

# 中华人民共和国商务部

MINISTRY OF COMMERCE OF THE PEOPLE'S REPUBLIC OF CHINA

2, DONG CHANG'AN STREET, BEIJING, CHINA 100731

Trade Remedies Authority

United Kingdom

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**Non-Confidential**

**The Comments on the Statement of Essential Facts of the anti-dumping  
investigation concerning imports of tin mill products originating in the People's  
Republic of China**

Submission of the GOC

The present submission provides the comments of the Government of the People's Republic of China ("GOC") regarding the Statement of Essential Facts of the anti-dumping investigation concerning imports of tin mill products ("product concerned") originating in the People's Republic of China (Investigation No. AD0062) published on 26 September 2025.

**1. There exists no PMS in Chinese Tin Mill industry.**

The GOC noted that the TRA concluded that a particular market situation ("PMS") exists in the domestic tin mill industry in the PRC, as the price of Tin Mill Products reflect non-commercial factors as a result of widespread state support and influence in prices of raw materials, finance, land, labour and energy used to produce Tin Mill Products.

The GOC would like to reiterate its consistent position that there exists no PMS in Chinese Tin Mill industry. It resubmits that China has established a market economy in which the market force plays a decisive role in resource allocation. All kinds of enterprises are equal entities of market competition. There are no situations of PMS under the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 in China's Tin Mill market. All types of Chinese Tin Mill producers operate independently according to the price signal. The GOC has not intervened in the production, operation and pricing of these enterprises. The five-year plan does not belong to the government's intervention in enterprises but to provide a framework guidance for economic and social development during the plan period. The plan is not self-executing and is not binding. China's Tin Mill market is fully open and free, and the price is determined by the market forces.

## **2.TRA failed to comply with its obligations under Article 2.2 and Article 2.2.1.1 of the WTO Anti-Dumping Agreement**

Without prejudice, the GOC submits that the TRA failed to comply with its obligations under Article 2.2 and Article 2.2.1.1 of the WTO Anti-Dumping Agreement to apply Regulation 8(1)(a) of the Trade Remedies Regulation, in situations where investigating authorities are allowed, exceptionally, to construct the normal value, Article 2.2 provides that this is to be done based on the “cost of production **in the country of origin** plus a reasonable amount for administrative, selling and general costs and for profits.”

The GOC noted that the TRA made PMS adjustments to construct normal value according to 13(3) of Regulations merely “*due to the PMS in the market for Tin Mill Products, the costs of production are unrepresentative because they do not reasonably reflect the Shougang Group’s production costs in a market if those costs and profits were substantially determined by market forces.*”<sup>1</sup>

The GOC submits that the TRA violated Article 2.2.1.1 – and, as a result, Articles 2.1 and 2.2 – of the Anti-Dumping Agreement, by rejecting using the exporters' costs of production when constructing normal values and instead used non-Chinese surrogate costs (the Brazilian benchmark), for raw materials and energy costs, because the TRA failed to calculate relevant costs "on the basis of records kept by the exporter or producer under investigation" within the meaning of Article 2.2.1.1.

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<sup>1</sup> SEF, para. 212.

The GOC submits that the TRA wrongly determined that the records kept by the Chinese exporters or producers under investigation *"do not reasonably reflect the Shougang Group's production costs in a market if those costs and profits were substantially determined by market forces"* within the meaning of the "second condition" of the first sentence of Article 2.2.1.1. The TRA instead rejected the exporters' costs because the prices of certain raw materials and energy were artificially low relative to the third country benchmarks, within the meaning of applicable UK law, while the TRA has made a finding under the "first condition" of the first sentence of Article 2.2.1.1 in the SEF.

It's mentioned in the SEF that *"where Regulation 11(3) of the Regulations applies, the TRA must normally calculate the costs of production of the like goods on the basis of records kept by the overseas exporter. Regulation 11(3) of the Regulations applies where the records of the overseas exporter of the goods concerned are in accordance with the Generally Accepted Accounting Principles (GAAP) of the exporting country or territory and reasonably reflect the costs associated with the production and sale of the like goods in the exporting country or territory. The verification process identified that the records of the Shougang Group meet these requirements, so we are satisfied that regulation 11(3) of the Regulations applies."*<sup>2</sup> In the construction of normal value, the reported costing data of the Shougang Group should be used because they 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" in accordance with Article 2.2.1.1 of the WTO Anti-dumping Agreement and Regulation 11(3) of the Regulations of the UK.

The GOC notes that the TRA used Brazilian benchmark to compare with prices of certain Chinese raw materials and energy to calculate the uplift ratios in the constructing the normal value to calculate the dumping margin for the Shougang Group. But the TRA failed to reasonably address why the out-of-country surrogated costs represent the costs of production in the country of origin under Article 2.2 of the Anti-Dumping Agreement in order to determine the margin of dumping.

