

**PUBLIC RECORD**

PUBLIC  
FILE 108



**Australian Government**  
**Australian Customs and**  
**Border Protection Service**

---

**INVESTIGATION INTO THE ALLEGED DUMPING AND  
SUBSIDISATION OF  
ALUMINIUM ROAD WHEELS**

**EXPORTED FROM**

**THE PEOPLE'S REPUBLIC OF CHINA**

**IMPORTER VISIT REPORT**

**GM HOLDEN LTD**

**THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED THEREIN WILL  
BE REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT THE  
FINAL POSITION OF CUSTOMS AND BORDER PROTECTION**

**January 2012**

PUBLIC RECORD

**1 TABLE OF CONTENTS**

|      |                                                |    |
|------|------------------------------------------------|----|
| 1    | TABLE OF CONTENTS .....                        | 2  |
| 2    | BACKGROUND AND PURPOSE .....                   | 3  |
| 2.1  | Background to the current investigation .....  | 3  |
| 2.2  | Purpose of meeting .....                       | 3  |
| 2.3  | Meeting .....                                  | 4  |
| 2.4  | Documents provided by GMH .....                | 5  |
| 3    | THE GOODS .....                                | 6  |
| 3.1  | Description .....                              | 6  |
| 3.2  | Tariff classification .....                    | 6  |
| 4    | COMPANY DETAILS .....                          | 7  |
| 4.1  | Organisational structure of company .....      | 7  |
| 4.2  | Functions of company .....                     | 8  |
| 4.3  | Product range .....                            | 8  |
| 4.4  | Like goods .....                               | 9  |
| 4.5  | Accounting .....                               | 10 |
| 4.6  | Relationship with suppliers of the goods ..... | 10 |
| 5    | AUSTRALIAN MARKET .....                        | 11 |
| 5.1  | General .....                                  | 11 |
| 6    | IMPORTS .....                                  | 12 |
| 6.1  | Volume of trade .....                          | 13 |
| 6.2  | Forward orders .....                           | 14 |
| 6.3  | Verification of imports .....                  | 14 |
| 6.4  | Average post exportation costs .....           | 15 |
| 6.5  | Export prices for selected shipments .....     | 16 |
| 7    | WHO IS THE IMPORTER AND EXPORTER .....         | 17 |
| 7.1  | Who is the importer? .....                     | 17 |
| 7.2  | Who is the exporter? .....                     | 17 |
| 8    | ARMS LENGTH .....                              | 18 |
| 9    | GENERAL COMMENTS .....                         | 19 |
| 10   | RECOMMENDATIONS .....                          | 20 |
| 10.1 | Export prices .....                            | 20 |
| 11   | ATTACHMENTS AND APPENDICES .....               | 21 |

## 2 BACKGROUND AND PURPOSE

### 2.1 Background to the current investigation

On 12 August 2011, Arrowcrest Group Pty Ltd (Arrowcrest) on behalf of the Australian industry manufacturing Aluminium Road Wheels (ARWs), lodged an application requesting that the Minister for Home Affairs (the Minister) publish a dumping duty notice and a countervailing duty notice in respect of ARWs exported to Australia from The People's Republic of China (China).

The application alleges that ARWs have been exported to Australia from China at prices lower than their normal value, that ARWs exported to Australia from China have received countervailable subsidies, and that this dumping and subsidisation has caused material injury to the Australian industry producing ARWs.

Following consideration of the application, the Australian Customs and Border Protection Service (Customs and Border Protection) decided not to reject the application. Public notification of initiation of the investigation was made in *The Australian* newspaper on **7 November 2011**.

Australian Customs Dumping Notice (ACDN) No. **2011/54** provides further details of this investigation and is available at [www.customs.gov.au](http://www.customs.gov.au).

The investigation period is 1 July 2010 to 30 June 2011. Customs and Border Protection will examine exports to Australia of ARWs during that period to determine whether dumping and/or subsidisation has occurred. Customs and Border Protection will examine details of the Australian market from 1 July 2006 for the purpose of injury analysis.

