PUBLIC VERSION

J.BRACIC & ASSOCIATES
TRADE REMEDY ADVISORS

PO Box 3749
Manuka, ACT 2603
Mobile: +61 499 056 729
Email: john@jbracic.com.au
Web: www.jbracic.com.au

18 June 2026

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

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

Dear Director,

Please accept this submission on behalf of Baowu Group Masteel Rail Transit Materials Technology Co., Ltd. ("Masteel"). Masteel submits that several of the Anti-Dumping Commission's (the Commission) preliminary findings in Statement of Essential Facts No. 690 are affected by material errors. These errors render the proposed countervailing duty notice inconsistent with the requirements of the *Customs Act 1901* (the Act), Australia's obligations under the Agreement on Subsidies and Countervailing Measures (ASCM), and established principles of WTO jurisprudence.

1. **The Program 1 benefit is overstated by the inclusion of low-value transactions that are not purchases of billet used in production**

The alleged Program 1 benefit is calculated as the difference between the constructed benchmark price and the prices Masteel paid for steel billet, applied across the transactions in Masteel's billet purchase listing. The integrity of that benefit calculation therefore depends entirely on the integrity of the purchase listing against which the benchmark is compared. Only genuine purchases of prime steel billet used in the production of the goods should properly enter the comparison.

It is submitted that the listing, as used in the SEF, includes two categories of low-value transactions that are not purchases of prime billet used in production, and whose inclusion materially overstates the benefit. As these transactions are recorded at prices far below the benchmark, each such transaction generates a large and artificial benchmark-minus-price gap that does not reflect any subsidisation of the billet actually consumed in making railway wheels. The distortion is therefore disproportionate to the small volume involved. These low value transactions and their explanation are clearly identified in the Commission's benefit calculations in "690 - Masteel - Appendix 5 - Subsidy margin.xlsx" worksheet as evidenced in the screenshot below.

[SCREENSHOT REDACTED]

Category 1 – Head & tail (non-prime) billet

Head & tail billet are the off-cut, non-prime ends of the billet. As was discussed during the verification visit and confirmed to the Commission, this material is used only for testing and is not used in the production of railway wheels. Consistent with its non-prime designation, head and tail billet is priced by reference to the price of steel scrap, which is materially lower than the price of regular, prime steel billet. Masteel has provided evidence including VAT invoices, invoice details, system screenshots, and pricing rules for billet testing, confirming the scrap-referenced basis on which this material is priced (**Confidential Attachment A**).

Including these scrap-priced off-cuts in a comparison against a prime-billet benchmark is a comparability error that overstates the benefit. Section 269TACC(4), and Article 14(d) of the SCM Agreement which it reflects, require the adequacy of remuneration to be assessed having regard to prevailing market conditions, expressly 'including price, quality, availability, marketability, transportation and other conditions of purchase or sale'. A non-prime, scrap-grade off-cut and a prime production billet are not the same good and are not of the same quality. Measuring the head and tail scrap-referenced price against a prime-billet benchmark manufactures a false price differential that has nothing to do with any provision of billet for less than adequate remuneration. As this material is not used in production and only used for testing purposes, it also confers no benefit in respect of the goods and falls outside the proper scope of the Program 1 calculation. For these reasons head and tail purchases should be excluded.

Category 2 – toll-processing fee transactions

A second group of low-value transactions in the listing are not purchases of billet at all. They arise from a toll-processing arrangement under which Masteel supplies scrap generated by its own production operations to its parent, Maanshan Iron & Steel Company Limited (“MIS”). The parent processes the Masteel-supplied scrap into steel billet and transfers the finished billet back to Masteel, invoicing Masteel for a processing fee only. The evidence submitted (VAT invoices, invoice details, and system screenshots) describe the charge as a 'processing fee' and, consistently with the arrangement, do not include the cost of the scrap input, because that scrap was supplied by Masteel itself (**Confidential Attachment B**).

