



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

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XV B

**REPORT
NO. 336**

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

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

DANYANG JINGYI ALUMINUM INDUSTRY CO., LTD

09 May 2016

Report 336 – Accelerated Review – Aluminium Road Wheels – China

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ABBREVIATIONS

accelerated review period	1 January 2015 to 31 December 2015
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
Anti-Dumping Regulation	<i>Customs Tariff (Anti-Dumping) Regulation 2013</i>
the applicant	Danyang Jingyi Aluminum Industry Co., Ltd (also referred to in this report as Jingyi)
ARWs	aluminium road wheels
China	the People's Republic of China
CON 336	Consideration Report No. 336
Commission	Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTM	cost to make
CTMS	cost to make & sell
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
FOB	free on board
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
Jiangsu Yaozhong	Jiangsu Yaozhong Aluminium Wheels Co., Ltd
LME	London Metal Exchange
the notices	the dumping duty notice and the countervailing duty notice applying to certain aluminium road wheels exported from China
OCOT	ordinary course of trade
the Parliamentary Secretary	the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
REP 181	<i>International Trade Remedies Report No. 181</i>
REP 263	<i>Anti-Dumping Commission Report No. 263</i>
SG&A	selling, general and administrative costs

1 SUMMARY AND RECOMMENDATIONS

This final report relates to an application by Danyang Jingyi Aluminum Industry Co., Ltd (the applicant or Jingyi) to the Anti-Dumping Commission (the Commission) seeking an accelerated review of the dumping duty notice and countervailing duty notice (the notices) applying to certain aluminium road wheels (ARWs) exported to Australia from the People's Republic of China (China) in so far as they relate to Jingyi.

Jingyi's application seeks an accelerated review on the basis that the notices are inappropriate because it is currently subject to the combined dumping duty and countervailing duty rate of 50.9 per cent, which reflects the combined rate for uncooperative exporters as determined in *Final Report No. 263* (REP 263).

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 Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary).¹

1.1 Applicable law

Division 6 of Part XVB of the *Customs Act 1901* (the Act)² enables 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 in respect of the exporter and the goods covered by the application for the purpose of making a report to the Parliamentary Secretary; and
- empowers the Parliamentary Secretary, after consideration of such reports, to leave the dumping duty notice and countervailing duty notice unaltered or to modify them as appropriate.

1.2 Findings and conclusions

The Commissioner has, in relation to the variable factors for Jingyi's exports of ARWs to Australia, found that:

- the export price should be determined under subsection 269TAB(3) having regard to all relevant information, being set to the normal value determined;
- the normal value should be constructed under subsection 269TAC(2)(c) in accordance with sections 43, 44 and 45 of the *Customs (International Obligations) Regulation 2015* (the Regulation); and

¹ On 20 September 2015, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Science.

² Unless stated otherwise, all legislative references in this report are to the *Customs Act 1901*. Following recent reforms to the anti-dumping legislation, several provisions of the Act have recently been revised in relation to accelerated reviews.

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- one countervailable subsidy program applied to Jingyi in relation to ARWs during the accelerated review period and that the amount of countervailable subsidy received has changed.

1.3 Recommendation

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 Jingyi as if different variable factors had been fixed.

The Commissioner recommends that:

- for the purpose of this accelerated review, the Parliamentary Secretary should determine that interim dumping duty be worked out on Jingyi's exports to Australia in accordance with the combination of fixed and variable duty method. The applicable fixed rate of interim dumping duty is zero per cent, meaning that Jingyi's exports of ARWs will not attract any fixed (*ad valorem*) amount of interim dumping duty. However, if Jingyi's actual export prices of ARWs are less than the ascertained exported price, the variable component of interim dumping duty will be equal to the difference between the actual export price and the ascertained export price; and
- while one countervailable subsidy program applied to Jingyi during the accelerated review period, the countervailable duty rate is zero percent due to the removal of double count in the dumping and countervailing calculations. The Commissioner recommends that the Parliamentary Secretary determine that the countervailing duty amount be worked out as a proportion of the export price of the goods. The applicable countervailing duty rate is zero per cent.

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 dumping duty notice and countervailing duty notice had applied to Jingyi but the Parliamentary Secretary had fixed specified different variable factors relevant to the determination of duty payable by Jingyi.

