

Our ref: **ATH:20260318**
Your ref:

Direct dial: 03 9321 7851
Direct email: ahudson@rigbycooke.com.au
Page: 1/5

www.rigbycooke.com.au
ABN 58 552 536 547

13 May 2026

NON-CONFIDENTIAL

The Director – Investigations 4
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

By Email: investigations4@adcommission.gov.au

Dear Director

**Gemco Rail Pty Ltd
Investigation 690 into freight railway wheels from China**

1 Background

- 1.1 We continue to act for Gemco Rail Pty Ltd (our **client**).
- 1.2 We refer to the submission made by our client on 7 April 2026, and the submission made by Commonwealth Steel Company Pty Ltd (**Comsteel**) dated 20 April 2026 (**Comsteel Submission**).
- 1.3 We refer also to the publication of Anti-Dumping Notice (**ADN**) 2025/128 and the Preliminary Affirmative Determination (**PAD**) report published by the Anti-Dumping Commission (**ADC**) on 22 December 2025.
- 1.4 Our client opposes Comsteel's Submission for the reasons set out in this letter and maintains its position that its cast railway wheels fall outside the scope of the goods under consideration (**GUC**) and are not subject to the interim measures imposed under the ADN.

2 Comsteel's interpretation of the GUC

- 2.1 Comsteel's Submission requires the Commission to disregard the express wording of the description of the GUC in the ADN and treat the manufacturing method of the GUC as commercially and legally irrelevant.
- 2.2 The ADN defines the GUC as "*Railway wheels of forged and rolled high carbon steel...*".¹ These words must be given their operative meaning. In particular "*forged and rolled*" is not a descriptive term. It is an express qualifier contained in the goods description itself and identifies the class of goods to which the measures apply.

¹ Anti-Dumping Notice 2025/128 paragraph 1.6

This email transmission is intended to be transmitted to the person named. Should it be received by another person, its contents are to be treated as strictly confidential. It is a privileged communication between the firm and the person named. Any use, distribution or reproduction of the information by anyone other than that person is prohibited. If you have received this email in error please contact us on 61 3 9321 7888.

Liability limited by a scheme approved under Professional Standards Legislation

RIGBY COOKE LAWYERS

Our ref: ATH:20260318

Letter to: The Director – Investigations 4
Anti-Dumping Commission

Your ref:

Page: 2/5

2.3 Comsteel's Submission seeks to reduce "forged and rolled" to a merely descriptive characteristic. Respectfully, that construction cannot be sustained. If "forged and rolled" is not intended to confine the scope of the GUC, then those words serve no operative function in the goods description.

2.4 The ADC must give effect to all words used in the description adopted in the ADN. Comsteel's construction would, in substance rewrite the GUC as extending to all railway wheels of high carbon steel used in freight service, irrespective of manufacturing process. That is not the goods description adopted by the ADC.

2.5 Additionally, Comsteel places considerable weight on the use of the word "typical" in the Further Information accompanying the goods description. The word "typical" in ancillary explanatory material cannot be used to override the express terms of the goods description itself. At its highest, the Further Information may assist in construing the scope of the GUC where ambiguity arises. It cannot displace the operative language of the goods description.

2.6 The words "forged and rolled" appear in the GUC itself, not merely in explanatory commentary. Comsteel's submission essentially impermissibly elevates ancillary explanatory material over the actual goods description adopted in ADN.

3 **Casting and forging are substantially different manufacturing processes**

3.1 Comsteel seeks to minimise the distinction between casting and forging by suggesting both processes merely begin with molten steel and end with heat treatment, machining, surface finishing and inspection. Respectfully, that is an oversimplification which obscures the relevant distinction between the two products.

3.2 As stated in our client's previous submission, casting involves pouring molten steel into a precision mould and allowing it to solidify into shape under controlled cooling conditions. In contrast, forging and rolling involves mechanically deforming solid steel ingot or billet under heat and pressure to shape and refine the wheel. These are fundamentally different production processes.

3.3 The distinction between these processes is not merely semantic. It is the reason forged and rolled wheels exhibit directional grain flow, enhanced toughness, superior fatigue resistance and greater resistance to crack propagation. Cast wheels do not exhibit the same grain flow characteristics because they are not the same.

