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COMMENTS ON THE STATEMENT OF ESSENTIAL FACTS

OF THE

**DUMPING AND COUNTERVAILING INVESTIGATION OF STEEL CORNER
BEADS AND ANGLES EXPORTED TO AUSTRALIA FROM THE PEOPLE'S
REPUBLIC OF CHINA**

ON BEHALF OF

GUANGZHOU AOSHI BUILDING MATERIALS CO., LTD

(“AOSHI”)

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15 MARCH 2026

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I. The Case Overview

On 29 May 2025, the Anti-Dumping Commission of Australia (hereinafter “ADC” or the “Authority”) issued Notice No. 2025/045, announcing the initiation of an anti-dumping and countervailing duty investigation into imports of steel corner beads and angles from the People’s Republic of China upon the application filed by the Australian domestic producer, Rondo Building Services Pty Ltd. The products under investigation (PUI) are classified under Australian customs tariff codes 7216.61.00.57, 7216.69.00.58, 7216.91.00.59, 7216.99.00.60, and 7308.90.00.53.

Following the initiation of the investigation, upon extension requested, the Chinese exporter **GUANGZHOU AOSHI BUILDING MATERIALS CO., LTD** (“Aoshi” or “the Respondent”) and its non-affiliated producer **WENAN JINKAI BUILDING MATERIAL CO., LTD** (“Jinkai”) duly submitted their complete exporter questionnaire responses on 22 August 2025.

On 15 October 2025, the Authority issued its preliminary decision (“Preliminary Determination”), stating that one party submitting a questionnaire response did not export the goods during the investigation period and therefore would not be considered an exporter for the purposes of the investigation, and accordingly disregarded Aoshi’s submission.

Aoshi respectfully submits that this conclusion is incorrect. Aoshi did conclude export sales contracts for the subject goods destined for Australia during the investigation period, and the Authority should not determine the absence of exports merely because no commercial invoices (“CIs”) were issued within the period. Following the issuance of the Statement of Essential Facts in Investigation 677 (the

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“SEF”), the Authority further concluded that Aoshi “did not export the goods to Australia during the investigation period” and therefore “cannot be examined” for the purpose of assessing dumping under section 269TACB(1), asserting that the existence of a contract alone does not satisfy the requirement that goods have been exported during the investigation period. Aoshi respectfully disagrees with this interpretation and maintains its original position: the export sales were concluded during the investigation period, the contract date constitutes the legally relevant date of sale, and Aoshi should be treated as an exporter whose transactions are examined on their merits.

The following sections set forth the detailed comments of Aoshi.

II. The Authority has Recognized Aoshi’s Standing as Interested Party

Upon initiation of the investigation, Aoshi promptly contacted the Authority to discuss its status as an interested party. On 4 August 2025, Aoshi explained that although no commercial invoices (“CIs”) were issued within the investigation period, Aoshi had entered into export sales contracts for the subject products with its Australian customer during the investigation period (specifically on 28 June 2024). **For Aoshi, once a contract is concluded, all material terms (including quantity, unit price, product specifications, and delivery terms) are fixed and shall not change thereafter.**

On 8 August 2025, at the Authority’s request, Aoshi submitted the above-mentioned contracts, together with the corresponding purchase contracts from its unaffiliated producer Jinkai, both dated within the investigation period. On 12 August 2025, the Authority confirmed that Aoshi could submit an exporter questionnaire response and that its submission would be taken into account in the subsequent

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Statement of Essential Facts (“SEF”), a complete record of which is attached as the Annex. In these circumstances, where the SEF later concludes that Aoshi should not be regarded as an exporter because it “did not export” the goods during the investigation period and that the existence of a contract alone does not satisfy the relevant requirement, Aoshi respectfully submits that further reconsideration of the reasoning underlying this conclusion would be helpful.

Specifically, Aoshi kindly seeks further consideration regarding the legal standard applied in determining whether goods are considered to have been “exported during the investigation period”, why contracts fixing all material terms within the investigation period would not satisfy that standard in an anti-dumping investigation, and what types of evidence the Commission would consider sufficient to demonstrate that export sales occurred during the relevant period.

