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FILE 29

ARROWCREST
GROUP

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23 May 2012

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

Dear Ms Reid

Re: Aluminium Road Wheels exported from China – Further comments re Unsuppressed Selling Price

I refer to the submission by Corrs Chambers Westgarth dated 17 May 2012 on behalf of CITIC Dicastal (CITIC).

1. Suitability of domestic sales.

It has been suggested on behalf of CITIC that normal values for ARWs were "not lawfully" calculated and that a surrogate raw material price for aluminium alloy is "not permitted".

Customs has assessed that domestic selling prices for ARWs sold in China are not unsuitable for determining normal values under s.269TAC(1). Customs' examination of ARWs sold in China resulted in a conclusion that the government of China (GOC) influenced the selling price of the main raw material – primary aluminium. Customs confirmed that the selling price for primary aluminium was "materially distorted" impacting the competitive conditions of the price of aluminium in China.

Further, Customs' analysis of the GOC influence on the aluminium industry in China led it to form a view that *"GOC-driven market distortions have resulted in artificially low prices for the key raw materials used in ARW production in China – aluminium and aluminium alloy"* and that these costs do not reflect reasonably competitive market costs in terms of Regulation 180(2).

Customs concluded that it could calculate normal values for ARWs using the exporter's verified costs, replacing the artificially low raw material aluminium and aluminium alloy (as appropriate) costs, with "benchmark" prices. For primary aluminium, Customs used the London Metals Exchange (LME) traded price and an adjustment for aluminium alloy manufacture.

It has been suggested on behalf of CITIC that Customs cannot surrogate selling prices in the determination of normal values as this can only occur pursuant to s.269TAC(4) where the government of the country of export has a monopoly or a substantial monopoly of the trade in that country. In this instance, however, Customs has not used surrogate prices for the goods under consideration (GUC) for normal value purposes. Rather, Customs has replaced artificially low input costs to the GUC in the determination of normal value under s.269TAC(2)(c). The circumstances referred to on behalf of CITIC therefore do not apply as Customs has not used surrogate ARW prices for normal value purposes in China.

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Similarly, Customs has not asserted that the GOC "substantially influences" the domestic trade in the GUC under s.269TAC(4) and therefore there is no apparent contradiction with the Memorandum of Understanding with the GOC dated 18 April 2005.

The claims on behalf of CITIC that Customs has used "surrogate" prices for normal values determined for ARWs in China is incorrect.

2. Program 1.

It is argued on behalf of CITIC that as Customs was unable to identify a specific law or regulation in relation to Program 1 – Primary Aluminium at Less than Adequate Remuneration, the program does not exist and therefore cannot be considered a countervailable subsidy program. Arrowcrest disagrees. The absence of a specific government legislative provision does not discount the existence of a benefit received. Rather, the government policies that provide for artificially low prices for certain goods (i.e. aluminium and aluminium alloy) and the involvement of State-Invested Enterprises (SIEs) that predominate in that sector, permit the intent of the GOC policies to prevail.

CITIC has been unable to demonstrate that the GOC has not influenced domestic prices for aluminium and aluminium, given the significant government involvement in the sector and the prevalence of artificially low prices.

3. Material injury and causal link.

The assertions that Holden Special Vehicles and Ford Performance Vehicles are not OE manufacturers are factually incorrect. CITIC relies on the presumption that both OE manufacturers should not be included in the OEM segment for ARWs, therefore CITIC's claim that exports of ARWs from China to the OEM segment of the ARW market has not caused injury to Arrowcrest cannot be supported.

It has also been argued that "price" is not an important factor in the supply of ARWs and is in fact "irrelevant" to the sourcing of ARWs. Such comments defy commercial reality. Customs is aware of the OEM tender process and understands that price is an important factor in the supply of ARWs.

4. Closing remarks.

CITIC has not evidenced that Customs has erred in determining normal values under s.269TAC(2)(c) as Customs has not used surrogate prices for ARWs in normal value determinations for CITIC (and remaining Chinese exporters of ARWs). Arrowcrest does not consider that the absence of a GOC regulation enables a conclusion to be made that a benefit has not passed to an entity – the artificially low input prices sufficiently evidence a benefit has been received by CITIC. Finally, CITIC's assertions that Holden Special vehicles and Ford Performance Vehicles are not OEM suppliers is incorrect and therefore cannot be relied upon when examining CITIC's assertions concerning material injury to the OEM segment of the Australian ARW market.

On the basis of the above comments, the assertions raised on behalf of CITIC should be rejected.

Yours sincerely,


Bill Davidson
General Manager