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ARROWCREST GROUP

4 April 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,

Re: Aluminium Road Wheels exported from China – Comments re Issues Paper 2012/181

Issues Paper No. 2012/181 concerning "The Goods and Like Goods" was recently published by Customs and Border Protection in its investigation into the dumping and subsidisation of aluminium road wheels ("ARWs") exported from China.

Arrowcrest takes this opportunity to respond to the matters identified in the Issues Paper.

1. Definition of the Goods

In its application for measures, Arrowcrest nominated ARWs of motor vehicles of HTISC heading 8708.70.91/78, in diameters ranging from 13" to 22". The only exclusions identified related to wheels for go-carts and All-Terrain Vehicles ("ATVs").

During the investigation, it has become apparent to Customs and Border Protection that there are two possible classifications for the goods under consideration ("GUC"). The additional classification is 8708.70.99/80 for wheels other than of a kind used as components in passenger motor vehicles.

Submissions have been made to Customs and Border Protection that the definition does not include ARWs for four wheel drive vehicles, caravans and trailers classified to 8708.70.99/80.

Arrowcrest has historically supplied ARWs used on four wheel drive vehicles and caravans. Arrowcrest did not specifically exclude ARWs for four wheel drives and caravans and considers the application includes ARWs of both types. Arrowcrest therefore endorses Customs and Border Protection's preliminary view that the definition of the goods includes:

- ARWs for passenger motor vehicles, trailers and caravans classified to sub-heading 8708.70.91/78;
- ARWs for four wheel drive vehicles (other than all terrain vehicles) and trailers classified to sub-heading 8708.70.99/80; and
- ARWs for trailers and caravans classified to 8716.90.00/39.

Arrowcrest reiterates that ARWs for go-carts and ATVs are excluded from the GUC.

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2. Like Goods

Customs and Border Protection has received some claims that the Original Equipment Market ("OEM") and Aftermarket ("AM") for ARWs should be treated separately and that ARWs for OEMs and AM should be treated as separate goods.

Arrowcrest has previously submitted that OEM and AM ARWs are like goods. Arrowcrest does not retract from this position and re-affirms the factors identified in earlier submissions (including in response to submissions made on behalf of Holden and Ford Australia), supporting the position that OEM and AM ARWs are like goods - see submissions dated 21 February 2012.

The recent EU decision¹ on ARWs exported from China also supports Arrowcrest's position. In the EU inquiry it was similarly argued that the OEM and AM segments should be treated as separate products. The European Commission rejected arguments that OEM and AM ARWs should be treated separately on the grounds that:

- The definition of a product in an anti-dumping investigation is not limited to a single classification (i.e. it is common that a number of classifications may be covered by an investigation);
- ARWs falling within the two EU tariff codes are the same, with the only difference being the channel to market; and
- The car makers imported OEM wheels under the two EU tariff codes and therefore "formal differentiation" based on end-use would be difficult.

The EU confirmed that OEM and AM ARWs *are considered to form one single product concerned.*

Arrowcrest therefore concurs with Customs and Border Protection's view *"that the Australian ARW market will be treated as a single market i.e. OEM and AM wheels will not be treated as two separate goods".*

Arrowcrest notes Customs and Border Protection's preliminary view to analyse the OEM and AM ARW market segments separately for injury and causation purposes. Arrowcrest recommends that Customs and Border Protection exercise special care in such analysis to ensure that the analysis is not undertaken to the detriment of one segment over the other.

3. Specific Exclusions from the definition of the goods

It has been suggested by an interested party that ARWs with a diameter of 20 and 22 inch should be excluded from the definition of the goods. Arrowcrest produces 20 inch ARWs and therefore manufactures like goods to imported 20 inch ARWs. In respect of 22 inch ARWs, Arrowcrest has submitted that its locally-produced 20 inch ARWs are substitutable for imported 22 inch wheels, and it therefore produces like goods to the imported 22 inch ARWs.

The definition of like goods² does not require the locally produced and imported goods to be identical in physical appearance. As indicated at Issue 1 of Issues Paper No. 2012/181, Customs and Border Protection assesses whether goods closely resemble the imported goods against the following criteria:

¹ Regulation (EU) No. 964/2010 of 25 October 2010 imposing a definitive anti-dumping duty of exports of ARWs from P R China.

² S.269T (1) of the Customs Act.

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- Physical likeness;
- Commercial likeness;
- Functional likeness;
- Production likeness; and
- Other considerations e.g. marketing.

In this instance Arrowcrest submits that locally produced 20 inch ARWs are alike to imported 22 inch ARWs as they have the same physical, commercial, functional and production likeness. The locally produced 20 inch ARWs and imported 22 inch ARWs are also marketed in a similar manner to the same marketing channels. It must therefore be concluded that locally produced 20 inch ARWs and imported 22 inch ARWs are like goods.

Arrowcrest is therefore in agreement with Customs and Border Protection's preliminary view that 20 inch and 22 inch ARWs are included in the definition of the goods. On this basis, it follows that injury to Arrowcrest that can be attributed to its sales of locally produced 20 inch ARWs is likely to have also occurred from the imported 20 and 22 inch ARWs.

Arrowcrest also supports the inclusion of each of the following as included within the goods description as they are interchangeable with locally produced ARWs, namely:

- ARWs specifically for use with trailers or caravans;
- ARWs for use with four wheel drive fitments;
- ARWs stamped with "trailer use only";
- Blank ARWs for passenger motor vehicles; and
- Cast flow formed ARWs and forged ARWs.

Conclusion

Arrowcrest supports Customs and Border Protection's preliminary view that:

- (i) Imported ARWs entered under classifications 8708.70.91/78 and 8708.70.99/80 are included in the description of ARWs covered by the investigation. Only ARWs for go-carts and ATV's are excluded;
- (ii) The difference between OEM and AM ARWs relates to channel to market only, and are considered to fall within the description of the goods; and
- (iii) Arrowcrest makes 20 inch ARWs locally, and that imported 22 inch ARWs are also included within the description of the goods.

If you have any questions concerning this submission, please do not hesitate to contact me.

Yours sincerely,



Bill Davidson
General Manager