



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

INTERNATIONAL TRADE REMEDIES BRANCH

INVESTIGATION

**ALLEGED DUMPING AND SUBSIDISATION OF
ALUMINIUM ROAD WHEELS EXPORTED FROM
THE PEOPLE'S REPUBLIC OF CHINA**

**PRELIMINARY AFFIRMATIVE
DETERMINATION NO 181**

May 2012

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RECOMMENDATIONS

1 TABLE OF CONTENTS

1	TABLE OF CONTENTS.....	2
2	ABBREVIATIONS.....	3
1.	SUMMARY AND DECISION.....	4
1.1	Preliminary affirmative determination.....	4
1.2	Provisional measures.....	4
1.2.1	Dumping securities.....	4
1.2.2	Countervailing securities.....	4
2.	INTRODUCTION.....	5
2.1	Initiation.....	5
2.2	Previous investigations.....	5
2.3	SEF 181.....	5
3.	ABILITY TO MAKE PAD AND TAKE SECURITIES.....	7
3.1	Ability to make a PAD.....	7
3.2	Ability to take securities.....	7
4.	THE GOODS UNDER CONSIDERATION.....	8
4.1	The goods.....	8
4.2	Like goods and Australian industry.....	8
5.	AUSTRALIAN MARKET.....	10
6.	DUMPING ASSESSMENT.....	11
6.1	Preliminary findings.....	11
7.	COUNTERVAILING ASSESSMENT.....	12
7.1	Preliminary findings.....	12
7.2	Summary of countervailable programs.....	12
7.3	Preliminary subsidy margins.....	14
8.	INJURY AND CAUSATION.....	15
8.1	Injury analysis.....	15
8.2	Causation assessment.....	15
9.	NON-INJURIOUS PRICE ASSESSMENT.....	16
10.	REASONS FOR MAKING A PAD.....	17
11.	PROVISIONAL MEASURES.....	18

2 ABBREVIATIONS

ACDN	Australian Customs Dumping Notice
the Act	<i>Customs Act 1901</i>
Arrowcrest	Arrowcrest Group Ltd
ARWs	Aluminium Road Wheels
Australian industry	the Australian industry producing ARWs
CEO	Chief Executive Officer of the Australian Customs and Border Protection Service
CON181	International Trade Remedies Branch Consideration Report No. 181 (the consideration report for this investigation)
China	People's Republic of China
Customs and Border Protection	the Australian Customs and Border Protection Service
ETDZ	economic and technological development zones
FIE	foreign invested enterprise
the goods	the goods the subject of the application (‘ARWs’)
Minister	the Minister for Home Affairs
NIP	non-injurious price
PAD	preliminary affirmative determination
REP148	International Trade Remedies Branch Report 148 (aluminium extrusions from China)
SEF181	Customs and Border Protection <i>Statement of Essential Facts No. 181</i>
Tariff Act	<i>Customs Tariff Act 1995</i>
USP	unsuppressed selling price

1. SUMMARY AND DECISION

1.1 Preliminary affirmative determination

The Delegate of the Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) has made a preliminary affirmative determination (PAD) under s.269TD of the *Customs Act 1901* (the Act)¹ in respect of aluminium road wheels (ARWs) exported to Australia from the People's Republic of China (China).

In making this decision, the Delegate has determined that there appears to be sufficient grounds for the publication of a dumping duty notice and a countervailing duty notice in relation to certain ARWs exported to Australia from China.

This report publishes the reasons behind the Delegate's decision to make this PAD (PAD 181).

The preliminary findings contained within this report, are made having regard to the preliminary findings contained within Customs and Border Protection's Statement of Essential Facts 181 (SEF 181), issued in relation to this investigation on 27 April 2012.

1.2 Provisional measures

1.2.1 Dumping securities

In making PAD 181, the Delegate of the CEO considers that Customs and Border Protection should require and take securities under s.42 of the Act in respect of interim dumping duty that may become payable in relation to ARWs from China (being satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues).

These securities will be imposed on goods entered for home consumption on or after 31 May 2012.

1.2.2 Countervailing securities

In making PAD 181, the Delegate of the CEO considers that Customs and Border Protection should require and take securities under s.42 of the Act in respect of interim countervailing duty that may become payable in relation to ARWs from China (being satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues).

These securities will be imposed on goods entered for home consumption on or after 31 May 2012.

