

Non-Confidential

**Comments of the China Chamber of Commerce for
Import and Export of Machinery and Electronic Products
(CCCME) on the Statement of Essential Facts in Anti-
Dumping and Countervailing Investigation No. 690
concerning Freight Railway Wheels from China**

To: Anti-Dumping Commission, Department of Industry, Science and Resources, Australia

From: China Chamber of Commerce for Import and Export of Machinery and Electronic Products (CCCME)

Subject: Comments on the Statement of Essential Facts in Anti-Dumping and Countervailing Investigation No. 690 concerning Freight Railway Wheels from China

Date: 18 June 2026

This submission is filed by the China Chamber of Commerce for Import and Export of Machinery and Electronic Products (CCCME) in response to the Statement of Essential Facts issued by the Australian Anti-Dumping Commission in Investigation No. 690 concerning freight railway wheels imported from the People's Republic of China. This submission addresses, in particular, the preliminary findings in the SEF concerning the product scope, MCC structure, conditions of the Australian market, import volume and price effects, subsidy findings, economic indicators of the Australian industry, injury and causation, other known factors, the non-injurious price, and the proposed measures.

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I. Introduction

- 1 This submission is filed by the China Chamber of Commerce for Import and Export of Machinery and Electronic Products (“CCCME”) in response to the Statement of Essential Facts (“SEF”) issued by the Australian Anti-Dumping Commission (“ADC” or “the Commission”) in Investigation No. 690. This submission does not repeat CCCME’s previous comments on Comsteel’s application. Rather, it addresses the preliminary findings already made in the SEF, in particular with respect to product scope, the Australian market, import volume and prices, subsidy findings, economic indicators of the domestic industry, injury and causation, other known factors, the NIP and the proposed measures.
- 2 CCCME’s principal views are as follows.
- 3 First, the non-confidential disclosure in the SEF remains insufficient. Core issues such as price undercutting, subsidy margins, the steel billet benchmark, the NIP, customer negotiations and causation lack sufficiently understandable non-confidential explanations, thereby limiting interested parties’ ability to comment effectively.
- 4 Second, the product scope and MCC structure still require further clarification. Even though ADC has excluded cast railway wheels, it should ensure that price comparisons, injury analysis and the application of any measures are confined to comparable products that directly compete with the products actually produced by Comsteel.
- 5 Third, the Australian FRW market is concentrated, cyclical and project-based. Customer procurement decisions cannot be reduced to price alone; quality, delivery timing, certification, warranty and security of supply should also be taken into account.
- 6 Fourth, the volume and market share of Chinese imports are limited, while Comsteel continues to occupy an overwhelmingly dominant position in the

Australian market. It is therefore inappropriate to simply find that there has been an import surge or significant lost sales.

- 7 Fifth, the SEF's analysis of price undercutting, price suppression and the "remedied price" remains insufficient to establish price effects. In particular, the comparability basis, MCC differences, transaction terms and double-counting issues require further verification.
- 8 Sixth, the deterioration in Comsteel's operating indicators reflects, to a greater extent, cost structure, demand conditions, fixed-cost absorption and Comsteel's own business factors, rather than an impact caused by Chinese imports.
- 9 Seventh, the SEF's subsidy findings require an overall re-examination. ADC should not equate the existence of policies, accounting records of payments received by an enterprise, findings in previous cases or facts-available inferences for non-cooperative entities with the existence of countervailable subsidies in this investigation. With respect to steel billet LTAR, tax programs, export-related programs, general grants and the application of facts available to non-cooperative entities, ADC should examine, program by program, financial contribution, benefit, specificity, product relevance, attribution to the investigation period, benefit calculation, allocation methodology and whether there is double counting.
- 10 Eighth, the dumping issue should be limited to what is necessary. ADC should maintain its preliminary finding to terminate the dumping investigation in respect of Masteel and should avoid substituting the circumstances of other exporters for an individual analysis of Masteel.
- 11 Ninth, whether dumping or subsidisation may continue should be based on objective evidence, and should not be presumed merely because certain programs or import activities existed during the investigation period.
- 12 Tenth, causation and non-attribution analysis is central to this case. ADC must not attribute injury caused by factors such as demand decline, cost

increases, quality and service issues, customer procurement strategies and insufficient export competitiveness to Chinese imports.

- 13 Eleventh, the NIP and the proposed measures should be limited to offsetting injury that is proven to have been caused by dumping or subsidisation. They should not compensate Comsteel for all of its operating losses or provide excessive protection. In particular, the ADC should not use anti-dumping or countervailing measures to create a de facto floor price for FRW in Australia, or to compensate Comsteel for structural losses, high operating expenses, cost disadvantages or business-model issues that are not caused by Chinese imports.
- 14 Twelfth, the imposition of measures may adversely affect downstream users, supply chain resilience, market competition and the public interest. ADC should carefully assess the necessity and proportionality of the proposed measures.
- 15 For the above factual and legal reasons, ADC should re-examine the relevant preliminary findings in the SEF and, where the evidence is insufficient, should not recommend the publication of a dumping duty notice or a countervailing duty notice.

II. Insufficient Non-Confidential Disclosure by SEF Restricting Interested Parties' Ability to Submit Effective Comments

i. Applicable Legal and Regulatory Requirements

- 16 In anti-subsidy and anti-dumping investigation proceedings, the investigating authority should strike an appropriate balance between protecting legitimate commercial confidentiality interests and safeguarding the procedural rights of interested parties. Confidential treatment of information should not be used as a basis for preventing other interested parties from understanding the factual foundation of the investigation and submitting meaningful comments.

- 17 Pursuant to Articles 6.5 and 6.5.1 of the WTO Anti-Dumping Agreement and Article 12.4.1 of the WTO Agreement on Subsidies and Countervailing Measures, investigating authorities may accept information submitted by parties on a confidential basis. However, the party requesting confidential treatment is required to provide a sufficient non-confidential summary at the same time, enabling other interested parties to obtain a reasonable understanding of the substance of the information. Where the information cannot be summarized, the submitting party must also provide an explanation of why such summarization is not possible. ¹
- 18 These WTO requirements have been incorporated into Australian domestic legislation. Under section 269ZI(9) of the Customs Act 1901, public documents issued by the Australian Anti-Dumping Commission (ADC) must not disclose information claimed to be confidential or information that may cause commercial harm. However, where practicable, such documents must include a summary of that information, allowing interested parties to obtain a reasonable understanding of its substance without compromising confidentiality or commercial interests. ² In addition, pursuant to section 269ZZY(2) of the Customs Act 1901, a non-confidential summary must contain sufficient detail to enable relevant parties to obtain a reasonable understanding of the substance of the information concerned. ³
- 19 Accordingly, Australian law does not merely require an indication that certain information is confidential. Rather, it requires the investigating authority to ensure that, even where information is subject to confidential protection, other interested parties are still provided with sufficient information to understand the key facts relied upon by the investigating authority and to submit meaningful comments on the investigation findings.

¹ Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-Dumping Agreement), Arts. 6.5 and 6.5.1; Agreement on Subsidies and Countervailing Measures (SCM Agreement), Art. 12.4.1.

² Customs Act 1901 (Cth), s 269ZI(9).

³ Customs Act 1901 (Cth), s 269ZZY(2).

ii. SEF's Continued Reliance on Confidential Attachments Restricts Interested Parties' Ability to Submit Effective Comments

- 20 Although the ADC disclosed certain investigation findings and analytical frameworks in the SEF, the key facts, underlying data sources, and calculation methodologies relied upon by the Commission remain largely contained in confidential attachments. This prevents interested parties from effectively reviewing and commenting on the ADC's core findings.
- 21 As discussed above, pursuant to Articles 6.5 and 6.5.1 of the WTO Anti-Dumping Agreement, Article 12.4.1 of the WTO Agreement on Subsidies and Countervailing Measures, and sections 269ZI(9) and 269ZZY(2) of the Customs Act 1901, where investigating authorities rely on confidential information, sufficient detail must be provided in the non-confidential summary to enable interested parties to obtain a reasonable understanding of the substance of such information. This requirement applies not only to general factual information but also to the core calculations and analyses that directly affect the determinations of dumping, subsidisation, injury, and the level of measures.
- 22 However, in the present SEF, the ADC's disclosures on several key issues remain limited to conclusory statements, while the underlying data, calculation methodologies, and analytical reasoning supporting those conclusions are placed in confidential attachments. As interested parties cannot access the relevant details, they are effectively unable to provide meaningful comments on the ADC's key findings.
- 23 First, with respect to the price undercutting analysis, section 9.1 of SEF 690 states that the Commission preliminarily found that Chinese import prices were "generally lower" than Comsteel's selling prices during the investigation period, and on this basis concluded that Chinese imports exerted

- price pressure on the Australian domestic industry.⁴ According to section 8.7 of SEF 690, the Commission compared quarterly weighted average free-in-store (FIS) selling prices of Australian industry products with those of Chinese imports and made necessary price adjustments.⁵
- 24 However, the specific price data supporting this conclusion, the basis of comparison, and the adjustment methodology are contained in Confidential Attachment 15 — Price Undercutting Analysis, and have not been adequately disclosed in the public version. Interested parties are unable to understand the specific transactions included in the comparison, the price adjustment items, the amount of each adjustment, or the final calculation of price differences. Nor are they able to assess whether the ADC properly considered product specifications, sales conditions, and other factors affecting price comparability.
- 25 The price undercutting analysis constitutes an important component of the ADC’s injury determination. Without understanding the methodology and factual basis of the price comparison, interested parties cannot effectively assess whether import prices actually caused price pressure on the domestic industry, nor can they submit targeted comments on the ADC’s findings regarding injury and causation. Therefore, the current level of disclosure does not satisfy the legal requirement that non-confidential summaries enable interested parties to obtain a reasonable understanding of the substance of the information relied upon.
- 26 Second, with respect to the NIP (Non-Injurious Price) and USP (Unsuppressed Selling Price) calculations, section 11.1 of SEF 690 states that the Commission calculated the NIP and compared it with normal value,

⁴ Anti-Dumping Commission, Statement of Essential Facts No. 690: Alleged Dumping and Subsidisation of Freight Railway Wheels Exported to Australia from the People’s Republic of China (29 May 2026) (SEF 690), s 9.1.

⁵ SEF 690, s 8.7.

ultimately recommending the imposition of measures based on the full dumping and subsidy margins rather than applying the lesser duty rule.⁶

- 27 However, the core calculations supporting this conclusion are contained in Confidential Attachment 13 — NIP and USP Calculation. The public version does not sufficiently explain the methodology used to calculate the USP, how cost data were determined, how the profit margin was selected, how the calculation period was established, or how relevant adjustments were treated. Similarly, the NIP calculation involves multiple factors, including costs, profit, production efficiency, and sales conditions, yet the ADC has not disclosed sufficient information to enable interested parties to understand the calculation logic.
- 28 As NIP and USP directly affect the level of measures and the application of the lesser duty rule, interested parties are entitled to understand how the ADC determined the injury elimination level and why it considered the imposition of measures at the full dumping and subsidy margins necessary and appropriate. Without disclosure of the underlying calculation basis and methodology, interested parties cannot provide substantive comments on whether the ADC's calculations are accurate and reasonable.
- 29 Third, with respect to the determination of subsidy margins, SEF 690 Chapter 7 and Appendix D indicate that the Commission identified eight countervailable subsidy programs, including the provision of inputs for less than adequate remuneration (LTAR) and grant programs.⁷
- 30 However, the detailed analysis of these subsidy programs is primarily contained in Confidential Attachment 11 — Masteel Subsidy margin and Confidential Attachment 12 — Non-cooperative subsidy margin. Although the SEF outlines the analytical framework adopted by the Commission, it does not disclose the key facts underlying each subsidy determination,

⁶ SEF 690, s 11.1.

⁷ SEF 690, ch. 7 and Appendix D.

including the granting authority, legal basis, eligibility conditions, actual benefits received by the company, benefit calculation methodology, and the allocation of benefits to the investigated product.

- 31 In particular, for LTAR subsidies, the calculation of the benefit depends heavily on the selection of the benchmark price and the methodology used to calculate the benefit differential. Without disclosure of the relevant data and calculation logic, interested parties cannot assess whether the measure constitutes a countervailable subsidy, whether the subsidy amount has been calculated accurately, or whether any double counting issues exist.
- 32 Fourth, with respect to the price suppression analysis, section 9.1 of SEF 690 states that the Commission compared the “remedied price” with Comsteel’s prices and found that the two were “closely matched”, thereby concluding that dumped and subsidized imports were an important cause of price suppression. In addition, section 9.4.3 of the SEF refers to customer negotiation materials submitted by Comsteel, indicating that customers referred to Chinese import prices during negotiations.
- 33 However, the customer negotiation materials supporting this conclusion, the calculation process for the remedied price, and related adjustments have not been adequately disclosed. In particular, the ADC has not explained how the remedied price was calculated, how dumping and subsidy margins affected that price, how the billet LTAR factor was incorporated into the adjustment, or the relative importance of import prices compared with other commercial factors such as product quality, delivery timelines, and supply reliability in customer negotiations.
- 34 The mere fact that customers considered import prices does not establish that import prices were the primary reason why the domestic industry was unable to increase prices. The ADC should disclose sufficient factual information to enable interested parties to assess whether the price suppression analysis satisfies the causation requirements.

- 35 Fifth, with respect to the selection of the billet LTAR benchmark price, section 6.5.2 of SEF 690 states that the Commission rejected Masteel's recorded billet costs and instead selected Turkish billet prices as the benchmark, with an additional premium for special steel to reflect product differences.⁸
- 36 However, the ADC has not adequately disclosed the reasons for selecting Türkiye as the benchmark market, nor has it explained how the special steel premium was determined or how relevant comparability adjustments were made. Specifically, the public version does not clarify whether the ADC considered differences in quality grades, transportation costs, payment terms, purchasing periods, and market conditions. Since the billet LTAR benchmark directly affects the calculation of normal value and subsidy margins, the basis for benchmark selection and adjustment methodology constitute important information affecting the outcome of the investigation. Without understanding these factors, interested parties cannot effectively comment on the ADC's methodology.
- 37 In summary, the current SEF does not provide sufficient disclosure of the key facts and calculation bases, preventing interested parties from effectively reviewing and responding to the ADC's core determinations concerning dumping margins, subsidy margins, injury, and the level of measures. These deficiencies not only affect procedural transparency but also limit the ability of interested parties to exercise their right to submit effective comments under the WTO Anti-Dumping Agreement, the WTO Agreement on Subsidies and Countervailing Measures, and Australian domestic law.
- 38 Accordingly, interested parties respectfully request that, before making a final determination, the ADC further improve its non-confidential disclosures and provide sufficiently detailed information enabling parties to reasonably

⁸ SEF 690, s 6.5.2.

understand the factual basis, calculation methodologies, and analytical reasoning relied upon by the investigating authority, and to provide meaningful comments on that basis. Only by ensuring procedural fairness and effective participation can the ADC's final determination be consistent with WTO rules and the requirements of the Customs Act 1901.

iii. The ADC Should Provide Sufficient Non-Confidential Summaries

- 39 CCCME further emphasises that the lack of disclosure has a direct consequence for the evidentiary burden in this proceeding. ADC should not, in its final report, dismiss interested-party arguments on the basis that CCCME has not proposed a precise alternative MCC structure, a corrected price-undercutting calculation, a revised NIP or USP calculation, or program-specific subsidy recalculations, where the data, weighting, adjustments and factual assumptions necessary to prepare those alternatives remain confidential. The purpose of the SEF process is to enable interested parties to understand and respond to the essential facts before the final recommendation is made. If ADC provides adequate non-confidential disclosure as requested, interested parties would then be in a position to identify specific deficiencies and provide evidence and alternative calculations to the extent reasonably possible.
- 40 Pursuant to section 269ZI(9)(b) of the Customs Act 1901, where information is claimed to be confidential, the investigating authority, when issuing a public notice, should, where practicable, provide a summary of such information sufficient to enable relevant parties to obtain a “reasonable understanding” of that information. This requirement reflects the fundamental principles of procedural transparency and effective participation in Australian anti-dumping proceedings. While the investigating authority may protect commercially sensitive information, confidentiality cannot be

relied upon to prevent interested parties from understanding and responding to the key facts and analyses relied upon by the investigating authority.

- 41 As discussed above, the ADC considers in the SEF that the information disclosed in the non-confidential version, together with other publicly available materials, satisfies the requirements of section 269ZI(9)(b) of the Customs Act 1901 and is sufficient to enable interested parties to understand the substance of the injury determination. However, the SEF's extensive reliance on confidential attachments demonstrates that the current level of disclosure does not, in practice, meet the statutory requirement.
- 42 In particular, Chapter 14 of SEF 690 identifies a large number of confidential attachments, including those concerning dumping margins, subsidy margins, price undercutting analysis, NIP and USP calculations, Chinese import data, and injury analysis (Confidential Attachments 5–17).⁹ These materials are not merely supplementary information; rather, they constitute the primary factual basis upon which the ADC reaches its core conclusions concerning dumping, subsidisation, injury, and the proposed level of measures.
- 43 Although the ADC has disclosed certain conclusions in the public version, such disclosures generally lack the underlying data, calculation methodologies, and analytical reasoning supporting those conclusions. For example, the ADC disclosed that Chinese import prices were lower than Comsteel's prices, but did not disclose the specific basis of the price comparison or the adjustment methodology. The ADC disclosed that it calculated the NIP and USP, but did not disclose the cost basis, profit margin, or adjustment methodology. The ADC disclosed that it identified subsidy programs, but did not disclose the detailed benefit calculation methodology for each subsidy program.

⁹ SEF 690, ch. 14.

- 44 As a result, interested parties cannot understand the factual basis underlying the ADC's findings based solely on the current public disclosures, nor can they effectively review and comment on those findings. In other words, although the ADC has formally complied with the procedural requirement of issuing the SEF and providing a non-confidential version, the practical effect of retaining the key economic analyses, factual assessments, and calculation processes in extensive confidential attachments is to limit interested parties' ability to meaningfully respond to the investigation findings.
- 45 This approach is inconsistent with the requirement under section 269ZI(9)(b) of the Customs Act 1901 that non-confidential summaries provide sufficient detail for relevant parties to obtain a reasonable understanding of the substance of the information. The purpose of a non-confidential summary is not merely to disclose the investigating authority's ultimate conclusions, but to ensure that other interested parties can understand how the investigating authority reached those conclusions and, on that basis, submit meaningful comments.
- 46 Accordingly, CCCME respectfully requests that, before making a final determination, the ADC further improve its non-confidential disclosures and provide, at a minimum, the following information:
- 47 Regarding the major MCC categories, the ADC should disclose the trends in sales volume, sales prices, costs, and profitability of Chinese imports and Comsteel products during the investigation period. Such information may be provided in the form of indexed data, ranges, or other aggregated formats that do not compromise commercial confidentiality, so as to enable interested parties to understand market performance and injury trends.
- 48 Regarding the price undercutting analysis, the ADC should disclose the basis of price comparisons for each MCC category, including comparison quantities and weighting, level of trade, delivery terms, price adjustment

- items, and adjustment methodology, so that interested parties can assess whether the price comparison was conducted on a fair and reasonable basis.
- 49 Regarding the “Remedied Price” analysis, the ADC should disclose how dumping margins and subsidy margins were incorporated into the price adjustment process, how the billet LTAR factor was treated, and how the ADC ensured that no double counting occurred.
- 50 Regarding customer negotiation materials and price suppression analysis, the ADC should provide sufficient information to explain the actual role of price factors in customer negotiations and clarify the relative importance of import prices compared with non-price factors such as product quality, delivery timelines, after-sales support, and supply reliability.
- 51 Regarding the NIP and USP calculations, the ADC should disclose the cost basis used in the calculations, the source and selection of profit margins, the calculation period, and the basis for each adjustment, so that interested parties can understand how the injury elimination level was determined.
- 52 Regarding the billet LTAR benchmark price, the ADC should disclose the basis for selecting Turkish billet prices as the benchmark and explain the relevant comparability adjustments, including differences in quality grades, transportation costs, payment terms, purchasing periods, and market conditions.
- 53 Regarding individual subsidy programs, the ADC should disclose the legal basis, granting authority, eligibility conditions, actual benefits received by the company, benefit calculation methodology, allocation methodology, and how the ADC determined the relevance of each subsidy to the investigated product or exports to Australia.
- 54 Regarding the application of Facts Available to non-cooperative entities, the ADC should disclose the specific factual basis relied upon, the methodology applied, and why the relevant assumptions are reasonable, rather than

allowing facts available to operate as a punitive inference against non-cooperating exporters.

- 55 The above information can be disclosed through aggregated data, ranges, indexed data, or other appropriate methods without revealing protected commercial information. Providing such information would neither undermine confidentiality protections nor prejudice legitimate commercial interests, while ensuring that interested parties can genuinely understand the ADC's findings and exercise their right to submit effective comments.
- 56 Accordingly, CCCME respectfully requests that, prior to issuing the final determination, the ADC reconsider the adequacy of its current level of non-confidential disclosure and ensure that all key facts, calculation methodologies, and analytical bases affecting the final outcome are disclosed to interested parties in a manner consistent with the requirements of the Customs Act 1901 and WTO rules.

III. Product Scope, Like Product, and MCC Structure Require Further Clarification

i. Applicable Legal and Regulatory Requirements

- 57 Pursuant to Articles 3.1 and 3.2 of the WTO Anti-Dumping Agreement and Article 15.1 of the WTO Agreement on Subsidies and Countervailing Measures, investigating authorities must base their assessment of the price effects and injury caused by dumped and subsidised imports on positive evidence and conduct an objective examination.¹⁰
- 58 Product comparability is a fundamental prerequisite for the validity of price comparison and price effects analysis. Where there are material differences between the imported products under investigation and the domestic like product, or where prices and sales data of different product types are

¹⁰ Anti-Dumping Agreement, Arts. 3.1 and 3.2; SCM Agreement, Art. 15.1.

aggregated without proper differentiation, such price comparisons may fail to accurately reflect the impact of imports on domestic prices.

