Before the World Trade Organization

Panel Proceedings

EUROPEAN UNION – DEFINITIVE COUNTERVAILING DUTIES ON NEW BATTERY ELECTRIC VEHICLES FROM CHINA

(DS630)

THIRD PARTY WRITTEN SUBMISSION OF AUSTRALIA

20 April 2026

TABLE OF CONTENTS

TABLE OF CASES

Short Title	Full Case Title and Citation
EU – CVD/AD on SSCRFP (Indonesia)	Panel Report, *European Union – Countervailing and Anti-Dumping Duties on Stainless Steel Cold-Rolled Flat Products from Indonesia*, WT/DS616/R and Add.1, circulated to WTO Members 2 October 2025, appealed 21 November 2025
Japan – DRAMs (Korea)	Panel Report, *Japan – Countervailing Duties on Dynamic Random Access Memories from Korea,* WT/DS336/R, adopted 17 December 2007, as modified by Appellate Body Report WT/DS336/AB/R, DSR 2007:VII, p. 2805
US – Anti-Dumping and Countervailing Duties (China)	Appellate Body Report, *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China*, WT/DS379/AB/R, adopted 25 March 2011, DSR 2011:V, p. 2869
US – Carbon Steel (India)	Appellate Body Report, *United States – Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India*, WT/DS436/AB/R, adopted 19 December 2014, DSR 2014:V, p. 1727
US – Carbon Steel (India) (Article 21.5 – India)	Panel Report, *United States – Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India – Recourse to Article 21.5 of the DSU by India*, WT/DS436/RW and Add.1, 15 November 2019, mutually agreed solution reported
US – Countervailing Duty Investigation on DRAMS	Appellate Body Report, *United States – Countervailing Duty Investigation on Dynamic Random Access Memory Semiconductors (DRAMS) from Korea,* WT/DS296/AB/R, adopted 20 July 2005, DSR 2005:XVI, p. 8131
US – Countervailing Duty Investigation on DRAMS	Panel Report, *United States – Countervailing Duty Investigation on Dynamic Random Access Memory Semiconductors (DRAMS) from Korea, WT/DS296/R, adopted 20 July 2005,* as modified by Appellate Body Report WT/DS296/AB/R, DSR 2005:XVII, p. 8243
US – Countervailing Measures (China) (Article 21.5 – China)	Appellate Body Report, *United States – Countervailing Duty Measures on Certain Products from China – Recourse to Article 21.5 of the DSU by China*, WT/DS437/AB/RW and Add.1, adopted 15 August 2019, DSR 2019:IX, p. 4737

LIST OF ACRONYMS, ABBREVIATIONS AND SHORT FORMS

Abbreviation	Full Form or Description
BEV	Battery Electric Vehicle
CBIA	China Battery Industry Association
CIAPS	China Industrial Association of Power Sources
Commission	European Commission
GATT	*General Agreement on Tariffs and Trade 1994*
GOC	Government of China

Abbreviation	Full Form or Description
LFP	Lithium-iron phosphate
Member	Member of the World Trade Organization
SCM Agreement	*Agreement on Subsidies and Countervailing Measures*
VCLT	*Vienna Convention on the Law of Treaties*
WTO	World Trade Organization

I. INTRODUCTION

1. Australia considers that the dispute raises important questions in relation to 1) the interpretation of "special circumstances" under Article 11.6 of the SCM Agreement, 2) initiation of an investigation under Article 11.6 of the SCM Agreement, 3) the legal and evidentiary standards for determining whether an entity is a "public body" under Article 1.1(a)(1) of the SCM Agreement, and 4) the legal and evidentiary standards for determining whether a government has "entrusted" or "directed" a private body under Article 1.1(a)(1)(iv) of the SCM Agreement.