¹ References to any section or subsection shall be references to sections or subsections of the *Customs Act 1901* unless otherwise specified.

2. INTRODUCTION

2.1 Initiation

On 26 September 2011, Arrowcrest on behalf of the Australian industry manufacturing ARWs, lodged an application requesting that the Minister publish a dumping duty notice and a countervailing duty notice in respect of ARWs exported to Australia from China.

The application alleged 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 and additional information, Customs and Border Protection decided not to reject the application. Public notification of initiation of Investigation 181 was made on 7 November 2011 (refer to ACDN 2011/54).

The initiation notice advised that the SEF for the investigation would be placed on the public record by 27 February 2012, however, the delegate was satisfied that the prescribed 110 days to place the SEF on the public record for the investigation was likely to be insufficient and requested an extension. The Minister extended the deadline for the publication of the SEF to 27 April 2012². ACDN 2012/06 was issued on 24 February 2012 notifying of the Minister's decision. Interested parties were also separately notified.

The investigation period³ for the purpose of assessing any dumping and subsidy margins⁴ was set as 1 July 2010 to 30 June 2011. The injury analysis period, for the purpose of determining whether material injury has been caused to the Australian industry was from 1 July 2006.

2.2 Previous investigations

There have been no previous cases concerning aluminium road wheels.

2.3 SEF 181

On 27 April 2012, Customs and Border Protection published SEF181, containing its preliminary findings in relation to ARWs exported to Australia from China.

SEF 181 contained the following preliminary finding:

... Customs and Border Protection has made a preliminary finding that the dumping and subsidisation of the goods exported from China has caused material injury to the Australian industry producing ARWs.

² Section 269ZH1

³ Section 269T(1)

⁴ Subsection 269TC(4)(bf)

PUBLIC RECORD

PUBLIC
FILE

229

Further, SEF 181 proposed to recommend to the Minister for Home Affairs (the Minister) that:

... a dumping duty notice and a countervailing duty notice be published in respect of ARWs exported from China to Australia

The detailed reasons for this preliminary finding are contained in SEF181 and its appendices.

In making PAD 181, the Delegate has had regard to the preliminary findings in SEF 181.

Due to the recent nature of SEF 181, Customs and Border Protection has not repeated the preliminary findings of SEF 181 in this PAD report.

However, where repetition of the findings of SEF 181 are necessary for the context of this PAD report, this has been included in this report.

3. ABILITY TO MAKE PAD AND TAKE SECURITIES**3.1 Ability to make a PAD**

At any time not earlier than 60 days after the date of initiation of an investigation as to whether there are sufficient grounds for the publication of a dumping duty notice and/or a countervailing duty notice, in respect of goods the subject of an application, the CEO (or his Delegate) may, if he or she is satisfied:

- that there appears to be sufficient grounds for the publication of such a notice; or
- that it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods;

make a PAD under s.269TD to that effect.

In deciding whether to make a PAD, the CEO must have regard to the application concerned, and to any submissions concerning publication of the notice that are received by Customs and Border Protection within 40 days after the date of initiation of the investigation.

The CEO may also have regard to any other matters that the CEO considers relevant.

The CEO is not obliged to have regard to any submission received after day 40 if to do so would prevent the timely consideration of whether or not to make a PAD.

3.2 Ability to take securities

Customs and Border Protection may, at the time of making a PAD or at any later time during the investigation, require and take securities under s.42 in respect of interim duty that may become payable if the officer of Customs and Border Protection taking the securities is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

4. THE GOODS UNDER CONSIDERATION

4.1 The goods

The applicant, Arrowcrest, provided the following description of the goods the subject of its application (the goods):

The goods the subject of this application are aluminium road wheels ("ARWs") of the motor vehicles of HTISC heading 8708709178, in diameters ranging from 13 inch to 22 inch.

The goods under consideration (GUC) are finished or semi-finished ARWs whether un-painted, painted, chrome plated or forged. Aluminium wheels for go-carts and All-Terrain Vehicles ("ATVs") are specifically excluded.

The application also contained additional information to assist in understanding the goods. Further description of the goods is included in ACDN 2011/54.

Excluded goods

Aluminium wheels for go-carts and All-Terrain Vehicles ("ATVs") are specifically excluded.