Prior to initiation of the investigation, GM Holden Ltd (GMH) was identified in the Customs and Border Protection import database (import database) as an importer of ARWs from China in the investigation period. Consequently, GMH was invited to participate in the investigation, and was provided with an Importer Questionnaire to complete.

GMH completed the Importer Questionnaire, providing details regarding the company, overseas supplier information, imports and expenses. GMH uses the ARWs it imports in the manufacture of motor vehicles and therefore made no sales of ARWs during the investigation period. A copy of Part A (company and supplier details) of GMH's questionnaire response is at **confidential attachment 1**.

### 2.2 Purpose of meeting

The purpose of this visit was to:

- confirm that GMH is the importer of ARWs as identified within the import database and obtain information to assist in establishing the identity of the suppliers/ exporters of the ARWs GMH imports;
- verify information on GMH's imports of ARWs to assist in the determination of export price;

# PUBLIC RECORD

PUBLIC  
FILE 105

- establish whether the purchases of ARWs by GMH was in arms length transactions;
- establish post-exportation costs incurred by GMH in importing ARWs;
- recommend how export price for exporters of ARWs that supply GMH may be determined<sup>1</sup>; and
- provide the company with an opportunity to discuss any issues it believed relevant to the investigation.

## 2.3 Meeting

### 2.3.1 Introduction

At the meeting, we provided a general outline of the investigation process and key dates.

In particular, we advised GMH that a Preliminary Affirmative Determination (PAD) may be made at any time from 6 January 2012. We advised GMH that the implementation of a PAD would enable Customs and Border Protection to implement provisional anti-dumping and/or countervailing measures (in the form of securities) for the remainder of the investigation and until the Minister had made a decision on whether to impose definitive measures.

GMH was also advised that:

- we would prepare a confidential report on the visit (this report), and before finalisation of the report, GMH would be given the opportunity to review the report for accuracy;
- Customs and Border Protection is required to maintain a Public Record of the investigation containing non-confidential copies of all reports, submissions, correspondence and other documents relevant to the case; and
- a non-confidential version of this visit report would be prepared in consultation with GMH and placed on the Public Record.

We asked whether GMH had been able to access the Public Record online through Customs and Border Protection's Electronic Public Record (EPR). GMH advised that it had access to the EPR.

### 2.3.2 Meeting Details

|                |                                   |
|----------------|-----------------------------------|
| <b>COMPANY</b> | GM Holden Ltd                     |
| <b>ABN</b>     | 84 006 893 232                    |
| <b>ADDRESS</b> | 191 Salmon Street, Port Melbourne |
| <b>TEL NO</b>  | (03) 9647 2675                    |
| <b>FAX NO</b>  | (02) 9647 2082                    |
| <b>DATE</b>    | 23 January 2012                   |

<sup>1</sup> under s. 269TAB of the *Customs Act 1901*

# PUBLIC RECORD

PUBLIC  
FILE 104

| PRESENT                       |                                                                                                               |
|-------------------------------|---------------------------------------------------------------------------------------------------------------|
| GMH                           | Alex Menta, Regional Customs Manager<br>Anna Lozynski, Legal Department<br>Andrew Hudson, Hunt & Hunt Lawyers |
| Customs and Border Protection | Nicole Platt, Operations 2<br>David Turner, Operations 2                                                      |

Prior to the meeting, Customs and Border Protection forwarded an agenda to GMH. A copy of the agenda is at **confidential attachment 2**.

GMH was co-operative during the visit and made relevant staff available and provided copies of requested documents as necessary.

## 2.4 Documents provided by GMH

To assist GMH complete Part B of the Importer Questionnaire, Customs and Border Protection provided GMH with a report from the import database (import list) of its imports during the investigation period. Customs and Border Protection selected 12 shipments from this report for further examination and verification (**confidential attachment 3**).