The recorded value of each such transaction is therefore a processing service fee, not the price of billet, and treating it as the 'price paid' for billet is erroneous in two independent respects. First, a toll-processing service in which the recipient supplies its own principal input is not, in substance, a provision of goods for less than adequate remuneration to which the section 269TACC(4) and Article 14(d) benchmark is directed. Under the processing arrangement, scrap inputs are moved from Masteel to the parent, not the reverse. Comparing a prime-billet benchmark against a bare processing fee understates the relevant price by the entire omitted scrap cost, and inflates the apparent benefit by the same amount. These transactions should likewise be excluded.

2. ‘Public body’ determination under Program 1

The determination that Masteel received subsidies at a margin of 12.0 per cent is affected by fundamental errors in the treatment of the program involving the alleged provision of steel billet at less than adequate remuneration.

The Commission's preliminary finding in Appendix D4.1 of SEF 690 that MIS and Masteel's other steel billet suppliers are public bodies is unsustainable and factually unsupported. This determination fails to comply with section 269T of the Act, and with Article 1.1(a)(1) of the ASCM. It applies an impermissible test based on government ownership and control rather than the correct governmental authority test mandated by WTO jurisprudence. It also lacks any positive evidence that the entities concerned possess, exercise or are vested with governmental authority in the commercial sale of steel billet to Masteel.

Section 269T of the Act defines "government" for the purposes of Part XVB to include a public body. The provisions governing countervailable subsidies in sections 269TAAC to 269TACD of the Act directly implement Australia's obligations under the ASCM. Article 1.1(a)(1) of that Agreement provides that a subsidy shall be deemed to exist if there is a financial contribution by a government or any public body within the territory of a Member. The term "public body" is not defined in either the Act or the Agreement. Its meaning has been authoritatively settled by the WTO Appellate Body in a manner that must guide the interpretation and application of the corresponding provisions of Australian law.

In *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China*[1], the Appellate Body rejected the Panel's government control and ownership test and established the governing standard for determining whether an entity constitutes a public body. The Appellate Body stated:

> *We therefore conclude that the term 'public body' in Article 1.1(a)(1) of the SCM Agreement must be interpreted as referring to an entity that possesses, exercises or is vested with governmental authority.*

The Appellate Body[2] emphasised that:

> *the mere fact that a government is the majority shareholder of an entity does not demonstrate that the government exercises meaningful control over the conduct of that entity, much less that the government has bestowed it with governmental authority.*

The Appellate Body[3] further clarified the evidentiary requirement, holding that

> *evidence of government ownership or control, while relevant, is not in itself sufficient to establish that an entity is a public body. What is required is evidence that the entity possesses, exercises or is vested with governmental authority to perform governmental functions, such as the power to regulate, control or supervise individuals, or otherwise restrain their conduct through the exercise of lawful authority.*

This governmental authority test has been consistently reaffirmed in subsequent disputes. In *United States – Countervailing Duty Measures on Certain Products from China*[4], the compliance Panel stressed that an investigating authority must demonstrate a direct nexus between any identified governmental function and the specific financial contribution at issue. Mere pursuit of general industrial policy objectives or the existence of state ownership structures does not satisfy this requirement.

---

[1] WT/DS379/AB/R, *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China*, para 317.

[2] Ibid., para 318.

[3] Ibid., para 322.

[4] WT/DS437/RW, *United States – Countervailing Duty Measures on Certain Products from China*, paras 7.7 and 7.9.

Similarly, in *United States – Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India*[5], the Appellate Body reiterated that determinations must be based on case-specific evidence of governmental authority rather than presumptions derived from ownership alone.

The Commission's determination in Appendix D4.1 of SEF 690 applies precisely the ownership and control test that the Appellate Body rejected. The finding rests on the ultimate ownership of MIS through SASAC structures as illustrated in Figure 17, the appointment of a CCP committee to MIS, and generalised statements that the entity is mandated to operate consistently with government policies and is subject to steel sector directives. These factors constitute classic indicia of government control or ownership. They do not constitute evidence that MIS possesses, exercises or is vested with governmental authority to perform governmental functions in the specific commercial transactions involving the sale of steel billet to Masteel.

