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MINISTRY OF COMMERCE OF THE PEOPLE'S REPUBLIC OF CHINA
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NON CONFIDENTIAL

16 January 2026

Commissioner
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601 AUSTRALIA

Hot Rolled Coil Steel Exported from the People's Republic of China
Response to Statement of Essential Facts No. 658

Dear Commissioner,

On behalf of Trade Remedy and Investigation Bureau within the Ministry of Commerce ("MOFCOM"), we submit this response to the Statement of Essential Facts No. 658 (SEF 658), issued on 23 December 2025.

We appreciate the Commission's efforts in this investigation. These observations are offered constructively to assist in refining the final determination, ensuring it fully aligns with international trade rules and promotes equitable outcomes for all stakeholders.

While we concur with certain aspects, such as the verification of the respondent's cost records as compliant with Chinese generally accepted accounting principles (GAAP) and reflective of actual production costs incurred during the investigation period, we respectfully submit that the proposed adjustments to these costs, stemming from a finding of a particular market situation (PMS) influenced by the Government of China (GOC), require careful reconsideration. Such adjustments introduce inconsistencies with Australia's obligations under the World Trade Organization's Anti-Dumping Agreement (ADA) and the *Customs Act 1901* (the Act), leading to overstated dumping margins that do not accurately reflect competitive realities.

This submission provides a detailed analysis of the usage of the respondent's cost records, an examination of the benchmark methodology, assessments of data reliability and procedural fairness, and concluding recommendations. Our aim is to highlight potential areas for alignment with established WTO jurisprudence while emphasising evidence-based decision-making.

DUMPING

A. Introduction to Key Issues

The Commission has preliminarily concluded that the respondent's cost records meet the stringent criteria under Article 2.2.1.1 of the ADA, acknowledging their GAAP compliance and their reasonable reflection of the actual costs associated with producing and selling hot

rolled coil (HRC) steel. However, the decision to adjust the steel slab component, a critical element comprising a substantial portion of HRC production costs, using a Brazilian market benchmark is predicated on alleged GOC influences creating a PMS that purportedly distorts domestic input prices. This adjustment leads to a constructed normal value under section 269TAC(2)(c)(i) of the Act, which, in our assessment, does not adequately represent the true "cost of production in the country of origin" as mandated by Article 2.2 of the ADA.

We propose that adhering more closely to the respondent's verified records without such substitutions would better uphold the principles of fairness, accuracy, and proportionality outlined in WTO jurisprudence. This is particularly important given the global steel market's complexities, where factors like supply chain efficiencies and international raw material sourcing (e.g., iron ore imports) play significant roles.

Moreover, the Commission's approach risks conflating two distinct analytical frameworks: the exporter-focused evaluation of actual production costs under Article 2.2.1.1 with the broader market-oriented PMS considerations under Article 2.2 for domestic selling prices. By substituting verified, GAAP-compliant costs with a third-country benchmark that lacks sufficient adaptation to Chinese conditions, the methodology fails to capture the economic realities in China, resulting in an artificially inflated normal value.

An independent assessment of the evidence shows that the respondent's records, derived from arm's-length transactions and audited processes, provide a reliable foundation for calculations, and overriding them without exporter-specific distortions undermines the investigation's credibility.

B. Analysis of cost record usage

Article 2.2.1.1 of the ADA establishes a foundational principle that costs "shall normally be calculated on the basis of records kept by the exporter or producer under investigation," provided they adhere to GAAP in the exporting country and reasonably reflect the costs associated with production and sale. The Commission has explicitly confirmed that the respondent's records satisfy these standards, based on on-site verifications and documentary evidence submitted during the inquiry.

Yet, the preliminary findings proceed to override these records by invoking non-competitive market conditions attributed to GOC policies. This interpretation expands the provision beyond its textual and jurisprudential boundaries, effectively introducing an unauthorised criterion for "undistorted" costs that is not supported by the ADA's language. As explored in the following subsections through relevant WTO decisions, this approach conflicts with a body of jurisprudence that stresses a strong presumption in favour of verified exporter data, permitting deviations only in exceptional, well-justified circumstances tied directly to the records' reliability for cost allocation.

i) DS529 (Australia – Anti-Dumping Measures on A4 Copy Paper)

The Panel in DS529 (Australia – Anti-Dumping Measures on A4 Copy Paper) examined a similar scenario where Australian authorities rejected Indonesian exporters' recorded pulp costs due to PMS-related government distortions. The Panel ruled this inconsistent with Article 2.2.1.1, clarifying that the phrase "reasonably reflect" pertains exclusively to whether

the records faithfully allocate actual costs incurred in production and sale, not to whether those costs align with hypothetical competitive benchmarks free from external influences.

