



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

R E P O R T

CUSTOMS ACT 1901 - PART XVB

INTERNATIONAL TRADE REMEDIES BRANCH

**CONSIDERATION OF AN APPLICATION FOR A DUMPING
DUTY NOTICE AND A COUNTERVAILING DUTY NOTICE –
ALUMINIUM ROAD WHEELS EXPORTED FROM THE
PEOPLE'S REPUBLIC OF CHINA**

REPORT NO. 181

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CONTENTS

CONTENTS	2
ABBREVIATIONS	3
1 SUMMARY AND RECOMMENDATIONS	4
1.1 RECOMMENDATIONS.....	4
1.2 APPLICATION OF LAW TO FACTS	4
1.3 FINDINGS AND CONCLUSIONS	5
2 INTRODUCTION	6
2.1 APPLICATION	6
2.2 THE GOODS THE SUBJECT OF THE APPLICATION.....	6
2.3 PREVIOUS INVESTIGATIONS.....	7
2.4 CONSIDERATION OF THE APPLICATION	7
3 DOES THE APPLICATION COMPLY WITH SUBSECTION 269TB(4)?	9
3.1 FINDING	9
3.2 INTRODUCTION	9
3.3 APPROVED FORM	9
3.4 SUPPORTED BY AUSTRALIAN INDUSTRY.....	9
4 IS THERE AN AUSTRALIAN INDUSTRY IN RESPECT OF LIKE GOODS?	11
4.1 FINDING	11
4.2 INTRODUCTION	11
4.3 LOCALLY PRODUCED LIKE GOODS	11
4.4 MANUFACTURED IN AUSTRALIA	12
4.5 AUSTRALIAN MARKET.....	13
4.6 AUSTRALIAN INDUSTRY INFORMATION	15
5 REASONABLE GROUNDS – DUMPING	17
5.1 FINDING	17
5.2 SOURCE OF EXPORTS.....	17
5.3 DUMPING	18
6 REASONABLE GROUNDS – SUBSIDISATION	25
6.1 FINDING	25
6.2 SUBSIDISATION IN CHINA	25
7 REASONABLE GROUNDS – MATERIAL INJURY CAUSED BY DUMPED AND SUBSIDISED IMPORTS	33
7.1 FINDING	33
7.2 INTRODUCTION	33
7.3 APPROACH TO INJURY ANALYSIS.....	33
7.4 FACTORS OTHER THAN DUMPING	34
7.5 THE APPLICANT’S INJURY CLAIMS	35
7.6 COMMENCEMENT OF INJURY.....	35
7.7 VOLUME EFFECTS	35
7.8 PRICE EFFECTS	37
7.9 PROFIT AND PROFITABILITY EFFECTS.....	39
7.10 OTHER ECONOMIC FACTORS	40
7.11 CONCLUSION ON MATERIAL INJURY CAUSED BY DUMPED AND SUBSIDISED IMPORTS	40
8 CONCLUSION AND RECOMMENDATION	42
LIST OF APPENDICES AND ATTACHMENTS	43

ABBREVIATIONS

ABS	Australian Bureau of Statistics
AM	The After Market segment
Arrowcrest	Arrowcrest Group Pty Ltd
ARWs	Aluminium road wheels
Chalco	China Aluminium Corporation
China	The People's Republic of China
CSDs	Customer Service Divisions
CTMS	Cost to make and sell
Customs and Border Protection	Australian Customs and Border Protection Service
CEO	Chief Executive Officer of Customs and Border Protection
EC	European Commission
FIE	Foreign Invested Enterprise
FY	Financial year
FPV	Ford Performance Vehicles
GOC	Government of China
HSV	Holden Special Vehicles
ITRB	International Trade Remedies Branch
LME	London Metal Exchange
MMAL	Mitsubishi Motors Australia Limited
Mullins Wheels	Mullins Wheels Pty Ltd
OEM	Original Equipment Manufacturers segment
Performance Wheels	Performance Wheels Pty Ltd
PMV	Passenger motor vehicle
ROHA	ROH Automotive (a division of Arrowcrest)
ROHWA	ROH Wheels Australia (a division of Arrowcrest)
SCM Agreement	Subsidies and Countervailing Measures Agreement
SHFE	Shanghai Futures Exchange
SOE	State Owned Enterprise
The Minister	The Minister for Home Affairs
WTO	World Trade Organisation

1 SUMMARY AND RECOMMENDATIONS

This report provides the results of Australian Customs and Border Protection Service's (Customs and Border Protection) consideration of an application for the publication of a dumping duty notice and a countervailing duty notice in respect of aluminium road wheels (ARWs) exported to Australia from the People's Republic of China (China).

1.1 Recommendations

Customs and Border Protection recommends that the Chief Executive Officer of Customs and Border Protection (CEO) decide not to reject the application.

If the CEO accepts this recommendation, to give effect to that decision, the CEO must publish the attached notice at **Appendix A** indicating that Customs and Border Protection will inquire into whether the grounds exist to publish a dumping duty notice and/or a countervailing duty notice.

1.2 Application of law to facts

Division 2 of Part XVB of the *Customs Act 1901*¹ sets out procedures for considering an application for a dumping duty notice and a countervailing duty notice.

1.2.1 The role of the International Trade Remedies Branch

The International Trade Remedies Branch of Customs and Border Protection (ITRB) is responsible for preparing a report for the CEO that examines an application for dumping and/or countervailing duty notices.

In this report, the following matters are considered in relation to the application:

- whether the application complies with s.269TB(4);
- whether there is, or is likely to be established, an Australian industry in respect of like goods;
- whether there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application; and
- whether there appear to be reasonable grounds for the publication of a countervailing duty notice in respect of the goods the subject of the application.

1.2.2 The role of the CEO of Customs and Border Protection

Division 2 of Part XVB empowers the CEO, after having regard to matters contained in the application and the ITRB report, to reject or not reject an application for the publication of a dumping duty notice and/or a countervailing duty notice.

¹ All references in this report to legislation, unless otherwise specified, are to the *Customs Act 1901*.

If the CEO decides not to reject the application, and initiates an investigation, the CEO must give public notice of the decision providing details of the investigation.

The CEO's powers have been delegated to certain officers of ITRB.

1.3 Findings and conclusions

Customs and Border Protection has examined the application for the publication of a dumping duty notice and a countervailing duty notice in relation to ARWs exported to Australia from China.

Customs and Border Protection is satisfied that:

- the application complies with the requirements of s.269TB(4) (the reasons for being satisfied are set out in Chapter 3 of this report);
- there is, or is likely to be established, an Australian industry in respect of like goods (as set out in Chapter 4 of this report);
- there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application (as set out in Chapter 5 of this report); and
- there appear to be reasonable grounds for the publication of a countervailing duty notice in respect of the goods the subject of the application (as set out in Chapter 6 of this report).

2 INTRODUCTION

2.1 Application

On 26 September 2011, Arrowcrest Group Pty Ltd (Arrowcrest) lodged an application requesting that the Minister for Home Affairs (the Minister) publish dumping and countervailing duty notices in respect of ARWs exported to Australia from China. Arrowcrest provided further information in support of its application on 11 October 2011 and again on 21 October 2011.

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

- lost sales volumes;
- lost market share;
- lost revenues;
- price depression;
- price undercutting;
- price suppression;
- lost profits and profitability;
- reduced return on investment;
- reduced employment; and
- reduced re-investment in the industry.

2.2 The goods the subject of the application

2.2.1 Description

The goods the subject of the application (the goods) are described as follows:

aluminium road wheels for passenger motor vehicles, including wheels used for caravans and trailers, in diameters ranging from 13 inches to 22 inches.

For clarification, the goods include finished or semi-finished ARWs whether unpainted, painted, chrome plated, forged or with tyres and exclude aluminium wheels for go-carts and All-Terrain Vehicles.

2.2.2 Tariff classification

The Tariff Policy Section of Customs and Border Protection confirms that the goods are classified to tariff subheading 8708.70.91 (statistical code 78) in Schedule 3 to the Customs Tariff Act 1995.

Tariff subheading 8708.70.91/78 covers “road wheels for passenger motor vehicles including wheels used for caravans and trailers, unfinished wheels and wheels with tyres”.

This sub-heading therefore includes steel wheels, which are outside the scope of the application, but does not include parts of wheels.

The goods exported to Australia from China qualify for a 4% rate of reduced duty under the Developing Countries preferential provisions.

There are no Tariff Concession Orders applicable to the relevant tariff subheadings.

2.3 Previous investigations

2.3.1 Australia

Customs and Border Protection has not previously conducted an investigation into ARWs from any source. Therefore, there are no current measures on ARWs exported to Australia from China.

2.3.2 Other jurisdictions

The European Commission (EC) imposed provisional anti-dumping duties on imports of certain aluminium wheels originating in China on 10 May 2010² and definitive anti-dumping duties on 25 October 2010³.

Customs and Border Protection noted that the EC found the following definitive dumping margins for Chinese exporters.

Company	Definitive Dumping Margin
YHI Manufacturing (Shanghai) Co. Ltd	23.81%
Zhejiang Wanfeng Auto Wheel Auto Wheel Co Ltd	60.29%
Baoding Lizhong	67.66%
Other cooperating companies	44.23%
All other companies	67.66%

2.4 Consideration of the application

Under s.269TC(1) the CEO must examine an application for publication of a dumping duty notice and/or a countervailing duty notice upon its receipt and, within 20 days of lodgement (or 20 days of lodgement of further information in support of the application), decide whether or not to reject the application.

Arrowcrest lodged the application on 26 September 2011 and provided additional information on 11 October 2011 and 21 October 2011. Accordingly the 20 day period for consideration of the application was extended twice. The decision

² Commission Regulation (EU) No 404/2010

³ Council implementing regulation (EU) No 964/2010

whether or not to reject the application must therefore be made no later than 10 November 2011.