3.4 A technical assessment conducted by our client in 2019 compared (amongst other things), the tread wear life and flange wear life of cast and forged wheels. The results of this assessment demonstrated that cast wheels and forged and rolled wheels do not perform identically. In fact:

■ [REDACTED]

■ [REDACTED]

Our ref: ATH:20260318

Letter to: The Director – Investigations 4
Anti-Dumping Commission

Your ref:

Page: 3/5



(Results of technical assessment)

3.5 These differences are material and arise precisely because the underlying manufacturing processes are different.

4 Market recognition of cast and forged and rolled wheels are distinct products

4.1 Furthermore, the market itself contradicts Comsteel's Submission. If cast wheels and forged and rolled wheels were the same product, there would be no reason for separate manufacturing pathways, technical specifications, performance characteristics, procurement decisions or market positioning. The fact that these distinctions exist is because the products are not the same.

4.2 Manufacturers invest in fundamentally different casting and forging production systems, and customers assess these products by reference to different technical and performance characteristics. The market naturally distinguishes between them because there is, in fact a difference between them.

4.3 If all freight railway wheels were truly the same product, irrespective of manufacturing method, there would be no basis for the market distinctions that presently exist. On Comsteel's logic, all freight railway wheels would collapse into a single undifferentiated product category. That is not how the market operates, and it is not how the GUC is framed.

4.4 Comsteel's submission proceeds on the premise that cast steel wheels and forged and rolled steel wheels should be treated as the same goods because they may be sold to the same customers, used in the same freight applications and compete in the same downstream market. The fact two products may be sold to the same customers and for the same broad purpose does not make them the same goods for anti-dumping purposes. Goods compete in the same downstream market while remaining technically distinct product. The fact that goods may compete closely with domestically produced goods, or may be commercially substitutable, does not mean they necessarily fall within the legal scope of the GUC. Comsteel's submission collapses that distinction and treats commercial substitutability as sufficient to establish scope.

4.5 At its highest, Comsteel's Submission establishes that only cast wheels may compete with forged and rolled wheels in parts of the same downstream market. Our client does not dispute that proposition. However, competition is not the test for product identity.

RIGBY COOKE LAWYERS

Our ref: ATH:20260318

Letter to: The Director – Investigations 4
Anti-Dumping Commission

Your ref:

Page: 4/5

5 Comsteel cannot seek protection in respect of goods it does not manufacture

- 5.1 Comsteel does not produce cast steel railway wheels. It produces forged and rolled railway wheels. The measures were initiated in respect of, and defined by reference to, Comsteel's domestically produced goods, namely forged and rolled railway wheels.
- 5.2 Comsteel cannot now seek to expand the scope of the GUC beyond the goods it produces so as to capture a different product category merely because that category competes in parts of the same downstream market.
- 5.3 To permit Comsteel's construction would, in effect, extend the benefit of the measures beyond the product it manufactures and confer protection across broader freight railway wheel market, including over a distinct product category that Comsteel does not produce.

6 Comsteel conflates scope with injury

- 6.1 Much of Comsteel's Submission is directed to the proposition that cast wheels compete with Comsteel's goods, are sold to the same customers, and may displace Comsteel's sales in the domestic market. Even if accepted, those matters do not answer the anterior question presently before the ADC, namely whether our client's goods fall within the legal scope of the GUC as defined.
- 6.2 While competitive overlap may be relevant to injury (which is not conceded), it is not determinative of scope of the GUC subject to the measures.

7 Conclusion

- 7.1 For the reasons set out above, and for the reasons set out in our client's first submission, our client respectfully reiterates that its cast steel railway wheels do not fall within the scope of the GUC. They are not "railway wheels of forged and rolled high carbon steel", and are therefore not subject to the interim measures imposed by the ADN.

Yours faithfully



Andrew Hudson
Partner

RIGBY COOKE LAWYERS

Our ref: ATH:20260318

Letter to: The Director – Investigations 4
Anti-Dumping Commission

Your ref:

Page: 5/5