The Commission has identified no evidence that MIS or Masteel's other billet suppliers possess regulatory, supervisory or coercive power over third parties in relation to the pricing or supply of billet. There is no evidence on the record of direct instructions from the Government of China to MIS concerning the volumes, prices or terms on which billet is sold to Masteel. The verified record, comprising Masteel's exporter questionnaire response, and the outcomes of the on-site verification, demonstrates that Masteel's purchases of billet were conducted on arm's-length commercial terms at market prices consistent with profit-driven commercial behaviour.

The Commission assumes that other state-owned enterprise suppliers are situated in the same manner because the Government of China did not respond to the government questionnaire constitutes an impermissible adverse inference. Section 269TAACA(1) of the Act permits the use of facts available only where information is not provided within a reasonable period. Masteel provided complete and verified data on its own purchases. The absence of a response from the Government of China cannot override positive evidence supplied by the cooperating exporter.

The Commission's approach also fails to satisfy the nexus requirement articulated by the compliance Panel in *United States – Countervailing Duty Measures on Certain Products from China*. General references to industrial policy objectives contained in Appendix A6 of the SEF 690 do not establish a direct link between any governmental function and the specific financial contribution constituted by the commercial sale of billet. The evidentiary and procedural gaps in the Commission's analysis are therefore substantial. There is no positive evidence of governmental authority in the relevant transactions, no demonstrated nexus between any governmental function and the specific conduct at issue, and an impermissible reliance on adverse inferences from non-cooperation where verified exporter data exists.

The Anti-Dumping Commission Manual, in its chapter addressing the definition of subsidy and the identification of public bodies, expressly directs investigating officers to apply the governmental authority test established in *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China* and to require positive evidence rather than ownership-based presumptions. The preliminary finding in Appendix D4.1 of SEF 690 departs from both the Manual and established practice in prior investigations involving Chinese steel inputs.

[5] WT/DS436/AB/R, *United States – Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India*, para 4.29.

The quantitative impact of this error is significant. The program involving steel billet provided at less than adequate remuneration constitutes the primary component of Masteel's preliminary subsidy margin of 12.0 per cent. On the basis of the emphasis placed on this program in the Statement of Essential Facts and the structure of the margin calculation, reversal of the public body finding would reduce Masteel's margin by the substantial majority of that 12.0 per cent figure, resulting in a de minimis margin and termination of the investigation, insofar as it relates to Masteel.

For the reasons set out, the public body determination in respect of the program involving steel billet provided at less than adequate remuneration is unsustainable and factually unsupported. That determination must be reversed.

3. Inappropriate LTAR benchmark and particular market situation findings

The Commission's selection of Turkish domestic steel billet prices sourced from MEPS International, together with a premium calculated by reference to the difference between MEPS Chinese standard billet prices and Masteel's verified special "wheel steel billet" purchase price, as the benchmark for both the constructed normal value under section 269TAC(2)(c) of the Act, and the less than adequate remuneration benefit calculation under Program 1 is flawed and factually unsustainable. This approach fails to comply with section 269TACC(4) of the Act and with Article 14(d) of the ASCM. It also rests upon an overly broad and general particular market situation finding in Appendix A of the SEF 690, that does not justify the rejection of Masteel's verified costs and domestic sales data.

Section 269TACC(4) of the Act requires that the adequacy of remuneration for goods or services provided by a government or public body be determined having regard to prevailing market conditions in the country where those goods or services are provided or purchased. Article 14(d) of the SCM Agreement imposes the same obligation. Where domestic prices in the country of provision are distorted, investigating authorities may resort to out-of-country benchmarks, but such benchmarks must be adjusted so as to reflect the prevailing market conditions in the country of provision, including price, quality, availability, transport and other relevant factors.

The WTO Appellate Body has consistently emphasised this requirement. In *United States – Final Countervailing Duty Determination with Respect to Certain Softwood Lumber from Canada*[6], the Appellate Body held that an investigating authority resorting to an out-of-country benchmark,

> *must ensure that the benchmark it uses is one that reflects the prevailing market conditions in the country of provision.*

The Appellate Body[7] further stated that

> *adjustments must be made to the out-of-country benchmark to reflect conditions in the country of provision.*

---

[6] WT/DS257/AB/R, *United States – Final Countervailing Duty Determination with Respect to Certain Softwood Lumber from Canada*, para 106.