If accepted by the Parliamentary Secretary, the individual rates applicable to Jingyi will take effect retrospectively from 29 January 2016 (the date the application was lodged).

2 BACKGROUND

2.1 The goods

2.1.1 Description

The goods the subject of the application (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. For clarification, the goods include finished or semi-finished aluminium road wheels whether unpainted, 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 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).

2.2 Accelerated review process

If anti-dumping measures have been taken in respect of certain goods, a new exporter, as defined in subsection 269T(1) of the Act, may request an accelerated review of those measures as they affect that particular exporter.

If an application for an accelerated review of anti-dumping measures is received and not rejected, the Commissioner has up to 100 days to inquire and report to the Parliamentary Secretary on the accelerated review.³

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 the countervailing duty notice:

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

If recommending to the Parliamentary Secretary that different variable factors be applied to the applicant, the Commissioner may propose a change in the method to determine the dumping duty, which currently applies to the goods exported to Australia in accordance with the combination of fixed and variable duty method. The amount could be worked out in accordance with the combination of fixed and variable duty method, the floor price duty method, the fixed duty method, or the *ad valorem* duty method.

³ Subsection 269ZG(2).

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Following the Parliamentary Secretary's decision, a notice is published on the Commission's website advising interested parties of the decision.

2.3 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 Ltd. In that investigation, as outlined in *International Trade Remedies Report No. 181* (REP 181), it was found that:

- ARWs exported to Australia from China were:
 - with the exception of Zhejiang Shuguang Industrial Co. Ltd., dumped with margins ranging from 5.6 per cent to 29.3 per cent; and
 - with the exception of two exporters, Zhejiang Shuguang Industrial Co. Ltd. and CITIC Dicastal Wheel Manufacturing Co. Ltd., 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, the then Chief Executive Officer of the Australian Customs and Border Protection Service recommended that the then Minister for Home Affairs impose anti-dumping measures in the form of interim dumping duty and interim countervailing duty on the goods exported to Australia from China, with the exception of those exporters noted above. The then Minister for Home Affairs accepted the recommendations in REP 181, and on 5 July 2012 published a dumping duty notice and a countervailing duty notice.

On 15 September 2014, the Commissioner initiated a review of the anti-dumping measures in respect of ARWs exported to Australia from China by all exporters following an application by Jiangsu Yaozhong Aluminium Wheels Co., Ltd (Jiangsu Yaozhong). As a result of this review, the Commissioner recommended that changes were warranted to the variable factors of normal value, export price, non-injurious price and the amount of countervailable subsidy received.

As outlined in REP 263, it was found that ARWs exported to Australia from China were:

- with the exception of Jiangsu Yaozhong and Zhejiang Shuguang Industrial Co. Ltd., dumped with margins ranging from 7.8 per cent to 40.3 per cent; and
- with the exception of Jiangsu Yaozhong, Zhejiang Shuguang Industrial Co. Ltd. and CITIC Dicastal Wheel Manufacturing Co. Ltd., subsidised with margins ranging from 2.5 per cent to 57.6 per cent.

The Parliamentary Secretary accepted the recommendations in REP 263 and declared that, with effect from 22 October 2015, the notices currently applying to ARWs exported to Australia from China are to be taken to have effect, or have had effect, as if different variable factors had been fixed in respect of all exporters relevant to the determination of duty.

2.4 The current review

On 29 January 2016, Jingyi lodged an application under subsection 269ZE(1) of the Act for an accelerated review of the dumping duty notice and the countervailing duty notice applying to ARWs exported to Australia from China in so far as the notices affect Jingyi.

The Commission examined the application and considered at that time that:

- Jingyi was a new exporter;⁴
- there were no grounds to reject the application;⁵ and
- the requirements of an application for accelerated review were satisfied.⁶

As the circumstances in which an accelerated review can be sought were satisfied, the Commissioner did not reject the application and commenced the accelerated review. Consideration Report No. 336 (CON 336) provides further details in relation to the Commission's consideration of the application and the decision of the Commissioner. CON 336 should be read in conjunction with this report and 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. 2016/36, which was published on 8 April 2016. It also advised that the Commissioner's recommendation to the Parliamentary Secretary will be made in a report on or before 8 May 2016.⁷ The ADN is available on the Commission's website at www.adcommission.gov.au.

