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3 November 2026

The Director
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By email

PUBLIC RECORD

Dear Director

Investigation 691 – Aluminium windows and doors from China

Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters – response to Statement of Essential Facts

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A Introduction

CCCMC welcomes this opportunity to provide further submission in this investigation, on this occasion in response to the Statement of Essential Facts ("the SEF") published on 14 October 2026. CCCMC acknowledges the unprecedented intensity and volume of information from, and scale of participation by, interested parties from a wide range of industry sectors operating in both China and Australia.

CCCMC also acknowledges and appreciates the Commission's efforts in accommodating and considering the information submitted by interested parties in this investigation so far, including that submitted by CCCMC.

This level of participation reflects the highly complex and diverse nature of the aluminium windows and doors ("AWD") industry both in China and in Australia, as well as the profound and expansive impact any duty measures will have for the AWD and broader professional, SME, and building and construction sectors in Australia.

As the SEF observes, costs of AWD *"account for approximately 5% to 7% of total construction costs for a typical 3 to 4 bedroom dwelling"*.[1] Contrary to the SEF's preliminary observation, this is no small matter. The Commission would have no doubt heard from other interested parties, and must have identified from its own calculations, what the likely impacts will be. Using the preliminarily proposed weighted average "residual exporters" duty rate of 24.4% as an example, the affordability and inflationary impact of the proposed anti-dumping and countervailing measures will be significant.

For some median sized dwelling builds the impact will be in the tens of thousands of dollars in construction cost alone.

The impact triples, based on the industry wide combined duty rate of 73.3% for "all other exporters". That is, for a residential property with a construction cost of $500,000, and AWD cost at the lower end of 5%, the impact of the proposed duty could mean an increase in total construction cost by over $18,000 or 3.7%. This point itself, without more, warrants the Commission's reconsideration of the imposition of anti-dumping measures, and if not entirely reversing that recommendation, in the public interest, at least moderating any proposed measures themselves in the final recommendation to the Minister.

The affordability issue becomes even more challenging when viewed against the verified financial conditions of the domestic industry members requesting such duties. This is a group of companies that:

- has been consistently and strongly profitable;
- has consistently enjoyed over 80% of market share by value;
- has consistently maintained high unit prices and total sales revenue,

even while selling fewer "units" during the investigation period.

With respect, these figures, and the optics they create, do not suggest an industry that is "materially injured" and that requires a tax-based remedy to protect it from competition. Nor do they present a case that passes the "pub test" for imposing anti-dumping and countervailing duties, whether in absolute terms or in the context of the very significant burdens on the broader Australian economy that will be caused by gifting them higher profits.

CCCMC must also express its deep concern with respect to the methodology employed by the Commission in its SEF dumping margin determination. CCCMC condemns the method adopted to artificially inflate the "normal value" of Chinese AWD by replacing Chinese exporters' costs of aluminium extrusion and glass with non-China costs.

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[1] SEF, page 60.

With respect, CCCMC submits that adoption of such highly discriminatory and legally problematic methods has the *purpose* of creating a higher duty rate for the Chinese imports, rather than the *legitimate effect* of doing so. Such devised margins of dumping have the effect of further enriching a dominant and healthy sector of AWD supply for the domestic industry, and artificially creating additional costs and significant inflationary pressures on the wider economy.

B Adequate disclosure has not been provided

Chinese AWD is deeply ingrained and integrated with the Australian building and construction sector, and is an indispensable part of the supply chain.

The importance of Chinese AWD imports to the Australian market is well reflected in Ventora and AGWA's gross over-estimation of the market share for Chinese imports in their Application, as compared to the Commission's finding in the SEF. In the Commission's Consideration Report and Industry Verification Report, based on information presented by Ventora, the market share for Chinese imports was alleged to account for about 40% of the total Australian market during FY2025, with the Australian industry accounting for 58%.

In the SEF, based on additional information and reconsideration of the most representative market assessment, the Commission has preliminarily found that Chinese imports account for less than 20% of the Australian market, and that in comparison the market share of the Australian industry has by value consistently occupied over 80% of the total market. This highlights the importance for the Commission to provide interested parties with adequate disclosure of key information relevant to the Commission's findings, in order for the basis of the findings to be examined and understood, and to allow interested parties adequate opportunities to comment on the Commission's findings and their informational basis.

