PUBLIC VERSION

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

Investigation No. 691 – Aluminium windows and doors exported from the People's Republic of China

Dear Director,

1. This submission is made on behalf of Broad Windows and Doors and Curtain Wall System Co., Ltd (Broad), an exporter of the subject goods. It addresses the Commission's exporter verification report for Broad (the verification report), prepared following verification meetings held at Broad's premises in Zhongshan from 11 to 14 May 2026.

2. Broad respectfully submits that the deficiencies the report identifies do not, in themselves, trigger the conditions for setting aside Broad's information, and that the substantial body of Broad's information that the verification team did verify can and should be used. Where a particular cost or sales element was not accepted, Broad requests to be told the specific respects in which it fell short and to be given a reasonable opportunity to explain and to address before the SEF makes any findings on its reliability. Broad's overriding wish is to work with the Commission to resolve the matters that remain, and it is ready to provide, without delay, whatever additional source documents, reconciliations, explanations and staff assistance the Commission considers necessary before the SEF.

The verification and Broad's cooperation

3. Broad submitted a response to the exporter questionnaire, hosted the verification team for four days, and engaged with every issue the team raised. The report records fourteen material revisions. Broad agreed to re-map its additional model control code subcategories to the structure in Anti-Dumping Notice No. 2025/115, re-reported quantities from packing lists once the original source could not be verified, corrected the categorisation of its SG&A accounts, separated aluminium sheet from other material costs at the team's request, and updated its subsidy and turnover listings to capture items the team identified.[1]

[1] Verification report, section 4.2 (material revisions 1, 2, 3, 7, 8, 9, 10, 12 and 13).

4. The team's reconciliations succeeded at every aggregate level it tested. For sales, the team "[r]econciled the revenue for the 2024 financial year to the unaudited financial statements and tax return", reconciled revenue for the investigation period to the trial balance, and reconciled the batch master sales listing "directly to the trial balance total for sales during the investigation period, and down to the VAT invoices provided for the selected samples".[2]

5. For costs, it "[r]econciled the cost of goods sold for 2025 financial year to the audited financial statements and trial balance" and reconciled cost of goods sold for the investigation period to the trial balance.[3] The SG&A listing was likewise reconciled to the audited financial statements and the trial balance.[4]

6. The report makes no finding that Broad refused access to any information, withheld any record, or impeded the verification. The difficulties it records are difficulties of reporting, not of access. The team itself observes that "the exporter sells on a project basis so there are complexities with reporting MCC level information from its sales and costs data".[5] Where a matter could not be resolved during the visit, the report records the circumstance. For example, in the cost allocation testing, "staff who had prepared the information were not available".[6]

7. Broad is ready to provide, promptly and in whatever form the Commission prefers, the underlying allocation workbooks, source data, reconciliations and written explanations, and to make the relevant staff available to the Commission, whether in writing or at a supplementary verification.

The framework governing "all relevant information"

8. Section 269TAB(3) of the Act provides that "[w]here the Minister is satisfied that sufficient information has not been furnished, or is not available, to enable the export price of goods to be ascertained under the preceding subsections, the export price of those goods shall be such amount as is determined by the Minister having regard to all relevant information". Section 269TAC(6) makes equivalent provision for normal value. Each is accompanied by a discretion to "disregard any information that [the Minister] considers to be unreliable". The verification report itself notes that "Australian customs law sets out different ways to calculate variable factors based on the facts available".[7]

9. The Commission's Dumping and Subsidy Manual locates these provisions within Australia's international obligations. Section 13.1 of the Manual, after setting out s.269TAC(6) and s.269TAC(7), records that Article 6.8 of the Anti-Dumping Agreement provides that determinations may be made on the facts available if an interested party refuses access to necessary information, does not provide it within a reasonable period, or significantly impedes an investigation.[8] Article 6.8 provides:

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[2] Verification report, section 4.5 (sales completeness and relevance).

[3] Verification report, section 4.5 (cost to make completeness and relevance).

