INQUIRY CONCERNING THE CONTINUATION OF ANTI-DUMPING MEASURES APPLYING TO ALUMINIUM ROAD WHEELS EXPORTED FROM THE PEOPLE’S REPUBLIC OF CHINA
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REP 378 – Aluminium Road Wheels – China
### ABBREVIATIONS

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<tr>
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<th>Description</th>
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<tbody>
<tr>
<td>ABF</td>
<td>Australian Border Force</td>
</tr>
<tr>
<td>ABS</td>
<td>Australian Bureau of Statistics</td>
</tr>
<tr>
<td>ACCC</td>
<td>Australian Competition and Consumer Commission</td>
</tr>
<tr>
<td>the Act</td>
<td>Customs Act 1901</td>
</tr>
<tr>
<td>ADN</td>
<td>Anti-Dumping Notice</td>
</tr>
<tr>
<td>ADRP</td>
<td>Anti-Dumping Review Panel</td>
</tr>
<tr>
<td>Arrowcrest</td>
<td>Arrowcrest Group Pty Ltd (the applicant)</td>
</tr>
<tr>
<td>AME</td>
<td>AME Group</td>
</tr>
<tr>
<td>Chalco</td>
<td>Aluminium Corporation of China Limited</td>
</tr>
<tr>
<td>CITIC Dicastal</td>
<td>CITIC Dicastal Co., Ltd</td>
</tr>
<tr>
<td>the Commission</td>
<td>the Anti-Dumping Commission</td>
</tr>
<tr>
<td>the Commissioner</td>
<td>the Commissioner of the Anti-Dumping Commission</td>
</tr>
<tr>
<td>China</td>
<td>the People’s Republic of China</td>
</tr>
<tr>
<td>CIF</td>
<td>cost, insurance and freight</td>
</tr>
<tr>
<td>combination duty method</td>
<td>combination of fixed and variable duty method</td>
</tr>
<tr>
<td>CTMS</td>
<td>cost to make and sell</td>
</tr>
<tr>
<td>the Direction</td>
<td>Customs (Extensions of Time and Non-cooperation) Direction 2015</td>
</tr>
<tr>
<td>the Direction on Material Injury</td>
<td>the Ministerial Direction on Material Injury</td>
</tr>
<tr>
<td>Dragway</td>
<td>Dragway Performance Engineering Pty Ltd</td>
</tr>
<tr>
<td>the Dumping Duty Act</td>
<td>Customs Tariff (Anti-Dumping) Act 1975</td>
</tr>
<tr>
<td>the Dumping Duty Regulation</td>
<td>Customs Tariff (Anti-Dumping) Regulation 2013</td>
</tr>
<tr>
<td>EPR</td>
<td>electronic public record</td>
</tr>
<tr>
<td>EXW</td>
<td>ex-works</td>
</tr>
<tr>
<td>FOB</td>
<td>free on board</td>
</tr>
<tr>
<td>Ford</td>
<td>Ford Motor Company of Australia Limited</td>
</tr>
<tr>
<td>FY</td>
<td>financial year</td>
</tr>
<tr>
<td>GAAP</td>
<td>generally accepted accounting principles</td>
</tr>
<tr>
<td>GOC</td>
<td>Government of China</td>
</tr>
<tr>
<td>the goods</td>
<td>the goods the subject of current anti-dumping measures</td>
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<tr>
<td>the Guidelines</td>
<td>the Guidelines on the Application of Forms of Dumping Duty (dated November 2013)</td>
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<tr>
<td>Term</td>
<td>Description</td>
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<td>-------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
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<tr>
<td>the Restructuring Guidelines</td>
<td>the guidelines for Accelerating the Restructuring of the Aluminium Industry</td>
</tr>
<tr>
<td>Holden</td>
<td>GM Holden Ltd</td>
</tr>
<tr>
<td>HSV</td>
<td>Holden Special Vehicles</td>
</tr>
<tr>
<td>India</td>
<td>the Republic of India</td>
</tr>
<tr>
<td>the inquiry period</td>
<td>1 July 2015 to 30 June 2016</td>
</tr>
<tr>
<td>the International Regulation</td>
<td><em>Customs (International Obligations) Regulation 2015</em></td>
</tr>
<tr>
<td>Jiangsu Yaozhong</td>
<td>Jiangsu Yaozhong Aluminium Wheels Co., Ltd</td>
</tr>
<tr>
<td>Jinfei Kaida</td>
<td>Zhejiang Jinfei Kaida Co., Ltd.</td>
</tr>
<tr>
<td>Koya Corporation</td>
<td>Koya Corporation Pty Ltd</td>
</tr>
<tr>
<td>kt</td>
<td>kilotonne</td>
</tr>
<tr>
<td>LME</td>
<td>London Metal Exchange</td>
</tr>
<tr>
<td>the Manual</td>
<td><em>Dumping and Subsidy Manual</em> (dated April 2017)</td>
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<tr>
<td>MJP</td>
<td>Major Japanese Ports</td>
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<tr>
<td>NDRC</td>
<td>National Development and Reform Commission</td>
</tr>
<tr>
<td>NIP</td>
<td>non-injurious price</td>
</tr>
<tr>
<td>OCOT</td>
<td>ordinary course of trade</td>
</tr>
<tr>
<td>OE</td>
<td>original equipment</td>
</tr>
<tr>
<td>OEM</td>
<td>original equipment manufacturer</td>
</tr>
<tr>
<td>the Parliamentary Secretary</td>
<td>the Assistant Minister for Industry, Innovation and Science</td>
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<tr>
<td>PDW</td>
<td>Zhejiang Shuguang Industrial Co., Ltd</td>
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<tr>
<td>Pilotdoer</td>
<td>Pilotdoer Wheel Co., Ltd</td>
</tr>
<tr>
<td>PPAP</td>
<td>production part approval process</td>
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<tr>
<td>REP 181</td>
<td><em>International Trade Remedies Report No. 181</em>, or the original investigation</td>
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<td>REP 263</td>
<td>the review of the anti-dumping measures applying to aluminium road wheels, set out in <em>Anti-Dumping Commission Report No. 263</em></td>
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<td>REP 340</td>
<td><em>Anti-Dumping Commission Report No. 340</em></td>
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<tr>
<td>SBMR</td>
<td>State Bureau of Material Reserve</td>
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<tr>
<td>SEF</td>
<td>statement of essential facts</td>
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<tr>
<td>SEF 378</td>
<td><em>Statement of Essential Facts No. 378</em></td>
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<tr>
<td>SG&amp;A</td>
<td>selling, general and administrative</td>
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<tr>
<td>SHFE</td>
<td>Shanghai Futures Exchange</td>
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<tr>
<td>SIE</td>
<td>state invested enterprise</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Description</td>
</tr>
<tr>
<td>--------------</td>
<td>-------------</td>
</tr>
<tr>
<td>SOE</td>
<td>state owned enterprise</td>
</tr>
<tr>
<td>Speedy</td>
<td>Speedy Corporation Pty Ltd</td>
</tr>
<tr>
<td>State Council</td>
<td>State Council of China</td>
</tr>
<tr>
<td>Thailand</td>
<td>the Kingdom of Thailand</td>
</tr>
<tr>
<td>Toyota</td>
<td>Toyota Motor Corporation Australia Ltd</td>
</tr>
<tr>
<td>USD</td>
<td>United States dollar</td>
</tr>
<tr>
<td>USP</td>
<td>unsuppressed selling price</td>
</tr>
<tr>
<td>VAT</td>
<td>value-added tax</td>
</tr>
<tr>
<td>WTO</td>
<td>World Trade Organization</td>
</tr>
<tr>
<td>Zhejiang Yueling</td>
<td>Zhejiang Yueling Co., Ltd</td>
</tr>
</tbody>
</table>
1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This report relates to a continuation inquiry by the Anti-Dumping Commission (the Commission) concerning the anti-dumping measures applying to aluminium road wheels exported to Australia from the People’s Republic of China (China). An application was made under subsection 269ZHB(1) of the Customs Act 1901 (the Act) by Arrowcrest Group Pty Ltd (Arrowcrest, or the applicant) for the continuation of the measures.

This report sets out the findings and conclusions on which the Commissioner of the Anti-Dumping Commission (the Commissioner) has based his recommendations to the Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary) in relation to this application.

The anti-dumping measures applicable to exports of aluminium road wheels to Australia from China are due to expire on 4 July 2017.

1.2 Legislative framework

Division 6A of Part XVB of the Act requires the Commissioner to publish a notice informing persons of the impending expiry of anti-dumping measures and providing an opportunity, before those measures expire, to apply for a continuation of the measures.

Division 6A of Part XVB of the Act:

- sets out the consequences if no application is made;
- outlines the procedures to be followed by the Commissioner in dealing with an application and preparing a report for the Parliamentary Secretary; and
- empowers the Parliamentary Secretary, after consideration of that report, either to decide that the measures will expire or to take steps to ensure the continuation of the measures.

Pursuant to subsection 269ZHF(2), the Commissioner must not recommend that the Parliamentary Secretary take steps to secure the continuation of the anti-dumping measures unless he is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent.

1.3 Findings and conclusions

The Commissioner has made the following findings and conclusions:

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1 All legislative references in this report are to the Customs Act 1901, unless otherwise stated.

2 On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of this inquiry, the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

3 Further detail regarding the anti-dumping measures is outlined in Chapter 2 of this report.
• locally produced aluminium road wheels are like to the goods the subject of current anti-dumping measures (the goods) (Chapter 3 refers);
• there remains an Australian industry producing like goods, comprising Arrowcrest and Dragway Performance Engineering Pty Ltd (Dragway) (Chapter 4 refers);
• the Australian market for aluminium road wheels is supplied by the Australian industry and imports, primarily from China, Taiwan and the Kingdom of Thailand (Thailand) (Chapter 5 refers);
• aluminium road wheels have been exported to Australia from China at dumped prices during the inquiry period (1 July 2015 to 30 June 2016) (Chapter 7 refers);
• aluminium road wheels have been exported to Australia from China at subsidised prices during the inquiry period (Chapter 8 refers);
• the expiration of the measures in relation to goods exported to Australia by CITIC Dicastal Co., Ltd (CITIC Dicastal) is not likely to lead to a continuation of, or a recurrence of, the material injury that the anti-dumping measures are intended to prevent (Chapter 9 refers);
• however, the expiration of the measures in relation to goods exported by all other exporters from China would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping, subsidisation and material injury that the anti-dumping measures are intended to prevent (Chapter 9 refers); and
• subsections 8(5BAAA) and 10(3DA) of the Customs Tariff (Anti-Dumping) Act 1975 (Dumping Duty Act) apply, meaning it is no longer mandatory for the Parliamentary Secretary to have regard to the lesser duty rule for the purposes of continuing the anti-dumping measures (Chapter 11 refers).4

1.4 Recommendations

Based on the above findings, the Commissioner recommends to the Parliamentary Secretary:

• that he take steps to secure the continuation of the anti-dumping measures applicable to aluminium road wheels exported to Australia from China (with the exception of those relating to CITIC Dicastal);
• that the dumping duty notice cease to apply to CITIC Dicastal;
• in continuing the anti-dumping measures, that the variable factors5 of export price, normal value, amount of countervailable subsidies received and non-injurious price (NIP) be altered;
• in continuing the anti-dumping measures, interim dumping duty be calculated based on the combination of fixed and variable duty method (the combination duty method) and interim countervailing duty be calculated as a proportion of the export price; and

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4 Subsections 8(5BA) and 10(3D) of the Dumping Duty Act require the Parliamentary Secretary, in determining the interim dumping and countervailing duty payable, to have regard to the ‘lesser duty rule’, which requires consideration of the desirability of fixing a lesser amount of duty that does not exceed the non-injurious price. There are some exceptions to this requirement.

5 Subsection 269T(4D) refers.
that the full dumping and subsidy margins determined in this inquiry be applied to any interim dumping duty and interim countervailing duty taken in relation to aluminium road wheels exported to Australia from China.\(^6\)

If the Parliamentary Secretary exercises his discretion not to have regard to the lesser duty rule, the NIP will have no future application.

\(^6\) It is noted that the Parliamentary Secretary is not obliged to, but still may, consider applying a lesser amount of duty in accordance with the lesser duty rule.
2 BACKGROUND

2.1 The continuation inquiry process

Dumping duty notices and countervailing duty notices (that have not been earlier revoked) expire five years after the date on which they were published, unless the Parliamentary Secretary decides to secure their continuation.

Not later than nine months before particular anti-dumping measures expire, the Commissioner must publish a notice informing persons that anti-dumping measures are due to expire on a specified day and to invite certain interested parties to apply, within 60 days, for a continuation of the anti-dumping measures.\(^7\) If no application for a continuation is received by the Commission, within the period allowed, the anti-dumping measures expire on the specified expiry date.\(^8\)

If an application for continuation of anti-dumping measures is received, and not rejected, the Commissioner has up to 155 days, or such longer period as the Parliamentary Secretary allows, to inquire and report to the Parliamentary Secretary on whether a continuation of the anti-dumping measures is justified. Within 110 days of the initiation notice, or such longer period as the Parliamentary Secretary allows, the Commissioner must place on the public record a statement of essential facts (SEF) on which he proposes to base his recommendation to the Parliamentary Secretary.\(^9\)

Before recommending a continuation of the anti-dumping measures, the Commissioner must be satisfied that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measures are intended to prevent.

Where the Parliamentary Secretary decides to secure the continuation of anti-dumping measures, the dumping duty notice and/or countervailing duty notice will remain in force after the specified date for a further period of five years (unless the relevant notices are revoked before the end of that period).

In making a recommendation in the final report to the Parliamentary Secretary, the Commissioner must have regard to:\(^10\)

- the application for continuation of the anti-dumping measures;
- any submission relating generally to the continuation of the anti-dumping measures to which the Commissioner has had regard for the purpose of formulating the SEF;
- the SEF; and
- any submission made in response to the SEF that is received by the Commission within 20 days of the SEF being placed on the public record.

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\(^7\) Subsection 269ZHB(1)(a) refers.
\(^8\) Subsection 269ZHB(3) refers.
\(^9\) Subsection 269ZHE(1) refers.
\(^10\) Subsection 269ZHF(3)(a) refers.
The Commissioner may also have regard to any other matter that he considers to be relevant to the inquiry.\(^{11}\)

Following the Parliamentary Secretary’s decision, a notice will be published advising interested parties if he has decided to secure the continuation of the anti-dumping measures concerned.\(^{12}\)

The SEF was originally due to be placed on the public record by 14 February 2017; however, the Commissioner granted an extension to this date (and the due date of the final report), as outlined in Anti-Dumping Notice (ADN) No. 2017/12.\(^{13}\) The SEF was published on the public record on 15 March 2017.\(^{14}\)

The final report was originally due to be provided to the Parliamentary Secretary by 31 March 2017; however, the Commissioner granted a further extension to this date, as outlined in ADN No. 2017/56. The Commissioner is now required to make his recommendation in a report due no later than 19 May 2017.

### 2.2 History of anti-dumping measures

#### 2.2.1 Original investigation

On 26 September 2011, Arrowcrest, representing the Australian industry, lodged an application alleging that dumped and subsidised aluminium road wheels exported from China had caused it material injury. The dumping and subsidy investigation subsequently undertaken, as outlined in *International Trade Remedies Report No. 181* (REP 181, or the original investigation) resulted in the following outcomes:

- with the exception of Zhejiang Shuguang Industrial Co., Ltd (PDW),\(^{15}\) a dumping duty notice was published in respect of the goods, with dumping margins ranging between 5.6 and 29.3 per cent; and
- with the exception of PDW and CITIC Dicastal Wheel Manufacturing Co., Ltd,\(^{16}\) a countervailing duty notice was published in respect of the goods, with subsidy margins ranging between 2.8 and 58.8 per cent.\(^{17}\)

Following a review by the then Trade Measures Review Officer, a reinvestigation was conducted into certain findings made in REP 181. The then Minister for Home Affairs accepted the recommendations in *International Trade Remedies Report No. 204* and

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\(^{11}\) Subsection 269ZHF(3)(b) refers.

\(^{12}\) Subsection 269ZHG(1) refers.

\(^{13}\) On 14 January 2017, the Parliamentary Secretary delegated the powers and functions of the Minister under section 269ZHI of the Act to the Commissioner (ADN No. 2017/10 refers).

\(^{14}\) Electronic public record (EPR) 378/021 refers.

\(^{15}\) The dumping investigation, as it related to this exporter, was terminated in accordance with section 269TDA on 8 June 2012, on the basis the dumping margin was negligible.

\(^{16}\) The countervailing investigation, as it related to these exporters, was terminated in accordance with section 269TDA on 8 June 2012, on the basis that the subsidy margins for both were negligible.

\(^{17}\) ADN No. 2012/33 (dated 5 July 2012) refers.
published a new notice under section 269ZZM, which revised the level of the anti-dumping measures for one exporter, YHI Manufacturing Co. Ltd.\(^{18}\)

### 2.2.2 Review of measures

On 4 August 2014, Jiangsu Yaozhong Aluminium Wheels Co. Ltd (Jiangsu Yaozhong) applied for a review of the anti-dumping measures as they applied to its exports of the goods to Australia from China. The company applied for a review on the basis that certain variable factors in respect of the goods had changed. The application was not rejected and the review was extended to include all Chinese exporters of the goods subject to the anti-dumping measures. *Anti-Dumping Commission Report No. 263* (REP 263) found that the variable factors in relation to all exporters subject to the anti-dumping measures had changed. Dumping margins ranged from 8.4 per cent to 40.3 per cent (with the exception of Jiangsu Yaozhong). Subsidy margins ranged from 2.2 to 57.6 per cent.\(^{19}\)

Following a review by the Anti-Dumping Review Panel (ADRP), a reinvestigation was conducted into certain findings made in REP 263.\(^{20}\) As a result, the dumping and subsidy margins were subsequently revised in respect of Pilotdoer Wheels Co. Ltd (Pilotdoer) (2.7 per cent for dumping) and Zhejiang Yueling Co., Ltd (Zhejiang Yueling) (8.3 per cent for dumping and 3.0 per cent for subsidies).

### 2.2.3 Other cases

A further history of the accelerated reviews undertaken in relation to aluminium road wheels exported to Australia from China is summarised in the following table:

<table>
<thead>
<tr>
<th>Case no.</th>
<th>ADN No.</th>
<th>Date</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accelerated Review No. 257</td>
<td>2014/105</td>
<td>17/11/2014</td>
<td>The dumping duty notice as it affected the applicant, Shandong Hengyu Auto Parts Co. Ltd., remained unchanged. However, the Parliamentary Secretary declared that, with effect from 17 November 2014, the countervailing duty notice applied to the applicant as if different variable factors had been fixed.</td>
</tr>
<tr>
<td>Accelerated Review No. 280</td>
<td>2015/21</td>
<td>3/3/2015</td>
<td>As the applicant, INOVIT (Suqian) Corp Ltd., failed to provide a complete response to the exporter questionnaire within an adequate timeframe, the accelerated review was terminated in accordance with subsection 269ZE(3)(a).</td>
</tr>
<tr>
<td>Accelerated Review No. 292</td>
<td>2015/94</td>
<td>30/7/2015</td>
<td>The applicant, Changzhou Science and Technology Co. Ltd, withdrew its application and the accelerated review ceased.</td>
</tr>
<tr>
<td>Accelerated Review No. 321</td>
<td>2016/03</td>
<td>13/1/2016</td>
<td>The applicant, Changzhou Science and Technology Co. Ltd, withdrew its application and the accelerated review ceased.</td>
</tr>
<tr>
<td>Accelerated Review No. 336</td>
<td>2016/49</td>
<td>27/5/2016</td>
<td>Having considered <em>Anti-Dumping Commission Report No. 336</em>, the Parliamentary Secretary declared that, with effect from 29 January 2016, anti-dumping measures applied to the applicant, Danyang Jingyi Aluminum Industry Co., Ltd, as if different variable factors had been fixed.</td>
</tr>
</tbody>
</table>

\(^{18}\) ADN No. 2013/34 (dated 8 May 2013) refers.

\(^{19}\) ADN No. 2015/113 (dated 22 October 2015) refers.

The following table summarises the anti-dumping measures currently applying to aluminium road wheels exported to Australia from China:

<table>
<thead>
<tr>
<th>Exporter</th>
<th>Duty applicable</th>
<th>Form of IDD</th>
<th>Combined fixed component of ICD and IDD</th>
</tr>
</thead>
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</tr>
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</tr>
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<td>Zhejiang Yueling</td>
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<td>Jiangsu Yaozhong</td>
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<td>Combination duty method</td>
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<td>IDD and ICD</td>
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<td>50.9%</td>
</tr>
</tbody>
</table>

Figure 2 – current anti-dumping measures

2.3 Notification and participation in the inquiry

The anti-dumping measures applying to aluminium road wheels exported to Australia from China are due to expire on 4 July 2017.

On 8 August 2016, a notice was published on the Commission’s website, in accordance with subsection 269ZHB(1) of the Act, inviting certain persons to apply to the Commissioner for a continuation of anti-dumping measures applying to aluminium road wheels exported to Australia from China.21

On 29 September 2016, an Australian manufacturer of aluminium road wheels, Arrowcrest, lodged an application for the continuation of anti-dumping measures. Following consideration of that application, the application was not rejected and a public notice was published on 27 October 2016 (ADN No. 2016/109 refers), which is available at www.adcommission.gov.au. Background to initiation of this inquiry is also contained in that notice.

2.3.1 Australian Industry

The Commission requested that Arrowcrest provide domestic sales and cost to make and sell (CTMS) data for the period covering the end of the original investigation period (1 July 2011) to the end of the inquiry period (30 June 2016). Representatives from the Commission verified this data at Arrowcrest’s premises in December 2016. A report of this visit is available on the public record.22

The remaining industry member, Dragway, was not visited as part of this inquiry, as its volumes were considered to be minor relative to Arrowcrest. While the Commission made several attempts to contact Dragway prior to publication of the SEF, it has received no response.

21 ADN No. 2016/75 refers.
22 EPR 378/017 refers.
2.3.2 Importers

Prior to initiation of this inquiry, the Commission examined the Australian Border Force (ABF) import database and identified over 50 potential importers of aluminium road wheels from China.

The Commission sought cooperation from the three largest importers (by volume) through the completion of an importer questionnaire, which was uploaded onto the case page on the Commission’s website. These importers collectively represented 68 per cent of the total volume imported during the inquiry period (measured by statistical quantity reported in pieces). None of these importers elected to complete an importer questionnaire for the purpose of this inquiry. No other importers have completed the importer questionnaire, or otherwise provided the Commission with any relevant data for the purpose of this inquiry.

2.3.3 Exporters

Subsection 269TACAA(1) states that, where the number of exporters from a particular country of export in relation to an investigation, review or inquiry is so large that it is not practicable to examine the exports of all of those exporters, then the investigation, review or inquiry may be carried out, and findings may be made, on the basis of information obtained from an examination of a selected number of those exporters:

- that constitute a statistically valid sample of those exporters; or
- are responsible for the largest volume of exports to Australia that can reasonably be examined.

Prior to initiation of the inquiry, the Commission identified over 50 potential suppliers of aluminium road wheels during the inquiry period in the ABF import database. Given the large number of exporters, the Commissioner considered that it was not practical to examine the exports of all those exporters. As outlined in ADN No. 2016/109, the Commissioner therefore proposed to make findings based on the information obtained from an examination of a selected number of exporters.

2.3.3.1 Selected exporters

The Commissioner has selected the following exporters to sample for the purpose of this continuation:

- CITIC Dicastal;
- Zhejiang Jinfei Kaida Co., Ltd. (Jinfei Kaida); and
- Zhejiang Yueling.

According to data obtained from the ABF import database, the selected exporters represent close to 90 per cent of the total volume (measured by statistical quantity reported in pieces) of aluminium road wheels exported during the inquiry period by those exporters that are subject to measures.

Following initiation of this inquiry, an exporter questionnaire was uploaded onto the case page on the Commission’s website, and the selected exporters were contacted and invited to participate in this inquiry. The Commission received a complete response to the questionnaire from all three selected exporters.

Representatives from the Commission visited Jinfei Kaida and CITIC Dicastal in January 2017 to verify the data that each exporter had submitted in its response to the
exporter questionnaire, and to identify and verify any other information relevant to this inquiry. The Commission also completed a desktop verification of the data submitted by Zhejiang Yueling.

2.3.3.2 Residual exporters

Exporters of the goods, other than the three selected exporters named above, were requested to make themselves known to the Commission and provide a basic level of information, via an information request.

Following initiation of the inquiry, an information request and the associated spreadsheets were uploaded onto the case page of the Commission’s website, and known exporters of the goods were contacted and invited to participate in this continuation inquiry. The Commission received a response to the information request from thirteen entities.23

The Act does not provide a definition of ‘exporter’, but the Commission’s Dumping and Subsidy Manual (dated April 2017) (the Manual) identifies an ‘exporter’ as being:

- a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or
- a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.24

The Commission received one response to the request for information from an entity that identified itself as an intermediary (i.e. trader) in the exportation of aluminium road wheels to Australia. The Commission considers that this entity does not satisfy the definition of an exporter set out in the Manual, and therefore is not a residual exporter for the purpose of this inquiry.

As a result, the residual exporters for the purpose of this inquiry are as follows:

- Dare Wheel Manufacturing Co. Ltd.;
- Fujian Shenlika Aluminium Industry Development Co., Ltd;
- Ningbo Motor Industrial Co., Ltd;
- Shanghai MingQi Aluminium Industry Co., Ltd.;
- Sumec Wheels Co., Ltd;
- Zhejiang Autom Aluminum Wheel Co., Ltd;
- Zhejiang BaoChi Industry & Trade Co., Ltd.;
- Zhejiang Baokang Wheel Manufacture Co., Ltd;
- Zhejiang Jujiu Hub Co., Ltd;
- Zhejiang Lioho Light Metal Machinery Co., Ltd;
- Zhejiang Tailong Technology Co., Ltd; and
- Zhejiang Xinghui Aluminium Wheels Co., Ltd.25

23 EPR 378/008 refers.
24 Page 29 refers.
25 The Commission’s treatment of all other exporters is discussed further in Chapter 7.
2.3.4 Government of China

Following initiation of this inquiry, the Commission invited the Government of China (GOC) to participate in the continuation by completing a government questionnaire. The Commission did not receive a response to this questionnaire.

2.4 Statement of essential facts

On 15 March 2017, the Commissioner placed on the public record Statement of Essential Facts No. 378 (SEF 378), setting out the findings on which the Commissioner proposed to base his recommendation to the Parliamentary Secretary concerning the continuation of the anti-dumping measures.

Interested parties were invited to make submissions to the Commissioner in response to SEF 378 by 4 April 2017 (20 days after the SEF was placed on the public record).

2.5 Submissions received from interested parties

The Commission has received various submissions from interested parties during the course of the inquiry. Each submission has been considered by the Commission in preparing this report, including those received after 4 April 2017, as to do so has not delayed the completion of this report.

The submissions received are listed in Appendix A to this report.