Subsection 269TC(1) specifies that the CEO shall reject the application if he is not satisfied that:

- the application complies with s.269TB(4); or
- there is, or is likely to be established, an Australian industry in respect of like goods; or
- there appears to be reasonable grounds for the publication of a dumping duty notice and/or a countervailing duty notice in respect of the goods the subject of the application.

The above matters are examined in the following sections of this report.

3 DOES THE APPLICATION COMPLY WITH SUBSECTION 269TB(4)?

3.1 Finding

Based on the information submitted by Arrowcrest, Customs and Border Protection considers that the application complies with subsection 269TB(4).

3.2 Introduction

Subsection 269TB(4) requires that the application must:

- be in writing;
- be in an approved form;
- contain such information as the form requires;
- be signed in the manner indicated by the form; and
- be supported by a sufficient part of the Australian industry.

3.3 Approved form

The application is in writing, is in an approved form (a B108 application form), contains such information as the form requires (as discussed in the following sections) and is signed in the manner indicated in the form.

As required by the application form, Arrowcrest submitted confidential and public record versions of the application. Numerous confidential appendices and confidential and non-confidential attachments were also submitted.

Customs and Border Protection considers that the public record version of the application contains sufficient detail to allow a reasonable understanding of the substance of the information within the confidential application.

3.4 Supported by Australian industry

An application is taken to be supported by a sufficient part of the Australian industry if Customs and Border Protection is satisfied the persons who produce or manufacture like goods in Australia and who support the application:

- account for more than 50 percent of the total production or manufacture of like goods by that proportion of the Australian industry that has expressed either support for or opposition to, the application; and
- account for not less than 25 percent of the total production or manufacture of like goods in Australia.

Within its application, Arrowcrest identified Performance Wheels Pty Ltd (Performance Wheels) as another Australian producer of ARWs. Performance Wheels has not commented on the application.

The applicant has also identified Mullins Wheels Pty Ltd (Mullins Wheels) as a past producer of ARWs. Arrowcrest is of the opinion that Mullins Wheels ceased

production of ARWs during 2008-09. Mullins Wheels has not commented on the application.

As required by Confidential Appendix A1 of the application form, Arrowcrest has provided production volumes for each of the Australian producers for FY2011. Arrowcrest has estimated the production volumes for Performance Wheels based on its own market intelligence.

Based on the evidence provided, Customs and Border Protection considers the application is supported by a sufficient part of the Australian industry.

4 IS THERE AN AUSTRALIAN INDUSTRY IN RESPECT OF LIKE GOODS?

4.1 Finding

Based on the information provided in the application, Customs and Border Protection is satisfied that there is an Australian industry producing like goods to the goods the subject of the application and that the data provided within the application is sufficient for the purpose of analysing the economic condition of the Australian industry.

4.2 Introduction

Subsection 269TC(1) requires that the CEO must reject an application for a dumping duty notice and/or a countervailing duty notice if, inter alia, he is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

4.3 Locally produced like goods

Subsection 269T(1) defines like goods as

goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

4.3.1 Applicant's claims

Arrowcrest maintains that ARWs produced in Australia possess similar physical characteristics, manufacturing processes, marketing and distribution channels are commercially and functionally substitutable and compete directly with imported ARWs from China.

Arrowcrest made the following claims:

Physical likeness	No obvious physical differences Characteristics such as appearance, size, weight etc indicate a strong physical likeness There are 4 predominant finishes in the Australian market – silver painted (S); bright machined front face (MF); hyper silver/ hyper black/ chrome shadow (HS); and chrome plated. Arrowcrest produces types S, MF and HS but not chrome plated.
Commercial likeness	The imported goods and the locally made ARWs compete directly in the same market segments – Original Equipment Market (OEM) and the After-market (AM) segments.
Functional likeness	The Australian produced ARWs and imported ARWs are used for the same purpose and are interchangeable.
Production likeness	The manufacturing processes for locally produced and imported ARWs from China are essentially the same using the same raw materials and manufacturing methods.

	Arrowcrest states that it uses the low pressure diecasting (LPDC) method to produce around 95% of its ARWs. Arrowcrest submits that LPDC is the predominant method for ARW production in China.
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In support of its claims, Arrowcrest submitted an ROHA aftermarket ARW brochure listing the numerous ARWs produced by the applicant which compete with the goods the subject of the application.

4.3.2 Customs and Border Protection’s Assessment

Customs and Border Protection assesses whether the goods manufactured by the Australian industry are identical or have characteristics closely resembling the imported goods against the following considerations:

- physical likeness;
- commercial likeness;
- functional likeness;
- production likeness; and
- other considerations e.g. matters raised by interested parties during the course of an investigation.

Based on the information provided in the application, Customs and Border Protection is satisfied that the goods manufactured by Arrowcrest are like goods to the ARWs exported from China.

4.4 Manufactured in Australia

Subsections 269T(2) and 269T(3) specify that, for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

Arrowcrest claim in its application that it manufactures ARWs at its Woodville North plant in South Australia from predominantly locally sourced raw materials which include primary aluminium, paint and packaging.

Arrowcrest stated in its application that there are two predominant methods for casting ARWs: gravity die-casting and low pressure die-casting (LPDC). LPDC is the preferred method due to improved yield, productivity and quality as compared to the gravity method. Arrowcrest stated that it uses the LPDC method for around 95% of its production of ARWs.

A summary, diagram and photographs of the applicant’s production process were provided with the application.

4.4.1 Customs and Border Protection’s assessment

Based on the above description of the manufacturing process, Customs and Border Protection is satisfied that there is at least one substantial process of manufacture

performed in Australia and, therefore, that the goods may be taken to have been produced in Australia by Arrowcrest.

Arrowcrest is also of the opinion that ARWs are manufactured in Australia by Performance Wheels. Customs and Border Protection will seek the co-operation of Performance Wheels to establish whether Performance Wheels also manufactures ARWs in Australia.

Customs and Border Protection will also seek the co-operation of Mullins Wheels.

4.5 Australian market

4.5.1 Background

Within the application, Arrowcrest submits that:

- ARWs are used in passenger motor vehicles and trailer vehicles including caravans and trailers;
- the Australian ARW market is supplied from local production and imports, with local production sourced from Arrowcrest and Performance Wheels, and imports sourced from a range of countries including China, Taiwan, Hong Kong, Indonesia, Japan, Malaysia, Philippines, Singapore and Thailand; and
- the Australian ARW market comprises local manufacturers, overseas suppliers, importers, wholesalers, distributors, resellers and consumers.

4.5.2 Market segmentation

Arrowcrest submits in the application that there are two major distribution channels for ARWs:

- The Original Equipment Manufacturers (OEM) segment; and
- the wholesale After-market (AM) segment.

Arrowcrest states that it competes directly with ARWs from China for sales in the OEM and AM segments.

OEM segment

Arrowcrest submits that the OEM segment consists of three passenger motor vehicle manufacturers: Toyota Motor Corporation Australia Ltd (Toyota), General Motors Holden (Holden) and the Ford Motor Company (Ford), plus their performance brands Holden Special Vehicles (HSV) and Ford Performance Vehicles (FPV). Arrowcrest supplies ARWs to Toyota and to HSV. Arrowcrest submits that Holden and Ford are thought to importing their OEM ARWs from China and possibly Thailand. Arrowcrest stated it is usual for a wheel production contract to be awarded up to two years prior to the production phase of a new model vehicle and the typical life-cycle of a model is between two and five years. Competition between wheel manufacturers is essentially price motivated.

AM segment

Arrowcrest submits that in the AM segment, price is the determining factor in the consumer's purchasing decision. The various distribution channels are via wheel importers, tyre wholesalers, tyre retailers, passenger motor vehicle (PMV)

Customer Service Divisions (CSDs), retailers of PMVs and manufacturers of trailer vehicles. Arrowcrest submits that in the AM segment:

- wheel importers import ARWs from China for wholesale to tyre wholesalers and retailers, CSDs, PMV retailers and manufacturers of trailers and caravans;
- tyre wholesalers and retailers may import ARWs from China; and
- CSDs, PMV retailers and manufacturers of trailers and caravans may also import ARWs from China.

4.5.3 Marketing and distribution

Arrowcrest states that it trades as ROH Automotive (ROHA) and ROH Wheels Australia (ROHWA):

- ROHA manufactures and supplies ARWs to Arrowcrest's OEM customers including Toyota and HSVs; and
- ROHWA operates five branch warehouses, one in each capital city, except Hobart and Darwin, from which it wholesales Arrowcrest's AM ARWs to the tyre retail industry.

Arrowcrest provided diagrams of distribution channels with its application (**non confidential attachment A-4.2**).

4.5.4 Demand variability in the ARW market

Arrowcrest submits in the application:

- there are no seasonal fluctuations in demand for ARWs; and
- the ARW market is price sensitive and transparent.

4.5.5 Market size

Arrowcrest provided an estimate of the size of the Australian ARW market at **confidential appendix A2** of the application and summarised indexed movements in the market in section A4.6 of the application. The data was provided for a nine year period from financial year (FY) 2003 to FY2011⁴.

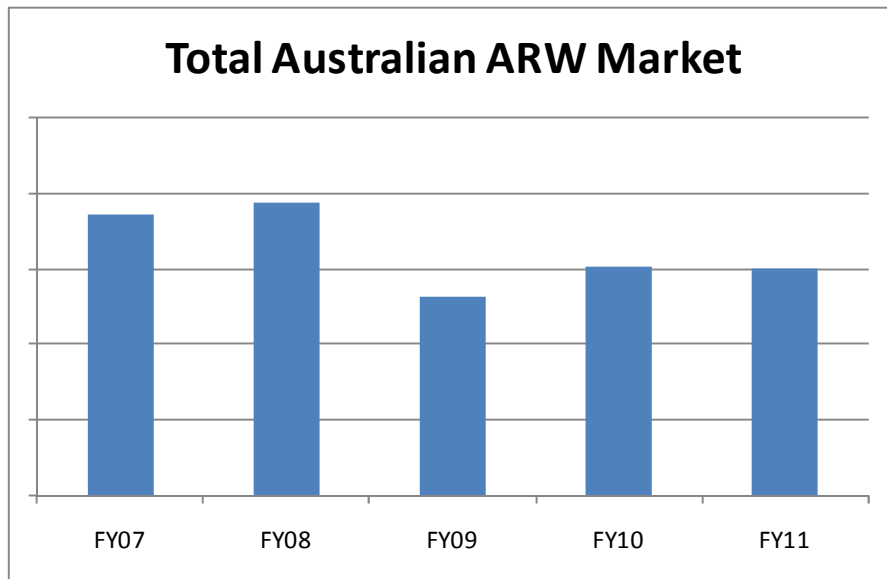
The market size data provided by Arrowcrest was based on Arrowcrest's sales, sales by other Australian manufacturers (estimated based on market intelligence) and import data obtained from Australian Bureau of Statistics (ABS).