As its response to Part B of the Importer Questionnaire, GMH completed an importer transaction form for all selected shipments. The importer transaction form includes information on the purchase, shipment and Australian importation costs for each selected shipment (**confidential attachment 4**).

As part of the visit agenda, we requested that GMH provide packages of source documents for each of the selected shipments. GMH supplied these documents during the verification visit (**confidential attachment 5**).

As stated previously, GMH uses the ARWs it imports in the manufacture of motor vehicles. GMH therefore did not complete Part C of the Importer Questionnaire (which relates to domestic sales).

GMH provided further relevant documentation during the verification as discussed in this report.

**PUBLIC RECORD****3 THE GOODS****3.1 Description**

The goods the subject of the application (the goods) are:

*Aluminium road wheels for passenger motor vehicles in diameters ranging from 13 inches to 22 inches.*

For clarification:

- The goods include:
  - wheels for caravans and trailers, finished or semi-finished ARWs whether painted or unpainted, chrome plated, forged or cast, with or without tyres; and
- The goods exclude:
  - aluminium wheels for go-carts and All-Terrain Vehicles.

**3.2 Tariff classification**

The goods are classified to tariff subheading 8708.70.91 (statistical code 78) in Schedule 3 to the *Customs Tariff Act 1995*.

The rate of duty for the goods exported to Australia from China is 5%.

## 4 COMPANY DETAILS

### 4.1 Organisational structure of company

GMH is a proprietary Australian company. GMH's parent company is General Motors Company, based in Detroit Michigan, USA.

GMH is one of only seven fully-integrated global General Motors operations that designs, builds and sells vehicles for Australia and the world. GMH has its headquarters in Port Melbourne, with an engine manufacturing plant on-site, has vehicle manufacturing operations in Adelaide South Australia and is represented by approximately 250 dealerships.

GMH operates as a single legal entity with a number of business functions or cost centres including 'GMH Vehicle Operations' which is the manufacturing business of GMH.

GMH Vehicle Operations produces 42 models of Holden vehicles for domestic and export customers. For the Australian market, the facility produces the Commodore range of sedans, Sportwagon and Ute together with Caprice long-wheel base luxury vehicles. From 2011 the Adelaide plant began production of the Cruze.

GMH's global V6 Engine plant, which opened in 2003, is located in Port Melbourne and produces engines for local and international customers including: 2.8, 3.0, 3.2 and 3.6 litre variants. Holden exports its V6 engines to China, Korea, Thailand, Germany, Sweden, Mexico and South Africa for Buick, Cadillac, Chevrolet, Vauxhall, Opel and Saab vehicles.

GMH is a centre of expertise in design and engineering for GM globally. GMH is one of GM's nine global design centres responsible for vehicles such as the Holden Commodore and Chevrolet Camaro. GMH is also the centre of expertise for large, rear-wheel drive vehicles in the GM family as well as a major powertrain engineering centre with expertise in R&D and customer programs in V6 and V8 gasoline, CNG and LPG applications.

GMH's facilities are:

- Head Office and Design & Engineering Centre:  
Design; engineering; national sales and marketing; customer satisfaction and quality; finance; human resources; product, business and strategic planning; purchasing and logistics; corporate affairs; legal; information systems and services; vehicle line executive group. This facility is located in Port Melbourne, Victoria;
- Holden Vehicle Manufacturing Operations:  
Plastics, body tool design, stamping, sheet metal and body fabrication, paint and vehicle assembly. This facility is located in Elizabeth, South Australia;
- Holden Engine Manufacturing Operations:  
Manufacture and assembly operation of six-cylinder engines and

# PUBLIC RECORD

PUBLIC  
FILE 101

component manufacturing facilities. This facility is located in Port Melbourne.