Applying this directly to the respondents, the verified and audited nature of their records, demonstrating appropriate allocation of expenses such as raw materials, labor, and overheads, strongly supports their retention. Absent concrete evidence of inherent unreliability or misallocation in the respondent's specific accounting practices, the Panel's ruling indicates that generalised market conditions alone do not justify deviations. This precedent underscores the risk of overreach whereby the Commission has prioritised PMS allegations and policy assumptions over factual accuracy, leading to a WTO-inconsistent outcome.

ii) DS603 (Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China)

In DS603 (Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China), the Panel invalidated Australia's substitution of Chinese exporters' steel input costs in investigations involving products like wind towers and railway wheels, finding it violates Article 2.2.1.1. The Panel emphasised that the provision's orientation toward "actual" costs as recorded, provided they meet GAAP and reasonable reflection criteria, and rejected broad market distortions as a basis for routine overrides. The Commission's approach in this HRC investigation parallels the challenged methods in DS603, as it relies on PMS findings without sufficient exporter-specific justification for why the respondent's records fail to reflect production realities.

An assessment of the evidence reveals no indications of non-arm's-length dealings or artificial pricing in the respondent's operations. Instead, costs are grounded in verifiable transactions. This decision reinforces that deviations must be narrow and evidence-based, suggesting the need for a more targeted analysis to avoid replicating the inconsistencies identified by the Panel.

iii) Insights from Additional WTO Precedents

A broader review of WTO precedents, including Ukraine – Ammonium Nitrate (DS493), EU – Cost Adjustment Methodologies II (Russia) (DS494), and EU – Biodiesel (Argentina) (DS473), collectively affirms a strong presumption toward using verified exporter records. In DS493, the Appellate Body held that deviations are permissible only where records demonstrably fail to allocate costs reasonably, such as in related-party transactions, and required "adequate explanations" rooted in record evidence.

Similarly, DS494 invalidated the EU's replacement of Russian gas costs due to alleged distortions, ruling that Article 2.2.1.1 does not authorise substitutions based on government influence alone. In DS473, the Appellate Body clarified that input costs cannot be disregarded merely for being lower than benchmarks, supporting the view that authorities may not reject or adjust costs simply because those costs are lower than those in other countries.

These rulings caution against adjustments based solely on external benchmarks, emphasising the need for explanations directly tied to the exporter's records.

Evaluation of the "Normally" Qualifier

The qualifier "normally" in Article 2.2.1.1 permits limited exceptions to the use of exporter records, but WTO interpretations, including Appellate Body guidance in DS493, define it as allowing derogations only under "certain circumstances" supported by robust, exporter-specific evidence of extraordinary conditions rendering the records unreliable for cost allocation. The Commission's reliance on generalised assumptions relating to GOC policies, lacks a direct, causal linkage to the respondent's operations, where costs are derived from market-driven purchases and internal efficiencies.

This falls short of the evidentiary standards in DS493, DS529, and DS603, which demand targeted, record-based analysis rather than industry-wide assumptions. An assessment of the SEF reveals no detailed exporter-level findings of abnormality in the respondent's cost structures; instead, the approach treats PMS as a blanket exception, inverting the ADA's presumption and leading to disproportionate adjustments.

C. Examination of Benchmark Methodology

Even if some form of cost adjustment is warranted under Article 2.2.1.1, the Brazilian steel slab indices employed as a benchmark require significantly more rigorous adjustment to prevailing conditions in China, as required by Article 2.2 of the ADA. The current methodology applies only minimal adjustments while overlooking key China-specific factors such as economies of scale in a market producing over [CONFIDENTIAL TEXT DELETED-Number] of global steel, lower utility rates due to infrastructure investments, variances in alloy input prices, and technological efficiencies from advanced blast furnace operations.

This selective approach produces overstated normal values, with upward biases of [CONFIDENTIAL TEXT DELETED-Number] based on comparative industry data, as it fails to account for Brazil's smaller market scale and distinct dynamics, including higher dependency on imported inputs and different trade protections.

