

25 September 2015

Assistant Commissioner
Productivity Commission
GPO Box 1428
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Dear Ms Woo,

Productivity Commission Research Paper – Developments in Anti-Dumping and Countervailing ('Anti-Dumping') Arrangements

Arrowcrest's involvement with Anti-Dumping System

I refer to the Productivity Commission's research project that is examining recent developments in Australia's anti-dumping arrangements. In September 2011 the Arrowcrest Group Pty Ltd ("Arrowcrest") lodged an application for anti-dumping and countervailing measures against exports of aluminium road wheels ("ARWs") to Australia from the People's Republic of China ("China"). Arrowcrest's application followed a European Union ("EU") industry application resulting in measures on ARWs from China.

Following an investigation the then Minister applied interim dumping and countervailing measures on exporters of ARWs from China. The measures continue to apply at the date of this submission.

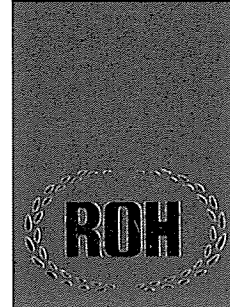
Arrowcrest is an Adelaide-based manufacturer supplying original equipment ("OE") and aftermarket ARWs to the Australian market. Exports of Chinese ARWs commenced to injure Arrowcrest from 2000. However, prior to Arrowcrest's 2011 application, Australia's anti-dumping system did not adequately address the dumping and subsidisation of goods exported from China.

Investigation No. 181 was conducted by the then Australian Customs and Border Protection Service ("ACBPS"). The recent reforms of the anti-dumping system occurred following the finalisation of Report No. 181. The Anti-Dumping Commission has recently conducted a review of anti-dumping and countervailing measures applicable to ARWs from China. The Statement of Essential Facts ("SEF") was published on 30 July 2015 (SEF No. 263), with the final report due to be forwarded to the Minister on 14 September 2015.

Arrowcrest is well positioned to comment on recent changes to the anti-dumping system.

Trends in anti-dumping activity, and the drivers of this activity

The upsurge in exports of ARWs from 2000 was driven by the ready availability of below cost aluminium in China in the predominantly state-owned aluminium and ARW industries (at the time). This coincided with the manufacturing boom in China and was a catalyst for an increase in the number of producers in China, with the majority focused on export markets. Manufacturers were encouraged to locate to industrial parks with financial incentives including reduced company tax rate, VAT and tariff exemptions, low interest rates, and grants, in addition to readily available subsidised aluminium and subsidised energy.



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The increase in Chinese exports onto the global market threatened the viability of domestic industries in numerous importing countries. Effective anti-dumping and countervailing measures have been required to address the below market-priced exports of Chinese ARWs including in India, the EU and Australia.

Aluminium and aluminium alloys continue to be priced in China below the levels of the London Metals exchange ("LME"). The production facilities in China continue to operate, as do the record export volumes. Arrowcrest does not envisage a slow-down in competition from Chinese ARWs.

The particular role that recent changes to the anti-dumping system have played in this context

Arrowcrest welcomes the establishment of the Anti-Dumping Commission ("ADC") and the increased resources assigned to it. A frustration for Arrowcrest in Investigation No. 181 was the time following lodgement of the application to secure a Preliminary Affirmative Determination ("PAD") and the imposition of measures (205 days following commencement of the investigation). It was understood that resourcing associated with delays in exporter questionnaire responses and the timing of exporter visits were key factors influencing the delay. Increased resources at the time would have minimized the timeframe extensions and provided Arrowcrest with early relief from the injurious dumping and subsidisation.

The recent review of measures inquiry (Investigation No. 263) also involved significant timeframe delays (commenced in September 2014, with recommendations to Minister on 14 September 2015). Arrowcrest anticipates that the additional resources will assist in reducing the extended investigation timeframes.

The measures applied by the Minister following his acceptance of the recommendations in Report No. 181 were on the basis of fixed and variable components (i.e. the combination method). The issuance of Anti-Dumping Notice ("ADN") No 2013/98 notified the new Regulation that provides for the following forms of measures to be applied by the Minister:

- (I) combination of fixed and variable duty method ('combination' duty);
- (II) fixed duty method;
- (III) floor price duty method; and
- (IV) ad valorem duty method.

