TRONOX

PUBLIC RECORD

22 June 2026

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

Titanium dioxide exported from the People's Republic of China

Investigation No. 699

Dear Director,

Please accept this submission on behalf of Tronox Limited ("Tronox"), the applicant and the sole Australian producer of titanium dioxide, in response to the submission lodged on 8 June 2026 by China Commercial Law Firm on behalf of Anhui Gold Star Titanium Dioxide (Group) Co., Ltd ("GS Group") and Anhui Gold Star Titanium Dioxide Trading Company Limited ("GS Trading") (together, "GS"), concerning exporter status and the determination of export price.

Tronox does not, for present purposes, contest the identification of GS Group, treated as a single economic entity with GS Trading, as the exporter of the goods under consideration ("the goods"). This submission is directed to the second and more critical point in the GS submission, in which they propose that export price should be ascertained under s.269TAB(1)(c) of the Customs Act 1901 ("the Act") as the price of a sale in the export chain, being the FOB price received by GS Trading from the first unrelated intermediary. For the reasons below, that proposition should not be accepted. The correct course is to determine the export price under s.269TAB(3) of the Act, having regard to all relevant information.

1. The disclosed supply chain

The GS submission and the sales-channel diagram disclose the following chain of transactions in the goods:

- GS Group, the producer, sells to GS Trading, its related trading company;
- GS Trading makes the first external sale, on FOB terms with advance payment, to an unrelated trading company ("Intermediary A");
- Intermediary A on-sells to its own related entity in Hong Kong ("Intermediary A-HK");
- Intermediary A-HK sells to a customer in the United States (the "US Customer"); and
- the goods are ultimately sold to, delivered to and consumed by the Australian end-user.

Throughout this sequence the goods are shipped directly from China to Australia, and never enter Hong Kong or the United States. The Hong Kong and United States legs are documentary transactions only.

Of the selling legs in that chain, only the first external sale, being GS Trading's FOB sale to Intermediary A, is documented before the Commission, and then only from the seller's side. It is not apparent whether Intermediary A, Intermediary A-HK and the US Customer have

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lodged questionnaire responses or intend to participate in the investigation. The GS submission concedes that GS "are unable to compel the remaining unrelated companies to cooperate" and that the downstream transactions are "entirely beyond the knowledge or control of GS Trading or GS Group". It follows then that the Commission has no visibility of:

- the resale prices at any downstream point;
- the existence or terms of any rebates, credit notes, commissions, offsets or compensatory arrangements among the downstream parties;
- the contractual point at which the Australian destination, the delivered price and the risk in the goods are fixed; or
- the commercial function and remuneration of each entity in the chain.

On the public submission, it is unclear whether the US Customer is the parent or procurement affiliate of the corporate group that owns the Australian end-user. If it is, the final pre-importation leg is an intra-group transfer, and the chain contains two related-party segments (within the Intermediary A group, and within the end-user's group) bracketing the unobserved transactions in the middle. Tronox requests that the Commission test this through its importer questionnaire and verification of the Australian end-user, which it can reach even though the foreign members of the group are beyond its practical reach.

The difficulty here is not the unusual corporate structure as such. In this chain, the reference points on which an export price is ordinarily ascertained are either missing or unverifiable:

- the first sale is remote from the importation and cannot be tested from the buyer's side;
- the two middle legs are not visible to the Commission;
- the declared customs value may be a related-party transaction; and
- there is no arm's length resale of the goods in Australia, because the end-user consumes them.

The GS submission responds by inviting the Commission to adopt the one price GS can document. The Act requires more, and provides for this situation in s.269TAB(3).

2. The first-sale price should not be adopted under s.269TAB(1)(c)

Sections 269TAB(1)(a) and (1)(b) of the Act are unavailable, as GS accepts, because the Australian importer did not purchase the goods from the exporter. Paragraph (1)(b) is in any event unavailable, as it proceeds from the price at which the importer resells the goods, in the condition in which they were imported, to an unrelated buyer, and there is no such resale here, because the Australian entity consumes the goods in its own production.

The determination of export price therefore lies between s.269TAB(1)(c), under which the Minister determines export price "having regard to all the circumstances of the exportation", and s.269TAB(3), under which, where the Minister is satisfied that sufficient information has not been furnished or is not available to enable export price to be ascertained under the preceding subsections, export price is such amount as the Minister determines having regard to all relevant information.

Two features of that framework are relevant to this case. First, s.269TAB(1)(c) is not a free-standing discretion to select any documented price. It is a direction to ascertain the price of the exportation by reference to the circumstances of that exportation. Where the material circumstances are unknown, the premise of the provision fails. Second, s.269TAB(3) is

enacted for the case in which the information needed to apply paragraphs (1)(a) to (1)(c) is not available, and it mirrors the structure of s.269TAC(6) on the normal value side.