For example, Brazil has imposed anti-dumping duties and import quotas on downstream finished steel products such as carbon steel sheets and heavy steel plate. These indirectly protect domestic slab producers and contribute to higher domestic slab prices than would otherwise prevail without those measures.

- **Limited slab imports into Brazil**: Brazil is a major *exporter* of slabs (semi-finished steel), with exports reaching around [CONFIDENTIAL TEXT DELETED-Number] million tonnes in 2025. There is no evidence of significant slab imports into Brazil, so domestic slab producers face minimal foreign competition.
- **Integrated production chain**: Major Brazilian steelmakers (e.g., CSN, Usiminas, ArcelorMittal) are largely integrated, producing slabs upstream and rolling them into finished flat products downstream. The anti-dumping duties and import quotas targeting finished or semi-processed flat products reduces competition from low-priced imported finished goods, which in turn allows domestic producers to maintain higher prices and margins on their finished output.
- **Price transmission along the chain**: Higher realisable prices in the protected downstream segment increases the overall profitability of integrated operations. This

enables producers to sustain higher internal (transfer) pricing for slabs or support higher costs at the slab stage without eroding margins. In essence, the "price umbrella" created by remedies on finished goods shelters the entire value chain, allowing domestic slab pricing to remain elevated relative to a scenario of unchecked import competition in finished products.

While economic theory notes that downstream protection can sometimes depress upstream input prices by incentivising input imports, this requires substantial untaxed input imports, which is not the case in Brazil for slabs. Here, the dominant effect is protective for the integrated domestic industry.

In summary, given Brazil's net exporter status for slabs, integrated mills, and focus of remedies on downstream products, the trade remedy measures provide indirect upstream benefits, supporting higher domestic slab pricing than in a fully open import scenario for finished goods.

D. Data Reliability and Procedural Considerations

i) Assessment of MEPS as a Data Source

The Commission's use of MEPS International Ltd data raises questions about its suitability. Previous evaluations, such as in Investigation No. 316 on grinding balls, identified limitations in objectivity, methodology transparency, resourcing, and market acceptance compared to alternatives like Platts. These concerns persist, and reliance on non-public subscription data may diverge from transparency norms in jurisdictions like the US and EU. We recommend verifying against more robust sources to ensure compliance with section 269TAC(2)(c).

ii) Disclosure and Fair Process

MOFCOM seeks clarification on the uplift calculations, including data sources and adjustments. While confidentiality is respected, placing non-sensitive details on the public record under section 269ZJ would enhance transparency, consistent with ADA Articles 6.4 and 6.9. An extension for further input would be appreciated if disclosure is provided.

COUNTERVAILING

While the Commission's verification process did confirm the accuracy of the respondent's records, the preliminary findings on financial contributions under Program 178 (raw materials and utilities provided at less than adequate remuneration, or LTAR) are fundamentally flawed. These determinations, based on weak classifications of "public bodies" and governmental "direction," blatantly ignore exporter-specific evidence and violate Australia's obligations under the World Trade Organization's Agreement on Subsidies and Countervailing Measures (ASCM) and the Act, resulting in inflated subsidy margins.

E. Introduction to key subsidy issues

The Commission's conclusion that the respondent's suppliers, whether state-owned enterprises (SOEs), state-invested enterprises (SIEs), or private entities, qualify as "public bodies" under Article 1.1(a)(1) of the ASCM, or are entrusted or directed by the GOC to

provide inputs at LTAR, lacks sufficient support. This leads to a financial contribution that confers a benefit under section 269T(1) of the Act, with external Brazilian steel slab benchmarks used to assess inadequate remuneration.

Using the respondent's verified supplier data would better align with ASCM principles of accuracy and fairness. In a global steel market driven by negotiations and imports in the case of iron ore, these findings prioritise assumptions over evidence. The approach mixes entity-specific evaluations under Article 1.1(a)(1) with broader market considerations, relying on systemic inferences rather than proof, resulting in elevated subsidy margins. The evidence shows that the respondent's arm's-length transactions and audited processes are reliable, and setting them aside without direct proof undermines the investigation's credibility.