2.5.1 Submission regarding initiation of inquiry

The Commission notes that it has received a submission on behalf of an importer, Speedy Corporation Pty Ltd (Speedy), claiming that the inquiry should be terminated because the application from Arrowcrest failed to comply with the statutory requirements for initiation. Speedy submits that the application contained nothing about the occurrence or recurrence of material injury if the measures were allowed to expire (including no evidence). In light of this, it is alleged that interested parties were unable to defend their interests and that natural justice had been denied.26

The Commission notes the Commissioner's finding in ADN No. 2016/109 that:

> [h]aving regard to Arrowcrest’s claims and other relevant information, and having examined the application, I am satisfied that, in accordance with subsection 269ZHD(2)(b), there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.27

The Commission notes that this finding was made on the basis of both confidential and non-confidential information.

The Commission does not agree that interested parties have been unable to defend their interests in this inquiry. Interested parties have had the opportunity to make submissions, as provided for under the Act, since the inquiry began. The Commission also notes that, subsequent to the submission made on behalf of Speedy, SEF 378 was published and

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26 EPR 378/003 refers.

27 EPR 378/001 refers.
provided further opportunities for interested parties to make submissions if they wished to do so.
3 THE GOODS AND LIKE GOODS

3.1 Finding

The Australian industry produces aluminium road wheels that have characteristics closely resembling the aluminium road wheels produced in China and exported to Australia. Therefore, the Commissioner considers that aluminium road wheels manufactured by the Australian industry are like goods, as defined in subsection 269T(1) of the Act.

3.2 The goods

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 or without tyres.

The goods do not include aluminium wheels for go-carts and all-terrain vehicles.

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

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

3.2.1 Semi-finished and forged aluminium road wheels

Koya Corporation Pty Ltd (Koya Corporation) has requested that the Commission reconsider ‘... including Semi-finished and forged aluminium road wheels under [the] notice and new measures’. In particular, Koya Corporation submitted that:

- by engaging in ‘custom drilling’ of blank alloy wheels, it operates a different business model to local manufacturers;
- that it plans to become the first Australian manufacturer of ‘fully forged’ alloy wheels, which the company considers to be a niche market; and
- that the inclusion of ‘semi-finished’ and forged aluminium road wheels ‘as subjects for [the] continuation of measures’ will have a big impact on its business plan.

In relation to Koya Corporation’s claims regarding ‘semi-finished’ aluminium road wheels, the Commission agrees with the submission made by Arrowcrest, which observes that all unfinished aluminium road wheels are drilled by manufacturers to suit the intended vehicle.

In relation to the claim made regarding forged wheels, the Commission considers that it is not clear whether the reference to ‘fully forged’ wheels was intended to suggest that the entire forging process would be undertaken by Koya Corporation in Australia. By

28 EPR 378/007, page 2 refers.
29 EPR 378/009, page 1.
definition, the measures applying to aluminium road wheels imported from China would not apply to forged wheels that are wholly manufactured in Australia.

The Commission is therefore uncertain how the inclusion of semi-finished and forged aluminium road wheels in the goods description has an impact on Koya Corporation’s plans. Notwithstanding this, the Commission considers that forged aluminium road wheels are put to the same end use, and compete in the same market, as other aluminium road wheels.

3.3 Like goods

The issue of like goods was considered during the original investigation (in REP 181) and the review of measures (in REP 263). In both cases, the then Australian Customs and Border Protection Service and the Commission, respectively, were satisfied that there was an Australian industry producing like goods to the goods under consideration. No evidence has been presented to the Commission that would cause it to reach an alternative conclusion in this inquiry.

In light of the above, the Commission is satisfied that the aluminium road wheels produced by the Australian industry are like to the imported goods, as defined in subsection 269T(1) of the Act.
4 THE AUSTRALIAN INDUSTRY

4.1 Finding

The Commissioner is satisfied that there are like goods wholly manufactured in Australia, and that there is an Australian industry consisting of two aluminium road wheel manufacturers.

4.2 Australian industry

Arrowcrest is the largest manufacturer of aluminium road wheels in Australia, producing aluminium road wheels for both original equipment manufacturers (OEM) and aftermarket customers.

The application also identified a second manufacturer of aluminium road wheels supplying aftermarket customers, Dragway. Arrowcrest estimates that Dragway accounts for approximately five to ten per cent of local production.

The Commission has undertaken further desktop research and remains satisfied that the Australian industry consists of Arrowcrest and Dragway.

4.3 Production process

During the Australian industry verification visit, representatives from the Commission undertook a tour of Arrowcrest’s casting line and observed the company manufacturing aluminium road wheels as follows:

- pure aluminium ingot is purchased and melted on site. Alloying materials are then added;
- the molten alloy is cleaned (fluxed) and degassed. Each batch of aluminium alloy is subjected to spectrometry testing to ascertain its metallurgy;
- the stream of molten alloy aluminium is laundered into a holding pot located underneath each low pressure die-casting machine, where it is kept molten;
- die-casting in low pressure dies occurs to form the ‘as-cast’ wheel;
- wheels are hand fettled to remove any unwanted cosmetic marks from the die-casting process;
- the sprue is removed in a robot drilling cell, which is then sold as scrap as it contains steel (from the filter) and cannot be recycled back into the molten aluminium;
- the ‘as-cast’ wheels are loaded onto heat treatment trolleys and heat treated to achieve a specific mechanical hardness;
- each wheel is then machined in a robot cell. This process includes nine operations, including leak and wheel balance testing;
- wheels are then loaded onto a paint line for cleaning and surface treatment;
- robots apply powder coat primer paint, then colour coating and a final clear coating. Each coat is baked before moving onto the next stage;

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30 Section 2.3.1 refers.
31 Alternatively, aluminium road wheels can be manufactured using a ‘pre-alloy’ ingot, commonly A356 or A356.2.
an additional step may be included for re-machining a painted wheel, followed by washing and clear-coat painting to create a bright machined finish on the front face of the wheel; and each wheel is manually inspected following painting.

The Commission notes that aluminium road wheels, whether manufactured for OEM or aftermarket customers, follow the same general manufacturing process.
5 AUSTRALIAN MARKET

5.1 Finding

The Commissioner has found that the Australian market for aluminium road wheels is supplied by the Australian industry and imports, primarily from China, Taiwan and Thailand.

5.2 Introduction

Aluminium road wheels are used in passenger motor vehicles, including four-wheel drives, caravans and trailers.

Based on the Commission’s understanding of the market, and information provided in the original investigation, the Commission considers there are two distinct market segments for aluminium road wheels, being:

- the OEM segment; and
- the aftermarket segment.

This chapter provides an overall view of the market, a more detailed description of the two market segments, and an estimation of the market size.

5.3 Market structure

In almost all cases, the ultimate consumer of aluminium road wheels is the owner or purchaser of a vehicle. Accordingly, sales of aluminium road wheels by the Australian industry and by exporters are largely aligned to the existing supply chains that promote and support vehicle ownership. This market is characterised by the sale of new and used vehicles, as well as associated maintenance (i.e. the replacement of damaged wheels) and discretionary purchases.

The Commission understands that a consumer’s purchasing decision can occur at different times in the life of the vehicle (for example, some consumers will purchase aluminium road wheels on a particular vehicle model, whereas others might upgrade the wheels separately at a later time). The Commission also understands that a range of factors (such as cost, whether the parts are ‘genuine’, aesthetic appeal, technical suitability for the vehicle etc.) will influence the consumer’s decision.

The Commission considers that producers of aluminium road wheels therefore have a number of potential channels to market, including:

- direct to the consumer;
- sales to OEMs; and
- sales to aftermarket retailers.

32 Different models will have a ‘trim level’ or ‘trim package’ (sometimes called an appearance package), which refers to a set of cosmetic (mostly non-functional) embellishments to a vehicle.

33 Authorised and guaranteed by the OEM.
Exporters may also sell to wholesalers (which then sell the goods to aftermarket retailers), or an importer may itself sell directly to consumers.

Submission regarding description of the market structure in SEF 378

In response to the market structure described in SEF 378, CITIC Dicastal has submitted that:

- the ultimate consumer of an original equipment (OE) aluminium road wheel is the new vehicle manufacturer that has designed the wheel and contracted the wheel manufacturer to test and produce the wheel, not the owner or purchaser of the new vehicle;
- the OEM segment is not characterised by the sale of used cars and discretionary purchases;
- the consumer’s purchasing decision regarding an OE aluminium road wheel is made when the consumer makes the decision to purchase a particular model new vehicle. In most cases, the aluminium road wheels will have very little or no influence on the consumer’s decision on what particular model new vehicle to purchase (compared to the aftermarket segment where the consumer is making a conscious decision to purchase a particular style of aluminium road wheel as a discretionary purchase); and
- in the case of CITIC Dicastal, there is only one channel to market, being to the OEM. CITIC Dicastal does not sell to wholesalers.\(^{34}\)

The Commission has considered the matters raised in CITIC Dicastal’s submission and notes the following:

- the comments made in Section 5.3 above are intended to be general introductory comments that describe the overall market in broad terms – that is, both the OEM and aftermarket segments in combination. The Commission does not intend to suggest (for example) that the OEM segment is characterised by the sale of used cars, or that CITIC Dicastal is selling to wholesalers.\(^{35}\) Further discussion in relation to the OEM and aftermarket segments, more specifically, is contained in Sections 5.3.1 and 5.3.2 below;
- in regards the OEM segment, the Commission acknowledges that the ultimate consumer, from a manufacturing perspective, is the OEM. However, in reiterating that these are general introductory comments only, the Commission remains of the view that the ultimate consumer (or user) of an OE aluminium road wheel is the purchaser of a new vehicle, with the design and development of that vehicle by the OEM being targeted at that purchaser; and
- it was not the Commission’s intention to suggest that aluminium road wheels were driving purchasing decisions of new vehicles. However, the Commission has observed that different vehicle models are characterised by a certain ‘trim level’ or ‘trim package’. The Commission is of the view that it is reasonable to find that trim packages (which include, but are not limited to, differing road wheels) can influence in general terms the purchasing decision of a consumer.

\(^{34}\) EPR 378/024 refers.

\(^{35}\) This is confirmed by Figure 3 in SEF 378.
5.3.1 OEM segment

During the inquiry period, the OEM segment comprised:

- aluminium road wheels placed on vehicles manufactured in Australia by Ford Motor Company of Australia Limited (Ford), Toyota Motor Corporation Australia Ltd (Toyota) and GM Holden Ltd (Holden); and
- aluminium road wheels used to modify high performance vehicles prior to sale, such as those sold under the Holden Special Vehicles (HSV) and Ford Performance Vehicles brands.\(^{36}\)

As outlined in Figure 3 below, Arrowcrest supplies OE aluminium road wheels to Toyota. All other aluminium road wheels used by the OEM segment are supplied by exports from China.

![Figure 3 – channels to market for OE aluminium road wheels](image)

The Commission understands that all aluminium road wheels used by the OEM segment are designed and tested by the OEM as part of the entire vehicle. Most vehicle models have a production life-cycle of five years, which will include a 'mid-cycle update' to alter various cosmetic features. All parts must go through a production part approval process (PPAP), which can take between 18 months to two years to complete. Any specifications, testing and intellectual property of the vehicle components will be owned by the motor vehicle producer (or modifier).\(^ {37}\)

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\(^{36}\) The original investigation considered that sales to HSV formed part of the OEM segment because the vehicle was not available for purchase between Holden’s manufacturing of the vehicle, HSV carrying out modifications (including fitment of the wheels) and the return to Holden for sale through its retail network (EPR 181/181, pages 29-30 refer).

\(^{37}\) OE aluminium road wheels sold as spare/replacement parts have been defined as being in the aftermarket for the purpose of this analysis, notwithstanding that spare/replacement wheels are sometimes supplied to the OEM along with those wheels that are used to produce motor vehicles.
As a result, supply into OEM vehicle supply chains is generally characterised by stable, medium to long term arrangements. It is usual for these contracts to be awarded up to two years prior to the production phase of a new model vehicle, and sources of supply are not readily changed in these circumstances.

It follows that demand for aluminium road wheels supplied to the OEM segment is driven by the number of vehicles manufactured in Australia. In this regard, the Commission notes that the industry is going through a period of significant change, with all three Australian producers citing the high cost of manufacturing, a highly competitive and fragmented domestic market and changing consumer preferences as reasons why they will no longer manufacture motor vehicles in Australia.38

Ford ceased manufacturing on 7 October 2016, with Toyota and Holden operations also expected to close by 3 and 20 October 2017 respectively. In light of this, future demand for aluminium road wheels in the OEM segment will be significantly reduced, although it is likely that the relevant performance brands will continue to undertake modifications in Australia using imported ‘core’ vehicles.

5.3.2 The aftermarket

In the Commission’s view, the aftermarket segment encapsulates any aluminium road wheel that is not placed on a new vehicle manufactured in Australia, or is not used to modify a new high performance vehicle in Australia prior to its sale. Broadly, this covers aluminium road wheels used on caravans and trailers, as well as spare parts and accessories for passenger motor vehicles.

As such, as outlined in Figure 4, the aftermarket comprises aluminium road wheels sold to the consumer through wheel importers, wholesalers, retailers, and manufacturers of trailers and caravans. This segment also includes OE spare parts39 and OE ‘aftersales’, being sales of aluminium road wheels made through vehicle retailers and their customer service divisions. This is consistent with the original investigation.

38 Department of Industry, Innovation and Science website refers.

39 For both locally made and imported vehicles.
OE spare parts and aftersales for vehicles manufactured in Australia are manufactured and supplied in accordance with the arrangements described for the OEM segment, but are made available for purchase by consumers via the OEM dealership network. The Commission understands that OE spare parts and aftersales for imported vehicles are also made available to consumers via the vehicle retailer's dealership network, and are supplied almost entirely from imports through global corporate structures.

Aluminium road wheels sold into the aftermarket segment (with the exception of OE spares and aftersales) are typically designed by the wheel manufacturer. These wheels can usually be fitted to a variety of makes and models depending on the configuration of nuts on the wheel, the physical dimensions/specifications of the wheel (i.e. diameter, width, weight capacity) and their suitability for the relevant vehicle.

Given the potentially wide array of aluminium road wheels that can be offered, major aftermarket retailers establish ‘preferred supplier’ arrangements to secure a range of ‘approved products’ that each retailer can be satisfied with in terms of quality, and that the retailer can then trade on a national basis via its dealers. Having this system in place minimises choice for dealers and potentially consumers, simplifies the retailer’s marketing

40 The dotted grey line from wheel importers (wholesalers) to vehicle retailers/dealerships represents possible sales that Arrowcrest alleges are being made to Mazda Australia Pty Ltd, Ford and Suzuki Australia Pty Ltd by Mullins Wheels Pty Ltd and YHI (Australia) Pty Ltd (EPR 378/014, page 2 refers).

It is unclear to the Commission whether this claim relates to OE or non-OE wheels; due to the lack of cooperation from importers in this inquiry, and noting that the ABF import database does not record the ultimate purchaser of the imported wheels, the Commission cannot be certain that such sales have occurred, or that this is a channel to market.

41 Whilst the ABF import database was not considered sufficiently reliable to undertake volume or price analysis, it does provide sufficiently reliable evidence to enable the Commission to make this observation.
arrangements and, in some cases, ensures that retailers have access to rebates from their suppliers.

Demand for aluminium road wheels sold in the aftermarket segment is driven by the replacement of existing wheels on a vehicle, either because the existing wheel is worn or damaged, or because the consumer seeks to upgrade. In both cases, the consumer can elect to purchase either an OEM approved or a non-OEM approved wheel. While these are viewed as the two main determinants of demand in the segment, demand is also driven (to a lesser extent) by caravans and trailers.

Based on data published by the Caravan Industry Association of Australia, the Commission estimates that aluminium road wheels used in the manufacture of caravans in Australia would comprise a relatively small proportion of the overall aluminium road wheel market, notwithstanding the ongoing growth in that market.

To date, the Commission has been unable to obtain any data regarding the number of trailers manufactured in Australia in each year, but anticipates that very few of these will use aluminium road wheels.

5.3.2.1 Submission regarding OE spare parts and aftersales

CITIC Dicastal has submitted that OE spare parts and aftersales should be considered part of the OEM segment. Specifically, CITIC Dicastal states that these spare parts and aftersales are part of the production of OE aluminium road wheels designed and tested as part of a specific model new vehicle, and are produced by an aluminium road wheel manufacturer (such as CITIC Dicastal) under a long term contract to supply to an OEM. As such, all these parts go through PPAP, with any specifications, testing and intellectual property belonging to the OEM. CITIC Dicastal submits that to say these products compete with aftermarket aluminium road wheels is factually incorrect.

The Commission notes from the original investigation that aluminium road wheels sold into the aftermarket segment were found to be distributed via ‘… wheel importers, tyre wholesalers, tyre retailers, [passenger motor vehicle] Customer Service Divisions … and retailers of [passenger motor vehicles], and manufacturers of trailer vehicles’. In this respect, the Commission considers that the evidence it has obtained during the course of this inquiry is consistent with the conclusions of the original investigation.

The Commission acknowledges CITIC Dicastal’s claim that all OE aluminium road wheels sold as spare parts or aftersales are designed, tested and manufactured in an identical

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42 An upgrade may be sought for performance and/or aesthetic purposes.

43 The Caravan Industry Association of Australia is the peak national body for the caravanning and camping industry. The association claims there are 586,585 recreational vehicles registered across the country, comprising 58,375 campervans and 528,210 caravans (as per its website).

44 Based on available statistics published by the Caravan Industry Association of Australia, a total of 22,711 recreational vehicles (towable and motorised) were manufactured in 2015. The Commission considers that, in the unlikely event that every one of these vehicles was supplied with two aluminium road wheels each, they would account for less than four per cent of the total market (approximately 1.3 million wheels in financial year 2015).

45 EPR 378/024, page 3 refers.

46 EPR 181/181, page 30 refers.
manner to those wheels placed on a new vehicle. However, in considering how different segments of the market should be defined, the Commission has had regard to the substitutability of those products, as opposed to the distribution channels. Specifically, a purchaser of a vehicle can elect to buy either OE or non-OE road wheels when undertaking a replacement of those wheels (for whatever reason).

Contrary to the claim made by CITIC Dicastal, the Commission considers that OE spare parts and aftersales do compete with other aftermarket (non-OE) wheels, given both are equally available to a potential consumer. As a result, the Commission continues to define the aftermarket segment as being inclusive of OE spare parts and aftersales.

5.3.3 Factors influencing purchasing decisions in the aftermarket segment

When considering the factors that influence purchasing decisions by consumers, the Commission acknowledges the submission made by Speedy, which claims that:

… consumer preference is not based on price but on the features of the ARWs themselves, which would include brand, style, warranties, etc., with price being one consideration amongst other considerations and not the determinative consideration.47

The Commission notes that it sought cooperation from four major retailers in Australia to obtain further information concerning the aftermarket (including the factors that may influence what products are recommended by dealers);48 however, the Commission has not received any responses to provide it with useful insight.

In light of this, the Commission acknowledges that there are a range of factors relevant to any purchasing decision, including (but not limited to) price. However, the Commission is of the view that the importance placed on price will vary depending on the circumstances of the purchase.

The Commission also considers that most consumers (particularly those making non-discretionary purchases) will seek guidance from dealers regarding the options available. The Commission considers that it is reasonable to suppose these dealers are profit seeking and will be influenced by price. The existence of rebates, which are offered by suppliers at the request of retailers in the aftermarket, confirms that price is an important factor in, at the very least, establishing supply arrangements.

As a result, the Commission understands that:

- in general, price is a factor when the consumer is purchasing from a retailer, although its importance will vary depending on the circumstances of the purchase;
- aftermarket retail sales are generally made in low volume transactions that are initiated by a consumer arriving in-store; and
- aftermarket retailers will typically promote the products on which they stand to make the most profit, which means they are heavily influenced by goods that provide the best margins.

47 EPR 378/018, page 8 refers.
48 EPR 378/019 refers.
5.4 Market trends for aluminium road wheels

The Commission considers that the overall market for passenger vehicles in Australia is growing. There is no single source of data for vehicle ownership, but the Commission considers that the growing number of new vehicle sales (as shown by Figure 5, below) and the increasing number of vehicle registrations\(^{49}\) indicate that the potential number of consumers of aluminium road wheels is growing.

![New motor vehicle sales in Australia](image)

**Figure 5 – new vehicle sales\(^{50}\)**

5.4.1 Market size

The Australian market for aluminium road wheels is supplied by the Australian industry and imported goods, primarily from China, Taiwan and Thailand. The Commission has estimated the size of the Australian market using Arrowcrest’s verified sales volumes, and import clearance data from the Australian Bureau of Statistics (ABS) supplied by Arrowcrest with its application.\(^{51}\)

The Commission notes that it has elected to use data from the ABS, as the ABF import data was not considered to be sufficiently reliable for this purpose.\(^{52}\) As such, the Commission considers that information obtained from the ABS is the best information available to estimate the size of the Australian market for aluminium road wheels.

The Commission has estimated the size of the Australian market for aluminium road wheels for the period financial year (FY) 2014 to FY 2016.\(^{53}\) In particular, the Commission

\(^{49}\) As shown by 9309.0 - Motor Vehicle Census, Australia, dated 31 January 2016.

\(^{50}\) Sourced from Australian Bureau of Statistics Catalogue No. 9314.0.

\(^{51}\) It was noted this data may also contain data relevant to steel wheels (EPR 378/002, page 16 refers).

\(^{52}\) For example, a number of the descriptions in the data were not specific enough to identify whether particular shipments entered in the system contained the goods, and a number of statistical quantity values appeared to be missing. Noting that no importers have cooperated with this inquiry, there is an absence of relevant information that would enable the Commission to calculate a more precise quantity by reference to the ABF import database.

\(^{53}\) Financial year being 1 July to 30 June.
estimates that the Australian market for aluminium road wheels comprised approximately 1.5 million pieces in FY 2016 (the inquiry period).\textsuperscript{54} Of this, it is estimated that around one million pieces relate to the aftermarket segment.\textsuperscript{55}

Despite some fluctuation, the total Australian market size for aluminium road wheels during the inquiry period was similar to FY 2014. The Commission notes that Chinese imports supplied both the OEM and aftermarket segments during the same period.

\textsuperscript{54} During the original investigation period the estimated size of the Australian market was approximately 2,000,000 pieces (EPR 181/181, page 32 refers).

\textsuperscript{55} Using information from the ABS, as well as export data provided by selected exporters.
6 ECONOMIC CONDITION OF THE AUSTRALIAN INDUSTRY

6.1 Approach to analysis

This chapter considers the material injury that was found to be occurring when the anti-dumping measures were first put in place, as well as market conditions since that time. The Commission notes that the anti-dumping measures were first applied in the first quarter of FY 2013, and that the relevant variable factors were then altered in FY 2016 following REP 263.

The Commission has examined the Australian market and the economic condition of the Australian industry from 1 July 2006 for the purposes of its injury analysis. This is an aggregate analysis that combines consideration of both the OEM and aftermarket segments. In addition to this, the Commission has undertaken a segmented analysis from 1 July 2012 (based on the information available) to consider OEM and aftermarket performance separately.

The injury analysis detailed in this chapter is based on verified financial information submitted by Arrowcrest, as well as data from the ABS that was provided by Arrowcrest in its application. As outlined in Section 2.3.1, the remaining industry member, Dragway, was not visited as part of this inquiry, as its volumes were considered to be minor relative to Arrowcrest. For this reason, the Commission considers that data provided by Arrowcrest is a suitable indicator of the performance of the entire Australian industry.

The Commission notes that verified cost information provided by Arrowcrest for this inquiry has been compiled using different accounting methodologies to that provided in the original investigation. As a result, it is possible that cost data used for the aggregate analysis prior to 1 July 2012 is not wholly consistent with the data after 1 July 2012, although the Commission does not consider that these differences in methodology have led to materially different results.

The Commission notes that any OE aftersales supplied to vehicle retailers via Arrowcrest’s warehouse distribution system have been included in the aftermarket analysis. This does not include OE aftersales supplied direct to local vehicle manufacturers.

The data supporting the Commission’s analysis of the Australian market and the economic condition of the Australian industry is at Confidential Attachment 1.

Consideration of whether it is likely, in the absence of the anti-dumping measures, that material injury caused by dumping and subsidisation (as opposed to other factors) will continue or recur is considered in Chapter 9 of this report.

6.2 Findings in the original investigation

It was found in the original investigation that the Australian industry had experienced material injury in the form of:

- price suppression;
- lost sales volumes;
- lost revenue;
- lost profits and profitability;
- reduced capacity utilisation;
- reduced employment; and
reduced return on investment.

6.3 Volume effects

6.3.1 Sales volume

The following graph shows Arrowcrest’s total sales volumes for aluminium road wheels in the Australian market since July 2007. The Commission observes that the sharp decline in FY 2009 coincided with the global financial crisis.

![Aggregate sales volume (pieces)](image)

**Figure 6 – domestic sales volume of all aluminium road wheels**

The following graph shows Arrowcrest’s OEM and aftermarket sales volumes for aluminium road wheels in the Australian market since July 2012.

![Sales volume by segment (pieces)](image)

**Figure 7 – domestic sales volume of OE and aftermarket aluminium road wheels**

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56 The ‘original investigation’ marked in Figure 6 refers to measures imposed as a result of REP 181. The ‘review of measures’ that has been marked refers to the alteration of those measures as a result of REP 263.
As shown, Arrowcrest’s aggregate domestic sales volume of aluminium road wheels decreased between FY 2010 and FY 2015, but increased in FY 2016. While this was largely driven by OEM volumes,\textsuperscript{57} the Commission noted that aftermarket volumes also increased in FY 2016 by ten per cent against the prior year. The Commission notes that Arrowcrest secured a short-term contract to supply OE aftersales to a vehicle retailer in that year, which appears to have positively impacted sales in the aftermarket segment.

Further, while domestic sales volumes for the aftermarket have remained fairly steady relative to the larger volumes attributable to OEM, the Commission notes that these volumes increased by 33 per cent in FY 2013 (when the anti-dumping measures took effect), before decreasing in FY 2014 and FY 2015, albeit at levels that remained above FY 2012.

6.3.2 Market share

The following graph shows changes in the domestic market share between Arrowcrest and importing countries using data from the ABS\textsuperscript{58} and Arrowcrest’s own sales data for the period FY 2014 to FY 2016. This is an aggregate analysis only.

The Commission notes that the ABF import data was not considered sufficiently reliable for this purpose (Section 5.4.1 refers).

![Australian market share - aluminium road wheels](image)

This graph shows that Arrowcrest’s market share of aluminium road wheels has remained relatively steady, with a very slight improvement in FY 2016 (at the expense of other imports). While imports from China gained a slight advantage in FY 2015, they also appear to have done so at the expense of other imports.

\textsuperscript{57} The Commission understands that any fluctuations in volume to the OEM segment would be driven by the number of vehicles manufactured in Australia by Arrowcrest’s OEM customer (Section 5.3.1 refers).

\textsuperscript{58} Noted to be inclusive of steel wheels.
6.4 Price effects

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

The following graph shows the trends in Arrowcrest’s unit price and CTMS for all aluminium road wheels from July 2007.

![Figure 9 – Arrowcrest’s unit price and cost for all aluminium road wheels](image)

The following two graphs show the trends in Arrowcrest’s unit price and CTMS for OEM and aftermarket aluminium road wheels from July 2012.