Arrowcrest submits in the application that the import data will include some steel wheels (Section 5.2 refers).

Customs and Border Protection compared the estimates contained in the application to information on its database and found the applicant's estimates to be reasonable (bearing in mind the difficulties encountered with the data contained within the Customs and Border Protection import database (Section 5.2 refers).

⁴ Arrowcrest's financial year is 1 July to 30 June

Based on data contained in the application and data extracted from the Customs and Border Protection import database, the graph below shows the preliminary analysis of the total Australian ARW market size in units (number of wheels).



Preliminary analysis of the data contained in the application and in the Customs and Border Protection import database indicates that imports of ARWs from China accounted for approximately 84% of ARW imports during FY2011 (Section 7.7 refers).

The graph suggests that the size of the Australian ARW market declined in FY2009 then appears to have increased and stabilised in FY2010 and FY2011. Customs and Border Protection notes that the Australian ARW market may have been affected by the global financial crisis which began during FY2009.

Analysis of the size of the Australian market is at **confidential attachment 1**.

4.6 Australian industry information

4.6.1 Australian industry's sales

Arrowcrest provided information in the application on domestic sales volumes and revenues as required in confidential appendices A2, A3, A4, A5 and A6.

Arrowcrest submits that it provides various rebates or prompt payment discounts to some of its customers prior to payment of their monthly accounts. Arrowcrest submits that these rebates and discounts have not been deducted from its sales revenues reported in its application as they are not deducted at the time of invoicing individual sales transactions. Arrowcrest provided the total amount of the rebates and discounts paid in FY2011 in its application.

Customs and Border Protection notes that sales information provided in Confidential Appendix A4 of the application did not show rebates or freight when included in price. Customs and Border Protection notes that the amount of rebates and discounts paid by Arrowcrest in FY2011 appear to be insignificant.

Customs and Border Protection will investigate this matter further during the investigation.

Customs and Border Protection examined the detail in, and link between, these appendices, and considers them reliable for the purposes of assessing the economic condition of the industry for the purpose of consideration of the application.

4.6.2 General accounting/administration information

Arrowcrest provided the following information related to general accounting and administration:

- audited annual reports for FY2009 and FY2010;
- chart of accounts for ROHA and ROHWA; and
- internal management accounts for FY2009, FY2010 and FY2011.

4.6.3 Cost information

Arrowcrest completed Confidential Appendix A6.1 to the application. The information provided included production and sales volumes, manufacturing costs, selling, distribution and administrative expenses from FY2003 to FY2011.

Customs and Border Protection notes that the information was not broken down by model or finish. Customs and Border Protection will investigate this matter further after initiation of the investigation.

Customs and Border Protection examined the information provided in Confidential Appendix A6.1 and considers the information reliable for the purposes of assessing the economic condition of the industry for the purpose of consideration of the application.

4.6.4 Other economic factors

Arrowcrest completed Appendix A7 for assets, capital investment, research and development expenses, return on investment, capacity, capacity utilisation, productivity, cash flow measures and wages.

The application included indices of revenue variations and employment numbers.

5 REASONABLE GROUNDS – DUMPING

5.1 Finding

Having regard to the matters contained in the application and to other information considered relevant, there appear to be reasonable grounds to support the claim that:

- ARWs have been exported to Australia from China at dumped prices with dumping margins of between 65% and 133%; and
- the total volume of the goods that have been allegedly dumped from China is greater than 3% of the total Australian import volume of the goods, and therefore not negligible.

5.2 Source of exports

Arrowcrest provided:

- a list of Chinese ARW producers (non-confidential attachment B-1.1.1);
- the value of exports from the top 20 Chinese ARW exporters to Australia in 2009 (Table B-1.4);
- a chart of the top 12 Chinese ARW exporters to Australia by value in 2009 (Chart B-1.4); and
- a list of Australian importers of ARWs from China (non-confidential attachment B-1.4.4).

Arrowcrest submits in its application that according to ABS data, ARWs from China accounted for at least 65% of total ARW imports into Australia since 2005. Using ABS data Arrowcrest estimated the volume of imports from China, Taiwan and from all other countries for the period FY2003 to FY2011.

Arrowcrest notes in the application that:

- the ABS import statistics will include some steel wheels imported under tariff sub-heading 8708.70.91/ 78. Arrowcrest estimates that around 70,000 units per annum have been imported from China since 2009 (section A-9.1 refers). Arrowcrest is also of the opinion that the ABS data may include some steel wheel volumes from Taiwan and Thailand;
- imports from Taiwan are shown separately as Arrowcrest notes that some ARW exporters, whose headquarters are located in Taiwan, have manufacturing facilities located in China. Some import volume from Taiwan may therefore be of Chinese origin;
- Arrowcrest has excluded import volumes from Korea as it understands that imports from Korea are predominantly steel wheels from Austem for General Motors Holden; and
- the data for other countries refers to imports from France, Germany, Hong Kong, Indonesia, Italy, Japan, Malaysia, Philippines, Singapore, Thailand and the USA. Arrowcrest considers that exports of ARWs from these countries would be negligible.

To test the accuracy of the export data supplied by Arrowcrest in its application, Customs and Border Protection compared this information with data from the Customs and Border Protection import database.

Customs and Border Protection observed that the data in the Customs and Border Protection database under the tariff item and statistical code of the goods the subject of the application includes steel wheels and erroneously includes other goods, such as parts for wheels, which are not the goods the subject of the application. Customs and Border Protection attempted to cleanse the data by removing transactions that are obviously not the goods the subject of the application through the description field. Customs and Border Protection is aware, however, that the remaining dataset is still likely to contain transactions relating to goods that are not the goods the subject of the application.

Following cleansing of the dataset, Customs and Border Protection observed that the data in the application reflected import volumes and trends that were reasonably similar to the data stored in the Customs and Border Protection import database.

Customs and Border Protection therefore considers that, for the purpose of consideration of the application, it is satisfied that exports from China represent in excess of 3% of total import volumes of ARWs for the FY2011 period.

5.3 Dumping

Arrowcrest presented average export prices and normal values for ARWs by size in calendar year 2010 to demonstrate that ARWs had been exported from China at dumped prices (Table B-6.1 of the application refers).

Arrowcrest calculated dumping margins of between 65% and 133%.

5.3.1 Export prices

Arrowcrest provided FOB export price quotes from three Chinese manufacturers/suppliers as evidence of export prices (**confidential attachment B-2.1.2**). Quoted prices were provided for each wheel diameter.

Customs and Border Protection compared the Chinese export prices provided by Arrowcrest in its application with export price data stored in the Customs and Border Protection import database. Customs and Border Protection noted that the export price data in the import database does not differentiate the imported goods by wheel diameter or finish.

Customs and Border Protection found that the weighted average export price for ARWs stored in the import database fits within the range of quoted Chinese export prices for each wheel diameter provided by Arrowcrest.

Customs and Border Protection therefore considers the export prices submitted by Arrowcrest for China to be reasonably reliable, relevant and suitable for establishing export price for ARWs exported to Australia from China for the purpose of consideration of the application.

5.3.2 Normal values

Particular market situation claims

Arrowcrest claims in its application that actual selling prices within the domestic Chinese ARW market are not suitable for establishing normal values in relation to ARWs exported to Australia from China as a particular market situation exists in that market.

Legislative provisions

In broad terms, it is generally the case that the normal value of the goods the subject of the application is the price for like goods sold for home consumption in the country of export⁵. This price is subject to adjustments⁶ to ensure that any differences do not affect the comparison with the export price.

One of the exceptions to using domestic selling prices for determining normal values is if it is found that a particular market situation exists⁷. One of these situations may be where the domestic selling prices in the country of export have been materially affected by government influence rendering those prices unsuitable for use in establishing normal values.

The existence of a particular market situation potentially affects the approach that Customs and Border Protection takes to calculating normal values and therefore the assessment of whether goods have been exported to Australia at dumped prices.

Applicant's claims

Arrowcrest submits that a particular market situation exists in the Chinese ARW market as ARW selling prices in China are artificially low and have been for an extended period of time. Arrowcrest provided evidence that Chinese ARW selling prices are artificially low due to:

1. the provision of raw materials (i.e. A356⁸ aluminium alloy) by suppliers in China at approximately 30% to 40% below the rest-of-the-world London Metal Exchange (LME) aluminium prices;
2. the impact of government influence through State Owned Enterprises (SOEs) in the Chinese primary aluminium industry that permits the manipulation of price setting mechanisms, as found by the EC in its ARWs inquiry;
3. the supply of low cost electricity (location dependent) to Chinese primary aluminium producers and Chinese ARW manufacturers;

⁵ under s.269TAC(1)

⁶ under s.269TAC(8)

⁷ s.269TAC(2)(a)(ii) broadly provides that the domestic selling prices are not an appropriate basis for normal value if the Minister is satisfied that a situation in the market has rendered domestic selling prices unsuitable for establishing normal values.

⁸ Arrowcrest believes that the primary raw material used by Chinese ARW manufacturers is A356 and A356.2 aluminium alloy. Arrowcrest also believes these grades are equivalent to CC601 T6 aluminium alloy used by ROHA.