2.1 The first sale cannot be positively found to be an arm's length transaction

The GS submission asserts that the sale from GS Trading to Intermediary A "is an arm's length sale, as the two parties are unrelated, and therefore the price genuinely reflects market conditions at the point of export from China". That reasoning narrows the statutory test. Non-affiliation is necessary but not sufficient. Under s.269TAA(1) of the Act, a purchase or sale is not an arm's length transaction if any of three conditions exists:

- there is any consideration payable for or in respect of the goods other than their price;
- the price appears to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, will directly or indirectly be reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

Each of those conditions covers conduct and arrangements that would not appear on the GS Trading–Intermediary A invoice, and would not be discoverable from the seller's records alone. Downstream rebates, offsets across other product lines or shipments, side consideration, and benefits flowing to or through associates of the buyer are, by their nature, evidenced in the records of the buyer and of the entities further down the chain, which are precisely the parties that have declined to participate. A channel in which title passes through an unrelated trader, that trader's related Hong Kong affiliate and a United States customer that is potentially associated with the importer, while the goods travel directly from China to Australia, multiplies the points at which a condition of s.269TAA(1) may be engaged. Structures of this kind are commonly adopted for reasons of tax, financing, risk allocation, group procurement or the management of trade-remedy exposure, none of which is relevant to the value of the goods exported to Australia.

The Commission need not find that the first sale was not at arm's length. The question under the statutory scheme is whether the Commission can positively satisfy itself that the price was unaffected by the broader arrangements in the chain. With three of the four selling points invisible, only one side of the first transaction verifiable, and no ability to apply the resale-at-a-loss analysis in s.269TAA(2) and (3) to any downstream point, that affirmative satisfaction is not reasonably open.

The same structural concern is reflected in Australia's international obligations. Article 2.3 of the WTO Agreement on Implementation of Article VI of the GATT 1994 ("the Anti-Dumping Agreement") provides:

> In cases where there is no export price or where it appears to the authorities concerned that the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported products are first resold to an independent buyer, or if the products are not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as the authorities may determine.

Two features of Article 2.3 are relevant to this case. First, the unreliability it contemplates extends beyond exporter–importer association to compensatory arrangements involving "a third party", which captures the multi-party channel described in the GS submission. The risk is that arrangements among third parties in the chain detach the observable invoice price from the value of the goods in the exportation. Second, where the goods are not resold to an independent buyer in the condition as imported, the Agreement contemplates determination "on such reasonable basis as the authorities may determine". Section 269TAB(3) is the domestic provision for that determination. Nothing in the Agreement requires, and nothing in the Act permits, an authority to treat the most upstream documented price as reliable by default merely because it is the only price the cooperating exporter holds.

2.2 Destination knowledge and traceability are asserted, not established

The GS submission asserts that GS Trading held documentary evidence, such as contracts and pre-contract communications, demonstrating knowledge that the goods were destined for Australia. Tronox asks the Commission to test those exhibits and to recognise their limits even if they are verified.

In any event, the dumping calculation requires the Commission to link the goods that entered Australia during the investigation period to specific GS Trading invoices. If Intermediary A aggregated supply from multiple producers, or directed GS volumes to multiple destinations, that shipment-level traceability cannot be established from GS's one-sided documents, and the GS submission identifies no independent corroboration. These are the "circumstances of the exportation" to which s.269TAB(1)(c) directs attention.

2.3 The Manual's first-sale guidance does not carry the weight GS places on it

The GS submission rests heavily on Chapter 6.2 of the Dumping and Subsidy Manual ("the Manual"), quoting its guidance that, where an intermediary is involved, the export price "will be the price received by that exporter when selling to the intermediary". Three points answer that reliance. First, the Manual is administrative guidance and does not displace the statutory tests in ss.269TAA, 269TAB(1)(c) and 269TAB(3), each of which must be satisfied on the evidence in the particular case. Second, the guidance addresses the ordinary intermediary case, involving a single, visible trading step proximate to the exportation, and presupposes that the price received can be verified as an arm's length price for the exportation in question. It does not address a four-jurisdiction channel in which every point beyond the first declines to participate and the border value may itself be a related-party transfer price. Third, even on its own terms, the Manual's assessment of party functions and responsibilities cannot be undertaken here, because the functions and remuneration of Intermediary A, Intermediary A-HK and the US Customer are unknown.

3. Sufficient information is not available

Section 269TAB(3) is engaged where the Minister is satisfied that sufficient information has not been furnished, or is not available, to enable the export price to be ascertained under the preceding subsections; in that event the export price is such amount as the Minister determines having regard to all relevant information. The provision mirrors s.269TAC(6) on the normal value side. The threshold turns on the state of the available information, and whether the material before the Commission is sufficient to enable ascertainment under paragraphs (1)(a) to (1)(c), not whether any party is at fault for the insufficiency.