Tariff classification

The goods may be classified to the following subheadings in Schedule 3 of the *Customs Tariff Act 1995*:

8708.70.91/ 78	Road wheels of a kind used as components in passenger motor vehicles
8708.70.99/ 80	Road wheels other than of a kind used as components in passenger motor vehicles;
8716.90.00/ 39	Road wheels for trailers and caravans.

The goods exported to Australia from China are subject to a 4% rate of duty.

4.2 Like goods and Australian industry

Detailed discussion of Customs and Border Protection's preliminary findings as to the existence of an Australian industry producing like goods are contained in Chapter 3 of SEF 181.

Customs and Border Protection has not altered its position on these matters since releasing SEF 181 on 27 April 2012, and affirms them in this PAD report.

In summary, Customs and Border Protection considers that:

PUBLIC RECORD

PUBLIC
FILE
226

- there is an Australian industry producing like goods;
- the like goods were wholly manufactured in Australia by Arrowcrest; and
- the Australian industry consists of one main Australian manufacturer of ARWs, being the applicant. The applicant manufactures the majority of Australian produced ARWs and as such any injury to the applicant is considered representative of overall injury to Australian industry.

5. AUSTRALIAN MARKET

Details of Customs and Border Protection's preliminary findings regarding the Australian market are contained in Chapter 5 of SEF 181.

Customs and Border Protection has not altered its position on these matters since releasing SEF 181 on 27 April 2012, and affirms them in this PAD report.

In summary, Customs and Border Protection preliminarily considers that there is an Australian market for ARWs, which Customs and Border Protection understands to be approximately 2 million wheels per year.

The market is supplied by Australian producers, and by importers which generally supply ARW distributors, motor vehicle manufacturers and end-users.

6. DUMPING ASSESSMENT**6.1 Preliminary findings**

Customs and Border Protection has made a preliminary finding that ARWs were exported to Australia from China at dumped prices during the investigation period.

Details of the finding are contained in Chapter 6 of SEF 181. The preliminary dumping margins determined for exporters are outlined in the table below:

Dumping Margins

Exporter	Dumping Margin (% of Export Price)
CITIC Dicastal	9.1%.
PDW	-3.2%.
Pilotdoer	21.6%.
Jinfei Kaida	7.5%
Yueling	14.6%
Selected Non-cooperating Exporters	32.9%

Source: Confidential Attachment 1

Customs and Border Protection proposes to recommend that the dumping investigation be terminated so far as it relates to PDW.

The total volume of dumped goods is not negligible.

The volume of exports to Australia during the investigation period represented by the selected non-cooperating exporters is around 65%.

7. COUNTERVAILING ASSESSMENT**7.1 Preliminary findings**

Customs and Border Protection has made a preliminary finding that countervailable subsidies have been received in respect of ARWs exported to Australia from China during the investigation period.

Details of this finding are contained below, as well as in Chapter 7 and Appendix B of SEF 181.

7.2 Summary of countervailable programs

After assessing all relevant information available, Customs and Border Protection has preliminarily found that countervailable subsidies have been received in respect of ARWs exported to Australia from China, under 34 subsidy programs.

The findings in relation each investigated program are outlined in the below table.

No.	Program	Countervailable in respect of ARWs?
1	Aluminium provided by government at less than fair value	Yes
2	transitional preferential tax policies for tax resident enterprises;	No
3	preferential policies on Enterprise Income Tax;	No
4	preferential income tax for hi-tech enterprises;	Yes
5	preferential tax policies for western development "Go West" strategy;	Yes
6	preferential tax policies for FIEs established in the coastal economic open areas and in the economic and technological development zones;	Yes
7	reduced tax rate for productive FIEs scheduled to operate for a period of not less than 10 years;	Yes
8	preferential tax policies for FIE export enterprises whose annual output value of all export products amounted to 70% or more;	Yes
9	preferential tax policies for FIEs which are technology-intensive and knowledge-intensive;	Yes
10	preferential tax policies for enterprises which provide employment to unemployed people;	Yes
11	preferential tax policies for FIEs in State high or new technology industrial development zones, and for advanced technology enterprises invested in and operated by FIEs;	Yes
12	refund of income tax for direct reinvestment;	No
13	preferential tax policies for enterprises transferring technology;	Yes
14	preferential tax policies for enterprises making little profit;	Yes
15	preferential tax policies for enterprises with foreign investment in the border cities;	No
16	preferential tax policies for FIEs in central and western China;	No
17	preferential tax policies for FIEs established in Pudong area of Shanghai;	No

