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

**Case 690 – Dumping and Subsidy Investigation into
Freight Railway Wheels Exported from China**

Dear Director,

Please accept this submission on behalf of Baowu Group Masteel Rail Transit Materials Technology Co., Ltd. (“Masteel”). Masteel appreciates the Anti-Dumping Commission’s (“the Commission”) thorough verification of its questionnaire response and acknowledges the positive findings that its sales, cost, and subsidy data are complete, relevant, and accurate (with only limited material revisions required, primarily to MCC categories and certain expense classifications).

This submission responds specifically to the Commission’s preliminary findings on countervailable subsidies, with particular focus on Programs 690-15, 690-16, and 690-17. Masteel respectfully disagrees with the Commission’s conclusion that these programs confer an indirect benefit on the subject goods (freight railway wheels) because they relate to the “broader rail equipment business unit.”

The evidence provided to the Commission demonstrates that the funds received are project-specific, tied capital grants exclusively for the production of railway axles, which are clearly non-subject goods. No benefit accrues to the production, sale, or export of freight railway wheels. Including these programs in Masteel’s subsidy margin would be inconsistent with WTO rules, the Commission’s own investigation manual and practice, and the facts verified on-site.

1. The subject goods and distinction from axles

The goods under consideration are freight railway wheels, as defined in ADN 2025/110. These are finished or semi-finished wheels used in freight rail applications, produced via processes including forging or casting from steel blooms, heat treatment, and precision machining of tread, flange, and hub features. The notice also specifically notes that “axles and other components are excluded from the description.”

This supports Masteel’s view that railway axles are a separate product on the following basis:

- different function (transmit torque and support wheelsets).
- different manufacturing: axle-specific forging (e.g., quick forging units), heat treatment lines, and journal machining.

- different facilities and equipment within Masteel’s operations.
- separate product codes, production lines, and separate workshops.

Masteel produces both wheels and axles as part of its rail transit materials business, but these are distinct production streams with dedicated assets. The verified single Australian export transaction was for wheels only.

2. Programs 690-15, 690-16, and 690-17: Project-specific tied grants for axle production

a) Program 690-15 & 690-16 (2015 Special Guidance Fund Investment Plan for Rail Transit Equipment Industrial Base – Fixed Projects No. 2 & 3)¹

These programs arise from the Ma’anshan City Development and Reform Commission & Finance Bureau Notice (Ma Fa Gai Han [2016] No. 10, 6 February 2016). The submitted investment plan table explicitly lists the relevant Masteel projects as:

- Project 1 (New production line for axle manufacturing): New workshop (■■■■ m²), forming full-series axle production/maintenance capacity for freight cars, passenger cars, EMUs, and urban rail. Includes elastic wheels/safety wheels/noise-reducing wheels/gearboxes (but core is axle line). Total investment ■■■■ million, subsidy ■■■■ million.
- Project 2 (Axle Production Line): Designed to produce ■■■■ axles/year (■■■■ high-speed, ■■■■ urban rail, ■■■■ coach/truck). Total investment ■■■■ million (approved; actual disbursement noted as ■■■■ million in some records), subsidy ■■■■ million.

These are axle-specific projects. The notice, expert evaluation, and disbursement conditions tie the funds to axle workshop construction, equipment installation (e.g., CNC lathes, forging units), and axle production capacity. Funds were disbursed in tranches (■■■%/■■■%/■■■%) tied to axle project milestones and are accounted for as deferred income specific to these assets.

b) Program 690-17 (2017 New High-Speed Axle Production Line Project Grant)²

This is confirmed by the submitted independent Special Audit Report (ZXH-ZZ (2019) No. 450084, Zhongxinghua Certified Public Accountants LLP, 11 July 2019) on the “New High-Speed Axle Production Line Project” of Masteel Rail Transit Equipment Co., Ltd. (a related entity within the Baowu/Masteel group).

Key verified facts:

- Approved as a central budgetary investment grant project by the National Development and Reform Commission.
- Total budgeted investment ■■■■ million (■■■■ million self-funded + ■■■■ million grant).
- Explicit purpose: New high-speed axle production line and supporting facilities (axle forging workshop, heat treatment, rough machining). Annual capacity: ■■■■ high-speed axles + ■■■■ other EMU axles.
- Equipment funded: Annular heating unit, ■■■■ hydraulic quick forging unit, suspended heat treatment production line, CNC machine tools, all are axle-specific.

