

ARROWCREST
GROUP

25 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 Joanne,

Reference : Aluminium Road Wheels exported from China – Comments re Submission on behalf of Ford of 17 May 2012 re SEF181.

I refer to the submission by Clayton Utz dated 17 May 2012 on behalf of Ford Australia ("Ford").

Arrowcrest disputes the claims made on behalf of Ford that suggest Customs and Border Protection ("Customs") has ignored evidence that disagrees with the preliminary findings and has relied upon assertions without evidence to support conclusions. It is to be expected that Ford would be dissatisfied with the preliminary findings. The claims and assertions that Customs has provided only " cursory consideration to major issues" is inaccurate and not supported by the analysis included in SEF181.

Arrowcrest does not consider that the representations made on behalf of Ford represent anything beyond what has previously been submitted. Customs has adequately responded to Ford's representations in SEF181. Therefore the representations made on behalf of Ford should be rejected.

1. Ford's comments in response to Arrowcrest submission.

It is stated that "*Customs fails to make any reference to the findings of the European Union in the SEF*". Arrowcrest submits that Customs' approach to its assessment of like goods is indicative of having an open mind on this issue. Customs is not obliged to consider the findings of the EU. Customs must, however, assess the issue of like goods in accordance with the s.269T(1) of the Customs Act (and the guidelines of the Dumping and Subsidisation Manual".

Customs has detailed at Section 3.7 of SEF181 its consideration of like goods, and the relevant factors considered including:

- Physical likeness;
- Commercial likeness;
- Functional likeness;
- Production likeness.

Ford's attempts to dispute Customs' findings overlook the above key considerations and do not address that OEM and AM wheels are interchangeable. Arrowcrest does not consider the Ford submission has provided any new information on the matter of like goods that has not previously been addressed.

2. Ford Response to SEF181.

Like Goods

Ford has further disputed Customs' findings on 'like goods' and has repeated a number of matters detailed in previous submissions. SEF181 makes it very clear that Customs has considered these claims.

Australian market

Customs' comments confirm that Chinese exports of ARWs over the injury period increased by 35 per cent. In the investigation there was a decline in Chinese imports, however, the overall market also declined. The purpose of examining over an injury period from 2006 is to enable Customs to assess the trend over that period. The volume of Chinese ARWs since 2006 follows a significant increasing trend.

Price suppression

Arrowcrest rejects the claims made on behalf of Ford that it has not suffered price suppression. Arrowcrest has demonstrated to Customs that it has experienced price suppression on sales into both the OEM and AM segments of the market during the investigation period. It has further been demonstrated that the injury experienced was material. Ford's assertions are not supported by the evidence.

Volume effects

It is difficult to follow the Ford submission as it is not clear that Ford is initially discussing the AM segment of the market. However, Arrowcrest does not consider that Ford is positioned to be able to comment on what volumes Arrowcrest has achieved throughout the injury and investigation periods.

Profits and Profitability

The Arrowcrest Visit Report (Section 10.5) demonstrates that Arrowcrest suffered reduced profits in the investigation period when contrasted with the previous twelve months. Customs' comments that its findings are "preliminary" relate solely to the intention of the SEF – that is, the assessment is subject to further submissions from interested parties following publication of the SEF. It would seem that Ford is reading more into the "preliminary" wording than is apparent.

Other economic indicators

Arrowcrest strongly rejects the suggestions made on behalf of Ford that there is "no evidence" that Chinese exports of ARWs have caused injury in relation to "other economic factors". This is incorrect. The referred "Attachment A" recounts that Arrowcrest experienced a 50 per cent reduction in ROI during the investigation period. Further, employment levels also declined across the injury period.

It cannot be concluded that a source of ARWs that accounts for one-in-two sales of ARWs in Australia has not impacted the ROI, employment and capacity utilisation of the Australian industry. Ford's assertions are unsustainable.

Have dumping and subsidisation caused material injury

Arrowcrest has outlined in its response to submissions made on behalf of Mullins Wheels that it has suffered material injury in both the OEM and AM segments of the ARW market (refer submission of 24 May 2012). It is not necessary to repeat these here.

Price undercutting

It is asserted that Customs has not considered s.269TAE(2A) in its assessment of material injury. Again this claim is baseless. The issue for ARWs is that exports from China are the major source of imports – any other imports are considered minimal.

The Ford submission states that there are only three OEM manufacturers. Arrowcrest has previously stated that Holden Special Vehicles and Ford Performance Vehicles are also purchasers of OEM wheels.

Arrowcrest questions comments in the Ford submission that "questions" Customs' findings on price undercutting when Customs has found that the price undercutting experienced by Arrowcrest during the investigation period was significant (by up to 45 and 65 per cent) and that Arrowcrest directly responded to price undercutting from Chinese exports in pricing into both the OEM and AM segments during the investigation period.

It is further suggested that Customs has not followed its own practice in assessing price suppression. Customs' analysis at Section 8.6 of SEF181 does not support Ford's comments.

AM Market

Arrowcrest has responded to comments concerning material injury in the AM segment of the ARW market in its response to Mullins submissions of 17 & 24 May. Please refer to Arrowcrest's submission dated 24 May 2012.

OEM Market

The comment on behalf of Ford that Arrowcrest's supply to Toyota is not affected by Chinese exports is incorrect. Please refer to Arrowcrest's response to the Mullins submissions.

3. Conclusion.

It has been asserted on behalf of Ford that Customs has failed to adequately consider certain matters in the ARW inquiry. These assertions are not supported by the findings contained in SEF181 nor the information on the public record. It is further claimed that Customs' methodologies in support of its findings are inconsistent with its investigation policies and practice. No evidence has been provided in support of these assertions.

Arrowcrest contends that the Ford submission has focused on issues that have previously been raised in earlier submissions. This latest submission does not introduce any new evidence for consideration that would alter Customs' findings in SEF181. On this basis, Arrowcrest requests that the matters raised by Ford do not detract from Customs' findings contained in SEF181 and that it is appropriate to recommend to the Minister that dumping and countervailing measures be imposed on exports of ARWs from China.

In relation to Ford's repeated statement about simply not dealing with Arrowcrest, for reasons other than price, the Federal Court of Australia determined that Ford was the author of its own misfortune¹. Arrowcrest also notes that Ford has learnt "*as a result of experience, that it is not good business practice to press its suppliers so hard on specific elements, such as price, that doing business with Ford endangers the continued viability of the supplier.*" Arrowcrest would hope that, viewed rationally, if dumping from China ceased Ford would find a change of circumstance would encourage them to reconsider sourcing from Arrowcrest.

Yours sincerely,



Bill Davidson
General Manager

¹ Federal Court of Australia, Case V47 of 2003, FCAFC313.