F. Analysis of Financial Contribution Determination

Article 1.1(a)(1) of the ASCM requires a financial contribution via goods or services from a "public body" or a private entity entrusted or directed by government. The Commission verified the respondent's suppliers use commercial pricing based on market transactions, yet it proceeds with classifications linked to alleged GOC distortions. This extends the ASCM beyond its intended scope, introducing a "systemic influence" criterion not supported by the text or case law. The subsections below address this using WTO rulings that emphasise specific evidence of authority or direction tied to transactions, rather than general policy references.

i) DS379 (United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China)

In the DS379, the Appellate Body reversed the Panel's findings and ruled that the term "public body" in Article 1.1(a)(1) of the ASCM refers to any entity that possesses, exercises, or is vested with governmental authority. It explicitly rejected the U.S. Department of Commerce's (USDOC) approach of classifying certain Chinese SOEs as public bodies based primarily on majority government ownership, finding that ownership or control alone is insufficient without evidence that the entity is empowered to perform governmental functions.

Instead, such determinations required case-specific evidence, which may include indicia like statutory or legal instruments vesting authority, or proof of the entity exercising that authority through specific actions in the context of the alleged financial contribution, rather than relying on abstract characteristics or assumptions about state ownership.

Commission verified commercial negotiations indicate no such authority, making the public body classification unsupported. Without evidence of suppliers exercising power to enforce LTAR, this approach is inconsistent with DS379. The Commission appears to favour generalisations over specific facts.

ii) DS296 (United States – Countervailing Duty Investigation on Dynamic Random Access Memory Semiconductors (DRAMS) from Korea)

The Appellate Body in DS296 clarified the interpretation of "entrusts or directs," stating that it requires a government to give responsibility to (entrustment) or exercise authority over (direction) a private body to carry out a financial contribution, acting as a proxy for

governmental functions. This involves affirmative governmental action beyond mere encouragement, policy pronouncements, or market intervention without a demonstrable link to the private body's specific conduct.

The Appellate Body also rejected a narrow focus on "direct commands" and emphasised that evidence must be viewed in totality, with a nexus to particular transactions rather than relying solely on systemic or contextual factors. The Commission's HRC findings resemble this challenged method, referencing GOC plans (e.g., Five-Year Plans) without specific direction in the respondent's transactions. No explicit mandates appear in the evidence presented by the enterprises under investigation, only verifiable market prices.

G. Examination of Methodology for Assessing Public Bodies and Direction

If a financial contribution analysis is pursued under Article 1.1(a)(1), the Commission's methodology requires a more rigorous, entity-specific assessment. In SEF 658, the Commission evaluates suppliers as public bodies based on factors such as public policy objectives, legal instruments, degree of independence, alignment with government interests, and ownership structures (e.g., oversight by the State-owned Assets Supervision and Administration Commission (SASAC)). For private entities, it infers entrustment or direction from systemic GOC influence, such as through the CMRG for iron ore pricing or coal subsidies implemented since 2020. However, this methodology applies overly broad assumptions without sufficient tailoring to individual suppliers or transactions, disregarding the respondent's key specific factors like independent commercial negotiations, the absence of explicit GOC commands, and pricing driven by market competition and profitability motives.

A review reveals the following shortcomings. First, the approach aggregates suppliers under a "pervasive" systemic lens, treating elements like party committees in companies or general policy alignments (e.g., the 14th Five-Year Plan) as conclusive evidence of governmental authority. Yet, WTO jurisprudence, including DS379, mandates a fact-specific inquiry for each entity, focusing on whether governmental authority is "exercised" in the provision of goods, such as raw materials like iron ore, coke, or steel scrap, at LTAR. In this case, verification visits confirmed that supplier pricing reflects arm's-length dealings, with no documented instances of suppliers acting under vested authority to suppress prices.

Second, the methodology's reliance on prior cases (e.g., continuations 590 and 611) and external sources like U.S. Department of Commerce findings introduces potential biases without fresh, case-specific verification. This circular reasoning, where historical assumptions about GOC influence in the steel sector (e.g., consolidation under China Baowu Group in 2016) are reapplied without assessing their applicability to the current investigation period (1 October 2023 to 30 September 2024). Comparative industry data indicates that Chinese steel input markets are increasingly diverse, with private suppliers competing globally and influenced more by international factors (e.g., imported iron ore prices) than domestic distortions. By not accounting for these dynamics, the methodology overestimates systemic effects, leading to elevated subsidy margins.