4. the impact of government influence through SOEs in the Chinese ARWs industry where prices from SOE manufacturers are lower than Foreign Invested Enterprise (FIE) manufacturers; and
5. the provision of benefits through a range of grants, exemptions and/or reductions in taxes, concessional interest charges etc., that also contribute to low domestic prices.

To support these claims, Arrowcrest provided:

- a copy of the report by the European Commission in relation to a recent dumping investigation of ARWs exported from China to the European Union (EU Commission Regulation No. 404/2010, 10 May 2010) (non-confidential attachment B-4.1.4 to the application) which rejected market economy treatment for all co-operating Chinese ARW exporters. The Commission's decision was based upon its finding that the exporters had failed to demonstrate that costs for raw material aluminium were free of State influence;
- evidence of perpetual subsidies paid to China's primary aluminium industry including China Aluminium Corporation (Chalco) (pages 27-31 of Part B of the application);
- evidence that the Government of China (GOC) operates an aluminium stockpile program where the GOC purchased aluminium from smelters during the global financial crisis for more than adequate remuneration which confirms the impact of continuous government influence on aluminium prices in China. Evidence that subsequent to the global financial crisis, aluminium ingot prices in China reverted back to their historic low prices and are currently trading at 14% below LME price (pages 31-32 of Part B of the application);
- evidence of the divergence between the Shanghai Futures Exchange (SHFE) and LME prices for primary aluminium (pages 32-34 of Part B of the application);
- evidence that Chinese ARW manufacturers purchase pre-alloyed A356 and A356.2 aluminium from SOE smelters at prices that are below the published SHFE price for primary aluminium (pages 34-36 of Part B of the application);
- evidence of reported intervention of the GOC in China's aluminium sector (pages 39-48 of Part B of the application); and
- evidence of the impact of SOEs on China's domestic ARW prices (pages 50-51 of Part B of the application).

Customs and Border Protection's Assessment

Customs and Border Protection has assessed Arrowcrest's claims that a particular market situation exists in the Chinese ARW market in light of the information contained in the application and considers there appears to be reasonable evidence to suggest that such a situation exists.

Customs and Border Protection notes the findings in EU Regulation No 404/2010 and considers it relevant, however notes that the legislative basis for the decision is different to Australia's legislation in respect of the market situation provisions.

Customs and Border Protection notes that it previously undertook an analysis of whether a particular market situation existed in the Chinese aluminium extrusions market during its 2010 Investigation into certain aluminium extrusions from China (Trade Measures Report No 148) and determined there was no such situation in the market that rendered domestic sales unsuitable for establishing normal value.

However, it is noted that in its Preliminary Affirmative Decision report for this investigation (PAD No. 148) Customs and Border Protection published a preliminary view that certain specified factors⁹ collectively represented significant GOC intervention in the Chinese domestic market for aluminium extrusions. The report stated:

"The nature and degree of GOC intervention therefore represents a situation in the market for aluminium extrusions in China such that the domestic sales do not permit a proper comparison to export prices."

In PAD No. 148, Customs and Border Protection accepted that the cost of primary aluminium is a major cost component in aluminium extrusions. It also accepted that significant government influence in relation to the primary aluminium market that causes artificially low prices in that market has the potential to indirectly affect the prices of aluminium extrusions. Customs and Border Protection, however, found that certain prices of aluminium extrusions in China provided for full cost recovery where cost calculations took into account primary aluminium based on the LME.

Customs and Border Protection notes therefore that the basis of the finding in Report No. 148 that Customs and Border Protection was not satisfied there is a situation in the Chinese aluminium extrusions market, such that sales in that market are not suitable for use in determining normal value, is specific to the aluminium extrusions market.

Customs and Border Protection will prepare questionnaires for certain interested parties for the purpose of gathering information relevant to establishing whether there is a situation in the ARWs market in China.

5.3.3 Constructed normal values

Based on a claim that a particular market situation makes prices for ARWs sold domestically within China unsuitable for determining normal values, Arrowcrest has constructed normal values for ARWs in China¹⁰ (Table B-4.2 refers).

Methodology

Within its application, Arrowcrest has developed a constructed "normal value calculator" to estimate the cost to produce 14" to 22" ARWs in China (**confidential**)

⁹ the factors identified are: GOC subsidy for the major raw material (aluminium); GOC regulations for market entry and production efficiency; GOC taxes and tariffs; and GOC purchases of aluminium

¹⁰ s.269TAC(2)(c) of the Act

attachment B-4.1.16). Arrowcrest stated that the normal value calculator will enable Customs and Border Protection to establish the cost to manufacture ARWs in China using Chinese input costs.

Arrowcrest submits that:

- the processes, labour and capital plant required for low-pressure diecasting of ARWs are globally generic, although machine configuration, capital costs and degree of automation may vary;
- cycle times for ARWs are globally generic given that material flow and solidification times are determined by the material used i.e. aluminium alloy. The common material properties also dictate the heat treatment cycle time (the time taken for machine aluminium from the casting to create the machined product) and the time to pre-treat the surface for correct paint adhesion as well as the time to apply and bake the decorative coatings that create the finished product; and
- output rates, labour content and capital investment may vary but given the raw material that the global industry works with and the processes this material must undergo to produce ARWs, the normal value calculator can be used to determine the normal value cost to make ARWs in China.

Arrowcrest submits that output rates, labour and overhead content and capital costs used in the normal value calculator are based on Chinese costs where possible and were obtained from its own research. Where Arrowcrest has been unable to use Chinese costs, it has substituted its own data or used estimates of costs using data from other sources.

To support its estimates of the above costs, Arrowcrest provided with the application evidence in the form of standard operating procedures for the production of ARWs, labour content (direct and indirect) and cost details for cost centres associated with the production of ARWs from its profit and loss accounts. Arrowcrest has applied its own output rates.

In constructing normal values for ARWs in China, Arrowcrest:

- calculated a total ex-works value for each of the ARW exporters for whom data was available, based upon the advised weight and finish of each sized wheel, which includes a calculated market cost for A356 aluminium; and
- applied a wholesale margin based upon YHI's (a Chinese manufacturer) wholesale and retail prices in China in 2010.

The normal value calculator contains the following assumptions:

- Aluminium cost:
 - primary aluminium cost per kilogram is based on LME cash (average official 3 month buyer, April to June 2010) plus China premium. The LME rate was obtained from www.metal.prices.com;
 - the China premium for aluminium (for delivery and administration costs) was advised to Arrowcrest by a customer on 27 November 2009 (**confidential attachment B-2.1.1**);
 - A356/A356.2 alloyed aluminium cost per kilogram based on 92.471% of pure aluminium plus cost of alloying materials plus energy less swarf recovery;

- Paint cost:
 - paint costs were based on invoiced prices. The cost of hyper silver paint (Chrome Shadow), clear primer and clear wet paints were based on Australian invoiced prices adjusted (the cost of paint in China is estimated to be 40% of Australian prices). The cost of powder coat paint and silver wet paint were based on Philippine invoiced prices which are thought to be similar to the cost of paint in China;
- Packaging material costs (based on ROHA costs):
 - OEM ARWs includes pallet and stretch wrap costs per wheel;
 - AM ARWs includes pallet, carton, caps and decal, wheel sock, bag costs and stretch wrap costs per wheel;
- Direct labour costs:
 - based on casting output rate per hour, heat treatment rate per hour, machining output rate per hour, painting output rate per hour, MF remachining output rate per hour, MF repainting output rate per hour, packaging out rate per hour (OEM & AM ARWs) and wages cost per hour);
 - wage costs of RMB2,000/month are based on average wages paid to workers at a Chinese factory in 2011 (confidential attachment B-4.1.16);
 - casting output rates are based on verifiable output rates for each size of ARWS produced from air-and-water cooled dies;
 - costs were adjusted based on a 92% casting yield which Arrowcrest submits to be within the industry average;
- Indirect labour costs:
 - wage costs are based on average wages paid to workers at a Chinese factory in 2011 (confidential attachment B-4.1.16);
- Variable and fixed overheads:
 - based on the tonnage of aluminium that can be processed by a plant of similar size to the ROHA plant, assuming a Chinese working year of 296 days;
 - overheads have been apportioned per tonne of aluminium processed and thereby derive an overhead average cost per kilogram for each size, weight and finish of ARW;
 - land and building rental cost is the average rental advised by managers of development zones and industrial parks located Qinhuangdao, Jiangsu, Ningbo and Shanghai in May 2010;
 - cost of motor vehicles and forklifts in China are based on data from “Alibaba” and “Chinatoday”;
 - plant and machinery costs to set up a plant in China of similar size to ROHA’s plant in Australia based on machinery quotations and invoices in relation to ROHA’s facilities in Australia;

- administration, selling and commercial personnel salaries are based on JM Gemini Guide to China Market Salaries in first quarter 2011 (confidential attachment B-4.1.16);

Arrowcrest provided evidence of the above costs.

Arrowcrest states that no adjustments are required to be made to the constructed normal values for any known differences between the export prices and the normal values as the normal value calculator brings the ex-works costs of each diameter of ARW to a similar level of trade to the export prices by including a wholesale margin (including profit).

5.3.4 Selling prices in China

Arrowcrest also supplied sales prices for 14 inch to 18 inch diameter ARWs in China based on quoted prices (Table B-4.1.17 and non-confidential attachment B-3.3 refer) as supplementary evidence of normal value.

Customs and Border Protection's assessment

Customs and Border Protection has examined the data in the normal value calculator as submitted, and considers that the model provides a reasonable basis for constructing normal values for ARWs in China.

Customs and Border Protection considers that Arrowcrest's approach to bringing the ex-works cost to a FOB equivalent value by factoring in a wholesale margin is reasonable.

5.3.5 Conclusion – dumping from China

Arrowcrest has calculated average dumping margins for Chinese ARWs exported to Australia using constructed wholesale prices and average quoted Chinese ARW export prices to Australia. Arrowcrest found dumping margins ranging from 70% to 133% (Table B-6.1 refers).