III. Aoshi Made Export Sales During the Investigation Period and Should Be Examined

The SEF states that, after reviewing Aoshi’s REQ, the Commission “determined that Aoshi did not export the goods to Australia during the investigation period” and that, for this reason, Aoshi’s exports “cannot be examined” for the purposes of assessing dumping under section 269TACB(1). The SEF further reasons that the existence of a contract alone does not satisfy the requirement that goods have been exported during the investigation period. Aoshi respectfully submits that this reasoning rests on an unduly narrow construction of “exportation” that is inconsistent with the anti-dumping framework and produces a circular barrier that defeats the statutory purpose.

1. “Exportation during the investigation period” is not a narrow “physical

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shipment/clearance only” threshold.

The SEF appears to treat “exportation” as requiring evidence of physical shipment and entry for home consumption occurring during the investigation period, and treats the contract date as legally irrelevant unless such physical exportation is first shown.

However, neither the SEF nor the cited provisions establish a rule that “exported during the investigation period” can only mean “physically shipped/cleared during the period”, to the exclusion of export sales made during the period where all material terms are fixed and the transaction is binding. In an anti-dumping investigation, the object of examination is the export transaction by which goods are sold for export to Australia; the inquiry is not a standalone logistics audit. Reading “exportation” as limited to a single formalistic logistics milestone would improperly collapse the substantive concept of export sale into a narrow procedural event.

2. The SEF approach creates a circular barrier and nullifies the role of “date of sale” analysis.

The SEF’s approach provides: (i) the date of sale analysis is relevant only once “exportations have occurred”, yet (ii) “exportations” are treated as not having occurred unless physical shipment/clearance evidence falls within the period. This risks creating a circular barrier for a common commercial scenario: an export contract executed within the investigation period fixes the material terms, while shipment/invoicing occurs later due to production lead times and delivery schedules. Under the SEF’s logic, such transactions are excluded from examination even though the export sale is made during the period and thus shall be assessed. This reading would render “date of sale” principles meaningless precisely in circumstances where they are designed to ensure an

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accurate and undistorted comparison.

3. On the record, Aoshi concluded binding export sales contracts during the investigation period that fixed all material terms.

Aoshi's original submission and documentary evidence explain that Aoshi entered into export sales contracts with an Australian customer during the investigation period and that these contracts fixed the material terms of sale, with no further changes. On Aoshi's facts, the export sale is made when the contract is concluded: it is at that point that the parties are bound, and the material terms that define the export transaction are established. Accordingly, Aoshi submits that export sales were made during the investigation period and that Aoshi should be treated as an exporter whose transactions are examined in the dumping assessment.

IV. The "Date of Sale" of Aoshi is the Contract Date

As explained in Section III above, Aoshi maintains that its export sales were made during the investigation period, and that the SEF's contrary conclusion rests on an unduly narrow construction of "exportation". Once it is recognized that an export sale made during the investigation period is an "exportation" that must be examined, the "date of sale" analysis is indispensable to establishing a proper export price and conducting a fair comparison. The SEF's statement that an export price "cannot be established" because Aoshi allegedly "did not export" during the period is therefore a consequence of the SEF's threshold construction, not a neutral fact.

In this context, Aoshi kindly reiterates its original position: under footnote 8 to Article 2.4 of the WTO Anti-Dumping Agreement and under Australian practice, the date of sale is the date that establishes the material terms of sale; there is no legal

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hierarchy mandating invoice date; and the Commission’s own materials and precedents recognize that a non-invoice date may be the date of sale where it best reflects when material terms were fixed.

Aoshi submitted sales documentation demonstrating that its export sales contracts already reflected all material terms of sale. Under both the WTO Anti-Dumping Agreement (“WTO ADA”) and Australian domestic law, the date of sale is determined based on the date on which the material terms of sale are established, and there is no rule prescribing that the invoice date must prevail over the contract date or any other date.

Globally, jurisdictions follow the same core principle in defining the date of sale: it is the point when the key terms of the transaction: price, quantity, and delivery, are firmly established. While wording differs, Members consistently treat the date of sale as when these material terms are finalized, not simply the invoice date.

In the present case, Aoshi submits that adopting the contract date as the date of sale neither violates any requirements of WTO rules nor deviates from the practice of many WTO Members, including Australia. Such an approach is fully consistent with fundamental legal principles under international trade law. Accordingly, it is entirely reasonable for the Authority to recognize the contract date as Aoshi’s date of sale. Therefore, Aoshi disagrees with the Authority’s preliminary conclusion that “Aoshi did not export the subject products to Australia during the investigation period.” The specific reasons are set out below.