- 59 WTO dispute settlement practice has confirmed that investigating authorities must adequately take product comparability into account in price effects analysis. Where price comparability between imported and domestic products is lacking, the probative value of import prices in demonstrating price undercutting or price suppression is significantly weakened.¹¹ WTO panels have also found that failure to conduct separate assessments by product type, and instead aggregating data across different product categories, may result in product mix effects being incorrectly attributed to price undercutting or price suppression caused by imports, thereby failing to satisfy the requirements of Articles 3.1 and 3.2 of the Anti-Dumping Agreement concerning objective examination and positive evidence.¹²
- 60 Accordingly, in the present case, the ADC must ensure that: the product scope is properly defined; the imported and domestic products constitute like products; the MCC (Model, Control Code) structure adequately reflects key differences affecting price formation across product types; and that the analyses of price undercutting, price suppression, and injury are based on a proper and reliable product comparison framework.

ii. Support for the ADC's Preliminary Determination That Cast Railway Wheels Are Outside the Product Scope

- 61 CCCME supports the ADC's preliminary finding in section 3.7 of SEF 690 that cast railway wheels are not within the scope of the product under investigation.¹³
- 62 The ADC correctly concluded, based on manufacturing processes, physical characteristics, market use, and the product definition itself, that there are

¹¹ Appellate Body Report, China — GOES, WT/DS414/AB/R, paras. 200–201.

¹² Panel Report, China — Anti-Dumping Measures on Stainless Steel Products from Japan, WT/DS601/R, para. 7.173.

¹³ SEF 690, s 3.7.

material differences between cast wheels and forged and rolled railway wheels, and therefore cast wheels should not be included within the scope of the investigation.

- 63 First, the ADC's analysis of the significant physical and technical differences between cast and forged wheels is reasonable. The ADC noted that differences in production processes result in distinct metallurgical structures and performance characteristics. Forging and rolling processes improve material structure through plastic deformation, typically resulting in higher tensile strength, better elongation, and superior fatigue resistance. In contrast, although cast wheels may have relatively uniform microstructures, they differ in terms of material refinement and mechanical performance. These differences are not merely process-related distinctions; they directly affect technical performance and end-use behaviour. As railway wheels are safety-critical components, mechanical strength, fatigue life, and reliability are key factors in customer purchasing decisions. Accordingly, differences in manufacturing processes that translate into performance differences are sufficient to affect substitutability and competitive conditions between products.
- 64 Second, the ADC's analysis of market and customer decision-making factors is also reasonable. The ADC observed that performance differences between cast and forged wheels influence purchasing decisions, with customers selecting products based on operational requirements, technical standards, and safety considerations. In the railway industry, procurement decisions are not based solely on price but also on product performance, application conditions, service life, maintenance requirements, and supply reliability. Differences arising from manufacturing processes may therefore lead to differences in product application and acceptance. As a result, treating the two product types as highly substitutable like products would not accurately reflect actual market competition conditions.

65 Third, the ADC’s interpretation of the product definition is also justified. Section 3.7 of SEF 690 indicates that the scope of the investigation is explicitly limited to “forged and rolled railway wheels”. This description is not incidental but reflects the technical scope defined in the application. In anti-dumping investigations, product scope must be determined based on the investigation notice and product description and cannot be expanded arbitrarily during the investigation. Where the product description explicitly limits the manufacturing process, including products produced by fundamentally different processes with distinct technical characteristics and performance attributes would exceed the original scope and undermine the reasonable expectations of interested parties. Accordingly, the exclusion of cast railway wheels based on product definition, manufacturing process, and performance differences is consistent with the principle that product scope must be determined on an objective basis reflecting actual competitive relationships.

66 On this basis, CCCME supports the ADC’s preliminary determination that cast railway wheels are outside the scope of the product under investigation and recommends that the ADC confirm this exclusion in its final determination. Such exclusion will help ensure that the investigation is conducted on products sharing comparable technical characteristics, market uses, and competitive relationships, thereby ensuring that the subsequent dumping, subsidy, and injury analyses are based on an accurate and comparable product foundation.

iii. The Product Scope and MCC Structure Remain Overly Broad

67 Although the product scope and MCC (Model Control Code) structure adopted in the SEF have been refined to some extent during the investigation, they remain insufficient to fully reflect the key product characteristics that

affect price and cost. This may undermine the comparability basis of the price comparison and injury analysis.

- 68 Railway wheels are highly engineered industrial products. Their prices are not determined solely by outer diameter, processing method, or base material, but are also influenced by a range of technical specifications, quality requirements, and commercial conditions.
- 69 However, under the current MCC system, several key factors that may materially affect price and cost have not been included within the classification control framework, including but not limited to: material grade, where different steel grades exhibit significant differences in strength, wear resistance, and cost; heat treatment method, which directly affects product performance and production costs; load rating, which determines design complexity and application scenarios; customer inspection requirements, including third-party inspection or enhanced inspection standards that generate additional costs; non-destructive testing (NDT) level, where different inspection levels correspond to different quality control costs; warranty period, where longer warranties generally imply higher risk costs and price premiums; delivery quantity, where economies of scale may significantly affect unit prices; and long-term contract terms, including price adjustment mechanisms, price-locking clauses, and supply stability arrangements.
- 70 Each of the above factors may, in industry practice, have a material impact on product pricing. If they are not distinguished or controlled within the MCC structure, significant heterogeneity may remain within each MCC category, thereby weakening the homogeneity basis of price comparisons.
- 71 Given that the ADC's injury analysis and price undercutting determinations rely heavily on MCC-level price comparisons, whether the MCC structure sufficiently captures the key product characteristics affecting price is directly relevant to the reliability of the analysis.

- 72 If the above factors are not incorporated into the MCC framework, this may lead to several issues: products with materially different technical specifications and commercial conditions may still be grouped within the same MCC; average price comparisons may be distorted by product mix effects; findings of price undercutting or price suppression may partially reflect compositional differences rather than genuine market competition; and causation analysis in the injury determination may be weakened. Accordingly, although the MCC structure has been improved compared to its initial design, it may still not fully satisfy the requirement of strict comparability in the assessment of “like product”.
- 73 In summary, CCCME acknowledges the positive steps taken by the ADC in refining the MCC structure during the investigation. However, the current structure remains overly broad and does not sufficiently capture all key factors affecting railway wheel prices and costs. To ensure that price comparison and injury analysis are based on strict comparability, CCCME recommends that the ADC further assess, at the final determination stage, whether the current MCC structure still contains excessive aggregation, and consider further refinement or appropriate adjustments where feasible, so as to ensure that price comparisons across products genuinely reflect market competition rather than structural product differences. Only where the MCC structure adequately reflects all key product characteristics can the findings on price undercutting, price suppression, and injury satisfy the requirements of objectivity and sufficiency of evidence under Articles 3.1 and 3.2 of the WTO Anti-Dumping Agreement.

iv. The ADC Should Further Clarify the Boundaries of the Product Scope

- 74 To ensure that the price effects analysis and injury determination in this case comply with the requirements of objective examination and positive evidence under Articles 3.1 and 3.2 of the Anti-Dumping Agreement, the clarity of the

product scope boundaries and the degree of analytical granularity are of critical importance.

- 75 CCCME considers that, although the ADC has introduced and revised the MCC structure during the investigation, it is still necessary at the final determination stage to further clarify the boundaries of the product scope and ensure that the injury and measures analysis is conducted on an MCC-by-MCC, model-level basis, rather than remaining at an aggregate or weighted-average level.
- 76 In CCCME's view, the ADC's final injury analysis and measure calculation should be strictly based on the revised MCC structure and conducted on an MCC-by-MCC, model-level basis, rather than relying solely on aggregate or weighted-average data. Specifically, for each MCC category, the ADC should conduct separate price comparisons, price undercutting calculations and injury causation analysis, so that price differences between different MCC categories or models are not obscured by averaging effects.
- 77 At the same time, such MCC-by-MCC, model-level analysis must fully incorporate all material price and cost factors identified in section C above, including but not limited to material grade, heat treatment method, load rating, customer inspection requirements, non-destructive testing standards, warranty period, delivery quantity, and long-term contract conditions. Only where these variables are properly controlled can MCC/model-level price comparisons be economically meaningful and comparable.
- 78 CCCME therefore requests the ADC to ensure that its final injury and measures analysis will be based on a fully disaggregated MCC framework, and that all material price drivers have been appropriately controlled or adjusted.
- 79 According to section 8.7 of SEF 690, the ADC's price undercutting analysis primarily relied on a weighted-average price comparison between Chinese

imports and the Australian domestic industry, leading to an overall finding of price undercutting (as shown in Figure 6).

- 80 When explaining certain price differences—for example, where Masteel’s export price exceeded Comsteel’s price—the ADC further noted that Masteel mainly sold a single large-diameter model (MCC 915) during that period, and therefore supplemented its analysis with an MCC-based comparison in Figure 7. This approach indicates that, while the ADC introduced the MCC concept in its methodology, the overall injury analysis framework still relies primarily on aggregated weighted-average prices rather than a systematic model-by-model assessment across all product types.
- 81 In particular, for non-cooperating exporters or exporters with multi-model product structures, the SEF does not clearly explain whether: price undercutting was calculated separately for each MCC model; changes in market share by model were controlled; or causation analysis assessed price effects on a model-by-model basis.
- 82 In addition, in the causation analysis under section 9.4.3 of the SEF, although the SEF refers to customers citing Chinese import prices during negotiations, it does not identify the specific MCC categories or models to which those price references related, nor does it explain whether prices for different MCC categories or models were mixed, aggregated or assessed on a weighted-average basis. .
- 83 CCCME is concerned that, where MCC structures have already been refined, reliance on aggregate or weighted-average data for price and injury analysis may lead to structural distortions. First, significant price differences between MCC models may be obscured when data are aggregated, thereby affecting the assessment of actual price competition. Second, product mix effects may be misinterpreted as price declines or price undercutting, particularly where the share of lower-priced models increases. Third, in causation analysis, failure to distinguish models may weaken the evidentiary value of customer

- references to “import prices,” which may in fact relate to different product levels. Accordingly, without a systematic model-level analysis, aggregate weighted-average methodologies may be insufficient to meet the requirement of objective examination under Article 3.1 of the Anti-Dumping Agreement.
- 84 On this basis, CCCME requests that the ADC, at the final determination stage, explicitly adopt and implement the following requirements: injury and price undercutting analyses must be conducted on a model-by-model basis using the revised MCC structure, rather than relying solely on aggregate or weighted-average data; price comparisons, undercutting calculations, and price trend analyses should be conducted separately for each MCC category, with clear identification of each category’s contribution to the overall findings; causation analysis should specify the MCC model to which customer references to Chinese import prices relate, and avoid mixing different models in interpretation; for non-cooperating exporters, the ADC should disclose whether model structure assumptions were applied and assess their impact on the injury findings; and all analyses should fully incorporate material price and cost drivers to ensure that such factors are not obscured by averaging effects.
- 85 In summary, while the ADC has formally introduced an MCC structure and undertaken partial disaggregation, the current injury analysis still relies to a significant extent on weighted-average methodologies and has not yet fully implemented a systematic model-level analytical framework. To ensure compliance with the requirements of objectivity and positive evidence under Articles 3.1 and 3.2 of the Anti-Dumping Agreement, the ADC should further clarify the boundaries of the product scope at the final determination stage and base its injury and measures analysis on a fully disaggregated MCC model-level framework, thereby ensuring that price comparison and causation analysis are grounded in accurate, comparable, and verifiable data.

IV. The SEF Does Not Adequately Consider the Structure of the Australian FRW Market and Customer Purchasing Characteristics

i. Applicable Legal and Regulatory Requirements

- 86 Pursuant to Articles 3.1 and 3.2 of the WTO Anti-Dumping Agreement, a determination of injury must be based on positive evidence and involve an objective examination. Such examination is not limited to price and volume effects but also requires investigating authorities to adequately consider relevant market structure and competitive conditions, as these factors directly affect the formation of price signals and the transmission of their impact on the domestic industry. In particular, in highly concentrated or project-driven markets, customer concentration, purchasing patterns, and contract duration are structural features that may significantly influence price formation and demand fluctuations, and therefore constitute objective factors that cannot be ignored in an injury analysis.
- 87 In addition, section 269TAE(2A) of the Customs Act 1901 requires the Commission, when assessing causation between injury and dumped or subsidised imports, to consider whether injury is caused by factors other than dumped or subsidised imports, including explicitly “contractions in demand or changes in patterns of consumption.” In interpreting this provision, changes in demand should not be limited to overall market fluctuations, but should also include demand dynamics arising from customer procurement cycles, contractual structures, and project-based purchasing patterns. Accordingly, in the present FRW (forged railway wheels) market, where purchasing behaviour may be characterised by long-term contracts, project-based cycles, or concentrated procurement patterns, such demand fluctuations and ordering cycles must be considered as independent explanatory factors in

the injury and causation analysis, separate from any alleged price effects of imports.

ii. **Comsteel Continues to Hold a Dominant Position in the Australian Market**

88 According to section 9.5 of SEF 690, the Australian FRW market during the injury period exhibits a highly concentrated structure, with Comsteel maintaining a dominant market position, while Chinese imports, although increasing, remain at a relatively limited market share.

89 SEF 690 states: “Over the injury period, Comsteel sales volume fell 25% while its market share declined from 87% to 84% in a falling market. In this time, Chinese import volumes increased 12% and its market share grew from 9% to 13% market share, an increase of 44%.”¹⁴ These data indicate that, even in the context of so-called import growth, Comsteel continued to account for approximately 84% of the market, significantly exceeding the combined share of all import sources. This market structure clearly demonstrates that the present case does not concern a competitive market dominated by imports, but rather a highly concentrated market in which a single domestic producer maintains overwhelming dominance.

90 In such a structure, although the Chinese import share increased from 9% to 13%, it remains relatively limited in absolute terms. Meanwhile, Comsteel’s market share declined by only 3 percentage points, from 87% to 84%, and it retained a dominant position. These facts are relevant to causation analysis, as changes in market share do not necessarily indicate that imports have materially displaced domestic production or exerted significant competitive pressure.

91 Furthermore, the SEF acknowledges that the Australian FRW market contracted during the period of investigation. In section 9.8.1, the ADC states

¹⁴ SEF 690, s 9.5.

that: “demand contraction may explain part of the reduction in overall market volumes but does not explain the extent of the price, volume and profit effects.”

- 92 CCCME considers that market share movements cannot be assessed in isolation from market contraction. In a declining and highly concentrated market, the observed decline in Comsteel’s market share and the corresponding increase in import share may, at least in part, reflect demand restructuring or changes in procurement timing rather than substitution driven by price effects alone. In such circumstances, even relatively small shifts in procurement may appear as proportionally significant changes, without necessarily indicating meaningful competitive displacement or price suppression.
- 93 Moreover, where Comsteel continues to hold an 84% market share, its pricing power, contractual arrangements, and customer relationships remain structurally dominant. Against this background, reliance solely on relative market share changes—such as the reported 44% increase in Chinese imports—to infer injury risks overstating the actual market impact of imports.
- 94 Accordingly, in conducting injury and causation analysis, the following factors should be fully considered: the highly concentrated market structure dominated by a single domestic producer; the relatively small absolute market share of Chinese imports; the amplification effect of overall market contraction on share movements; the impact of contractual cycles and procurement timing on annual or quarterly data; and whether observed market share changes genuinely reflect substitution between like products.
- 95 In the absence of such structural analysis, reliance on market share movements alone may be insufficient to satisfy the requirements of objective examination and positive evidence under Articles 3.1 and 3.2 of the Anti-Dumping Agreement.

96 In summary, while the SEF discloses the underlying market share data, its injury analysis does not sufficiently account for the impact of market concentration on the interpretation of those changes. CCCME therefore recommends that the ADC further quantify and explicitly address these structural market factors in its final determination, in order to ensure that its injury and causation findings are based on sufficient, objective, and verifiable evidence.

iii. The Australian FRW Market Is Characterised by Concentration, Cyclicity, and Project-Driven Demand

97 According to sections 5.3 and 5.4 of SEF 690, the Australian forged railway wheels (FRW) market exhibits clear structural characteristics. The SEF recognises that FRW is a “key input supporting domestic freight and logistics activities”, which inherently links demand to railway transport capacity, mining activity levels, and rolling stock operational arrangements. As a result, the market is characterised by pronounced cyclicity and project-driven demand patterns.

98 Furthermore, section 5.4 of SEF 690 explicitly divides the market into two segments: capital procurement and maintenance procurement. Capital procurement primarily relates to initial demand arising from new-build rolling stock projects, whereas maintenance procurement is directly associated with wheel wear, life-cycle replacement, and operational maintenance planning. This structural segmentation itself demonstrates that demand in the FRW market is not continuous or evenly distributed, but instead significantly influenced by project cycles and asset operating cycles.

99 In addition, section 5.5 of SEF 690 acknowledges the existence of long-term supply contracts in the market, which “set pricing and volumes” and may be adjusted through deed variations in response to cost changes. This contractual mechanism implies that annual purchasing volumes and prices for individual

customers may not necessarily reflect contemporaneous market competition outcomes, but rather the stage of contract execution, trigger conditions for adjustment mechanisms, and project delivery schedules.

100 Against this background, the Australian FRW market is characterised by: a limited number of customers with relatively high concentration; procurement conducted predominantly through long-term contracts, framework agreements, or tenders; demand influenced by mining transport intensity, new rolling stock deployment, maintenance cycles, wheel lifespan, and inventory management strategies; and procurement timing directly affected by capital expenditure cycles and project progress. In such a market, changes in procurement volumes for a given year or customer may reflect contract-cycle misalignment, project phase differences, inventory adjustments, or budgetary timing effects, rather than structural shifts in market share or genuine substitution effects driven by imports.

101 This has direct legal relevance for injury analysis. Under the WTO Anti-Dumping Agreement, injury determinations must be based on positive evidence and conducted through an objective examination. This requirement applies not only to price effects but equally to volume and market share analysis. When assessing changes in import volumes or market shares, investigating authorities must also consider whether non-dumped factors provide an alternative explanation for such changes.

102 In the present case, if annual procurement variations or individual customer order fluctuations are attributed directly to Chinese imports without considering structural explanations, this risks overlooking key factors such as contract-cycle timing and execution phases, transitions between capital and maintenance procurement, project delays or accelerations, inventory adjustments, and budgetary planning cycles. These are classic examples of demand changes or procurement pattern shifts that must be treated as

independent explanatory variables under section 269TAE(2A) of the Customs Act 1901.

103 Accordingly, CCCME considers that while the SEF acknowledges the contractual and cyclical nature of the FRW market, its injury and causation analysis does not sufficiently integrate these structural features. In particular, it fails to systematically distinguish between contract-cycle effects and genuine competitive substitution when evaluating market share movements and volume effects. Without such distinction, equating annual procurement changes with structural market shifts may fall short of the “objective examination” standard required under Article 3.1 of the Anti-Dumping Agreement, and may result in an overestimation of the impact of imports.

104 CCCME therefore requests that the ADC, in its final determination, systematically incorporate the structural characteristics and contractual cycle dynamics of the FRW market, distinguish between capital and maintenance procurement, and fully account for the effects of long-term contract execution mechanisms and demand cyclicity in its assessment of volumes and market shares, ensuring that injury and causation findings are based on complete, objective, and verifiable evidence.

iv. Customer Purchasing Decisions Cannot Be Reduced to a “Price-Determines-All” Approach

105 Within the analytical framework of SEF 690, the ADC on the one hand identifies price as a “key determinate factor” in customer purchasing decisions, while on the other hand acknowledges that multiple factors influence procurement decisions. However, in its actual causation analysis, the SEF places disproportionate emphasis on price as an explanatory factor, resulting in a degree of methodological inconsistency.

106 Section 9.4.1 of SEF 690 acknowledges that multiple factors may influence customer purchasing and pricing decisions in the railway wheel market,

including cost levels, product quality, delivery lead times, warranty arrangements, and overall competitiveness. This indicates that procurement decisions in the FRW market are inherently multi-factorial rather than driven by a single variable.

107 However, section 9.4.3 of the SEF places primary reliance on materials submitted by Comsteel and emphasises that Australian customers “referenced Chinese prices” and “sought lower prices” during negotiations, thereby inferring that price was the dominant factor in purchasing decisions. This reasoning effectively equates the mere reference to price with price-determined purchasing behaviour, which risks oversimplifying the evidentiary basis.

108 It must be emphasised that in safety-critical industrial products such as railway wheels for freight transport, procurement decisions cannot realistically be determined by price alone. These products directly affect railway safety, operational stability, and asset life-cycle performance. Procurement decisions typically involve a multi-dimensional evaluation framework, including product quality and metallurgical performance consistency, long-term operational safety records, compliance with technical certification systems and industry standards, supply stability and continuity, warranty and risk allocation mechanisms, technical support and after-sales services, and supply chain diversification and risk management considerations.

109 In such a context, references to price during negotiations do not necessarily indicate that price is the sole or dominant determinant of purchasing decisions. Rather, price functions as one factor within a broader comparative assessment alongside technical, operational, and reliability considerations. Accordingly, where customers select suppliers based on supply security, long-term risk diversification, technical validation, quality performance, or delivery

reliability, such decisions cannot be simply attributed to low-price competition.