![Figure 10– Arrowcrest’s unit price and cost for OEM aluminium road wheels](image)

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59 The ‘original investigation’ marked in Figure 9 refers to measures imposed as a result of REP 181. The ‘review of measures’ that has been marked refers to the alteration of those measures as a result of REP 263.
These three graphs show that, for the OEM segment, the trend in unit revenue has reflected that of cost for the period examined. In regards the margin between the two, this improved slightly in FY 2015 and FY 2016. The Commission considers that these observations are consistent with its knowledge of pricing within the OEM segment.

Noting the small and fluctuating volume of aftermarket sales, the Commission considers that it is difficult to draw definitive conclusions on movements between CTMS and unit prices for this segment. The Commission considers that the large number of small volume and/or low frequency purchases shown in Arrowcrest’s sales listing for the aftermarket suggests that, at least in prior years, Arrowcrest has been largely reactive to the requirements of its customers and the nature of those customers’ purchasing behaviours. In FY 2016 the Commission observed a comparatively larger volume of contracted sales to a particular customer, which coincides with the improved outcome in that year.

During the Australian industry visit, Arrowcrest explained that the cost of freight and commercial labour, and the amount of rebates issued, all increased during FY 2014. This is consistent with the movement in unit CTMS and unit revenue in the aftermarket during that period. Conversely, during FY 2016 the company was able to reduce its costs by reducing commercial labour, restructuring one of the warehouse operations and reducing print media in favour of online advertising.

### 6.5 Profit and profitability

The following graph shows trends in Arrowcrest’s profit and profitability\(^{60}\) for all aluminium road wheels from July 2007.

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\(^{60}\) As a percentage of sales revenue.
The following two graphs show the trends in Arrowcrest’s profit and profitability for OEM and aftermarket aluminium road wheels from July 2012.

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61 The ‘original investigation’ marked in Figure 12 refers to measures imposed as a result of REP 181. The ‘review of measures’ that has been marked refers to the alteration of those measures as a result of REP 263.
At an aggregate level, Arrowcrest’s biggest loss was in FY 2009 at the time of the global financial crisis and the resulting substantial decline in sales volumes. The graphs also show that the OEM segment has remained profitable since FY 2012, with an increase in the level of that profitability during FY 2015 and FY 2016.

Again, as noted above, the small and fluctuating volume of aftermarket sales makes it difficult to draw definitive conclusions on the cause and significance of movements in profit and profitability in this segment.

### 6.6 Other injury factors

The Commission has made the following observations from the information provided by Arrowcrest in relation to other injury factors between FY 2012 and FY 2016:

- research and development expenditure decreased by 24 per cent across the entire period;
- capacity utilisation decreased in each year (11 per cent in total), with the exception of FY 2016 when it increased by 12 per cent over the previous year;
- employment (based on the number of employees) decreased in each year (39 per cent in total), with the exception of FY 2016 when it increased by two per cent on the previous year;
- employment (based on hours worked) decreased in each year, which equated to a 61 per cent reduction overall; and
- the average wage decreased by 22 per cent in FY 2014 compared to the prior year, but increased by 15 per cent across the following two years.
7 VARIABLE FACTORS – DUMPING DUTY NOTICE

7.1 Finding

The Commissioner finds that all variable factors relevant to the determination of dumping duties payable under the Dumping Duty Act, have changed.

7.2 Legislative framework

In accordance with subsection 269ZHF(2) of the Act, the Commissioner must not recommend that the Parliamentary Secretary take steps to secure the continuation of anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping. The existence of dumping during the inquiry period may be an indicator of whether dumping may occur in the future.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of the goods are determined under sections 269TAB and 269TAC respectively. Further details of the export price and normal value calculations for each exporter are set out below.

Dumping margins are determined under section 269TACB.

7.3 Categorisation of exporters

7.3.1 Cooperative exporters

Further to Section 2.3.3, the Commission has categorised cooperative exporters as being either selected or residual exporters. The Commission has analysed the information submitted by these exporters, and assessed the relevant variable factors in accordance with the methodologies discussed in Sections 7.6 to 7.8 and Section 8.4 below.

7.3.2 Uncooperative and all other exporters

Subsection 269T(1) provides that an exporter is an ‘uncooperative exporter’ where the Commissioner is satisfied that, in relation to an inquiry under Division 6A, the exporter did not give the Commissioner information that the Commissioner considered to be relevant to the investigation, within a period the Commissioner considered to be reasonable, or where the Commissioner is satisfied that an exporter significantly impeded the investigation.

Section 8 of the Customs (Extensions of Time and Non-cooperation) Direction 2015 (the Direction) states that the Commissioner must determine an exporter to be an uncooperative exporter, on the basis that no relevant information was provided in a reasonable period, if that exporter fails to provide a response, or fails to request a longer period to do so, within the legislated period.

After having regard to the Direction, the Commissioner determined that all exporters that did not provide a response to either the exporter questionnaire or to the request for information, or that did not request a longer period to provide a response within the legislated period (being 37 days, concluding on the next business day, which was 5 December 2016), were to be uncooperative exporters.
Submission regarding treatment of Pilotdoer\(^{62}\)

Following publication of SEF 378, Pilotdoer submitted that:

- the existing dumping margin for Pilotdoer (being 2.7 per cent)\(^{63}\) should be continued, given the Commissioner has proposed in SEF 378 to recommend that there be no change to the variable component of dumping duty (that is, the existing dumping margins should continue);
- the countervailing duty for residual exporters (being 2.6 per cent) should be applied to Pilotdoer, given the Commissioner has proposed in SEF 378 that the variable component of countervailing duty be altered so that it reflects the Commission’s findings during this inquiry, and Pilotdoer, while not selected in this inquiry, was known to the Commission; and
- the rate of combined duty for Pilotdoer should be 4.3 per cent.\(^{64}\)

The Commission notes that Pilotdoer did not provide a response to the exporter questionnaire, or to the request for information (as shown by Sections 2.3.3.1 and 2.3.3.2 above), and did not request a longer period to provide a response within the legislated period. As a result, the Commission considers that Pilotdoer is an uncooperative exporter for the purpose of this inquiry.

### 7.4 Assessment of market situation claim

#### 7.4.1 Applicable legislation

Subsection 269TAC(1) provides that the normal value of any goods exported to Australia is the price paid or payable for sufficient volumes of like goods sold domestically in the ordinary course of trade (OCOT) in arms length transactions.

However, subsection 269TAC(2)(a)(ii) provides that the normal value of the goods exported to Australia cannot be determined under subsection 269TAC(1) where the Minister is satisfied that ‘... the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under subsection (1)’.

Where such a market situation exists, normal value cannot be established on the basis of domestic sales. Instead, the normal value may be determined on the basis of a cost construction under subsection 269TAC(2)(c), or third country sales under subsection 269TAC(2)(d).

#### 7.4.2 Previous findings

The original investigation found there was a situation in the Chinese aluminium road wheel market during the investigation period, such that domestic aluminium road wheel sales were not suitable for use in determining normal values under subsection 269TAC(1).\(^{65}\)

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\(^{62}\) Pilotdoer Wheels Co. Ltd (as defined in Section 2.2.2).

\(^{63}\) Established following the reinvestigation of certain findings in REP 263 (REP 340 and Section 2.2.2 refers).

\(^{64}\) EPR 378/029 refers.

\(^{65}\) REP 181, page 36 refers.
In REP 263, the Commission considered that a market situation had continued to affect the domestic prices of aluminium road wheels in China during the review period. In making its market situation assessment for China, the Commission found that:

- the GOC 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 aluminium road wheel market, the aluminium costs incurred by Chinese aluminium road wheel manufacturers during the review period did not reasonably reflect competitive market costs in terms of subsection 43(2)(b)(ii) of the Customs (International Obligations) Regulation 2015 (the International Regulation).

7.4.3 Determination for this inquiry

The Commission considers that a market situation continued to affect the domestic prices of aluminium road wheels in China during the inquiry period, such that domestic aluminium road wheel sales are not suitable for use in determining normal values under subsection 269TAC(1).

In undertaking its market situation assessment for China, the Commission found that:

- the 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 aluminium road wheel market, the aluminium costs incurred by Chinese aluminium road wheel manufacturers during the inquiry period did not reasonably reflect competitive market costs in terms of subsection 43(2)(b)(ii) of the International Regulation.

A detailed market situation assessment is provided at Appendix B.

7.5 Method for determining normal values

Taking into account the finding that a market situation exists, domestic sales of like goods during the inquiry period were unable to be used for the purpose of determining normal values in accordance with subsection 269TAC(1) of the Act.

Where domestic prices are unable to be used to determine normal values, the normal value may be determined on the basis of a cost construction under subsection 269TAC(2)(c), or third country sales under subsection 269TAC(2)(d). In this inquiry, it was not considered preferable to use third country sales for calculating normal values, given exporters’ aluminium costs were found to not reflect competitive market costs (Section 7.4.3 refers).
7.5.1 Aluminium cost substitution

As a result of the Commission’s finding that aluminium costs incurred by Chinese aluminium road wheel manufacturers during the inquiry period did not reasonably reflect competitive market costs in terms of subsection 43(2)(b)(ii) of the International Regulation (Section 7.4.3 refers), the Commission has determined that constructed normal values should not include the actual aluminium costs incurred by exporters in the relevant cost to make component.

The Commission has therefore replaced the recorded cost of aluminium, as submitted by each selected exporter in its response to the exporter questionnaire, with a competitive benchmark cost substitute, taking into account the circumstances of each exporters’ purchases of aluminium.

The components used to determine this cost substitute are summarised as follows:

- three month contract or spot prices (as relevant) for primary aluminium on the London Metal Exchange (LME);
- an upward adjustment to reflect trading fees, based on the Major Japanese Port (MJP) premium;
- where applicable, an upward adjustment to reflect the additional cost to produce alloys; and
- where applicable, an upward adjustment to reflect domestic delivery costs, based on exporters’ aluminium purchase price data.

To apply the substitute benchmark price, the Commission has compared the difference in value between the actual prices paid for aluminium and/or aluminium alloy with the benchmark aluminium and/or aluminium alloy prices established through the methodology outlined above. The percentage difference between the actual prices paid and the relevant benchmark price has been calculated, and this percentage has then been applied to the part of the cost to make that related to aluminium.

A detailed discussion of the construction and legislative basis for the use of the aluminium cost substitute is included in Appendix B. This includes the Commission’s assessment of various submissions made regarding different elements of the substitute benchmark price.

7.6 CITIC Dicastal

The Commission undertook an on-site verification visit to CITIC Dicastal in January 2017. At the time of publishing SEF 378, the Commission advised that the verification report was not yet available on the public record.

At that time, CITIC Dicastal objected to the terms of the verification report. CITIC Dicastal claimed that the report contained factual errors, and that to publish the report would adversely affect its business and commercial interests. The Commission did not agree that the report contains errors (and continues to hold this view), but accepted in good faith CITIC Dicastal’s claim that to publish the report may be damaging to its interests.
CITIC Dicastal has subsequently made a submission to the Commission that refers to a draft version of the Commission’s verification report. The Commission notes that CITIC Dicastal’s representative is referring to a draft that did not represent the final version submitted to the company for clearance (similar to SEF 378, that final version did not calculate a normal value or dumping margin).

CITIC Dicastal’s submission relies on the unpublished verification report for the purpose of putting forward its view concerning the correct approach to calculating a normal value and dumping margin. In the Commission’s view, having rejected the verification team’s approach to the verification and its findings, it is surprising that CITIC Dicastal now seeks to rely on those unpublished draft findings (albeit partially redacted in the submission) to support its position, particularly when it has previously claimed that publishing the report would adversely affect its interests. It is also surprising that CITIC Dicastal has elected to refer to a draft of the report that did not represent the final version provided to it for clearance.

The Commission has continued to rely on CITIC Dicastal’s original claim that publication of the report may adversely affect its interests, and therefore the report will not be published. Given this, the Commission has elected to disregard CITIC Dicastal’s submission to the extent that it addresses the verification process and the assessment of the variable factors. The fact that other interested parties to this inquiry have not had an adequate opportunity to comment on the outcomes of the verification or this submission (received after the twenty day period following publication of the SEF) have been key factors in the Commission’s decision on this matter.

7.6.1 Export price

In respect of Australian export sales during the inquiry period, the Commission considers that:

- the goods have been exported to Australia otherwise than by the importer;
- the purchases of the goods by the importer were arms length transactions; and
- the goods have been purchased by the importer from the exporter.

As a result, export prices were determined under subsection 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

The export price calculation for CITIC Dicastal is provided at Confidential Attachment 3.

7.6.1.1 Purchased goods

The Commission identified a number of related and unrelated suppliers of finished wheels, which were purchased by CITIC Dicastal and on sold to domestic and/or export

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66 EPR 378/030 refers.

67 The Commission notes there is a difference of opinion between the verification team and CITIC Dicastal regarding particular statements made during verification. Due to the nature of the disagreement between CITIC Dicastal and the Commission, a detailed, confidential attachment to the unpublished verification report was prepared that outlines the verification team’s assessment of the information provided by CITIC Dicastal, its record of various statements made during the visit, and the team’s response to (unpublished) submissions and documentation submitted by CITIC Dicastal’s representatives following the visit. This material, along with the draft visit reports, collectively forms Confidential Attachment 2 to this report.
customers. CITIC Dicastal clearly differentiated between these alternative sources of aluminium road wheels in its Australian and domestic sales listings.

The Commission is satisfied that CITIC Dicastal is the exporter of all the aluminium road wheels shown in the company’s Australian sales listing, irrespective of the source of the aluminium road wheels, as CITIC Dicastal was aware of the final destination of the aluminium road wheels and was responsible for managing the sales and distribution process for the exported goods regardless of their source.

The Commission has included all aluminium road wheels in CITIC Dicastal’s export price calculation, regardless of whether they were manufactured or purchased by CITIC Dicastal.

7.6.2 Normal value

Having verified CITIC Dicastal’s cost to make information to audited financial statements, and noting that these records are kept in accordance with generally accepted accounting principles (GAAP) in China, the Commission is satisfied that the information provided by CITIC Dicastal in its response to the exporter questionnaire contains aggregate cost data that is complete.

However, the Commission is not satisfied, based on the evidence available, that the unit costs of production recorded and submitted in relation to each model in each month were relevant and accurate. The Commission notes that any findings made in relation to earlier investigations or reviews do not prevent a different finding in the future if the evidence in the circumstances warrants such a finding. While a different finding has been made in relation to cost information provided by CITIC Dicastal, when compared to the original investigation and REP 263, this does not (of itself) represent a difference in approach. CITIC Dicastal has not provided any additional documentation to the Commission to support its claim that the findings of the verification team are unreasonable and not supported by evidence and fact.

The Commission has disregarded this information as being unreliable under subsection 269TAC(7). As a result, the unit costs of production provided by CITIC Dicastal in its response to the exporter questionnaire have been disregarded for the purpose of conducting OCOT tests, and for constructing normal values. Subsection 269TAC(6) provides that, where sufficient information has not been furnished, or is not available to enable the normal value of goods to be ascertained under the preceding subsections, the normal value of those goods is such amount as is determined by the Minister having regard to all relevant information.

The Commission has considered all relevant information, and has elected to establish a normal value for this inquiry by indexing the normal value already established for CITIC
Dicastal in REP 263 by the percentage change in ascertained export prices between the two cases.\textsuperscript{71}

The normal value calculation for CITIC Dicastal is provided at \textit{Confidential Attachment 3}.

\subsection*{7.6.3 Submission regarding appropriate methodology under subsection 269TAC(6)}

While disagreeing with the need to construct a normal value, as originally done by the verification team, CITIC Dicastal submits that, if a dumping margin is to be calculated, then the margin should be determined under subsection 269TAC(6) using a subsection 269TAC(1) methodology based on CITIC Dicastal’s data.

In considering this submission, the Commission notes its finding that a market situation continued to affect the domestic prices of aluminium road wheels in China during the inquiry period. No submissions have been received on this finding by the Commission. This finding indicates that using a subsection 269TAC(1)-like methodology under subsection 269TAC(6) is not appropriate.

\subsection*{7.6.4 Dumping margin}

The dumping margin for CITIC Dicastal was established by comparing the weighted average export price to the corresponding weighted average normal value for the inquiry period, in accordance with subsection 269TACB(2)(a).

On this basis, the dumping margin in respect of the goods exported to Australia by CITIC Dicastal for the inquiry period is \textbf{8.4 per cent}.

\subsection*{7.6.4.1 Submission from CITIC Dicastal}

CITIC Dicastal has submitted that it is superfluous to calculate a dumping margin for it, given any continuation, or recurrence, of the dumping and subsidisation and the material injury that the anti-dumping measure is intended to prevent could not be causally linked to CITIC Dicastal, and therefore any continuation notice should cease to apply to CITIC Dicastal.

As outlined at Section 9.3.3, in assessing the likelihood of continuing or recurring dumping, the inquiry may gather facts relevant to whether dumping will resume (such as exporters’ margins). This is separate to the consideration in relation to material injury.

CITIC Dicastal was selected for this inquiry on the basis of the volume of its exports to Australia during the inquiry period (Section 2.3.3.1 refers). Notwithstanding this, the company was under no obligation to cooperate; however, it has elected to do so by providing a response to the exporter questionnaire. The company also agreed to the verification of that information by representatives of the Commission.

\textsuperscript{71} The Commission has reflected on the approach taken in SEF 378, and the then decision to not calculate a normal value. The Commission now considers that the approach set out in this section is the correct and preferable approach.
On this basis, the Commission considered that it was appropriate to assess the variable factors relevant to CITIC Dicastal during the inquiry period, and to calculate a dumping margin for the purpose of determining whether dumping was likely to continue. CITIC Dicastal, in providing a response to the exporter questionnaire, suggested to the Commission that it sought a calculation of the dumping margin, and therefore the Commission does not see how CITIC Dicastal’s 'inclusion' was 'curious'\(^2\) – certainly its exports will continue to Australia (including to the aftermarket segment, per the Commission’s assessment of the market), albeit at reduced volumes.

7.7 Jinfei Kaida

The Commission undertook an on-site verification visit to Jinfei Kaida in January 2017. A verification report of this visit is available on the public record.\(^3\)

7.7.1 Export price

In respect of Australian export sales during the inquiry period, the Commission considers that:

- the goods have been exported to Australia otherwise than by the importer;
- the purchases of the goods by the importer were arms length transactions; and
- the goods have been purchased by the importer from the exporter.

As a result, export prices were determined under subsection 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

The export price calculation for Jinfei Kaida is provided at Confidential Attachment 3.

7.7.1.1 Purchased goods

The Commission identified a number of related suppliers of finished wheels, which were purchased by Jinfei Kaida and on sold to domestic and/or export customers. Jinfei Kaida claimed that its finance system could not differentiate between these alternative sources of aluminium road wheels.

The Commission is satisfied that Jinfei Kaida is the exporter of all the aluminium road wheels shown in the company’s Australian sales listing, irrespective of the source of the aluminium road wheels, as it was aware of the final destination of the aluminium road wheels and was responsible for managing the sales and distribution process for the export of the goods regardless of their source.

The Commission has included all aluminium road wheels in Jinfei Kaida’s export price calculation, regardless of whether they were manufactured or purchased by Jinfei Kaida.

7.7.2 Normal value

Having verified Jinfei Kaida’s cost to make information to audited financial statements, and noting that these records are kept in accordance with GAAP in China, the Commission

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\(^2\) EPR 378/030, page 9 refers.

\(^3\) EPR 378/020 refers.
was satisfied that the information provided by Jinfei Kaida contains aggregate cost data that is complete.

However, having considered the material provided during the verification visit, the Commission concludes that Jinfei Kaida was unable to demonstrate how the detailed monthly unit cost data (by model) could be traced to source documents. The Commission is therefore not satisfied that the unit costs of production recorded and submitted in the response to the exporter questionnaire in relation to each model in each month were relevant and accurate.

The Commission has disregarded this information as being unreliable under subsection 269TAC(7). As a result, the unit costs of production provided by Jinfei Kaida in its response to the exporter questionnaire have been disregarded for the purpose of conducting OCOT tests, and for constructing normal values. Subsection 269TAC(6) provides that, where sufficient information has not been furnished or is not available to enable the normal value of goods to be ascertained under the preceding subsections, the normal value of those goods is such amount as is determined by the Minister having regard to all relevant information.

The Commission has considered all relevant information, and has elected to establish a normal value for this inquiry by indexing the normal value already established for Jinfei Kaida in REP 263 by the percentage change in ascertained export prices between the two cases.

The normal value calculation for Jinfei Kaida is provided at Confidential Attachment 3.

7.7.2.1 Submission regarding calculation of normal value

Jinfei Kaida has noted that, in SEF 378, the Commission did not adopt the calculation method and dumping margin for Jinfei Kaida that was confirmed in the verification report. In that report, the verification team had calculated a normal value under subsection 269TAC(6) using the highest unit cost to make for each model grouping, notwithstanding that it was not satisfied the unit costs of production recorded and submitted in the response to the exporter questionnaire in relation to each model in each month were relevant and accurate. As a result, the verification team found preliminarily that Jinfei Kaida was not dumping during the inquiry period.

Jinfei Kaida has submitted that ‘... the Commission consider that the verification report is the correct way to calculate the dumping margin for Jinfei Kaida’.76

The Commission has concluded that the approach taken in the verification report is not the correct and preferable approach, given the Commission is not satisfied that the unit costs of production recorded and submitted in the response to the exporter questionnaire in relation to each model in each month were relevant and accurate. Having concluded that the information is unreliable, the Commission does not consider that it is appropriate to

74 In terms of subsection 269TAC(1) or subsection 269TAC(2)(d).
75 In terms of subsection 269TAC(2)(c).
76 EPR 378/023, page 2 refers.
then rely on that information for the purpose of calculating a normal value under subsection 269TAC(6).

In the Commission’s view, Jinfei Kaida has not provided adequate reasoning to show why the approach taken by the verification team is the preferable approach, particularly given it was found that unit costs of production in relation to each model in each month were not relevant and accurate.

7.7.3 Dumping margin

The dumping margin for Jinfei Kaida was established by comparing the weighted average export price to the corresponding weighted average normal value for the inquiry period, in accordance with subsection 269TACB(2)(a).

On this basis, the dumping margin in respect of the goods exported to Australia by Jinfei Kaida for the inquiry period is 7.8 per cent.

7.8 Zhejiang Yueling

The Commission undertook a desktop verification of Zhejiang Yueling. A report of this verification is available on the public record.\textsuperscript{77}

7.8.1 Export price

In respect of Australian export sales during the inquiry period, the Commission considers that:

- the goods have been exported to Australia otherwise than by the importer; and
- the purchases of the goods by the importer were arms length transactions.

In those instances where the goods have been purchased by the importer from the exporter, export price has been calculated using subsection 269TAB(1)(a), as the price paid by the importer less transport and other costs arising after exportation.

In those instances where the goods have not been purchased by the importer from the exporter, export price has been calculated using subsection 269TAB(1)(c), having regard to all the circumstances of the exportation. These calculations were also based on the price paid by the importer less transport and other costs arising after exportation.

Taking into account the delivery terms offered to particular customers, the Commission considers that any export prices calculated under subsections 269TAB(1)(a) and (c) should be determined as the ex-works (EXW) price between the customer and Zhejiang Yueling.

The export price calculation for Zhejiang Yueling is provided at Confidential Attachment 3.

\textsuperscript{77} EPR 378/020 refers.
7.8.2 Normal value

The Commission has constructed normal values in accordance with subsection 269TAC(2)(c). To construct the normal value for each quarter, the Commission has used:

- the weighted average cost to make for Australian export sales; plus
- an uplift to the aluminium cost (Section 7.5.1 refers) to arrive at an uplifted cost to make for exported goods; plus
- selling, general and administrative (SG&A) expenses applicable to goods sold domestically; plus
- profit on domestic sales made in the OCOT.

Discussion regarding the submission made by Zhejiang Yueling on the methodology used to uplift the aluminium cost is outlined in Appendix B.

7.8.2.1 Adjustment – level of trade

Zhejiang Yueling has submitted that a level of trade difference is clearly demonstrated by the evidence, and that a consequent adjustment should be made in determining the normal value. It stated that taking the level of trade difference into account in the context of a normal value worked out under subsection 269TAC(2)(c) represents the previous practice of the Commission, and is the correct and appropriate application of the level of trade provision by the Commission.78

The Commission understands that Zhejiang Yueling is seeking an adjustment to the level of profit applied in constructing normal values under subsection 269TAC(2)(c), based on differences in level of trade, although this is not stated specifically. In considering this submission, the Commission notes that subsection 269TAC(9) provides that:

[w]here the normal value of goods exported to Australia is to be ascertained in accordance with paragraph (2)(c) or (4)(e), the Minister must make such adjustments, in determining the costs to be determined under that paragraph, as are necessary to ensure that the normal value, so ascertained is properly comparable with the export price of those goods. [emphasis added]

Based on this, the Commission is of the view that it is not appropriate to undertake an adjustment to profit (for differences in levels of trade) under subsection 269TAC(9). Given Zhejiang Yueling has failed to provide any evidence to establish particular costs that might be driving differences in pricing to the different levels of trade,79 the Commission has elected not to make this adjustment.

The Commission notes that Zhejiang Yueling made a further submission in relation to this adjustment, stating that:

- the need to make due allowance for differences which affect the comparability between export price and normal value is clearly provided for in Article 2.4 of the Anti-Dumping Agreement. This applies to a normal value derived from actual domestic prices, and from 'constructed' domestic prices (based on cost and profit) equally. This is recognised in the Manual, which lists level of trade (specifically,

78 EPR 378/028, page 1 refers.
79 Based on the company’s submission and its response to the exporter questionnaire.
price differences) as a factor the Commission is required to consider, for both Sections 269TAC(8) and (9);80

- therefore, the same due allowance should be made for a constructed normal value, which is a proxy for domestic selling price, where (as in this case) the differences in level of trade have been objectively established, are consistent, and are very clearly apparent in the comparative profit; and

- in the alternative, the difference can be addressed by using the production and sales data concerning only the comparable level of trade for profit purposes, rather than the entirety of domestic sales of all like goods, under subsection 45(2) of the International Regulation. This provision allows the Commission to ‘work out the amount [of profit] by using data relating to the production and sale of like goods’. In Zhejiang Yueling’s view, this enables the Commission to react to the facts of a situation such as this.

The Commission has considered the matters raised by Zhejiang Yueling and observes that any differences in aggregate profit do not (in isolation) establish differences in level of trade, given such an analysis fails to take into account differences in product mix. While the Commission acknowledges that its analysis of the domestic sales data did identify a possible pricing difference (by model and by month) between different levels of trade, it maintains that making an adjustment to profit for such a difference would not be consistent with the legislation (regardless of any general statements made in the Manual). Further, it is not appropriate to justify an adjustment for level of trade using domestic selling prices, when those prices are not considered suitable for determining normal values in accordance with subsection 269TAC(1) of the Act, due to the existence of a particular market situation.