[4] Verification report, section 4.5 (selling, general and administrative expense completeness and relevance).

[5] Verification report, section 4.3.

[6] Verification report, section 4.2 (material revision 11).

[7] Verification report, section 3.1.

[8] Anti-Dumping Commission, Dumping and Subsidy Manual (December 2021), section 13.1.

> "In cases in which any interested party refuses access to, or otherwise does not provide, necessary information within a reasonable period or significantly impedes the investigation, preliminary and final determinations, affirmative or negative, may be made on the basis of the facts available. The provisions of Annex II shall be observed in the application of this paragraph."

10. Only three grounds activate the facts available provisions:
    - refusal of access,
    - failure to provide within a reasonable period, and
    - significant impediment.

11. With respect, none of these circumstances is present in Broad’s case. Broad provided its response, opened its systems and records to the team, and revised its data whenever asked. The second sentence of Article 6.8 then makes Annex II mandatory. The determinations contemplated by ss.269TAB(3) and 269TAC(6), and any exercise of the disregard discretions, accordingly must be made consistently with Annex II.

Information that satisfied the verification must be used

12. Paragraph 3 of Annex II provides:

> "All information which is verifiable, which is appropriately submitted so that it can be used in the investigation without undue difficulties, which is supplied in a timely fashion, and, where applicable, which is supplied in a medium or computer language requested by the authorities, should be taken into account when determinations are made."

13. In *United States – Anti-Dumping and Countervailing Duties on Certain Products and the Use of Facts Available*, the panel held that "[i]f, in direct response to a request by an investigating authority, a respondent provides information that satisfies the criteria under paragraph 3, the authority must take such information 'into account' before resorting to facts available", and that a conclusion that necessary information is missing "would be tainted if the information that meets the criteria of paragraph 3 and that was supplied by an interested party directly in response to an investigating authority's request is not taken into account by the authority before resorting to facts".[9] The panel found the criteria satisfied in that case in part because the authority "appears to have successfully verified many pieces of the submitted information".[10] Information that reconciled at verification is, by that standard, verifiable.

14. The assessment proceeds element by element rather than wholesale. In *United States – Anti-Dumping and Countervailing Measures on Steel Plate from India*, the panel held that "when there is a question whether necessary information has been submitted, the investigating authority must, with reference to the guidance given in paragraph 3 of Annex II, consider whether the information that has been submitted satisfies the criteria

[9] Panel Report, *United States – Anti-Dumping and Countervailing Duties on Certain Products and the Use of Facts Available*, WT/DS539/R, para 7.138.
[10] Panel Report, *United States – Anti-Dumping and Countervailing Duties on Certain Products and the Use of Facts Available*, WT/DS539/R, paras 7.139-7.140.

therein. If yes, it must be taken into account in making determinations. If not, it may be rejected and facts available used instead."[11]

15. The verification report answers the questions "[s]ales data complete, relevant and accurate?" and "[c]ost data complete, relevant and accurate?" with a single global "Not reliable". Chapter 4 of the report on the other hand shows that the position is more differentiated. The revenue totals, the batch master sales listing and its reconciliation down to VAT invoices, the cost of goods sold totals, the SG&A listing and the subsidy information were verified. The matters the team could not verify are specific and separable, such as the quantity source, the segregation of non-subject goods on one sampled invoice, the transfer price between Broad and its related traders, the currency reporting of certain post-export charges, and the monthly cost allocation method. The verified elements should therefore be taken into account, rather than the sales and cost information being set aside as a whole, consistent with the approach in the two reports cited above.

Imperfect information from a party acting to the best of its ability

16. Paragraph 5 of Annex II provides:

> "Even though the information provided may not be ideal in all respects, this should not justify the authorities from disregarding it, provided the interested party has acted to the best of its ability."