110 Nor can references to price in customer negotiations, in the absence of further supporting evidence, be automatically equated with distortion caused by dumped or subsidised imports. Similarly, reliance solely on Comsteel-submitted negotiation records is insufficient to conclude that price was the primary driver of customer decisions, or to infer that the competitiveness of Chinese suppliers is primarily attributable to dumping or subsidy advantages. A proper causation analysis requires systematic evaluation of all relevant purchasing factors rather than selective reliance on price-related evidence.

111 CCCME therefore considers that although the SEF formally acknowledges multi-factor influences in customer behaviour, its actual attribution analysis assigns excessive weight to price factors and fails to adequately reflect the substantive role of technical, safety, and supply-chain stability considerations in FRW procurement decisions. CCCME requests that the ADC, in its final determination, conduct a multi-factor analysis of customer purchasing behaviour, clearly distinguish the relative importance of price and non-price factors across different customers and procurement scenarios, and avoid equating references to price with a conclusion that price is the sole determinant, thereby ensuring compliance with the objective examination standard under the WTO Anti-Dumping Agreement and the WTO Subsidies and Countervailing Measures Agreement.

112 In particular, information supplied by Comsteel and import data held by ABF may show what FRW were purchased, by whom, in what quantities, when and at what price. However, such information does not, without more, establish why a customer made the relevant purchasing decision. The reasons for a purchasing decision can only be assessed by examining direct purchaser evidence and the commercial context of the decision, including technical qualification, product performance, certification, warranty, delivery,

maintenance schedules, inventory planning, continuity of supply and multi-source risk management. It is therefore a material deficiency if the SEF relies principally on supplier-side records or Comsteel's account of customer negotiations to infer that price was the determining reason for customer purchasing decisions.

v. Request for Reconsideration of SEF Findings in Light of Market Structure and Customer Behaviour

113 CCCME considers that the SEF's conclusion that "price is a key determining factor in customer purchasing decisions", while formally based on customer negotiation evidence, remains insufficient in terms of evidentiary robustness and verification, particularly where conclusions about market-wide behaviour are derived from a single category of evidence without adequate structural context.

114 First, the primary evidence relied upon in section 9.4.3 consists of customer negotiation records and supporting explanations submitted by Comsteel. Such evidence is inherently indirect and reflects commercial negotiation dynamics, which may capture only partial statements made in bargaining contexts and do not necessarily represent the actual determinants of final procurement decisions. More importantly, the SEF does not refer to or rely upon independent and direct evidence from major downstream customers confirming that procurement switching decisions were driven by systematic concerns regarding Comsteel's product quality, delivery capability, or supply reliability. In the absence of such independent and direct evidence, reliance solely on supplier-submitted negotiation materials is insufficient to establish a fully objective evidentiary basis for definitive conclusions regarding purchasing motivations.

115 In this context, CCCME submits that the structural characteristics of the FRW market—namely high concentration, long-term contract dependence, and

project-driven demand cycles—must serve as a foundational element of the causation analysis. Customer purchasing behaviour in such a market is typically influenced by multiple structural factors, including long-term supply contracts and framework agreements, phased demand linked to rolling stock and maintenance cycles, technical standards and certification requirements, supply chain security and multi-sourcing strategies, inventory management and risk hedging arrangements, and delivery lead times and operational continuity requirements.

116 In such circumstances, customer references to price or requests for lower prices in negotiations cannot be directly equated with the sole determinant of final purchasing decisions, nor can market share changes be attributed exclusively to price factors. Accordingly, CCCME requests that the ADC reconsider the SEF findings at the final determination stage and ensure that causation analysis fully incorporates the following elements: a structural assessment of customer purchasing behaviour based on market concentration and contract frameworks; verification of purchasing decision factors with major downstream users, including but not limited to technical compliance, product reliability, delivery stability, warranty arrangements, supply diversification strategies, and long-term procurement and risk management considerations; and reliance on a multi-source evidentiary base rather than selective dependence on supplier-submitted negotiation records.

117 Absent a comprehensive assessment of these structural market factors and actual purchasing determinants, attributing changes in customer purchasing patterns or relative market share movements of Comsteel directly to price advantages of Chinese imports may fall short of the objective examination standard required under the WTO Anti-Dumping Agreement and the WTO Agreement on Subsidies and Countervailing Measures, and may not constitute sufficient proof of causation.

118 CCCME therefore requests that the ADC, in its final determination, conduct a holistic reassessment of the relevant SEF findings by fully considering market structure, contractual mechanisms, and multi-dimensional customer purchasing factors, ensuring that injury and causation findings are based on complete, objective, and verifiable evidence.

V. Chinese Imports Are Limited and Do Not Support Findings of “Significant Increase in Import Volumes” or Material Loss of Sales

i. Applicable Legal and Regulatory Requirements

119 Pursuant to Articles 3.1 and 3.2 of the WTO Anti-Dumping Agreement, and Articles 15.1 and 15.2 of the WTO Agreement on Subsidies and Countervailing Measures, a determination of injury must be based on positive evidence and involve an objective examination.

120 With respect to import volumes, investigating authorities are required to assess whether dumped or subsidised imports have increased significantly, either in absolute terms or relative to production or consumption in the importing Member. These provisions require that authorities not only accurately record changes in import volumes and market shares, but also assess such changes in light of market size, consumption trends, customer procurement cycles, and competitive structure. Statistical fluctuations alone cannot be equated with legally significant increases in imports or with material loss of sales.

121 Section 269TAE(1) of the Customs Act 1901 similarly requires that, in assessing injury, consideration must be given to objective factors relating to volume, including the volume of dumped or subsidised imports, any increase or potential increase in such volume, and any change or potential change in the market share of the domestic industry or imports. This confirms that

volume and market share analysis must be assessed in conjunction with market context and competitive structure, rather than in isolation.

122 In addition, section 269TAE(2A) requires that, in assessing causation, the Commission must consider whether injury is caused by factors other than the dumped or subsidised imports, including explicitly “contractions in demand” and “changes in patterns of consumption”. Accordingly, demand fluctuations, customer procurement arrangements, maintenance cycles, and changes in consumption patterns must be treated as independent explanatory factors, and must not be misattributed to Chinese imports.

123 Therefore, analysis of import volumes cannot rely on market share changes as a substitute for proper causation and non-attribution analysis. In a contracting market, an increase in import share may simply reflect a decline in total market size rather than a genuine increase in import volumes. It does not, by itself, establish significant import growth or substantiate material loss of sales by Comsteel. The ADC must therefore explain whether Chinese imports have in fact increased significantly in absolute and relative terms, whether such changes are independent of overall demand fluctuations, and what proportion of Comsteel’s sales decline can properly be attributed to Chinese imports as opposed to market contraction, procurement cycles, inventory adjustments, or other known factors.

ii. Chinese Import Volumes Do Not Support Claims of a Significant Increase in Imports

124 Based on the market structure and volume data disclosed in the SEF, the Australian FRW market remains highly concentrated during the period of investigation, and the available evidence does not support characterising Chinese imports as exhibiting abnormal or sustained volume growth.

125 First, in terms of market share structure, section 1.2.3 of SEF 690 states that: “During the investigation period, Comsteel (the sole Australian producer)

supplied 84% of the Australian market (by piece), with 13% coming from China and the remainder from other countries.”

126 This clearly demonstrates that throughout the period of investigation, Comsteel consistently maintained approximately 84% market share, retaining a dominant position, while Chinese imports accounted for approximately 13%, with other sources representing only a minor share. This structure indicates that the Australian FRW market did not experience a structural transformation driven by imports, nor did imports become a dominant competitive force.

127 Second, broader import statistics based on Australian Customs data (HS 86071900) show that total global imports of FRW-related products fluctuated significantly during the injury analysis period, rather than exhibiting a continuous upward trend:

- FY2021: USD 63,096,952
- FY2022: USD 47,594,967 (down 24.6%)
- FY2023: USD 60,932,485 (up 28.0%)¹⁵

128 These figures indicate that overall market demand for FRW products in Australia experienced pronounced cyclical fluctuations, including contraction and partial recovery, rather than a stable or expanding trajectory.

129 Within this context, Chinese exports to Australia similarly exhibited cyclical variation:

- FY2021: USD 38,952,010 (approximately 61.7% of total imports)
- FY2022: USD 26,846,354 (down 31.1%, share 56.4%)
- FY2023: USD 39,339,895 (up 46.5%, share 64.6%)

¹⁵ Exhibit 5.2, Import Data Reported by Australia (July 2020–June 2023).

- 130 Notably, the movement of Chinese exports closely tracks overall Australian import trends: both declined in 2022 and rebounded in 2023. This high degree of synchronisation indicates that changes in Chinese import volumes are not independent shocks to the market, but rather responsive movements aligned with fluctuations in overall demand.
- 131 In other words, Chinese export volumes fall when the market contracts and rise when demand recovers. This pattern is more consistent with demand-driven cyclical variation than with a structural increase in imports causing displacement of domestic production.
- 132 Against this factual background, characterising Chinese imports as having “surged” or “increased significantly” is not supported by the evidence. First, in terms of market share, Chinese imports remain within a stable range of approximately 9%–13%, without any material structural breakthrough or displacement of domestic production. Second, in absolute terms, import fluctuations mirror overall market movements, indicating cyclical variation rather than sustained expansion. Third, Comsteel continues to hold approximately 84% of the market, confirming that the competitive structure remains fundamentally unchanged. In this context, any observed increase cannot reasonably be interpreted as a structural import shock or sustained market expansion. Rather, such fluctuations are more plausibly explained by demand cycles, contract execution timing, and inventory adjustments.
- 133 CCCME considers that the available record does not support the Applicant’s claim that Chinese imports have increased significantly or caused material sales displacement. Any observed fluctuations in import volumes must be assessed in light of overall market size, contract execution patterns, procurement cycles, inventory movements, and structural demand changes. The ADC should not equate short-term or cyclical increases in import volumes or market share with legally significant findings of material injury. Nor should Comsteel’s sales decline be attributed to Chinese imports without

first excluding the effects of demand contraction and other non-attribution factors, as required under the WTO Anti-Dumping Agreement, the ASCM, and the Customs Act 1901.

iii. Market-Wide Contraction Is a Key Context for the Decline in Sales

134 According to Table 9 of SEF 690, the Australian FRW market exhibited a clear overall contraction during the injury period, which constitutes a fundamental background factor for changes in sales volumes. In terms of total market size, measured in units, the overall market fell significantly to an index of 77 in FY2025 (with FY2022 as the base of 100), indicating a decline in total demand of more than 20% from the base period. This is not a marginal fluctuation, but a structural contraction of market demand.

135 Against this background, Comsteel's sales volume also declined in parallel, falling from an index of 100 to 75, representing a decrease of approximately 25%. At the same time, Chinese imports showed cyclical movement: they reached a peak of 176 in FY2024, before declining to 112 in FY2025, although remaining above the base level (FY2022 = 100).

136 In its causation analysis, the ADC concludes in section 9.5 that:

137 “the volume of dumped and subsidised imports from China increased over the injury period, at the expense of Australian industry sales volumes (as well as imports from other countries).”

138 While section 9.8.1 acknowledges “demand contraction” as a relevant factor and recognises that market shrinkage may explain part of the injury, the final conclusion states that this factor “does not explain the extent of the injury.” However, this assessment does not complete a critical analytical step: it does not structurally separate the sales decline attributable to overall market contraction from the portion potentially attributable to import competition.

139 Where the overall market declines by more than 20%, a corresponding decline in domestic industry sales necessarily reflects, at least in part, reduced

demand. Without quantifying or reasonably apportioning this effect, attributing the entirety—or the majority—of the sales decline to import increases risks overstating the contribution of imports.

140 Under section 269TAE(2A) of the Customs Act 1901, the investigating authority must consider whether injury is caused by factors other than dumped or subsidised imports, including expressly “contractions in demand.” This provision imposes a non-attribution obligation, requiring that injury caused by demand contraction must not be attributed to imports. In this case, although the SEF acknowledges demand contraction, it does so only qualitatively and does not separately assess its quantitative impact on sales decline. As such, the causation analysis does not fully satisfy the statutory non-attribution requirement.

141 CCCME considers that the ADC’s reliance on “temporal coincidence” contains a methodological gap, as it fails to distinguish between:

- (i) sales reductions caused by overall demand contraction; and
- (ii) sales losses potentially caused by import substitution.

142 In a market where total demand falls by more than 20%, a substantial portion of the decline in domestic sales can be explained by demand-side factors. Without adjusting for this baseline effect, equating total sales decline with import-induced loss risks conflating distinct causal channels. Accordingly, the observation of temporal overlap can only constitute preliminary correlation evidence and cannot substitute for a properly disaggregated causation analysis.

143 CCCME therefore requests that the ADC, in its final determination, quantify or semi-quantify the impact of overall market contraction on domestic sales, clearly distinguish between demand contraction and import substitution effects, fully comply with the non-attribution obligation under section 269TAE(2A) of the Customs Act 1901, and avoid attributing sales declines caused by market contraction to Chinese imports.

144 Only after such disaggregation can the causation analysis satisfy the objective examination requirement under Article 3.1 of the WTO Anti-Dumping Agreement.

iv. It Cannot Be Assumed That Chinese Import Orders Would Have Been Captured by Comsteel in the Absence of Imports

145 In its causation analysis, SEF 690 relies primarily on two categories of evidence to support the conclusion that Chinese imports caused injury to the Australian domestic industry.

146 First, customer negotiation evidence. Section 9.4.3 of SEF 690 refers to negotiation records submitted by Comsteel, noting that Australian customers “referenced Chinese prices” and requested Comsteel to match lower prices. On this basis, the ADC infers that Chinese imports exerted price pressure on Comsteel, resulting in lost sales and price suppression.

147 Second, the “remedied price” analysis. Section 9.1 constructs a counterfactual “non-dumped or non-subsidised Chinese import price” and compares it with Comsteel’s price, concluding that the two are “closely aligned.” On this basis, the ADC infers that under “fair competition conditions,” Chinese imports would not undercut domestic prices, implying that imports would not exert price or volume pressure.

148 This analysis implicitly rests on a key assumption: that in the absence of dumping or subsidisation, all Chinese low-priced import orders would necessarily have been captured by Comsteel (the so-called “but for” substitution assumption).

149 CCCME considers that while the “remedied price” methodology may have technical structure, its causal inference relies on an untested premise that all Chinese import transactions priced below Comsteel would have been transferred to Comsteel under non-dumped conditions.

- 150 This assumption lacks sufficient economic and evidentiary support. First, it assumes that price is the sole determinant of purchasing decisions, whereas the SEF itself acknowledges that FRW is a safety-critical industrial product where procurement decisions are influenced by multiple factors, including quality stability, technical certification, delivery reliability, supply chain security, and long-term commercial relationships.
- 151 Second, it disregards the possibility that customers may select suppliers based on non-price considerations. In large railway and mining operations, supply diversification strategies, risk management considerations, and technical qualification requirements may lead customers to choose alternative suppliers even at similar or higher prices.
- 152 Third, the assumption equates “price differential” with full substitutability of orders without any transaction-level evidence. The SEF does not examine whether customers actually switched suppliers on an order-by-order basis, whether specific contracts were demonstrably substitutable, or whether customers explicitly stated that price was the decisive reason for switching from Comsteel. The inference that “remedied price equals Comsteel’s guaranteed winning price” is therefore a model-based assumption rather than an empirically verified conclusion.
- 153 In addition, CCCME notes that SEF does not provide sufficient order-level evidence to substantiate the substitution assumption. In particular, it does not identify: which specific orders would have shifted to Comsteel in a “but for” scenario; whether customers explicitly confirmed price as the sole reason for switching suppliers; whether non-price factors in procurement decisions were assessed and weighted; or whether long-term contracts and framework agreements created supplier lock-in effects. Instead, the analysis relies primarily on price comparisons rather than observed purchasing behaviour, thereby weakening the factual foundation for the counterfactual conclusion.

- 154 Furthermore, section 9.8.9 of SEF 690 acknowledges that procurement decisions involve multiple non-price factors, including warranty arrangements, product assurance, technical services, and other value-added considerations. However, in the subsequent causation analysis, these factors are effectively discounted as insufficient to explain injury.
- 155 CCCME considers this treatment internally inconsistent. In the FRW market—where safety-critical requirements are central—non-price factors are not ancillary but often equally or more important than price. Major customers routinely apply strict supplier qualification systems; historical performance and quality records may determine eligibility; supply diversification is a key risk management tool; and long-term technical relationships may outweigh short-term price advantages. In this context, inferring automatic order substitution based solely on price differentials risks underestimating the role of non-price factors.
- 156 In summary, CCCME considers that the “remedied price” analysis rests on an unverified assumption that all Chinese import transactions priced below Comsteel would have been captured by Comsteel in the absence of dumping. This assumption is not supported by transaction-level evidence and does not adequately account for the substantive role of non-price factors in FRW procurement decisions.
- 157 CCCME therefore requests that the ADC, in its final determination: avoid equating price differentials with full order substitutability; identify or rely on transaction-specific evidence of substitution rather than price-based modelling alone; incorporate non-price factors into the “remedied price” analysis; and ensure that causation findings are grounded in observed market behaviour rather than abstract counterfactual assumptions.

v. Request for Reconsideration of Import Volume and Sales Displacement Findings

158 Based on the foregoing analysis of market structure, demand conditions, customer purchasing behaviour, and deficiencies in the causation assessment, CCCME submits the following key legal and factual arguments regarding the findings on import volumes and alleged sales displacement, and respectfully requests that the ADC reconsider these issues at the final determination stage.

159 CCCME considers that, pursuant to Articles 3.1 and 3.2 of the WTO Anti-Dumping Agreement and section 269TAE(2A) of the Customs Act 1901, injury and causation determinations are subject to a strict non-attribution obligation. Accordingly, the investigating authority must clearly and verifiably separate factors other than dumped or subsidised imports from the injury analysis, and must not conflate such factors with the effects of imports.

160 Against this legal framework, CCCME advances the following three core submissions:

161 First, non-import factors must be fully separated from injury attribution. The ADC must systematically isolate the impact of the following non-import factors on Comsteel's sales and market performance: demand contraction; customer procurement cycles and contract execution timing; fluctuations under long-term contracts and framework agreements; and Comsteel's own operational factors, including capacity utilisation, product mix, and delivery capability.

162 In the absence of a structured and quantified separation of these factors, attributing all or the majority of sales decline to Chinese imports lacks a sufficient legal and economic foundation.

163 Second, any alleged sales displacement requires order-specific "but for" evidence. If the ADC seeks to establish that Chinese imports caused Comsteel's lost sales, it must provide specific and verifiable "but for"

- evidence, demonstrating that, absent Chinese imports, the allegedly lost orders would, on a balance of probabilities, have been awarded to Comsteel.
- 164 This requires evidence at a minimum at the following levels: order-level substitution analysis identifying actual customer switching behaviour; customer-specific procurement records or interview evidence; assessment of whether individual orders were genuinely substitutable; and analysis of whether non-price factors could have led customers to alternative suppliers or deferred procurement.
- 165 A conclusion based solely on price differentials or a “remedied price” model, without transaction-level substantiation, does not meet the objective examination requirement under Article 3 of the WTO Anti-Dumping Agreement.
- 166 Third, limited market share movements must not be equated with material injury. In the absence of evidence demonstrating both that: Chinese imports experienced a significant and abnormal surge; and the allegedly displaced orders would necessarily have been captured by Comsteel in a counterfactual scenario, it is not appropriate to treat relatively limited changes in market share or import fluctuations as the primary cause of Comsteel’s alleged sales losses.
- 167 In the present case, Chinese imports have remained within a relatively narrow range of market share, while Comsteel continues to hold a dominant position in the Australian FRW market. Against this background, marginal shifts in market share cannot, without further evidence, be equated with material injury or substantial sales displacement.
- 168 In summary, CCCME considers that the SEF suffers from the following key deficiencies in its import volume and sales displacement analysis: insufficient separation of demand contraction and cyclical effects from import impact; failure to structurally account for procurement cycles and contractual mechanisms; absence of order-level “but for” substitution evidence; and an

overly strong inference drawn between limited market share changes and sales decline.

169 Accordingly, CCCME respectfully requests that the ADC: strictly comply with the non-attribution obligation under section 269TAE(2A) of the Customs Act 1901; clearly distinguish the respective contributions of demand changes, procurement cycles, and import competition to injury; identify or provide specific order-level evidence supporting any alleged “but for” substitution; and refrain from treating limited market share movements as the primary cause of Comsteel’s alleged sales loss or output decline in the absence of demonstrable import surge and proven substitution.

170 Only through such rigorous separation and evidentiary verification can the causation analysis between imports and injury meet the standards of objectivity and sufficiency required under WTO rules and Australian domestic law.

VI. The SEF’s Analysis of Price Undercutting, Price Suppression and “Remedied Prices” Remains Insufficient to Establish Price Effects

i. Applicable legal requirements

171 Under Article 3.2 of the WTO Anti-Dumping Agreement and Article 15.2 of the SCM Agreement, when examining the effect of the subject imports on domestic market prices, the investigating authority must objectively examine whether there has been significant price undercutting, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases which otherwise would have occurred.¹⁶ Price undercutting, price depression and price suppression must all be based on an objective, comparable and adequately explained price analysis.

¹⁶ Anti-Dumping Agreement, Art. 3.2; SCM Agreement, Art. 15.2.