To assist in these endeavours, CCCMC respectfully submits that the Commission make the following informational disclosures to interested parties:

Issue	SEF references	Attachment	Further disclosure sought
Industry representation	Sections 2.4.2 and 8.4	Confidential attachments in document EPR 691 No. 450	The numerator (production of each supporting party) and the denominator (total estimated production of like goods) used to reach "55%", together with the estimation method and basis
Injury indicators	Sections 8.1, 8.4 to 8.8	Confidential SEF Attachment 40	Annual indexed data on industry sales volume, prices, costs, production, capacity utilisation and productivity
Tenders and undercutting	Sections 9.6.1 and 9.10	Confidential SEF Attachment 41	For the 3,350 tender records: the method of matching price comparisons by building category, the product comparability adjustments, and the weighting of undercutting margins
Housing cost	Section 2.4.12	Confidential SEF Attachment 52	The calculation showing that aluminium windows and doors account for 5% to 7% of housing construction cost

Issue	SEF references	Attachment	Further disclosure sought
PMS and cost surrogation	Section 6.4 and Appendix A	Confidential SEF Attachments 3 and 4	"Benchmarks" used to replace Chinese exporters' costs for aluminium extrusion and for glass
Cost comparison	Section 6.4	Confidential SEF Attachments 45 and 46	The basis of, and adjustments to, the CTM comparison

CCCMC submits that it is essential for the Commission to ensure proper disclosure of the informational basis for its findings. Where the information is clearly confidential in commercial terms, the meaning of same can still be conveyed without causing confidentiality concerns by way of summary description, indexed presentation, and aggregation.

Where the information is sourced from the public domain – such as the information used to construct benchmark prices for aluminium extrusion and glass - there can be no proper basis for it to be withheld from interested parties, especially Chinese exporters whose margin of dumping and subsidy are being determined based on those benchmarks.

C Goods under consideration scope needs further examination

CCCMC respectfully requests the Commission to better recognise the complex and distinct market segments covered by the loosely described "goods under consideration" in this investigation. As many interested parties have repeatedly pointed out, the level and factors of competition, and the Australian domestic industry's supply capability all differ, depending on the market segment concerned and the type of products required by specific building and construction projects.

The Commission should be mindful of the unintended impact of adopting an overly broad and generic approach towards its injury and causation determinations and its duty measure recommendations. Otherwise, the domestic industry for products and market segments that do not require protection will be over-remediated and protected, and importers and end users of Chinese imports whose demand cannot be met by the domestic industry will be unduly penalised. Against this background it is even more important for the Commission to adopt a conservative, cautious, and precise approach towards its determination of the scope of the goods under consideration, and to give proper consideration to interested parties' requests for product exemptions.

In this submission, CCCMC reiterates its opinion that "window wall" should not be treated as falling within the definition of the goods under consideration. CCCMC's earlier submission addressed the need to be faithful to both the precise description of the "particulars of goods" based on textual and contextual statements contained in the application, as required by s269TC(4), and the physical and practical differences between window wall and AWD.

CCCMC respectfully submits that the SEF's assessment of window wall has erred by adopting an interpretation standard that unduly focuses on whether the description explicitly *excluded* certain product, rather than objectively examining whether the description clearly provided for the *inclusion* of certain product. The Application's failure to explicitly include window wall, despite its apparent knowledge that both window wall and curtain wall are distinct to AWD, should be given the same weight in the determination as the omission of window wall in the explicit exclusion. That is, the fact that window wall has not been expressly *excluded* from the scope of the investigation is not a conclusive or convincing

basis for determining that window wall must be *included* in the scope of the investigation. The SEF acknowledges window wall is designed, supplied, and installed as a façade system, and not as windows and doors. The SEF further acknowledges that window wall is "distinct" or different from at least "some forms of AWD" and is supplied in a distinguishable market segment. On the other hand, the fact that window wall is also different from curtain wall is neither conclusive nor supportive of the assertion that window wall must therefore answer to the "particulars of goods" according to the initiation notice.

The SEF states that:[2]

> *incorporating an aluminium-framed window into a broader façade system does not, of itself, alter whether the product meets the goods description.*

This may be so, however it also does not, of itself, mean that window wall is just a type of AWD. This is analogous with the SEF's approach towards aluminium extrusion parts used for assembling AWD:[3]

> *imported individual aluminium extrusion that may be intended for subsequent incorporation into an AWD does not, for that reason alone, constitute a partially assembled AWD*

By the same extension, simply because a façade system or a fabricated building contains a window or a door, does not, of itself, mean that the system is window and doors. CCCMC notes that the Model Control Code for this investigation omits any reference to "window wall" or "wall" as distinct product types from "window" or "door". There is clearly a distinctiveness and distinguishability of window wall compared to *"aluminium windows and doors, whether fully or partially assembled"*. Indeed, any fair-minded person would refer to this as a world of difference.