17. The Appellate Body in *United States – Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan* read paragraph 5 as setting a high standard of cooperation: "the level of cooperation required of interested parties is a high one - interested parties must act to the 'best' of their abilities".[12] It then marked the limit: "investigating authorities are entitled to expect a very significant degree of effort - to the 'best of their abilities' - from investigated exporters. At the same time, however, the investigating authorities are not entitled to insist upon absolute standards or impose unreasonable burdens upon those exporters."[13]

18. Article 6.13 completes the picture: "[t]he authorities shall take due account of any difficulties experienced by interested parties, in particular small companies, in supplying information requested, and shall provide any assistance practicable". The Appellate Body drew the consequence: "[i]f the investigating authorities fail to 'take due account' of genuine 'difficulties' experienced by interested parties, and made known to the investigating authorities, they cannot, in our view, fault the interested parties concerned for a lack of cooperation".[14]

19. Broad's difficulties were genuine and were made known. Broad manufactures bespoke, project-specific product. To fit that product within the model control code structure, it reported additional categories "with accompanying explanations" in its questionnaire response, and the verification team itself acknowledged the resulting complexity in the

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[11] Panel Report, *United States – Anti-Dumping and Countervailing Measures on Steel Plate from India*, WT/DS206/R, para 7.61.

[12] Appellate Body Report, *United States – Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan*, WT/DS184/AB/R, para 100.

[13] Appellate Body Report, *United States – Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan*, WT/DS184/AB/R, para 102.

[14] Appellate Body Report, *United States – Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan*, WT/DS184/AB/R, para 104.

passage quoted at paragraph 7 above. Reporting imperfections that flow from the structure of Broad's business, disclosed from the outset, are the very case paragraph 5 and Article 6.13 address. In these circumstances, they support having regard to Broad's information.

Notification of, and an opportunity to address, any concerns

20. Paragraph 6 of Annex II provides:

> "If evidence or information is not accepted, the supplying party should be informed forthwith of the reasons therefore, and should have an opportunity to provide further explanations within a reasonable period, due account being taken of the time-limits of the investigation."

21. The panel in *United States – Anti-Dumping and Countervailing Duties on Certain Products and the Use of Facts Available* held that "the time-limits of an investigation cannot be used to deprive an interested party of the opportunity to provide further explanations within the meaning of paragraph 6 of Annex II, provided that all other conditions under that provision are satisfied".[15] The same panel held that paragraph 1 of Annex II "serves as a precondition for an investigating authority's proper resort to facts available", and found a breach where the authority failed to engage with reporting difficulties that had been raised with it and gave no meaningful guidance.[16]

22. Several of the report's unreliability recommendations rest on analysis performed after the team returned to Australia. The revised quantity listing was assessed and found not to match "the methodology explained during verification";[17] the revised ocean freight, insurance and delivery charges were "reviewed ... on return to Australia" and found not to reconcile with the data provided.[18] The specific differences the team identified have not been put to Broad, and Broad has not been asked to explain them. Broad requests that the Commission identify those differences, together with the team's working, and allow Broad a reasonable period in which to respond, to supply the underlying source data, and to correct any listing shown to be in error. With the SEF due on or before 23 September 2026, Broad respectfully submits that this opportunity can readily be afforded within the timetable, consistent with paragraph 6.

Export price information

23. The report finds that, for all transactions, the Australian customer is the importer and beneficial owner of the goods at importation.[19] It finds that, for all unrelated customer transactions, "Broad sold the Australian export goods at arm's length as defined under section 269TAA", and notes that Broad sold at similar prices to all unrelated customers.[20] The adverse finding is confined to the first leg of the chain: the price

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[15] Panel Report, *United States – Anti-Dumping and Countervailing Duties on Certain Products and the Use of Facts Available*, WT/DS539/R, para 7.470.

[16] Panel Report, *United States – Anti-Dumping and Countervailing Duties on Certain Products and the Use of Facts Available*, WT/DS539/R, para 7.83.

[17] Verification report, section 4.2 (material revision 3).

[18] Verification report, section 4.2 (material revision 6).

[19] Verification report, section 3.2 (who is the importer?).