[7] Ibid., para 103.

This principle was reaffirmed in *United States – Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India*[8], where the Appellate Body held that any out-of-country benchmark must be "adjusted to reflect conditions prevailing in the country of provision".

The Commission's Turkish MEPS benchmark fails this test in multiple respects. First, there is a fundamental technological and cost-structure mismatch between the Turkish and Chinese steel industries. As set out in Attachment 3, Turkey's steel industry is predominantly electric arc furnace-based, whereas China's steel industry remains overwhelmingly blast furnace-based. Electric arc furnace production relies primarily on scrap and electricity, while blast furnace production relies on iron ore and coke. These differences materially affect production costs and market prices for steel billet. The Commission has made no adjustment to the Turkish benchmark to account for this technological difference, contrary to the requirement in *US – Softwood Lumber IV* that out-of-country benchmarks be adjusted to reflect conditions in the country of provision.

Second, the premium applied to the Turkish MEPS price is calculated by reference to the difference between MEPS Chinese standard billet prices and Masteel's verified purchase price for special-grade billet. This methodology is circular. The Commissioner has already found in Appendix A that the Chinese domestic steel market is distorted by government intervention, excess capacity and administered input costs. Using a Chinese price series drawn from that same distorted market as the basis for the premium necessarily embeds those distortions into the benchmark. This approach directly contradicts the purpose of using an out-of-country benchmark, which is to remove the effects of domestic distortions.

Third, the particular market situation finding in Appendix does not justify the rejection of Masteel's verified costs and domestic sales data for the purposes of either normal value construction or the LTAR benefit calculation. The finding relies heavily on general features of the upstream Chinese steel industry, including state-owned enterprise presence, capacity developments drawn from OECD data, and government industrial policy. While these features may be relevant to the broader steel sector, the Commission has not demonstrated with specificity how they render Masteel's verified production costs for freight railway wheels unreliable or prevent domestic sales from being used under section 269TAC(1) of the Act. Masteel's questionnaire response and the outcomes of the verification confirm that its costs are recorded in accordance with generally accepted accounting principles in China and reasonably reflect the costs associated with production of like goods. The particular market situation analysis fails to engage with this verified data on a case-specific basis.

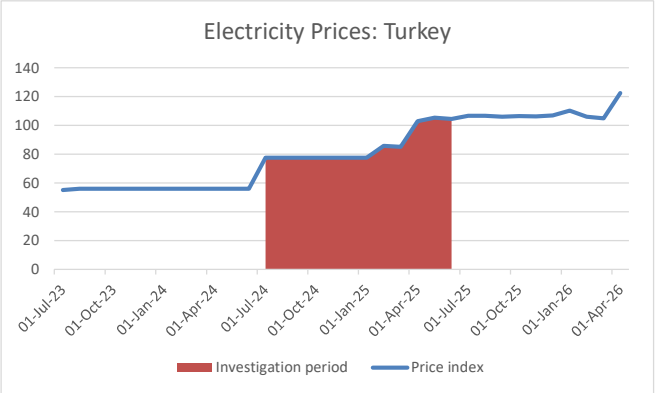
A further and fundamental flaw in the Commission's use of Turkish domestic steel billet prices as the benchmark is the failure to address the profound and sustained divergence in exchange rate movements between the Turkish Lira and the Chinese Yuan during (and leading into) the investigation period, against the US dollar.

A material distortion arises from the failure to account for the effects of sustained Turkish Lira depreciation on Turkish domestic steel billet prices. Over recent years, the Turkish Lira has undergone repeated and substantial devaluations against the United States Dollar. Turkey's steel industry is predominantly electric arc furnace-based and therefore heavily dependent on steel scrap and electricity as primary inputs. A significant portion of steel scrap

[8] WT/DS436/AB/R, *United States – Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India*, para 4.151.

consumed in Turkey is imported or priced with reference to international (USD-denominated) markets.

Electricity costs in Turkey have also been subject to upward pressure linked to imported energy and currency movements. As shown in the chart below, Turkish electricity prices, as measured by the price index, increased by approximately 27 percentage points over the course of the investigation period.