For the purposes of the accelerated review the period examined is 1 January 2015 to 31 December 2015 (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 Jingyi to complete.

On 30 March 2016, the Commission received a completed exporter questionnaire response from Jingyi. A non-confidential version of this response is available on the electronic public record.⁸

Jingyi's response contained information and data in relation to:

- company structure and organisation chart;
- ownership and related entities;
- business licence registration;

⁴ As defined by section 269T.

⁵ Subsection 269ZE(2).

⁶ Section 269ZF.

⁷ If a due date in this report falls on a weekend or public holiday in Victoria, the effective due date will be the following business day. As 8 May 2016 is a Sunday, the effective due date for the Commissioner's report will be the following business day, 9 May 2016.

⁸ Document No. 5 on the electronic public record, at www.adcommission.gov.au.

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- product brochure;
- turnover, audited financial statements and income tax records;
- domestic sales with supporting documentation for sales;
- purchase of raw materials;
- domestic production and selling costs for ARWs;
- fixed asset list;
- supply of inputs including water and electricity; and
- production process and production volumes.

The Commission used various means for testing the accuracy, relevance and completeness of data to a satisfactory level. A number of tests have been undertaken on Jingyi's data for the purpose of this accelerated review. Those tests include comparison of Jingyi's data to data verified in REP 263, data from the Department of Immigration and Border Protection import database and verification to source documents.

Jingyi co-operated and provided responses to the queries within the set deadlines. After verification and testing of the information, the Commission is satisfied as to the accuracy, relevance and completeness of the data supplied by Jingyi upon which the findings of this accelerated review are based. The Commission has therefore elected not to conduct an on-site verification of the information and data provided in Jingyi's exporter questionnaire response.

2.6 Public record

There is no legislative requirement under Division 6 of the Act 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.

3 EXPORT PRICE

3.1 Findings

The Commission found that Jingyi did not export the goods to Australia during the accelerated review period. As such, sufficient information was not available to determine the export price of the goods under subsection 269TAB(1) for the purposes of this accelerated review. It is the Commission's view that application of subsection 269TAB(1) requires Jingyi to have exported the goods to Australia. Since this is yet to occur, subsection 269TAB(1) cannot apply.

Specifically, sufficient information is not available to determine the export price of the goods using:

- the price paid or payable by the importer;⁹
- the price in Australia less prescribed deductions;¹⁰ or
- the price having regard to all the circumstances of the exportation.¹¹

Therefore, the Commission considered it appropriate to determine an export price, for the purpose of this accelerated review, under subsection 269TAB(3) having regard to all relevant information. Specifically, the Commission considered it appropriate to determine the ascertained export price to be the same amount as that determined to be the normal value (refer to Section 4 of this report).

After making an adjustment for inland transport and export related costs, this price has been determined at the free on board (FOB) level.

⁹ Subsection 269TAB(1)(a).

¹⁰ Subsection 269TAB(1)(b).

¹¹ Subsection 269TAB(1)(c).

4 NORMAL VALUE AND DUMPING MARGIN

4.1 Findings

The Commission considers that there is suitable information in Jingyi's exporter questionnaire response to allow for the calculation of a normal value.

For the purposes of this accelerated review, the normal value has been established in accordance with subsection 269TAC(2)(c), using the constructed normal value method. The Commission has also made adjustments to the normal value to ensure that it is directly comparable with the export price.

The Commissioner recommends that any interim dumping duty be calculated in accordance with the combination of fixed and variable duty method. The Commission has determined that the ascertained export price is equal to the ascertained normal value calculated for Jingyi for the purpose of this review. In practice, this method results in setting the dumping margin and fixed component of any interim dumping duty to zero per cent. A variable component of the interim dumping duty is applicable where the actual export price is below the ascertained export price.

4.2 Particular market situation

In REP 263, it was established that, in accordance with subsection 269TAC(2)(a)(ii), a situation exists in the domestic Chinese ARWs market that renders domestic selling prices in that market unsuitable for the purpose of determining the normal value for ARWs under subsection 269TAC(1).

The reasons for this finding are contained in REP 263 at Non-Confidential Appendix B – Market Situation Assessment.

During this accelerated review, the Commission did not find any information to warrant departing from the finding in REP 263 on market situation. Accordingly, the Commission is of the view that this finding is still relevant, and has not departed from the finding in REP 263. The normal value of the goods has therefore been ascertained under subsection 269TAC(2)(c).