Customs and Border Protection notes that if the wholesale quoted prices in China (section 5.3.4 refers) are used to calculate normal values, dumping margins ranging from 16% to 74% result.

Customs and Border Protection considers that the applicant has provided information to reasonably demonstrate that ARWs from China have been exported to Australia at dumped prices and that the dumping margin is not negligible for the purpose of consideration of the application.

6 REASONABLE GROUNDS – SUBSIDISATION

6.1 Finding

Having regard to the matters contained in the application and to other information considered relevant, there appear to be reasonable grounds to support the claim that:

- countervailable subsidies have been received in respect of ARWs exported to Australia from China; and
- the total volume of goods that have received a countervailable subsidy from China is greater than 4% of the total Australian import volume of the goods, and therefore not negligible.

6.2 Subsidisation in China

6.2.1 Arrowcrest's application

Arrowcrest submits that Chinese producers of the goods have benefited from a range of countervailable subsidies.

In support of this, the applicant relies on open source research, including various documents issued by the GOC, local and provincial government websites, industry and professional papers, and reports to the WTO. The applicant has also asked questions directly of some provincial government organisations.

Summary of claims – all programs

The applicant has categorised the identified subsidies as follows:

- i. Materials – for primary aluminium at less than adequate remuneration;
- ii. Preferential taxation policies;
- iii. Geographical benefits;
- iv. Provincial and zone benefits;
- v. Equipment and capital benefits;
- vi. Industry specific benefits;
- vii. VAT – specific exemptions;
- viii. Development and Technology; and
- ix. Export and Brand.

The applicant submitted a 'Subsidy Menu'¹¹ with the application that contains a list of 37 alleged subsidy programs that the applicant claims Customs and Border Protection should investigate. The subsidy menu details the title of the program, the relevant legislation that establishes the program, the granting authority and the quantifiable benefit of the programs.

¹¹ Non-confidential Attachment C-1.2.7

The application contains extensive supporting documentation in relation to each of these programs.

The applicant has also provided a list of other potential subsidies it identified but for which there is limited available information¹². This list contains a further 100 subsidy programs.

Summary of claims – aluminium provided at less than adequate remuneration

Arrowcrest submits that the key raw material input to the manufacture of the goods – alloy aluminium – has been supplied by SOEs to ARW producers for what is considered less than adequate remuneration (specifically, at a price that is less than what it would have been in the absence of GOC interventions within the Chinese market for alloy aluminium).

Arrowcrest considers that this provision of aluminium by SOEs meets the criteria of a countervailable subsidy, as SOEs in China are considered to be ‘public bodies’ as per the definition of a subsidy in Article 1.1 of the SCM Agreement.

Arrowcrest notes that the sale of aluminium by SOEs to producers of aluminium extrusions was considered by Customs and Border Protection to constitute a countervailable subsidy in that investigation, and was subsequently countervailed.

6.2.2 Government of China submission

In accordance with s.269TB(2C), Customs and Border Protection invited the GOC for consultations during the pre-initiation phase. The purpose of the consultations was to provide an opportunity for the GOC to respond to the claims made within the application in relation to countervailable subsidies, including whether they exist and, if so, whether they are causing, or are likely to cause, material injury to an Australian industry.

The GOC accepted Customs and Border Protection’s invitation to undertake consultations, which was held at Customs House in Canberra on 3 November 2011.

Prior to these consultations, the GOC was provided with a non-confidential version of the application and non-confidential attachments.

General matters discussed

The GOC submission also addressed aspects of the application other than the existence of countervailable subsidies including, inter alia, market situation claims, elements of injury and causation and the injury assessment period.

As the intention and purpose of the consultations was to discuss the claims related to countervailable subsidies within the application, Customs and Border Protection has not commented on these points of the GOC submissions in this report. However, Customs and Border Protection considered these submissions and does not consider that they change its view as to whether grounds exist to initiate an investigation.

Customs and Border Protection will address the GOC views in detail in the course of the investigation.

Consideration of countervailable subsidy claims

¹² Non-confidential Attachment C-1.2.12

Following is a summary of the GOC submission as it related to the issue of countervailable subsidies.

Material at less than fair value

The GOC submitted that:

- the market for aluminium was a competitive market;
- the stockpiling of aluminium referred to in the application was a counter-crisis measure during the global financial crisis;
- Customs and Border Protection has already found that there was no market situation in relation to aluminium extrusions; and
- aluminium prices in China would impact the LME price, so if the Chinese market is not competitive then the LME would also not reflect a competitive price.

Public bodies

The GOC referred to the findings of WTO case *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Product from China* case (DS379). The GOC submitted that no evidence had been provided in the application to show that ARW entities, or their material suppliers, were public bodies.

Specific programs included in the application

The GOC stated that it was highly likely that ARW manufacturers did not benefit from the subsidies claimed. The GOC identified a number of specific programs that it claimed are not countervailable, the reasons falling into one of the following 3 categories:

- no evidence of the program has been provided in the application;
- the program has been abolished or terminated; or
- specificity has not been identified in relation to the program

6.2.3 Customs and Border Protection's Assessment

Customs and Border Protection has had regard to its findings in REP148, published in relation to its final determination on subsidies investigated in respect of aluminium extrusions exported to Australia from China.

Additionally, Customs and Border Protection has had regard to the findings of its recent *Reinvestigation of Certain Findings in Report No. 148* (contained in Trade Measures Report No. 175), which reinvestigated whether SOE suppliers of primary aluminium in China are public bodies for the purposes of s.269T.

All considered programs, and Customs and Border Protection's determinations in relation to each, are listed at **Non-confidential attachment 1** to this report.

In summary:

- Of the 37 programs in the 'ARW Subsidy Menu', Customs and Border Protection considers there are reasonable grounds to investigate 33 of these. Of those 33 programs, 12 are programs that were countervailed in the aluminium extrusions investigation; and
- Of the 100 programs listed as 'Additional Subsidies', Customs and Border Protection considers there are reasonable grounds to investigate 7 of these.

Specific discussion of some of the programs follows.

Programs investigated in aluminium extrusions (REP 148)

Customs and Border Protection considers that the ARW subsidy menu lists 12 programs countervailed within the aluminium extrusions investigation. There appears to be reasonable grounds for the publication of a countervailing duty notice for these programs in relation to aluminium road wheels. Consequently, Customs and Border Protection considers that investigations into these 12 programs should be initiated.

In making this determination, Customs and Border Protection notes its findings in REP148 that these programs meet the definition of a subsidy as defined in s.269T and are considered to be countervailable subsidies in line with s.269TAAC.

Customs and Border Protection also considers there are reasonable grounds to believe that these programs are still in operation in China, and that due to:

- the nature of the goods and its manufacturing process; and
- the number of potential exporters identified by Customs and Border Protection in its preliminary research of imports, and the likelihood that at least some exporters will meet the eligibility criteria for each program;¹³

there are reasonable grounds to conclude that exporters of aluminium road wheels have received benefits under each program, and hence their investigation is warranted.

Raw materials provided at less than adequate remuneration

The application contains the following information relevant to the claim in relation to this subsidy program:

- the findings of Customs and Border Protection in REP 148. Customs and Border Protection found that exporters of aluminium extrusions purchased primary aluminium from SOEs at less than adequate remuneration and that this constituted a countervailable subsidy;
- the findings of the EC in its investigation of the dumping of aluminium road wheels from China. In considering whether to grant Chinese exporters market economy treatment, the EC found exporters failed to demonstrate that the costs for raw aluminium were free of State influence;
- a chart of prices for primary aluminium on the London Metals Exchange (LME) and the Shanghai Futures Exchange (SHFE) over the period February 2004 to June 2011. The chart shows that the SHFE price was significantly below the LME price for the period 1 July 2010 to 30 June 2011.

The applicant claims that Chinese aluminium road wheel manufacturers do not purchase primary aluminium, but instead buy a downstream pre-alloyed product that is re-melted and subsequently cast. The applicant's research found that a number of aluminium road wheel manufacturers purchase the pre-alloyed aluminium from smelters that are SOEs. The manufacturers advised the applicant of their purchase price, based mostly on the Changjiang River (Shanghai Spot)

¹³ Including the potential for at least some of these to be located in various regions and provinces in China, to be foreign-invested enterprises, or be otherwise eligible for specific programs.

Exchange, as at 7 October 2010. The applicant compared these costs with the constructed cost of the alloy based on the LME price for primary aluminium on the same date, plus the cost of the alloy materials. The comparison for the four manufacturers showed that the purchase price for the pre-alloyed product was between 23% and 28% less than the constructed cost based on the LME price. In all cases the purchase price of the pre-alloyed aluminium was below the cost of the LME alone.

Based on the claims in the application Customs and Border Protection considers it reasonable that Chinese exporters of the goods have purchased pre-alloyed aluminium in China from SOEs and that this price can reasonably be considered to be less than adequate remuneration.

However, in considering whether there appears to be reasonable grounds that the above provision of aluminium by SOEs constitutes a subsidy (under s.269T), Customs and Border Protection notes the 2011 findings of the WTO Appellate Body in DS379.

In this case, the WTO Appellate Body considered the meaning of 'public body' under Article 1.1 of the SCM Agreement, and rejected a finding of entities being public bodies on the basis of mere formal links between an entity and government and or the mere fact that a government is the majority shareholder of an entity. In making this finding, the WTO Appellate Body has directed investigators to carefully evaluate the entity in question (in this case SOEs producing hot rolled steel) in order to identify their common features and relationship with government, having regard, in particular, to whether the entity exercises authority on behalf of government.

Customs and Border Protection observes that the 2008 finding by the CBSA was based on a finding that Chinese SOEs are public bodies without considering the DS379 methodology (as the CSWP finding was made well before the DS379 findings).

Customs and Border Protection notes that the applicant addresses this decision of the WTO Appellate Body¹⁴ and points to the range of policies aimed at promoting domestic manufacturing industries and export growth. The applicant asserts that the implementation of these policies has been achieved via the Government of China's ownership and control of SOEs that dominate the Chinese raw aluminium sector.