Arrowcrest has noted that the ADC has a preference for recommending measures based upon the ad valorem methodology as this form, it is alleged, is the easiest to administer and is the most common form of measures used in other jurisdictions. Whilst both reasons may appear to justify measures based upon the ad valorem method, the objective of applying measures is to ensure the Australian industry does not experience further material injury. Where measures are based upon the ad valorem method, the commercial reality is that exporters will reduce their export prices to reduce the interim duty liability. Measures based upon the combination form are therefore the most effective at delivering the intended relief from injurious dumping and subsidisation. It is further noted by Arrowcrest that the recent House of Representatives Agriculture and Industry Committee Inquiry into Anti-Circumvention Activities has recommended that the combination method form of duty should be the default position in each investigation. Arrowcrest concurs with the Committee's recommendation.

Arrowcrest is opposed to the ADC's move to recommend ad valorem measures as the preferred form of measure in all investigations. The use of this form of measure may be warranted in other jurisdictions where the dumping and/or subsidisation margins are high, however, where smaller, single digit margins apply, there exists an incentive for

the exporter to further reduce the export price so that the interim measure is similarly reduced.

A further recent change in practice that has evolved following the establishment of the ADC is the non-verification of exporter data. The ADC elected not to visit cooperative Chinese ARW exporters in review inquiry No. 263. Exporter data for the 2013/14 investigation period was received by the ADC but the ADC elected not to visit exporters to verify the data (the inquiry has still taken a full 12 months to complete). Arrowcrest is concerned that exporters may adopt a stance of 'gaming' the investigative process and, if it is decided that the ADC will verify data, amend the originally submitted data at the commencement of the verification process. Arrowcrest considers the risk is highest for "first-time" applications.

A habit of not conducting a verification visit with cooperative exporters may contribute to uncertainty associated with outcomes that are based solely on a 'desk audit' approach to verification.

How anti-dumping measures have affected individual sectors and Australia's broader economy

1. Aluminium road wheels and downstream suppliers

The measures applied by the Minister in July 2012 had the effect of increasing import offers for ARWs sourced from China so that Arrowcrest could compete to supply to local customers on an equal footing reflective of London Metal Exchange (LME) input costs for aluminium and comparable costs for energy.

In the absence of the anti-dumping measures Arrowcrest would have lost further sales volumes and would likely have ceased local production.

The anti-dumping system provides a level of surety that Australian manufacturers may seek relief from exports of dumped and subsidised imports. It is not difficult to assess what the impact on the sector (and the broader economy) would be in the absence of an effective anti-dumping system. Arrowcrest also highlights that the volume of goods the subject of anti-dumping measures in the context of all traded goods in the Australian economy is minor.

2. Aluminium extrusions

Arrowcrest notes the "lessons learnt" approach taken in the recent review of aluminium extrusions from China (REP248).

Any opportunities to improve outcomes from Australia's anti-dumping system

The integrity of the anti-dumping system is reliant upon sound policies and practices being administered by the ADC. The recent introduction of the Part 5A anti-circumvention provisions are considered critical to ensuring anti-dumping and/or subsidy measures are not avoided or evaded.

Further opportunities exist for the tightening of the anti-dumping system to ensure that outcomes are not meaningless, including:

- where normal values are based upon constructed costs under s.269TAC(2)(c), the level of profit to be applied should as a minimum reflect a rate at which funds could be alternatively invested (i.e. at least above prevailing cash rate)

- when determining an unsuppressed selling price for the Australian industry based upon production costs, the level of profit should similarly be determined;
- timeframe extensions to be limited to one extension during the course of the investigation
 - extension should not exceed a maximum 60 days;
 - a PAD and provisional measures should be contemplated (i.e. not merely considered) prior to the Minister granting a timeframe extension;
- introduce the House of Representatives Agriculture and Industry Committee recommendation that the form of anti-dumping measure be based on the combination duty method in the first instance in all cases;
- limit the non-verification of exporter data information (contained in exporter questionnaire responses) to exceptional circumstances only; and
- where investigations are undertaken by other jurisdictions in relation to the same goods exported from the same country, adequate consideration be given to the magnitude of the measures to ensure trade imbalances do not occur.

Closing remark

Arrowcrest notes that the Commission's 2009 inquiry recommended a 'bounded' public interest provision. The measures applied by the Minister in July 2012 were tempered (in most instances) by the operation of the lesser duty rule. This rule operates to ensure that the measures operate to remove the injurious effects of dumping (and/or subsidisation) as required. It is Arrowcrest's view that the lesser duty rule is a de facto public interest provision that has operated in every investigation. A separate "bounded" public interest provision is therefore not warranted.

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

Yours sincerely,

Bill Davidson
Director