4.3 Constructed normal value

In its Exporter Questionnaire response, Jingyi advised the Commission that it did not export any ARWs to Australia or any other foreign countries during the accelerated review period. Consequently for the purposes of this accelerated review, the normal value has been established in accordance with subsection 269TAC(2)(c), being the sum of:

- the cost of production or manufacture (with the applicant's actual costs for aluminium replaced with a competitive cost substitute) and selling, general and administrative (SG&A) costs of like goods sold domestically worked out in accordance with sections 43 and 44 of the Regulation, respectively;
- profit applicable to like goods sold domestically in the ordinary course of trade (OCOT) worked out in accordance with section 45 of the Regulation; and
- relevant adjustments to the normal value under subsection 269TAC(9) to ensure comparability to the export price of Jingyi's future exports to Australia.

4.3.1 Cost of production or manufacture

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

As stated previously, Jingyi advised the Commission in its Exporter Questionnaire that it did not export any ARWs to foreign countries, including Australia, during the accelerated review period. As there is no cost to make and sell (CTMS) data relating to exports which may be used as a basis to construct the normal value, the Commission considers that it is reasonable to use Jingyi's domestic CTMS data for like goods sold domestically during the accelerated review period for the purposes of constructing normal value.

To determine Jingyi's cost to make (CTM), the Commission drew directly upon the CTM calculations reported in the company's CTM spreadsheet. CTM was allocated for each model (determined by product code) by month.

Section 43(2) of the Regulation provides that the cost of production or manufacture must be worked out using the information set out in Jingyi's 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.

In REP 263 it was determined by the Commissioner, after having regard to all relevant information, that the Government of China (GOC) had influenced the Chinese aluminium industry, and it was concluded that, in determining the cost of manufacture of ARWs in China, the records of Chinese exporters of ARWs 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. During this accelerated review, the Commission did not find any information to warrant departing from the finding in REP 263 that the records of Chinese exporters of ARWs did not reasonably reflect competitive market costs associated with the production of those goods.

As a result, the Commission has replaced Jingyi's reported primary aluminium costs relating to domestic purchase of primary aluminium. Consistent with the findings in REP 263, Jingyi's aluminium costs have been replaced with a primary aluminium cost which is considered a competitive market benchmark price for primary aluminium. The primary aluminium benchmark is based on contemporaneous London Metal Exchange (LME) cash prices plus other reasonable costs, port premiums and charges related to the purchase of aluminium ingots.

The Commission compared Jingyi's actual primary aluminium costs to the competitive market benchmark price for each month of the accelerated review period. The variance between the actual reported costs and benchmark was then applied to the aluminium material costs reported in Jingyi's domestic CTMS. The adjustment was apportioned on the basis of the ratio of purchases of aluminium ingot reported in each month.

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

4.3.2 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 are to be established in accordance with section 44 of the Regulation.

Jingyi provided information on SG&A costs associated with the domestic sales of the goods subject to this accelerated review.

Consistent with the requirements of subsection 44(2) of the Regulation, the Commission is satisfied that Jingyi's records are in accordance with the generally accepted accounting principles in China, and that the records reasonably reflect the SG&A costs associated with the sale of like goods.

4.3.3 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 is to be 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 for the goods. The calculation of this profit margin was based on domestic sales of ARWs in the OCOT, the selling prices of which were compared to the company's domestic CTMS for those goods as reported in the company's response to the exporter questionnaire (prior to the adjustments made to the cost of primary aluminium discussed above).

The Commission did not observe any information in relation to Jingyi's domestic sales that indicated:

- there is any consideration payable for or in respect of the goods other than their price; or
- the price is 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.

4.3.4 Adjustments

The following adjustments to normal value were made to Jingyi's normal value under subsection 269TAC(9), in order to ensure normal values were comparable with export prices:

Adjustment	Impact on normal value	Reason for adjustment
Inland transport	Increase	To ensure normal values reflect an FOB level.
Export handling	Increase	As above

Table 1: Adjustments to Jingyi's normal values.