The Commission does not agree that subsection 45(2) of the International Regulation is open to the interpretation placed on it by Zhejiang Yueling, and maintains (consistent with its usual practice) that it requires the Commission to use all sales of like goods in the OCOT when determining an amount of profit.

7.8.2.2 Adjustment – foreign exchange gain

Zhejiang Yueling has submitted that foreign exchange gains/losses (as explained in the verification report)81 represent the income/expense that is derived from export sales, and thus must be attributed as indirect operational income to all sales nominated in a foreign currency, given they are not traced to individual transactions. These gains/losses are clearly associated with export sales of the product, and are not associated with domestic sales.

In considering this submission, the Commission agrees that any income derived from an overall foreign exchange gain during the inquiry period should be attributed to all export sales, those sales mostly being in a foreign currency. When considering selling expenses, the Manual states that:

80  ‘These guidelines focus upon adjustments to normal value under the provisions of subsection 269TAC(1) and subsection 269TAC(8). However, where adjustments are made under subsection 269TAC(2)(c) and subsection 269TAC(9), based on costs, the principles set out below generally apply’ (pages 61-2 refer).

81  EPR 378/026, page 14 refers.
[t]he Commission will examine the extent to which each non-operating income/expense item is associated with the production, or manufacture, and sale of the goods, for the investigation period. Having established those income/expense are reasonable associated with the production, or manufacture, and sale of the goods, the Commission will allocate an amount for such items when determining costs for the purpose of constructed normal values and ordinary course of trade tests.82

On this basis, the Commission considers that Zhejiang Yueling’s foreign exchange gain during the inquiry period is associated with the sale of aluminium road wheels, and should be allocated to the SG&A of exported products. Because of this, the income does not form part of constructed normal values, which use the SG&A applicable to goods sold domestically.

In the Commission’s view, subsequent consideration as to whether an adjustment to the normal value is then warranted should be based on ‘… differences shown to affect price comparability between domestic sales and export sales to Australia’ [emphasis added].83 In this case, while Zhejiang Yueling has demonstrated that the income is associated with export sales, generally, it has not demonstrated that this income is related to exports to Australia (although the Commission acknowledges that it may). More importantly, nor has Zhejiang Yueling demonstrated that this in turns affects the prices set with customers in Australia. Given the Commission cannot be satisfied that prices to Australian customers have been impacted by any foreign exchange gains/losses, it is not satisfied that price comparability has been affected.

7.8.2.3 Conclusion

To ensure the normal value is comparable to the export price of goods exported to Australia at EXW terms, the Commission has made the following adjustments in accordance with subsection 269TAC(9):

<table>
<thead>
<tr>
<th>Adjustment type</th>
<th>Deduction/addition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic credit</td>
<td>Deduct the cost of domestic credit.</td>
</tr>
<tr>
<td>Export commissions</td>
<td>Add the cost of export commissions.</td>
</tr>
<tr>
<td>Export bank charges</td>
<td>Add the cost of export bank charges.</td>
</tr>
<tr>
<td>Export credit</td>
<td>Add the cost of export credit.</td>
</tr>
</tbody>
</table>

Figure 15 – adjustments to Zhejiang Yueling’s normal value

The dumping margin for Zhejiang Yueling was established by comparing the quarterly weighted average export prices to the corresponding quarterly weighted average normal values for the inquiry period, in accordance with subsection 269TACB(2)(a).

82 Page 47 refers.

On this basis, the dumping margin in respect of the goods exported to Australia by Zhejiang Yueling for the inquiry period is **3.2 per cent**.

### 7.9 Residual exporters

#### 7.9.1 Export price

As there was insufficient information available to use the preceding provisions, export prices for residual exporters were determined pursuant to subsection 269TAB(3) having regard to all relevant information. Consistent with the Commission’s usual practice, an export price was determined using the weighted average export price for CITIC Dicastal, Jinfei Kaida and Zhejiang Yueling during the inquiry period, excluding transport and other costs arising after exportation.

The export price determined for residual exporters was not less than the weighted average of export prices for like goods of the selected exporters from the same country of export, as required under subsection 269TACAB(2)(c).

The export price calculation for residual exporters is provided at **Confidential Attachment 3**.

#### 7.9.2 Normal value

As there was insufficient information available to use the preceding provisions, the normal value for residual exporters is determined in accordance with subsection 269TAC(6) of the Act, having regard to all relevant information. Consistent with the Commission’s usual practice, a normal value was determined using the weighted average normal value for like goods established for selected exporters.

The normal value calculation for residual exporters is provided at **Confidential Attachment 3**.

#### 7.9.3 Dumping margin

The dumping margin for residual exporters was established by comparing the weighted average export price to the corresponding weighted average normal value for the inquiry period, in accordance with subsection 269TACB(2)(a).

On this basis, the dumping margin in respect of the goods exported to Australia by residual exporters for the inquiry period is **7.5 per cent**.

### 7.10 Uncooperative and all other exporters

Export price for uncooperative and all other exporters was established under subsection 269TAB(3) in accordance with subsection 269TACAB(1)(d). The Commission used the lowest weighted average export price for the entire inquiry period recorded for the selected exporters, excluding transport and other costs arising after exportation.

A normal value for uncooperative and all other exporters was established under subsection 269TAC(6) in accordance with subsection 269TACAB(1)(e). The Commission used the highest weighted average normal value for the entire inquiry period (inclusive of the aluminium cost substitute) established for the selected exporters.
The dumping margin for uncooperative and all other exporters was established by comparing the weighted average export price to the corresponding weighted average normal value for the inquiry period, in accordance with subsection 269TACB(2)(a).

On this basis, the dumping margin in respect of the goods exported to Australia by uncooperative and all other exporters for the inquiry period is **60.2 per cent**.

The Commission’s calculations are provided at Confidential Attachment 3.

### 7.11 Summary of dumping margins

In summary, the Commission has calculated the following dumping margins:

<table>
<thead>
<tr>
<th>Exporter</th>
<th>Dumping margin (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>CITIC Dicastal</td>
<td>8.4%</td>
</tr>
<tr>
<td>Jinfei Kaida</td>
<td>7.8%</td>
</tr>
<tr>
<td>Zhejiang Yueling</td>
<td>3.2%</td>
</tr>
<tr>
<td>Residual Exporters</td>
<td>7.5%</td>
</tr>
<tr>
<td>Uncooperative and all other exporters</td>
<td>60.2%</td>
</tr>
</tbody>
</table>

*Figure 16 – summary of dumping margins*
8 VARIABLE FACTORS – COUNTERVAILING DUTY NOTICE

8.1 Finding

Countervailable subsidies were received in respect of aluminium road wheels exported to Australia from China during the inquiry period. The Commissioner is satisfied that the amount of countervailable subsidy has changed since REP 263.

8.2 Subsidy programmes considered

The Commission examined 34 subsidy programmes as part of this inquiry. This includes the 32 programmes deemed to be countervailable subsidies received by exporters in respect of aluminium road wheels during the previous review of measures (REP 263), as well as two additional subsidy programmes that the Commission examined as part of this inquiry after receiving information from selected exporters.

In order to consider these 34 subsidy programmes, the Commission obtained information from all selected exporters via responses to the exporter questionnaire and the verification activities undertaken. The Commission did not receive a response to the government questionnaire from the GOC for this inquiry.

8.3 Findings by subsidy programme

After assessing all relevant information available, the Commission has found that aluminium road wheel producers received financial contributions that conferred a benefit in respect of the goods via countervailable subsidy programmes.

Findings in relation each programme considered are summarised in the following table:

<table>
<thead>
<tr>
<th>No.</th>
<th>Programme name</th>
<th>Programme type</th>
<th>Countervailable in respect of aluminium road wheels?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Aluminium provided by government at less than fair value</td>
<td>Provision of goods</td>
<td>Yes</td>
</tr>
<tr>
<td>4</td>
<td>Preferential income tax for hi-tech enterprises</td>
<td>Tax</td>
<td>Yes</td>
</tr>
<tr>
<td>5</td>
<td>Preferential tax policies for western development 'go west' strategy</td>
<td>Tax</td>
<td>Yes</td>
</tr>
<tr>
<td>14</td>
<td>Preferential tax policies for enterprises making little profits</td>
<td>Tax</td>
<td>Yes</td>
</tr>
<tr>
<td>21</td>
<td>Grants for encouraging the establishment of headquarters and regional headquarters with foreign investment</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>29</td>
<td>Patent award of Guangdong Province</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>31</td>
<td>Exemption of tariff and import value-added tax (VAT) for imported technologies and equipment</td>
<td>Tax</td>
<td>Yes</td>
</tr>
<tr>
<td>32</td>
<td>Full refund of VAT to FIEs on purchasing unused domestic equipment with currency in China</td>
<td>Tax</td>
<td>Yes</td>
</tr>
<tr>
<td>35</td>
<td>Matching funds for international market development for SMEs</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>36</td>
<td>Innovative experimental enterprise grant</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>37</td>
<td>Special support fund for non-State owned enterprises</td>
<td>Grant</td>
<td>Yes</td>
</tr>
</tbody>
</table>

84 The Commission considered 39 programmes, in total, during REP 263.

85 Subsection 269TACC(1) refers.
### Figure 17 – findings in relation to countervailable subsidies

# denotes programmes not previously countervailed in relation to aluminium road wheels

In some instances, the Commission has found that certain programmes which were considered in REP 263 are no longer countervailable, as these programmes expired prior to the inquiry period.

A detailed analysis in relation to the countervailable subsidy programmes shown in the table above is provided at Appendix C.

#### 8.4 Subsidy margins

##### 8.4.1 Selected exporters

Selected exporters reported receiving various subsidy programmes examined as part of this inquiry. Exporter-specific subsidy margins have been calculated for each selected cooperative exporter, with reference to the specific programmes that conferred a benefit on each exporter.

The Commission notes that CITIC Dicastal did not provide information pertaining to subsidies received, as the countervailing duty notice does not apply to that company (Section 2.2.1 refers).

The table below shows a collective summary of programmes received by relevant selected exporters:

<table>
<thead>
<tr>
<th>No.</th>
<th>Programme name</th>
<th>Programme type</th>
<th>Countervailable in respect of aluminium road wheels?</th>
</tr>
</thead>
<tbody>
<tr>
<td>38</td>
<td>Venture investment fund for hi-tech industry</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>39</td>
<td>Superstar enterprise grant</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>40</td>
<td>One-time awards to enterprises whose products qualify for ‘well-known trademarks of China’ or ‘famous brands of China’</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>41</td>
<td>Technology assist</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>42</td>
<td>Export subsidies</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>43</td>
<td>SME assist</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>44</td>
<td>Assistance for closing down small thermal power units in Zhejiang Province</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>46</td>
<td>Government incentive for the top taxpayer of the year – Qinhuangdao City</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>47</td>
<td>Financial support from China postdoctoral science foundation</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>48</td>
<td>Foreign trade public service platform development fund</td>
<td>Grant</td>
<td>No</td>
</tr>
<tr>
<td>50</td>
<td>Patent application fee subsidy</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>51</td>
<td>Enterprise development</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>53</td>
<td>New product trial production</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>56</td>
<td>Patent grants</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>57</td>
<td>Government quality award</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>58</td>
<td>Award to open economy</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>59</td>
<td>Assistance to importer and exporter fair trade programme</td>
<td>Grant</td>
<td>No</td>
</tr>
<tr>
<td>60</td>
<td>Assistance fund for import</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>61</td>
<td>Award for the growth of local income tax</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>62</td>
<td>Refund of local water conservancy fund</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>63</td>
<td>Award for IPO</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>64 #</td>
<td>Employment stabilisation subsidy</td>
<td>Grant</td>
<td>Yes</td>
</tr>
<tr>
<td>65 #</td>
<td>Employee medical care fund</td>
<td>Grant</td>
<td>Yes</td>
</tr>
</tbody>
</table>
The Commission has collated the programmes applicable to selected exporters in recognition that this information may be confidential. It is noted that each selected exporter has only received subsidy margins in relation to the programmes actually benefited from.

The subsidy calculations for selected exporters are provided at Confidential Attachment 4.

### 8.4.2 Residual exporters

In the absence of GOC advice regarding the individual enterprises that received financial contributions under each of the subsidy programmes considered, the Commission determined the subsidy margin for residual exporters based on the weighted average countervailable subsidisation determined for all selected exporters.

The subsidy calculation for residual exporters is provided at Confidential Attachment 4.

### 8.4.3 Uncooperative and all other exporters

In the absence of GOC advice regarding the individual enterprises that received financial contributions under each of the subsidy programmes considered, the Commission has had regard to the available relevant facts when determining the countervailing margin for uncooperative and all other exporters, including:

- information submitted in responses to the exporter questionnaire by selected exporters; and
- findings made in REP 263.

The Commission has determined that uncooperative and all other exporters received financial contributions that have conferred a benefit under the 32 programmes found to be countervailable in relation to aluminium road wheels.

The subsidy calculation for uncooperative and all other exporters is provided at Confidential Attachment 4.
9 LIKELIHOOD THAT DUMPING, SUBSIDISATION AND MATERIAL INJURY WILL CONTINUE OR RECUR

9.1 Finding

The Commissioner is satisfied that, in the absence of the anti-dumping measures, dumping, subsidisation and material injury are likely to continue or recur. However, the Commissioner is satisfied that it is unlikely that material injury will continue or recur as a result of goods exported to Australia by CITIC Dicastal.

9.2 Introduction

In accordance with subsection 269ZHF(2) of the Act, the Commissioner must not recommend that the Parliamentary Secretary take steps to secure the continuation of anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent.

9.3 Will dumping continue or recur?

9.3.1 Australian industry’s claims

In its application, Arrowcrest submitted that:

- there is no evidence to indicate that dumping has ceased;
- REP 263 found that exports of aluminium road wheels from China continued to be at dumped prices, and dumping margins have increased since measures were introduced;
- anti-dumping measures currently apply to Chinese exports of aluminium road wheels in the European Union and the Republic of India (India);
- prices for aluminium road wheels in China are lower than they would otherwise be, due to the ongoing market situation for aluminium in China;
- exports of aluminium road wheels to Australia from China have continued in substantial volumes following the imposition of measures in 2012;
- exporters of aluminium road wheels to Australia from China have maintained distribution links into the Australian market;
- China has significant surplus capacity for the production of aluminium road wheels;
- exporters can readily switch significant volumes of aluminium road wheels from one destination market to another; and
- Australia remains an attractive export market for producers/exporters of aluminium road wheels from China.

9.3.2 The Commission’s approach

In assessing the likelihood of whether dumping will continue or recur, a number of factors are relevant. In the Commission’s view, the relevance of each factor will vary depending on the nature of the goods being examined and the market into which the goods are being

As outlined in the Manual at pages 170-1.
sold. The ADRP has noted previously that the exercise being conducted in a continuation inquiry is a hypothetical one. While it should be based on an analysis of facts found to exist during the inquiry period, it also requires the Commission to consider what is likely to occur in the future if the measures were to expire.87

9.3.3 Analysis of dumping within the inquiry period

The Manual provides that, in assessing the likelihood of continuing or recurring dumping, the inquiry may gather facts relevant to whether dumping will resume (such as exporters’ margins).88

As shown in Section 7.11, the Commission considers that aluminium road wheels exported to Australia by all exporters were at dumped prices during the inquiry period.

9.3.4 Chinese exports to other markets

The Commission has observed that aluminium road wheels exported to the European Union and to India from China are subject to anti-dumping measures. The measures applied by the European Commission were recently continued for another five years as a result of Expiry Review R628.89 The measures applied by the Ministry of Finance (Department of Revenue) in India are due to expire on 10 April 2019.90

9.3.5 Import volumes

The Manual provides that, in assessing the likelihood of continuing or recurring dumping, the inquiry may gather facts relevant to whether exports are likely to continue or resume, such as the volume of exports before and after measures were imposed, or exporters’ supply chains.91

Using the data provided by Arrowcrest from the ABS,92 the table below shows that aluminium road wheels imported from China, as a proportion of total imports, have increased marginally each year between FY 2014 and FY 2016, despite the imposition of anti-dumping measures from 5 July 2012.

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>47%</td>
<td>53%</td>
<td>55%</td>
</tr>
</tbody>
</table>

Figure 21 – proportion of imports originating from China

The Commission notes that exporters subject to measures have maintained export pathways and distribution channels into the Australian market since the anti-dumping measures were imposed. Using export data provided by selected exporters in both the

87 ADRP Report No. 44, paragraph 61 refers.
88 Page 171 refers.
90 Notification No. 21/2015 - Customs (ADD).
91 Page 171 refers.
92 Note that this data may include steel wheels (Section 5.4.1 refers).
original investigation and the current inquiry, the Commission observed a noticeable increase in import volumes for one selected exporter since the measures were imposed.

9.3.6 Surplus capacity

The Manual provides that, in assessing the likelihood of continuing or recurring dumping, the inquiry may gather facts relevant to whether exports are likely to continue or resume, such as exporters’ production capacity.93

Information provided in the responses to both the exporter questionnaire and request for information indicate that selected and residual Chinese aluminium road wheel manufacturers had production utilisation rates ranging from 52 to 100 per cent during the inquiry period. When considered in aggregate, this equates to a total spare capacity of more than five million pieces per annum. In the case of one major exporter, it was noted there was an ongoing project to increase the company’s capacity significantly.

The Commission notes its earlier findings with regard to the particular market situation for aluminium road wheels in China, and the economic benefit to manufacturers of maintaining consistent production volumes (and improving cost efficiencies associated with the use of molten aluminium). The Commission considers it is likely that exporters are seeking opportunities to obtain greater efficiencies of scale, and would therefore increase export volumes immediately should the measures be removed.

9.3.7 Capacity to switch destination markets

The Commission considers that the ability to switch destination markets (at least over the short term) is relatively limited in the OEM segment, as well as in the part of the aftermarket segment that relates to OE spares and aftersales. This finding is based on:

- the substantial research and development that goes into developing a vehicle (of which the wheels form only a part) well in advance of production;
- the existence of contracts for the life of the vehicle (five years, plus the need to provide spare parts for an additional ten); and
- the requirement for all suppliers to undergo PPAP, which can take between 18 months and two years.

In regards the remaining aftermarket segment, the Commission acknowledges that the limitations described above will not be as prohibitive to manufacturers that supply these customers.

9.3.8 Conclusion

Taking the above analysis into account, the Commission considers there is sufficient evidence to suggest that:

- dumping by identified exporters has continued during the inquiry period;
- export pathways into the market have been maintained, and for one exporter the volume exported has noticeably increased since the measures were imposed on 5 July 2012;

93 Page 171 refers.
- there is substantial excess capacity in China;
- Chinese exporters have dumped in other markets, likely due to the same economic factors that encourage consistent production volumes; and
- exporters in China that supply aftermarket retailers do not experience the same limitations in switching destination markets as those supplying OEMs.\(^{94}\)

As a result, the Commission considers that, if the anti-dumping measures are not continued, there is sufficient evidence to suggest that the dumping of aluminium road wheels from China is likely to continue.

### 9.4 Will subsidisation continue or recur?

#### 9.4.1 Australian industry’s claims

As part of its application, Arrowcrest submitted that:

- the subsidy programmes confirmed as continuing in REP 263 indicate that the GOC continues to provide a broad range of countervailable subsidies to aluminium road wheel manufacturers in China;
- REP 263 found that exports of aluminium road wheels from China continued to be at subsidised prices, and subsidy margins have increased since measures were introduced; and
- the Commission’s recent analysis of Asian steel and aluminium markets found the cost of primary and alloyed aluminium inputs averaged 61 per cent across certain exporters of aluminium road wheels.\(^{95}\) The Commission considered that lower prices for these inputs would either reduce the price of manufactured aluminium products (to the extent the lower costs are passed on), or increase the profitability of those products (which would provide an incentive for increased production).

#### 9.4.2 The Commission's assessment

As shown in Section 8.4, the Commission considers that aluminium road wheels have been exported to Australia from China at subsidised prices during the inquiry period. In particular, the Commission observed that during the inquiry period:

- examined subsidised imports of aluminium road wheels represented approximately 11 per cent of the total Australian market; and
- examined subsidised imports of aluminium road wheels supplied to aftermarket customers represented approximately 16 per cent of the aftermarket segment.\(^{96}\)

Noting that a number of programmes have continued from the original investigation through to the current inquiry, and that additional programmes have been identified over time, there is no evidence to suggest that the GOC will cease offering subsidy programmes, in some form, to manufacturers of aluminium road wheels.

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\(^{94}\) As well as that part of the aftermarket segment relating to OEM spare parts and aftersales.

\(^{95}\) *Analysis of Steel and Aluminium Markets Report to the Commissioner of the Anti-Dumping Commission* (August 2016), page 55 refers, citing a finding in REP 263.

\(^{96}\) In both instances, the market shares relate to selected and residual exporters only, as the precise volume of exports from uncooperative exporters is uncertain.
9.4.3 Conclusion

The Commission considers that, if the anti-dumping measures are not continued, there is sufficient evidence to suggest that the subsidisation of aluminium road wheels from China is likely to continue.

9.5 Will material injury continue or recur?

9.5.1 Australian industry’s claims

As part of its application, Arrowcrest submitted that, if the dumping and countervailing measures on aluminium road wheels from China were allowed to expire, exporters in China would seek to increase export volumes to Australia. The basis for these concerns includes:

- the available size of the Australian market;
- the relative stability of prices in the Australian market;
- the ongoing networks maintained by Chinese exporters in the Australian market;
- the attractiveness of the returns on the subsidised input costs for China producers;
- the attractiveness of returns resulting from dumped and subsidised prices for aluminium road wheels from China; and
- the potential for further expansion of the Australian aftermarket over the longer term.

Arrowcrest claims that this increase in Chinese exports, likely to be at dumped and subsidised prices, will likely cause material injury to the Australian industry that the measure is intended to prevent.

Arrowcrest also claimed that:

[the availability of OEM copy wheels at dumped and subsidised prices from producers in China ... threatens to cause material injury to OEM vehicle distributors in Australia, (as well as intellectual property infringement), including to those OEMs sourcing their replacement and accessory ARWs from the Australian industry.]

Following the application, Arrowcrest made an additional submission to the Commission reiterating its position on the continuation of material injury.

9.5.2 Material injury in the OEM segment

As outlined in Section 5.3.1, future demand for aluminium road wheels in the OEM segment will be significantly reduced after 2017, although it is likely that the relevant performance brands (i.e. HSV) will continue to undertake modifications to vehicles, which will include the fitment of OEM-compliant aluminium road wheels. To give a sense of scale, the OEM segment is currently estimated to comprise around 500,000 wheels; from 2018, the Commission’s understanding is that the volume of OEM wheels required by the market will decline substantially.

97 This claim has not been addressed as part of this inquiry, noting that no evidence was provided to support it.

98 EPR 378/015, page 6 refers.
At the time of the original investigation, HSV claimed that it required all aluminium road wheels to be manufactured using either the flow form or forged manufacturing methods, in order to meet GM Best Practice Engineering Guidelines. At that time, it was noted that Arrowcrest only manufactured wheels using the low pressure die casting method. The Commission is not aware if HSV’s requirements have changed since this time, or if Arrowcrest has been given the opportunity to quote for any future work. It is assumed by the Commission that quotes for the next model offering will be sought by HSV in approximately three years (i.e. 2021), based on the known release of a new model in 2017, and the life cycle of a vehicle (as outlined in Section 5.3.1).

In addition, the Commission notes that Arrowcrest’s consideration for HSV work was jeopardised prior to the original investigation after it notified HSV of a 25 per cent price increase, effective immediately, on all future orders or it would make no further deliveries. According to the original investigation, ‘... such [a] sudden change in the price by Arrowcrest led HSV to reconsider its supply strategies and to broaden its supplier base’. So far as the Commission is aware, Arrowcrest has not been awarded any new contracts with HSV since this time.

The Commission further notes from the original investigation that the relationship between Ford and the Arrowcrest group had broken down as a result of ‘protracted and acrimonious legal proceedings’, and that Ford did not foresee, at that time, any circumstances that would cause it to reconsider sourcing product from Arrowcrest in the future. As a result, it is considered likely that Arrowcrest’s past commercial relationships with Ford and HSV will inhibit its ability to win future contracts with those performance brands, regardless of whether the anti-dumping measures are continued or not. It is noted that Toyota’s performance brand was discontinued in 2009.

Therefore, in the absence of the anti-dumping measures, it is considered unlikely that dumping and subsidisation will cause a continuation or recurrence of material injury to the Australian industry in the OEM segment.

9.5.3 Material injury in the aftermarket segment

The Commission considers that the significant reduction in volumes going to the OEM segment in Australia will have a serious impact on the business model of the Australian industry. As a result, the Commission considers that after 2017 the Australian industry will enter a period of major transition, during which time it will be particularly susceptible to material injury in the aftermarket segment from dumping and subsidisation, as well as other factors. The implications of this will be discussed more specifically in the following sections.

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99 EPR 181/090, page 8 refers.
100 EPR 181/090, page 11 refers.
101 EPR 181/090, page 11 refers.
102 EPR 181/100, page 11 refers.
103 EPR 181/181, page 29 refers.
In light of this, the Commission also considers that the economic condition of the
Australian industry shown in prior years (as outlined in Chapter 6) is not a reliable indicator
of how it will perform in the anticipated market conditions existing from 2018 (that is, after
the anti-dumping measures are due to expire).

9.5.3.1 OE spare parts and aftersales

The Commission notes that spare parts for vehicles currently manufactured in Australia
are kept for a period of ten years after production ceases. Taking into account the
observations made in Section 9.3.7 above, it is unlikely that sourcing arrangements for
these goods will change after the relevant vehicle comes out of production, regardless of
whether the measures are continued or not.

In relation to OE spare parts and aftersales used on imported vehicle lines, the
Commission notes from the information available that supply arrangements tend to
operate through global corporate structures.\textsuperscript{104} Even if aluminium road wheels are not
purchased directly from a related entity, it is likely that the supplier of those goods has an
arrangement with the relevant vehicle manufacturer on a global or regional scale. This is
consistent with the growing consolidation of the automotive industry as vehicle
manufacturers seek to achieve economies of scale.\textsuperscript{105}

The Commission also considers it is reasonable to assume that customers who want to
purchase a vehicle with aluminium wheels can either purchase a base model, and upgrade
the wheels at the showroom,\textsuperscript{106} or can purchase a model with a higher ‘trim level’. The
Commission considers that the continuation, or otherwise, of these measures will have
little influence on either scenario, either because the wheels form part of the vehicle (and
are not subject to measures), or because the aftersales OE aluminium road wheel
(whether it is purchased with the vehicle, or at some later time) is likely to be sourced
through global supply chains.

While Arrowcrest has submitted that vehicle retailers, such as Holden, will seek to
differentiate particular vehicles in the Australian market using local ‘alloy’ offerings,\textsuperscript{107} the
Commission has no evidence to suggest that this is a common practice in the market.
While the Commission has evidence of one (short term) instance where this has occurred,

\textsuperscript{104} Whilst the ABF import database was not considered sufficiently reliable to undertake volume or price
\textsuperscript{105} Sandhill White Paper - platform strategy will shape future of OEMs (2012) pages 3-4 refer.
\textsuperscript{106} The Commission observed that in some, but not all, cases, a base model will be offered with steel
\textsuperscript{107} That is, particular aluminium road wheels (EPR 378/014, page 3 refers).
these arrangements would seriously inhibit the Australian industry’s ability to supply into this part of the market, regardless of whether the measures are continued or not.