172 Under Article 3.5 of the WTO Anti-Dumping Agreement and Article 15.5 of the SCM Agreement, the investigating authority must also examine, on the basis of all relevant evidence, the causal relationship between the subject imports and injury to the domestic industry, and must ensure that injury caused by other known factors is not attributed to the subject imports.¹⁷ The relevant rules under Part XVB of Australia's Customs Act 1901 and the rules concerning material injury likewise require that the injury caused by dumped or subsidised imports be material, and that injury caused by other factors not be attributed to dumped or subsidised imports.¹⁸

173 Accordingly, price undercutting in itself cannot automatically establish material price injury. Nor can the domestic industry's inability to cover costs automatically establish that such cost under-recovery was caused by the subject imports. The investigating authority must further demonstrate that the relevant price comparison is sufficiently comparable; that the subject imports, through the effects of dumping or subsidisation, had a material effect on domestic industry prices; that the domestic industry would have been able to achieve higher prices absent such import effects; and that the effects of market contraction, cost increases, business model constraints, customer purchasing behaviour and other known factors have not been attributed to the subject imports.

ii. The SEF fails to demonstrate that price undercutting caused material price injury

174 The Chamber submits that the SEF's analysis of price undercutting is insufficient to demonstrate that imports from China caused material price injury to the Australian industry. As a factual matter, price undercutting only shows that, under particular conditions of comparison, certain imported products were priced below Comsteel's selling prices. The investigating

¹⁷ Customs Act 1901 (Cth), Part XVB, ss 269TG, 269TJ, 269TJA and 269TAE; SEF 690, s 2.2.1, pp. 13–14.

¹⁸ Anti-Dumping Agreement, Art. 3.5; SCM Agreement, Art. 15.5.

authority must still demonstrate that such price differences are sufficiently comparable and had a material effect on Comsteel's pricing decisions.¹⁹

175 The proper logic of the price-undercutting analysis should be whether such price differences were caused by alleged dumping or subsidisation, and whether they materially constrained the Australian industry's pricing power. The SEF currently relies primarily on the fact that prices of imports from China were lower than Comsteel's prices to infer that Comsteel was affected by low-priced imports in customer negotiations. This analysis does not adequately explain whether, in the absence of Chinese import competition, Comsteel would have been able to achieve prices in the Australian market sufficient to cover its costs and earn a reasonable profit.

176 The SEF has already found that Comsteel did not experience price depression during the injury period, that its unit selling prices generally increased during the injury period, and that they remained broadly stable during the investigation period. This fact weakens any finding that imports from China exerted decisive downward pressure on Comsteel's prices. If Comsteel's selling prices were able to be maintained or increased during the injury period, the investigating authority must further explain through what mechanism, and to what extent, the alleged price undercutting constrained Comsteel's pricing power and caused material price injury.

177 The SEF should also further examine the comparability of its price-undercutting comparison. Procurement of freight railway wheels involves product model and specifications, quality stability, operational safety, delivery capability, long-term supply arrangements, maintenance costs, customer-specific requirements and transaction terms. Price differences between different suppliers may arise from product models, contract duration, customer mix, delivery terms, after-sales arrangements and commercial

¹⁹ SEF 690, s 8.7, pp. 70–71.

strategies. The investigating authority must control for those differences sufficiently before finding that alleged price undercutting has genuine commercial significance and is sufficient to cause material price injury.

iii. The SEF fails to distinguish price suppression from the effects of other known factors

178 The Chamber submits that the SEF's analysis of price suppression does not adequately distinguish the effects of imports from the effects of other known factors on Comsteel's business performance. A price-suppression analysis must examine whether the Australian industry, absent the effects of the subject imports, would have been able to raise prices to a level sufficient to cover costs and restore reasonable profitability. Reliance solely on the fact that the Australian industry's selling prices were below its cost to make and sell cannot sufficiently support a conclusion that the price suppression was caused by imports from China.

179 The core issue identified in the SEF is, in substance, the gap between Comsteel's selling prices and its cost to make and sell. That gap may be affected by multiple factors, including Comsteel's own cost structure, production scale, capacity utilisation, raw material procurement costs, energy costs, labour costs, operating expenses, related-party procurement arrangements, and the size and demand conditions of the Australian market. The SEF must independently assess those factors and explain the effect of each on Comsteel's prices, costs, profits and profitability.

180 The Australian market for freight railway wheels contracted during the injury period, and Comsteel remained unable to achieve profitability over an extended period despite maintaining a relatively high market share. This circumstance requires the investigating authority to further examine the source of Comsteel's losses, including its own business model, cost level, production scale, capacity utilisation and the limitations imposed by market

size. If Comsteel was unable to cover its costs while maintaining a relatively high market share, its losses may primarily reflect structural issues such as high costs, low scale and insufficient market demand. The investigating authority must avoid directly attributing Comsteel's cost under-recovery to imports from China.

181 The SEF must also explain the price increase required for Comsteel to break even, and whether such an increase would be commercially feasible in the Australian market. If market size, customer demand and competitive conditions would not support a price increase sufficient for Comsteel to cover its full costs, such cost under-recovery lacks a sufficient basis for attribution to imports from China. The SEF has not adequately addressed these issues, and its conclusions on price suppression and material injury therefore require further review.

iv. The “remedied price” analysis cannot substitute for causation and non-attribution analysis

182 The Chamber submits that the SEF's “remedied price” analysis cannot substitute for an independent causation and non-attribution analysis. Adding the applicable dumping and subsidy margins back to the prices of imports from China, and then considering that the adjusted prices are close to Comsteel's selling prices, merely reflects the investigating authority's use of its preliminary margin calculations. That analysis does not independently prove that imports from China caused price suppression for Comsteel, nor does it demonstrate that Comsteel would have been able to restore cost recovery and profitability in the absence of alleged dumping and subsidisation.

183 The “remedied price” analysis creates a risk of circular reasoning. The investigating authority first calculates dumping and subsidy margins through normal value, export price and subsidy benefit calculations; then adds those

margins back to import prices to explain price differences; and finally treats the disappearance of the price difference after adjustment as evidence of injury and causation. This reasoning does not independently establish that the price difference resulted from dumping or subsidisation, nor does it prove that Comsteel's losses, profit declines and cost under-recovery resulted from that price difference.

184 The SEF must further distinguish price effects across different exporters, different models and different transaction terms. The SEF found that Masteel did not dump and that Masteel's overall prices were higher than Comsteel's weighted average selling price, with only slight price undercutting at the specific MCC sub-category level. These facts do not support a broad conclusion that all imports from China caused material price injury. The investigating authority should conduct price comparisons separately by exporter, MCC, customer, contract type, quarter and level of trade, and provide an adequate non-confidential explanation so that interested parties can understand the specific method, adjustment items and comparison basis used to convert import prices to an FIS level.

185 The SEF should also further collect purchaser evidence. Supplier-side data may show transaction quantities, prices and timing, but it cannot adequately explain the actual reasons for purchasers' procurement decisions. Freight railway wheels are products with high requirements for safety, reliability and compatibility. Procurement decisions may be affected by product quality, technical specifications, operational safety, maintenance costs, delivery capability, long-term supply stability, customer-specific requirements and existing contractual arrangements. Without direct purchaser evidence, the SEF cannot adequately establish that the alleged price undercutting caused Comsteel to lose sales, suffer price suppression or experience material injury.

v. Request that the ADC re-examine price undercutting, price suppression and “remedied price” analysis

186 For the foregoing reasons, the Chamber requests that the investigating authority re-examine in the final determination its preliminary findings on price undercutting, price suppression and “remedied prices”. The investigating authority should further explain the comparability of the price comparisons, the specific method used to adjust import prices to an FIS level, the price effects of different exporters and different MCC models, the customer- and contract-level comparison basis, and the specific mechanism by which the alleged price undercutting materially affected Comsteel’s pricing power.

187 The Chamber further requests that the investigating authority re-examine the reasons for Comsteel’s cost under-recovery and distinguish the effects of market contraction, cost increases, business model constraints, fixed cost allocation, insufficient capacity utilisation, customer purchasing behaviour and other known factors from any effects potentially caused by the subject imports. The investigating authority should avoid inferring price suppression or material injury caused by imports from China solely on the basis of temporal correlation among price undercutting, cost under-recovery and deterioration in business indicators.

188 The Chamber also requests that the investigating authority re-examine the probative value of the “remedied price” analysis. That analysis cannot replace an independent causation and non-attribution analysis. The investigating authority should further disclose its methodology and a non-confidential explanation, and confirm that the analysis does not reuse or rely circularly on dumping margins, subsidy margins, price undercutting, NIP and proposed measures.

189 In the absence of sufficient evidence demonstrating that the subject imports caused material price injury through the effects of dumping or subsidisation, the investigating authority should not attribute Comsteel's price suppression, profit decline, cost under-recovery or overall business injury to imports from China.

VII. The SEF Fails to Adequately Distinguish the Derivative Relationships among Comsteel's Economic Indicators or Prove that Deterioration in Those Indicators Was Caused by Imports from China

i. Applicable legal requirements

190 Under Article 3.4 of the WTO Anti-Dumping Agreement and Article 15.4 of the SCM Agreement, when examining the condition of the domestic industry, the investigating authority must objectively evaluate all relevant economic factors and indices having a bearing on the state of the industry, including output, sales, market share, profits, profitability, return on investments, capacity utilisation, cash flow, inventories, employment, wages, growth, ability to raise capital and investments.²⁰

191 Under Article 3.5 of the WTO Anti-Dumping Agreement and Article 15.5 of the SCM Agreement, the investigating authority must also examine, on the basis of all relevant evidence, the causal relationship between the subject imports and injury to the domestic industry, and ensure that injury caused by other known factors is not attributed to the subject imports.²¹ The Australian rules concerning material injury likewise require that dumped or subsidised imports need not be the sole cause of injury, but that the relevant injury must

²⁰ Anti-Dumping Agreement, Art. 3.4; SCM Agreement, Art. 15.4.

²¹ Customs Act 1901 (Cth), Part XVB, ss 269TG, 269TJ, 269TJA and 269TAE; SEF 690, s 2.2.1, pp. 13–14; s 9.8, pp. 79–80.

still be material and that injury caused by other factors not be attributed to dumped or subsidised imports.²²

192 Accordingly, the existence of losses or deterioration in certain economic indicators for the domestic industry cannot automatically establish that the relevant injury was caused by the subject imports. The investigating authority must further analyse the specific reasons for deterioration in each indicator, whether there are derivative relationships among the indicators, whether the same business development has been counted repeatedly, and whether there is an objective and material causal link between the relevant changes and the subject imports.

ii. The multiple economic indicators listed in the SEF are derivative and should not be counted repeatedly as independent evidence of injury

193 The Chamber submits that the SEF's analysis of Comsteel's economic condition does not adequately distinguish between direct operating indicators, derivative indicators, financial indicators and managerial indicators. The SEF lists deterioration in multiple indicators, including Comsteel's profits, profitability, revenue, return on investment, capacity utilisation, productivity, asset values and R&D.²³ These indicators have clear economic and accounting interrelationships.

194 Specifically, revenue is primarily determined by sales volume and selling prices; profits and profitability are primarily determined by revenue, unit costs and fixed cost allocation; return on investment is further determined by profits, costs and the asset base; capacity utilisation is determined by output; and productivity is generally affected by output, number of employees and production organisation. Therefore, if the relevant indicators all arise from declining sales volume, declining production volume, rising costs or insufficient fixed cost absorption, they reflect a chain of consequences from

²² Anti-Dumping Agreement, Art. 3.5; SCM Agreement, Art. 15.5.

²³ SEF 690, s 8.1, p. 63; s 8.6, pp. 67–69; s 9.7, pp. 78–79.

the same business development and should not be mechanically listed as multiple independent injury facts.

195 The SEF itself recognises such derivative relationships under several indicators. For example, the SEF links revenue to sales volume and selling prices, ROI to revenue and CTMS, capacity utilisation to production volume, and productivity to production volume and the number of employees. These explanations indicate that several economic indicators listed in the SEF share a common logical basis. In the final determination, the investigating authority must further explain the extent to which these derivative indicators provide independent evidence of injury, whether there is double counting among the relevant indicators, and whether the same changes in sales or production volume have been repeatedly used to support multiple injury conclusions.

196 In the absence of such distinctions, listing declines in profits, ROI, revenue, capacity utilisation and productivity as independent evidence of injury risks overstating the probative value of the same underlying business development. The investigating authority should first identify the common causes underlying each indicator, particularly the effects of declining sales volume, declining production volume, rising costs, insufficient fixed cost absorption and internal accounting allocation methods, before determining whether those causes were attributable to the subject imports.

iii. The SEF does not adequately prove that Comsteel's long-term losses and cost under-recovery were caused by imports from China

197 The Chamber submits that the SEF's analysis of Comsteel's long-term losses and declining profitability does not adequately prove that the relevant injury was caused by imports from China. The SEF finds that Comsteel's profits and profitability were negative throughout the injury period, and further finds that its business performance deteriorated during the investigation period. This fact requires the investigating authority to conduct a more detailed

examination of Comsteel's cost structure, production scale, capacity utilisation, fixed cost allocation and market demand conditions.

198 If Comsteel was unable to recover its costs throughout the injury period, its business difficulties may have been affected by high costs, small scale, under-utilised capacity, production efficiency constraints, high fixed costs, limited market size, customer purchasing arrangements and the cycle of technical investment. The Australian market for freight railway wheels contracted during the injury period, and declines in Comsteel's sales and production volume would allocate fixed costs over fewer units, thereby increasing unit costs and compressing profits. This mechanism can independently affect multiple indicators, including profits, profitability, ROI, capacity utilisation and productivity.

199 The SEF should further explain the sales volume, production volume and price levels required for Comsteel to break even, and whether those levels would be commercially feasible in the Australian market for freight railway wheels. If market demand, customer purchasing cycles and production scale would not support Comsteel's recovery of sufficient volume and cost coverage, then there is an insufficient basis to directly attribute the relevant losses and decline in profitability to imports from China.

200 The SEF should also further examine the effect of cost-side factors on Comsteel's business performance. Raw material procurement costs, energy costs, labour costs, operating expenses, related-party procurement arrangements, asset depreciation and fixed cost allocation may all affect Comsteel's CTMS and profitability. These factors are relevant factors that must be examined in determining material injury and causation. The investigating authority should avoid inferring that imports from China caused Comsteel's long-term losses based solely on temporal correlation among import prices, sales volume changes and deterioration in business indicators.

201 Public financial statements filed by Comsteel with the Australian Securities and Investments Commission (ASIC) reinforce the need for ADC to examine whether Comsteel's losses reflect structural and business-model factors rather than injury caused by Chinese imports. Comsteel's consolidated financial statements for the financial year ended 30 June 2025 disclose sales revenue of AUD 332.248 million, cost of sales of AUD 295.752 million, gross profit of AUD 36.496 million, operating expenses of AUD 59.090 million, and a loss after tax of AUD 15.023 million. Its financial statements for the financial year ended 30 June 2024 disclose sales revenue of AUD 408.908 million, cost of sales of AUD 383.161 million, gross profit of AUD 25.747 million, operating expenses of AUD 182.796 million, and a loss after tax of AUD 101.735 million.²⁴

202 CCCME recognises that these are consolidated group-level financial statements and do not isolate the financial performance of FRW alone. However, precisely because they include Comsteel's principal businesses, they indicate that Comsteel's losses and operating expenses are not necessarily unique to the FRW business or caused by FRW imports. They require ADC to examine whether Comsteel's inability to recover its full CTMS reflects broader structural and business-model factors, including high operating expenses, restructuring or closure costs, fixed-cost absorption, related-party procurement, energy costs, labour costs, raw material costs, and market-size limitations, rather than price effects of Chinese imports.

203 ADC should therefore examine, at a minimum, how long Comsteel's FRW business has operated at a loss, whether it was already loss-making before the injury period, whether Comsteel's other principal businesses were also loss-making, what price and volume increases would be required for Comsteel's

24 Commonwealth Steel Company Pty Limited, General Purpose Financial Report for the financial year ended 30 June 2025, Consolidated Statement of Profit or Loss and Comprehensive Income and Loss, p. 5; Commonwealth Steel Company Pty Limited, General Purpose Financial Report for the financial year ended 30 June 2024, Consolidated Statement of Profit or Loss and Comprehensive Income and Loss, p. 5. Copies **attached**.

FRW business to break even or earn a reasonable profit in a contracting market, and whether such price increases would be commercially achievable even in the absence of Chinese imports.

204 ADC should also examine Comsteel’s raw material procurement and related-party transactions. Note 21 to Comsteel’s 2025 financial statements discloses purchases of goods and/or services from associates of AUD 225.365 million in 2025 and AUD 127.207 million in 2024. Given the significance of steel inputs to the CTMS of FRW, ADC should verify whether those related-party purchases were made on arm’s length terms and whether the prices paid by Comsteel reflected internationally competitive market prices. If Comsteel’s raw material procurement costs were materially above appropriate international benchmarks, that would constitute an “other known factor” relevant to injury and causation and should not be attributed to Chinese imports.²⁵

iv. Financial and managerial indicators such as R&D and asset values require independent attribution analysis

205 The Chamber submits that the SEF’s analysis of declining R&D expenditure and asset values requires further supplementation. These indicators are clearly financial, accounting and managerial in nature. Changes in them may be affected by internal budgeting, tax reporting basis, depreciation, impairment, project cycles, group strategy, cash-flow arrangements, expectations of future returns and internal asset allocation methods. Such indicators have no automatic direct link to import volume or import prices.

206 With respect to asset values, if the relevant figures are calculated on the basis of sales revenue allocation or internal accounting methods, a decline may merely be a result of changes in revenue or accounting allocation methods. The investigating authority must explain whether the decline in asset values

²⁵ Commonwealth Steel Company Pty Limited, General Purpose Financial Report for the financial year ended 30 June 2025, Note 21 “Related Party Transactions”, p. 29.

reflects an actual impairment of productive assets, or merely reflects declining sales revenue, depreciation, impairment testing, intra-group asset allocation and changes in expected future cash flows. In the absence of such analysis, a decline in asset values cannot serve as independent evidence of material injury caused by imports from China.

207 With respect to R&D, the relevant expenditure is generally affected by parent-company budgets, project cycles, technology pathways, tax reporting basis, cash-flow arrangements and management strategy. The SEF merely confirms a decline in R&D expenditure and does not adequately explain the existence of a direct causal link between that decline and imports from China. The investigating authority should require Comsteel to explain the composition of its R&D projects, budget approval mechanisms, tax reporting basis, group R&D arrangements, project-cycle changes and the specific reasons for the decline in such expenditure.

v. Request that the ADC re-examine Comsteel's economic indicators and injury attribution

208 For the foregoing reasons, the Chamber requests that the investigating authority re-examine in the final determination the probative value of each of Comsteel's economic indicators. The investigating authority should distinguish between direct operating indicators, derivative indicators, financial indicators and managerial indicators, and avoid counting the same business phenomenon repeatedly as multiple pieces of injury evidence. The investigating authority should also further analyse whether Comsteel would have been able to achieve reasonable profits in the absence of the effects of imports from China. If Comsteel's business injury was mainly affected by cost structure, under-utilised capacity, fixed cost allocation, declining market demand, internal accounting arrangements or its own efficiency factors, such injury must not be attributed to imports from China.

VIII. The SEF's Analysis of Subsidy Findings, Benefit Calculation and Facts Available for Uncooperative Entities Requires Further Review

i. Applicable legal requirements

209 Under the WTO SCM Agreement and the countervailing duty rules under Part XVB of Australia's Customs Act 1901, before recommending the imposition of a countervailing duty notice, the investigating authority must demonstrate that the relevant measure constitutes a subsidy and further demonstrate that the subsidy is actionable. The relevant inquiry should include, at a minimum, whether there is a financial contribution, income or price support provided by a government or public body; whether a benefit is conferred; whether the subsidy is specific or contingent on export performance; whether the relevant benefit arose during the investigation period; and whether the relevant benefit can reasonably be attributed to the subject goods and their export to Australia.²⁶

210 Subsidy determination, benefit calculation and injury attribution are distinct analytical steps. Even if a particular program is found to be actionable, the investigating authority must still demonstrate that subsidised imports caused material injury to the Australian industry through the effects of subsidisation. The existence of a program, the receipt of funds by an enterprise, a non-de minimis subsidy margin and deterioration in the Australian industry's business performance are not substitutes for an independent examination of subsidy elements, benefit attribution and injury causation.²⁷

211 For uncooperative entities, the investigating authority may apply facts available where the legal conditions are met. Facts available must nevertheless be based on record evidence, current investigation-period

²⁶ SCM Agreement, Arts. 1, 2 and 14; Customs Act 1901 (Cth), ss 269T, 269TAAC and 269TACD; SEF 690, s 7.2, pp. 54–55.

²⁷ SCM Agreement, Art. 15.5; Customs Act 1901 (Cth), ss 269TJ and 269TJA; SEF 690, s 2.2.1, pp. 13–14; s 9.2, p. 73.

evidence and reasonable inferences. Program findings from prior cases, the program usage of a cooperating enterprise in this case and the government's failure to respond may serve as background for the inquiry, but they are insufficient to replace a specific analysis of the investigation period, the subject goods, the relevant enterprises and exports to Australia in this case.²⁸

ii. The SEF should examine the elements and attribution basis of each subsidy program on a program-by-program basis

212 Chapter 7 and Appendix D of the SEF make findings on, or discuss, multiple subsidy programs, including provision of steel billet for less than adequate remuneration, tax concessions, additional VAT deductions, individual income tax withholding fee rebates, R&D and technological upgrade support, employment support, green factory support and new product certification programs.²⁹ The SEF also indicates that, under certain programs, it analyses subsidy programs by grouping them according to type and economic characteristics. The Chamber submits that this approach requires further detailed explanation. In particular, where program conditions, granting authorities, beneficiaries, uses of funds and benefit attribution differ, a grouped analysis must not weaken the obligation to examine each program individually.