These adjustments were made based on weighted average costs as reported by Jiangsu Yaozhong Aluminium Wheels Co., Ltd (Jiangsu Yaozhong) in its export sales spreadsheet in REP 263. The Commission determined that these were the most appropriate costs to use as Jingyi did not incur any export costs during the accelerated

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review period, and because Jingyi is located within the same region in China as Jiangsu Yaozhong. Consequently the Commission expects similar costs to be incurred by Jingyi when it chooses to export its goods.

4.3.5 Conclusion – normal value

Details of normal value calculations are at **Confidential Appendix 2** and **Confidential Appendix 3**.

4.4 Dumping margin and fixed component of duty

As the Commission has determined that the ascertained export price is equal to the ascertained normal value, the dumping margin for the purpose of reviewing variable factors for this accelerated review and the fixed component for determining interim dumping duty is zero per cent.

4.5 Variable component of duty

A variable component of interim dumping duty will be applicable where the actual export price is below the ascertained export price.

5 COUNTERAVAILABLE SUBSIDIES

5.1 Findings

Pursuant to subsection 269TAAC(1), the Commissioner considers that Jingyi received a subsidy during the accelerated review period under one program that was deemed to be countervailable in REP 263 (Program 1).

However, in order to avoid any double count, the Commissioner considers that this subsidy should not be countervailed as it has already been factored into the calculation of the interim dumping duty. As a result, the subsidy margin has been calculated to be zero per cent.

5.2 Programs reviewed

In REP 263, the Commission found that 32 subsidies were countervailable in respect of ARWs exported to Australia from China. These are listed in the table below:

Program number	Program name (as specified in REP 263)
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 2: REP 263 Countervailable subsidy programs

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The Commission requested that Jingyi provide data and information relating to all subsidies it received during the accelerated review period as part of its Exporter Questionnaire response.

After assessing all relevant information and the data provided by Jingyi, as well as considering the findings made in REP 263, the Commission found that countervailable subsidies¹² have been received in respect of the goods manufactured by Jingyi under 'Program 1 – Aluminium provided by government at less than fair value'.

5.2.1 Program 1 – Aluminium provided by government at less than fair value

In Review 263, it was established that a countervailable subsidy program (Program 1) existed whereby the GOC exercises governmental authority on the production of primary aluminium in China. The Commission determined in Review 263 that this had caused suppressed and distorted prices in the market for primary aluminium in China. The benefit to exported ARWs was conferred by the provision of primary aluminium to ARW producers, by a government or public body, at an amount reflecting less than adequate remuneration, having regard to prevailing market conditions. The benefit conferred was calculated by comparing the difference in the prices for Chinese domestic purchases of primary aluminium and a benchmark, LME-based import price.

During this accelerated review, the Commission did not find any further information to depart from the finding in Review 263 on the existence of Program 1.

To determine if a benefit was conferred to Jingyi under Program 1, the Commission examined Jingyi's aluminium purchases to determine the quantity of purchases which had been sourced from a government or public body. Jingyi was unable to confirm to the Commission from where its purchases were ultimately sourced. The Commission reviewed aluminium purchase data from previous anti-dumping investigations and determined that Jingyi's single aluminium supplier has previously sourced its aluminium entirely from government-controlled entities. The Commission has therefore concluded that Jingyi has received a benefit on all of its primary aluminium purchases under this program.¹³

5.3 Amount of countervailable subsidy received

To determine the amount of countervailable subsidy received under Program 1, the Commission has compared the prices paid by Jingyi for its domestic purchases primary aluminium to the competitive, LME-based market benchmark price discussed in section 4.3.1 of this report. The net benefit received is considered to be the amount of countervailable subsidy received under Program 1.

The Commission, with reference to the data and information provided by Jingyi, has determined that the subsidy margin is expressed as a percentage of the ascertained export price.

However, when collecting the dumping duty and countervailing duty applicable to Jingyi's exports of ARWs, the Commission considers that, for the purposes of this review, this subsidy should not be countervailed because to do so would be double-counting for the

¹² Subsections 269(1) and 269T(2AA), and section 269TAAC.

¹³ Subsection 269TACC(1).

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benefit received. This is because, where the ascertained export price is equal to the ascertained normal value, the maximum amount of the countervailable subsidy is equal to the difference between the actual cost of primary aluminium and the replacement cost of primary aluminium used in constructing the normal value (when measured on a weighted average basis). This difference has already been incorporated in the constructed normal value.