2. Australia does not take a position on the specific facts of this dispute.

II. INTERPRETATION OF "SPECIAL CIRCUMSTANCES" UNDER ARTICLE 11.6 OF THE SCM AGREEMENT

3. In relation to the term "special circumstances" under Article 11.6 of the SCM Agreement, Australia submits:

- the term "special circumstances" should be given its ordinary meaning, in accordance with the VCLT;[1]
- "special circumstances" is not confined to a finite number of situations, it is not a closed list;
- the existence of "special circumstances" would be highly dependent on the facts and should be determined on a case by case basis; and
- following from the above, the Panel need not establish a test to determine irrefutably whether "special circumstances" apply, in order to resolve the dispute as this is a case by case fact based inquiry.

A. SUBMISSIONS FROM CHINA AND THE EUROPEAN UNION

4. Australia recalls that:

- Article 11.1 of the SCM Agreement provides, "Except as provided in paragraph 6, an investigation to determine the existence, degree and effect

[1] See Articles 31 - 32 of the VCLT.

of any alleged subsidy shall be initiated upon a written application by or on behalf of the domestic industry";[2] and

- Article 11.6 of the SCM Agreement specifies, "[i]f, in special circumstances, the authorities concerned decide to initiate an investigation without having received a written application by or on behalf of a domestic industry for the initiation of such investigation, they shall proceed only if they have sufficient evidence of the existence of a subsidy, injury and causal link, as described in paragraph 2, to justify the initiation of an investigation".[3]

5. In considering the interaction between these provisions, China contends that "special circumstances" under Article 11.6 of the SCM Agreement creates a "requirement which applies in addition to the requirement of "sufficient evidence" of the existence of a subsidy, injury and causal link…".[4]

6. In response, the European Union submits that the term "special circumstances" based on a textual reading of Article 11.6 of the SCM Agreement "does not introduce an "additional condition" curtailing the discretion of investigating authorities to initiate ex officio investigations".[5] However, even where it does, the European Union contends that it has satisfied this requirement.

B. ORDINARY MEANING OF "SPECIAL CIRCUMSTANCES"

7. Noting the limited jurisprudence on the definition of "special circumstances" under 11.6 of the SCM Agreement, Australia submits that the term should be interpreted based on its ordinary meaning, in accordance with Article 31 (General rules of interpretation) and Article 32 (Supplementary means of interpretation) of the VCLT, with regard to the context of the term and the purpose of the SCM Agreement. The European Union and China both agreed that the VCLT applies in interpreting the term "special circumstances", although each came to a different conclusion.[6] The Oxford English Dictionary defines "special" inter alia as "unusual" and "out of the ordinary".[7] "Circumstance" is defined as "an element that is part of or related

[2] See Article 11.1 of the SCM Agreement.
[3] See Article 11.6 of the SCM Agreement.
[4] China’s first written submission, para. 1315.
[5] European Union’s first written submission, para. 2910.
[6] European Union's first written submission, paras. 2915 and 2921. See also China’s first written submission para. 1292.
7 Oxford English Dictionary online, *s.v.* "special" (adj., n.), definition 3.a., available at oed.com, accessed 17 April 2026.

to a situation, fact, or narrative".[8] Taken together "special circumstances" means a situation that departs from the ordinary course of events.

8. Accordingly, an investigating authority may self-initiate an investigation only where the circumstances deviate from the ordinary course of initiation as set out in Article 11.1 of the SCM Agreement. Article 11.1 of the SCM Agreement provides the general test for initiating an investigation, namely upon a written application, but also includes a caveat, "except as provided in paragraph 6" of Article 11. Reading both of the articles together leads to a view that ordinarily an investigation is initiated by written application by domestic industry. An ex-officio investigation under Article 11.6 would require "special circumstances" that are different from how investigations are normally initiated under Article 11.1 of the SCM Agreement.