213 For each program included in the subsidy margin, the investigating authority should clearly identify the legal or policy basis of the program, the granting authority, eligibility criteria, actual amount granted, benefit period, basis for specificity, scope of benefiting products and allocation method. Programs lacking investigation-period benefit, product relevance, nexus with exports to Australia, or whose benefits were expensed before the investigation period, should be excluded from the subsidy margin. Enterprise-wide, group-wide,

²⁸ SCM Agreement, Art. 12.7; Customs Act 1901 (Cth), s 269TAACA; SEF 690, s 2.5.3, pp. 17–18; s 7.3, pp. 55–56.

²⁹ SEF 690, s 7.1, pp. 52–54; Appendix D, pp. 159–182.

capital or managerial support should be allocated based on the scope of benefit, benefit period, asset life, product revenue or another objective basis.

214 At present, the SEF appears to rely in several programs mainly on accounting records, receipt of funds, program names or findings in prior cases. Such materials may serve as preliminary indications, but they are insufficient by themselves to establish that the relevant programs constitute actionable subsidies in this case and are attributable to FRW exported to Australia. In the final determination, the investigating authority should further disclose non-confidential explanations enabling interested parties to understand how each amount was allocated from the enterprise-wide level to railway products, the subject goods and exports to Australia during the investigation period.

iii. The public body finding, benchmark comparability and double-counting issues for the steel billet LTAR program require further review

215 The provision of steel billet for less than adequate remuneration is a key program in the SEF's subsidy margin. The SEF bases this program on conditions in China's steel market, SOE suppliers, Masteel's steel billet purchases and an external benchmark price. The Chamber submits that the final determination should further explain the specific factual basis for finding that the relevant steel billet suppliers constitute "government" or "public bodies". State ownership, state shareholding, group relationships or SOE status may be analytical factors, but they are insufficient to automatically establish that the relevant enterprises exercised governmental functions or were directed by the government to perform public functions in steel billet sales transactions. The investigating authority should provide a specific explanation based on factors including supplier governance structure, director appointment, commercial autonomy, pricing mechanism, transaction terms and the government's influence over the specific transactions.

- 216 The benchmark price for steel billet also requires further review. The SEF selected Turkish steel billet prices and adjusted them through a special billet premium. The central premise of this approach is that, after adjustment, Turkish steel billet prices can reasonably reflect a comparable market price for the special steel billet actually used by Masteel to produce FRW. Steel billet used for freight railway wheels has strong technical characteristics, and its carbon content, alloying elements, cleanliness, internal structure, quality testing standards, forgeability and rollability, customer specifications and applicable standards may all affect price. The investigating authority should further explain the comparability between the Turkish benchmark and Masteel's actual steel billet in terms of quality grade, technical requirements, transaction quantity, timing of purchase, payment terms, freight and insurance costs, domestic delivery terms and market conditions.
- 217 The calculation of the special billet premium also requires fuller non-confidential disclosure. If the premium is based on the difference between Chinese ordinary billet prices and Masteel's actual purchase price for special billet, the investigating authority should explain whether that difference genuinely reflects the quality premium between ordinary billet and special billet, and whether it is affected by purchase quantity, supplier relationship, contract duration, payment terms, delivery terms and specification differences. This issue directly affects the amount of benefit under the steel billet LTAR program, as well as subsequent analysis concerning normal value, price effects and the level of measures.
- 218 In addition, the SEF has recognised the potential for double counting between the steel billet LTAR program and the cost adjustment in normal value, and adjusted the combined duty rate at the level of proposed measures. The Chamber submits that the final determination should further explain the specific method of that adjustment. The steel billet factor appears in normal value construction, subsidy benefit calculation, price undercutting or

remedied price analysis, NIP and proposed measures. The investigating authority should identify the calculation boundary for each step and confirm that the same alleged low-priced input factor has not been used repeatedly to increase the level of measures.

iv. Tax, export-related programs and general grants should be treated according to their actual scope of benefit

219 For programs such as high and new technology enterprise income tax concessions, additional VAT deductions and individual income tax withholding fee rebates, the investigating authority should distinguish between general tax arrangements, administrative rebates and actionable financial contributions. High and new technology enterprise income tax concessions are typically linked to eligibility criteria such as R&D capability, proportion of technical personnel, intellectual property and R&D expenditure. The investigating authority should further explain whether the relevant conditions are specific, whether they are based on objective, neutral and horizontally applicable criteria, whether they apply automatically, and how the relevant benefits are attributed to FRW products and exports to Australia during the investigation period.

220 With respect to individual income tax withholding fee rebates, the investigating authority should further examine their nature and scope of benefit. Such rebates are generally linked to the enterprise's performance of withholding obligations, and the connection between the relevant amount and the production, manufacture or export of FRW requires separate explanation. The fact that an enterprise received funds is insufficient to demonstrate that the amount should be included as a subsidy benefit for FRW exported to Australia in this case.

221 For programs such as export credit insurance, foreign trade development funds, international market development, overseas certification, enterprise

management system certification and domestic product certification, the inclusion of terms such as “export”, “foreign trade”, “international market” or “certification” in the program name does not demonstrate that the full amount should be attributed to FRW exported to Australia. Such support may cover multiple product lines, multiple export markets, general certification activities or enterprise-wide market development. The investigating authority should allocate the support according to the actual scope of benefit and exclude amounts insufficiently connected with the subject goods and exports to Australia.

222 For R&D, technological upgrade, employment, green factory, new product certification, intelligent manufacturing and technological innovation programs, the investigating authority should examine the use of funds, benefiting assets, project cycles and benefiting products. If the relevant programs involve enterprise-wide technological upgrades, environmental investments, employment stabilisation, R&D platform construction or capital expenditure, they should be allocated over a reasonable benefit period and according to the actual scope of benefit. If the relevant programs lack a clear nexus with FRW production or exports to Australia, the relevant amounts should not be included in the subsidy margin in this case.

v. The application of facts available to uncooperative entities should avoid cumulative adverse inferences

223 The SEF bases the subsidy margin for uncooperative entities on Masteel’s programs and several prior programs from INV466. The Chamber submits that this approach requires a stricter factual basis. The fact that a program was identified in a prior case only demonstrates that the program was previously discussed or found in a past period and for particular enterprises. It does not establish that the program remained in effect during the investigation period in this case, nor does it establish that all uncooperative entities actually

received benefits. Similarly, Masteel's program usage in this case cannot directly substitute for the supplier structures, purchase prices, cost structures, product structures and export behaviour of other uncooperative entities.

224 Particular caution is required with respect to steel billet LTAR. Uncooperative entities may have different steel billet suppliers, different product grades, different purchase contracts, different payment terms, different delivery terms and different cost structures. Inferring, solely from the absence of questionnaire responses, that they purchased steel billet in the same or a more adverse manner than Masteel would give facts available a cumulative adverse effect. The investigating authority should explain the reasons for selecting the facts available and explain how the relevant assumptions are consistent with import data, exporter structure, product types and available record evidence in this case.

225 For programs sourced from INV466 or other prior proceedings, the investigating authority should also explain their currency during the investigation period, applicable recipients, conditions of benefit, product coverage and export nexus in this case. Programs lacking currency, enterprise specificity, product relevance or nexus with exports to Australia should not be included in the subsidy margin for uncooperative entities. The application of facts available should serve to reasonably fill information gaps, and should not create a punitive result through the accumulation of prior-case programs, cooperating-enterprise programs and the most adverse assumptions.

226 This point is particularly important for the programs previously identified in Investigation No. 466. If Masteel, the only cooperative exporter in this investigation, is not found to have received those prior-case subsidies during the investigation period, that fact tends to undermine, rather than support, an assumption that all non-cooperative entities received them. ADC must explain, on the basis of current record evidence in this investigation, why it is reasonable to infer that non-cooperative entities received a benefit from

those programs during the investigation period when the cooperative exporter did not. Absent such evidence, the inclusion of those programs would amount to an adverse and punitive inference rather than an objective facts-available determination.

vi. Request that the ADC re-examine subsidy findings, benefit calculation and facts available for uncooperative entities

227 For the foregoing reasons, the Chamber requests that the investigating authority re-examine in the final determination its subsidy findings, benefit calculation and use of facts available for uncooperative entities. Specifically, the investigating authority should examine, on a program-by-program basis, the financial contribution, benefit, specificity, investigation-period benefit, product relevance and nexus with exports to Australia; exclude programs that lack sufficient evidentiary support; reasonably allocate enterprise-wide, group-wide, capital and managerial support; and further disclose allocation methods and non-confidential calculation explanations.

228 The investigating authority should also re-examine the steel billet LTAR program, particularly the public body finding, the comparability of the Turkish steel billet benchmark, the calculation basis for the special billet premium, and the risk of double counting the steel billet factor in normal value, subsidy margin, price effects, NIP and proposed measures. For uncooperative entities, the investigating authority should limit the application of facts available to record evidence and reasonable inferences, and avoid cumulatively applying prior-case programs, the cooperating-enterprise programs in this case and the most adverse assumptions to all uncooperative entities.

229 Where the evidence is insufficient to demonstrate that the relevant subsidised imports caused material injury to the Australian industry through the effects of subsidisation, the investigating authority should not recommend the

imposition of a countervailing duty notice. Even if the investigating authority maintains the actionability of certain programs, it should strictly limit the scope of such programs, the amount of benefit, the attribution basis and the level of measures.³⁰

IX. The ADC Should Maintain Its Preliminary Determination to Terminate the Dumping Investigation against Masteel and Reconsider the Dumping Margin of Uncooperative Exporters

i. Applicable legal requirements

230 Under the anti-dumping rules in Part XVB of Australia's Customs Act 1901, when making a dumping determination for a particular exporter, the investigating authority should conduct an individual examination based on that exporter's own data and export behaviour. If the investigating authority finds that a particular exporter did not dump during the investigation period, or that the relevant dumping margin falls within a statutory basis for termination, it should terminate the dumping investigation against that exporter in accordance with law.³¹

231 Dumping, subsidisation, injury and causation are distinct legal elements. In a case involving both dumping and subsidisation, the investigating authority must still examine dumping margins, subsidy benefits, price effects, injury facts and causation separately. The fact that a particular exporter did not dump should be fully reflected in the scope of application of anti-dumping measures. Dumping findings for other exporters, facts-available results for uncooperative entities, or subsidy findings cannot substitute for an individual determination of dumping behaviour by a cooperating exporter.³²

30 SCM Agreement, Art. 15.5; Customs Act 1901 (Cth), ss 269TJ and 269TJA; SEF 690, s 9.2, p. 73.

31 Customs Act 1901 (Cth), Part XVB, ss 269TAB, 269TAC, 269TACAB and 269TDA(1); SEF 690, s 6.2, pp. 43–45; s 13.2, p. 102.

32 Customs Act 1901 (Cth), ss 269TG, 269TJ and 269TJA; SEF 690, s 2.2.1, pp. 13–14; s 9.2, p. 73.

232 For a cooperating exporter, the investigating authority should in particular respect verified company data. If verified data show that the exporter did not dump, that exporter should not be subject to anti-dumping measures as a result of dumping inferences made for other uncooperative exporters. The investigating authority also should not use subsidy findings, injury findings or combined-measure analysis to weaken its independent conclusion on that exporter's dumping issue.³³

ii. The SEF's preliminary finding that Masteel did not dump should be maintained in the final determination

233 The SEF has preliminarily found that Masteel did not dump during the investigation period and proposed to terminate the dumping investigation against Masteel.³⁴ The Chamber submits that this preliminary finding has a sufficient factual basis and should be maintained in the final determination.

234 Masteel is the only cooperating exporter in this case. Its dumping margin was calculated on the basis of export prices, costs, normal value and relevant adjustments verified by the ADC. Those calculations show that Masteel's dumping margin was negative. This result demonstrates that Masteel's export prices to Australia were not below its normal value, and the relevant export transactions should not be included within the scope of anti-dumping measures.

235 The SEF also confirms that Masteel was not a price leader in the Australian market, that its export volume to Australia represented a small share of total Chinese exports to Australia, and that it sold only one MCC model to one Australian customer during the investigation period. These facts further demonstrate that Masteel's export behaviour should be distinguished from that of uncooperative exporters. The facts-available inferences made by the

³³ SEF 690, s 6.3, pp. 45–46; s 6.5, pp. 47–49.

³⁴ SEF 690, s 1.2.4, pp. 9–10; s 1.4, p. 12; ss 13.1–13.3, p. 102.

ADC for uncooperative exporters cannot affect Masteel's individual dumping conclusion based on its own verified data.

236 For uncooperative exporters, the SEF calculated a dumping margin of 3.6%. That margin is relatively limited from a dumping perspective and is insufficient by itself to explain the SEF's alleged price undercutting of up to approximately 24%, or to independently support broad attribution of Comsteel's long-term losses, price suppression and deterioration in multiple economic indicators. If, in the final determination, the ADC continues to rely on subsidy factors or so-called combined effects to find injury, it must still conduct separate analyses of subsidy findings, price effects, materiality of injury and causation.

237 Accordingly, the ADC should confine the dumping issue to the necessary scope identified in the SEF. The conclusion that Masteel did not dump should be maintained. The limited dumping margin for uncooperative exporters should not be expanded to support broad adverse conclusions regarding all Chinese exported products, all injury indicators or the overall level of measures.

iii. The dumping margin for uncooperative exporters should be re-determined

238 CCCME further submits that the dumping margin determined for uncooperative exporters should be re-examined. The SEF appears to treat all uncooperative exporters as a single category and to determine a single dumping margin for that category by reference to the lowest weighted average FOB export price reported in the ABF import database. That approach is not consistent with the requirement to determine export prices and dumping margins by reference to the relevant information for each exporter's exports.

³⁵The fact that an exporter is uncooperative does not permit ADC to disregard

35 Customs Act 1901 (Cth), ss 269TAB and 269TACAB; SEF 690, s 6.6.

relevant import data for that exporter and to substitute the lowest price observed for another exporter or transaction.

239 The lowest weighted average FOB export price may show that at least one exporter exported at that price. It does not show that all other uncooperative exporters exported at that price, nor does it establish the price at which each exporter's goods entered Australian commerce. A hypothetical or fictitious lowest export price attributed to all uncooperative exporters cannot itself cause injury to Comsteel; only actual transaction prices and actual import volumes can be relevant to injury and causation. If ADC has ABF import data identifying the actual prices and volumes of each uncooperative exporter's exports, that information is plainly relevant and should be used unless there is evidence that it is unreliable.

240 This issue is not merely technical. The SEF calculated a dumping margin of only 3.6% for uncooperative exporters using the lowest weighted average export price. If the actual prices of other uncooperative exporters were higher than that lowest price, then their individual dumping margins may be lower, negligible, zero, or negative. ADC should therefore re-determine export prices and dumping margins for uncooperative exporters using exporter-specific relevant information and should not apply a single adverse price assumption to all uncooperative exporters.

iv. Request that the ADC maintain the determination to terminate the dumping investigation against Masteel and separately examine each legal element

241 For the foregoing reasons, the Chamber requests that, in the final determination, the ADC maintain its preliminary determination to terminate the dumping investigation against Masteel and confirm that the subject goods exported by Masteel are not subject to anti-dumping duties or anti-dumping securities. To the extent that dumping-related securities were imposed on

Masteel under the PAD or other interim measures, the ADC should cancel, release or refund such arrangements in accordance with law.

242 The Chamber also requests that the ADC separately examine dumping, subsidisation, injury and causation in the final determination. The preliminary finding of a 3.6% dumping margin for uncooperative exporters cannot lower the ADC's evidentiary burden in respect of subsidy programs, subsidy benefit calculation, price effects, materiality of injury and causation. For Masteel, the ADC should maintain the conclusion of no dumping based on Masteel's own verified data. For uncooperative exporters, the ADC should ensure that facts-available results are applied only to the extent reasonable, necessary and supported by the record.

243 On this basis, the ADC should avoid allowing the limited dumping finding to spill over into broad adverse inferences against all imports from China, and should ensure that the level of final measures is consistent with the separate findings on each legal element.

X. Whether Dumping or Subsidisation May Continue Should Be Based on Objective Evidence Rather Than Presumption

i. Applicable Legal and Analytical Requirements

244 Under the relevant provisions of Part XVB of the Customs Act 1901, when deciding whether to recommend the publication of a dumping duty notice, a countervailing duty notice, or measures in circumstances involving both dumping and subsidisation, the investigating authority must not only examine whether the goods already exported to Australia were dumped or received countervailable subsidies, but must also examine whether like goods that may be exported to Australia in the future may continue to be dumped or may receive countervailable subsidies.

245 With respect to anti-dumping measures, Customs Act 1901 (Cth), s 269TG(2) requires an examination of whether the export price of like goods already

exported to Australia was less than their normal value, and further whether the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods, namely “the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods”.³⁶ With respect to countervailing measures, s 269TJ(2) requires an examination of whether a countervailable subsidy has been received in respect of the goods the subject of the application that have already been exported to Australia, and further whether a countervailable subsidy “may be received in respect of like goods that may be exported to Australia in the future”.³⁷ Where dumping and subsidisation coexist, s 269TJA(2) also requires consideration of “the combined effect of the difference referred to in paragraph (a) and of the subsidy referred to in paragraph (b)”.³⁸

246 The SEF adopts the same framework for examining continuation. Chapter 10 of the SEF addresses “whether dumping and/or subsidisation may continue”. The SEF states that, when publishing a notice under ss 269TG(2) and/or 269TJ(2), the Minister must be satisfied that “dumping and/or countervailable subsidisation may continue”; the SEF also explains that “the Commissioner considers the term ‘may’ to mean ‘possible’”.³⁹

247 These provisions show that the continuation inquiry is clearly future-oriented. ADC cannot presume that dumping or subsidisation will continue in the future merely because dumping or subsidisation was found to exist during the investigation period. Nor can it rely merely on the fact that imported products continue to be sold in the Australian market, continue to hold market share, or continue to maintain trading relationships with customers, as a substitute

36 Customs Act 1901 (Cth), s 269TG(2).

37 Customs Act 1901 (Cth), s 269TJ(2).

38 Customs Act 1901 (Cth), s 269TJA(2).

39 SEF 690, p. 91.

for an objective analysis of whether dumping, subsidisation and injury may continue in the future period.

248 Accordingly, at the final determination stage, ADC should examine dumping continuation and subsidy continuation separately. For dumping continuation, it should take into account each exporter's individual dumping margin, post-investigation export prices, customer structure, product models and contractual arrangements. For subsidy continuation, ADC should examine, program by program, whether the relevant subsidy program remains in effect after the investigation period, whether the enterprise continues to actually benefit from it, whether the benefit continues to arise or be allocated in the future period, and whether the benefit can be attributed to the goods under consideration and exports to Australia.

ii. The SEF's Findings on Whether Dumping or Subsidisation May Continue Require Careful Reconsideration

249 CCCME notes that Chapter 10 of the SEF analyses "whether dumping and/or subsidisation may continue", and at page 91 interprets "may" to mean "possible". Page 93 of the SEF further finds that dumping and subsidisation may continue mainly on the basis that Chinese products maintain a certain share in the Australian market, Chinese import prices were lower than Australian industry prices during the investigation period, price affects FRW customers' purchasing decisions, and trading links remain between Chinese exporters and the Australian market.

250 CCCME considers that the above analysis remains insufficient to support a final affirmative finding on continuation. The SEF's reasoning still focuses on prices, market share and historical trading links during the investigation period, and does not sufficiently explain why dumping or subsidisation may continue in the future period. A continuation inquiry cannot be based only on the fact that transactions existed in the past or that Chinese imports remain in

the market; it should instead be based on objective facts and verifiable evidence relating to the future period, and should separately examine different exporters, different subsidy programs and different types of measures.

251 With respect to dumping continuation, Masteel’s circumstances require separate treatment. The SEF has clearly found that Masteel had a negative dumping margin during the investigation period, and that ADC proposes to terminate the dumping investigation in respect of Masteel under Customs Act 1901 (Cth), s 269TDA(1). The SEF preliminarily finds that “Masteel, a small supplier to the Australian market, did not export dumped goods to Australia during the investigation period”, and proposes to terminate the dumping investigation in respect of Masteel because it did not export dumped goods to Australia during the investigation period.⁴⁰ CCCME considers that the SEF’s preliminary finding that Masteel did not dump and that the dumping investigation in respect of Masteel should be terminated is correct. It is consistent with Masteel’s individual export prices, normal value and actual sales during the investigation period, and ADC should maintain that finding in its final determination.

252 On that basis, ADC should also fully reflect Masteel’s individual circumstances in the continuation analysis. The SEF records that “Masteel’s volume of exports of the goods to Australia comprise less than 10% of the total import volume from China for the investigation period”, that “Masteel is not a price leader for the goods in the Australian market”, and that Masteel “sold only one MCC to one Australian customer during the investigation period”.⁴¹ These facts show that Masteel not only did not dump during the investigation period, but also that its export volume, customer structure and market role do not support a general presumption that Masteel will dump in

40 SEF 690, pp. 7–9, 12 and 102.

41 SEF 690, pp. 8–9.

the future. ADC should therefore maintain its finding that Masteel did not dump during the investigation period.

253 At the same time, Masteel's above individual facts should also be fully reflected in the level of measures and the injury attribution analysis. Even if ADC continues to examine the continuation of dumping by other Chinese exporters or uncooperative exporters, it should distinguish Masteel from those exporters and should not attribute the pricing conduct, market impact or injury factors of other entities to Masteel. In particular, since the SEF has found that Masteel's dumping margin was negative, ADC should avoid including Masteel in any general adverse finding based on overall imports or uncooperative exporters when determining the final level of measures, the application of the NIP, the distinction between subsidy and dumping effects, and injury attribution.