9.5.3.2 Material injury from goods exported to Australia by CITIC Dicastal

CITIC Dicastal has submitted that SEF 378 contained several findings and conclusions that point to an absence of any causal link between future exports by CITIC Dicastal and any continuation or recurrence of material injury to the Australian industry. CITIC Dicastal points to:

- its exclusive focus on supplying OE aluminium road wheels to OEM customers, and therefore the absence of sales by CITIC Dicastal to the Australian aftermarket over a long period of time;
- the OE spare parts and associated aftersales sub-segment being heavily influenced by global supply arrangements, and that, at best, it is likely that these arrangements would seriously inhibit the Australian industry’s ability to supply into this part of the market, regardless of whether the measures are continued or not; and
- the ability to switch destination markets (at least in the short term) is relatively limited in the OEM segment.\(^{108}\)

CITIC Dicastal also submitted that:

- it will continue to supply OEMs under existing global supply contracts, and to enter the aftermarket segment in Australia could adversely affect its relationship with those OEMs;
- the aftermarket segment is a spot market with short production runs,\(^{109}\) and does not fit the business model of CITIC Dicastal. To transfer from OEM to aftermarket production is not a simple process, due to the different production equipment, different production quantity, and required investment in new paint lines, design, cost allocation system, production planning system and development of a new customer base;
- in any event, the Australian OEM segment for aluminium road wheels is a small market for CITIC Dicastal; the Australian aftermarket, at least on individual models, is an even smaller market, and is one in which CITIC Dicastal has no interest. CITIC Dicastal claims that it would not be commercially viable for it to undertake the investment needed to enter that market;\(^{110}\) and
- therefore any suggestion that CITIC Dicastal would enter the aftermarket segment is mere speculation, with no basis in fact or evidence.

The Commission notes that CITIC Dicastal has provided no evidence to support its claims concerning existing relationships with OEMs, and the degree to which those relationships might be impacted by a move into the aftermarket, or that different production equipment would be required.\(^{111}\) Notwithstanding this, it may be reasonable to suppose that

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\(^{108}\) EPR 378/024, pages 5-6 refer.

\(^{109}\) While each OEM model is produced in tens of thousands of pieces, an aftermarket model may require a production run in the hundreds only. The production quantity of each model leads to a significant difference in production planning, production cycle of equipment and cost allocation.

\(^{110}\) EPR 378/024, pages 4-5 and 378/030, pages 6-7 refer.

\(^{111}\) It is not certain whether different production equipment would be required, based on the Commission’s knowledge of other selected exporters and the Australian industry.
additional investment would be required in relation to wheel design, the production planning system and development of a new customer base.

Further, the Commission has observed that CITIC Dicastal did not supply aluminium road wheels into the Australian aftermarket (beyond OE spare parts and related aftersales) at any stage during the periods examined in REP 181, REP 263 and this inquiry. In the same overall period, its exports to third countries have been observed to relate solely to OEM supply. The Commission considers that it is extremely unlikely CITIC Dicastal would make any deliberate investment decisions of the kind required to enter the Australian (retail) aftermarket, when it has not already done so for any other larger market that would offer it efficiencies of scale.

The Commission also notes its findings concerning the purchasing behaviour of consumers in the aftermarket segment, and the potential to choose between OE and non-OE aluminium road wheels (Section 9.5.3.3 refers). The Commission’s understanding is that OE spare parts and aftersales supplied by CITIC Dicastal already represent a very small volume of the overall market for aluminium road wheels. So, whilst the Australian industry may be expected to win some sales from customers that choose to switch from OE to non-OE aluminium road wheels, the Commission’s assessment is that the degree to which this switching might be influenced by the continuation or otherwise of the measures concerning CITIC Dicastal is likely to be very small.

Whilst the Commission is satisfied that the goods exported by CITIC Dicastal in the future are likely to be dumped, the Commission notes that the dumping margin found is 8.4 per cent; the Commission has also found that price is only one factor influencing consumers, and that the degree to which consumers are sensitive to price will vary depending on the circumstances of the purchase. Given the very narrow part of the aftermarket currently being supplied by CITIC Dicastal, and the Commission’s finding that this is unlikely to change, the Commission considers that CITIC Dicastal’s dumped exports are unlikely to cause material injury to the Australian industry.\(^{112}\)

As a result of this finding, any reference to the aftermarket segment in the remainder of this chapter should be taken to focus on the retail (i.e. non-OE) portion of the segment.

### 9.5.3.3 Size and stability of the Australian aftermarket segment

As outlined at Section 5.4.1, the Commission estimates that the size of the Australian aftermarket segment was approximately one million pieces during the inquiry period (this includes OE spare parts and aftersales). The Commission has no evidence to show how the size of that segment compares globally, nor to assess whether there is potential for further expansion over the longer term as claimed by Arrowcrest (Section 9.5.1 refers), notwithstanding that the number of new vehicles being purchased in Australia is growing (Section 5.4 refers).

Further to this, the Commission notes that the Australian Competition and Consumer Commission (ACCC) is currently undertaking a market study of the ‘new car retailing industry’. The issues paper for this study indicates that ‘… the ACCC is concerned that dealers may be making statements suggesting that consumers must use genuine parts in

\(^{112}\) For clarity, the Commission considers that these factors are specific to the circumstances of CITIC Dicastal, and are distinguishable from the circumstances of sales by exporters generally to the aftermarket.
order to maintain their warranties. Statements about the use of non-genuine parts voiding warranties may be false or misleading. Conversely, the Commission is aware that claims have been made that some aluminium road wheels imported from China do not meet Australian standards.

The Commission considers that these competing narratives may have some impact on purchasing behaviours in relation to OE versus non-OE aluminium road wheels, but it is difficult to assess whether this might result in a larger volume of non-OE aftermarket (retail) sales in Australia, and (if so) the extent of that volume.

9.5.3.4 Export volumes

Arrowcrest has submitted that the expiry of measures will likely result in an increase in export volumes to Australia from China into a market that is relatively large and stable.

The Commission has established that:

- imports of Chinese aluminium road wheels have continued in substantial volumes (Section 9.3.5 refers);
- exporters subject to measures have maintained export pathways and distribution channels into the Australian market since the anti-dumping measures were imposed (Section 9.3.5 refers); and
- a number of Chinese aluminium road wheel manufacturers have excess capacity (Section 9.3.6 refers).

Data from the responses to the exporter questionnaire and request for information also demonstrate that many Chinese aluminium road wheel producers have a strong export focus. Cooperating exporters have each indicated that exports of aluminium road wheels account for between 32 and almost 100 per cent of sales (by volume) during the inquiry period.

The Commission is of the view that conditions of competition between imported and domestically produced aluminium road wheels are similar in the aftermarket segment. In particular, the Commission has established that importers are selling goods to the same customers as Arrowcrest, and that domestically produced aluminium road wheels can be substituted with imported goods. The Commission also considers that domestic and imported goods have similar end-uses.

For the reasons outlined above, the Commission considers that import volumes from China are likely to continue and, in the absence of anti-dumping measures, would increase. This would occur at a time when the Australian industry is particularly susceptible to material injury (Section 9.5.3 refers), and when the viability of its

113 ACCC issues paper - new car retailing (October 2016), page 12.
114 See, for example, this article from 26 October 2015.
115 EPR 378/015, page 6 refers.
116 As outlined in the like goods analysis for the original investigation (EPR 181/181, page 25 refers). No evidence has been presented which would suggest that market conditions have substantially changed since that time.
manufacturing operation relies on its ability to significantly increase volumes to aftermarket (retail) customers (as outlined further at Section 9.5.3.8).

9.5.3.5 Market for primary aluminium in China

As outlined in Appendix B, the Commission established that the GOC has substantially influenced the aluminium road wheel market in China due to the distorted price of primary aluminium. This influence is likely to have materially distorted competitive market conditions, and directly affected the price of the primary input used in the manufacture of aluminium road wheels, as well as affecting supply within that industry.

On this basis, it is reasonable to conclude that Chinese exporters of aluminium road wheels will continue, because of GOC influence, to have a competitive advantage over Australian manufacturers.

9.5.3.6 Comparison of the NIP to export prices

As outlined in Chapter 11, the Commission has calculated a NIP using the methodology described therein.

The Commission has compared the NIP with weighted average free on board (FOB) export prices of aluminium road wheels exported to Australia from China during the inquiry period, for those selected exporters known to supply the aftermarket (retail) segment. The Commission found that the NIP was higher than those weighted average export prices in all cases.

This analysis indicates that, notwithstanding the existence of anti-dumping measures in the inquiry period, aluminium road wheels exported to Australia from China have continued to undercut the prices of the Australian industry.

The NIP calculations are at Confidential Attachment 5.

9.5.3.7 Effectiveness of the measures

The Commission has examined the economic condition of the Australian industry (Chapter 6 refers). This analysis indicates that some aspects of the Australian industry’s performance have improved since the imposition of the measures. However, given the fundamental change in the market that is about to occur, the Commission is cautious in placing too much reliance on historical data to predict the likelihood of injury occurring in the future as a result of dumped and subsidised imports.

Submission regarding effectiveness of the measures

According to CITIC Dicastal, it is evident from SEF 378 that:

… since the anti-dumping measures were originally imposed, they have had no effect either in the Australian OEM market, which is about to significantly reduce with the shutdown of motor vehicle manufacturing in Australia, nor in the Australian Aftermarket… [I]t is evident from Figure 6 on page 27 of SEF 378 that the imposition of anti-dumping measures has had no discernible effect. Since 2012, Arrowcrest’s Aftermarket sales volumes have continued to flat line. That is, the imposition of anti-dumping measures has made no difference to Arrowcrest’s sales volumes since 2012.117

117 EPR 378/030, page 8 refers.
As outlined in SEF 378, and reiterated above, the Commission has not placed much reliance on historical data in this inquiry to predict the likelihood of injury occurring in the future as a result of dumped and subsidised imports. It was noted by the single judge in *Siam Polyethylene v Minister of State for Home Affairs (No 2)* [2009] FCA 838 that the scenarios in subsection 269ZHF(2) ‘... involve a consideration of future events based on an evaluation of the present position’, and that the question of whether the expiration of the measures would be likely to lead to dumping and material injury ‘... requires a prediction to be made. The use of the word “likely” qualifies the nature of that prediction’.118

It was also stated by the single judge that the term ‘likely’ in subsection 269ZHF(2) means ‘more probably than not’. This finding was not disturbed by the Full Federal Court on appeal.119

In the Commission’s view, the results of past injury to the Australian industry are not necessarily determinative of future injury, and are not sufficient on their own to satisfy the Commissioner’s consideration of future events. This is particularly so in the current case, where the OEM segment is about to significantly reduce with the shutdown of motor vehicle manufacturing in Australia. This means that conditions for the Australian industry will change dramatically, and it will be focused almost solely on the aftermarket segment, and driving sales in that segment (which it was not historically required to do). In this regard, the submission fails to address the matters raised by the Commission in Section 9.6 of SEF 378.

The submission also claims that Arrowcrest’s verification report did not address what strategies would be used to grow sales to the aftermarket segment,120 which fails to take into account the observation in SEF 378 around evidence of new design work.121

CITIC Dicastal concludes that the measures have had no effect and the continuation of ineffective measures would be similarly ineffective (i.e. they would not and have not prevented any material injury that they are intended to prevent). The Commission notes that the measures are not intended to prevent all material injury to an Australian industry, but only that injury attributable to dumping and subsidisation. For that reason, it would be incorrect to suppose that measures have been ineffective merely because they have failed to remedy all material injury experienced by the industry.

### 9.5.3.8 Future sales to retailers

In anticipation of the substantial impending change in the Australian market for aluminium road wheels that will occur when local vehicle manufacturing ceases, Arrowcrest has provided the Commission with evidence to show the minimum volume it must produce each year after 2017 to keep its equipment running most efficiently.

Based on Arrowcrest’s current estimates, and compared to volumes that were sold during the inquiry period, sales to this area of the market will be required to grow significantly.

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118 At paragraphs 46 to 47.
119 At paragraphs 46 to 47.
120 EPR 378/030, page 8 refers.
121 EPR 378/021, page 53 refers.
The Commission is aware that Arrowcrest is currently negotiating to secure ongoing volume for certain OE aftersales, and the Commission has obtained evidence to suggest that new designs are being developed to assist Arrowcrest to grow its aluminium road wheel sales to retail customers in the aftermarket.

The Commission notes that a defined volume of wheels produced for a particular customer in FY 2016 (the inquiry period) coincided with the only profitable result in this segment (Chapter 6 refers). Noting Arrowcrest’s manufacturing process, and the clear economic benefits of consistent and predictable production planning that occurs in the OEM segment (and that generates a profitable outcome), it is apparent that Arrowcrest’s financial performance in 2018 and beyond will be assisted by its ability to win and keep similar orders in sufficient volumes to enable similar production efficiencies to be achieved.

As outlined in Section 9.5.3, the Commission considers that the Australian industry is susceptible to material injury, particularly as a result of the impending cessation of OEM operations in Australia. To the extent that the Australian industry is unable to implement a strategy to increase its sales to aftermarket customers, any injury experienced as a result of this failure would not be attributable to dumping or subsidisation.

However, while the Australian industry has been aware of the upcoming change to the Australian market for some time, as observed in various submissions, the Commission considers there are limited opportunities for Arrowcrest to control how this transition is managed. This view is premised on the Commission’s understanding of how the aftermarket retail segment operates (as outlined in Section 5.3.3), namely that:

- in general, price is a factor in the consumer’s purchasing decision, though its importance will vary depending on the circumstances of the purchase;
- sales are generally made in low volume transactions that are initiated by a consumer arriving in-store; and
- individual dealers will promote the products on which they stand to make the most profit, thereby making cheaper goods more attractive.

As a result, the Commission maintains the view that competing on price and design will be major requirements for the Australian industry to secure an increased volume of aftermarket retail sales after 2017. In the Commission’s view, the presence of dumped and/or subsidised aluminium road wheels in the market will negatively impact Arrowcrest’s ability to compete on this basis.

9.5.3.9 Factors other than dumping

The Commission has considered the possible impact of undumped aluminium road wheels exported to Australia by PDW. Given the ABF import database was not considered

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122 For example, EPR 378/013, page 3 refers.
123 Zhejiang Shuguang Industrial Co., Ltd (as defined in Section 2.2.1). NB the original investigation, as it related to this exporter, was terminated.
sufficiently reliable for this inquiry (Section 5.4.1 refers), this data has been used to identify broad trends only.\textsuperscript{124}

The ABF import database suggests that there may have been a noticeable increase in volumes sold into the aftermarket segment by PDW after the anti-dumping measures were first put in place (based on a comparison with verified volumes from the original investigation). Since that time, volumes from PDW appear to have remained relatively steady. The data also suggested that weighted average prices (per piece) have increased year on year since the measures were imposed.\textsuperscript{125}

As a result, it is possible that exports of aluminium road wheels to Australia by PDW have contributed to the lower volume of sales previously experienced by the Australian industry in the aftermarket segment. However, the Commission considers that, due to the relative stability of volumes from PDW since the measures were imposed, the relative influence of these exports will be likely to diminish if the measures expire (i.e. PDW will no longer have the price advantage conferred by the application of interim dumping duty and interim countervailing duty to products imported from rival entities).

### Submission that closure of the Toyota plant will cause material injury

CITIC Dicastal has queried whether Arrowcrest will ‘lose’ sales of aluminium road wheels to Toyota when it closes its plant in October 2017. If so, CITIC Dicastal queries whether the ‘loss’ of such sales will cause Arrowcrest material injury. That is:

\[\text{... it will be the “loss” of such sales that will be the cause of any material injury to Arrowcrest, as opposed to alleged dumped and subsidised imports, where the evidence is that the anti-dumping measures have had no effect on Arrowcrest’s supply of ARWs either to the OEM market or to the Australian Aftermarket.}\textsuperscript{126}

The Commission notes that Toyota will cease manufacturing in Australia regardless of whether the measures are allowed to expire. As a result, any assessment regarding how the expiration of those measures will likely impact the Australian industry must be undertaken in that context. Specifically, the assessment in Section 9.6 considers the impact that dumping and subsidisation will have on the Australian industry when it is weakened by other events (i.e. significantly reduced sales to Toyota).

### 9.6 Is injury from dumping and subsidisation likely to be material?

Notwithstanding the acknowledgement that other factors are likely to influence the economic condition of the Australian industry if measures are removed, the \textit{Ministerial Direction on Material Injury} (the Direction on Material Injury), dated 27 April 2012, provides that injury from dumping or subsidisation need not be the sole cause of injury to the industry, but the injury caused by dumping or subsidisation must be material in degree.\textsuperscript{127}

In making this assessment, the Direction on Material Injury further provides that the materiality of injury caused by a given degree of dumping or subsidisation can be judged

\begin{itemize}
  \item Given the issues identified in Section 5.4.1, the Commission has not undertaken an analysis in relation to exports from other countries.
  \item This observation is made in the context of decreasing LME prices (per tonne) over that same period.
  \item EPR 378/030, page 9 refers.
  \item The Direction on Material Injury can be found on the Commission’s website.
\end{itemize}
differently, depending on the economic condition of the Australian industry suffering the injury. In considering the circumstances of each case, the Commission must consider whether an industry that at one point in time is healthy and could shrug off the effects of the presence of dumped or subsidised products in the market, could at another time, weakened by other events, suffer material injury from the same amount and degree of dumping or subsidisation.

In this case, the Commission considers that the Australian industry will be significantly weakened by the fundamental change in the OEM segment. As a result, it is likely that the injury from dumped and subsidised imports will not be immaterial, insubstantial or insignificant.

Consistent with the Direction on Material Injury, the Commission does not consider that Arrowcrest currently holding only a small share of the aftermarket segment negates a finding that the injury likely to result from dumping and subsidisation, if the measures are removed, is not material. Rather, this share of the market will constitute the bulk of Arrowcrest’s remaining business, and it will be a share that it must grow in order to maintain its manufacturing operation in Australia.

9.7 Conclusion

Taking the above analysis into account, the Commission considers there is sufficient evidence to conclude that:

- import volumes from China are likely to continue and, in the absence of anti-dumping measures, would increase;
- because of GOC influence, Chinese exporters of aluminium road wheels will continue to have a competitive advantage over Australian manufacturers;
- competing on price will be a major requirement for Arrowcrest to secure an increased volume of aftermarket (retail) sales after 2017;
- the goods exported from China are likely to be dumped and subsidised; and
- the Australian industry will be significantly weakened by the fundamental change in the OEM segment, and therefore any injury to the Australian industry that continues or recurs from dumping and subsidisation, if the measures are removed, is likely to be material.

As a result, the Commission is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of the material injury that the anti-dumping measure is intended to prevent. However, it is unlikely that this material injury will continue or recur as a result of goods exported to Australia by CITIC Dicastal.
10 PROPOSED MEASURES

10.1 Finding

Having established that dumping, subsidisation and material injury are likely to continue or recur if the anti-dumping measures are removed, the Commissioner recommends that the Parliamentary Secretary secure the continuation of anti-dumping measures applying to certain aluminium road wheels exported to Australia from China (with the exception of those measures relating to CITIC Dicastal). The Commissioner recommends that the dumping duty notice cease to apply CITIC Dicastal.

In addition to this, the Commissioner recommends that the variable factors in relation to all exporters subject to measures (except CITIC Dicastal) be altered. The Commissioner recommends that, in continuing the anti-dumping measures, interim dumping duty be calculated based on the combination duty method, and interim countervailing duty be calculated as a proportion of the export price of the goods.

10.2 Existing measures

With the exception of PDW and Jiangsu Yaozhong, the method of interim dumping duty currently applied to aluminium road wheels exported from China is the combination duty method, pursuant to subsection 5(2) of the Customs Tariff (Anti-Dumping) Regulation 2013 (the Dumping Duty Regulation).

In relation to Jiangsu Yaozhong, a floor price duty method applies.

With the exception of PDW, CITIC Dicastal and Jiangsu Yaozhong, the method of interim countervailing duty currently applied to aluminium road wheels exported from China is a proportion of the export price of the goods.

10.3 Forms of duty available

The forms of duty available to the Parliamentary Secretary when imposing anti-dumping measures are prescribed in section 5 of the Dumping Duty Regulation in relation to interim dumping duty, and subsection 10(3B) of the Dumping Duty Act in relation to interim countervailing duty.

In relation to interim dumping duty, the forms of duty include:

- fixed duty method ($X per piece);
- floor price duty method;
- combination duty method; or
- ad valorem duty method (i.e. a percentage of the export price).

In relation to interim countervailing duty, duty may be calculated:

- as a proportion of the export price of the goods;
- by reference to a measure of the quantity of those particular goods; or
- by reference to a combination of the above two methods.

128 Jiangsu Yaozhong Aluminium Wheels Co. Ltd (as defined in Section 2.2.2).
The various forms of duty all have the purpose of removing the injurious effects of dumping and/or countervailable subsidisation. However, in achieving this purpose, certain forms of duty will better suit particular circumstances.

In considering which form of dumping duty to recommend to the Parliamentary Secretary, the Commissioner will have regard to the published Guidelines on the Application of Forms of Dumping Duty November 2013 (the Guidelines)\(^{129}\) and relevant factors in the aluminium road wheels market.

### 10.3.1 Fixed duty method

A fixed duty method operates to collect a fixed amount of duty regardless of the actual export price of the goods. A fixed duty is determined when the Parliamentary Secretary exercises the power to ascertain amounts for the export price and normal value.

### 10.3.2 Floor price duty method

The floor price duty method sets a ‘floor’ (for example, a normal value of $100 per tonne), and duty is collected when the actual export price is less than that ‘floor’. The floor price is either the normal value or the NIP, whichever becomes applicable under the duty collection system.

This duty method does not use an ascertained export price as a form of ‘floor price’ as this occurs with the combination duty method and fixed duty method.

### 10.3.3 **Ad valorem** duty method

The **ad valorem** duty method is applied as a proportion of the actual export price of the goods. An **ad valorem** dumping duty is determined for the product as a whole, meaning that a single ascertained export price is required when determining the dumping margin.

### 10.3.4 Combination duty method

The combination duty comprises two elements, the ‘fixed’ element and the ‘variable’ duty element. The fixed element is determined when the Parliamentary Secretary exercises the power to ascertain amounts (i.e. set a value) for the export price and normal value. This may take the form of either a fixed duty or an **ad valorem** on the ascertained export price.

In regards the variable component, having ascertained the export price for the purpose of imposing the dumping duty, if the actual export price of the shipment is lower than the ascertained export price then the variable component will collect an additional duty amount (i.e. the difference between the ascertained export price and the actual export price). It is called a ‘variable’ element because the amount of duty collected varies according to the extent the actual export price is beneath the ascertained export price.

10.4 Factors considered by the Commission

Further to the Federal Court of Australia judgment dated 4 September 2013, the Commissioner cannot apply different measures to the range of models exported by selected exporters.

The Commission has noted that there is a substantial variance in export prices during the inquiry period because of differences in manufacturing process (where applicable), diameter and finish. The Commission noted from data provided by selected exporters that there was a 74 to 87 per cent variance between the lowest and highest weighted average FOB export price (of particular models) for each selected exporter during the inquiry period. In many cases, these circumstances would lend themselves to the application of duty using the *ad valorem* method.

Further, based on the finding that primary and alloy aluminium comprises almost 50 per cent of the total cost to make aluminium road wheels, it is also reasonable to expect that prices will fluctuate over time. However, an assessment of trends in export prices during the inquiry period for high volume models of selected exporters that supply the aftermarket (retail) segment suggests that fluctuations in prices show no apparent link to fluctuations in the price of aluminium or aluminium alloy.

It is also noted that cost information submitted by two of the three selected exporters was deemed unreliable under subsection 269TAC(7), and that normal values were established using an indexed normal value from REP 263 rather than contemporary information from the inquiry period. Taking into account the size of the dumping margins established using this methodology, and the observation that export prices do not appear to fluctuate by reference to raw material costs, it appears likely that the application of an *ad valorem* form of duty could be readily absorbed by exporters. In such circumstances, the combination duty method tends to provide a more effective mechanism to prevent injury occurring to the Australian industry as a result of dumping and subsidisation.

10.5 Application of the dumping duty notice to CITIC Dicastal

Given it is unlikely that any material injury to the Australian industry will continue or recur as a result of goods exported to Australia by CITIC Dicastal (Section 9.5.3.2 refers), the Commissioner recommends that the dumping duty notice cease to apply to CITIC Dicastal pursuant to subsection 269ZHF(1)(a)(ii). It is noted that the countervailing duty notice does not apply to CITIC Dicastal (Section 2.2.1 refers).

10.6 Conclusion

Further to the observations in Section 10.4, the Commissioner recommends that interim dumping duty be collected using the combination duty method.

The Commissioner also recommends that interim countervailing duty continue to be ascertained as a proportion of the export price of the goods.

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130 *Panasia Aluminium (China) Limited v Attorney-General of the Commonwealth* [2013] FCA 870.

131 The Commission’s analysis is in *Confidential Attachment 6*.

132 In doing this, the Commission had regard to all relevant information under subsection 269TAC(6).
Consistent with the current form of measures, the Commissioner therefore recommends that the collective interim dumping duty and interim countervailing duty imposed on exporters in relation to aluminium road wheels exported to Australia from China be the sum of:

- the subsidy rate calculated for all countervailable programmes; and
- the fixed component of dumping duty, less an amount for the subsidy rate applying to programme one (where this has been received by the exporter or exporter category); and
- a variable component of dumping duty, being the amount by which the actual export price of the shipment is lower than the (confidential) ascertained export price applicable to the exporter.

This approach avoids any overlap or double-counting that may arise where there are domestic subsidies and a constructed normal value that includes a major cost component based on surrogate data, as is the case in this inquiry.

The table below shows the rate of combined duty that would be effective if the Parliamentary Secretary were to impose measures based on the Commissioner’s recommendations:

<table>
<thead>
<tr>
<th>Exporter</th>
<th>Fixed component of dumping duty</th>
<th>Countervailing duty</th>
<th>Effective rate of duty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jinfei Kaida</td>
<td>7.8%</td>
<td>2.4%</td>
<td>8.8%</td>
</tr>
<tr>
<td>Zhejiang Yueling</td>
<td>3.2%</td>
<td>1.1%</td>
<td>4.3%</td>
</tr>
<tr>
<td>Residual Exporters</td>
<td>7.5%</td>
<td>2.6%</td>
<td>8.7%</td>
</tr>
<tr>
<td>Uncooperative and all other exporters</td>
<td>60.2%</td>
<td>53.1%</td>
<td>111.8%</td>
</tr>
</tbody>
</table>

Figure 22 – combined dumping and countervailing duty

The calculations for the effective rates of duty are at Confidential Attachment 7.
11 NIP AND LESSER DUTY RULE

11.1 Finding

The Commissioner considers that the Parliamentary Secretary is not required to have regard to the lesser duty rule.