- Holden Service Parts Operations:  
Distribution and marketing of Holden service parts and accessories for the Holden Dealer Network and international customers. This facility is located in Dandenong, Victoria.
- Automotive Proving Ground:  
Vehicle development, durability testing, safety test centre and exhaust emission facility. This facility is located in Lang Lang, Victoria.
- Holden Innovation:  
Identifies future consumer needs and develops products, technologies and skills for Holden to compete in global markets. Its activities encompass initiatives such as safety, in-car IT systems and alternative propulsion systems. This facility is located in Port Melbourne.
- State Sales Offices:  
Provide a direct interface between Holden and its Dealer Network, giving support in the areas of fleet sales, service and parts. Sales offices are located in Victoria, New South Wales, South Australia, Queensland and Western Australia.
- Dealer Network:  
The nationwide Holden Dealer Network consists of over 200 authorised stores and 12 authorised service centres. Holden Dealerships represent and promote Holden products and services and employ more than 13,500 people throughout Australia.

Premoso Pty Ltd (known as HSV), which focuses on creating premium performance luxury cars sourced from GMH, is a separate legal entity to GMH.

## 4.2 Functions of company

GMH's main business is the manufacture and distribution of motor vehicles, engines, components and parts.

GMH advised that it imports ARWs as a design component of the models of Holden passenger motor vehicles it manufactures.

GMH also advised that its imports of ARWs are imported as part of its 'just in time' motor vehicle manufacturing processes. Therefore GMH does not operate a warehouse and generally holds no stock.

## 4.3 Product range

GMH advised that it imports painted and bright machine faced ARWs in the following wheel diameters:



# PUBLIC RECORD

PUBLIC  
FILE

100

- 16 & 17 inch for the Cruze model range; and
- 17, 18 and 19 inch for the Commodore and Caprice model range.

A breakdown of the volumes by diameter of ARWs imported by GMH is at section 6.1 of this report.

## 4.4 Like goods

GMH did not dispute that the ARWs manufactured in Australia by ROH are like goods to the ARWs it imports from China.

GMH argued, however, that ARWs for the Original Equipment Market (OEM) segment are not like goods to ARWs for the After-Market (AM) segment for the following reasons:

- Design and testing process:  
OEM wheels are manufactured in accordance with GMH's strict specifications and requirements for a new model of motor vehicle. AM wheels are designed for all makes and models that use that wheel size and fitment to reduce CO2 emissions and improve fuel economy;
- Characteristics of the final product:  
OEM wheel is different from an AM wheel because of its superior quality and physical chemical and technical characteristics. OEM wheels are designed, produced and tuned with the tyre to enhance the driving characteristics of a specific vehicle model. OEM wheels carry the benefit of the warranty which GMH provides for the entire vehicle. This means that GMH warrants that each part will perform with the vehicle as specified by GMH. Whereas, AM wheels are produced and sold for use on whatever vehicles they can be fitted.
- Quality:  
OEM wheels are manufactured to meet GMH's engineering specifications and strict quality requirements. OEM wheels are part of GMH's Production Parts Approval Process (PPAP) and are subject to strenuous testing requirements;
- Physical and chemical differences:  
OEM wheels are manufactured according to standards and specifications such as special material specifications for aluminium and paint. Suppliers of OEM wheels to GMH must be approved by GMH before they become a GMH approved supplier;
- Cost of manufacturing:  
the costs of manufacturing OEM wheels are generally much higher than that of AM wheels due to the process of prequalification which requires manufacturers to meet certain criteria such as size of operations, liquidity, reliability, corporate practices and manufacturing practices; and
- Lack of interchangeability:  
AM and OEM wheels have different technical and physical characteristics as discussed above which results in a lack of interchangeability between OEM and AM wheels. GMH can not use an AM wheel on its assembly line. OEM wheels are designed for a specific vehicle model.

# PUBLIC RECORD

PUBLIC  
FILE 99

## 4.5 Accounting

GMH's financial year runs from 1 January to 31 December.

The accounts are audited by XXXXXXXXX.

GMH runs a suite of SAP applications for managing its data.

GMH operates cost centres that are aligned to its business functions, described in Section 4.1, including 'Holden Vehicle Operations' which is the manufacturing business of GMH.