To remind, the goods description clearly provides:

> *"Fully assembled" refers to a complete window or door unit in which all frames and the applicable panels and/or sash are joined together to form a complete and functional window or door assembly, whether or not glazed, whether or not thermally broken, whether or not including hardware.*
>
> *"Partially assembled" refers to a fabricated aluminium frame, panel, or sash assembly that is supplied individually or connected to other frame, panel, or sash assemblies, where the combination does not yet form a complete window or door unit, whether or not glazed, whether or not thermally broken, whether or not including hardware.* [underlining supplied]

The *particulars of the goods* have a clear limitation, being "window or door unit", whether fully assembled or partially assembled. The *particulars of the goods* does not refer to "wall façade", "wall unit" or "window or door unit... whether as part of a façade system or as a separate unit".

CCCMC urges the Commission to reconsider the correct interpretation of the goods description, and to avoid giving the scope of the goods an unintended and unapplied expansion.

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2 SEF, page 90.

3 SEF, page 88.

D Standing and size of "domestic industry" is inaccurate and inconclusive

As stated above in B, CCCMC has respectfully requested the Commission to give better disclosure and explanation concerning the Applicants' standing to seek the imposition of dumping measures. Dumping measures imposed as a result of this investigation would be contrary to the public interest as well as detrimentally affecting both the Applicants' colleagues in the Australian industry and the Chinese exporters that collaborate with the Australian AWD industry in meeting the needs of the building and construction industry. Preventing unsupported investigations is exactly what the standing rules are designed to do, yet there is still insufficient explanation or justification of AGWA/Ventora's claimed entitlement to bring the case to the Commission.

As the Commission has acknowledged in the SEF, this has been an ongoing issue since the start of the investigation:[4]

> *For an application to be supported by a sufficient part of the Australian industry, the Commissioner must be satisfied that members of the industry (including Ventora) who support the application must account for more than 50% of the total production of industry members who have expressed either support for, or opposition to, the application and they must account for not less than 25% of the total Australian production.*
>
> *The total production volume reported by the industry members listed at 4.3 and the applicant Ventora represents 55% of the total estimated production volume of like goods.*
>
> *As detailed at section 5.6, during the course of the investigation the commission found that measuring the sales on a unit basis did not adequately consider the range of AWD products which vary significantly in size, configuration, project requirements and value. Accordingly, the commission has presented its findings in relation to sales volume in terms of both units sold as well as by value of goods sold. Market share findings have been undertaken on a value basis.*

The SEF contained the following explanation concerning these industry member statistics:[5]

> *The 25 Australian industry members refers to the 21 Australian industry members listed at section 4.3 and the entities who claimed confidentiality concerning publication of their entity names. The 55% refers to the production volume of like goods for Ventora and the 21 Australian industry members.* (hereinafter, "Ventora + 21")

The SEF then proceeds to determine the domestic industry's economic conditions in terms of sales volume *"by assessing both the verified data provided by Ventora and the data provided by the other 25 Australian industry participants supporting the application"*. We refer to this domestic industry data set as "Ventora + 25".

CCCMC has the following observations and questions regarding the preliminary industry analysis in the SEF concerning "Ventora + 25":

1 ***Applicants' industry standing must be re-examined*** - In light of the Commission's finding that it is more reasonable to determine market size and market share based on the value of the goods sold, the Commission should also re-assess industry representation for "standing"

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4 SEF, page 170.

5 SEF, footnote 517.

purposes based on sales value, rather than units, and inform all interested parties of the representativeness of the Ventora + 21 supporting industry members.

2 ***Representativeness of Ventora, Ventora + 21 and Ventora + 25 is inconclusive and questionable*** - In support of the request above, CCCMC refers to the finding in the SEF that Ventora's sales volume in units were consistently similar to *"[o]ther supporting"* members during the injury analysis period, but that when the sizes are measured in value terms Ventora's sales accounted for only about half of those *"[o]ther supporting"* members. While sales by "Ventora + 25" steadily declined in unit terms during the injury analysis period, sales by "Ventora + 25" have largely remained unchanged in value terms, apart from a surge in FY2023 reflecting a collective sharp price increase. This highlights the unreliability of using "units" to measure the total size and volume of the domestic industry and the Australian market, as the Commission correctly acknowledged in the SEF. Instead, the Commission may need to refer to total production cost or cost of goods sold in value terms to assess the applicant's standing and representativeness.