11.2 Lesser duty rule

Under subsection 8(5BA) of the Dumping Duty Act, the Parliamentary Secretary must have regard to the lesser duty rule as set out in that provision. That is, the Parliamentary Secretary must have regard to the desirability of ensuring that the sum of the export price of the goods as last ascertained, the interim dumping duty and the interim countervailing duty payable on the goods is not greater than the NIP of the goods as last ascertained.

The NIP is defined in section 269TACA of the Act as ‘the minimum price necessary … to prevent the [material] injury, or a recurrence of the [material] injury… [to the industry]’ caused by the dumping or subsidisation of the goods the subject of a notice under section 269TG or section 269TJ.

However, subsection 8(5BAAA) of the Dumping Duty Act indicates that the Parliamentary Secretary is not required to have regard to the lesser duty rule set out in subsection 8(5BA) of the Dumping Duty Act if satisfied that one or more of the following apply in relation to the goods:

(a) the normal value of the goods was not ascertained under subsection 269TAC(1) because of the operation of subsection 269TAC(2)(a)(ii);133
(b) there is an Australian industry in respect of like goods that consists of at least two small-medium enterprises134; or
(c) if a countervailable subsidy has been received in respect of the goods – the country in relation to which the subsidy has been provided has not complied with Article 25 of the Agreement on Subsidies and Countervailing Measures for the compliance period.

Under subsection 10(3D) of the Dumping Duty Act, the Parliamentary Secretary must have regard to the lesser duty rule as set out in that provision. That is, the Parliamentary Secretary must have regard to the desirability of ensuring that the sum of the export price of the goods as last ascertained, the amount of countervailing duty and the amount of interim dumping duty, is not greater than the NIP as last ascertained.

However, subsection 10(3DA) of the Dumping Duty Act indicates that the Parliamentary Secretary is not required to have regard to the lesser duty rule set out in subsection 10(3D) of the Dumping Duty Act if satisfied that one or more of the following apply in relation to the goods:

133 Subsection 269TAC(2)(a)(ii) refers to circumstances where a market situation in the country of export renders sales in that market unsuitable for determining normal value under subsection 269TAC(1).
134 As defined in subsection 269T(1) and the Customs (Definition of “small-medium enterprise”) Determination 2013.
(a) the country in relation to which the countervailable subsidy has been provided has not complied with Article 25 of the Agreement on Subsidies and Countervailing Measures for the compliance period;
(b) there is an Australian industry in respect of like goods that consists of at least two small-medium enterprises; or
(c) the normal value of the goods was not ascertained under subsection 269TAC(1) because of the operation of subsection 269TAC(2)(a)(ii).

Given Arrowcrest and Dragway employ less than 200 persons, and that normal value was not ascertained under subsection 269TAC(1) because of the finding that a particular market situation is present in the domestic market for aluminium road wheels in China, the Commission considers that the circumstances set out in subsections 8(5BAAA)(a) and (b), and 10(3DA)(b) and (c) of the Dumping Duty Act are present in this inquiry. Accordingly, the Commissioner considers that the Parliamentary Secretary is not required to have regard to the desirability of fixing a lesser amount of dumping and countervailing duties.135

11.3 Calculation of the NIP

As outlined in Section 11.2, the NIP is defined in section 269TACA of the Act as ‘the minimum price necessary … to prevent the [material] injury, or a recurrence of the [material] injury… [to the industry]’ caused by the dumping or subsidisation of the goods the subject of a notice under section 269TG or section 269TJ.

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP).

The Commission’s preferred approach to establishing an USP is set out in Chapter 23 of the Manual and observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry CTMS, plus profit; or
- selling prices of un-dumped imports.

Having calculated the USP, the Commission then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

11.3.1 Approach in this inquiry

For the purpose of this inquiry, the Commission calculated a single NIP applicable to aftermarket goods, noting:

- the observations made in Section 9.5 regarding the likelihood of material injury continuing or recurring, which related only to the aftermarket (retail) segment; and

135 The Parliamentary Secretary is not obliged to, but still may, consider applying a lesser amount of duty.
• the Federal Court of Australia judgment dated 4 September 2013, which the Commission is of the view prohibits applying different measures by product segment.

The Commission considers that it cannot establish a USP using selling prices at a time unaffected by dumping, as the price would be unreasonably dated. Therefore, in determining an appropriate NIP, the Commission has:

• calculated a USP using Arrowcrest’s CTMS for aftermarket aluminium road wheels during the inquiry period, plus the amount of profit used in the original investigation; and

• subtracted from the USP:
  o overseas freight and insurance charges during the inquiry period, as determined using data provided by selected exporters; and
  o importer clearance costs and SG&A, as determined in the original investigation.

In calculating a NIP, the Commission has not accounted for importer profit. Given the lack of cooperation from importers in this inquiry, the Commission cannot confirm that importers were making a profit during the inquiry period.

NIP calculations are provided at Confidential Attachment 5.

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137 This information was used to calculate a NIP in REP 263, and is considered the best information available at this time.
12 RECOMMENDATIONS

On the basis of the reasons contained in this report, and in accordance with subsection 269ZHF(2) of the Act, the Commissioner is satisfied that the expiration of the anti-dumping measures applicable to certain aluminium road wheels exported to Australia from China would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping, subsidisation and material injury that the anti-dumping measures are intended to prevent.

As such, the Commissioner recommends that the Parliamentary Secretary, in accordance with subsection 269ZHG(1)(b), declare that he has decided to secure the continuation of the anti-dumping measures relating to aluminium road wheels exported to Australia from China (with the exception of those measures relating to CITIC Dicastal) with effect from 4 July 2017.

The Commissioner recommends that the Parliamentary Secretary, in accordance with subsections 269ZHG(4)(a)(ii) and (iii), determine that:

- the dumping duty notice continues in force after 4 July 2017, but that after that day:
  - the notice ceases to apply to CITIC Dicastal; and
  - with the exception of PDW (which is not subject to the existing measures) and CITIC Dicastal, the notice has effect, in relation to exporters generally, as if different variable factors had been fixed, those factors being set out in Confidential Attachment 3; and

- the countervailing duty notice continues in force after 4 July 2017, but that after that day, with the exception of PDW, Jiangsu Yaozhong and CITIC Dicastal (which are not subject to the existing measures), the notice has effect, in relation to exporters generally, as if different variable factors had been fixed, those factors being set out in Confidential Attachment 4.

The Commissioner recommends that the Parliamentary Secretary be satisfied that:

- in accordance with subsection 269TAB(3), sufficient information has not been furnished and is not available, to enable the export price of aluminium road wheels exported to Australia from China by residual exporters, and uncooperative and all other exporters, to be determined under subsection 269TAB(1);
- in accordance with subsection 269TAC(2)(a)(ii), the normal value of the goods exported to Australia from China by CITIC Dicastal, Jinfei Kaida and Zhejiang Yueling 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);
- in accordance with subsection 269TAC(6), sufficient information has not been furnished and is not available to enable the normal value of aluminium road wheels exported to Australia from China by all exporters (except Zhejiang Yueling) to be ascertained under the preceding subsections of section 269TAC (other than subsection 269TAC(5D));
- in accordance with subsections 8(5BAAA)(b) and 10(3DA)(b) of the Dumping Duty Act, there is an Australian industry in respect of like goods that consists of at least two small-medium enterprises; and
- in accordance with subsections 8(5BAAA)(a) and 10(3DA)(c) of the Dumping Duty Act, the normal value of the goods was not ascertained under subsection 269TAC(1) because of the operation of subsection 269TAC(2)(a)(ii).
The Commissioner recommends that the Parliamentary Secretary be of the **opinion** that, in accordance with subsection 269TAC(7), cost information provided by CITIC Dicastal and Jinfei Kaida is unreliable, and therefore should be disregarded.

The Commissioner recommends that the Parliamentary Secretary **determine** that:

- being satisfied that subsection 269TAB(1)(a) applies, the ascertained export price of aluminium road wheels exported to Australia from China by CITIC Dicastal and Jinfei Kaida is the price paid or payable for the goods by the importer, less transport and other costs arising after exportation, as set out in **Confidential Attachment 3**;
- being satisfied that subsections 269TAB(1)(a) and (c) apply, the ascertained export price of aluminium road wheels exported to Australia from China by Zhejiang Yueling is the price paid or payable for the goods by the importer, less transport and other costs arising after exportation, as set out in **Confidential Attachment 3**;
- in accordance with subsection 269TAB(3), the export price of aluminium road wheels exported to Australia from China by residual exporters, and uncooperative and all other exporters, has been established having regard to all relevant information, as set out in **Confidential Attachment 3**;
- in accordance with subsection 269TAC(2)(c), the normal value of aluminium road wheels exported to Australia from China by Zhejiang Yueling has been calculated as the cost of production or manufacture of the goods in China, plus the SG&A costs and the profit associated with such sales, as adjusted in accordance with subsection 269TAC(9), as set out in **Confidential Attachment 3**;
- in accordance with subsection 269TAC(6), the normal value of aluminium road wheels exported to Australia from China by all exporters (except Zhejiang Yueling) has been established having regard to all relevant information, as set out in **Confidential Attachment 3**;
- having applied subsection 269TACB(2)(a) and in accordance with subsection 269TACB(1), the dumping margins for all exporters from China in respect of aluminium road wheels exported to Australia is the difference between the weighted average export prices of aluminium road wheels over the whole of the inquiry period and the weighted average of corresponding normal values over that period, as set out in **Confidential Attachment 3**;
- having had regard to subsections 269TAAC(2) and (3), and in accordance with subsections 269TAAC(4) and (5), that all relevant subsidies listed in Section 8.3 of this report are specific having regard to the matters set out in **Appendix C**;
- in accordance with section 8(5) of the Dumping Duty Act, that the interim dumping duty payable in respect of aluminium road wheels exported to Australia from China is an amount that has been worked out in accordance with the combination duty method pursuant to subsections 5(2) and (3) of the Dumping Duty Regulation; and
- in accordance with subsection 10(3B)(a) of the Dumping Duty Act, that the interim countervailing duty payable in respect of aluminium road wheels exported to Australia from China be ascertained as a proportion of the export price of those particular goods.
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<td>Certain aluminium road wheels exported from the People’s Republic of China (PRC). Initiation of a continuation inquiry into anti-dumping measures</td>
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<td>Arrowcrest response to submissions by Percival Legal dated 7 &amp; 10 November 2016, continuation case 378, certain aluminium road wheels exported from the People’s Republic of China</td>
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<td>Arrowcrest submission regarding alloy uplift – aluminium road wheels SEF 378</td>
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<td>024</td>
<td>CITIC Dicastal Co., Ltd response to SEF 378 re: inquiry concerning the continuation of anti-dumping measures applying to aluminium road wheels exported from the People’s Republic of China</td>
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<td>028</td>
<td>Continuation inquiry aluminium road wheels exported from China</td>
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<td>029</td>
<td>Pilotdoer Wheel Co., Ltd response to SEF 378 re inquiry concerning the continuation of anti-dumping measures applying to aluminium road</td>
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<th>Author(s)</th>
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<td>030</td>
<td>Re continuation inquiry- aluminium road wheels exported from the People’s Republic of China</td>
<td>GTR Consulting on behalf of CITIC Dicastal</td>
<td>4/5/2017</td>
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<td>031</td>
<td>Note for file – level of trade adjustment</td>
<td>Zhejiang Yueling</td>
<td>16/5/2017</td>
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</table>

*Figure 23 – submissions received from interested parties*
APPENDIX B – market situation

B1  Introduction

It is the Commission’s view that a market situation exists in respect of the domestic market for aluminium road wheels in China, such that sales in that market are not suitable for use in determining a normal value under subsection 269TAC(1).

B2  Australian legislation, policy and practise

Australia treats China as a market economy for anti-dumping purposes, and the Commission conducts its investigation in the same manner for China as it does for other market economy members of the World Trade Organization (WTO).

Irrespective of the country the subject of investigation, the Australian anti-dumping framework allows for rejection of domestic selling prices as the basis for normal value in market economies where there is a ‘market situation’ making the sales unsuitable, as outlined below.

B2.1  Legislation

Market situation

Subsection 269TAC(1) provides that the normal value of any goods exported to Australia is the price paid or payable for like goods sold domestically in the country of export, in the OCOT in arms length transactions.

However, subsection 269TAC(2)(a)(ii) provides that the normal value of the goods exported to Australia cannot be determined under subsection 269TAC(1) where the Parliamentary Secretary is satisfied that ‘…because the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under subsection (1)’.

Where such a market situation exists, normal value cannot be established on the basis of domestic sales. Instead, the normal value may be determined using another method in section 269TAC. Therefore, a determination as to whether there is a market situation has potential consequences for the assessment of normal value and dumping margins.

Subsection 269TAC(2)(c) provides that a cost construction of normal value comprises the sum of what the Parliamentary Secretary determines to be the cost of production or manufacture in the country of export, plus sales and general administrative expenses (on the assumption the goods were sold domestically in the OCOT), and a rate of profit associated with the sale of like goods.

Subsection 269TAC(2)(d) provides that where the Parliamentary Secretary directs that third country sales be used for normal value, it will be based upon the price paid or payable for like goods sold in the OCOT in arms length transactions for exportation from the country of export to a third country.
The Commission does not consider that it is preferable to use third country sales for this inquiry, given exporters’ aluminium costs were found to not reflect competitive market costs (Section 7.5 refers).

**Determination of costs**

In constructing normal value based on costs of production or manufacture of goods under subsection 269TAC(2)(c)(i), subsection 269TAC(5A) provides that these costs must be worked out in accordance with the International Regulation.

In terms of costs of manufacture or production, subsection 43(2) of the International Regulation requires that if:

- an exporter keeps records relating to like goods that are in accordance with the GAAP in the country of export; and
- those records reasonably reflect competitive market costs associated with the production or manufacture of like goods,

the Minister must work out the cost of production or manufacture using information set out in the exporter’s records.

In terms of sales and general administrative expenses, subsection 44(2) of the International Regulation provides that if:

- an exporter keeps records relating to like goods that are in accordance with GAAP in the country of export; and
- those records reasonably reflect the sales and general administrative expenses associated with the sale of like goods,

the Minister must work out the cost of sales and general administrative expenses using information set out in the exporter’s records.

Where the conditions of subsections 43(2) and 44(2) of the International Regulation are not met, it is the Commission’s position that the cost records kept by that exporter are not required to be used in working out its costs. Under subsection 269ZDA(3)(b), the Commissioner may have regard to any other matter that the Commissioner considers to be relevant to the inquiry, and as such the Commission may resort to other information to calculate these costs.

**B2.2 Policy and practice**

**Market situation**

In relation to market situation, page 36 of the Manual states that:

- In considering whether sales are not suitable for use in determining a normal value under s. 269TAC(1) because of the situation in the market of the country of export the Commission may have regard to factors such as:
  - whether the prices are artificially low; or
  - whether there are other conditions in the market which render sales in that market not suitable for use in determining prices under s. 269TAC(1).

Government influence on prices or costs could be one cause of “artificially low pricing”. Government influence means influence from any level of government.
In investigating whether a market situation exists due to government influence, the Commission will seek to determine whether the impact of the government’s involvement in the domestic market has materially distorted competitive conditions. A finding that competitive conditions have been materially distorted may give rise to a finding that domestic prices are artificially low or not substantially the same as they would be if they were determined in a competitive market.

Subsection 269TAC(2)(a)(ii) requires the Commission to identify a ‘market situation’, and be satisfied that the ‘market situation’ renders the sales in that market not suitable for normal value purposes before rejecting actual selling prices. It is considered that the assessment as to whether a market situation exists in a particular market constitutes a positive test.

Although it is for the Commission to establish the nature and consequence of the ‘market situation’, including an evaluation of whether there is an impact on domestic prices, it is considered that the pricing effect does not necessarily have to be quantified.

Determination of costs

In relation to the determination of the reasonableness of costs for the purpose of doing a cost construction, under subsections 43(2) and 44(2) of the International Regulation, it must be assessed:

- whether the cost to make is reasonably reflective of competitive market costs associated with the manufacture of like goods; and,
- whether the sales and general administrative expenses reasonably reflect the costs associated with selling like goods (i.e. are these costs generally reasonable).

It is noted that the International Regulation specifically relates to the costs of like goods, rather than the price of the goods themselves (the sales price of these goods is what is examined for a market situation assessment).

The Commission considers that it is possible government influence on these costs can be such that these costs are not reasonably reflective of competitive market costs (costs of manufacture) or not generally reasonable (sales and general administrative expenses). Again, it is considered that this is a question of the degree of the influence.

B2.3 Assessing market situation in this inquiry

In its application, Arrowcrest alleged that during the inquiry period, a particular market situation within the Chinese aluminium road wheel market rendered sales in that market unsuitable for determining normal values under subsection 269TAC(1). Arrowcrest alleged that the market situation was the result of GOC involvement within the Chinese primary aluminium industry, and subsequent distortion of the domestic price for aluminium, the primary input used in the production of aluminium road wheels. GOC measures allegedly contributing to these distortions, as identified in Arrowcrest’s application, are:

138 More specifically, aluminium ingot (A00).
• industry planning directives and associated programmes;
• taxation and tariff policies;
• distortion of electricity production costs and pricing;
• aluminium stockpiling programmes; and
• provision of financial support to loss making aluminium smelters.

Sources of information cited by Arrowcrest in its application include:
• findings from the Commission’s previous market situation assessments;
• GOC guidance (Guo Ban Fa [2016] No. 56);
• the International Aluminium Journal;
• the International Institute for Sustainable Development; and
• the Coal and Renewables in China Global Subsidies Initiative Report.

B2.4 Information considered

As part of its market situation assessment, the Commission has considered:
• Arrowcrest’s application for a continuation of the dumping duty notice and countervailing duty notice;
• market situation findings made through relevant investigations, such as:
  o the original investigation (REP 181) in relation to aluminium road wheels (Section 2.2.1 refers);
  o the reinvestigation reported in International Trade Remedies Report No. 204 in relation to aluminium road wheels (Section 2.2 refers);
  o Investigation No. 148 in relation to aluminium extrusions; and
  o Investigation No. 287 in relation to the continuation of measures for aluminium extrusions;
• responses to the exporter questionnaire by selected exporters; and
• desktop research, including information obtained from departmental resources and third party information providers.

The Commission did not receive a response to the government questionnaire from the GOC for this inquiry. This has impeded the ability of the Commission to undertake its assessment.

When assessing the conditions within the Chinese primary aluminium market, the Commission has focused on the period 2010 to 2015. It is the Commission’s view that the structural issues identified in this analysis continued to distort the primary aluminium market over the entire inquiry period.

B2.5 Aluminium road wheel raw materials

Aluminium road wheels are manufactured from an aluminium alloy, commonly A356 or A356.2. Alternatively, as outlined in Section 4.3, a manufacturer may add alloys to pure (primary) aluminium ingot before undertaking cleaning (fluxing) and degassing, and spectrometry testing to ascertain the correct metallurgy.
Typically, the cost of aluminium accounts for around 50 per cent of the total cost to make aluminium road wheels in China. Therefore, in considering whether a market situation exists in respect of the domestic market for aluminium road wheels, it is reasonable to assess conditions in the primary aluminium market, as a significant raw material.

B3 Conditions in the Chinese primary aluminium market

Factors considered by the Commission when assessing conditions within the Chinese market during the inquiry period include the level of, and trends in, aluminium production, consumption, trade, pricing and the influence of the GOC over these variables.

Between 2010 and 2015, Chinese aluminium production increased by around 83 per cent to around 31.7 million tonnes, while consumption increased by 96 per cent to 31 million tonnes. China’s share of total world production (and consumption) increased from around 40 per cent in 2010 to around 55 per cent in 2015. The strong growth in consumption over this period resulted in only a small proportion of production, around three per cent, being exported. In addition to strong consumption growth, exports of aluminium have been discouraged by differentials in the VAT rebate and export tariff rates applicable to aluminium and value added aluminium products, such as aluminium road wheels and aluminium extrusions.

While the preceding analysis suggests there is a broader alignment between production and consumption within China, the Commission understands that the GOC State Bureau of Material Reserve (SBMR), operates a significant stockpile of primary aluminium, which is likely to have distorted domestic official consumption statistics. The decision of the GOC to not respond to the Commission’s government questionnaire has restricted the Commission’s ability to assess the significance of these stockpiles, and its impact on the true balance between domestic production and consumption. In addition to the possible distortion of market conditions by the GOC through its stockpiling activities, the Commission estimates that capacity utilisation within the Chinese industry was around 83 per cent in 2015, compared to more normal levels of 92 per cent in 2010. The Commission’s assessment of there being significant excess capacity is broadly in line with the major themes of the GOC’s planning documents and directives before and after 2010.

The significant growth in Chinese aluminium production between 2010 and 2015 was accompanied by a modest decline in domestic prices, from around United States dollar (USD) 2,323 to USD1,924 per tonne. Over the same period, the primary non-Chinese aluminium contract price benchmark, the LME, declined from around USD2,172 to USD1,663 per tonne.

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139 Based on cost data provided by selected exporters.
During the inquiry period, Chinese aluminium prices continued to fall from around USD1,975 to USD1,887 per tonne. While LME and Shanghai Futures Exchange (SHFE) contract prices have historically followed a similar trend to one another, in recent years the relative decline in the LME contract prices has been partly driven by growing excess capacity outside of China. This resulted from both growing costs and declining profitability of these smelters, and the more general displacement caused by production capacity growth in China. Market commentary notes that, more recently, the weight of overcapacity has been shifting to within China.

In line with the decline in domestic aluminium pricing, the profitability of Chinese aluminium producers has also fallen in recent years. Based on constructed cost curves sourced from AME Group (AME), the Commission estimates that around 50 per cent of Chinese aluminium smelters were operating at a loss in 2015, compared to 20 per cent in 2013 and 2014. Similarly, if this analysis was undertaken using LME contract prices as opposed to the SHFE benchmark, around 55 per cent of the industry would have been operating at a loss in 2013 and 2014, and 80 per cent in 2015.

In assessing the factors driving conditions within the Chinese aluminium market during the inquiry period, it is the Commission’s view that the GOC has provided significant support over an extended period, which has impacted both current production levels and the industry’s broader structure. This has been through supporting the expansion of production capacity and encouraging demand by the expansion of downstream value adding industries.

It is also the Commission’s view that the distortions within the Chinese aluminium industry are reflected in the degree of unresponsiveness of Chinese aluminium production to trends in domestic pricing and profitability. For example, the Commission notes that, while it is not unreasonable for producers in capital intensive industries to display a degree of production rigidity in the face of price and profit volatility, this should not persist over the medium to long term. More specifically, the Commission notes that, while between 2010 and 2015 domestic Chinese prices and profitability have continued to fall, production has grown strongly at around 14 per cent per year. The Commission further notes that, while growth in capacity and production is being driven by more modern and efficient facilities, under normal market conditions older, less efficient, facilities would typically be expected to exit the industry. Such a trend does not seem to be occurring in China.

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140 Domestic Chinese prices based on Shanghai Futures Exchange prices. The Commission also compared Shanghai Futures Exchange pricing with actual aluminium purchase prices obtained from selected exporters. This analysis showed that the two sources of information were closely aligned.

141 AME Aluminium Strategic Market Study (Quarter 4 2015), page 20.

142 A detailed list of subsidy programmes available to Chinese producers of aluminium extrusions and aluminium road wheels is provided in EPR 248/067 and 263/051.
The Commission’s findings in terms of the continued expansion of Chinese aluminium production and presence of unprofitable producers was also cited in Arrowcrest’s application, and discussed in REP 263.\(^{143}\)

More specifically, Arrowcrest’s application states that, according to the International Aluminium Journal ‘… at a price level of ¥10,000/t (ton), around 90% of China’s primary aluminium smelters are operating at a loss, according to consultancy AZ China. Nonetheless, the local governments want smelters to operate despite losses for social and employment reasons. Analysts remain skeptical [sic] that China’s aluminium producers will close capacity, even as they make losses’.\(^{144}\)

In REP 263, information sourced from Harbor Aluminium Intelligence Unit indicated that, based on constructed cost curves and SHFE pricing data, the majority of Chinese primary aluminium production was operating at a loss during the review period.\(^{145}\)

The Commission also recognises that in recent years the GOC has taken significant steps to restructure and reorganise the domestic aluminium industry to better manage the level of excess production capacity, oversupply and environmental concerns. The GOC has introduced and implemented a ‘supply-side reform’ policy aiming at cutting domestic production and removing excess capacity; the GOC also introduced a ‘new for old’ policy in 2016, to replace old and inefficient capacity with new and cost-effective capacity. These efforts are reflected in the GOC’s plans and directives, which further support the Commission’s view that there are significant distortions within the domestic Chinese market. The Commission understands that these directives, and associated programmes, have had a limited impact in terms of addressing the underlying causes of market distortions, principally excess production capacity.

The Commission considers that key constraints on the effectiveness of these directives includes the divergence in economic and social objectives between the different levels of the GOC, and the availability of financing to support the restructuring and reorganisation. With regard to the objectives of provincial and local governments, aluminium smelters are typically major employers, sources of significant tax revenue and providers of health care and education services within their respective regions. It is also the Commission’s understanding that aluminium smelters are often used by local governments to support the establishment of electrical generation facilities, particularly in the developing regions of western China. As such, there are significant incentives for provisional and local governments to resist directives from the central government to remove excess capacity and to provide ongoing support to local producers.\(^{146}\)

\(^{143}\) EPR 263/051, page 87 refers.

\(^{144}\) EPR 378/002, page 13 refers.

\(^{145}\) EPR 263/051, page 108 refers. The Commission understands that the Harbor Aluminium Intelligence Unit has estimated these costs of production based on costs that are unsubsidised.

\(^{146}\) AME Aluminium Strategic Market Study (Quarter 1 2016), pages 9 and 94. Page 9 notes that, in spite of the recently implemented ‘supply side reform’ policy, local governments within Gansu, Shanxi and Xinjiang provinces have reportedly been offering incentives for extra production. Page 94 notes
B4 GOC influence in the Chinese aluminium market

The Commission considers that the GOC materially contributed to the excess supply of aluminium in the domestic Chinese market and hence has significantly influenced the domestic price for Chinese primary aluminium during the inquiry period. This influence occurred through the following mechanisms:

- industry planning directives and associated programmes;
- taxation and tariff policies;
- distortion of electricity production costs and pricing;
- aluminium stockpiling programmes; and
- provision of financial support to loss making aluminium smelters.

The explicit nature of support provided by the GOC to the Chinese primary aluminium industry is also reflected in comments made by the Office of the Shandong People’s Government in late 2014, when it announced the ‘proposal for implementation of the transformation and upgrade of non-ferrous metal industry in Shandong’. The office stated that the focus would be on supporting the Shandong Weiqiao Aluminium and Power Company development into a large scale enterprise with complete aluminium industry chain.147

The extent of the GOC’s direct involvement within the Chinese aluminium industry is also reflected in the extent of productive capacity accounted for by Chinese state owned enterprises (SOEs) and state invested enterprises (SIEs). The Commission estimates that between 2010 and 2015, SOEs and SIEs accounted for between 32 and 47 per cent of productive capacity.148 The Commission does not consider that the presence of these entities alone automatically means that a market is distorted. However, the presence of these entities, and their share of the market, does mean that there is a higher likelihood that the GOC plans and directives will be adhered to.149 Based on past investigations, the Commission also considers that this status enables these entities to obtain preferential treatment by Chinese financial institutions, both in terms of their access to, and the cost of, financing.