254 With respect to subsidy continuation, the non-confidential version of the SEF is similarly insufficient. Whether subsidisation may continue cannot be determined merely by reference to subsidy programs identified during the investigation period. Rather, the analysis should return to each specific program itself. For one-off grants, capital grants, R&D and technical renovation awards, certification support, tax and fee rebates or other phased policy arrangements, ADC should explain whether the program remains in effect after the investigation period, whether Masteel or other exporters continue to actually receive benefits, whether the relevant benefit continues to arise or be allocated in the future period, and whether the benefit has an actual link with FRW production, sales and exports to Australia.

255 If a program has expired, has been fully implemented, is not granted in the future period, or the relevant benefit cannot be attributed to future exports to Australia, that program should not be used to support a finding that subsidisation may continue. If the SEF merely relies on the existence of a countervailable subsidy during the investigation period, or on the fact that a

relevant program was identified as countervailable in previous cases, to infer that subsidisation will continue in the future, then the analysis remains insufficient.

256 In addition, post-investigation import volume and price changes do not, by themselves, prove that dumping or subsidisation will continue. The SEF states that ADC considered ABF import data after the PAD, including changes in import volumes and FOB prices, and noted that exports from China continued after the investigation period.⁴² However, the mere existence of imports after the investigation period does not mean that dumping or countervailable subsidisation will continue in the future. Changes in FOB prices after the investigation period also do not necessarily show that such price changes are caused by dumping or subsidisation. In particular, FRW is typically procured through long-term contracts, tender arrangements, existing orders and specific delivery cycles. Import volumes or price changes in a certain post-investigation period may be affected by multiple commercial factors, including provisional measures and securities, performance of existing contracts, customer inventory plans, exchange rate fluctuations, changes in the prices of steel billet and other raw materials, international freight costs, payment terms, delivery schedules, and changes in the mix of different models or MCCs. If ADC intends to rely on post-investigation ABF data to support a continuation finding, it should further explain why the relevant changes in import volumes and FOB prices reflect the continuation of dumping or subsidisation itself in the future period, rather than normal commercial arrangements, contract performance, cost changes or short-term market fluctuations.

⁴² SEF 690, pp. 91–93.

iii. Request That ADC Examine Continuation Based on Objective Evidence

257 For the above reasons, CCCME requests that ADC conduct separate, specific and evidence-based analyses of dumping continuation and subsidy continuation in its final determination.

258 First, for Masteel, the SEF has preliminarily found that Masteel did not dump during the investigation period and proposes to terminate the dumping investigation in respect of Masteel under Customs Act 1901 (Cth), s 269TDA(1). CCCME considers that this preliminary finding is correct, and ADC should maintain it in the final determination.

259 Masteel's individual conclusion should be independent from the analysis of uncooperative exporters, other Chinese exporters, or so-called overall Chinese imports. Facts-available inferences regarding uncooperative exporters, the pricing conduct of other exporters, or overall market share and price conditions for Chinese imports should not be used to override or dilute the result of Masteel's individual examination. In particular, where the SEF has already preliminarily found that Masteel did not dump and proposes to terminate the dumping investigation in respect of Masteel, ADC should avoid attributing to Masteel any adverse conclusion based on uncooperative exporters or overall imports in relation to continuation, scope of measures, injury attribution or the final level of measures.

260 Second, for uncooperative exporters, even if ADC uses facts available under the statutory conditions, it must still explain the objective basis for finding that dumping may continue in the future. Facts available cannot replace the continuation analysis itself, and the mere fact that an exporter did not cooperate cannot justify a presumption that future exports will necessarily be below normal value.

261 Third, for subsidy programs, ADC should explain, program by program, whether the program remains in effect, whether the enterprise continues to

actually receive the benefit, whether the benefit still exists, whether the benefit attribution period covers the future period, and whether the benefit relates to FRW and exports to Australia. Programs lacking such objective evidence should not be used as a basis for finding that subsidisation may continue.

262 Fourth, in the final determination, ADC should strictly distinguish between facts that occurred during the investigation period, normal commercial arrangements after the investigation period, and the question whether dumping or subsidisation may continue in the future period. Prices, volumes, market share or subsidy program findings during the investigation period may be reference factors for continuation analysis, but they cannot be mechanically extended into a conclusion that dumping or subsidisation will necessarily continue in the future. If ADC intends to rely on post-investigation import data, existing customer relationships or changes in market share to support a continuation finding, it should further explain the specific link between those facts and future dumping, subsidisation and injury effects, and should exclude the effects of normal contract performance, inventory arrangements, delivery cycles, cost changes, exchange rate fluctuations and other commercial factors.

263 In sum, continuation is not an automatic extension of investigation-period facts. It is a future-oriented statutory inquiry that must be conducted by exporter, by program and by type of measure, and must be based on objective evidence. ADC should separately examine whether different exporters may continue to dump, whether different subsidy programs may continue to confer countervailable benefits, and whether the relevant dumping or subsidisation may continue to cause or threaten material injury. Unless the public record of the SEF has sufficiently completed this analysis, ADC should not find, based only on general presumptions, historical trading relationships or overall import conditions, that dumping or subsidisation may continue. Nor should it

apply such general conclusions directly to Masteel or to other exporters for which individual factual findings exist.

XI. The SEF Fails to Sufficiently Establish a Causal Relationship Between Imports and Material Injury

i. Applicable Legal and Analytical Requirements

264 Causation and non-attribution analysis is central to the injury analysis in this case. Under Article 3.5 of the WTO Anti-Dumping Agreement, the demonstration of a causal relationship between dumped imports and injury to the domestic industry “shall be based on an examination of all relevant evidence before the authorities”. The same provision further requires that the authorities “shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry”, and that “the injuries caused by these other factors must not be attributed to the dumped imports”.⁴³ Similarly, Article 15.5 of the WTO Agreement on Subsidies and Countervailing Measures provides that the demonstration of a causal relationship between subsidised imports and injury to the domestic industry “shall be based on an examination of all relevant evidence before the authorities”; it further requires that the authorities “shall also examine any known factors other than the subsidized imports which at the same time are injuring the domestic industry”, and that “the injuries caused by these other factors must not be attributed to the subsidized imports”.⁴⁴

265 Australian domestic law contains the same requirement. Customs Act 1901 (Cth), s 269TAE(2A) expressly requires that, in examining the cause of injury, “the Minister must consider whether any injury to an industry, or hindrance to the establishment of an industry, is being caused or threatened by a factor other than the exportation of those goods”, and that “any such

⁴³ Anti-Dumping Agreement, Art. 3.5.

⁴⁴ SCM Agreement, Art. 15.5.

injury or hindrance must not be attributed to the exportation of those goods”. Section 269TAE(2AA) further requires that the relevant determination “must be based on facts and not merely on allegations, conjecture or remote possibilities”.⁴⁵

266 Accordingly, the real legal question is not whether other factors can explain all of Comsteel’s operating difficulties, but whether ADC can distinguish the effects caused by Chinese imports from the effects caused by other known factors. Even if ADC considers that the imports under investigation had some effect on Comsteel, it cannot attribute to Chinese imports injury caused by other factors such as declining market demand, rising costs, changes in procurement strategy, quality and service factors, efficiency differences and weak export performance.

267 The existence of injury and the cause of injury are two distinct issues. Even if Comsteel experienced declining sales, declining profits, lower capacity utilisation or deterioration in other operating indicators, ADC must still further establish which part of those adverse changes was caused by the imports under investigation and which part was caused by other factors. In the absence of such a non-attribution analysis, it is not possible to establish a direct causal link between Chinese imports and material injury, nor can Comsteel’s operational difficulties, whether in whole or in substantial part, be attributed to Chinese imports.

ii. There Are Multiple Other Known Injury Factors in This Case

268 The SEF itself identifies multiple other factors that may affect Comsteel’s operating condition. Section 9.8 of the SEF specifically discusses demand contraction, supply shortages, domestic competition, normal competition, technological development, competitive advantages, increases in raw material costs, non-dumped or non-subsidised imports, downstream

⁴⁵ Customs Act 1901 (Cth), ss 269TAE(2A) and 269TAE(2AA).

procurement strategies and commercial considerations, quality and service factors, export performance and productivity.⁴⁶ This shows that this is not a case in which there are no other known injury factors. The real question is whether the SEF has sufficiently analysed, distinguished and excluded the effects of these factors on Comsteel's sales, production, profits, capacity utilisation and other operating indicators.

269 First, contraction in the Australian FRW market demand may itself cause Comsteel's sales and production to decline. Page 79 of the SEF acknowledges that contraction in demand may explain part of the decline in overall market sales volume. Comsteel's application also explains that demand for FRW is affected by rail operators' freight demand, wheel life, maintenance and replacement cycles, capital procurement and maintenance procurement. Wheels typically have a useful life of approximately eight years under normal operating conditions, and are replaced during their life cycle according to wear and maintenance programs.⁴⁷ Therefore, where total market demand declines, customer maintenance cycles change, inventory arrangements are adjusted or the timing of mining transport projects changes, Comsteel may experience lower sales, lower production and lower capacity utilisation due to a shrinking market size, even if the absolute volume of Chinese imports remains stable. If ADC fails to distinguish the effect of reduced market demand from import substitution, it cannot directly attribute the decline in sales and production to Chinese imports.

270 Second, customer procurement cycles, inventory arrangements and long-term contract performance may also affect order allocation. FRW is not typically purchased in spot-market transactions on an immediate basis. Rather, it is procured through long-term contracts, tender arrangements, pre-certified

⁴⁶ SEF 690, pp. 79–86.

⁴⁷ SEF 690, p. 79; Commonwealth Steel Company Pty Ltd, Application for the Publication of Dumping and/or Countervailing Duty Notices: Freight Railway Wheels Exported from the People's Republic of China (October 2025), pp. 17–18.

supplier systems and specific delivery schedules. Comsteel's application confirms that manufacturers or suppliers generally sell directly to end customers and their maintenance service providers, and that end customers usually procure FRW through tender processes. The CON 632 Australian Industry Verification Report also confirms that mining customers purchase railway wheels through pre-certified suppliers, contracts or tender arrangements, that the pre-certification process may take multiple years, that contracts usually set prices and quantities for a fixed period, and that customers and suppliers generally coordinate delivery dates in advance so that customers can meet maintenance schedules and suppliers can plan production.⁴⁸ Therefore, a reduction in procurement volume in a particular period does not necessarily mean that customers shifted orders due to low-priced Chinese imports. It may simply reflect changes in maintenance cycles, inventory strategies, performance of existing contracts or delivery arrangements.

271 Third, customer procurement strategies and supply chain risk diversification are important factors that cannot be ignored in this case. Pages 84 to 85 of the SEF acknowledge that customer procurement involves warranties, guarantees and other non-price value-added factors, and refer to Comsteel serving as an emergency or backup supplier in certain customer systems. The CON 632 Australian Industry Verification Report also confirms that locally produced wheels and imported wheels are used interchangeably on customers' ore carriages, and that mining companies may seek multiple sources of supply to ensure continuity of supply.⁴⁹ This precisely shows that downstream users consider not only price when purchasing FRW, but also continuity of supply,

48 Commonwealth Steel Company Pty Ltd, Application for the Publication of Dumping and/or Countervailing Duty Notices: Freight Railway Wheels Exported from the People's Republic of China (October 2025), pp. 17–18; Anti-Dumping Commission, Australian Industry Verification Report: Commonwealth Steel Company Pty Ltd, Continuation Inquiry No. 632 — Ore Carriage Railway Wheels (26–28 September 2023), pp. 8–9.

49 SEF 690, pp. 84–85; Anti-Dumping Commission, Australian Industry Verification Report: Commonwealth Steel Company Pty Ltd, Continuation Inquiry No. 632 — Ore Carriage Railway Wheels (26–28 September 2023), pp. 8–9.

risk diversification, quality assurance, after-sales response, technical service and long-term cooperation arrangements. ADC cannot rely merely on the proposition that price affects purchasing decisions while ignoring the independent effect of these non-price factors on order allocation, supplier mix and multi-source procurement arrangements.

272 Fourth, quality, reliability and service factors may also affect customer choice. Freight railway wheels are safety-critical components, and downstream users have high requirements in relation to product life, failure records, delivery stability, warranty arrangements and on-site service. CCCME's previous public submission pointed out that quality, reliability, historical operating record and service factors may influence customer procurement decisions. In the safety-sensitive railway freight sector in particular, even customers' perception of differences in reliability among suppliers may affect procurement preferences.⁵⁰ The SEF states that no evidence was received to show that Comsteel's product quality was inferior to imported products. However, the absence of proof that quality is worse is not the same as a finding that quality, reliability and service factors do not affect purchasing decisions. For safety-critical components, customers' perception of supplier risk, historical cooperation experience, delivery reliability and after-sales responsiveness may all affect tender outcomes and supply structures.

273 Fifth, differences in economies of scale, automation, production efficiency and process organisation may constitute legitimate competitive advantages. Pages 82 to 83 of the SEF acknowledge that overseas manufacturers may enjoy competitive advantages because of labour costs, productivity, automation, process efficiency and economies of scale. CCCME's previous public submission also pointed out that Comsteel may have structural

⁵⁰ SEF 690, p. 85.

disadvantages in efficiency, technological upgrading and economies of scale.⁵¹ CCCME considers that legitimate efficiency advantages must be strictly distinguished from price effects caused by dumping or subsidisation. If Chinese enterprises' cost advantages arise from large-scale production, automation, management efficiency or supply-chain organisation, those advantages do not themselves constitute a source of injury that should be offset through anti-dumping or countervailing measures. ADC should further explain which part of the alleged price difference arises from effects attributable to dumping or subsidisation, and which part arises from legitimate competitive advantages.

274 Sixth, cost increases and fixed-cost absorption may independently cause deterioration in Comsteel's profits. Pages 83 to 84 of the SEF acknowledge that Comsteel's cost pressures adversely affected its profitability. Comsteel's profitability issues may relate to high production costs, high operating expenses and its business model, and cannot automatically be attributed to import competition. Public materials also show that Australian regulators have long paid close attention to gas supply and pricing issues, and the energy cost environment itself may place significant pressure on high-temperature forging, heat treatment and steel product manufacturing.⁵² Increases in steel, energy, labour, compliance costs and other production factors may all push up unit costs. Where demand declines and production volume falls, depreciation, maintenance, administrative expenses and fixed labour costs are spread over lower output, further amplifying unit cost pressure. Such cost-structure issues could cause declining profits and deteriorating profitability even in the absence of Chinese imports.

⁵¹ SEF 690, pp. 82–83.

⁵² SEF 690, pp. 83–84; Australian Competition and Consumer Commission, Gas Inquiry 2017–30 (Project Overview, 2026); Australian Competition and Consumer Commission, Gas Inquiry 2017–30: March 2026 Interim Report (1 April 2026).

275 Seventh, Comsteel's export performance, market choices and overall competitiveness may also affect its operating condition. If Comsteel chooses to rely primarily on the Australian domestic market and fails to effectively develop larger export markets, its output, economies of scale, fixed-cost allocation and overall profitability may all be affected. Comsteel's export performance is materially weaker than its domestic sales performance, and insufficient export capability may reflect systemic competitive pressures in cost control, technology, product performance or supply conditions in the global market. Even though the injury analysis in this case primarily focuses on the Australian domestic market, insufficient export capability may still affect Comsteel's domestic business through capacity utilisation, fixed-cost absorption and overall profitability. If the enterprise cannot expand sales through exports and spread fixed costs, its domestic business will become more vulnerable when demand declines. ADC should not simply separate domestic-market results from export performance.

276 In sum, the SEF has identified multiple other known factors, but the public version of the SEF still does not sufficiently explain the extent to which each of these factors affected Comsteel's sales, profits, costs, capacity utilisation and productivity. Nor does it sufficiently explain, after excluding these factors, which part of the remaining injury can be attributed to Chinese imports. Under the non-attribution requirement, ADC should conduct a factor-by-factor analysis in the final determination, and quantify or at least semi-quantify the effects to the extent possible. Merely stating that a particular other factor is insufficient to explain all injury cannot substitute for separating different sources of injury and conducting a proper non-attribution analysis.

iii. The SEF Has Not Sufficiently Excluded the Above Other Factors and Cannot Directly Attribute Injury to Chinese Imports

277 CCCME considers that, although the SEF lists and discusses several other factors in section 9.8, it has not sufficiently completed the non-attribution analysis required by law. The main problem with the SEF is not that it failed to identify other factors at all, but that it insufficiently separated the effects of those factors. In other words, the SEF cannot simply state that a particular factor is insufficient to explain all injury and then find that the remaining injury may automatically be attributed to Chinese imports. ADC must still further explain which part of Comsteel's injury remains attributable to the imports under investigation after excluding each of the other known factors.

278 First, with respect to demand contraction, the SEF acknowledges that demand contraction may explain part of the decline in overall market sales volume, but then mainly relies on the increase in Chinese import share to find that demand contraction is insufficient to explain the price, volume and profit effects. That analysis remains inadequate. Whether demand contraction can explain all injury is not the ultimate question in a non-attribution analysis. The real question is the extent to which demand decline caused Comsteel's sales decline, production decline, capacity utilisation decline and fixed-cost absorption. FRW demand itself is affected by freight demand, wheel life, maintenance and replacement cycles, and capital and maintenance procurement arrangements. Declines in total market demand, changes in customer replacement cycles or adjustments to maintenance plans may all independently affect Comsteel's orders and production arrangements. Therefore, ADC cannot attribute Comsteel's sales and production decline to Chinese imports merely because the share of Chinese imports increased in a

shrinking market. It should further distinguish the respective effects of shrinking market size and import substitution.⁵³

279 Second, with respect to customer procurement cycles, inventory arrangements and long-term contract performance, the SEF has not sufficiently explained the effect of these factors on order allocation. FRW is typically procured through long-term contracts, tender arrangements, pre-certified supplier systems and specific delivery schedules. Customers and suppliers often coordinate delivery dates in advance to meet vehicle maintenance plans and production scheduling needs. A reduction in procurement volume, delay in orders, or change in supplier share in a particular period may reflect the timing of existing contract performance, customer inventory strategy, maintenance cycle arrangements or delivery windows, and does not necessarily show that customers shifted orders because of low-priced Chinese imports. Although the SEF refers to customer procurement arrangements and market pricing, it does not sufficiently explain how it excluded the independent effects of long-term contracts, tender cycles, pre-certification arrangements, inventory adjustments and delivery schedules on changes in Comsteel's sales.

280 Third, with respect to customer procurement strategies and supply chain risk diversification, the SEF acknowledges that customer procurement involves warranties, guarantees and other non-price value-added factors, and refers to Comsteel serving as an emergency or backup supplier in certain customer systems. However, it does not sufficiently explain why these factors are insufficient to affect order allocation. For safety-critical components such as FRW, downstream users may engage in multi-source procurement, retain backup suppliers and diversify supply risk based on continuity of supply, quality assurance, after-sales response, delivery reliability and long-term risk

53 SEF 690, pp. 79–86.

management, rather than simply on price. The CON 632 Australian Industry Verification Report also confirms that mining companies may seek multiple sources of supply to ensure continuity of supply.⁵⁴ If the SEF attributes order changes mainly to Chinese import price factors merely because price affects purchasing decisions, it has not sufficiently separated the effects of customer multi-source procurement and supply chain risk management arrangements.

281 Fourth, with respect to quality, reliability and service factors, the SEF preliminarily excludes the effect of quality, reputation and service factors merely on the basis that it did not receive evidence proving that Comsteel's products were inferior to imported products. That reasoning is insufficient to complete the non-attribution analysis. For safety-critical components, customers do not consider only whether product quality is inferior to imported products. They also consider suppliers' historical operating records, quality stability, batch consistency, delivery reliability, warranty terms, on-site technical support and failure-risk management. Even if there is no evidence proving that Comsteel's overall product quality is inferior to that of imported products, it cannot be excluded that customers may adjust their supplier mix based on historical cooperation experience, supply reliability, service responsiveness or risk perception. The SEF should further explain why these quality, reliability and service factors would not have a material effect on customer purchasing decisions, and should not exclude such factors merely because Comsteel's products were not proven to be of poorer quality.⁵⁵

282 Fifth, with respect to differences in economies of scale, automation, production efficiency and process organisation, the SEF acknowledges that overseas manufacturers may have competitive advantages in labour costs, productivity, automation, process efficiency and economies of scale, but it

⁵⁴ SEF 690, pp. 84–85; Anti-Dumping Commission, Australian Industry Verification Report: Commonwealth Steel Company Pty Ltd, Continuation Inquiry No. 632 — Ore Carriage Railway Wheels (26–28 September 2023), pp. 8–9.

⁵⁵ SEF 690, pp. 83–85.

does not sufficiently distinguish legitimate efficiency advantages from price effects caused by dumping or subsidisation. Efficiency advantages, large-scale production, automation, management capability and supply-chain organisation may all enable Chinese exporters to achieve cost and price competitiveness without relying on dumping or subsidisation. If the SEF merely observes that Chinese import prices are lower, but does not further distinguish which part of the price difference is attributable to dumping or subsidisation and which part arises from legitimate competitive advantages, its causation analysis remains insufficient. Trade remedy measures should not mistake normal efficiency competition for injury caused by unfair trade.⁵⁶

283 Sixth, with respect to cost increases and fixed-cost absorption, the SEF acknowledges that Comsteel's cost pressures adversely affected its profitability, but does not sufficiently explain the role of cost increases, insufficient cost pass-through capacity and fixed-cost absorption in the deterioration of Comsteel's profits. Increases in steel, energy, labour, compliance costs and other production factors may all increase Comsteel's unit costs. Where demand declines and output decreases, depreciation, maintenance, administrative expenses and fixed labour costs are spread over lower production volumes, further worsening unit costs and profit margins. If Comsteel's profit deterioration is mainly or partly caused by the above cost structure and production-volume absorption issues, that part of the injury should not be attributed to Chinese imports. The SEF cannot skip an analysis of Comsteel's own cost structure, operating expenses and fixed-cost absorption merely by pointing to lower Chinese import prices or the fact that price may affect customer procurement.⁵⁷

284 Comsteel's public financial statements also reinforce the need for a factor-by-factor non-attribution analysis. They indicate that Comsteel's losses are

⁵⁶ SEF 690, pp. 82–83 and 86.