3 ***Chinese imports must be examined against the industry as a whole*** - As noted above, the SEF's value-based market share analysis observes that Chinese imports accounted for a much smaller proportion of the Australian market for AWD, at under 20%. However, it remains unclear whether the market share enjoyed by the "Australian industry" reflects that of the total Australian industry, regardless of their support for Ventora's application, or that of the "Ventora + 25". This needs to be clearly addressed, because if the data associated with the "Australian industry" reflects only "Ventora + 25", then it means that there is still a large part of the Australian domestic industry, as much as 45% of total domestic production, which the SEF has not accounted for. It follows that the size and impact of the Chinese imports may have been exaggerated.

4 ***Price and profit analyses are unrepresentative and insufficient*** - Given Ventora's unrepresentativeness of the domestic industry as whole, and the clear discrepancy in Ventora's market position and economic condition as compared to those *"[o]ther supporting"* industry members, it is unsafe and inappropriate to make injury findings relying solely or mostly on Ventora's own performance. In this regard, CCCMC notes that the SEF's analysis of the key price-based injury indicators such as "price suppression and depression" and "profits and profitability" appears to be solely if not mostly based on an analysis of Ventora's own information. Indeed, where the profitability of *"other* [undefined and unidentified] *members"* was considered, the analysis directly contradicts the clear decrease in profitability observed with respect to Ventora.

CCCMC respectfully requests the Commission to give further consideration to the issues identified above, and to provide an updated and improved disclosure of same to interested parties.

E Injury causation analysis should be revisited

1 Injury causation assessment must account for the distinct market segments and the domestic industry members' supply capability

There are already a large number of submissions from interested parties on the public record highlighting the lack of commercially equivalent supply or supply capability from domestic industry in different market segments. These submissions have sought to highlight the fact that Chinese imports service high rise and commercial building construction projects that either predominantly or exclusively require Chinese imports, due to the lack of commercially equivalent supply or supply capability from domestic industry fabricators. CCCMC requests the Commission to carefully assess the factual evidence and resultant

market dynamics, and to ensure that any non-dumping and non-subsidy factors are not attributed to the alleged dumping or subsidisation.

> *The commission observes that some Australian industry members may have greater exposure to Class 1 buildings or generally the residential segment and some imported AWD may be more prevalent in the Class 2 to Class 9 buildings and in particular commercial construction projects within the non-residential segment.*[6]

Respectfully, the concern in respect of the market segments is not simply *whether* the domestic industry "participated" with respect to a particular building class based market segment, but to *what extent* the domestic industry participated and was capable of participating in these segments, and *how* the different segments reflect different conditions of competition that must be assessed accordingly. This affects the assessment of the degree of injury found, its materiality, and also findings of causation.

For example, a domestic industry producer, such as Ventora, that predominantly supplies to the Class 1 building market segment, must demonstrate how any injury that it has suffered was materially caused by Chinese imports destined for Class 2-9 buildings, if the significant portion of the allegedly dumped imports were not sold into the Class 1 building segment at all.

The analyses in Section 9 of the SEF do not adequately address these questions. The SEF claims that:[7]

> *[t]he commission has considered the 3 key market segments identified [being residential, multi and high rise residential and non-residential segments] when assessing the extent to which the Australian industry and imported goods compete within and across relevant segments and building classes.*

However, the following sections of the SEF reveal that the "consideration" of market segments merely involved separating the 3,350 tender samples received by the segment in order to provide a numerical range for undercutting. CCCMC respectfully submits that the tenders need to be examined in a manner that is responsive to and adapted to each of the corresponding market segments. By this we refer to the fact that market behaviour and purchasing decisions will necessarily be different in large-scale and complex projects as compared to residential housing projects. CCCMC reminds, and the Commission has acknowledged, that *"AWD supplied to large or complex projects may be subject to additional engineering, testing, certification, design and project-delivery requirements"*.[8]

Accordingly, CCCMC submits that such tenders must be examined not only in light of price but also in light of these additional considerations, which themselves exert key influence on consumer decisions. In this regard, CCCMC refers to the Commission's own practice in the recent investigation concerning certain tomato products exported from Italy, in ADC Report 654. In that investigation, the Commission accounted for the impact of consumer preference as part of its injury causation analysis, and found:[9]

> *Further, the Commissioner considers that customers purchase higher volumes of imported Italian goods over Australian produced like goods because of consumer preference for prepared or preserved tomatoes of Italian origin and flavour.*

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6 SEF, page 100.