GMH advised that it uses a General Motors global trade management system (TMS2) which has been modified for GMH and is linked to SAP. GMH described the operation of TMS2 as follows.

[Diagram of TM2]

## 4.6 Relationship with suppliers of the goods

GMH identified two suppliers of ARWs during the investigation period:

- XXXXXXXXXXXXX; and
- XXXXXXXXXXXXX.

GMH stated that it is not related to any of its suppliers and has no relationship with its suppliers beyond an arms length commercial relationship.

GMH advised that it does not receive discounts or rebates from its suppliers.

We did not find any evidence of rebates or discounts provided by suppliers and there appears to be no relationship between GMH and any of their suppliers beyond their commercial dealings. Therefore, we consider that GMH is unrelated to its suppliers.

Customs and Border Protection received an Exporter Questionnaire Response from XXXXXXXXXXXXX [one of GMH's suppliers].

**5 AUSTRALIAN MARKET**

**5.1 General**

In GMH's opinion the Australian ARW market consists of two different market segments: OEM and the AM. In contrast the applicant refers in its application to one ARW market with two major distribution channels.

GMH explained that no car manufacturer, including GMH, would ever use an AM wheel as a component of a new passenger motor vehicle.

GMH referred to Customs and Border Protection's finding in the recent pineapple case<sup>2</sup> in which Customs and Border Protection found fruit FSI and fruit consumer are sold into two distinct market segments and are therefore not directly competitive and only marginally substitutable. In that case, Customs and Border Protection concluded that pineapple fruit FSI and pineapple fruit consumer are two separate goods.

GMH considers that there are similarities between the ARW case and the pineapple case and concluded that an ARW in the AM market is not directly competitive with a wheel sold in the OEM market.

GMH advised that the OEM segment was affected by the GFC i.e. the decline in the size of the OEM segment is consistent with the decline in the number of passenger motor vehicles manufactured following the onset of the GFC. In contrast GMH considers that the AM segment is affected by fashion and styles in the market place.

---

<sup>2</sup> Customs and Border Protection Report No. 41 Pineapple Juice Concentrate from Thailand and Pineapple Fruit from Indonesia and Thailand

## PUBLIC RECORD

**6 IMPORTS**

GMH provided a copy of a supplier contract with ~~XXXXXXXX~~ for 17x7 ARWs as Confidential Attachment 'C' to its importer questionnaire response (**confidential attachment 6**).

The supplier contract states that the price of the ARWs is determined in the following way.

~~XXXXXXXXXXXXXXXXXXXXXXXXXX~~

GMH advised that material cost (i.e. the cost of aluminium) is based on LME price.

GMH completed Part B of the importer questionnaire (importer transaction form (ITF)) for the following selected shipments:

1. ~~XXXXXXXXXX~~;
2. ~~XXXXXXXXXX~~;
3. ~~XXXXXXXXXX~~;
4. ~~XXXXXXXXXX~~;
5. ~~XXXXXXXXXX~~;
6. ~~XXXXXXXXXX~~;
7. ~~XXXXXXXXXX~~;
8. ~~XXXXXXXXXX~~;
9. ~~XXXXXXXXXX~~.
10. ~~XXXXXXXXXX~~;
11. ~~XXXXXXXXXX~~; and
12. ~~XXXXXXXXXX~~.

GMH provided bundles of source documents to support the data provided in its importer transaction form for the 12 selected shipments (**confidential attachment 5**).

These source documents include:

- supplier invoice and packaging list;
- audit report from the GMH system for each job number<sup>3</sup>;
- report from the DHL system;
- Bill of Lading;
- ~~XXXXXXXX~~ packing declaration;
- ~~XXXXXXXX~~ receipt for customs clearance and AQIS processing charges;
- Customs entry;

---

<sup>3</sup> Each shipment is assigned a job number

# PUBLIC RECORD

PUBLIC  
FILE

96

- 'Recipient created tax invoice' produced by the GMH system to initiate payment; and
- Evidence of payment in the form of a payment settlement list for a payment run generated by the GMH system showing payments automatically made by invoice number.