Source: Federal Reserve Economic Data, Harmonized Index of Consumer Prices: Electricity for Turkey

This sharp rise in electricity costs occurred against the backdrop of sustained depreciation of the Turkish Lira. The combination of currency depreciation and rapidly increasing electricity prices would have placed significant upward pressure on the costs of Turkish steel producers. In a competitive domestic market, these higher costs are reflected in higher domestic selling prices for steel billet. By contrast, electricity costs and other major inputs in China did not experience equivalent increases during the same period.

The sustained depreciation of the Turkish Lira has therefore increased the cost, in local currency terms, of these key inputs. This cost increase is necessarily reflected in higher domestic production costs for Turkish steel billet producers. In a competitive domestic market, these higher costs exert upward pressure on Turkish domestic selling prices for steel billet. As a result, Turkish MEPS prices during the investigation period are likely to be higher than they would have been in the absence of such currency depreciation.

By contrast, the Chinese Yuan has remained relatively stable against the USD over the same period. Chinese production costs for steel billet have not been subject to the same upward pressure from currency depreciation. The Commissioner's use of unadjusted Turkish domestic billet prices as the benchmark therefore compares Chinese costs against Turkish prices that have been inflated by sustained Lira depreciation.

This introduces a systematic upward bias into the benchmark. An inflated benchmark increases the calculated difference between the benchmark price and the price actually paid by Masteel for its steel billet. This directly overstates the less than adequate remuneration benefit under Program 1 and produces an inflated subsidy margin for Masteel.

The Commissioner has not placed on the public record any analysis of the impact of Turkish Lira depreciation on Turkish domestic billet prices, nor any adjustment to remove the effects of this depreciation from the benchmark. In the absence of such analysis or adjustment, the Turkish MEPS benchmark cannot be regarded as a reliable reflection of the prevailing market

conditions for steel billet in China, as required by section 269TACC(4) of the Act and Article 14(d) of the SCM Agreement.

Masteel proposes that the Commission adopt the methodology relied upon in Report 676 – Review of anti-dumping measures applying to steel reinforcing bar exported to Australia from China by Baowu Group Echeng Iron and Steel Co., Ltd. In that review, the Commission determined that the exporter's own cost of production for steel billet did not reflect competitive market costs due to a particular market situation in China. The Commission therefore replaced the exporter's steel billet costs with the verified cost of production of steel billet from Hoa Phat Hai Duong Steel Joint Stock Company in Vietnam, adjusted to reflect a cost of production in China, together with a timing adjustment to align with the review period.

This methodology is significantly more reasonable and appropriate for Masteel than the Turkish MEPS benchmark currently adopted in SEF 690. Hoa Phat is a blast furnace-basic oxygen furnace (BF-BOF) producer, the same technology that dominates Chinese steel production and that is used by Masteel for the production of its special-grade wheel steel billet. Vietnam was found not to have a particular market situation for steel in the relevant investigation. The Hoa Phat costs are verified actual production costs rather than published market prices that may themselves be influenced by Chinese exports. The Commission in REP 676 made explicit adjustments to reflect Chinese market conditions and to account for timing differences. This approach produces a benchmark that is both technologically aligned with Chinese production and properly adjusted to prevailing market conditions in China, consistent with the requirements of Article 14(d) of the ASCM and section 269TACC(4) of the Act.

The Commissioner should therefore reject the Turkish MEPS benchmark and the associated premium. The Commissioner should instead determine the benchmark for less than adequate remuneration purposes by reference to Masteel's verified purchase data, with any necessary adjustments made on the basis of positive evidence rather than assumptions drawn from the particular market situation finding. In the alternative, the Commissioner should adopt Vietnamese billet costs adjusted for timing differences as an alternative benchmark, with appropriate adjustments to reflect prevailing market conditions in China.

4. Impermissible double counting of the same benchmark in the dumping and subsidy margin calculations

The Commissioner's methodology in SEF 690 directly contravenes the Commission's own stated practice for avoiding double counting in concurrent dumping and subsidy investigations. The identical Turkish MEPS domestic steel billet price plus special-grade premium has been used both to construct the normal value under section 269TAC(2)(c) of the Act, and to quantify the benefit under the less than adequate remuneration program in Appendix D4.1. This produces impermissible double counting of the same alleged domestic subsidy.