In DS603, the Panel finds that *"the ADC acted inconsistently with the practice of an unbiased and objective investigating authority with respect to Article 2.2 of the Anti-Dumping Agreement by failing to provide a reasoned and adequate explanation as to why the surrogate costs, with only adjustments for delivery and slitting costs, represented a cost of production in China for the relevant exporters. As a result, and because it used surrogate costs that were not demonstrated to be costs of production in the country of origin in conducting the ordinary-course-of-trade test, the ADC*

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<sup>2</sup> SEF, paras. 209-211.

*violated Article 2.2.1.*”<sup>3</sup>

Indeed, the similar practice was adopted by the TRA in the current investigation AD0047. The TRA did not reasonably demonstrate that the selected surrogate costs, reflected a "cost of production in the country of export" within the meaning of Article 2.2 of the Anti-Dumping Agreement. Simply stated, the TRA never explained why “SB01080 – CRC (cold-rolled coil) Brazil Dom Prod” and “SB01138 – HRC (hot-rolled coil) Brazil Dom Prod” costs extracted from Platts Connect for the POI represent a cost of production *in China*. As similarly found by the Panel in DS603, the surrogate costs were selected because they are *not "distorted" Chinese* costs. The GOC discerns no logical basis on which to conclude that this *ipso facto* makes them (presumably undistorted) *Chinese* costs, and requests the TRA to provide a reasoned explanation as to why this would be the case.

Moreover, as the Appellate Body has clarified, in this construction of normal value, it is not impermissible for investigating authorities to rely on out-of-country benchmarks when reliance on the exporting producers’ records is not possible. However, in such circumstances, the TRA cannot simply replace domestic costs with costs from outside the country of origin. Rather, in the words of the Appellate Body:

[W]hatever the information that it uses, an investigating authority has to ensure that such information is used to arrive at the “cost of production in the country of origin”. Compliance with this obligation may require the investigating authority to adapt the information that it collects.<sup>4</sup>

Thus, to comply with its obligations under Article 2.2 of the Anti-Dumping Agreement, an investigating authority must ensure that it uses information that will allow it to arrive to the cost of production in the country of origin. In other words, the information that it chooses to rely on must be as representative as possible, and if not, the authority is under an obligation to make adjustments, as necessary, to obtain data that is as close as possible to the actual cost data of the exporting producers.

### **3. TRA failed to comply with its obligations under Article 2.2 and Article 2.2.2 of the WTO Anti-Dumping Agreement**

The GOC submits that in determining the amounts for administrative, selling and general costs (SG&A), the TRA further violates Article 2.2.2 of the ADA by adjusting

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<sup>3</sup> Panel Report, *Australia — AD/CVD on Certain Products (China)*, para. 7.186.

<sup>4</sup> Appellate Body Report, *EU — Biodiesel*, para. 6.73.

the finance costs of the Shougang Group according to the benchmark interest rate, i.e., the average daily Brazilian Selic interest rate during the POI, which was 12.70%.

Article 2.2.2 of the ADA explicitly requires that when using the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits to calculate the normal value, the amounts for administrative, selling and general costs shall be based on “*actual data pertaining to production and sales in the ordinary course of trade of the like product by the exporter or producer under investigation*”.

It is noted that according to SEF, the exporter of the Shougang Group, Shougang Jingtang provided actual finance cost data and details about the loans existed during the POI, including the start dates, repayable dates, and the interest rate charged on each finance products during the POI.<sup>5</sup> However, TRA disregarded the actual finance cost of Shougang Jingtang in the reason that “the benchmark cost (the cost that would have been incurred if the average daily Selic rate during the POI was applied to each loan) was higher than the cost calculated using the interest rates submitted by the Shougang Group” and adjusted the finance costs of the Shougang Group. This practice obviously contravenes the core requirement of Article 2.2.2 that the amounts for administrative, selling and general costs, including finance costs, shall be based on actual data of the exporter or producer under investigation.

Moreover, the TRA’s approach concerning the finance costs did not constitute any other “reasonable” method permitted by Article 2.2.2(iii). Specifically, the WTO Panel in *EC - Salmon (Norway)* explicitly ruled that “*a methodology for calculating SG&A that inflates SG&A costs above what they should have been cannot be ‘reasonable’ within the meaning of Article 2.2.2(iii)*”.<sup>6</sup> That TRA used the much higher benchmark cost to adjust the finance costs of the Shougang Group is without doubts to inflate the finance costs of the Shougang Group and cannot be reasonable according to this Panel ruling.

In such circumstances, the GOC respectfully requests the TRA to re-consider its conclusion on the existence of PMS in Chinese tin mill market and stop using of out-of-country data without appropriate adjustments to reflect the cost in the country of origin. The “cost in the country of origin” requirement must be adhered to in every aspect of dumping determination.

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<sup>5</sup> SEF, paras. 209-211.

<sup>6</sup> Panel Report, *European Communities – Anti-Dumping Measure on Farmed Salmon from Norway*, WT/DS337/R, adopted 15 January 2008, para. 7.605.