it forwarded the questionnaire that:

- A late submission of the questionnaire may adversely affect Inovit's application; and
- Subsection 269ZE(3) of the Act provides for the review to be terminated where the exporter refuses to co-operate with any aspect of the review. An exporter may be deemed to be uncooperative if they do not provide all of the information sought, do not provide information within a reasonable time period, or do not allow the Commission to verify the information.

On 22 December 2014, 6 January 2015, 12 January 2015 and 14 January 2015, the Commission requested Inovit to provide a non-confidential version of the application so that it could be placed on the Commission's public record. A non-confidential version was not provided by Inovit. As a result, upon initiation of the accelerated review on 20 January 2015, the Commission was unable to place Inovit's application on the public record and instead placed a Note for file on the public record, advising of the non-receipt of the non-confidential version of the application.

In its application, Inovit stated that it had a new factory in China and had no trading history in Australia. It however has advised that it has produced and shipped containers of ARW's from India to Australia in the past.

Inovit provided its exporter questionnaire response on 28 January 2015. Upon review of the information, the Commission found the response to be incomplete for the purposes of the Commission's requirements to undertake the accelerated review under the Act.

The Commission completed an assessment of the Exporter Questionnaire on 29 January 2015 and found many deficiencies. In particular:

- Sections E, F and G were blank with no information provided to calculate the Normal Value, Export price, CTMS. Some general cost information was provided but not differentiated between countries. No information on aluminium purchases was provided;
- Section H – no information was provided on "Particular Market Situation";
- Section I – no information was provided on "Countervailing". No information was provided as to under which programs Inovit had received a benefit from;
- Section D, with regards to Domestic Sales, the spreadsheet was blank. Documents for 2 domestic sales were not provided; and
- No information on general accounting/ administration information was provided.

The Commission considers that the failure to provide a complete response to the questionnaire in a timely fashion amounts to a refusal to co-operate with an aspect of the accelerated review. This provides grounds to terminate the accelerated review in accordance with subsection 269ZE(3)(a).

4 EFFECT OF THE TERMINATION

As a result of this termination, Inovit's exports of ARW's will remain subject to the 'all other exporters' dumping duty and countervailing duty rates for China in accordance with the dumping duty notice published on 5 July 2012.¹⁴

Securities were imposed by the Commissioner on 28 January 2015 on exports by Inovit while the accelerated review proceeded.

In accordance with section 269ZH of the Act, if Inovit has exports of ARW's that were subject to securities (i.e. ARW's exported by Inovit that were imported and entered for home consumption in Australia between 19 December 2014 and the date that the review is terminated), these securities will now be converted to interim dumping duty at the rate applicable to 'all other exporters' from China. Future exports of ARW's by Inovit will also be subject to this level of duty.

This termination does not affect Inovit's right to apply for another accelerated review in accordance with sections 269ZE and 269ZF of the Act.

¹⁴ ADN 2012/33

5 RECOMMENDATIONS

It is recommended that the Commissioner be satisfied that Inovit has failed to co-operate with an aspect of the review, and therefore in accordance with subsection 269ZE(3) of the Act, terminate the review.

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6 ATTACHMENTS

Attachments	
Confidential Attachment 1	Inovit application
Confidential Attachment 2	Inovit exporter questionnaire responses