1. Under the WTO ADA, the “date of sale” is when material terms are set.

The WTO ADA contains no separate definition of the “date of sale,” but guidance

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is provided in footnote 8 to Article 2.4:

“Normally, the date of sale would be the date of contract, purchase order, order confirmation, or invoice, whichever establishes the material terms of sale.”

Two clear principles are thus defined:

(1) There is no single mandatory date applicable in all circumstances, multiple reference points are recognized (contract, purchase order, order confirmation, invoice); and

(2) The governing criterion is which date establishes the material terms of sale.

Put differently, the WTO ADA adopts a approach *substantia praevallet formae*: if the contract fixes the material terms, its date may serve as the date of sale; if those terms later change, the date should be adjusted. A rigid reliance on invoice date but ignoring commercial reality may contradict footnote 8.

For example, in *European Communities – Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil (WT/DS219)*, Brazil argued that currency depreciation during the investigation period required reliance on a different dataset. In addressing the relevant exchange rate date, the Appellate Body emphasized that the appropriate date is the date when sales terms are fixed, irrespective of whether that date is the contract or invoice date.¹

Likewise, in *United States – Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan (WT/DS184)*, both the Panel and Appellate Body

¹ WTO, *European Communities – Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil*, WT/DS219/AB/R, adopted 18 August 2003.

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recognized that the U.S. Department of Commerce considered whether a date earlier than the invoice date existed on which the material terms had been set, confirming that invoice date is not automatically controlling under WTO rules.² Also, in its Seamless Copper Pipe case, the respondent Golden Dragon “reported the invoice date as the date of sale because it claims that for its U.S. sales of subject merchandise made during the POR, the material terms of sale were established”, and this was accepted by the Authority.³

This principle is further reflected in the U.S. domestic litigation involved the Turkish producer Habas concerning U.S. reviews of rebar imports. There, the Court remanded the Department of Commerce’s determination because the agency failed to adequately explain why it rejected the contract confirmation date, which reflected final material terms, and instead relied solely on invoice date.⁴

These precedents all show that WTO jurisprudence and Members’ practice focus on identifying when key commercial terms are actually finalized, rather than applying any date mechanically. Australia and other Members have incorporated this principle from footnote 8 into domestic practice, encouraging the use of whichever date best reflects when the sale occurred and ensures accurate, undistorted price comparisons.

2. No legal hierarchy exists between contract date and invoice date.

² WTO, United States – Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan, WT/DS184/AB/R, adopted 23 August 2001.

³ Seamless Refined Copper Pipe and Tube From the People’s Republic of China: Preliminary Results of the First Antidumping Duty Administrative Review, and Intent To Rescind in Part, 77 Fed. Reg. 47,030, 47,033 (Aug. 7, 2012).

⁴ United States Court of International Trade, *Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. v. United States*, Slip Op. 22-85, 566 F. Supp. 3d 1342 (CIT 2022).

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Page 51 of the *Australian Dumping and Subsidy Manual*, under the section “Determining the date of sale,” provides that:

“In determining the date of sale, the Commission will generally use the invoice date as this best reflects the material terms of sale... Where it is contended that a date other than the invoice date is more appropriate, the Commission will examine the evidence provided.”

This demonstrates that the ADC adopts the invoice date not because it holds legal superiority, but rather because it normally best reflects the material terms of sale. This approach is fully aligned with footnote 8 to Article 2.4 of the WTO ADA, in which the key criterion is the date that most accurately reflects when the material terms of sale are established.

In ADRP Report No. 15, the review of anti-dumping measures imposed on wind towers from China and Korea, the Anti-Dumping Review Panel (ADRP) emphasized that: *“it was open to the Commissioner to select an exchange rate at the time determined and not the time of the purchase orders”*.⁵ This confirms that the investigating authority is not required to confine the date of sale to the invoice date.

Furthermore, question B-1.8 of the ADC Exporter Questionnaire expressly allows respondents to propose a date other than the invoice date:

“In determining the date of sale the Commission will generally use the invoice date as this best reflects the material terms of sale. If you contend that a date other than the invoice date is more appropriate as the date of sale:

⁵ ADRP Report No. 15 – Wind Towers Exported from the People’s Republic of China and the Republic of Korea, paragraph 31.