The approach is inconsistent with Article 10 of the ASCM (including footnote 36), the Appellate Body's findings in *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China* and *United States – Washing Machines (Korea)*, and the explicit guidance in Chapter 20 of the Anti-Dumping Commission's Dumping and Subsidy Manual.

Chapter 20 of the Manual sets out the Commission's established practice for precisely this situation. It states:

> Avoidance of double counting where normal value is derived from a 'surrogate' country A 'domestic subsidy' does not normally create a double counting problem when working out the dumping margin because, unlike export subsidies, the domestic subsidy is assumed to have affected domestic and export prices equally. Because both prices are affected equally by a domestic subsidy, any dumping margin will be the same with or without the domestic subsidy, neutralising its effect. Therefore, in joint cases where no surrogate value has been used for establishing normal value, and as noted above, the Commission will countervail the full amount of the domestic subsidy and impose the full dumping margin.
>
> If normal value had been determined using information wholly from a 'surrogate' country, and given these assumptions, the export price will carry the domestic subsidy's price-decreasing effect but the normal value in the surrogate country will not. The margin between the export price and the surrogate normal value (the dumping margin) will hence be greater, proportional to the subsidy's effect on one price and not the other. In this or similar situations the Commission will ensure that there is no double counting and it will not impose the full margin of dumping (as the amount of the domestic subsidy will be assumed to have been carried into the dumping margin – unlike the situation immediately above).

In Appendix C of SEF 690, the Commission rejected Masteel's verified steel billet costs and substituted the Turkish MEPS benchmark plus premium. In Appendix D4.1 the Commission then used the identical Turkish MEPS benchmark plus premium to calculate the benefit under the program "Steel billet provided at less than adequate remuneration". The same figure therefore appears in both the constructed normal value (affecting the dumping margin) and the subsidy benefit calculation (directly determining the countervailing duty margin). This methodology produces the double counting required to be avoided.

This methodology also breaches Article 10 of the ASCM, which requires Members to "take all necessary steps to ensure that the imposition of a countervailing duty… is in accordance with the provisions of Article VI of GATT 1994 and the terms of this Agreement." Footnote 36 defines a countervailing duty as one levied for the purpose of "offsetting" a subsidy. The Appellate Body has made clear that this obligation requires investigating authorities to ascertain the precise amount of subsidisation and prohibits duties that exceed or duplicate that amount. In *United States – Washing Machines (Korea)*[9] the Appellate Body held that authorities "must, in principle, ascertain as accurately as possible the amount of subsidization bestowed on the investigated products" and that the wording of Article 10 "indicates that the obligation to establish precisely the amount of subsidization requires a proactive attitude on the part of the investigating authority." The Commissioner has failed to adopt that proactive attitude.

The WTO Appellate Body in *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China*[10] examined precisely this form of overlap between anti-dumping and countervailing duty calculations. The Appellate Body held that where an

---

[9] WT/DS464/AB/R, *United States – Washing Machines (Korea)*, para 5.268.

[10] WT/DS379/AB/R, *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China*, paras 541-543, 568-572.

investigating authority uses the same financial contribution both to adjust the normal value in a dumping calculation and to countervail that contribution as a subsidy, the resulting duties constitute an impermissible double remedy. The Appellate Body stated that "the imposition of both anti-dumping and countervailing duties on the same product, where the dumping margin has already been calculated by taking into account the same subsidy, would result in the imposition of duties in excess of the amount of the subsidy." The same reasoning applies directly here: the Turkish benchmark adjustment has already been incorporated into the normal value construction, yet the Commissioner has treated the identical adjustment as a separate countervailable subsidy.

As highlighted above, Chapter 20 of the Commission's Manual expressly addresses concurrent anti-dumping and countervailing duty investigations. It requires the Commission to consider whether the methodology adopted would result in double counting and, where double counting would occur, to make appropriate adjustments to the calculations. The Manual states that the Commission must ensure consistency with Australia's international obligations under the WTO agreements and avoid the imposition of duties that exceed the amount necessary to offset the subsidy or dumping. SEF 690 contains no analysis of this issue and applies the identical benchmark without any adjustment or offset for double counting.