The significance of SOEs and SIEs to the broader Chinese economy, including the primary aluminium and related industries, is also reflected in the recent State Council of China (State Council) ‘guidance on the promotion of central enterprises restructuring and reorganisation’.

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148 Estimates are based on information previously provided by the GOC. Current information regarding this issue was requested by the Commission in its government questionnaire, to which the GOC did not provide a response.
In introducing this guidance, the State Council notes the important role of ‘central enterprises’ in actively promoting structural adjustment, optimisation of structural layout and quality improvement within the Chinese economy. The commentary also notes that many structural problems are still prominent, that efficiency of resource allocation needs to be improved and that innovation capacity needs to be enhanced. In response to these issues, the guidance indicates that the Party Central Committee and State Council will deepen reform of SOE policies and arrangements to optimise state owned capacity allocation, promote transformation and upgrading. Details concerning the promotion of central enterprises restructuring and reorganisation are subsequently detailed. These include, under the ‘safeguard measures’ theme, the strengthening of the organisation and leadership of SOEs, strengthening of industry guidance, increased policy support and improved support measures.

B4.1 GOC directives

It is the Commission’s view that the GOC has maintained a central role in the development of the Chinese aluminium industry, and by virtue of this has materially contributed to its rapid expansion and oversupply during the inquiry period. The central role of the GOC in the Chinese aluminium industry is also reflected through the numerous planning documents and directives regarding the structure and composition of the Chinese aluminium industry. Examples of these plans and directives include the:

- twelfth Five Year Plan (2011 to 2015) of China;
- guidelines for Accelerating the Restructuring of the Aluminium Industry (the Restructuring Guidelines) (2009);
- non-ferrous metal industry Adjustment and Revitalisation plan (2009);
- non-ferrous metal Five Year Plan (2012);\(^\text{150}\)
- directory catalogue on Readjustment of Industrial Structure and the Interim Provisions on Promotion of Industry Structure and Adjustment (2011);
- notice of the State Council on Further Strengthening the Elimination of Backward Production Capabilities;
- requirements on entry into the aluminium industry (2007);
- normalisation criteria on the aluminium industry (2013);\(^\text{151}\)
- circular of the State Council on Accelerating the Restructuring of the Sectors with Production Capacity Redundancy (2006); and

How these plans and directives relate to conditions within the Chinese primary aluminium industry, as well as the major themes, are discussed in subsequent sections of this appendix.

\(^{150}\) Replaced the non-ferrous metal industry Adjustment and Revitalisation Plan (2009).

\(^{151}\) Replaced the Requirements on Entry into the Aluminium Industry (2007).
Other GOC directives, which are likely to have impacted conditions within the Chinese aluminium industry and markets include:  

- notice of several opinions on curbing overcapacities and redundant constructions in certain industries and guiding the healthy development of industries (2009);  
- guiding opinions on pushing forward enterprise mergers and acquisitions and reorganisation in key industries (2013); and  
- the directory catalogue on readjustment of industrial structure (version 11) (2013 amendment).

**B4.2 GOC directives – relevance and enforceability**

The Commission considers that the extent of the GOC’s influence within the Chinese primary aluminium industry is reflected in the major themes and objectives of its plans and directives. In assessing the relevance of these plans and directives, it is the Commission’s view that the national five year plans provide the overarching framework for the industry and province specific plans and other directives, such as those noted above. In regards these plans and directives, the Commission acknowledges that the GOC considers these to be for guidance, rather than enforceable directives. However, the Commission is of the view that the five year plans also have a significant impact on how identified industries are supported and regulated by government planning bodies and other institutions. Examples of the channels through which identified industries are influenced includes:

- the presence of SOEs and SIEs;  
- the wording of plans and directives;  
- the consistency of the themes and objectives throughout different plans and directives;  
- the central role of the National Development and Reform Commission (NDRC) in the development of directives, and the provision of project approvals; and  
- enforcement mechanisms.

While the Commission notes that GOC ownership, through SOEs and SIEs, doesn’t automatic translate into GOC control of these entities, it is the Commission’s view that these entities are more likely to be responsive to the directives of the broader GOC. The level of influence and broader role of SOEs and SIEs within the Chinese primary aluminium industry is relevant to this assessment, as it is estimated these entities accounted for around 42 per cent of total primary aluminium capacity between 2010 and 2015. In regards the wording and consistency of themes and objectives between different plans, the Commission notes that these documents, and particularly the Restructuring Guidelines, are written in such a way that it emphasises their importance and binding nature. Examples of these consistent themes include:

- the elimination of backwards capacity;  
- control of production levels;  

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152 Sourced from market situation assessments at EPR 300/063 (steel reinforcing bar) and 301/038 (rod in coils).
• encouraging mergers, restructuring and relocation;
• promoting technological and product quality improvement; and
• implementing and encouraging environmental measures.\textsuperscript{153}

In regards the role of the NDRC, the Commission notes that it is the key body responsible for both developing these directives, and providing overarching approval of large scale investment projects within China. It is the Commission’s view that directives from the NDRC, as the GOC’s central planning authority, would thus be central to both industry specific ‘five year plans’ and the planning decisions of all levels of government more generally. More explicit enforcement mechanisms are reflected in the notice of the State Council on ‘Further Strengthening the Elimination of Backward Production Capabilities and Guidelines’. Mechanisms to address non-compliance include:

• revoking of pollutant discharge permits;
• restrictions on financial institutions providing new credit support;
• restrictions on examination and approval of new investment projects;
• restrictions on approval of new land for use by the enterprise; and
• restrictions on issuing of new, and cancelling of existing, production licenses.

The Restructuring Guidelines state that enterprises that do not conform to the industrial policy shall not be provided financial support by financial departments.\textsuperscript{154} More implicit enforcement mechanisms are reflected by the regulatory powers of bodies, such as the Ministry of Industry and Information Technology. It is the Commission’s understanding that such bodies maintain lists of companies that are deemed to be either compliant or non compliant with national standards on production, environmental protection, energy efficiency and safety. Those deemed non-compliant are to be closed.\textsuperscript{155}

It is the Commission’s view that the effectiveness of the above mentioned mechanisms are reflected in the responsiviness of industry groups and major companies to the GOC’s various directives. For example, in responses to the GOC’s recent ‘supply side reform’ directive, the Chinese Nonferrous Metals Association indicated that it would continue to limit production for the remainder of 2016,\textsuperscript{156} while 14 significant Chinese aluminium producers agreed to not restart curtailed capacity within a one year period, as well as to refrain from ramping up constructed potlines.\textsuperscript{157}

\textsuperscript{153} EPR 263/051, page 85 refers.
\textsuperscript{154} EPR 263/051, page 85 refers.
\textsuperscript{155} Department of Industry, Innovation and Science, Resources and Energy Quarterly (December 2015), page 47.
\textsuperscript{156} Department of Industry, Innovation and Science, Resources and Energy Quarterly (June 2016), page 63.
\textsuperscript{157} AME Aluminium Strategic Market Study (Quarter 1 2016), page 94.
B4.3 GOC directives – summary of themes, objectives and implementation

Below are a list of the major GOC plans and directives concerning the Chinese primary aluminium industry, and some of the key themes emphasised throughout them:

- twelfth Five Year Plan of China (2011):
  - promoting the restructuring of key industries;\(^\text{158}\)
  - promoting the orderly relocation of urban enterprises for non-ferrous metals;\(^\text{159}\)
  - planning of mergers and reorganisation of enterprises;\(^\text{160}\) and
  - promoting the development of small and medium enterprises.\(^\text{161}\)

- the Restructuring Guidelines:
  - objectives for structural adjustment within the Chinese primary aluminium industry;\(^\text{162}\)
  - measures to accelerate structural adjustment of the primary aluminium industry;\(^\text{163}\)

- non-ferrous metal industry Adjustment and Revitalisation Plan:
  - stabilisation and expansion of the domestic market;
  - control of volume and eliminate backward production capacity;
  - strengthening of technological innovation;
  - promoting of industry and enterprise restructuring;
  - promotion of non-ferrous metals industrial restructuring and upgrading.

- non-ferrous metals Five Year Plan:
  - policy mechanisms for controlling market access;
  - use of fiscal incentives to support elimination of backward capacity elimination;
  - use of improved ‘supervision and inspection mechanisms’, including the creation of annual lists of enterprises with backward capacity, technologies and equipment for elimination along with the monitoring and reporting of the elimination process;
  - strengthening of GOC organisation and leadership of elimination activities;
  - provision of support to competitive enterprises for the elimination of backward capacity through merger, acquisition or restructuring activities;
  - GOC agencies and government involvement in the development of implementation plans through alignment of tasks to cities, counties and specific enterprises along with submission of capacity elimination lists to the Ministry of Industry and Information Technology and National Energy Administration;

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\(^{158}\) Chapter 9, Section 1 refers.

\(^{159}\) Chapter 9, Section 2 refers.

\(^{160}\) Chapter 9, Section 4 refers.

\(^{161}\) Chapter 9, Section 5 refers.

\(^{162}\) Chapter 2 refers.

\(^{163}\) Chapter 3 refers.
• improved regulation and control of land use including prohibiting land supply for construction projects involving backward production capacities;
• encouraging role of pricing mechanism to support reform and elimination of backward production capacity;

• requirements on entry into the primary aluminium industry:
  • speed up the structural reform of primary aluminium industry;
  • regulate behaviour;
  • achievement of environmental goals;

• normalisation criteria on primary aluminium industry:
  • requirements targeting the layout, location, and production scale new bauxite, alumina, electrolytic and secondary aluminium enterprises;
  • requirements that new electrolytic aluminium projects have surety over their alumina and electricity supply, transport and other external requirements;
  • requirements that new aluminium enterprises meet the relevant national standards concerning quality, capacity, energy efficiency and national environmental standards;
  • requirements for monitoring and administration by the Ministry of Industry and Information Technology;

• circular of the State Council on accelerating the restructuring of the sectors with production capacity redundancy:
  • promoting of economic restructuring to prevent inefficient expansion of industries that have resulted from blind expansion;
  • intensify the implementation of industrial policies related to the primary aluminium sector to strengthen the examination thereof and to improve them in practice; and

• State Council guidance on the promotion of central enterprises restructuring and reorganisation:164
  • SOEs restructuring and reorganisation should serve national strategies, respect market rules, combine with reforms, follow laws and regulations, and stick to a coordinated approach;
  • state-owned capital should support SOEs, whose core businesses are involved in national and economic security and major national programmes, to strengthen their operations, and allow non state-owned capital to play a role, while ensuring the state-owned capital’s leading position.
  • related departments and industries requested to steadily promote restructuring of enterprises in fields such as equipment manufacturing, construction engineering, electric power, steel and iron, nonferrous metal, shipping, construction materials, tourism and aviation services, to efficiently cut excessive overcapacity and encourage restructuring of SOEs.

B4.4 GOC involvement in energy sector

As a significant component of aluminium production costs, electricity pricing has a major impact on the price of primary aluminium, and the profitability of aluminium producers.\textsuperscript{165} Based on information provided in the course of past investigations, submissions made by Arrowcrest in its application and the Commission’s research, it is the Commission’s view that the GOC continues to provide support to Chinese aluminium producers through discounted electricity. Examples of support provided by the GOC through electricity pricing include:

- the report by AME that ‘government-provided power subsidies are being seen in China to halt individual smelter curtailment plans, or to enable restarts and that this would appear unsustainable in the current market situation’;\textsuperscript{166}
- the report in May 2016 that the state-owned entity, Aluminium Corporation of China Limited (also referred to as Chalco), had indicated it would shut down one of its 500 kilotonne (kt) smelters in the Gansu region, due to profitability issues. In response to this announcement, Gansu officials reduced the plant’s electricity bill by 30 per cent, with the facility subsequently returning capacity to full production;\textsuperscript{167}
- the report by AME that the Jinneng Taiyuan Oriental aluminium smelter in the Shanxi province intended to restart production, after being fully curtailed since early 2015, subsequent to receiving a significant power discount from the local government;\textsuperscript{168}
- the report by AME that the 450 kt expansion project for Jiarun aluminium smelter in the Xinjiang province had been supported by the receipt of electricity at favourable rates from the local grid, significantly below the price from its own captive power source;\textsuperscript{169}
- the report by AME that the 130 kt Zengshi Anshun Huangguoshu aluminium smelter in Guizhou province had returned to full capacity following the restarting of idle capacity, with the support of local government subsidies enabling the company to achieve favourable electricity prices;\textsuperscript{170}
- the report by AME that the Baise Yinhai aluminium smelter in Guangxi province had delayed the planned restart of its full 200 kt smelting capacity, due to its inability to come to terms with the local government for favourable power subsidies to enable a profitable restart;\textsuperscript{171}

\textsuperscript{165} Electricity accounts for around 40 per cent of aluminium production costs (EPR 263/051, page 100 refers).
\textsuperscript{166} AME Aluminium Strategic Market Study (Quarter 4 2015), page 9.
\textsuperscript{167} www.wsj.com/articles/chineseexports-surge-amid-overcapacity-at-home-1462746980).
\textsuperscript{168} Aluminium Outlook, July 2016, page 13.
\textsuperscript{169} ibid.
\textsuperscript{170} ibid., page 15.
\textsuperscript{171} ibid., page 16.
the report by AME that the government of Yunnan province had announced that it was providing assistance to Yunnan Aluminum Holdings for it to lower its total smelting power costs. The report noted that the government may continue to assist Yunnan Aluminum Holdings until further reductions in its power cost has been achieved.172

B4.5 GOC taxation and tariff policies

During the course of the previous investigations, the Commission has been provided with information by the GOC concerning the tariff and tax rates applicable to the Chinese aluminium industry value chain, as summarised in the table below:

<table>
<thead>
<tr>
<th>Measure</th>
<th>ARWs</th>
<th>Aluminium (A00)</th>
<th>Aluminium Alloy (A356)</th>
<th>Bauxite173</th>
</tr>
</thead>
<tbody>
<tr>
<td>Import duty</td>
<td>10%</td>
<td>0% to 15%</td>
<td>7%</td>
<td>0%</td>
</tr>
<tr>
<td>Export duty</td>
<td>0%</td>
<td>0% to 15%</td>
<td>15%</td>
<td>0%</td>
</tr>
<tr>
<td>VAT Rebate</td>
<td>17%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
</tbody>
</table>

Figure 24 – tariff and tax rates applicable to primary aluminium

As a result of the GOC’s decision to not provide a completed response to the government questionnaire for this inquiry, the Commission was not able to confirm that the rates set out in the table were applicable during the inquiry period. As a result, the Commission has assumed that the rates within this table are still applicable.174

The Commission considers that the GOC’s VAT rebate and export tariff arrangements for primary aluminium, alloy aluminium and aluminium road wheels during the inquiry period had the effect of discouraging exports of primary and alloyed aluminium. It is the Commission’s view that these arrangements contributed to the depressing effect on domestic aluminium prices, and increased the supply available to the domestic market for the production of goods such as aluminium road wheels.

In assuming that there had not been a significant change in the tariff and rebate rates between the previous investigations and current inquiry, it is the Commission’s view that these arrangements are part of the broader GOC strategy to control the domestic market for primary and alloyed aluminium within China, to ensure there is adequate supply for downstream industries such as aluminium road wheels and aluminium extrusions.

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172 ibid.

173 Primary aluminium is produced in reduction plants (or smelters), where pure aluminium is extracted from alumina. Alumina is recovered from the raw material, bauxite, using a chemical refining process.

174 Arrowcrest’s application stated that ‘Chinese aluminum [sic] taxes and rebates are: 15% export tax on primary aluminium; no export tax on aluminium bars, rods and alloy; 8% VAT rebate on extruded profiles; 13% VAT rebate on tube and pipes as well as on plate, sheet, strip and foil.’ (EPR 378/002, page 11 refers).
This conclusion is not only based on differences in the VAT rebates available to exports of aluminium road wheels and primary or alloyed aluminium, but also on the GOC’s active involvement in the domestic market through stockpiling policies as discussed in the following section.

**B4.6 GOC stockpiling policies**

Prior investigations undertaken by the Commission into aluminium related products exported to Australia from China identified the role of the China State Reserve Bureau, now known as the SBMR, in using aluminium stockpiles to manage price fluctuations in the domestic Chinese market.\(^{175}\) An example of the SBMR’s market interventions includes the purchase and sale of aluminium from its stockpile to support the domestic market.

The Commission considers that the SBMR’s stockpiles continue to exist and are operated with the intention of managing aluminium price volatility within the domestic Chinese market. For example, Arrowcrest’s application cites the International Aluminium Journal, which reported that ‘… six companies including “state giants like Aluminium Corporation of China (Chinalco) [sic] and the State Power Investment Corporation” are currently establishing a joint venture to stockpile aluminium - starting with at least one million tonnes’.\(^{176}\) It is the Commission’s view that the ongoing operation of the SBMR’s stockpiling not only reflects the desire of the GOC to influence and control conditions within the domestic primary aluminium market, but also the distortion of market forces and hence the degree to which conditions within these markets reflect competitive market conditions.

**B5 The Chinese aluminium road wheel market**

**B5.1 Conditions in the Chinese aluminium road wheel market**

The ability of the Commission to undertake a detailed assessment of conditions within the Chinese aluminium road wheel market was constrained due to the fragmented nature of the industry and the lack of response to the government questionnaire from the GOC.

While the Commission was unable to undertake a detailed assessment of the aluminium road wheel market, it considers it highly likely that the impact of distorted aluminium pricing, along with the receipt of numerous subsidies both within and prior to the inquiry period, is likely to have distorted conditions within this market. It is also the Commission’s view that the GOC has actively sought to encourage the export of valued added aluminium products, such as aluminium road wheels, over primary aluminium, through differences in VAT rebates and export tariffs applied to these goods (Section B4.5 refers).

\(^{175}\) The SBMR is situated in the NDRC.

\(^{176}\) EPR 378/002, page 13 refers.
B5.2 GOC subsidy programmes to Chinese aluminium road wheel producers

In addition to the support mechanisms listed above, the Commission notes that previous investigations into aluminium road wheels exported to Australia from China have identified a number of subsidy programmes that individual producers have received. In noting that these programmes have been reviewed as part of the countervailing section of this inquiry, and hence separately to the assessment of market situation, the Commission refers to Section 8.3 and Appendix C to demonstrate the nature of support being provided to China’s aluminium related industries.

The extent of this support is further reflected in responses to the exporter questionnaire and (confidential) annual reports provided by selected exporters for this inquiry. Details of the monetary amounts of grants and other subsidies received by these companies is also detailed in the respective financial statements and accompanying notes.

B6 Assessment of market situation in the Chinese aluminium road wheel market

B6.1 Assessment of conditions in the Chinese aluminium market

As outlined in the preceding sections, the Commission considers that there continued to be significant GOC induced distortions within the Chinese primary aluminium market during the inquiry period, which rendered pricing outcomes in that market uncompetitive. More specifically, the GOC induced distortion of that market is considered by the Commission to be structural, and will therefore take a significant time to dissipate.

B6.2 Flow through to aluminium alloy sector

For this inquiry, the Commission has considered the impact that the sale of primary aluminium at below cost may have had on the sale of aluminium alloy (specifically, A356 and A356.2) used to produce aluminium road wheels.

In particular, the Commission observes that when comparing the price of primary aluminium within the Chinese domestic market (as represented by the SHFE) with the price of aluminium alloy within China (as represented through the Changjiang River Exchange), there was an overall similarity in price trends within these two sectors during the inquiry period.

177 The Changjiang River Exchange (also referred to in previous cases as the Yangtze River Exchange) is a nonferrous metal spot market within China.
More specifically, the graph above shows that, across the inquiry period, the price of aluminium alloy (A356) was on average 5.8 per cent higher than primary aluminium prices during the inquiry period.

The Commission considers that the macroeconomic policies, plans and guidelines outlined in this appendix, combined with the implementing measures such as tariffs, taxes, rebates and subsidies, also influence aluminium alloy prices.

The Commission further observes that the aluminium alloy sector would also likely be subject to various measures relating to the non-ferrous metals industry, which were specified in the various implementing measures discussed previously and were found to have influenced the primary aluminium market.

**B6.3 Flow through to aluminium road wheel sector**

It is the Commission’s view that, during the inquiry period, primary and alloy aluminium prices in China were lower than they otherwise would have been if the markets operated in a competitive environment without GOC intervention. As primary and alloy aluminium is a major cost component in aluminium road wheels (averaging approximately 50 percent across all selected exporters), the Commission considers that this understated aluminium cost would likely have an impact on the end cost of aluminium road wheels.

The Commission further views that the subsidies provided to the aluminium and aluminium road wheel sectors would likely impact the costs of production associated with aluminium road wheels through:

- improving the technology used by aluminium road wheel manufacturers, decreasing the cost of production, as well as affecting the supply and hence price of aluminium producing enterprises (and upstream industries that are also likely to have received subsidies);

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178 This observation has been made using cost information provided by selected exporters.
• decreasing the cost of inputs of aluminium and aluminium road wheels through the encouraged structural adjustment of aluminium and upstream industry entities; and
• directly reducing input prices of products at each stage of production if the subsidies are passed on by the recipient enterprises.

B6.4 Conclusion
The Commission therefore finds that GOC influence in the primary aluminium, alloyed aluminium and aluminium road wheel sectors have resulted in significantly different aluminium road wheel prices, compared to what would have been the case if the relevant markets operated without significant GOC intervention.

The Commission recognises that the impact of these GOC influences on supply are extensive, complex and manifold, and their resulting impact on the price of aluminium road wheels is not able to be easily quantified. However, available information and the Commission’s analysis indicates that these influences are likely to have had a material impact on the domestic price of aluminium road wheels in the inquiry period, such that prices of aluminium road wheels in that market are no longer suitable for determining normal value under subsection 269TAC(1).

The Commission therefore considers that GOC influences in the Chinese aluminium industry have created a ‘market situation’ in the domestic aluminium road wheel market.

B7 Use of a pricing benchmark
In view of the finding that a market situation exists in the aluminium road wheel market, the Commission has determined that normal values should be established either under subsection 269TAC(2)(c) or subsection 269TAC(6). In constructing normal values, the Commission has replaced the costs of aluminium and aluminium alloy for each Chinese exporter, as recorded by these exporters, with a reasonably competitive market cost derived from an appropriate benchmark.

Using an appropriate benchmark for the replacement of costs is important to ensure normal value is ascertained fairly. The Commission identified three potential sources of data for this purpose:
• private domestic prices of aluminium in China;
• import prices of aluminium in China; and
• external benchmarks.

For the reasons set out in this appendix, the Commission considers that domestic prices of aluminium in China do not reflect competitive market costs and therefore are not a suitable basis for a benchmark. The Commission also considers that aluminium import prices in China do not reflect competitive market prices, due to the apparent lack of import penetration of primary and alloy aluminium.  

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179 As determined using purchase data provided by selected exporters.
The Commission has therefore used a benchmark cost based on LME data, plus an adjustment for trading fees, alloy manufacture and delivery (where appropriate). This benchmark was used as it was considered to be a reasonable reflection of competitive market costs for aluminium and aluminium alloy in a market not influenced by the GOC. In all cases, the application of this benchmark resulted in an uplift to exporters’ aluminium and/or alloy costs.

The Commission constructed variations of this benchmark to reflect the various delivery terms and product types that were actually purchased during the inquiry period.

Submission regarding use of average benchmark uplift

Zhejiang Yueling has submitted that an average difference between its purchase prices of aluminium alloy and the benchmark constructed by the Commission should be considered ‘reasonably reflective’ of competitive market cost. Zhejiang Yueling notes that a competitive market cost cannot be a single and fixed price over a period.

The Commission is of the view that its current methodology, which uses the quarterly average difference between Zhejiang Yueling’s purchase prices and the benchmark, is more accurate than an annual average, and better reflects that prices will have fluctuated over the course of the inquiry period. Notwithstanding this, following publication of the verification report, the Commission identified an error in the benchmark calculation that has understated the benchmark in three of the four quarters of the inquiry period. The correction of the error has increased the dumping margin for Zhejiang Yueling.

B7.1 LME primary aluminium price

The Commission has used LME primary aluminium prices as the basis for its aluminium cost substitute.\textsuperscript{180} This data was sourced from the Department of Industry, Innovation and Science.

In REP 263, the Commission found that futures exchanges such as the LME and SHFE enable buyers and sellers to use both spot and three month contract prices for the buying and selling commodities. In accepting a three month contract to purchase aluminium, an aluminium buyer has agreed to receive the aluminium purchased three months from the date of transaction, based on a futures price which is determined by:

- the commodity's spot price;
- the risk free rate and time to maturity of the contract; and
- any costs associated with storage or convenience.

This compares to the spot market, in which buyers and sellers agree to buy or sell a set amount of aluminium for delivery on a fixed date at a price agreed at the date of contract.

\textsuperscript{180} This is consistent with the original investigation and REP 263.
The Commission also found in REP 263 that buyers from aluminium demand industries, such as aluminium road wheel producers and producers of the aluminium alloys A356 and A356.2, would be more likely to purchase aluminium via three month contracts (as opposed to spot prices) in view of the following benefits of using three month or other futures contract prices:

- reduced risks associated with price fluctuations;
- more certainty regarding the availability of aluminium stock in future periods;
- reduced storage costs associated with having a reduced need for maintaining a large surplus of aluminium stocks on hand; and
- better ability to adjust production of aluminium to match downstream demand.

For the purpose of this report, the Commission has used a hybrid LME cost substitute, which includes benchmarks based on either spot (cash) or three month contract prices for primary aluminium sold on the LME, as appropriate.

For selected exporters, the Commission identified the contract terms applicable to aluminium purchased during the inquiry period.

**Submission regarding the appropriate LME price for Zhejiang Yueling**

Zhejiang Yueling has submitted that the starting point for the benchmark cost should be the LME spot price, rather than the three month forward price. This is because Zhejiang Yueling’s practice is to purchase aluminium alloy at a spot price, which is demonstrated by the sample contracts provided in the response to the exporter questionnaire.\(^{181}\)

The Commission has verified Zhejiang Yueling’s claim by reference to the documentation provided, and updated the calculation accordingly.

**B7.2 Alloy uplift**

The Commission has calculated a quarterly alloy uplift, which is based on the difference between:

- the price of primary aluminium as shown via the SHFE; and
- the price of aluminium alloy A356.2, as shown in the Changjiang River Exchange.

The average annual uplift is 5.8 per cent. This uplift has been applied to the LME benchmark in circumstances where the selected exporter purchased alloy, rather than primary, aluminium.

**Submission regarding methodology for alloy uplift**

Arrowcrest has submitted that ‘… there is no assurance that the derived alloy uplift is not similarly influenced, insofar as the Commission has found that a market situation continues to influence the price for raw material primary aluminium in China’.\(^{182}\)

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\(^{181}\) EPR 378/028, pages 3-4 refer.

\(^{182}\) EPR 378/022 refers.
Specifically, Arrowcrest has requested that the Commission compare the alloy uplift in SEF 378 to an independent benchmark, obtained from a market not found to have a market situation (i.e. information from Alcoa of Australia Limited or Rio Tinto Limited).