7 SEF, page 187

8 SEF, page 127.

9 ADC Report 654, page 14.

CCCMC respectfully submits that Australian customers' preferences with respect to AWD products, in terms of design, performance, appearance, customisation, and project deliverability, are just as impactful, if not more impactful given the costs and risks involved, than an Australian customer's preference with respect to canned tomatoes in terms of flavour. AWD is a singularly important element of a person's or entity's home, office, or buildings. AWD forms an important building façade that adds to the structural integrity and fashionable appearance of the building, and has to last for decades. Project procurement of AWD involves significant expense at the time of purchase, and continued expense should it need to be repaired or replaced. The quality and design capabilities of the Chinese AWD industry in large scale window wall applications are well recognised as being superior to those of the local AWD industry, and it is not price that causes customers to look away from Chinese AWD supply in the segments the domestic AWD industry has backed out of.

It is especially important to account for the influence of these factors in high-value projects, as they comprise a great proportion by value of the tenders reviewed. For instance, the SEF notes that amongst all the tender projects that the Commission reviewed, valued at AUD455m in the investigation period,[10] one project accounted for up to AUD114m. This suggests that a single high-value tender represented a quarter of the entire tender value assessed by the Commission for the purpose of injury causation and assessment. Was price undercutting by Chinese imports the sole or the material factor for the domestic industry's loss of that AUD114m tender? Or was the tender awarded to Chinese imports for a range of complex commercial and technical reasons, such as customer preference, supplier's experience, ease of construction, and reliability? We respectfully request the Commission to properly examine all possible injury causation factors and to properly account for factors unrelated to purely price based competition between Chinese imports and domestic industry products.

Further, tender data should be clearly separated by market segment so that the quantity, value and quality of the data can be appropriately examined by interested parties. Conclusions drawn from each market segment should then only be extrapolated to Australian industry actually operating in that market segment.

2 Exaggerated injury estimation and attribution

CCCMC respectfully requests the Commission to avoid substituting inference for evidence in its final determination. In Section 9.6.1 of the SEF headed *"Conclusion on the broader aluminium windows and doors market"*, the SEF acknowledges that:

> *Given the significant size and breadth of the aluminium windows and doors market, it was not possible to obtain a representative sample, notwithstanding the substantial information provided by interested parties. However, the Commission considers it appropriate to reasonably infer from the available information…* [11]

We respectfully submit that the SEF should adopt a more cautious approach in its engagement with evidence. Having accepted that the sample is not representative, the SEF nonetheless proceeds to extend the conclusions drawn from the sample to the whole market by *"reasonable inference"*. In effect, this risks substituting presumption for evidence. An injury finding under section 269TAE must rest on evidence, not on inference drawn from unrepresentative samples.

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[10] SEF, page 18.

[11] SEF, page 192.

In this context, CCCMC respectfully raises the following questions with respect to the SEF's injury causation analyses:

- The analysis under Section 9 of the SEF notes that *"[r]esidential projects were the most prevalent in the data"*.[12] However it is unclear what was the proportion, and how this compared to the two other market segments. How many of the "lost" tenders were in the "*residential and multi-rise residential projects*" market segment as compared to the "*non-residential segment*"? Such proportionality and weighting are relevant in determining the industry wide representativeness of the segment based analysis and in establishing causal links.

- The analysis in the same part of the SEF also seeks to highlight that *"half of all quotes/tenders were undercut by 30% or more"*[13] – however the fact that half of all tenders were undercut can only demonstrate exactly that. It does not demonstrate that the domestic industry's prices were *overall* undercut by the alleged dumped and subsidised imports, and if so, to what degree on average. Similarly, the SEF refers to evidence presented by Ventora, which involved only 5 evidenced examples with demonstrated lost margins ranging from 6.7% to 19.5%[14]. These margins are much lower than the weighted average dumping and subsidy margins that the SEF has determined for the residual exporters. This suggests that either the non-injurious price should have been far lower than the proposed average duty rate for hundreds of Chinese exporters, or that Ventora may well have been uncompetitive even if the Chinese AWD's prices were adjusted to account for the margin of dumping and subsidy. Separately, the fact that Ventora can only come up with five evidenced examples of being undercut by Chinese imports also raises questions as to the representativeness and probative value of such a small selected sample of evidence.

- The SEF refers to instances of AUD72.6m in "forgone" tenders as evidence of injury. But it seems that this relates to information provided by domestic industry members with respect to *"tenders available in the market that they elected <u>not to bid for</u>"*.[15] [underlining supplied] This figure was then repeated later in the SEF as the quantified loss in sales value due to competition with imported AWD. With respect, this must be a mistake. Plainly, if the domestic industry chose not to bid for a project, then it is impossible to attribute the revenue forgone to dumping or subsidisation, or indeed to imports at all.