[20] Verification report, section 3.2 (were the Australian export sales sold at arm's length? - unrelated customers).

between Broad and its related trading companies, which Broad had not separately reported and which the team could not establish from the documents before it.[21]

24. The Anti-Dumping Agreement answers that situation directly. Article 2.3 provides that "[i]n 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". Where association clouds the first-leg price, the Agreement's remedy is the price to the first independent buyer, not a departure from the exporter's records.

25. Those prices are on the record and were tested. The sales listing was reconciled to the trial balance and down to the VAT invoices for the selected samples,[22] and the team compared the commercial invoices against the VAT invoices for the same samples.[23] Whether the export price is ascertained under s.269TAB(1) or determined under s.269TAB(3), the verified prices at which the goods were sold to independent Australian customers are the relevant information.

Costing information

26. Article 2.2.1.1 of the Anti-Dumping Agreement states the normal method for establishing an exporter’s costs: "costs shall normally be calculated on the basis of records kept by the exporter or producer under investigation, provided that such records are in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the product under consideration".

27. The report's finding on the first condition rests on a single matter: "[t]he commission was not satisfied that the accounting records comply with GAAP as Broad are not audited annually".[24] Audit frequency, however, is a matter of external assurance rather than of the accounting principles in accordance with which the records themselves are kept. The report identifies no respect in which Broad's books themselves depart from Chinese accounting principles. The verification team's own method confirms that it reconciled cost of goods sold for the 2025 financial year "to the audited financial statements and trial balance".[25] Audited financial statements existed and the team relied on them in its own reconciliations.

28. On the second condition, the report finds that Broad's production records "may not reasonably reflect competitive market costs for one or more cost components", while recording that no related party suppliers were identified.[26] The claim concerning aluminium extrusions and glass input prices remains under assessment, with preliminary findings to come in the SEF. Both matters concern particular inputs. The report's own appendix states the remedy where a part of the costs falls short: the

[21] Verification report, section 4.2 (material revision 5).

[22] Verification report, section 4.5 (sales completeness and relevance).

[23] Verification report, section 4.2 (material revision 5).

[24] Verification report, section 3.3 (do the accounting records comply with generally accepted accounting principles?).

[25] Verification report, section 4.5 (cost to make completeness and relevance).

[26] Verification report, section 3.3 (did the production records reasonably reflect competitive market costs?).

Commission "may use other information if appropriate to adjust that part of the costs before setting a normal value".[27] Adjustment of the affected component is the course the framework prescribes. Neither finding, with respect, requires Broad's cost records to be discarded as a whole.

Any facts available determination should reasonably replace the missing information

29. If any element of Broad's information still cannot be used, the selection of replacement facts is itself disciplined. The final sentence of paragraph 7 of Annex II contemplates that a party which "does not cooperate" and withholds relevant information may face a less favourable result. The Appellate Body has confined that consequence to its terms: "investigating authorities should not arrive at a 'less favourable' outcome simply because an interested party fails to furnish requested information if, in fact, the interested party has 'cooperated' with the investigating authorities, within the meaning of paragraph 7 of Annex II of the Anti-Dumping Agreement".[28]

30. The panel in *United States – Anti-Dumping and Countervailing Duties on Certain Products and the Use of Facts Available* held that "the text of Article 6.8 requires investigating authorities to base their determinations on those 'facts' that are 'available' and that 'reasonably replace' the missing 'necessary' information", and that the selection of replacements "cannot be aimed at punishing a non-cooperating party".[29] The Manual reflects the same discipline, with secondary source information, including information supplied in the application, "must only be used with due circumspection", and authorities should where practicable have regard to independent sources such as published price lists, official import statistics, customs returns and information obtained from other interested parties.

