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16 May 2012

The Director
Operations 2
International Trade Remedies Branch
Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

Our ref: ATH
Matter no: 9552283

By email: tmops2@customs.gov.au

Dear Director

**Aluminium Road Wheels exported from the People's Republic of China
Initiation of an investigation into alleged dumping and subsidisation
Submission by Motor Sport Wheels & Tyres on Statement of Essential Facts
Non-Confidential Version**

We act on behalf of Samad Tyres Pty Ltd trading as Motor Sport Wheels & Tyres ("Motor Sport Wheels").

We refer to the Statement of Essential Facts ("SEF") 2012/181 issued by the Australian Customs and Border Protection Service ("Customs").

Our client has now instructed us to raise the following issues regarding the findings, conclusions and proposed recommendations contained in the SEF. For these purposes, unless otherwise defined, we have adopted defined terms as set out in the SEF.

We look forward to discussing these matters with you.

Background

1. Our client imports ARW for the AM. [REDACTED]
2. The ARW imported by our client for the AM is produced and manufactured specifically for our client for use in conjunction with European PMV such as Mercedes, Audi, BMW, Porsche and Ferrari. The ARW sold by our client has been developed for our client by its Chinese exporters to suit specific style and performance requirements dictated by its customers.
3. Arrowcrest has never produced AM ARW of specifications, type, quality and style which would have satisfied the requirements of our client or its customers. Having reviewed the AM products offered for sale by Arrowcrest, our client is of the view that the AM product has not changed over the course of the preceding 10 years and that its product would never satisfy the requirements of our client or its customers.

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INTERLAW.

Submission

Based on the abovementioned facts, our client has further instructed us to make the following submissions.


1. Our client has developed and commissioned the production of AM ARW which constitute a specific subset of AM ARW which bear characteristics and qualities entirely separate to AM products offered for sale by Arrowcrest.
2. ARW have three distinguishable characteristics for fitment known as PCD (Pitch Circle Diameter), Offset and Centre Bore size. These three characteristics are the fitment of the ARW. The fitment of the AM products offered for sale by Arrowcrest do not correspond with the fitment of our client's AM ARW. This means that our client's AM ARW do not compete with the AM products offered for sale by Arrowcrest. Our client's products and Arrowcrest's products are made for mutually exclusive makes of PMV.
[REDACTED]
3. Our client is not involved in the OEM market.
4. Any findings and recommendations by Customs in the SEF ignore the fact that there is an entirely separate subset of AM ARW which are produced for our client to meet specific requirements of the customers of our client.
5. The imposition of measures on ARW by Customs and the Minister, whether in the OEM or AM markets, would have the entirely unintended consequence of making the goods imported by our client unfairly and unreasonably expensive when there is no injury to the Australian industry in the subset of AM ARW produced by and sold by our client.
6. To the extent that Arrowcrest may consider it has suffered "injury" by not selling into the specific subset of the AM, then that arises from a number of factors including, without limitation:
 - (a) the fact that Arrowcrest has never produced AM ARW of a type or a quality required by customers of our client; and
 - (b) Arrowcrest has never been interested in producing such items.
7. As a consequence of the issues described above then our client is of the view that:
 - (a) the ARW imported by our client for the AM are not "like goods" to those produced by the Australian industry adopting the tests set out in Customs' dumping and subsidy manual as they have no physical likeness, commercial likeness, functional likeness or production likeness to those produced by the Australian industry; and
8. Even if Customs believes that the AM ARW imported by our client are "like goods" to those manufactured by the Australian industry, our client also believes that the Australian industry does not manufacture and offer for sale in Australia like goods to a particular and clearly identifiable subset of the imported HSS and, as a consequence, the Minister should exclude that subset from any dumping duty notice and countervailing notice as contemplated by paragraph 3.7 of the SEF. For these purposes, our client believes that the appropriate subset should be described as "European Prestige Car Fitment". European Prestige Car Fitment having a specific PCD (Pitch Circle Diameter), Offset and Centre Bore size for Prestige European Cars.

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Australian Customs and Border Protection Service

We look forward to discussing these matters with you.

Yours faithfully
Hunt & Hunt



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