- The SEF notes that the AUD455m tender projects reviewed were made up of AUD350m worth of projects where the projects were lost to Chinese imports due to price undercutting, and AUD72.6m due to the domestic industry's sales "forgone". The SEF then infers that the domestic industry lost 15% of the total Australian market value of AWD due to dumped and subsidised imports from China.[16] Such an observation seems overly simplistic and exaggerative. As the Commission is aware, the domestic industry maintained market share in value terms at around 88% during FY2022 and FY2023, which then declined to about 80% during FY2025. This does not equate to a 15% loss in market share caused by dumping and subsidisation. Indeed, the

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12 SEF, page 190.

13 Ibid

14 Ibid, page 189.

15 Ibid, page 190.

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domestic industry's total sales value remained mostly unchanged between FY2022 to FY2025, with the exception of *positive* growth in FY2023.

- Further, if the domestic industry had truly lost AUD422.6m in projects to Chinese imports due to price undercutting, then the actual impact of the loss must be measured against the domestic industry's own sales and profit performance. That is, did the domestic industry suffer injury in the form of price depression and loss of profit, tied to the AUD422.6m? The SEF's price and profit analysis suggests this was not the case:

  - Ventora has maintained an unchanged unit selling price since FY2023 – the year which saw Ventora significantly increase its unit selling prices and achieve record profit.[17] As the SEF notes, Ventora's performance did not show any injury in the form of price depression.[18] A price suppression was observed due to its own cost increase and, arguably, the extra profit margin that it was able to achieve through a disproportional price hike in FY2023.[19]

  - The weighted average profitability for the other four sampled industry members remained mostly stable throughout FY2022 to FY2025, while the individual performance diverged between the four industry members.[20]

- Instead of *assuming* that the domestic industry lost AUD422.6m or 15% of Australia's AUD2.8bn AWD market due to price undercutting by dumped and subsidised imports from China, the Commission should *properly evaluate* what was the estimated average level of price undercutting with respect to each of the market segments and assess the level of price undercutting against the margin of dumping and subsidisation. AUD422.6m accounts for about 19% of the Australian industry's total sales value during the investigation period. Is it the Commission's view that the domestic industry should be remedied to the extent of being allowed an additional 19 percentage points on top of its existing profit margin? Alternatively, is it the Commission's view that the domestic industry should be remedied in accordance with a price uplift equal to the weighted average margin of 24.4%? Of the AUD422.6m, this would be about AUD103.1m, representing an additional profit of 4.6% for the AUD2.2bn domestic industry.

Lastly, CCCMC respectfully reminds the Commission that the SEF's perceived size of *"dumped and subsidised"* imports is also at risk of appearing to be self-fulfilling, rather than facts based. The SEF claims that 13% of imports were not dumped and subsidised, and that the remaining 87% were dumped and subsidised. It is unclear how such ratios were determined. We can only assume that this is on the basis of the negative margin of dumping and the negligible margin of subsidisation determined with respect to Altop, being one of the six selected exporters. The Commission previously noted that the six selected exporters represented 38% of the total value of the goods in the investigation period, based on the information collected through the Preliminary Information Request ("PIR") procedures.[21] This suggests the non-dumped and non-countervailable exports from Altop may have represented over one third of the total sales value of the sampled exporters and, by extension, represented one third of all Chinese imports. This would mean that the finding of dumping and subsidisation was only made with

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17 SEF, page 176.

18 SEF, page 176.

19 Ibid

20 SEF, page 178

21 ADN 2026/005

respect to 25% of the total value of the imported goods in the investigation period.

The balance of the imports not attributable to the sampled exporters – 62% - were imputed to be dumped or subsidised, purely based on a technical mechanism that excludes the non-dumped exports from the equation used to calculate the "weighted average" dumping and subsidy margin.

Without a balanced, non-discriminatory, and non-punitive injury causation assessment, an anti-dumping and countervailing measure aimed at preventing material injury to the domestic industry cannot be justified. CCCMC urges the Commission to properly re-evaluate the actual levels of dumping and subsidisation and the volume of such exports from China. This should at least be done by examining all the export prices in PIR responses against non-dumped export prices, and re-evaluating all the normal value information available to the Commission.