Further, the application also refers to the recent determinations of the aluminium extrusions reinvestigation contained in REP175.

This reinvestigation considered whether SOEs in the aluminium industry could be regarded as public bodies in light of the ruling in DS379, and examined (among other things) the role of the Chinese State-Owned Assets Supervision and Administration Commission (SASAC) in relation to Chinese SOEs generally, and considered that evidence existed to suggest that the GOC exerts a degree of control over SOEs through SASAC.

Customs and Border Protection therefore considers that there appears to be reasonable grounds for the publication of a countervailing duty notice in relation to

¹⁴ Section 1.25 of Part C of the application

this program applying to aluminium road wheels and considers that an investigation into this program should be initiated.

Additional subsidies

The applicant has provided a list of additional subsidies, for which there is limited information (refer non-confidential attachment C-1.2.12). Customs and Border Protection's determination in relation to each of these is included at **Non-confidential attachment 2** to this report.

Of the 100 programs listed, Customs and Border Protection considers there appear to be reasonable grounds for the publication of a countervailing duty notice in relation to the following 7 programs:

- preferential tax policies for enterprises which provide employment to unemployed people;
- preferential tax policies for enterprises transferring technology;
- preferential tax policies for enterprises making little profits;
- preferential tax policies for enterprises with foreign development in border cities;
- preferential tax policies for FIEs in the Three Gorges of Yangtze River Economic Zone, ie Shanghai, Zheijiang and Jiangsu;
- preferential tax policies for enterprises established in poverty stricken areas; and
- patent award of Guangdong Province.

Three of the above programs were preliminarily found to be countervailable in Customs and Border Protection's investigation into the alleged subsidisation of toilet paper exported from China. Although the countervailing application was withdrawn by the applicants in this case prior to recommendations being made to the Minister, Customs and Border Protection nevertheless published preliminary findings that these programs were countervailable. One program was investigated in the aluminium extrusions investigation and found to be countervailable. For the remaining three programs the documentation provided in support indicates there are reasonable grounds to assert the subsidy program exists and that manufacturers of aluminium road wheels might benefit from such programs.

Assessment of GOC consultation remarks

The GOC did not provide any evidence at the consultation in relation to the termination or abolition of the specific programs referred to in the consultation. Customs and Border Protection will seek such evidence from the GOC during the course of the investigation.

In relation to the GOC's remarks about specificity, Customs and Border Protection notes that the specific programs referred to by the GOC were found to be countervailable in the aluminium extrusions investigation.

6.2.4 Conclusion – subsidisation in China

Customs and Border Protection considers that there are reasonable grounds to consider that the following countervailable subsidy programs are available to Chinese producers of aluminium road wheels:

1. aluminium provided by government at less than fair value;
2. transitional preferential tax policies for tax resident enterprises;
3. preferential policies on Enterprise Income Tax;
4. preferential income tax for hi-tech enterprises;
5. preferential tax policies for western development “Go West” strategy;
6. preferential tax policies for FIEs established in the coastal economic open areas and in the economic and technological development zones;
7. reduced tax rate for productive FIEs scheduled to operate for a period of not less than 10 years;
8. preferential tax policies for FIE export enterprises whose annual output value of all export products amounted to 70% or more;
9. preferential tax policies for FIEs which are technology-intensive and knowledge-intensive;
10. preferential tax policies for enterprises which provide employment to unemployed people;
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;
12. refund of income tax for direct reinvestment;
13. preferential tax policies for enterprises transferring technology;
14. preferential tax policies for enterprises making little profit;
15. preferential tax policies for enterprises with foreign investment in the border cities;
16. preferential tax policies for FIEs in central and western China;
17. preferential tax policies for FIEs established in Pudong area of Shanghai;
18. preferential tax policies in the western regions – domestic companies and FIEs;
19. preferential tax policies for FIEs in the Three Gorges of Yangtze River Economic Zone, ie Shanghai, Zhejiang and Jiangsu;
20. preferential tax policies for enterprises established in poverty stricken areas;
21. grants for encouraging the establishment of headquarters and regional headquarters with foreign investment;
22. preferential tax treatments for new hi-tech enterprises (NHTE) in special zones;
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);
24. preferential policies in Xinzhuang Industrial Zone, Shanghai;

25. preferential policies in Shanghai;
26. preferential policies in Weihai Economic Development, High-tech Industry Development and Export Processing zones, Shandong province;
27. tax incentives for manufacturing FIEs in Jiangsu province;
28. preferential tax rates in Guangzhou, Guangdong province;
29. patent award in Guangdong province;
30. termination of tax refund policies for FIEs on their purchase of domestically manufactured equipment;
31. exemption of tariff and import VAT for imported technologies and equipments;
32. 100% refund of VAT to FIEs on purchasing unused domestic equipment with currency in China;
33. preferential tax treatment for casting and forging products;
34. preferential tax treatment to dies products;
35. matching funds for international market development for SMEs;
36. innovative experimental enterprise grant;
37. special support fund for non-State-owned enterprises (NSOEs);
38. venture Investment Fund for Hi-Tech Industry;
39. Superstar Enterprise Grant; and
40. one-time awards to enterprises whose products qualify for “Well-known Trademarks of China” or “Famous Brands of China”.

Customs and Border Protection is also reasonably satisfied following preliminary analysis of:

- the benefits received under certain subsidies by exporters in its investigation into aluminium extrusions from China; and
- the difference between LME and SHFE prices demonstrated in the application and the likelihood that a significant proportion of aluminium has been purchased by road wheel manufacturers from SOEs (due to their prevalence in the Chinese market); and
- that the benefit received by Chinese exporters under these programs is likely to result in subsidy margins that are above negligible levels.

Consequently, Customs and Border Protection considers that investigations into these programs should be initiated.

It is noted that the initiation of investigations into the above-listed programs does not preclude Customs and Border Protection from examining additional subsidy programs should further information be provided or otherwise come to light within a reasonable timeframe.

7 REASONABLE GROUNDS – MATERIAL INJURY CAUSED BY DUMPED AND SUBSIDISED IMPORTS

7.1 Finding

Customs and Border Protection is satisfied that there appears to be reasonable grounds to support the claim that ARW's exported to Australia from China, at allegedly dumped and subsidised prices have caused material injury to the Australian industry.

7.2 Introduction

The CEO must reject an application for a dumping duty notice or a countervailing duty notice if, inter alia, he is not satisfied that there appear to be reasonable grounds for the publication of a dumping duty notice or a countervailing duty notice respectively¹⁵.

One of the matters that the relevant Minister must be satisfied of to publish a dumping duty notice or a countervailing duty notice is that because of dumping of the goods, or the receipt countervailable subsidies, material injury has been or is being caused or is threatened to the Australian industry producing like goods¹⁶.

7.3 Approach to injury analysis

Arrowcrest submits that dumped and subsidised ARWs from China have caused material injury to the Australian industry since 2003 and will continue to cause further injury.

The application states that Arrowcrest's financial year is from 1 July to 30 June. Financial years have been used for the injury assessment and analysis. The investigation period for the purpose of determining whether dumping and/ or subsidisation has caused material injury will therefore be set as from 1 July 2010 to 30 June 2011. The period for analysing the condition of the Australian industry (injury analysis period) will be from 1 July 2006.

Customs and Border Protection notes that Arrowcrest has provided consolidated data (i.e. not broken down by wheel diameter, finish or market segment) in its application for financial years 2003 to 2011. For the purpose of assessing reasonable grounds of injury and causal link in this section, total aggregated figures have been used. Analysis by individual finish and market segment will be undertaken during the investigation.

As stated in section 4.4 above, the Australian ARWs industry comprises Arrowcrest and Performance Wheels. Arrowcrest is of the opinion that Performance Wheels also imports ARWs from China to supplement its range of locally produced ARWs. Arrowcrest stated in its application that Performance Wheels declined to participate.

¹⁵ Under s. 269TC(1)

¹⁶ Under s. 269TG and 269TJ

Arrowcrest has therefore estimated the production and sales volumes for Performance Wheels based on its own market intelligence.

Arrowcrest also identified Mullins Wheels Pty Ltd as a past producer of ARWs and is of the opinion that Mullins Wheels ceased production of ARWs during FY2009.

Therefore, for the purpose of analysing volume injury claims made by Arrowcrest in its application, Customs and Border Protection has used:

- sales of local production and import data provided by Arrowcrest;
- Arrowcrest's estimate of sales of local production and imports by Performance Wheels;
- Arrowcrest's estimate of sales of local production and imports by Mullins Wheels; and
- Estimate of export volume from China and other countries from the Customs and Border Protection import database.

Arrowcrest claims in its application that it accounts for greater than 75% of Australian ARW production. For the purpose of analysing price and profit effects only Arrowcrest's price and cost data, which represents the majority of the Australian industry by volume, has been used.

Customs and Border Protection will attempt to make contact with Performance Wheels and Mullins Wheels to confirm whether they are or were part of the Australian industry during the injury analysis period. Detailed analysis of injury to the whole industry will be undertaken during the investigation.

7.4 Factors other than dumping

Arrowcrest identified the following factors, other than dumped and/or subsidised exports from China that may have caused injury to the Australian industry during the injury analysis period:

- closure of the Mitsubishi Motors Australia Limited (MMAL) plant in Adelaide in FY2008. Arrowcrest claims the closure has had some impact on sales but is dwarfed by the growth in Chinese ARW exports to Australia since 2003; and
- reduced demand for ARWs due to the global financial crisis. Arrowcrest claims that Chinese ARW exports have recovered at a much faster rate than Arrowcrest's ARW volume and market share.

Customs and Border Protection considers these arguments to be reasonable and will further analyse the effects of these factors, and any other factors, on injury to the Australian industry during the investigation.

Customs and Border Protection also notes that exports from other countries are not insignificant. Customs and Border protection will further examine the impact of exports from other countries during the investigation.