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(a) *What is the date you claim as the date of sale?*

(b) *Why does this date best reflect the material terms of sale?"*

Taken together, **neither the WTO ADA nor Australian domestic law establishes any legal presumption or priority in favor of invoice date to the exclusion of other dates that sufficiently reflect the material terms of sale.** Therefore, once Aoshi has demonstrated that its contract establishes the material terms of sale, the Authority shall treat the contract date as the date of sale.

3. Precedents of using a non-invoice date as the date of sale exists.

The Australian investigating authority has, in past investigations, adopted sales dates other than the invoice date, based on the facts of each case. The following examples demonstrate that the Authority (ADC) is required to select, based on actual circumstances, a non-invoice date as the date of sale:

In REP 529, *the administrative review of anti-dumping on hollow structural sections from China, Korea, Malaysia, Taiwan and Thailand*, the Korean exporter Kukje submitted evidence that its internal sales accounting system recorded revenue on the bill of lading date (*i.e.*, date of shipment) rather than the invoice date. The ADC found, after examination, that the invoice date did not best reflect the date on which the material terms of the transaction were concluded, because the invoice may have been issued at a later time than the actual shipment. Accordingly, in calculating the dumping margin, the ADC used the bill of lading date as the date of sale.⁶

In TER 219, *the anti-dumping investigation on transformers from China*,

⁶ Final Report, REP 529 - HSS from China, Korea, Malaysia, Taiwan and Thailand, Page 82.

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Indonesia, Korea, Taiwan, Thailand and Vietnam, the ADC determined the bill of lading date as the date of sale for large and complex equipment transactions, because it best reflected the time when the material terms of sale were established.⁷

In REP 221, *anti-dumping investigation on wind towers from China and Korea*, given the long production and delivery cycles, frequent partial shipments, and involvement of embedded components, the exporter Win&P used an order-then-ship strategy. There were mismatches among purchase orders, invoices and actual shipment quantities. For example, the ADC found that: a revised purchase order listed segmented quantities inconsistent with those on the commercial invoice; the invoice quantities differed from actual loaded shipment quantities; and some tower sections had been paid for but not yet shipped. The ADC chose the date on which the sales revenue was recognised in Win&P's account as the date of sale.⁸

In REP 499, *the administrative review of anti-dumping investigation concerning hot-rolled structural sections from Japan, Korea, Taiwan and Thailand*, in its Statement of Essential Facts, the ADC initially proposed to use the invoice date as the date of sale. Subsequently, Hyundai submitted sales documentation proving that price, quantity, payment terms, shipping terms etc. were fixed at the order date and did not change thereafter for each sale to an Australian customer. The ADC accepted the evidence and in the final determination changed the date of sale from invoice date to the order date.⁹

⁷ Termination Report, TER 219: Power transformers from China, Indonesia, Korea, Taiwan, Thailand and Vietnam, Page 23.

⁸ Final Report, REP 221- Wind towers from China and Korea, Page 36.

⁹ Final Report, REP 499- Hot rolled structural steels from Japan, the Republic of Korea, Taiwan and the Kingdom of Thailand, page 36.

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In ADRP Report No. 80, *concerning steel reinforcing bar anti-dumping administrative review involving Greece, Indonesia, Spain, Taiwan and Thailand*, the Anti-Dumping Review Panel noted:

*“The respondent’s formal invoices best reflected the date on which the material terms of sale under footnote 8 of the Anti-Dumping Agreement were established.”*¹⁰

The ADRP observed that even though the formal invoice *“made slight amendments to order details and destination port”*, the material terms of sale remained unaffected¹¹ and the *“formal invoice became the core document of the transaction”*.¹²

The ADRP further noted that there were no sales invoices to Australia within the investigation period and found Nervacero’s position reasonable, that unverified information outside the period should not outweigh verified data and sales terms within it.¹³

Based on the above, Aoshi reiterates the Authority’s attention to the fact that under Australian investigative practice it is lawful and appropriate to choose the contract date as the date of sale. This practice is not rare in the investigations of the Anti-Dumping Commission.