PUBLIC RECORD

PUBLIC
FILE

222

18	preferential tax policies in the western regions – domestic companies and FIEs;	No
19	preferential tax policies for FIEs in the Three Gorges of Yangtze River Economic Zone, ie Shanghai, Zhejiang and Jiangsu;	No
20	preferential tax policies for enterprises established in poverty stricken areas;	No
21	grants for encouraging the establishment of headquarters and regional headquarters with foreign investment;	Yes
22	preferential tax treatments for new hi-tech enterprises (NHTE) in special zones;	Yes
23	preferential policies in industrial zones in China including Economic & Technological Development Zones (ETDZ), High & New Technological Development Zones (High Tech Parks), Export Processing Zones (EPZ), Special Economic Zones (SEZ), Free Trade Cooperation Zones (FTZ), Industrial Zones (IZ) and Export Processing Zones (EPZ);	No
24	preferential policies in Xinzhuang Industrial Zone, Shanghai;	No
25	preferential policies in Shanghai;	No
26	preferential policies in Weihai Economic Development, High-tech Industry Development and Export Processing zones, Shandong province;	No
27	tax incentives for manufacturing FIEs in Jiangsu province;	No
28	preferential tax rates in Guangzhou, Guangdong province;	No
29	patent award in Guangdong province;	Yes
30	termination of tax refund policies for FIEs on their purchase of domestically manufactured equipment;	Yes
31	exemption of tariff and import VAT for imported technologies and equipments;	Yes
32	100% refund of VAT to FIEs on purchasing unused domestic equipment with currency in China;	Yes
33	preferential tax treatment for casting and forging products;	No
34	preferential tax treatment to dies products;	No
35	matching funds for international market development for SMEs;	Yes
36	innovative experimental enterprise grant;	Yes
37	special support fund for non-State-owned enterprises (NSOEs);	Yes
38	venture investment Fund for Hi-Tech Industry;	Yes
39	Superstar Enterprise Grant	Yes
40	one-time awards to enterprises whose products qualify for “Well-known Trademarks of China” or “Famous Brands of China”.	Yes
41	Technology assist	Yes
42	Export subsidies	Yes
43	SME assist	Yes
44	Environmental subsidies	Yes
45	New Products	No
46	Government Incentives for the Top Taxpayer of the Year-Qinhuangdao City	Yes

47	Financial Support from China Postdoctoral Science Foundation	Yes
48	Foreign Trade Public Service Platform Development Fund	Yes
49	SME International marketing project funds	No
50	Patent Application Fee Subsidy	Yes
51	Enterprise Development	Yes
52	Economic Development Zone	No
53	New Product Trial Production	Yes
54	Patent Special Funds	No
55	Technological innovation products funded	No
56	Patent grants	Yes

7.3 Preliminary subsidy margins

Customs and Border Protection has calculated the following subsidy margins for each selected cooperating exporter individually and for selected non-cooperating exporters collectively:

Exporter	Subsidy Margin (% of Export Price)
CITIC Dicastal	<2%
PDW	2.0%
Pilotdoer	4.4%
Jinfei Kaida	2.8%
Yueling	5.1%
Selected Non-cooperating Exporters	58.8%

7.3.1 Proposed termination of investigation – negligible exporters

S.269TDA(2) requires that Customs and Border Protection must terminate a countervailing investigation in relation to an exporter if countervailable subsidisation for that exporter is determined to be negligible.

In relation to goods exported from China (a developing country), countervailable subsidisation is negligible if, when expressed as a percentage of the export price of the goods, that subsidisation is not more than 2%.

Customs and Border Protection notes that for goods exported by CITIC Dicastal during the investigation period, the subsidy margin is negligible.

Customs and Border Protection is therefore considering the termination of the subsidy investigation into this exporter (noting the preliminary nature of the above findings).

8. INJURY AND CAUSATION

8.1 Injury analysis

Details of Customs and Border Protection's preliminary findings regarding the injury to the Australian industry are contained in Chapter 9 of SEF 181.