With respect, CCCMC submits that the dumping margin presented in the SEF is not reliable for assessing any injurious effect of dumping. This is because, as the SEF notes, the AWD supplied by Chinese exporters was generally not dumped:

> *In general, Chinese exporters have been able to achieve greater profits on Australian sales compared to domestic sales, despite limited differences in the respective costs. The commission considers this indicates that the particular market situation has affected conditions in the Chinese AWD market such that exporters are able to engage in pricing strategies in quotation and tendering into the Australian market that allow exporters to achieve greater margins on their Australian export sales and increases their export volumes by outcompeting exports from other countries. The commission found that selected exporters profit margins on their export sales to Australia was greater than their profit margins on domestic sales overall and for comparable AWD products.*[22]

Plainly, and in its real world meaning, if the Chinese exporters sold the AWD to Australia at a greater margin of profit than it did for domestic sales, the AWD was not dumped. CCCMC expects that this was exactly what the Chinese AWD exporters, the Australian AWD importers, and the Australian building industry customers set out to do – conduct their business and commercial transactions on a market basis, knowing that they were therefore exporting and importing products at a fair price, with construction costs maintained at a commercially reasonable level.

For such sales at greater profit to be now deemed as "dumped" is not a fair and balanced determination. Nor is the transposition of the dumping and subsidy margin of a single digit number of companies to all the other hundreds of Chinese exporters by a technical "presumption of guilt". Nor is the opportunistic substitution of Turkish and Japanese glass and aluminium extrusion costs for the actual Chinese costs incurred by the exporters. Australian importers and construction project developers did not at any time intend to source AWD, or aluminium extrusion or glass, from Türkiye or Japan.

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[22] SEF, page 313.

F Particular market situation finding is unwarranted, incorrect, and unncessary

CCCMC expresses its deep concern with respect to the SEF's proposed China AWD market PMS finding, a large justification for which is the Commission's assessment of the markets for the key upstream raw materials - aluminium extrusion and glass.

For present purposes, CCCMC wishes to draw the Commission's attention to the following key points:

- The Commission most recently concluded its continuation inquiry with respect to aluminium extrusions from China in Continuation 657 in 2025. The Commission determined a dumping margin of -0.9% and a subsidy margin of 1.7% for the "residual exporters". This indicates that the normal value of aluminium extrusion in China and the prices paid by the Australian industry for importing the same aluminium extrusion from China are broadly similar.

- The current investigation involves AWD, not glass. The Commission has previously undertaken its own investigations concerning clear float glass from China, and has never determined that the Chinese clear float glass industry is somehow distorted or affected by a particular market situation. The Commission most recently examined the Chinese clear float glass industry in Continuation Inquiry 575, which was concluded on 7 October 2021. Now, out of nowhere, comes a finding that the production cost of glass in China is not acceptable for normal value calculation, even though that was not the case as long ago as 1997, or even earlier.[23]

- There is currently no domestic production of clear float glass or building glass in Australia, following the closure of Oceania Glass. This means that the Australian industry is heavily reliant on imported glass. Any PMS analysis concerning glass should therefore properly account for the heavy influence of imports and regional prices on the Australian market for glass. What we mean by this is that the benchmark cost for glass substituted into the Chinese exporters may exceed the price at which the Australian AWD is able to procure its own "AWD" glass, causing yet another paradoxical unfairness in the Commission's treatment of Chinese exporters.

CCCMC submits that to the extent aluminium extrusions and glass as materials used for producing AWD are relevant factors for PMS assessment, their influence is limited and insufficient to give rise to a PMS with respect to China's AWD market.

The SEF appears to take the view that a PMS with respect to AWD can be established on the basis that aluminium extrusions and glass are materials that represent a "*significant portion of the cost"* and that therefore *"the [PMS] effects on raw material pricing have flowed through to the recorded cost of production"*.[24] This, it seems, is due to the Commission's *historical* concerns regarding the price of aluminium extrusions in China, and the *newly-formed* view with respect to the glass market in China. The SEF states that the Commission:

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[23] For example, Anti-Dumping Authority, *Continuation of Dumping Duties on Clear Float Glass from the People's Republic of China, Belgium, Germany, Indonesia, the Philippines and Thailand* (Report No. 177, September 1997).

[24] SEF, page 320.

> *…assessed the raw material costs of the sampled exporters and found that, on average, 37% of the CTM of their aluminium windows and doors is the cost of aluminium extrusions and, on average, 19% of the CTM is the cost of glass*.