GMH was asked to provide copies of contracts with freight forwarders advising contracted rates for Chinese port charges/ ocean freight/inland freight and contract with ~~DHL~~ which covers customs clearance charges. These documents have not been provided at this time.

GMH provided at the verification visit a spreadsheet showing the breakdown of each of the selected shipments by product code and wheel size. GMH also provided a document titled 'Recipient created tax invoice' for each of the selected shipments which includes unit prices for each product code.

GMH advised that:

- the goods are loaded into containers at the manufacturers' premises. Delivery terms are FCA (Free Carrier). GMH explained that FCA and Ex-Works (EXW) supplier premises are similar terms with the primary difference being that in FCA terms the supplier is responsible for country of export customs requirements;
- it has contracted rates with its contracted shipping lines and freight forwarders for 20', 40' and 40'HC containers which includes inland freight and port charges in China, ocean freight, and port and inland freight in Australia;
- it has a contracted rate per bill of lading with its customs broker (XXXXXXXXXX) which covers customs clearance charges; and
- XXXXXXXXXXXX [method of payment of certain import cost].

## 6.1 Volume of trade

The following table summarises the export volumes for GMH from China during the investigation period, based on the import database.

| Supplier         | Quantity (pieces) |
|------------------|-------------------|
| XXXXXXXXXXXXXXXX | XXXX              |
| XXXXXXXXXXXXXXXX | XXXX              |
| TOTAL            | XXXX              |

GMH advised that it reconciles the data contained within the import database with the data contained within its TMS2 system every month.

We compared the quantity and value data for the 12 selected transactions contained in the source documents with the data in the import database. All quantity and invoice totals were correct.

# PUBLIC RECORD

PUBLIC  
FILE 95

We noted that there were discrepancies in total quantities recorded in the source documents. In particular we noted that for Shipments 1,2,4 and 8 the total quantities on the Tax Invoices are different to the total quantities on the Audit Reports. GMH explained the it operates on a "Recipient Created Invoice" system which is based on the receipt of the actual goods and the prevailing price based on the contract in the Global Purchasing System which sometimes results in differences within source documents..

We are satisfied that total number of pieces and total price for the order identified in the import list reasonably corresponds with the suppliers' invoices and is reasonably accurate.

## 6.2 Forward orders

GMH did not provide details of forward orders at the visit. GMH explained that forward orders are constant in the system given the way the automated system works.

The production schedule is consumer driven at actual order time. Production levels are altered as the market demands it. Specific volumes of supply are not committed to until 13 weeks the expected date of supply.

Order volumes are provided to suppliers at three separate forward estimate timeframes. Prices are generally locked in approximately 12 to 18 months prior to commencement of production.

Volume commitments and schedules are provided to suppliers by way of forecasts 42 weeks prior to delivery, an update is reforecast at 26 weeks with the final volumes required are set with the supplier at the 13 week mark.

## 6.3 Verification of imports

As stated above, we obtained source documents for ARWs exported to Australia for the 12 selected shipments (**confidential attachment 5**).

### 6.3.1 Supplier invoice details

All supplier invoices were quoted in USD. We noted that the import database records all transactions in Australian dollars. GMH explained that the Global Purchasing System converts transactions automatically to Australian dollars based on the Customs exchange rate at the date of export.

All selected shipments have been identified as FCA in the importer transaction form. We noted that all transactions are recorded as FOB in the import database. GMH advised that the terms on the customs entry is FOB as the Customs Act defines the FOB point as the place where the goods are packed for export. In this case the goods are placed in the export containers at the supplier's premises.

The terms of payment for the selected transactions, as reflected in the invoices provided, were ~~XXXXXXXXXXXXXXXXXX~~.

# PUBLIC RECORD

PUBLIC  
FILE 94

## 6.3.2 Shipment costs

GMH provided details of ocean freight and marine insurance in Part B of the Importer Questionnaire (the Importer Transaction Form). GMH explained that ocean freight is quoted in USD but converted to AUD based on the exchange rate at Bill of Lading date as per the Customs entry.