The Commission acknowledges that both the primary aluminium market and the alloy aluminium market in China are both likely to have been influenced by the market situation. However, the Commission has no evidence before it that suggests one price has been influenced to a different degree than the other; further, Arrowcrest’s suggested alternative is a theoretical exercise. The Commission considers that the relativity between prices on the primary and alloy aluminium exchanges reflects the prevailing trading conditions in China, and therefore considers this the most reliable information available to use in calculating an alloy uplift.

B7.3 MJP premium

For the purposes of this inquiry, the Commission has applied the published MJP regional premium to the aluminium cost benchmark, as it reflects a legitimate cost associated with the act of physically obtaining aluminium purchased via the LME.

As observed in REP 263, the Commission understands that within the Chinese market it is likely that similar premiums would be incurred as part of physically obtaining goods purchased via Chinese futures exchanges. As a result, in the absence of specific data pertaining to the trading and delivery fees applicable to the purchase of primary aluminium or aluminium alloys via Chinese domestic futures exchanges, the Commission considers that it is reasonable to use the MJP regional premium to determine an appropriate benchmark cost.

The Commission recognises that the MJP regional premium will notionally include some costs associated with the importation of aluminium; however, given the price is a reflection of what the market will bear, it is unlikely that such a premium can be broken down into discrete cost categories. Based on its experience in other cases, the Commission considers that such cost components would not be significant.

Submission regarding application of MJP premium

Zhejiang Yueling has submitted that:

- the published MJP premium does not always represent the real market premium;
- the MJP premium is a cost, insurance and freight (CIF) based premium, and would therefore include Japanese trader profit, and the cost of ocean freight, marine insurance and other importation charges. Because of this, the freight, insurance and importation charges should be removed from the benchmark cost. Zhejiang Yueling understands the Commission would be in possession of these break-bulk ocean freight and insurance information relating to Japan from its other investigation concerning exports from that country;

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183 Sourced from the Department of Industry, Innovation and Science.

184 EPR 263/051, pages 95-96 refer.
the SHFE and Changjiang Metal Exchange are already market prices, and therefore inclusive of a supplier premium. This means that the alloy uplift percentage (as worked out in Section B7.2) not only shows the price differences between aluminium and aluminium alloy, but also the premium charged by an aluminium alloy supplier. By applying the alloy uplift and the MJP on top of the LME aluminium price, the benchmark contains both the Chinese aluminium alloy and Japanese supplier premiums.

Zhejiang Yueling also provided documentation to show that the Changjiang Metal Exchange data is consistent with the price agreed between Zhejiang Yueling and its supplier. As a result, Zhejiang Yueling has requested that the Commission remove the MJP premium entirely, or at least adjust the premium to eliminate the CIF related importation costs.

Having assessed this submission, the Commission notes that the SHFE price does not include costs associated with taking physical possession of the aluminium. This is confirmed by commentary in REP 263, which states that '[t]he SHFE … specifies in its trading rules that trading and delivery fees are applicable to the settlement of its sales via the SHFE'.

REP 263 also found that:

> [o]ther Chinese futures exchanges appear to employ similar trading fees. Given the SHFE’s predominance in Chinese metals trading, the Commission considers it reasonable to assume that other Chinese trading houses selling aluminium and aluminium alloy to Chinese customers would impose fees of a similar nature.

The price of aluminium alloy A356 used by the Commission in this inquiry is on an EXW basis. The Commission notes that the MJP premium has been included by the Commission historically, on the basis that this cost would realistically be incurred if aluminium were to be purchased via a competitive market. That the Changjiang Metal Exchange is a market price is not, of itself, sufficient to show that trading fees are inclusive in that price (as seen by the SHFE trading rules). Further, the information provided by Zhejiang Yueling relating to its own purchases of aluminium alloy is not sufficient to demonstrate that this premium has been adequately accounted for in Changjiang Metal Exchange prices, and therefore in the alloy uplift, particularly given domestic prices of aluminium in China have been found not to reflect competitive market costs.

As a result, based on the observations already made in REP 263, the Commission does not consider there is sufficient evidence to warrant a departure from that methodology.

In regards Zhejiang Yueling’s subsequent claim that, at a minimum, the premium should be adjusted to eliminate the CIF related importation costs, the Commission is also of the view that this is not appropriate. While the MJP premium is set at the CIF level, the Commission notes that the quarterly premiums are negotiated between Japanese buyers and overseas suppliers before the start of every quarter. As such,

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185 EPR 263/051, page 95 refers.
186 EPR 273/051, page 95 refers.
these premiums reflect the price the market will bear, based on supply and demand. While it is at CIF terms, it does not necessarily follow that an identifiable component of that premium is consistently attributable to import costs, and that changes in those costs influence the level of the premium. As Zhejiang Yueling suggested, the published MJP premium reflects the outcome of all negotiations between buyers and sellers of aluminium in any given period. This is therefore the most reliable publically available and independent data available to the Commission for use in its benchmark calculation.

In any event, the Commission has insufficient evidence of CIF importation costs in relation to data provided by Japanese exporters in other investigations that would enable it to accurately adjust the MJP premium by those amounts.

B7.4 Delivery prices

Consistent with REP 263, the Commission has calculated domestic delivery prices for aluminium based on data submitted by selected exporters.
APPENDIX C – countervailing findings

C1  Summary of findings

After assessing all relevant information available, the Commission has found that financial benefits\(^{187}\) were conferred to aluminium road wheel producers in respect of the goods via countervailable subsidy programmes.

C2  Programmes investigated

The Commission examined 34 subsidy programmes as part of this inquiry. This includes the 32 programmes deemed to be countervailable subsidies received by exporters in respect of aluminium road wheels during the previous review of measures (REP 263).\(^{188}\) There were also two additional subsidy programmes that the Commission examined as part of this inquiry after receiving information from selected exporters.

In order to consider these 34 subsidy programmes, the Commission obtained information from all selected exporters via responses to the exporter questionnaire and verification activities (as described in Section 2.3.3.1). Non-confidential versions of all responses to the exporter questionnaire and verification reports are available on the public record for this inquiry.\(^{189}\) The Commission did not receive a response to the government questionnaire from the GOC for this inquiry.

C3  Relevant legislation

Subsection 269T(1) of the Act defines a ‘subsidy’ as follows:

\[
\text{subsidy, in respect of goods exported to Australia, means:}
\]

(a) a financial contribution:

(i) by a government of the country of export or country of origin of the goods; or
(ii) by a public body of that country or a public body of which that government is a member; or
(iii) by a private body entrusted or directed by that government or public body to carry out a governmental function;

that involves:

(iv) a direct transfer of funds from that government or body; or
(v) the acceptance of liabilities, whether actual or potential, by that government or body; or
(vi) the forgoing, or non-collection, of revenue (other than an allowable exemption or remission) due to that government or body; or
(vii) the provision by that government or body of goods or services otherwise than in the course of providing normal infrastructure; or
(viii) the purchase by that government or body of goods or services; or

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\(^{187}\) Refer to subsections 269TACC(2)(a) and (b).

\(^{188}\) The Commission considered 39 programmes, in total, during REP 263.

\(^{189}\) EPR 378/010, 012 and 020 refer.
(b) any form of income or price support as referred to in Article XVI of the General Agreement on Tariffs and Trade 1994 that is received from such a government or body;

if that financial contribution or income or price support confers a benefit (whether directly or indirectly) in relation to the goods exported to Australia.

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 Minister 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 Minister 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.

Section 269TACC directs how the Parliamentary Secretary determines whether a financial contribution or income or price support confers a benefit, and is therefore a countervailable subsidy. Section 269TACD provides how the amount of this benefit is determined.
Under subsection 269TJ(1), one of the matters that the Minister must be satisfied of to publish a countervailing duty notice is that a countervailable subsidy has been received in respect of the goods.

C4 Information considered by the Commission

In assessing the alleged subsidy programmes, the Commission has considered information provided in the responses to the exporter questionnaire and verification activities. This includes information provided by exporters regarding whether these exporters were in receipt of any previously investigated or new countervailable subsidies and, if so, the value of any benefits received.

C5 Methodologies used to determine subsidy margins

The method by which benefits were calculated and attributed varied by exporter. The table below summarises the approach taken to determine subsidy margins for each exporter:

<table>
<thead>
<tr>
<th>Selected exporter</th>
<th>Method of allocation</th>
<th>Applicable legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jinfei Kaida</td>
<td>The amount of the subsidy was determined using the actual amount of benefit received.</td>
<td>section 269TACD</td>
</tr>
<tr>
<td></td>
<td>For programme one, benefits were established by calculating the difference between</td>
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<tr>
<td></td>
<td>the actual prices paid by Jinfei Kaida and the aluminium cost substitute benchmark.</td>
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<tr>
<td></td>
<td>Where other subsidies were received during the inquiry period, the Commission has</td>
<td></td>
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<tr>
<td></td>
<td>determined the value of subsidies based on the actual values of benefits received</td>
<td></td>
</tr>
<tr>
<td></td>
<td>by Jinfei Kaida.</td>
<td></td>
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<tr>
<td></td>
<td>In relation to preferential income tax programmes, the value of the subsidy was</td>
<td></td>
</tr>
<tr>
<td></td>
<td>determined to be the amount of tax revenue forgone by the GOC.</td>
<td></td>
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<tr>
<td></td>
<td>Benefits were attributed using the turnover volume, as submitted in the response to</td>
<td></td>
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<td></td>
<td>the exporter questionnaire.</td>
<td></td>
</tr>
<tr>
<td>Zhejiang Yueling</td>
<td>The amount of the subsidy was determined using the actual amount of benefit received.</td>
<td>section 269TACD</td>
</tr>
<tr>
<td></td>
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<td></td>
<td>the exporter questionnaire.</td>
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</tr>
<tr>
<td>Residual exporters</td>
<td>The weighted average countervailable subsidisation determined for all selected</td>
<td>section 269TACD</td>
</tr>
<tr>
<td></td>
<td>exporters.</td>
<td></td>
</tr>
</tbody>
</table>
C6 Category one: aluminium provided by the government at less than fair market value

C6.1 Background

The Commission found in REP 263 that Chinese aluminium road wheel exporters benefited from the provision of aluminium by the GOC at less than adequate remuneration. In particular it was found that primary aluminium was being produced and supplied by government owned enterprises at less than adequate remuneration.

Under this programme, a benefit to the exporter of aluminium road wheels is conferred by primary aluminium being provided by the GOC at an amount reflecting less than adequate remuneration, having regard to prevailing market conditions in China.

The Commission has not identified any specific legal basis for this programme (i.e. there is no specific law, regulation, or other GOC document found by the Commission that provides for its establishment), nor is it aware of any WTO notification of this programme.

Consistent with REP 263, the Commission sought information from selected exporters to establish the quantity and cost of primary aluminium purchases, the country of origin, identity of the supplier, identity of the manufacturer (if not the supplier) and if the supplier/manufacturer was a SOE or SIE.

Selected exporters reported purchases of both primary aluminium and aluminium alloy during the inquiry period from a mixture of SOE and SIE smelters, traders and privately owned companies.

In determining whether the provision of goods at less than fair market value was a financial contribution that conferred a benefit to exporters of aluminium road wheels during the inquiry period, the Commission has had regard to the guidelines set out in subsection 269TACC(3).

C6.2 Analysis – primary aluminium costs

The Commission has compared the estimated cost to produce primary aluminium in China, with the prices paid in China for primary aluminium purchased via the SHFE. In doing this, the Commission found that the SHFE price was below the cost of production for primary aluminium for 79 per cent of the aluminium industry. Analysis of cost data provided by selected exporters (notwithstanding that this information was not considered

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190 Provided by AME.
suitable for establishing normal values) also revealed that selected exporters had paid less for aluminium than a ‘fair market price’ (i.e. the estimated cost to make aluminium in China) when compared to 79 per cent of the aluminium industry.

Further to this, the Commission also notes from Appendix B that around 50 per cent of Chinese aluminium smelters were estimated to be operating at a loss in 2015, compared to 20 per cent in 2013 and 2014. Similarly, if this analysis was undertaken using LME contract prices, as opposed to the SHFE benchmark, 80 per cent of the industry would have been operating at a loss in 2015, compared to around 55 per cent in 2013 and 2014.

In the Commission’s view, the GOC continues to provide support to Chinese aluminium producers through discounted electricity (Appendix B refers). In REP 263, the Commission found that electricity was reported to represent at least 40 per cent of the cost to make for primary aluminium.191

Further to this, the Commission observed that one of the selected exporters in this inquiry purchased approximately one third of its aluminium directly from traders or manufacturers that were SIEs or SOEs, with a further portion purchased from traders that the exporter understood were supplied by a SOE. Another selected exporter purchased a small portion of its aluminium (only 2 per cent) from a trader that it understood was supplied by a SOE.

The Commission finds that the SIEs involved in the primary aluminium sector are public bodies with regard to the criteria in the definition of subsidy in subsection 269T(1) (Section C6.5.2 refers). Consistent with REP 263, the Commission continues to hold the view that prices of primary aluminium supplied by SOEs or SIEs are likely to have influenced domestic primary aluminium prices generally.

The Commission has thereby found that the provision of aluminium at less than the cost to make by the GOC is a financial contribution that confers a benefit on exporters of the goods because the aluminium is provided at less than adequate remuneration under subsection 269TACC(3)(d).

As set out in Appendix B, the Commission has also taken into account additional factors (such as export taxes on primary aluminium and the preferential treatment provided to the aluminium smelting and non-ferrous metals industries), which indicate the GOC’s involvement in the domestic aluminium market and the distorting effects on domestic prices.

C6.3 Flow-through to aluminium alloy prices

The Commission finds these artificially low prices of primary aluminium are likely to have flowed through to the cost to make for aluminium alloy used to produce aluminium road wheels. As mentioned in Appendix B, the Commission identified similarities in the price trends between primary and alloyed aluminium which suggests that the cost of primary aluminium is a key determinant in the cost of aluminium alloy. The Commission also noted in Appendix B that the aluminium alloy sector would have likely benefited from various policies and implementing measures which related to the aluminium smelting and non-ferrous metals industries. The Commission views that these benefits would have

191 EPR 263/051, page 109 refers.
further contributed to aluminium alloys A356 and A356.2 being sold to aluminium road wheel producers at less than fair market value.

As mentioned in Appendix B, the Commission identified that the cost of primary or alloyed aluminium represents approximately 50 per cent of the cost to make for aluminium road wheels manufactured in China. The Commission considers that this is a significant proportion of the cost to make for aluminium road wheels, and that producers therefore benefited from the subsidies provided by the GOC to the aluminium sector.

### C6.4 Is this a subsidy programme?

Based on analysis of the information above, the Commission considers that this programme involves a financial contribution that confers a benefit, as it involves the provision of aluminium at less than adequate remuneration under subsection 269TACC(3)(d). The Commission therefore finds that the programme constitutes a subsidy under subsection 269T(1).

### C6.5 Is there a subsidy by a public body?

#### C6.5.1 Legislative framework

The definition of a subsidy under subsection 269T(1) requires the financial contribution to be provided by a government, public body or a private body entrusted by that government or public body to carry out a government function.

The SIEs involved in the primary aluminium sector in China are not considered by the Commission to be part of the GOC, nor are they private bodies entrusted or directed by the GOC in order to carry out governmental functions. The Commission's focus on considering whether aluminium has been sold at less than fair market value will therefore focus on considering whether these SIEs are acting as a ‘public body’.

The term ‘public bodies’ is not expressly defined under the Act, but it is used in the Agreement on Subsidies and Countervailing Measures, which provides that a ‘... subsidy shall be deemed to exist if...there is a financial contribution by a government or any public body within the territory of a Member...and a benefit is thereby conferred’.

The Manual states that a ‘public body’ may possess, exercise or be vested with government authority where:

- a statute or other legal instrument expressly vests government authority in the entity concerned (indicia one);
- evidence exists that an entity is, in fact, exercising governmental functions may service as evidence that it possesses or has been vested with governmental authority (indicia two); and
- evidence exists that a government exercises meaningful control over an entity and its conduct may serve, in certain circumstances, as evidence that the relevant entity possesses governmental authority and exercises such authority in the performance of governmental functions (indicia three).
C6.5.2 Public body test

In REP 263, the Commission considered there was evidence to show that at least indicia two (evidence that an entity is, in fact, exercising governmental functions) and indicia three (evidence that a government exercises meaningful control over an entity and its conduct) were satisfied in relation to Chinese aluminium and/or alloy manufacturers.\textsuperscript{192}

Taking into account the lack of cooperation from the GOC, and the absence of any submissions on this issue to date, the Commission considers that it is preferable to maintain the position taken in REP 263. As a result, for this inquiry, SIEs that produced and supplied aluminium and/or alloy in China are ‘public bodies’ for the purposes of the Act.

C6.5.3 The Commission’s finding

Having determining that SIEs that produced and supplied aluminium and/or alloy in China are ‘public bodies’ for the purposes of the Act (Section C6.5.2 refers), the Commission finds that those SIEs conferred a benefit in respect of the goods (i.e. provision of aluminium and/or alloy was at less than adequate remuneration). As outlined in Appendix B, there are considered to be correlations between the prices of primary aluminium and aluminium alloy, which indicate that the sale of primary aluminium at less than adequate remuneration thereby impacts for the price of aluminium alloy (to the extent that aluminium alloy has been sold at less than fair market value).

The Commission considers the sale of aluminium at less than fair market value to be a countervailable subsidy programme. This financial contribution provided through the programme is considered to confer a benefit to recipient manufacturers of aluminium road wheels because of receipt of contributions from public bodies in accordance with subsection 269TACC(2)(b).

As the criteria or conditions providing access to this subsidy favour Chinese manufacturers that purchase primary or alloyed aluminium, the programme is considered to be specific under subsection 269TAAC(2)(a), and the specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).

As Chinese exporters used primary and alloyed aluminium to produce aluminium road wheels, this financial contribution was considered to be made in respect of the production, manufacture or export of the goods.

The methodology for attributing subsidy margins under programme one (along with all other countervailable subsidy programmes) is discussed in Section C5.

C7 Category two: preferential tax programmes

In REP 263, the Commission found that five preferential tax programmes (four, five, 14, 31 and 32) were countervailable subsidies.

\textsuperscript{192} EPR 263/051, page 126 refers.
C7.1 Programmes four and five – income tax programmes

In REP 263, the Commission found that programme four (preferential income tax for hi-tech enterprises) and programme five (preferential tax policies for western development ‘go west’ strategy) were considered to be countervailable subsidies received in respect of aluminium road wheels.

In regards the Commission’s consideration of programme four as part of the current inquiry, it observed that selected exporters received financial contributions under programme four during the inquiry period. As a result, the Commission is satisfied that this programme constitutes a countervailable subsidy received in respect of aluminium road wheels during the inquiry period.

The methodology used to determine subsidy margins for programme four is discussed in Section C5.

In relation to programme five, the Commission did not observe the receipt of this programme by any selected exporter, but notes that it has no evidence to show this programme was not in operation during the inquiry period. While this subsidy may have been received by uncooperative and all other exporters in respect of aluminium road wheels during the inquiry period, the Commission has calculated a zero amount of subsidy for this programme, given the maximum subsidy benefit received for programme four would be greater than any discount under programme five. This is consistent with REP 263.

C7.2 Programmes 31 and 32 – tariff and VAT exemptions on imported materials and equipment

In REP 263, programme 31 (exemption of tariff and import VAT for imported technologies and equipment) and programme 32 (full refund of VAT on purchasing unused domestic equipment with currency in China) were considered to be countervailable subsidies received in respect of aluminium road wheels.

In regards the Commission’s consideration of programmes 31 and 32 as part of the current inquiry, the Commission did not observe the receipt of these programmes by selected exporters. The Commission notes that programme 31 was countervailed as part of the review into aluminium extrusions, which found that it would likely continue to operate until at least April 2019. It is therefore considered that this programme was in operation during the inquiry period. In relation to programme 32, the Commission has no evidence to show this programme was not in operation during the inquiry period. Therefore, the Commission is satisfied that both these programmes constitute countervailable subsidies that may have been received by uncooperative and all other exporters in respect of aluminium road wheels during the inquiry period.

The methodology used to determine subsidy margin for programme 31 is discussed in Section C5. The Commission has effectively calculated a zero amount of subsidy for uncooperative and all other exporters under programme 32, given the maximum subsidy benefit under this category has already been applied under programme 31.

193 EPR 248 refers.
C8  Category three: grants

In REP 263, the Commission found 26 grant programmes (21, 29, 35 to 44, 46 to 48, 50, 51, 53 and 56 to 63) were countervailable subsidies.

C8.1  Programme 48 – foreign trade public service platform development fund

It was observed from REP 263 that the GOC had advised this programme was terminated in September 2013, although companies might be eligible to receive benefits for up to a year after that date.

As a result, the Commission has not countervailed this programme, given it expired prior to the inquiry period.

C8.2  Programme 59 – assistance to importer and exporter fair trade programme

It was observed from REP 263 that the GOC had advised this programme expired at the end of 2013.

As a result, the Commission has not countervailed this programme, given it expired prior to the inquiry period.

C8.3  Programmes 21, 29, 35 to 44, 46, 47, 50, 51, 53, 56 to 58 and 60 to 63

In REP 263, programmes 21, 29, 35 to 44, 46, 47, 50, 51, 53, 56 to 58 and 60 to 63 were considered to be a countervailable subsidies received in respect of aluminium road wheels. In considering whether these programmes were countervailable subsidies for the current inquiry, the Commission observed that selected exporters reported receiving benefits under programmes 41, 42, 44, 51, 56, 58 and 62 during the inquiry period. As a result, the Commission is satisfied that these programmes constitute countervailable subsidies received in respect of aluminium road wheels during the inquiry period.

In relation to programmes 21, 29, 35 to 40, 43, 46, 47, 50, 53, 57, 60, 61 and 63 to the Commission did not observe the receipt of these programmes by any selected exporter, but notes that it has no evidence to show these programmes were not in operation during the inquiry period. Therefore, the Commission is satisfied that all these programmes constitute countervailable subsidies that may have been received by uncooperative and all other exporters in respect of aluminium road wheels during the inquiry period.

The methodology used to determine subsidy margins for all 24 programmes is discussed in Section C5.

C8.4  Grant programmes not previously considered (programmes 64 and 65)

The Commission finds that programmes 64 and to 65 are countervailable subsidies in respect of aluminium road wheels exported from China during the inquiry period.

The methodology for determining subsidy margins for these two programmes is discussed in Section C5. A detailed assessment of these programmes is contained in the following table:
<table>
<thead>
<tr>
<th>Programme</th>
<th>Background and WTO notification</th>
<th>Legal basis and administrative authority</th>
<th>Eligibility criteria</th>
<th>Is there a subsidy?</th>
<th>Is the subsidy countervailable?</th>
<th>Recipients of subsidy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Programme 64 – employment stabilisation subsidy</td>
<td>The purpose of this programme is to reinforce the support of unemployment insurance for the stabilisation of corporation employment and prevention of unemployment. One selected exporter submitted that it had received a benefit under this programme. The Commission may have investigated this programme as part of Investigation No. 355 in relation to steel shelving units from China [programme 36 – maintain local employment], but lacks the necessary evidence to confirm the two programmes are identical.</td>
<td>The Commission is unable to ascertain the legal basis for this grant. The relevant selected exporter has provided a copy of the relevant notice issued by the Taizhou City Bureau of Finance in relation to ‘promoting unemployment insurance to support stabilisation of corporation employment’.</td>
<td>The eligible applicant must carry out the employment stabilisation policy stated in the opinion on the issues of employment insurance supporting the stabilisation of corporation employment (Zhe Ren She Fa [2015 No. 30], the scope of which has now been expanded to all corporations meeting the criteria related to unemployment insurance. The eligible applicant must pay unemployment insurance, and maintain a lower than average redundancy rate.</td>
<td>Enterprises registered and operating in Taizhou City that meet the criteria related to unemployment insurance may receive this subsidy. Grants provided under this programme are financial contributions by the Taizhou City Bureau of Finance, which involve a direct transfer of funds by the local government to the recipient enterprises. Due to the nature of the grant, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including aluminium road wheels). This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium road wheels because of receipt of funds from the local government (subsection 269TACC(2)). Where exporters of the goods during the inquiry period received a grant under the programme, this would therefore confer a benefit in relation to aluminium road wheels, and these financial contributions would meet the definition of a subsidy under section 269T.</td>
<td>An enterprise that is within the geographical region of the Taizhou City granting authorities may apply if it meets the conditions of the programme. As the criteria or conditions providing access to the subsidy favours particular enterprises over other enterprises in China, the programme is considered to be specific under subsection 269TAAC(2)(b). The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</td>
<td>Selected exporter(s) that received benefits under the programme, residual exporters and uncooperative and all other exporters.</td>
</tr>
<tr>
<td>Programme</td>
<td>Background and WTO notification</td>
<td>Legal basis and administrative authority</td>
<td>Eligibility criteria</td>
<td>Is there a subsidy?</td>
<td>Is the subsidy countervailable?</td>
<td>Recipients of subsidy</td>
</tr>
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<td>Programme 65 – employee medical care fund</td>
<td>The purpose of this programme is to relieve the medical care burden on individual employees, improve medical care conditions of employees and allow the labour union to play an active role in promoting the construction of a social security system. One selected exporter submitted that it had received a benefit under this programme. To the Commission’s knowledge, it has not investigated this programme in previous investigations.</td>
<td>The Commission is unable to ascertain the legal basis for this grant. The relevant selected exporter has provided a copy of the ‘measure for the implementation of Taizhou City employee hospitalisation medical mutual assistance’.</td>
<td>All the in-service employees of party and government offices, public institutions, social organisations and all types of enterprises can participate in the programme when organised by the labour union of the entity they are working in. For non-SOEs to participate in this programme, the participant must demonstrate that participating employees exceed 10 people, and 70 per cent of the total number of employees.</td>
<td>Enterprises registered and operating in Taizhou City meeting the relevant eligibility criteria may apply for this award. Grants provided under this programme are financial contributions by the City general labour union, which involve a direct transfer of funds by the union to the recipient enterprises in Taizhou City. Due to the nature of the grant, it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including aluminium road wheels). This financial contribution is considered to confer a benefit to recipient manufacturers of aluminium road wheels because of receipt of funds from a public body (subsection 269TACC(2)). Where exporters of the goods during the inquiry period received a grant under the programme, this would therefore confer a benefit in relation to aluminium road wheels, and these financial contributions would meet the definition of a subsidy under section 269T.</td>
<td>An enterprise that is within the geographical region of the Taizhou City granting authorities may apply if it meets the conditions of the programme. As the criteria or conditions providing access to the subsidy favours particular enterprises over other enterprises in China, the programme is considered to be specific under subsection 269TAAC(2)(b). The specificity of the subsidy is not excepted by reference to subsection 269TAAC(3).</td>
<td>Selected exporter(s) that received benefits under the programme, residual exporters and uncooperative and all other exporters.</td>
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</tbody>
</table>

Figure 27 – subsidy programmes considered as part of this inquiry, but not considered during REP 263