7.5 The applicant's injury claims

Arrowcrest claims it can demonstrate material injury suffered by the Australian industry in the form of:

- lost sales volumes;
- lost market share;
- lost revenues;
- price depression;
- price suppression;
- price undercutting;
- lost profits and profitability;
- reduced return on investment;
- reduced employment; and
- reduced re-investment in the industry.

7.6 Commencement of injury

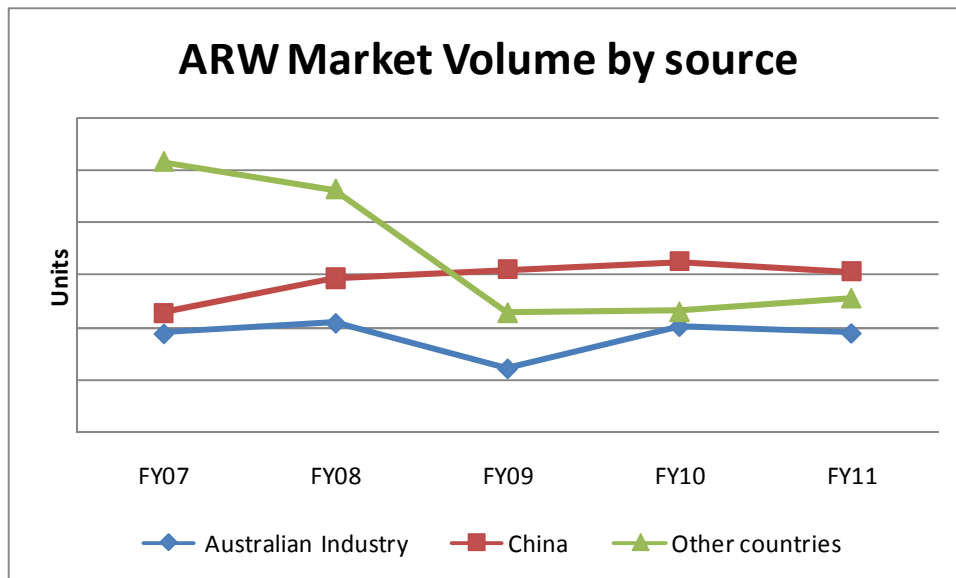
Arrowcrest claims that it considers that material injury from the dumped and subsidised imports commenced in 2003. Arrowcrest provided volume, price and profit data for the period FY2003 to FY2011.

7.7 Volume effects

Arrowcrest claims that since 2003 its volumes and market share have fallen by 45%. (The changes in size of the Australian ARW market over the injury analysis period is discussed in section 4.5.5).

It was previously noted in section 4.5.5 that the size of the Australian ARW market declined in FY2009 then appears to have increased and stabilised in FY2010 and FY2011. Customs and Border Protection notes that overall the Australian ARW market declined by 38% during the injury analysis period.

The following graph shows changes volume from sources of supply to the Australian ARW market volume during the injury analysis period.



The above graph indicates that:

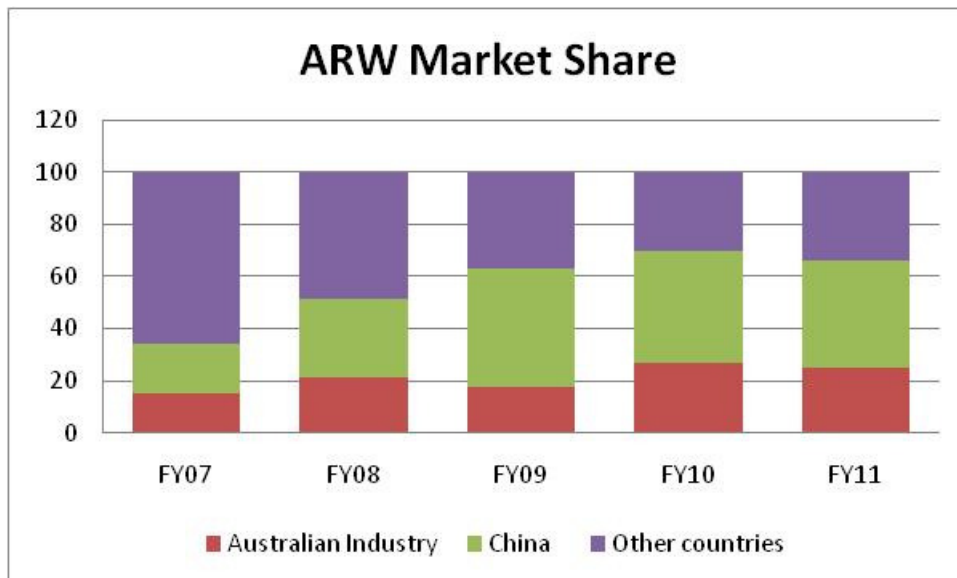
- The Australian industry’s sales volume fluctuated throughout the period with a sharp dip in FY2009;
- The Australian industry’s sales volume declined in the investigation period by 6%;
- Export volume from China increased steadily from FY2007 to FY2010 (by 43%) before declining in the investigation period by 6%. Export volume increased by 35% over the period; and
- Export volume from other countries declined in FY2008 before falling sharply in FY2009, and then increased slightly in the investigation period.

Arrowcrest submits that in FY2010:

- Chinese exporters displaced all other major Australian producers; and
- Arrowcrest lost some of its major customers to Chinese producers.

Customs and Border Protection examined its import database which shows that there was a significant increase in quantities of ARWs imported from China during the injury analysis period. Further investigation and analysis on the effects of these factors, and any other factors, on injury to the Australian industry will be conducted during the investigation.

The graph below shows the market shares of the Australian industry, exports of ARWs from China and exports of ARWs from other countries.



The graph above shows that:

- The Australian industry increased its market share to FY2010, before losing some market share in the investigation period;
- market share held by exports from China increased to FY2010, then declined slightly in the investigation period; and
- market share held by exports from other countries declined significantly to FY2010 then increased slightly in the investigation period.

Australian market volume analysis is at **confidential attachment 1**.

7.7.1 Conclusion – volume effects

Based on this analysis, Australian industry does not appear to have lost sales volume and market share during the investigation period. However, the data contained in the application, shows that significant volume and market share was lost between FY2003 and FY2007 before stabilising between FY2007 to FY2011.

7.8 Price effects

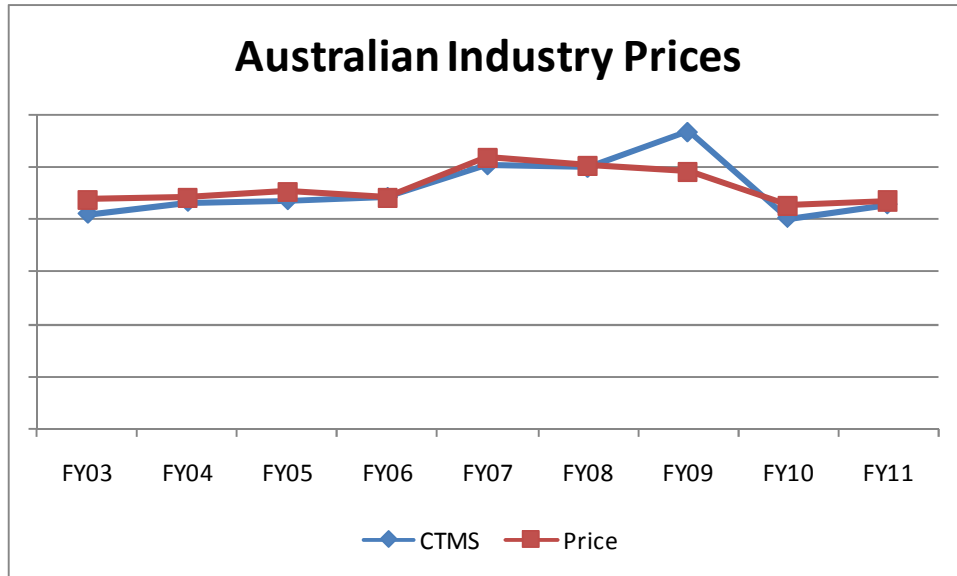
Arrowcrest claims that its prices have been depressed and suppressed.

Arrowcrest claims that the average selling prices for ARWs have not tracked the rise and fall in rest-of-the-world LME prices for primary aluminium, which is the raw material for ARWs. This, Arrowcrest claims, is due to the influence of the continuously declining Chinese import prices. Arrowcrest expected the selling prices for ARW's to be at higher levels in 2010 due to the 80% increase in the key raw material being aluminium.

Price depression occurs when a company, for some reason, lowers its prices.

Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

The following graph illustrates Arrowcrest's unit selling price and unit cost to make and sell (CTMS) based on data contained in the application.



The graph shows that:

- Unit CTMS trended upwards to FY2009, decreased significantly in FY2010 and increased slightly in FY2011; and
- Unit prices followed similar trends to unit CTMS to FY2008. Unit prices then trended downwards to FY2010 before increasing slightly in the investigation period but at a lower rate than unit CTMS.

Price depression

The above graph shows that Arrowcrest's unit prices declined in FY2008, FY2009 and FY2010 then increased slightly in the investigation period.

Price suppression

Arrowcrest claims that the decline in production and sales volumes due to dumped and subsidised imports has resulted in higher fixed and overhead costs per unit contributing to price suppression experienced by Arrowcrest.

The above graph shows that Arrowcrest has been unable to increase prices other than to match cost increases since FY2003. Arrowcrest's unit CTMS decreased significantly in FY2010 due to "self help" initiatives implemented by the company. The graph shows that gains made by the company in FY2010 were unable to be sustained in the investigation period.