The quantitative impact is substantial. The less than adequate remuneration program is the dominant component of Masteel's 12.0 per cent preliminary subsidy margin. As the benchmark used for that program is the same surrogate benchmark already embedded in the constructed normal value, the subsidy margin is overstated by the full amount of the subsidy's price-decreasing effect that Chapter 20 of the Manual recognises must be treated as already reflected in the dumping margin. Even though the Commissioner has recommended termination of the dumping investigation for Masteel, the flawed methodology remains embedded in the subsidy calculation and continues to generate an inflated countervailing duty.

5. Injury and causation

Masteel contests the preliminary findings in chapters 8 and 9 of SEF 690 that dumped and subsidised goods exported from China caused material injury to the Australian industry producing like goods. In particular, Masteel submits that:

- its exports were not dumped (negative dumping margin of 28.2 per cent);
- its export volume represented less than 10 per cent of total Chinese exports to Australia during the investigation period and a negligible share of the Australian market;
- it sold only one model control code to a single Australian customer and was not a price leader;
- its prices were generally higher than the Australian industry's weighted average selling price and only marginally undercut Comsteel's price on that single MCC; and
- any injury experienced by Comsteel is not causally linked, in a material degree, to Masteel's subsidised exports.

The Commission's aggregate treatment of all Chinese exports, without proper differentiation of Masteel's verified data and distinct commercial circumstances, has resulted in erroneous findings on both the existence of material injury caused by dumping and the causal link

between subsidisation and material injury in so far as Masteel's exports are concerned. These errors are compounded by an inadequate non-attribution analysis under section 269TAE(2A) of the Act, and Australia's WTO obligations.

a) Economic Condition of the Australian Industry

Volume effects

The Commission finds that Comsteel's domestic sales volume index fell from 100 in FY 2022 to 75 in FY 2025 and that its market share index fell from 100 to 97 over the same period, with a low of 93 in FY 2024. Chinese import volume increased 12 per cent and market share rose from 9 per cent to 13 per cent.

Masteel notes that its own exports represented less than 10 per cent of the already modest Chinese import share (approximately 13 per cent of the Australian market). The absolute volume of goods exported by Masteel was therefore negligible in the context of the overall market and of Comsteel's 25 per cent volume decline. The Commission itself records that Masteel sold only one MCC to one customer during the investigation period and was not a price leader. In these circumstances it is not credible to attribute any material portion of Comsteel's lost sales volume or market share decline to Masteel's exports.

Price effects

The Commission finds price suppression throughout the injury period, evidenced by Comsteel's unit cost to make and sell (CTMS) exceeding its selling prices in every year and quarter examined, with price increases tracking or being outpaced by CTMS increases. It further finds that dumped and subsidised Chinese goods undercut Comsteel's prices by up to 24 per cent during the investigation period.

Crucially, the Commission's own analysis shows that Masteel's prices were higher than Comsteel's weighted average selling price across the investigation period when all models are considered. Only when the comparison is narrowed to the single MCC actually sold by Masteel does a marginal undercutting appear. Uncooperative exporters, by contrast, undercut by 23 to 24 per cent.

Masteel submits that these verified pricing facts are inconsistent with any finding that Masteel's exports contributed in a material way to price suppression or undercutting. The marginal model-specific difference is commercially insignificant and does not support a finding of material price injury caused by Masteel.

b) Causation Analysis

Absence of dumping by Masteel

Section 269TG of the Act and Article 3.5 of the ADA require that material injury be caused by dumping. Masteel's dumping margin is negative 28.2 per cent. Its export prices were therefore above the constructed normal value, and no dumping occurred. It follows that any injury attributable to Masteel's exports cannot be injury "because of dumping".

The Commission's repeated references in SEF 9.1 and 9.4 to injury caused by "dumped and subsidised" goods from China cannot properly encompass Masteel's exports for the dumping portion of the analysis. The Commissioner has already correctly determined that the dumping investigation in respect of Masteel should be terminated. The same logic and evidentiary record require a parallel conclusion that Masteel's exports did not cause material injury by dumping.