4. A commercial invoice is not determinative of when the agreement was reached.

¹⁰ ADRP Report No. 80 – Steel Reinforcing Bar Exported to Australia from Greece, the Republic of Indonesia, Spain, Taiwan and the Kingdom of Thailand, paragraph 305.

¹¹ ADRP Report No. 80 – Steel Reinforcing Bar Exported to Australia from Greece, the Republic of Indonesia, Spain, Taiwan and the Kingdom of Thailand, paragraph 286.

¹² ADRP Report No. 80 – Steel Reinforcing Bar Exported to Australia from Greece, the Republic of Indonesia, Spain, Taiwan and the Kingdom of Thailand, paragraph 287.

¹³ ADRP Report No. 80 – Steel Reinforcing Bar Exported to Australia from Greece, the Republic of Indonesia, Spain, Taiwan and the Kingdom of Thailand, paragraph 290.

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The Authority's preliminary determination did not inform Aoshi of the basis for concluding that Aoshi had no exports of the products under investigation during the investigation period. We infer that the Authority's conclusion is likely based on Aoshi's lack of commercial invoices dated within the investigation period. In this regard, Aoshi wishes to draw the Authority's attention to the fact that, for Aoshi, the commercial invoice is merely used for customs clearance of exports/imports, and bears no necessary relationship to when the parties reached agreement on the transaction, nor when the product was exported from China. Prior to issuance of the commercial invoice, the material terms of sale had already been established in Aoshi's sales contract with the customer.

In ADRP Report No. 80, *the administrative review of anti-dumping on reinforcing bar involving Greece, Indonesia, Spain, Taiwan and Thailand*, the Review Panel addressed the invoice-date issue. In that case, the ADC had treated the exporter Nervacero's invoice date as the date of sale because the company's financial system recorded the sale based on invoice date. But the ADRP held that "*a company's internal accounting practice cannot have anything to do with the establishment or existence of a contractual relationship with another party.*"

Hence the ADRP found that the contract between the seller and buyer was concluded at an earlier date (the formal invoice date) and this earlier date was the relevant one.

It is clearly seen that a commercial invoice does not automatically qualify as a proper basis for the date of sale, and the Authority cannot deny Aoshi's standing simply on the ground that Aoshi does not possess commercial invoices dated within the investigation period. When selecting the date of sale, the only relevant legal standard the Authority must apply is when were the material terms of sale established; and were

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the quantity and value of the sale subject to continuing negotiation after the claimed date of sale.

5. Aoshi has demonstrated that the material terms of sale were fixed on the contract date and were not subject to further negotiation between the parties.

On page 51 of the Australian Dumping and Subsidy Manual, under the heading “Determining the date of sale,” it is stipulated that:

“In determining the date of sale the Commission will generally use the invoice date as this best reflects the material terms of sale... If the party claims that a date other than the invoice date better reflects the date of sale, the Commission will review the evidence provided... such evidence must relate to whether, after the claimed contract date, quantity and value were subject to further negotiation between the buyer and the seller.”

Regarding which party bears the burden of proof, the ADRP in Report No. 152, *the review of anti-dumping on copper tubes from Vietnam*, observed that the evidentiary burden is on the party claiming that a date other than the date of invoice better reflects the date of sale.

Further, the ADRP found that in that case the respondent’s purchase-order-confirmation date (the date claimed as date of sale) was not suitable because the amount invoiced was subject to change; some confirmations lacked prices; some used different currencies; and revenue recognition, discounting, rebates, returns and warranty claims were only accounted for when the goods were shipped.

From the above legal provisions and cases, the following conclusions may be

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drawn:

(1) Both the ADC and ADRP agree that the crucial criterion for determining the date of sale is when the material terms of sale are fixed;

(2) The material terms include sales quantity, value, shipping/delivery terms, etc.;

(3) If a respondent claims a date other than the invoice date as the date of sale, the burden of proof rests with that party, and the evidence must demonstrate that after the claimed date, the quantity and value of the transaction were not subject to further negotiation.

On this basis, the following discussion will detail that in the present case Aoshi's material terms of sale were fixed at the contract date and the company has fulfilled the corresponding evidentiary burden.