Therefore, in order to avoid any double-count of dumping duty and countervailing duty, the subsidy margin applicable under Program 1 is zero per cent.

The subsidy margin applicable to Jingyi in the review period is zero per cent and therefore an interim countervailing duty rate of zero per cent shall apply as a result.

6 EFFECT OF THE ACCELERATED REVIEW

If the Parliamentary Secretary accepts the recommendations in this report, then with respect to ARWs exported by Jingyi to Australia from China:

- the *ad valorem* rate of fixed interim dumping duty will be set to zero per cent whilst the variable rate of interim dumping duty will be payable only when the actual export price is below the ascertained export price; and
- no interim countervailing duty will be payable for each consignment of the exported goods, reflecting a countervailing rate of zero per cent.

If the Parliamentary Secretary accepts the recommendations in this report, these changes will take effect retrospectively from 29 January 2016 (being the date that the application was lodged). The Commission notes that if the recommendations in this report are accepted by the Parliamentary Secretary, Jingyi will no longer be eligible to seek another accelerated review at a later date.

Furthermore, the outcome of this accelerated review is subject to any future review and/or changes to the notices for ARWs from China exported to Australia.

7 RECOMMENDATION

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

- in accordance with subsection 269ZG(3)(b), for the purposes of the Act and the Dumping Duty Act, and with effect from 29 January 2016, the dumping duty notice and the countervailing duty notice are taken to have effect or to have had effect, in relation to Jingyi, as if different variable factors had been fixed in respect of Jingyi relevant to the determination of duty.

The Commissioner recommends that the Parliamentary Secretary be satisfied that:

- in accordance with subsection 269TAB(3) of the Act, sufficient information is not available to enable export prices for certain ARWs exported to Australia from China by Jingyi the subject of this accelerated review to be ascertained under the preceding subsections of section 269TAB of the Act.
- in accordance with subsection 269TAC(2)(a)(ii), the normal value of ARWs exported to Australia from China by Jingyi 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 269TACD(1), countervailable subsidies have been received in respect of Jingyi's goods.

The Commissioner further recommends that the Parliamentary Secretary determine:

- in accordance with subsection 269TAB(3) of the Act, having regard to all relevant information, the export price for ARWs exported to Australia from China by Jingyi be the same amount as that determined to be the normal value, as set out in **Confidential Attachment 2**;
- in accordance with subsection 269TAC(2)(c) of the Act, the normal value for ARWs exported to Australia from China is the sum of Jingyi's:
 - cost of production of the goods in China as set out in section 4.3.1 of this report, and
 - on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in China, the administrative, selling and general costs associated with such a sale and the profit on that sale, as set out in sections 4.3.2 and 4.3.3 of this report respectively,

as adjusted in accordance with subsection 269TAC(9) (as set out in section 4.3.4 of this report), to ensure that the normal value so ascertained is properly comparable with the export price;

- in accordance with subsection 269TACD(1), the amount of countervailable subsidy received by Jingyi, expressed as a percentage of the ascertained export price, is zero per cent.

In ascertaining the interim duty payable, the Commissioner recommends that the Parliamentary Secretary determine:

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- that in accordance with subsection 8(5) of the Dumping Duty Act, the interim dumping duty payable is an amount which will be worked out in accordance with the combination of fixed and variable duty method pursuant to subsection 5(2) of the Anti-Dumping Regulation. This is consistent with the method used in the original dumping duty notice. The dumping duty payable comprises a fixed component that is zero, and a variable component that will be payable if the actual export price is below the ascertained export price which is a specified (confidential) amount per piece.

In ascertaining the interim countervailing duty payable, the Commissioner recommends that the Parliamentary Secretary direct:

- in accordance with subsection 10(3B) of the Dumping Duty Act, that the amount of interim countervailing duty payable on the goods the subject of the countervailing duty notice be ascertained as a proportion of the export price which is a specified (confidential) amount per piece. The rate of countervailing duty applying to Jingyi's exports of ARWs shall be zero per cent.

8 APPENDICES AND ATTACHMENTS

Non-Confidential Attachment 1	Section 269ZG(3) Notice
Confidential Attachment 2	Confidential tables
Confidential Appendix 1	Aluminium Benchmark
Confidential Appendix 2	Domestic CTMS
Confidential Appendix 3	Domestic Sales OCOT and Profit