Price undercutting

Arrowcrest made the following claims in its application:

- On 27 November 2009 an OEM customer provided quotes to Arrowcrest that it had received an offer for 16" ARWs from China that was 30% below Arrowcrest's quoted price. Arrowcrest stated that while this customer had not taken up the offer, the "China price" has been used to extract price concessions from Australian manufacturers since 2003;
- On 23 November 2010, an OEM customer told Arrowcrest that it had accepted an offer for 15" ARWs that was AUD40-50 cheaper than

Arrowcrest's price. Arrowcrest had been supplying ARWs to this customer for more than 10 years (confidential attachment B-2.1.1 refers);

- The extent of price undercutting in the AM segment is self evident in the lost sales volumes and lost market shares in that segment (confidential appendix A6.1 refers).
- Arrowcrest claims that it is in the AM sector that the Australian industry has been hardest hit, leading to the cessation of production of AEWs at Mullins Wheels and decline in the production of ARWs at Performance Wheels. In addition Arrowcrest lost 89% of its production volumes in this sector;
- In 2008/09 Arrowcrest lost one of its major customers in the AM sector to its competitor who Arrowcrest claims to be importing ARWs from China (and was able to provide a 20% month-end rebate on sales turnover); and
- In 2006/07 Arrowcrest ceased trading directly with another major customer in the AM sector as a result of declining its demand for 15% month-end rebates. Arrowcrest understands that this customer was able to secure this deal from a competitor who was again importing ARWs from China;

Price analysis is at **confidential attachment 2.**

7.8.1 Conclusion – price effects

Based on this analysis and evidence provided by the Arrowcrest, there appear to be reasonable grounds to support the claim that exports of ARWs from China at dumped and/or subsidised prices have caused material injury to the Australian industry in the form of price depression and price suppression during the investigation period by undercutting the Australian industry's selling prices.

7.9 Profit and profitability effects

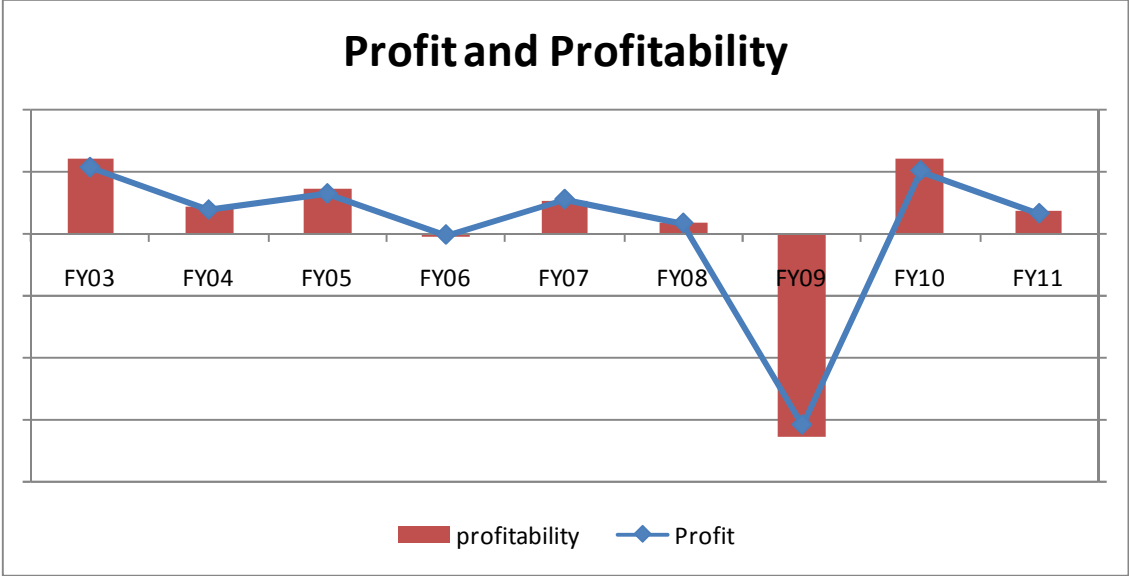
Arrowcrest submits that reduced volumes and price suppression have directly impacted on its profits and profitability. Arrowcrest claims that improved profits in FY2010 are a direct result of "self help" initiatives that have been achieved by cost reductions coupled with increase in volumes.

Arrowcrest submits that over the injury period it has moved to mitigate its losses via restructuring its operations, including reducing the number of employees, and by ensuring that its expenses are commensurate with its production and sales volumes and selling prices. Arrowcrest's costs per wheel and therefore its profitability are dependent on volume throughput. Exports from China have resulted in a 46% loss of sales volumes for Arrowcrest since FY2003 which, in turn, has impacted on its unit CTMS as well as its profitability.

Arrowcrest submits that whilst its CTMS has closely followed its production and sales volumes, its profitability is dependent on volume particularly in regard to the recovery of fixed overheads. Arrowcrest submits it is clear that it has lost profitability as its production and sales volumes have fallen as a direct result of the prices for increasing volumes of exports of ARWs from China.

Arrowcrest claims that it has managed its costs, including via restructuring, whilst its market share, sales volumes, sales turnover and profitability have all declined.

The following graph illustrates Arrowcrest’s total profit and profitability based on the data contained in the application.



The graph above shows that Arrowcrest’s unit profit and profitability fluctuated but with a downward trend, between FY2003 and FY2008 before declining significantly to a loss situation in FY2009. Arrowcrest’s unit profit improved significantly in FY2010 before declining again in the investigation period.

Profit and profitability analysis is at **confidential attachment 2**.

7.9.1 Conclusion – profit and profitability effects

Based on this analysis, there appear to be reasonable grounds to support the claim that exports of ARWs from China at dumped and/or subsidised prices have caused injury to Arrowcrest in the form of reduced profit and profitability.

7.10 Other economic factors

Arrowcrest completed an Appendix A7, which looks at other injury factors. The application includes movements in return on investment, value of assets, capital investment, sales revenue, capacity utilisation, research and development expenses, employment numbers, productivity, movement of stocks, cash flow measures and wages, which generally fell in FY2011.

Arrowcrest further claims that the employment numbers decreased substantially between FY2003 and FY2011 as a direct result of loss its production volumes, sales volume, market share and sales turnover which was caused by dumped and subsidised imports from China.

7.11 Conclusion on material injury caused by dumped and subsidised imports

It appears from the above analysis that Arrowcrest’s economic situation has been affected by factors other than dumping e.g. the global financial crisis in FY2009 and the closure of MMAL’s plant in 2008.

However it is reasonable to conclude, based on the evidence presented in the application, that dumping and/or subsidisation have caused injury to the Australian Industry in the form of price depression, price suppression and reduced profit and profitability.

Therefore, Customs and Border Protection is satisfied that there appears to be reasonable grounds to support the claim that ARWs exported to Australia from China at dumped and subsidised prices have caused material injury to the Australian industry.

8 CONCLUSION AND RECOMMENDATION

Customs and Border Protection has examined the application and is satisfied that:

- the application complies with subsection 269TB(4);
- there is an Australian industry in respect of like goods; and
- there appear to be reasonable grounds for the publication of dumping duty and countervailing duty notices in respect of the goods the subject of the application.

For the purposes of the investigation:

- the investigation period to determine whether dumping and/or subsidisation has occurred will be from 1 July 2010 to 30 June 2011; and
- Customs and Border Protection will examine the Australian market and the economic condition of the industry from 1 July 2006 for the purposes of injury analysis.

Accordingly, Customs and Border Protection recommends the delegate of the CEO not reject the application for the publication of a dumping duty and countervailing duty notice under subsection 269TB(1).

LIST OF APPENDICES AND ATTACHMENTS

Appendix A	Notice of Initiation
Confidential attachment 1	Australian market volume analysis
Confidential attachment 2	Price and Profit analysis
Non-confidential attachment 1	Analysis of Arrowcrest Subsidy Menu
Non-confidential attachment 2	Analysis of Additional Subsidies

APPENDIX A – NOTICE OF INITIATION

Customs Act 1901 – Part XVB

Aluminium Road Wheels

exported from the People's Republic of China

Initiation of an investigation into alleged dumping and subsidisation

Public notice under section 269TC

The Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) has initiated an investigation, following an application lodged by Arrowcrest Group Pty Ltd, a manufacturer of aluminium road wheels (ARWs) in Australia. The application requests the publication of a dumping duty notice and a countervailing duty notice in respect of ARWs exported to Australia from the People's Republic of China.

The goods the subject of the application (the goods) are aluminium road wheels for passenger motor vehicles, including wheels used for caravans and trailers, in diameters ranging from 13 inches to 22 inches. For clarification, the goods include finished or semi-finished ARWs whether unpainted, painted, chrome plated, forged or with tyres and exclude aluminium wheels for go-carts and All-Terrain Vehicles.

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

The application alleges that the goods have been exported to Australia at prices less than their normal value and that countervailable subsidies have been received in respect of the goods. The application claims that the dumped and subsidised exports have caused material injury to the Australian industry through lost sales volume, lost market share, lost revenues, price undercutting, price suppression, price depression, lost profits and profitability, reduced return on investment, reduced employment and reduced re-investment in the industry.

The CEO specifies that goods exported to Australia during the period 1 July 2010 to 30 June 2011 will be examined to determine whether dumping and subsidisation has occurred. The Australian market will be examined from 1 July 2006 for injury analysis. The date of initiation of this investigation is the date of publication of this notice.

Interested parties, as defined by subsection 269T(1) of the *Customs Act 1901* (the Act), are invited to lodge submissions concerning the publication of the dumping and countervailing duty notices sought in the application, no later than the close of business on 19 December 2011, addressed to:

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

Or by email: tmops2@customs.gov.au

Australian Customs Dumping Notice (ACDN) No. 2011/54, containing important procedural details, and the consideration report are available at www.customs.gov.au. Both documents should be read in conjunction with this notice.

The ACDN and the consideration report are also available on the public record. Documents included in the public record are available at <http://adpr.customs.gov.au/Customs/>. Alternatively, the public record may be examined at the above office address during business hours by contacting International Trade Remedies Branch on (02) 6275 6828.

Enquiries concerning this notice may be directed to the case manager on telephone number (02) 6275 6701, fax number (02) 6275 6990 or email tmops2@customs.gov.au.

Justin Wickes
A/g National Manager
International Trade Remedies Branch

7 November 2011