GMH advised that they self insure. GMH has used ~~XXXX~~% on the importer transaction form.

We calculated ocean freight as ~~\$XXXX per piece~~ and marine insurance as \$0.16 per piece based on the selected shipments see **confidential appendix 1**.

## 6.3.3 Australian Importation costs

GMH provided values for Australian importation costs, such as customs duty, Customs broker fees, customs entry fees, quarantine fees, wharf storage and delivery, in the Importer Transaction Form.

We were able to view the source documents that reconciled with the values listed for the majority of the Australian Importation Costs.

We calculated weighted average importation costs as ~~\$XXXX per piece~~ based on the verified data in the importer transaction form (see **confidential appendix 1**).

## 6.3.4 Proof of payment of imports

Payment of supplier invoices is an automated process generated through the SAP accounting system. As parts are received from suppliers, the data is entered into the company's Primo receipts system generating a corresponding entry in SAP. The amount owed is then paid automatically by the SAP system whether or not the supplier has provided an invoice. Payment is based on the previously negotiated contract with the supplier.

GMH provided evidence of payment for each selected shipment.

We are satisfied that payment was made for the imports and the invoiced amount is the price paid.

## 6.4 Average post exportation costs

Below are the Australian dollar weighted average import costs per piece during the investigation period based on the verified data of the selected shipments:

| Exportation costs                                                                                   | AUD/pce |
|-----------------------------------------------------------------------------------------------------|---------|
| Shipment costs (freight and insurance)                                                              | \$XX    |
| Australian importation costs (Customs duty, Customs broker fees, port service charges and delivery) | \$XX    |

# PUBLIC RECORD

PUBLIC  
FILE 93

## 6.5 Export prices for selected shipments

We calculated weighted average FOB export price (in AUD) for the selected shipments. Our working is at **confidential appendix 2**.

These calculations are summarised here based on ARWs diameter:

| ARWs diameter (inches) | Exporter             |                      |
|------------------------|----------------------|----------------------|
|                        | XXXXXXXXXX (AUD/pee) | XXXXXXXXXX (AUD/pee) |
| 17                     | XX                   |                      |
| 18                     | XX                   |                      |
| 19                     | XX                   | XX                   |



**7 WHO IS THE IMPORTER AND EXPORTER**

**7.1 Who is the importer?**

We have reviewed the documents provided by GMH in respect of the selected shipments. We note that GMH:

- negotiates directly with the suppliers;
- is named as the consignee on the bill of lading;
- is named as the buyer on supplier invoices;
- generally arranges and pays for ocean freight and marine insurance; and
- arranges Customs clearance, logistics and storage of the goods after they delivered to the Australian port.

We consider GMH to be the beneficial owner of the goods at the time of importation, and therefore the importer.

**7.2 Who is the exporter?**

Customs and Border Protection will generally identify the exporter as:

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

It is common for traders and other intermediaries to play a role in the exportation of the goods. These parties will typically provide services such as arranging transportation, conducting price negotiations, arrange contacts with the producer, etc.

In such cases, the trader typically acts as an intermediary who, although one of the principals, is essentially a facilitator in the sale and shipment of the goods on behalf of the manufacturer. Typically the manufacturer as a principal who knowingly sent the goods for export to any destination will be the exporter.

Therefore, depending on the facts, Customs and Border Protection considers that only in rare circumstances would an intermediary be found to be the exporter. Typically this will occur where the manufacturer has no knowledge that the goods are destined for export to any country and the essential role of the intermediary is that of a distributor rather than a trader.

We are satisfied that XXXXXXX and XXXXXXX are exporters of ARWs imported by GMH.

To our knowledge, these entities are principles in the country of export that manufacture the goods and provide the goods for shipment directly to GMH.

**8 ARMS LENGTH**

In determining export prices under s. 269TAB(1)(a) and normal values under s. 269TAC(1), the Act requires that the relevant sales are arms length transactions.