¹ Exhibit I-4.4_Supporting docs for project attribute to NON-GUC - Deferred Income fixed project No.2&3_Notice on Investment Plan.pdf

² Exhibit I-4.4_Supporting docs for project attribute to NON-GUC - Deferred Income fixed project No.4_Special Audit Report.pdf

- Actual expenditure verified to [REDACTED]: [REDACTED] million total, with the full [REDACTED] million grant received and fully expended on these axle assets.
- Audit conclusion: Funds used in accordance with project objectives; no violations, over-range, or unreasonable use.

These grants were **not** general support for the rail equipment business unit. They were approved, disbursed, audited, and accounted for as tied to specific axle production assets and capacity.

3. Legal and policy framework: Requirement for a demonstrated benefit to the subject goods

WTO jurisprudence and the Commission's own practice impose a strict requirement that any subsidy benefit must be demonstrated in relation to the specific goods under consideration.

a) WTO Jurisprudence – High Evidentiary Threshold

The Commission's preliminary view, that these programs relate to the broader rail equipment business unit and that an "indirect benefit would accrue to plant and equipment with a connection to the goods", is not supported by the verified evidence and misapplies attribution principles.

WTO SCM Agreement Article 1 requires a financial contribution and a benefit conferred. For countervailability in an investigation into specific goods, the benefit must relate to the production/sale of the subject goods.

The Appellate Body has made this clear in *United States – Final Countervailing Duty Determination with Respect to Certain Softwood Lumber from Canada*³:

*Where the producer of the input is not the same entity as the producer of the processed product, it cannot be presumed, however, that the subsidy bestowed on the input passes through to the processed product. In such case, it is necessary to analyze to what extent subsidies on inputs may be included in the determination of the total amount of subsidies bestowed upon processed products. **For it is only the subsidies determined to have been granted upon the processed products that may be offset by levying countervailing duties on those products.***" (para. 140)

*"If countervailing duties are intended to offset a subsidy granted to the producer of an input product, but the duties are to be imposed on the processed product ... it is not sufficient for an investigating authority to establish only for the input product the existence of a financial contribution and the conferral of a benefit to the input producer. In such a case, the cumulative conditions set out in Article 1 must be established **with respect to the processed product** ... the investigating authority must establish that ... the benefit resulting from the subsidy has passed through, at least in part, from the input downstream, **so as to benefit indirectly the processed product to be countervailed.**"* (para. 142)

*"Where the input producers and producers of the processed products operate at arm's length the passthrough of input subsidy benefits ... **cannot simply be presumed; it must be established by the investigating authority.** In the absence of such analysis, it cannot be shown that the essential elements of the subsidy*

³ WT/DS257/AB/R

definition in Article 1 are present in respect of the processed product.” (para. 143)

“If it is not demonstrated that there has been such a passthrough of subsidies from the subsidy recipient to the producer or exporter of the product, then it cannot be said that subsidization in respect of that product ... has been found.” (para. 146)

These rulings establish that even where two products are directly connected in the production process (logs as input to lumber), the investigating authority cannot presume that a benefit flows to the investigated product. A positive demonstration of pass-through is required.

The facts in this case present an even stronger case for non-attribution. Here, the subsidised product (axles) and the investigated product (freight railway wheels) are not vertically linked at all. Axles are not an input into wheels, nor do they share production processes, equipment, or facilities with wheel production. If the Appellate Body requires a rigorous pass-through analysis even when products are connected in the production chain, then the evidentiary threshold for finding any benefit to the subject goods must be significantly higher, indeed, effectively insurmountable, when the two goods are entirely unconnected in production, as is the case here.

This principle is reinforced in *United States – Subsidies on Upland Cotton*⁴, where the Appellate Body emphasised that support or subsidies must have a discernible link to the specific product under investigation:

“the term ‘specific’ in the phrase ‘support to a specific commodity’ means the ‘commodity’ must be clearly identifiable. ... support must ‘specially pertain’ to a particular commodity in the sense of being conferred on that commodity. ... it is not sufficient that a commodity happens to benefit from support, or that support ends up flowing to that commodity by mere coincidence. Rather, the phrase ‘such measures’ granting ‘support to a specific commodity’ implies a discernible link between the support-conferring measure and the particular commodity to which support is granted.” (para. 362)

“Such a discernible link may be evident where a measure explicitly defines a specific commodity as one to which it bestows support. ... support that does not actually flow to a commodity or support that flows to a commodity by coincidence rather than by the inherent design of the measure cannot be regarded as falling within the ambit of the term ‘support to a specific commodity’.” (para. 372)

The axle grants explicitly define and were designed solely for axle production capacity. There is no discernible link, in project approval, design, use, accounting treatment (deferred income tied to specific fixed projects), or verified expenditure, to freight railway wheels. Attribution to the broader “rail equipment business unit” would directly contradict this requirement.