On a weighted average basis across the CTM of all exporters the Commission found that *"raw materials comprise approximately 56% of [the] cost to make for AWD"*.[25]

In this respect, CCCMC reminds the Commission of its own finding in Report 238 with respect to deep drawn stainless steel sinks from China, where the Commission found that a similar percentage was *not sufficient* to draw the conclusion that a PMS, even if established, had substantively affected domestic market prices or comparability with export prices. Report 238 stated:[26]

> *The distorted input represents an average of 45% to 55% of total cost to manufacture incurred by Chinese deep drawn stainless steel sink manufacturers… although this is considered to reflect a significant proportion of the CTM the goods, it is considerably lower than the proportion of the cost to manufacture represented by distorted raw materials in the production of HSS, hot rolled plate steel etc., all of which were found to be subject to have particular market situations in China during the Commissioner's investigations into each product. In these cases, the percentage of total costs represented by distorted raw materials was significantly higher, and hence more likely to have a 'flow on' effect of rendering selling prices of the manufactured products unsuitable for determining normal values.*

Further, Report 238 notes that:[27]

> *Even when the abovementioned uplift to incurred raw material costs is applied to the costs to manufacture, ordinary course of trade tests performed on Chinese exporters' data for domestic sales have found that:*
>
> - *a sufficient volume of domestic sales were still made in the ordinary course of trade by exporters; and*
> - *Chinese exporters still achieved considerable levels of profit on the domestic market.*
>
> *The above suggests that the distorted raw material input has not had the impact of rendering domestic sales of deep drawn stainless steel sinks unsuitable for determining section 269TAC(1) normal values.*

In the present investigation, neither aluminium extrusion nor glass individually accounted for a significant portion of the total cost to make AWD. Their combined value is similar to the scenario examined by the Commission in sinks. Further, the SEF similarly notes:

> *…the high levels of profit observed by selected exporters in their domestic sales of OCOT during the investigation period.*

As such, CCCMC submits that the Commission should refrain from making a PMS finding with respect to the AWD market in China, to be consistent with its approach towards sinks. The Commission should also refrain from making any PMS or market distortion findings with respect to glass products in China.

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25 SEF, page 318.

26 ADC Report 238, page 131.

27 Ibid, page 132.

And lastly, CCCMC requests that the references to aluminium extrusions and glass as *"raw materials"*, when they are nothing of the sort, should cease. These are *manufactured inputs* to AWD fabrication, meaning that commercial transactions that took place *in two market levels of supply and demand* have already flushed-out government policy influences that the Commission alleges "distort" prices in the Chinese AWD market *before* those inputs even reached the fabrication stage.

G Non-injurious price and reasonable level of duty

Once again, CCCMC respectfully requests the Commission to carefully consider the intensity and extent of the impact of the proposed duties on the broader economy, in light of the complexity and scale of the AWD market.

In terms of the calculation of non-injurious price ("NIP"), CCCMC notes that the SEF's description of the NIP calculation only includes *"overseas freight, insurance, into-store costs and amounts for importer expenses"* as factors of deduction and does not refer to any deduction of importer's profit from the unsuppressed selling price ("USP"). This, we expect, has led to an inflated NIP. CCCMC respectfully requests the Commission to review its calculation.

In any case, CCCMC encourages the Commission to fully consider how best to implement a "lesser duty rule" towards its duty recommendation. The Commission should take care to ensure that any level of duty that it might (whether rightly or wrongly) choose to recommend is not excessive and does not amount to an over remediation of the domestic industry members. The members who requested the imposition of duties account for, at most, just over half of the total domestic industry. An over-compensatory duty would have a disproportional cost to the wider industry and economy.

This is not a "business as usual" case, in any sense, and interested parties from a wide array of business sectors have proactively sought to ensure the Commission fully appreciate the economic damage that the preliminarily proposed duty may inflict. An extraordinary case such as this requires extraordinary caution and careful consideration of all the options available to the Commission and prudent exercise of the discretions available to the Minister under sections 269TG and 269TJ of the *Customs Act 1901*. For example, the Minister is not bound to impose the highest anti-dumping and countervailing duty possible. Instead, the only obligation is for the duty rate to not exceed the margin of dumping and/or subsidisation for the prevention of injury. As such, CCCMC encourages the Commission to explore reasonable alternative options for the duty rate recommendation. For example, the Commission should consider introducing a lesser duty in the form of a capped duty rate for *"all other exporters"* not selected for sampling, and for non-exporters in the investigation period, regardless of whether they provided a PIR response or not.

The capped duty rate should not exceed the true weighted average margin of dumping and subsidisation from *all* selected exporters, rather than just the exporters found to have an actionable margin of dumping and subsidisation, and, of course, should not exceed any NIP.

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For and on behalf of China Chamber of Commerce of Metals, Minerals & Chemicals Importer & Exporters

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