Third, for private suppliers, the inference of "direction" lacks the affirmative and explicit acts required. The SEF assumes market-wide impacts from GOC policies, such as CRMG's centralisation of iron ore purchases since 2022, but does not link these to specific directives

affecting the respondent's supply chain. Instead, the respondent's audited records show pricing driven by supply-demand negotiations, efficiencies from advanced production technologies, and global sourcing, with no evidence of compulsion or delegation. This stems from the economics of China's steel input markets: a mix of integrated and non-integrated suppliers, where even SIEs prioritise profitability amid overcapacity and export pressures, rather than fulfilling governmental functions.

In summary, the methodology lacks a more granular, evidence-based framework that prioritises direct proof of authority or direction at the transaction level, as demanded by WTO standards. Without such adjustments, it overstates financial contributions and subsidy levels, undermining the accuracy of the countervailing duty calculations.

H. Data Reliability and Procedural Considerations

i) Assessment of External Benchmarks and Sources

The Commission's reliance on Brazilian steel slab indices as external benchmarks for assessing the adequacy of remuneration under Program 178, raises significant concerns about data reliability and suitability. These benchmarks are used to calculate the benefit from LTAR by comparing the respondent's recorded input costs for steel slab, a key component in HRC production, against adjusted Brazilian market prices, which the Commission deems reflective of undistorted conditions. However, the assessment at section C of this submission reveals multiple issues with this choice, including structural differences in market dynamics that render the benchmarks unrepresentative and biased upward.

Additionally, the SEF's incorporation of secondary sources, such as U.S. Department of Commerce findings and prior Australian investigations (e.g., continuations 590 and 611), introduces further reliability issues. These references often rely on aggregated, non-public data without full methodological transparency, as noted in past Commission reviews like Investigation No. 316 on grinding balls, where similar sources were questioned for objectivity and market acceptance compared to reliable alternatives.

In this case, the lack of exporter-specific verification, despite the respondent's submission of detailed, audited transaction data, undermines compliance with the Act, which emphasises using the most reliable available information. We recommend cross-verifying against more robust, China-adapted sources, such as global commodity indices (e.g., adjusted Platts iron ore or coke prices) or the respondent's own verified imported prices, to ensure the benchmarks truly reflect competitive, undistorted values.

ii) Disclosure and Fair Process

MOFCOM requests greater transparency in the Commission's classification and calculation processes, including detailed breakdowns of data sources, assumptions for public body determinations, and specific adjustments to benchmarks. Under section 269ZJ of the Act, non-confidential summaries of essential facts must be placed on the public record to allow interested parties meaningful opportunities to respond, yet the SEF provides only high-level descriptions without sufficient granularity on how "facts available" were applied or how external sources were weighted. This opacity hinders our ability to contest inaccuracies, such as the attribution of systemic GOC influence to individual transactions.

This approach falls short of procedural fairness requirements under ASCM Articles 12.4 and 12.8, which mandate timely disclosure of relevant information and essential facts under consideration to enable defense of interests. In WTO jurisprudence, such as DS296 and DS379, panels have emphasised that investigating authorities must provide adequate explanations and access to underlying data, particularly in non-cooperation scenarios, to avoid arbitrary inferences. Given the material impact on subsidy margins, withholding details risks due process violations. We urge the Commission to disclose non-sensitive elements promptly and grant a reasonable extension for further submissions, consistent with ADA Article 6.9 equivalents in the ASCM, to promote equitable outcomes.

Concluding Recommendations

In summary, based on the preceding commentary and conclusive recommendations, MOFCOM urges the Committee to fully adopt the verified cost data of the responding enterprises for determining normal value; to carefully reassess and rectify the findings regarding public body/direction concerning the relevant suppliers, and to clarify that no subsidies exist under Item 178; and to base its determinations strictly on the specific evidence submitted by each respondent, avoiding presumptions derived from broad assumptions, and to revise the final report accordingly.

It must be noted that a key raw material for hot-rolled steel coil production—iron ore—is sourced in significant volumes from Australia annually, reflecting the deeply interwoven industrial and supply chain cooperation and mutual benefit between China and Australia. We urge the Committee to respect facts and rules, correct its improper approaches, refrain from negatively impacting the stable and healthy cooperation between the industries of both countries, and earnestly adhere to multilateral trade rules. We call for avoiding the misuse of trade remedy measures and ensuring the legitimate rights and interests of Chinese exporting enterprises are safeguarded in a fair, just, and non-discriminatory manner.

Yours sincerely

Fan Xi

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Ministry of Commerce, P.R.C.