In its exporter questionnaire response submitted on 22 August 2025, in Item B-1.8, Aoshi clearly stated:

“The date of the export sales contract should be treated as the date of sale, because the contract with the customer already states the material terms of sale, including quantity, unit price, value and delivery terms, which have thereafter remained unchanged. Therefore, the contract fully reflects the material terms of sale.”

To support this claim, Aoshi submitted in Exhibit B-3.1 all of its export sales documents to Australia during the investigation period. A comparison between the export sales contracts and the commercial invoices shows that after contract execution, all terms of sale—including quantity, unit price, value and shipping terms—remained unchanged. This further demonstrates that the contract date is the appropriate date on which the material terms of sale were established and should be treated as the date of

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sale.

For ease of comparison, Aoshi submits the following table comparing the above contracts and commercial invoices:

a. *Commercial Invoice* **[Commercially Sensitive Information: Company's CI related data]**

Doc Type	Part No.	Quantity	Unit Price	Total Value	Delivery Term
Commercial Invoice	[Commercially Sensitive Information: Company's CI related data]				
Contract	[Commercially Sensitive Information: Company's Contract related data]				

b. *Commercial Invoice* **[Commercially Sensitive Information: Company's CI related data]**

Doc Type	Part No.	Quantity	Unit Price	Total Value	Delivery Term
Commercial Invoice	[Commercially Sensitive Information: Company's CI related data]				
Contract	[Commercially Sensitive Information: Company's Contract related data]				

In summary, the material terms of Aoshi's sales were fixed on the contract date, with no further negotiation or subsequent changes. **Aoshi has thus fulfilled its evidentiary burden in the questionnaire response.**

6. Only by using the contract date as the date of sale can Aoshi have a comparable export price within the investigation period

One of the core functions of an anti-dumping investigation is to compare the export

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price with the normal value. Accordingly, when determining the date of sale, the Authority shall kindly rely on the point in time when the price was fixed, rather than when the products were imported or cleared through customs. International laws and the WTO Members' practices consistently emphasize selecting the date that best reflects the establishment of the material terms of sale, rather than mechanically defaulting to a formalistic date. This reflects the fundamental principle of substance over form.

Where uncertainty exists in determining the date of sale, the Authority should act with prudence and fairness, affording the exporter the benefit of reasonable consideration. Consistent with Annex II of the WTO ADA, the Authority is required to make every effort to use information provided by cooperating respondents, even if the information is not procedurally perfect, so long as it is verifiable and relevant.¹⁴ Only when a respondent fails to cooperate, rendering material facts unavailable, may the Authority draw adverse inferences, and even then, such conclusions must be based on reasoned and probative evidence, not assumptions.

Here, no other Chinese exporter has submitted a questionnaire response. Disregarding Aoshi's submission would therefore leave the record without any usable exporter data, making it impossible to calculate the dumping and subsidy margins on the data on record. Aoshi therefore respectfully requests the Authority to apply the general legal principle of *in dubio mitius*¹⁵ and also *proportionnalité* in determination

¹⁴ WTO, Analytical Index of the WTO Agreements: Anti-Dumping Agreement – Annex II (Best Information Available), paras. 5–6.

¹⁵ WTO, Dispute Settlement Understanding, Article 3. See also WTO, Repertory of Appellate Body Reports, “Interpretation – Article 3 – 3.8 Principle of *in dubio mitius*”.

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so that investigative uncertainties are resolved in favor of a fully cooperative respondent, thereby encouraging cooperation and upholding procedural fairness.¹⁶

Invalidating all of Aoshi's responses, evidence, and comments solely because of the invoice-date issue, and then relying exclusively on "other available information" to calculate the margins for all Chinese exporters, would severely prejudice Aoshi's rights and interests, and undermine the purpose of this investigation.

The purpose of anti-dumping measures is to remedy distortions in trade, not to penalize law-abiding and fully cooperative exporters. Adopting a reasonable approach to critical issues such as the date of sale will help ensure the fairness, accuracy, and legitimacy of the Authority's final determination.