31. The Commission's own practice applies these principles through the exporter's own data. In Report No. 509, the Commission deemed EverPress an uncooperative exporter after a late questionnaire response, yet "[i]n accordance with section 7 of the Customs (Extensions of Time and Non-cooperation) Direction 2015" it considered the late response, "conducted a benchmark verification of the information provided in EverPress' REQ", and determined the variable factors under ss.269TAB(3) and 269TAC(6) from that information.[30] In the reinvestigation reported in Report No. 340, the Commissioner revisited a finding that a cooperative exporter's information was unreliable and found that, although "the information provided to the Commission is not ideal in all respects", it "should not be disregarded as unreliable in its entirety".[31]

32. Broad hosted a full verification and revised its data at every request. It is submitted that Broad cannot reasonably receive less favourable treatment than an exporter whose response arrived after the legislated deadline. If any element of Broad's information is replaced, the replacement should be drawn from Broad's own verified data for the

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[27] Verification report, non-confidential appendix 1 (why the commission assesses production records).

[28] Appellate Body Report, *United States – Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan*, WT/DS184/AB/R, para 99.

[29] Panel Report, *United States – Anti-Dumping and Countervailing Duties on Certain Products and the Use of Facts Available*, WT/DS539/R, para 7.28.

[30] Anti-Dumping Commission, Report No. 509, Review of measures applying to certain aluminium extrusions exported from Malaysia by EverPress Aluminium Industries Sdn Bhd, section 4.2.

[31] Anti-Dumping Commission, Report No. 340, Reinvestigation of certain findings in Report No. 263 concerning aluminium road wheels exported from China, section 4.2.3.1 (Finding 6), p.16.

adjacent elements, and any secondary source should be tested against the independent materials the Manual identifies and put to Broad for comment before the SEF adopts it.

Subsidy information

33. The verification report finds Broad's subsidy information complete, relevant and accurate, subject to the following material revisions made at the verification: the grants listing was updated to capture payments identified in the non-operating income ledger, the company turnover listing was corrected, and the R&D deduction from the 2024 tax return was added to the programs list.[32] No facts available question arises on the subsidy side. Any subsidy margin for Broad should be calculated from the verified program-level benefit data and the corrected turnover, on the allocation bases recorded in the report. A finding of unreliability in the sales and cost data would supply no basis for departing from the verified subsidy data, which the report treats as a distinct and satisfactory data set.

Conclusion

34. The verification identified real reporting issues. None of them, singly or together, meets the conditions on which the Anti-Dumping Agreement permits an exporter's information to be put aside, and much of Broad's information was verified. The Commission is respectfully requested to:

- treat Broad as a cooperating exporter for all purposes of the investigation;
- take into account, element by element, the information verified at the Broad verification, including the reconciled revenue totals, the batch master sales listing and its VAT invoice reconciliation, the cost of goods sold totals, the SG&A listing and the subsidy data;
- before adopting any finding that an element of Broad's information is unreliable, inform Broad of the specific respects in which that element was not accepted and afford Broad a reasonable opportunity to provide further explanations, underlying source data and, if required, supplementary verification;
- ascertain the export price from the verified prices at which the goods were sold to independent Australian customers;
- determine the cost to make and sell from Broad's records, adjusted only in any particular component found not to meet the statutory standard;
- calculate any subsidy margin from Broad’s verified subsidy and turnover data;
- consult Broad on any secondary source information proposed to be relied on before the SEF is published; and
- receive from Broad, ahead of the SEF, a further submission and any supporting materials, reconciliations, source documents and explanations directed to any concerns that remain.

35. Broad welcomes the opportunity for further engagement that the verification process affords. As noted above, the verification report leaves the export price, the normal value and the appropriate methodology to be considered further in the SEF. Ahead of the SEF, Broad wishes to provide a further submission, together with any supporting materials, reconciliations, source documents and explanations necessary to address any remaining concerns identified by the Commission. Broad and its advisers remain available to provide, without delay, any further information the Commission requires,

[32] Verification report, section 4.2 (material revisions 12, 13 and 14).

to produce the cost allocation workbooks and source data referred to above, and to participate in any supplementary verification, within any timeframe the Commission sets.

Yours faithfully,

Broad Windows and Doors and Curtain Wall System Co., Ltd