⁵⁷ SEF 690, pp. 83–85.

not confined to FRW and may reflect broader issues such as operating expenses, restructuring, raw material procurement, fixed-cost absorption, related-party transactions and business-model choices. These are independent economic factors capable of affecting Comsteel's profitability and cost recovery.⁵⁸ ADC must therefore ensure that losses arising from those factors are not attributed to Chinese imports merely because imports were present in the market during the same period.

285 Seventh, with respect to Comsteel's export performance, market choices and overall competitiveness, although the SEF discusses export performance and productivity, it does not sufficiently explain how insufficient export capability, a limited market scope and overall competitiveness issues affect Comsteel's domestic business. Even if the injury analysis in this case primarily focuses on the Australian domestic market, Comsteel's export performance may still affect its operating condition through capacity utilisation, economies of scale, fixed-cost allocation and overall profitability. If Comsteel primarily relies on the Australian domestic market and fails to expand production volume, stabilise capacity utilisation or allocate fixed costs through export sales, it will be more vulnerable to increases in unit costs and deterioration in profitability when domestic demand declines. The SEF should not simply separate domestic-market injury from export performance. It should explain the extent to which insufficient exports and overall competitiveness issues affected Comsteel's productivity, capacity utilisation and profitability.⁵⁹

286 More importantly, the SEF cannot complete the non-attribution analysis merely by stating that other factors cannot fully explain the injury. The correct analytical approach should be: first, identify other known factors; second,

58 Commonwealth Steel Company Pty Limited, General Purpose Financial Report for the financial year ended 30 June 2025, Consolidated Statement of Profit or Loss and Comprehensive Income and Loss, p. 5; Commonwealth Steel Company Pty Limited, General Purpose Financial Report for the financial year ended 30 June 2024, Consolidated Statement of Profit or Loss and Comprehensive Income and Loss, p. 5.

59 SEF 690, pp. 79–86.

examine the explanatory force of each factor with respect to Comsteel's sales, prices, profits, capacity utilisation, productivity and other economic indicators; third, distinguish to the extent possible the effects caused by these factors from those caused by the imports under investigation; and finally, only after removing the injury caused by other factors, determine whether material injury attributable to the imports under investigation remains. If ADC cannot explain the effect of each of the above factors, and how those effects are excluded from injury caused by Chinese imports, it cannot directly find that Chinese imports caused all or most of the injury claimed by Comsteel.

287 In addition, Masteel's individual circumstances further require ADC to conduct a separate analysis. The SEF has found that Masteel did not dump, and that Masteel's export volume was small, that it was not a price leader in the Australian market, and that its customer and MCC coverage was limited. Even if ADC maintains a countervailing finding in respect of certain Chinese exports, it cannot directly apply injury inferences relating to overall Chinese imports or non-cooperative entities to Masteel. For Masteel, ADC should separately examine its export volume, price effects, customer structure, product scope and actual contribution to injury, and should not include it in a general attribution conclusion. In particular, since Masteel did not dump, any conclusion that dumping caused injury should not be used to support an adverse attribution finding against Masteel. If ADC intends to make an adverse finding against Masteel at the countervailing measure level, it should separately explain the specific link between the subsidy benefit involving Masteel and injury to the Australian industry, and should not substitute the circumstances of other exporters or non-cooperative entities for an individual analysis of Masteel.

iv. Request That ADC Conduct a Factor-by-Factor Non-Attribution Analysis

288 For the above reasons, CCCME requests that ADC conduct a factor-by-factor, substantive and, to the extent possible, quantified non-attribution analysis of other known factors in the final determination.

289 Specifically, ADC should at least examine separately the following factors: contraction in Australian FRW market demand; customer procurement cycles and inventory arrangements; long-term contracts and changes in project timing; supply chain risk diversification; quality and service factors; differences in economies of scale and efficiency; increases in raw material and energy costs; increases in labour and compliance costs; fixed-cost absorption; weak export performance; and insufficient overall competitiveness.

290 For each factor, ADC should explain the factual basis, the effect on the relevant economic indicators, the distinction from the effects of Chinese imports, and the scope of injury that remains attributable to Chinese imports after separating out that factor. If ADC cannot reasonably distinguish the injury caused by other factors from that caused by Chinese imports, it must not attribute all or most of Comsteel's operating difficulties to Chinese imports.

291 For Masteel, ADC should conduct an even more individualised analysis. Given that Masteel did not dump, its export volume was small, it was not a price leader and its sales scope was limited, ADC cannot substitute inferences concerning overall Chinese imports or non-cooperative entities for an examination of Masteel's individual contribution to injury. If it cannot be established that Masteel made an identifiable, proven and material contribution to injury suffered by Comsteel, no measure beyond Masteel's individual circumstances should be maintained against Masteel.

XII. The NIP and Proposed Measures Should Be Limited to Offsetting Proven Injury and Avoid Double Counting and Excessive Protection

i. Applicable Legal and Analytical Requirements

292 Under Australia's anti-dumping and countervailing duty system, the purpose of the NIP and final measures is to eliminate proven injury that is attributable to dumped or subsidised imports, not to compensate the domestic industry for all of its operating difficulties, losses or high costs. Customs Act 1901 (Cth), s 269TACA defines the NIP as "the minimum price necessary" to prevent injury, a recurrence of injury, or to remove hindrance to the establishment of an industry.⁶⁰ This shows that the NIP itself has a clear limiting function: the level of measures should be bounded by the minimum necessary to eliminate proven injury, and should not be used to ensure that the domestic industry reaches an ideal profit level or to remedy cost, efficiency or operating problems unrelated to the imports under investigation.

293 The provisions of the Customs Tariff (Anti-Dumping) Act 1975 concerning anti-dumping duties, countervailing duties, and the method of imposing duties where dumping and subsidisation coexist should also be understood together with the above NIP and lesser duty principles.⁶¹ Where dumping and subsidisation coexist, the authority should avoid measures exceeding what is necessary to remove injury, and should ensure that the aggregate of anti-dumping duty, countervailing duty and export price does not exceed the level necessary to achieve the non-injurious price. In particular, where the same cost or price factor has already been used to construct normal value and also to calculate a subsidy benefit, ADC should avoid double counting and

⁶⁰ Customs Act 1901 (Cth), s 269TACA.

⁶¹ Customs Tariff (Anti-Dumping) Act 1975 (Cth), ss 8, 10 and 10B.

prevent the level of measures from exceeding what is necessary to remove proven injury.

294 Article 9.1 of the WTO Anti-Dumping Agreement similarly reflects the policy orientation of the lesser duty rule. That article provides that the decision whether to impose an anti-dumping duty and whether the amount of the anti-dumping duty should equal the full margin of dumping are decisions to be made by the authorities of the importing Member. At the same time, it expressly states that it is desirable that the anti-dumping duty be less than the margin if such lesser duty would be adequate to remove the injury to the domestic industry, namely “it is desirable ... that the duty be less than the margin if such lesser duty would be adequate to remove the injury to the domestic industry”.⁶² Article 19.2 of the WTO Agreement on Subsidies and Countervailing Measures contains a similar provision, namely that the countervailing duty should be less than the total amount of the subsidy if such lesser duty would be adequate to remove the injury to the domestic industry, namely “the duty should be less than the total amount of the subsidy if such lesser duty would be adequate to remove the injury to the domestic industry”.⁶³

295 Therefore, while the above rules leave Members a degree of discretion, their basic requirement is clear: trade remedy measures should be limited to offsetting proven injury attributable to dumped or subsidised imports, and should not become a tool to protect the domestic industry from all business risks, cost pressures, efficiency disadvantages or consequences of commercial decisions. When determining the NIP, the form of measures and the level of measures in the final determination, ADC should ensure that the final measures maintain necessity and proportionality with the proven injury, and avoid double counting and excessive protection.

⁶² Anti-Dumping Agreement, Art. 9.1.

⁶³ SCM Agreement, Art. 19.2.

296 In sum, in cases involving both dumping and subsidisation, ADC must also pay particular attention to avoiding double counting. If the same cost factor, same subsidy benefit or same price effect has already been considered in the dumping margin, subsidy margin, normal value construction, USP/NIP calculation or final measures, it should not be used again to increase the level of measures. Otherwise, the measures would exceed the scope necessary to offset proven injury and would result in double remedies or excessive protection.

ii. **Problems with the NIP and Proposed Measures in This Case**

297 Chapter 11 of the SEF shows that ADC calculated the NIP using a constructed USP. The SEF states that the Commissioner generally derives the NIP by first establishing an “unsuppressed selling price” or “USP”, being a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. The SEF identifies one available approach as “a constructed USP approach, constructing the USP using the Australian industry’s CTMS and adding a reasonable amount for profit”. In this case, the Commissioner “calculated a USP using the constructed method, using the sum of Australian industry’s CTMS and an amount for profit”.⁶⁴ The SEF also states that the detailed calculation of the NIP is contained in “Confidential Attachment 13”. In addition, the SEF states that the Commissioner compared the NIP with the calculated weighted average normal values and determined that “the NIP was not less than the normal value for any of these exporters. Accordingly, the NIP should not be the operative measure”. The SEF therefore recommends that measures be imposed at the full dumping and subsidy margins, as applicable.⁶⁵

298 CCCME considers that the SEF’s analysis of the NIP and proposed measures still requires further examination. The legal function of the NIP is to

⁶⁴ SEF 690, pp. 94–98.

⁶⁵ SEF 690, pp. 94–101.

determine the minimum price necessary to prevent injury, not to convert all of Comsteel's costs, all of its losses, or all of its adverse operating factors into the level of import measures. If Comsteel's cost and profit position has already been affected by demand decline, cost increases, fixed-cost absorption, insufficient efficiency, weak export performance or other non-import factors, ADC must separate out those factors when constructing the USP and NIP. Otherwise, the NIP would no longer be the minimum necessary price, but may instead become a protective price covering all of Comsteel's operating difficulties.

299 The public version of the SEF does not sufficiently explain whether the profit rate, cost base and adjustment methodology used by ADC have excluded the effects of non-import factors. In particular, if the profit rate used to construct the USP is not derived from a reasonable period unaffected by dumping or subsidisation, but instead from Comsteel's profit performance for a particular product category or business category during a period affected by multiple factors, that profit rate may already incorporate market contraction, cost increases, declining capacity utilisation or operating efficiency issues. Using it to construct the NIP may result in non-import factors being incorporated into the level of measures. In the final determination, ADC should further explain the basis for selecting the profit rate, the scope of cost adjustments and the NIP calculation methodology, and in particular should explain whether the constructed USP genuinely reflects a price in a non-injurious state, rather than Comsteel's target price under high-cost, low-capacity-utilisation or otherwise adverse operating conditions.

300 The steel billet LTAR issue also requires clearer explanation by ADC in the final determination. The SEF states that Program 1 concerns steel billet provided for less than adequate remuneration; at the same time, ADC also adjusted steel billet costs when constructing normal value. ADN 2026/073 states that, because Program 1 concerns steel billet provided at less than

adequate remuneration and the Commission has adjusted steel billet as a cost input in constructing normal value, the dumping margin calculations already address the impact of the steel billet adjustment on exporters' costs. "To avoid this double counting, the commission has 'backed-out' the effect of Program 1 from the dumping margin calculation."⁶⁶ CCCME considers that it is necessary for ADC to recognise the risk of double counting, but the public version of the SEF still does not sufficiently explain the specific methodology.

301 At a minimum, ADC should explain whether the effect of steel billet LTAR was deducted from the dumping margin, the subsidy margin, the combined measure or another calculation step; how the deduction amount was calculated; whether that treatment applies separately to Masteel and to non-cooperative entities; and whether that treatment has been fully reflected in the USP, NIP and proposed measures. If these issues cannot be explained in a verifiable manner in the final determination, the risk that the same steel billet factor is offset twice in the construction of normal value and in the countervailing measure cannot be excluded.

302 For Masteel, the proposed measures should be strictly limited to its individual circumstances. The SEF has preliminarily found that Masteel did not dump, that its dumping margin was negative, and that ADC proposes to terminate the dumping investigation in respect of Masteel. Table 34 on page 101 of the SEF shows that Masteel is proposed to be subject only to a 12.0% ICD and no IDD. ADN 2026/073 further confirms that ADC is "no longer satisfied that there appear to be sufficient grounds to make a PAD in relation to the alleged dumping of the goods exported to Australia from China by Masteel", that no securities will be required or taken for IDD in respect of goods exported by Masteel, and that any dumping securities taken in respect of

⁶⁶ Anti-Dumping Commission, Anti-Dumping Notice No. 2026/073: Freight Railway Wheels Exported to Australia from the People's Republic of China — Amendment to Securities (29 May 2026), p. 3 n. 5.

goods exported by Masteel will be cancelled.⁶⁷ CCCME considers that ADC should maintain in the final determination the approach that no anti-dumping measure should apply to Masteel. With respect to countervailing measures, if ADC ultimately imposes a countervailing measure on Masteel, that measure should also be limited to subsidy benefits that are verified, not double counted, actually connected with FRW and exports to Australia, and proven to cause injury.

303 For non-cooperative entities, CCCME does not deny that ADC may use facts available where the statutory conditions are met. However, facts available should not become a punitive inference. ADC should not mechanically aggregate programs identified for Masteel, programs from previous cases and inferred programs. Nor should it assume that all non-cooperative entities enjoy all possible subsidies and attribute all benefits to exports to Australia. Otherwise, the final measures may be substantially overstated and exceed the scope necessary to offset proven injury.

304 In sum, CCCME requests that ADC re-examine the NIP, USP, profit rate selection, cost adjustments, treatment of steel billet LTAR deductions and the final level of measures in the final determination. ADC should explain whether the NIP and proposed measures are truly limited to removing proven injury attributable to dumped or subsidised imports, and should ensure that non-import factors, Comsteel's own operating difficulties, or the same steel billet cost factor are not repeatedly incorporated into the level of measures.

305 CCCME is also concerned that the proposed measures, particularly if they operate in substance as a floor price for FRW in Australia, may go beyond the purpose of offsetting injury caused by dumping or subsidisation. Anti-dumping and countervailing measures should not be used to guarantee Comsteel full CTMS recovery, to compensate Comsteel for structural losses,

⁶⁷ Anti-Dumping Commission, Anti-Dumping Notice No. 2026/073: Freight Railway Wheels Exported to Australia from the People's Republic of China — Amendment to Securities (29 May 2026), pp. 2–3.

or to create an artificial minimum market price unrelated to proven injury caused by Chinese imports. This is especially important where Comsteel already holds an overwhelmingly dominant share of the Australian market and where its public financial statements raise serious questions as to whether its losses arise from its operating expenses, cost structure and business model.⁶⁸

306 If global steel billet or other steel input prices fall, Comsteel's input costs may also decline. Measures should not preserve elevated FRW selling prices or expand Comsteel's margins in circumstances where any margin improvement results from reduced input costs rather than from the removal of proven injurious dumping or subsidisation. ADC should therefore ensure that the form and level of any measures do not operate as excessive protection or as a de facto price floor that insulates Comsteel from ordinary market conditions.

iii. Request That ADC Re-examine the NIP and Proposed Measures

307 For the above reasons, CCCME requests that ADC re-examine the NIP, USP, profit rate selection, CTMS basis, cost adjustments and proposed level of measures in its final determination, to ensure that final measures are used only to offset injury that is proven and legally attributable to dumped or subsidised imports.

308 First, ADC should explain whether, in constructing the USP and NIP, it has separated out the effects caused by declining market demand, cost increases, fixed-cost absorption, insufficient efficiency, weak export performance and other non-import factors. If the NIP or USP includes costs or losses caused by these factors, corresponding adjustments should be made.

309 Second, ADC should further explain the relationship between steel billet LTAR and the construction of normal value, the subsidy margin, the NIP and the proposed measures, and should specify the object, method, amount and

⁶⁸ Australian Government, Streamlining Australia's anti-dumping system: An effective anti-dumping and countervailing system for Australia (June 2011), ss 4.5 and 6.1–6.2, pp. 5 and 26–27.

applicable entities of the “back-out” treatment. If ADC cannot prove that double counting has been fully excluded, the relevant level of measures should not be used as the basis for the final determination.

310 Third, for Masteel, ADC should maintain the approach of terminating the dumping investigation and should not impose any anti-dumping measure on Masteel. Any countervailing measure should be strictly limited to Masteel’s verified individual subsidy margin and should ensure that there is no double counting or over-attribution.

311 Fourth, for non-cooperative entities, even if ADC uses facts available, it should ensure that the inference is reasonable, objective and consistent with the information on the record, and should not turn facts available into a punitive rate.

312 In sum, the NIP and proposed measures cannot become a tool for compensating Comsteel for all of its high costs, all of its losses or all of its operating difficulties. ADC should ensure that any final measures are constrained by the principles of minimum necessity, no double counting and no excessive protection.

XIII. The Imposition of Measures May Adversely Affect the Australian Public Interest

i. Applicable Rules and Analytical Requirements

313 Under Article 9.1 of the WTO Anti-Dumping Agreement and Article 19.2 of the Agreement on Subsidies and Countervailing Measures, even where the investigating authority finds dumping, subsidisation and injury, the decision whether to impose measures and the level of such measures should still serve the purpose of removing injury caused by dumped or subsidised imports. Article 9.1 of the Anti-Dumping Agreement expressly provides that “the decision whether or not to impose an anti-dumping duty ... and the decision whether the amount of the anti-dumping duty to be imposed shall be the full

margin of dumping or less, are decisions to be made by the authorities of the importing Member”. At the same time, that article further states that, if a lesser duty would be adequate to remove injury to the domestic industry, the duty should be less than the dumping margin, namely “it is desirable ... that the duty be less than the margin if such lesser duty would be adequate to remove the injury to the domestic industry”.⁶⁹ Article 19.2 of the Agreement on Subsidies and Countervailing Measures similarly provides that, if a lesser duty would be adequate to remove injury to the domestic industry, the countervailing duty should be less than the total amount of the subsidy, namely “the duty should be less than the total amount of the subsidy if such lesser duty would be adequate to remove the injury to the domestic industry”.⁷⁰ These rules reflect the requirements of necessity and proportionality in trade remedy measures.

314 Part XVB of the Australian Customs Act 1901 also establishes rules concerning material injury, non-injurious price, dumping duties, countervailing duties and measures in circumstances involving both dumping and subsidisation. In particular, Customs Act 1901 (Cth), s 269TACA defines the NIP as “the minimum price necessary” to prevent injury, a recurrence of injury, or to remove hindrance to the establishment of an industry.⁷¹ These rules show that, when recommending measures, ADC should consider whether the measures correspond to the proven injury, whether they exceed the scope necessary to remove injury, and whether there is a risk of double offsetting or excessive protection.

315 In addition, the market structure in this case makes public interest issues particularly important. The SEF confirms that Comsteel is the only player of the Australian FRW like goods industry, stating that “there is an Australian industry, comprised solely of Comsteel, producing like goods”. The SEF also

⁶⁹ Anti-Dumping Agreement, Art. 9.1.

⁷⁰ SCM Agreement, Art. 19.2.

⁷¹ Customs Act 1901 (Cth), s 269TACA.

states that the Australian FRW market comprises the Australian industry, exporters, importers and “customers who are typically freight transport operators and maintenance suppliers”, and that “Some customers will directly import FRW”. At the same time, the SEF states that “Customers typically procure FRW through long-term supply contracts or tender agreements, which set pricing and supply quantities for a defined period”.⁷² In a market where the domestic supplier is highly concentrated, customers are limited in number, and the product is a safety-critical component for rail freight, any high level of measures may have material effects on procurement costs, supply sources, delivery stability, market competition and downstream users’ risk management.

316 Accordingly, CCCME considers that ADC should not only examine whether there is dumping, subsidisation and attributable injury in the final determination, but should also fully consider the public interest in relation to the level and scope of measures. The purpose of trade remedy measures should be to eliminate proven injury, not to exclude legitimate competition, entrench a single-supplier structure, or transfer the Australian domestic industry’s own cost, efficiency and operating problems to downstream users and the broader rail freight system.

ii. Adverse Impact on Downstream Users

317 FRW is an important input for Australia’s rail freight, mining transport and related maintenance services. The main downstream users of FRW in Australia typically include large mining enterprises, rail freight operators, vehicle maintenance service providers and related maintenance supply-chain enterprises. These users’ procurement of FRW affects not only the cost of a single component, but also the continuity and safety of iron ore, coal and other bulk commodity transport.

⁷² SEF 690, pp. 8–9 and 38–40.