V. In Any Event, Aoshi Falls Within the Range of Exporters Under Investigation.

In its e-mail dated 25 September 2025, the Authority advised Aoshi that:

"...the commission has determined that Aoshi will not be considered an exporter for the purposes of this investigation, as no goods were exported to Australia during the investigation period... While we understand Aoshi has referred to its contract date as the relevant date of sale, we note that under section 269TACB(1) of the Customs Act 1901, the date of sale is relevant only for the comparison of normal value and export price. It does not override the requirement that goods must be exported during the

¹⁶ Appellate Body Report, European Communities – Measures Concerning Meat and Meat Products (Hormones), WT/DS26/AB/R, adopted 13 February 1998, para. 165. The Appellate Body stated: "This principle [in dubio mitius] generally holds that where a treaty provision is ambiguous, the meaning which least restricts the sovereignty of States must be adopted."

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investigation period in order to be examined.”

Aoshi respectfully disagrees with this reasoning. Aoshi understands the Authority’s first statement as merely indicating that the Authority does not accept its contract-date argument. The second statement, however, that the date of sale within the investigation period is insufficient to satisfy the “products exported within the investigation period” requirement, is logically incoherent, for the following reasons.

Neither the WTO ADA nor the Authority’s cited Customs Act 1901 Section 269TACB (1) provides separate provisions distinguishing a “date of sale” from an “export date”. Exportation is simply a type of sale: domestic sales are made within the country, and export sales are made to buyers abroad. For Aoshi, a pure exporter, all subject sales are export sales made directly to Australian importers. Accordingly, there is no separate date distinct from the export date that could serve as the date of sale. The two are one and the same. As Aoshi concluded a contract with an Australian buyer during the investigation period, it necessarily made export sales during that period. Thus, even under the Authority’s interpretation that products must be “exported during the investigation period” to qualify an exporter, Aoshi satisfies that requirement.

This interpretation is supported by the Panel in *Argentina – Definitive Anti-Dumping Measures on Imports of Ceramic Floor Tiles from Italy (WT/DS189)*, where the Panel noted that the key question was whether the sale had in fact taken place when the contract was concluded or only when the goods were shipped, and found that **where a contract executed within the investigation period sets out the terms of sale, that sale should be regarded as occurring within the investigation period.**¹⁷

¹⁷ WTO, *Argentina – Definitive Anti-Dumping Measures on Imports of Ceramic Floor Tiles from Italy*,

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In light of the above, the contract date of Aoshi is the date when the material terms of the sales were reached, that is, the date of sale and the date of export. Since Aoshi had exports during the investigation period, it should be considered that Aoshi is the exporter in this investigation, and its responses should be included in the calculation.

VI. Conclusion and Requests

For the reasons set out above, Aoshi respectfully submits that the SEF's conclusion that Aoshi "did not export the goods to Australia during the investigation period" and therefore the conclusion of cannot be examined is not fully supported and should be kindly reconsidered.

Therefore, Aoshi maintains its original position: Aoshi made export sales during the investigation period; the contract date is the appropriate date of sale as it establishes the material terms; and Aoshi's transactions should be examined for dumping and subsidisation purposes on their merits.

Accordingly, Aoshi respectfully requests that the Commissioner:

Reverse the SEF conclusion in Chapter 2.4.4 that Aoshi did not export during the investigation period, and treat Aoshi as an exporter for the purposes of Investigation 677 whose transactions are examined in the dumping and subsidy assessment.

Accept the contract date as the date of sale for Aoshi's export sales because it best reflects when the material terms were established, consistent with the governing legal principles and Australian practice.

In the alternative (and without prejudice to the above requests), if the

WT/DS189/R, adopted 5 November 2001.

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Commissioner maintains that a contract within the investigation period is insufficient to demonstrate exportation, the Commissioner should set out a reasoned explanation identifying (i) the precise legal test applied for “exported during the investigation period”, (ii) why binding export sales contracts fixing all material terms cannot satisfy that test in an anti-dumping context, and (iii) what specific categories of evidence would be considered sufficient to demonstrate exportation in circumstances where shipment/invoicing occurs after contract execution.

Aoshi reiterates its willingness to continue cooperating fully and in good faith and requests that the Commission give full and careful consideration to Aoshi’s arguments and verified evidence, consistent with the overarching objectives of accuracy and fairness in anti-dumping investigations.

Thank you for your continued efforts. Should any further inquiries arise, please contact us. Aoshi remains committed to full and sincere cooperation with the Authority.



Luo, Xinqu

Partner, Jingtian & Gongcheng

Dated: 15 March 2026

(END)