S.269TAA outlines the circumstances in which the price paid or payable shall not be treated as arms length. These are where:

- there is any consideration payable for in respect of the goods other than price;
- the price is influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; and
- in the opinion of the Minister, the buyer, or an associate of the buyer, will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

GMH stated that it does not receive any reimbursement, rebates or other support from its suppliers in respect of the goods. GMH advised that the invoice price was the price actually paid.

We reviewed the documentation for the selected shipments and did not find any evidence, in respect of the purchase of ARWs, that:

- there is any consideration payable for or in respect of the goods other than price;
- the price was influenced by a commercial or other relationship between GMH or an associate of GMH, and its suppliers or an associate of the supplier; and/or
- GMH or an associate of GMH was directly or indirectly reimbursed, compensated or otherwise received a benefit for or in respect of the whole or any part of the price.

We are satisfied that import transactions between GMH and its suppliers are at arms length in terms of s. 269TAA.

**9 GENERAL COMMENTS**

GMH advised that price was not the sole determining factor when choosing a supplier for their ARW needs. In order to be considered in GMH's production schedule an entity must be an approved supplier. GMH stated that reliability for quality and quantity supply played a big factor and the cheapest supplier was not always the best and therefore not always successful.

GMH conducts a competitive tender process for each new model considered. Arrowcrest has previously participated in the tender process and has not been successful based on the numerous considerations over the course of the tender process, not because of dumped products from China and not solely based on pricing.

GMH noted there has been a decline overall in the total number of motor vehicles produced. There are external factors which would have added to any injury suffered by Arrowcrest. The drop off in locally manufactured motor vehicles should be reflected in the drop off in demand for OEM ARWs.

The global financial crisis had a severe negative affect on the automotive industry. The market has since stabilised, however this would have affected the Australian Industry over the investigation period and this should be considered when determining injury and causation in the current case.

GMH has provided additional submissions in relation to the investigation generally and in relation to specific issues associated with the investigation. Copies of the non-confidential versions of GMH submissions can be found on the EPR.

A number of those issues were also addressed during the visit as set out in the GMH submission. Those discussions included:

- That undue reliance should not be placed on the decision by the European Commission in its investigation regarding ARWs from China;
- That no 'particular market situation' has been established to exist in China that would allow Customs and Border Protection to disregard local sales when determining 'normal value'; and
- That there was insufficient evidence provided by Arrowcrest that material injury had been caused by the alleged dumping and subsidisation of ARWs from China. GMH referred to other factors which had caused such injury (if it had arisen).

# PUBLIC RECORD

PUBLIC  
FILE

89

## 10 RECOMMENDATIONS

### 10.1 Export prices

We are of the opinion that the goods imported by GMH are:

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

Subject to further inquiries with these exporters, we recommend that the export price for ARWs imported by GMH can be established under s.269TAB(1)(a) of the Act, using the invoiced price, less deductions to the FOB level as required.



**Nicole Platt**

Manager, Operations 2



**David Turner**

Manager, Operations 2

# PUBLIC RECORD

PUBLIC  
FILE BB

## 11 ATTACHMENTS AND APPENDICES

| <b>Attachments</b>        |                                                                                    |
|---------------------------|------------------------------------------------------------------------------------|
| confidential attachment 1 | GMH's response to Part A of the Importer Questionnaire                             |
| confidential attachment 2 | Visit agenda                                                                       |
| confidential attachment 3 | Import List showing selected shipments                                             |
| confidential attachment 4 | GMH's response to Part B of the Importer Questionnaire (importer transaction form) |
| confidential attachment 5 | Source documents for 12 selected shipments                                         |
| confidential attachment 6 | <del>XXXXXXXX</del> supplier contract                                              |

| <b>Appendices</b>       |                                    |
|-------------------------|------------------------------------|
| confidential appendix 1 | Weighted average importation costs |
| confidential appendix 2 | Weighted average export prices     |