- 318 If high anti-dumping or countervailing measures are imposed on Chinese imports, downstream users may first face increased procurement costs. As a key component in the operation and maintenance of rail vehicles, any increase in FRW procurement costs may be passed through to vehicle maintenance costs, mining transport costs and rail freight costs. For mining enterprises that rely on heavy haul rail transport over the long term, wheel procurement costs and delivery stability are important components of operating cost control. If the level of measures exceeds what is necessary to remove proven injury, downstream users will be forced to bear additional costs that are not caused by their own business conduct.
- 319 Second, downstream users may face reduced supply options and weakened bargaining power. The SEF confirms that Comsteel is the only Australian producer of FRW. Against this background, if high measures significantly restrict Chinese imports, and if alternative third-country sources cannot be substituted in a timely manner in terms of price, certification, delivery period or technical specifications, downstream users' procurement options will be materially constrained. Reduced supply options will not only weaken downstream users' bargaining power on price and delivery terms, but may also reduce their ability to manage quality, delivery and operational risks through multi-source procurement.
- 320 Third, downstream users may face longer delivery cycles and constraints on project arrangements. FRW is typically procured through long-term contracts or tender processes. Customers' procurement timing is closely connected with vehicle maintenance cycles, mining transport arrangements, inventory strategies and safety inspection plans. If measures restrict import supply or significantly increase prices, downstream users may need to rearrange procurement, certification, inventory and maintenance plans. Such adjustments themselves may increase management costs and adversely affect normal maintenance plans and transport arrangements.

321 The customer procurement-related materials cited at pages 84 to 85 of the SEF show that downstream customers do not consider only price when procuring FRW, but also consider warranties, guarantees, other value-added factors, and emergency and continuous supply arrangements.⁷³ These facts show that, for safety-critical components such as FRW, downstream users need to balance price, quality, service, delivery, warranty and supply security. If final measures simply raise import prices, they may improperly interfere with downstream users' normal commercial choices and supply risk management arrangements.

322 Accordingly, CCCME requests that ADC fully consider, in the final determination, the effect of measures on downstream users' procurement costs, supply choices, delivery arrangements and operational stability. If ADC cannot prove that the proposed measures are limited to removing proven injury, then downstream mining enterprises, rail operators and maintenance service systems should not be required to bear the additional costs caused by excessive measures.

iii. Adverse Impact on Supply Chain Resilience

323 FRW is an important safety component of the rail freight system. Supply chain resilience depends not only on the existence of local production capacity, but also on whether downstream users can obtain diversified, stable and reliable sources of supply at reasonable cost and within a reasonable period. For mining railways, heavy haul rail freight and related maintenance systems, maintaining multi-source supply is itself an important part of supply chain risk management.

324 The SEF refers to Comsteel serving as an emergency or backup supplier in certain customer systems.⁷⁴ This fact shows that Australian downstream users do not simply pursue the lowest procurement price. Rather, they balance

⁷³ SEF 690, pp. 84–85.

⁷⁴ SEF 690, pp. 84–85.

local supply, imported supply, quality assurance and emergency supply. For safety-critical components, diversified sources of supply can reduce the impact on downstream operations of a production interruption, delivery delay, quality dispute, capacity shortage or cost increase affecting a single supplier.

325 If high measures significantly restrict Chinese imports, while the Australian market in fact has only one domestic producer, Comsteel, the Australian FRW supply chain may shift from diversified supply to single-supplier dependence. Under such a structure, if Comsteel experiences insufficient capacity arrangements, equipment maintenance, labour issues, raw material supply problems, delivery delays or quality disputes, downstream users will lack sufficient alternative sources. This risk is particularly important for mining railways and heavy haul rail freight, because those operations require continuity, reliability and predictability in component supply.

326 In addition, supply chain resilience should not be simplistically understood as reliance only on local supply. In safety-critical and highly specialised industrial-chain products, reasonable supply chain resilience usually means maintaining an appropriate balance between local supply and international supply. If trade remedy measures in effect exclude or materially weaken Chinese supply sources, without sufficient evidence that such restrictions are necessary to remove proven injury, the measures may instead weaken the risk-resistance capacity of Australia's downstream industries.

327 CCCME considers that, when assessing the necessity and proportionality of measures, ADC should fully consider the actual operation of the FRW supply chain. If imported products play an actual role in safeguarding downstream users' multi-source procurement, emergency supply, cost stability and delivery continuity, they should not be excluded from the market through excessively high measures. At a minimum, ADC should explain that the proposed measures will not cause the Australian FRW market to become

excessively dependent on the sole domestic producer, and will not impair the supply chain resilience of the rail freight and mining transport systems.

328 The same consideration is relevant to public interest and national interest. Supply security should not be equated with dependence on a single domestic supplier, particularly where that supplier's consolidated financial statements show continuing losses and where the record raises unresolved questions regarding its cost structure, operating expenses and business model. Reliance on a single loss-making or structurally high-cost supplier may reduce, rather than enhance, supply chain resilience. For strategically important rail inputs such as FRW, Australian downstream users benefit from diversified and reliable sources of supply, including imports that provide competitive discipline, supply redundancy, and continuity in the event of domestic production constraints, plant closures, maintenance outages or commercial restructuring.

iv. Adverse Impact on Market Competition

329 The market structure in this case is already highly concentrated. The SEF confirms that Comsteel is the sole Australian producer of FRW, stating that “Comsteel is the sole Australian producer of FRW”, and that the Australian FRW market comprises Comsteel, exporters, importers and customers, where customers are typically freight transport operators and maintenance suppliers, and some customers directly import FRW. The SEF also shows that, during the investigation period, “Comsteel ... supplied 84% of the Australian market ... with 13% coming from China and the remainder from other countries”.⁷⁵ In such a market, imported products are not merely competitors of the domestic industry; they also play an important role in maintaining market competition, disciplining prices, promoting service improvements and preserving customer choice.

⁷⁵ SEF 690, pp. 8–9 and 38–40.

- 330 If ADC imposes high anti-dumping or countervailing measures, and the level of the measures exceeds what is necessary to remove proven injury, competition in the Australian FRW market may be further weakened. Once downstream users' supply choices are reduced, Comsteel's market position as the sole domestic producer will be further strengthened, and the degree to which its pricing, delivery and service arrangements are constrained by competition may decline. In the long term, this would not be conducive to supply efficiency, technological improvement, cost control or service quality enhancement.
- 331 The SEF has acknowledged that overseas manufacturers may have economies of scale, automation, process efficiency and other legitimate competitive advantages. Page 83 of the SEF expressly states that “overseas manufacturers may enjoy a competitive advantage relative to the Australian industry due to a range of potential factors, including lower costs of labour, higher levels of productivity, greater levels of automation, more efficient business processes and/or the benefits of economies of scale”. The SEF also acknowledges that “These competitive advantages may lead to lower production costs, and in turn lower sales prices”.⁷⁶ CCCME considers that legitimate competitive advantages must be strictly distinguished from price effects caused by dumping or subsidisation. If part of the competitiveness of Chinese exporters derives from large-scale production, automation, efficiency improvements, management capabilities or supply-chain organisation, those advantages should not themselves be offset through trade remedy measures. Otherwise, the actual effect of the measures would no longer be to eliminate injury caused by unfair trade, but may become the exclusion of legitimate competition.

⁷⁶ SEF 690, pp. 82–83.

332 Trade remedy measures also should not substitute for the domestic industry’s own efficiency improvements, technological upgrading, cost control and customer service improvements. If Comsteel’s cost pressures, efficiency issues, fixed-cost absorption, weak export performance or customer service issues are not caused by Chinese imports, they should not be transferred to downstream users through high measures, nor should trade remedy measures weaken Comsteel’s incentive to improve operational efficiency and competitiveness.

333 Accordingly, CCCME requests that ADC carefully assess, in its final determination, the effect of measures on the competitive structure of the Australian FRW market. ADC should not, through high measures, cause the Australian market to move further toward a single-supplier dominated structure. Nor should it incorrectly equate legitimate price competition, efficiency competition and service competition with injury that should be offset. Any final measures should be strictly limited to proven injury caused by dumping or subsidisation and should avoid unnecessary restrictions on normal competition.

v. Impact on Other Public Interest Considerations

334 In addition to downstream costs, supply chain resilience and market competition, this case also involves broader public interest considerations. FRW is an important component of rail freight vehicles. Both the application and the initiation notice state that the railway wheels under consideration are “manufactured in accordance with relevant user defined specifications and drawings, and are used on rail carriages/wagons in freight transport”, and are “suitable to operate at axle loads of up to 36 metric tonnes, as defined by user/customer specifications”. Therefore, the continuity, reliability and availability of FRW supply is not merely a commercial issue for a single

enterprise, but also relates to rail transport safety, the operation of critical infrastructure and national economic interests.

335 From the perspective of rail transport safety, downstream users need to select appropriate FRW suppliers based on specific operating environments, axle loads, track conditions, vehicle types and maintenance cycles. In the CON 632 Australian Industry Verification Report, ADC confirmed that “the requirements for ore carriage railway wheels may differ between customers depending on the design of the railway tracks and the load requirements of the ore carriages”; that “Mining companies purchase ore carriage railway wheels from pre-certified suppliers through contracts or tender arrangements” and “the pre-certification process can take multiple years”; and that “Locally produced and imported ore carriage railway wheels are used interchangeably on customers’ ore carriages”, while “mining companies may seek multiple sources of supply to ensure continuity of supply”.⁷⁷ This shows that FRW procurement is not simply price procurement, but is closely connected with safe operation, specification matching, supply certification and maintenance plans.

336 If measures reduce supply sources, customers may face greater pressure in relation to price, delivery cycles, certification cycles and inventory security. For safety-critical components, supply chain constraints may affect normal maintenance plans and spare-parts availability, thereby increasing operational risks in the rail transport system. The CON 632 Australian Industry Verification Report also confirms that “Mining customers typically have maintenance programs which include replacing wheels at the end of their useful life”, that “This maintenance program will influence the timing of orders”, and that “Mining customers and suppliers generally coordinate delivery dates in advance to allow mining customers to meet maintenance

⁷⁷ Anti-Dumping Commission, Australian Industry Verification Report: Commonwealth Steel Company Pty Ltd, Continuation Inquiry No. 632 — Ore Carriage Railway Wheels (26–28 September 2023), pp. 8–9.

schedules and suppliers to plan production”.⁷⁸ Therefore, if trade remedy measures significantly compress alternative sources of supply, they may adversely affect downstream users’ maintenance plans, spare-parts security and the continuity of rail freight.

337 In addition, public materials show that, in the previous continuation proceeding concerning railway wheel measures, major mining customers such as BHP and Rio Tinto opposed the continuation of measures on Chinese railway wheels. Relevant public reporting stated that BHP questioned the performance of Comsteel/Molycop wheels and raised quality and safety concerns; Rio Tinto also argued that Baowu/Masteel did not dump, that its price advantage related to investment in automation and improvements in business processes, and that it was still able to provide better quality products.⁷⁹ CCCME understands that this public reporting does not, by itself, prove that Comsteel’s products have systemic quality problems, nor can it substitute for ADC’s formal investigation of quality, price, service and supply factors. However, from the perspective of public interest and rail transport safety, such customer positions at least show that large downstream mining users consider quality stability, operating record, supply reliability, technical capability and failure risk to be important commercial considerations when procuring railway wheels. When assessing the necessity and proportionality of measures, ADC should avoid allowing trade remedy measures to weaken downstream users’ ability to engage in multi-source procurement based on safety and supply risk management.

338 From the perspective of critical infrastructure operation, mining railways and heavy haul rail freight are part of Australia’s important infrastructure system. Stable FRW supply directly affects the reliable operation of mine railways, port collection and distribution, and bulk commodity transport chains. The

⁷⁸ Anti-Dumping Commission, Australian Industry Verification Report: Commonwealth Steel Company Pty Ltd, Continuation Inquiry No. 632 — Ore Carriage Railway Wheels (26–28 September 2023), p. 9.

⁷⁹ Will Glasgow, ‘China, Mining Giants Unhappy Ahead of Tariff Showdown’, The Australian (online, 29 March 2024).

CON 632 Australian Industry Verification Report confirms that the relevant railway wheels are “used on ore carriage railways in the Pilbara region of Western Australia”, and are “generally used to transport iron ore from mines to export ports”; the major end-users include BHP, Rio Tinto, FMG and Roy Hill.⁸⁰ If high measures cause downstream users to rely only on a small number of sources, or even a single source, any supply interruption, delivery delay or quality dispute may have effects beyond the FRW procurement market itself, extending to mining transport, port logistics and related industrial chains.

339 From the perspective of national security and national interest, Australia needs to maintain the safe, stable and sustainable operation of critical rail freight systems and mining supply chains. National security or national interest does not necessarily mean excluding imports or relying only on local production. On the contrary, in certain safety-critical product sectors, national interest may require a reasonable, diversified and substitutable supply system in order to prevent systemic risk caused by the failure of a single source of supply. Therefore, in this case, the core public interest issue is not simply whether to support or oppose products from a particular source, but to ensure that any final measures do not weaken the supply security and operational resilience of Australia’s critical rail freight system.

340 CCCME also notes that, for programs that are small in amount, one-off, completed, weakly connected with the goods under consideration or exports to Australia, or mainly in the nature of general R&D, certification, green manufacturing or employment support, high countervailing measures should not convert them into a long-term cost burden for downstream users and public infrastructure systems. Trade remedy measures should target proven and attributable dumping or subsidy effects that cause material injury to the

⁸⁰ Anti-Dumping Commission, Australian Industry Verification Report: Commonwealth Steel Company Pty Ltd, Continuation Inquiry No. 632 — Ore Carriage Railway Wheels (26–28 September 2023), p. 8.

Australian industry, and should not be expanded into a general restriction on all Chinese sources of supply.

vi. Request That ADC Carefully Assess the Necessity and Proportionality of Measures

341 For the above reasons, CCCME requests that ADC fully consider the public interest factors involved in this case in the final determination, and carefully assess the necessity, proportionality and actual impact of the proposed measures. If ADC ultimately considers that measures are necessary, it should ensure that the scope and level of the measures are strictly limited to removing proven injury attributable to dumped or subsidised imports, and are consistent with the principles of NIP, lesser duty, no double counting and no excessive protection.

342 Specifically, ADC should avoid, through high measures, unnecessarily increasing downstream users' procurement and operating costs, reducing downstream users' supply choices, weakening FRW supply chain resilience, further strengthening a single-domestic-supplier dominated market structure, or limiting downstream users' ability to make normal commercial choices based on quality, delivery, warranty, certification, maintenance plans and supply security. For safety-critical components such as FRW, which relate to rail freight safety, mining transport, critical infrastructure operation and the stability of bulk commodity supply chains, final measures should not weaken the supply security and operational resilience of Australia's rail freight system.

343 In sum, the purpose of measures should be to remove proven injury, not to exclude legitimate competition, entrench a single-supplier structure, or transfer Comsteel's own cost, efficiency, operational and market risks to downstream users, the rail freight system and the broader public interest. If ADC cannot prove that the proposed measures correspond only to proven

injury attributable to Chinese imports, or cannot exclude unnecessary adverse effects on downstream users, supply chain resilience, market competition, rail transport safety, critical infrastructure operation and national interests, it should reduce the level of measures, narrow the scope of measures, or refrain from recommending the publication of the relevant dumping duty notice or countervailing duty notice.

XIV. Conclusion

344 For the above factual and legal reasons, CCCME considers that the SEF still contains issues requiring further examination and clarification in relation to non-confidential disclosure, product scope and MCC structure, Australian market conditions, import volume effects, price undercutting and price suppression, remedied price analysis, economic indicators of the domestic industry, subsidy findings, facts available for non-cooperative entities, whether dumping or subsidisation may continue, causation and non-attribution analysis, the NIP and proposed measures, downstream impact and the proportionality of measures. The existing record is insufficient to support attributing all or most of Comsteel's operating difficulties to Chinese imports, and is also insufficient to prove that the proposed measures are all limited to offsetting injury proven to have been caused by dumped or subsidised imports.

345 Accordingly, CCCME respectfully requests that ADC take the following actions in its final determination:

346 (1) ADC should not make an adverse final determination based on an SEF that lacks sufficient non-confidential disclosure and adequate explanation of core facts and calculation processes. The purpose of the SEF process is to enable interested parties, before the final determination, to sufficiently understand and comment on the essential facts and analytical reasoning on which the investigating authority

proposes to rely. Once the final determination is made, interested parties will no longer be able to substantively respond to the relevant facts, calculations and inferences through the SEF comment process. Therefore, before making the final determination, ADC should ensure that core issues such as price undercutting, subsidy margins, the steel billet LTAR benchmark, remedied price, NIP, customer negotiation materials, facts available for non-cooperative entities and injury causation have been sufficiently and understandably explained on a non-confidential basis. For facts, calculations or inferences that have not been sufficiently disclosed and do not allow interested parties to comment effectively, ADC should not use them as a basis to support adverse final findings.

347 (2) ADC should maintain its preliminary finding that cast railway wheels are outside the scope of the goods under investigation, and further clarify the product scope and MCC structure to ensure that price comparisons, injury analysis and the application of measures are limited to comparable forged and rolled freight railway wheels that are actually produced by Comsteel and directly compete in the Australian market.

348 (3) ADC should re-examine the SEF's findings concerning market competition, reasons for customer procurement decisions and the market impact of Chinese imports in light of the characteristics of the Australian FRW market, including customer concentration, long procurement cycles, project-based procurement, high technical requirements and the importance of supply security. Customer procurement changes should not be simply attributed to price factors or substitution by Chinese imports.

349 (4) ADC should re-examine the significance of changes in Chinese import volume and market share. Where Comsteel continues to hold an

- overwhelmingly dominant position in the Australian market, Chinese import share is limited and overall Australian market demand has declined, ADC should not simply find that Chinese imports constituted a significant increase in import volumes or caused material lost sales.
- 350 (5) ADC should re-examine price undercutting, price suppression and remedied price analysis. ADC should conduct price comparisons based on a revised MCC structure and strictly comparable transactions, and should distinguish the effects of product differences, transaction term differences, cost increases, long-term contracts, customer bargaining power and demand decline on prices.
- 351 (6) ADC should not use the remedied price analysis as a substitute basis for proving price effects, material injury or causation. ADC should prove, based on actual transaction prices, customer procurement behaviour, Comsteel transaction prices and order outcomes, whether Chinese imports actually caused price undercutting, price depression or price suppression.
- 352 (7) ADC should re-examine the evidentiary significance of Comsteel's economic indicators, distinguish between direct operating indicators, derivative indicators, financial indicators and management indicators, and avoid double counting the same operating phenomena, such as sales decline, production decline, cost increases and fixed-cost absorption, as multiple independent injury indicators.
- 353 (8) ADC should conduct a factor-by-factor, substantive and, to the extent possible, quantified non-attribution analysis of other known factors such as demand decline, customer procurement cycles and inventory arrangements, supply chain risk diversification, quality and service factors, cost increases, fixed-cost absorption, efficiency and economies of scale differences, export performance and global

competitive pressure, and separate the injury caused by those factors from the effects of Chinese imports.

354 (9) ADC should re-examine, program by program, whether each subsidy program satisfies the requirements of financial contribution, benefit, specificity, product relevance, attribution to the investigation period and connection with exports to Australia. Programs that cannot be shown to be currently effective, actually received, specific, related to FRW or reasonably attributable to exports to Australia should be excluded or reasonably allocated.

355 (10) ADC should re-examine the steel billet LTAR program, in particular whether the relevant suppliers constitute government or public bodies, whether the benchmark price is comparable, whether quality grades and transaction conditions have been sufficiently adjusted, and whether the steel billet factor is double counted across the construction of normal value, subsidy margin, remedied price, NIP and proposed measures.

356 (11) ADC should avoid applying punitive or cumulative facts available to non-cooperative entities. ADC should not mechanically aggregate Masteel programs, programs from previous cases and inferred programs, nor should it assume that non-cooperative entities benefited from all possible subsidies, purchased steel billet at the lowest price, or attributed all alleged benefits to exports to Australia.

357 (12) ADC should maintain the SEF's preliminary finding that Masteel did not dump and that the dumping investigation in respect of Masteel should be terminated, and cancel, refund or release any securities relating to dumping by Masteel. At the same time, any countervailing measure against Masteel should be limited to the subsidy margin that is verified, related to FRW exports to Australia, not double counted, and proven to have caused injury.

- 358 For uncooperative exporters, ADC should also re-determine the dumping margin on an exporter-specific basis, using relevant information concerning each exporter's actual export prices and volumes, rather than applying the lowest weighted average export price to all uncooperative exporters as a single category.
- 359 (13) ADC should conduct a careful, specific and objective examination of whether dumping or subsidisation may continue. ADC should not presume that dumping or subsidisation will continue in the future merely because imports existed during the investigation period, certain subsidy programs existed, non-cooperative entities did not respond to questionnaires, or findings were made in previous cases.
- 360 (14) ADC should re-examine the NIP and proposed measures to ensure that the NIP reflects a non-injurious price under reasonable competitive conditions, rather than converting all high costs and losses caused by demand decline, cost increases, fixed-cost absorption, insufficient efficiency or Comsteel's own operating problems into the level of import measures.
- 361 (15) ADC should carefully assess the impact of the proposed measures on downstream users, supply chain resilience and competition in the Australian FRW market. The measures should not exceed what is necessary to offset injury proven to have been caused by dumped or subsidised imports, nor should they provide excessive protection to Comsteel in a market where it already occupies an overwhelmingly dominant position.
- 362 (16) If the existing evidence is insufficient to prove that Chinese imports caused material injury, or insufficient to prove that subsidised imports caused material injury, ADC should recommend that no dumping duty notice or countervailing duty notice be published. Even if ADC still decides to recommend measures, it should narrow the

scope of the measures, reduce the level of the measures, and adopt lower, reasonable and non-punitive duty rates.

363 CCCME respectfully requests that ADC give full and careful consideration to the above comments and evidence, and ensure that any final determination is based on a complete, objective and properly reasoned assessment of the facts and applicable legal requirements.