The threshold for engaging s.269TAB(3) in this case is met. To ascertain an export price under s.269TAB(1)(c) the Commission must have regard to all the circumstances of the exportation. On the present public information:

- the sales terms of three of the four selling legs are unknown;
- the only documented leg can be verified from one side only and cannot be positively found to be at arm's length;
- shipment-to-importation traceability rests on the exporter's one-sided documents;
- the point at which destination, price and risk are fixed cannot be established; and
- the declared customs value, the Commission's most obvious independent data point, may be an intra-group transfer price within the end-user's multinational group.

An export price selected in those conditions would not be ascertained having regard to the circumstances of the exportation. It would be ascertained despite them. The language of s.269TAB(1)(c) supplies its own limit, and that limit is exceeded here.

That the importer may be related to its seller is central, and distinguishes this case from the ordinary export sale through a trading intermediary, in which paragraph (1)(c) has historically been the provision relied upon. In that ordinary case the Commission can verify, or at least cross-check, a paragraph (1)(c) price against an independent border value or an arm's length resale in Australia.

4. The correct determination under s.269TAB(3)

4.1 The information reasonably available

Once s.269TAB(3) is engaged, the Commission determines export price having regard to all relevant information. On the present record, that information comprises:

- the verified export prices of other cooperating exporters in this investigation for comparable grades of titanium dioxide exported from China to Australia in the investigation period, together with relevant trade statistics;
- the declared customs values for the GS-origin goods held by the Commission through Australian Border Force import declarations, acknowledging that these may be related-party transfer prices;
- the results of the Commission's importer verification of the Australian end-user, including its purchase contracts, payment flows, rebate and credit-note history, services agreements and, if relevant, transfer-pricing documentation; and
- GS Trading's verified first-sale price.

No single item, on its own, provides a sufficient basis.

Tronox submits that the Commission should determine export price under s.269TAB(3) by the following stepped approach. First, establish a benchmark export price from the weighted average of the verified FOB export prices of other cooperating exporters in this investigation for titanium dioxide of the same or closely comparable grade, adjusted as necessary for grade, packaging and level of trade. This benchmark is independent of the GS chain, contemporaneous, product-specific and verified.

Second, cross-check the benchmark against the declared customs values for the GS-origin goods, adjusted to remove any related-party elements identified at importer verification, such as regional rebates or group discounts.

Third, compare the resulting benchmark with GS Trading's verified first-sale FOB price. Properly constructed, the benchmark represents an arm's length export price for these goods. If GS's first sale sits above the benchmark, it may be inferred that the first-sale price is not a reliable arm's length export price, because it may be inflated by consideration or an arrangement in the broader chain of the kind s.269TAA is directed at.

4.2 The consistency check and the importer verification process

The Commission also has an internal-consistency check available, which Tronox recommends. With GS Trading's verified FOB price at one end of the chain and the Australian end-user's verified landed acquisition cost at the other, the Commission can compute the implied aggregate margin captured by the middle of the chain (Intermediary A, Intermediary A-HK and the US Customer combined), after deducting observable international freight, insurance and other importation expenses. If that difference is consistent with ordinary trading margins for commodity chemicals, the chain is commercially explicable. If it is large, negative or volatile across shipments, that is evidence that prices within the chain are set for reasons other than the value of the goods, which reinforces both the s.269TAA concern and the s.269TAB(3) finding.

To give effect to this, Tronox requests that the Commission's verification of the Australian end-user obtain, at a minimum:

- all purchase contracts and purchase orders for the goods, and the identity of the contractual counterparty at each relevant time;
- complete payment flows for the investigation period, including the identity of payees and any netting arrangements;
- the full rebate, discount and credit-note history relevant to the goods, whether settled locally or at group level;
- all intra-group services, management-fee and cost-sharing agreements, together with the calculation of fees charged to the Australian entity in the investigation period;
- transfer-pricing documentation, including any local file or master file dealing with titanium dioxide procurement; and
- any customs valuation rulings or advice concerning the declared values.

5. Conclusion

For the reasons set out above, Tronox respectfully requests that the Commission:

- find that the sale from GS Trading to the first intermediary cannot positively be found to be an arm's length transaction for the purposes of s.269TAA of the Act, having regard to the structure of the export chain and the non-participation of all downstream parties;
- decline to ascertain the export price of the goods under s.269TAB(1)(c) on the basis of the first-sale price proposed in the GS submission;
- find, for the purposes of s.269TAB(3), that sufficient information has not been furnished and is not available to enable the export price to be ascertained under paragraphs 269TAB(1)(a)–(c), and determine export price having regard to all relevant information;
- in making that determination, adopt the stepped construction set out above, being a benchmark drawn from the verified export prices of other cooperating exporters for

comparable grades, cross-checked against declared customs values adjusted for related-party elements, and compared with GS Trading's verified first-sale price; and

- direct its importer verification of the Australian end-user to the matters identified above, including rebate and credit-note history, intra-group services and fee agreements, payment flows and transfer-pricing documentation.

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