Masteel's distinct commercial circumstances

Masteel's exports are factually and commercially distinguishable from those of uncooperative exporters:

- its volume share of Chinese exports to Australia was less than 10 per cent;
- a single MCC exported;
- a single Australian customer;
- its price position relative to Comsteel's weighted average prices were higher and not undercutting on an aggregate basis; and
- it did not play the role of a price leader in the market.

The Commission's decision to assess price undercutting, volume effects and causation on an undifferentiated "Chinese exports" basis fails to isolate the effects (if any) of Masteel's verified exports. This approach is inconsistent with the obligation to base findings on the best information available for a cooperating, verified exporter and with the requirement for a genuine causal link between the specific exports under consideration and any material injury.

The remedied price analysis does not support causation in respect of Masteel

The Commission places significant weight on a "remedied price" analysis in which Chinese export prices are adjusted upward by the full dumping and subsidy margins, after which the adjusted prices are said to align closely with Comsteel's prices. The Commission infers from this alignment that the observed undercutting and price suppression would not have occurred "if the goods were not dumped or subsidised".

This methodology is inappropriate to Masteel. Given Masteel's dumping margin is negative, there is no dumping "remedy" to apply, as its export prices were already above normal values. Adjusting Masteel's prices upward by a negative dumping margin (or applying only the 12.0 per cent subsidy adjustment) would not produce the same alignment or support the same inference of causation. The Commission's aggregate remedied-price charts and conclusions cannot be read as demonstrating that Masteel's exports caused price injury.

Inadequate non-attribution of other known factors

Section 269TAE(2A) of the Act requires the Minister to consider whether injury is being caused by factors other than the exportation of the dumped or subsidised goods and, if so, not to attribute that injury to the dumped or subsidised goods. The WTO Appellate Body has repeatedly emphasised that investigating authorities must "ensure that the injurious effects of the other known factors are not attributed to the dumped imports" and must "isolate and identify" the effects of those other factors (*United States – Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan*).

The Commission acknowledges a range of other factors raised by interested parties, including contractions in demand, increases in Comsteel's raw material and production costs, procurement strategies and commercial considerations of downstream users, differences in technology and efficiency, product quality/reputation/service factors, and the Australian industry's export performance. It concludes, however, that these factors "do not explain the injury observed to the extent that injury can be attributed to those factors rather than to dumped and subsidised imports".

Masteel submits that this conclusion is not supported by a rigorous separation and distinction of causal effects. In particular:

- Comsteel's sales volume index fell 25 per cent and it recorded losses from the very beginning of the injury period (FY 2022), before the investigation period and before Chinese import share reached its peak. These outcomes are consistent with structural cost pressures and an inability to recover costs through price increases, independent of Masteel's negligible presence.
- The market as a whole contracted or was stable, and Comsteel's market share decline of three percentage points in that context is modest and cannot be materially attributed to an exporter holding less than 10 per cent of the already small Chinese import share.
- The Commission itself records that price remained only one of several factors in purchasing decisions (long-term contracts, tenders, quality, warranty, delivery, historical relationships). Documentary evidence of price negotiations does not isolate Masteel's single-MCC sales as a driver of industry-wide suppression.
- Claims by interested parties that certain Chinese producers operate modern, efficient facilities and price on a legitimate commercial basis are directly relevant to Masteel, whose verified data and higher prices relative to Comsteel's average are consistent with such legitimate competition rather than subsidisation-driven injury.

The Commission's non-attribution analysis fails to quantify or isolate the portion of any injury that might be attributable to these other factors versus the portion (if any) attributable to Masteel's subsidised exports. In the absence of such isolation, the finding that Masteel's exports caused material injury cannot stand.

c) Materiality

Even if some price or volume effect could be discerned from Masteel's exports (which Masteel denies), that effect is immaterial. Masteel's volume was de minimis, its pricing was not undercutting on an aggregate basis, and it was not a price leader. The Material Injury Direction and section 269TAE require injury that is material in degree, being greater than that likely to occur in the normal ebb and flow of business. Effects arising from a single-MCC, single-customer exporter holding a negligible share of the market fall well short of this threshold.