Therefore, a subsidy tied to the production of non-subject goods does not automatically benefit subject goods simply because the recipient produces both.

b) The Commission’s policy and practice

⁴ WT/DS267/AB/R

The Commission's own Dumping and Subsidy Manual (December 2021) - Chapter 17, confirms the following principles consistent with the above WTO jurisprudence:

- A subsidy must confer a benefit on the production, manufacture or export of the goods under consideration (consistent with section 269T of the *Customs Act 1901* and Article 1 of the SCM Agreement). Attribution to the subject goods requires positive evidence of such a benefit; mere corporate or business-unit association is insufficient.
- When an exporter produces multiple products, the total subsidy benefits within the investigation period, in relation to the enterprise's whole operations, must be allocated in order to estimate the amount of the subsidy on the goods.
- Allocation to the goods may be made according to the most appropriate factor and depending on case circumstances: as a proportion of total production costs, or as a proportion of production or sales quantity.

Masteel submits that the verified evidence demonstrates the grants were used exclusively for axle production facilities. No positive evidence exists that any benefit accrues to the production of railway wheels. The Commission's broader "rail equipment business unit" approach therefore exceeds the requirements of both the ASCM and the Commission's own Manual.

4. No shared benefit or pass-through to wheel production

The Commission's concern about "plant and equipment with a connection to the goods" is speculative. No evidence was presented during verification that any portion of these axle grants reduced costs, increased capacity, or otherwise benefited wheel production. Masteel's questionnaire response and on-site documentation demonstrated exclusive use for axles. That is:

- The funded assets (axle forging units, dedicated heat treatment lines, axle-specific workshops) are not used in wheel production.
- Wheel production at Masteel uses separate bloom-to-wheel forging/casting lines, different heat treatment profiles, and wheel-specific machining (tread/flange profiling).
- There is no vertical integration benefit: axles are not an input into wheels (or vice versa) in a subsidised sense. Wheelsets are assembled downstream, but the grants did not fund assembly or wheel-specific capacity.
- Verified production records and MCC data (updated during verification to include punched/painted/billet distinctions) show distinct costing and sales for wheel models vs axle production.

5. Calculation Error in Attribution

The Commission has indicated in its verification report that Programs 690-15, 690-16, and 690-17 relate to the broader rail equipment business unit. However, in its preliminary subsidy calculation, the Commission has apportioned the entire subsidy amount to the railway wheels business unit only, while including none of the revenue generated from axle production, the very activity to which these grants specifically relate. This constitutes a clear calculation error.

If the Commission's position is that these capital grants benefit the broader business unit, then proper attribution requires that the subsidy be allocated across Masteel's total company turnover. Masteel's business is limited exclusively to the production of rail transit materials,

specifically freight railway wheels and railway axles, with no capacity for any other production. Therefore, the entire turnover of the company (wheels + axles) must form the denominator when calculating the per-unit subsidy rate for the subject goods.

By failing to include axle revenue in the allocation base while attributing the full subsidy benefit to wheels, the Commission has significantly overstated the subsidy margin applicable to freight railway wheels. This error must be rectified.

Conclusion

Masteel requests that the Commission:

1. Exclude Programs 690-15, 690-16, and 690-17 entirely from the subsidy margin calculation for freight railway wheels, on the basis that they confer no benefit on the subject goods.
2. Confirm attribution of zero to the subject goods for these programs (consistent with the tied nature of the grants and verified exclusive use for axle production).
3. Alternatively, if the Commission maintains its position that the grants relate to the broader rail equipment business unit, correct the calculation error identified above by allocating the subsidy benefit across Masteel's total company turnover (wheels + axles).

Masteel is confident that the attached project documentation, together with the information already verified on-site, provides a complete and contemporaneous record demonstrating the axle-specific nature of these grants. We remain fully available to provide any additional clarification, further documentation, or to participate in any supplementary verification the Commission considers necessary ahead of the Statement of Essential Facts.