In summary, Customs and Border Protection has made the preliminary finding that in the investigation period the Australian industry producing like goods experienced injury in the form of:

- lost sales volume;
- lost revenue;
- price suppression;
- lost profits and profitability;
- reduced return on investment;
- reduced employment; and
- reduced capacity utilisation

As explained in SEF 181, in the case of concurrent dumping and subsidisation, where it is established that the exported goods are both dumped and subsidised, there is no need to quantify separately how much of the injury being suffered is the result of dumping or subsidisation.

8.2 Causation assessment

In SEF 181, Customs and Border Protection made a preliminary finding that the dumping and subsidisation of the goods exported from China has caused material injury to the Australian ARWs industry.

Details of this assessment are contained in Chapter 9 of SEF 181.

9. NON-INJURIOUS PRICE ASSESSMENT

In SEF 181, Customs and Border Protection made preliminary findings in relation to the unsuppressed selling price (USP) and non-injurious price (NIP) it proposed to recommend to the Minister be used in setting interim dumping and countervailing duties as a result of this investigation.

Details of this assessment are contained in Chapter 11 of SEF 181.

10. REASONS FOR MAKING A PAD

Customs and Border Protection considers it reasonable to expect that ARWs imported from China (certain exporters), have experienced a competitive advantage in terms of price as a result of dumping and the receipt of countervailable subsidies.

Customs and Border Protection considers it reasonable to expect that the increased competition with dumped and subsidised imports has prevented the Australian industry from achieving price increases which otherwise would have occurred, and has led to lost sales.

Customs and Border Protection has calculated a NIP and found it to be above Chinese export prices. This analysis supports the conclusion that dumped and subsidised ARWs exported to Australia from China have caused material injury to the Australian industry.

Customs and Border Protection is of the preliminary view that:

- the goods the subject of the application that have been exported to Australia from China are dumped and have benefited from countervailable subsidies;
- there is an Australian industry producing like goods that is experiencing material injury;
- the dumped or subsidised goods are causing material injury to the industry; and
- it is necessary to require and take securities to prevent material injury to the Australian industry occurring while the investigation continues.

Consequently, the CEO is satisfied there appear to be sufficient grounds for the publication of a dumping and countervailing duty notice in respect of the goods the subject of the application exported by certain exporters from China. The Delegate of the CEO has therefore made a preliminary affirmative determination under s.269TD of the Act to that effect.

In making this PAD, the Delegate of the CEO has had regard to the matters outlined in SEF181, and to the matters raised in reports posted to the public record for this investigation, as at 17 May 2012.

Additionally, the Delegate of the CEO has also had regard to other relevant information and data submitted by interested parties to the investigation and gathered by Customs and Border Protection during its investigation so far (where appropriate), including:

- verified data submitted in response to the Importer Questionnaire by several importers of ARWs;
- verified data submitted by Chinese exporters of ARWs in response to the Exporter Questionnaire; and
- data submitted by the Australian industry.

11. PROVISIONAL MEASURES

S.269TD(4)(b) of the Act states that if the CEO makes a PAD, Customs and Border Protection may, at the time of making that determination or at any later time during the investigation, require and take securities under s.42 of the Act in respect of interim duty that may become payable if the officer of Customs and Border Protection taking the securities is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

In order to prevent material injury occurring while the investigation continues, Customs and Border Protection requires that securities be taken under s. 42 of the Act in respect of interim dumping and countervailing duty that may become payable in relation to certain ARWs exported to Australia from China that are entered for home consumption on or after 31 May 2012.

Based on the preliminary findings in SEF 181, dumping securities will not be required for exports by PDW and countervailing securities will not be required on exports by Dicastal.

The amount of dumping and countervailing security required is a proportional (ad valorem) fixed rate of the actual export price of the goods.

As outlined in SEF 181, the calculation of combined dumping and countervailing securities is not simply a matter of adding the reported dumping and subsidy margins together for any given exporter, or group of exporters. Rather, subject to the lesser duty rule (given effect through the NIP), the collective interim dumping duty and interim countervailing securities imposed, as proposed in this PAD, is the sum of:

- the subsidy rate calculated for all countervailable programs, including 'Program 1 – aluminium provided by government at less than adequate remuneration'; and
- the dumping rates calculated, less an amount for the subsidy rate applying to Program 1.

This approach avoids any overlap or double-counting that may arise from the circumstances of this case where there are domestic subsidies and a constructed normal value that includes a major cost component that is based on surrogate data.

Details of the provisional measures are at **Confidential Appendix 1**.