C. DEFINITION OF "SPECIAL CIRCUMSTANCES"

9. China claims that the negotiating history of Article 11.6 of the SCM Agreement shows that there was a consensus among the contracting Members regarding the interpretation of "special circumstances".[9] Additionally, relying on the 1966 Secretariat meeting notes on the *1967 Agreement on Implementation of Article VI* ("1967 Anti-Dumping Code") China submits that "the negotiating history indicated that "special circumstances" refers to issues relating to the structure of the market such as when the market counts for "small industries"".[10]

10. Australia considers that the negotiating history indicates that there was no consensus among the GATT contracting parties with respect to the definition of "special circumstances" in Article 11.6 of the SCM Agreement. The structure of the market was only an example of when "special circumstances" may exist.

11. The European Union’s submission that (i) "the discretion of investigating authorities to initiate ex officio investigations is not limited only to certain specific circumstances, such as when the domestic industry is "small"",[11] and (ii) "the SCM Agreement does not contain a "closed list" of elements that can exclusively be considered as "special circumstances""[12] is more persuasive.

[8] Oxford English Dictionary online, *s.v.* "circumstance" (adj., n.), definition 11.5.a., available at oed.com, accessed 17 April 2026.
[9] China’s first written submission, para. 1304.
[10] China’s first written submission, para. 1304.
[11] European Union's first written submission, para. 2926.
[12] European Union’s first submission, para. 2941.

12. There was also no agreement on the frequency of ex-officio investigations. Australia notes that the 1966 Secretariat Note on the 1967 Anti-Dumping Code, cited by both the European Union[13] and China[14] states (emphasis added):

> Such members also agreed that governments **should, in special but rare circumstances, be able to initiate themselves anti-dumping investigations**. Other delegations held the view that initiation by governments, **while not routine should also not be regarded as rare** and it was important that governments retain authority to initiate action on their own motion.[15]

13. Australia submits that given the lack of consensus regarding the meaning of "special circumstances" between GATT Members:

- "special circumstances" should be given its ordinary meaning;
- the discretion of an investigating authority to initiate ex officio investigations should not be confined to the few limited circumstances identified by China. It is not a closed list; and
- the term "special circumstances" remains open to be addressed on an individual case by case basis, dependent on the facts.

III. DOMESTIC INDUSTRY SUPPORT AND ARTICLE 11.6 OF THE SCM AGREEMENT

14. China contends that "in no case can "special circumstances" in Article 11.6 be construed in a manner that would allow investigating authorities to circumvent the requirement that the domestic industry supports an investigation as required by Article 11.4 of the SCM Agreement which provides that no investigation shall be initiated if it is not supported by producers expressly supporting the application accounting for at least 25% of total production of the like product produced by the domestic industry".[16]

---

[13] European Union's first written submission, para. 2924.
[14] China's first written submission, para. 1300.
[15] Note by the Secretariat on Meetings on 10-11 May 1966, TN.64/NTB/W/11, 6 June 1966.
[16] China's first written submission, para. 1297.

15. Australia considers that China's interpretation is not supported by the text and context of Articles 11.4 and 11.6 of the SCM Agreement. In this regard, Australia notes the following:

a) a countervailing duty investigation can be initiated in two ways: (1) upon a written application by or on behalf of the domestic industry, under Article 11.1; and (2) by an investigating authority as per the requirements specified in Article 11.6;

b) Article 11.4 of the SCM Agreement requires an investigating authority to "determine" whether an application for the initiation of an investigation has been "made by or on behalf of the domestic industry". In particular, Article 11.4 directly refers to Article 11.1 by stating "an investigation shall not be initiated pursuant to paragraph 1". This text is not replicated in Article 11.6 of the SCM Agreement; and

c) in this regard, Article 11.4 of the SCM Agreement is written on the basis there will be an "application" from which the degree of industry support can be assessed. In contrast, Article 11.6 of the SCM Agreement is concerned with situations "without… a written application".[17]

16. As China acknowledges, the ordinary meaning of "special circumstances" implies a situation that is different from what is normal.[18] This also indicates that Article 11.6 of the SCM Agreement sets out requirements that apply to investigations that are not subject to the normal requirements in Articles 11.1 and 11.4.

17. Taken together, this textual and contextual information confirms that Article 11.1 of the SCM Agreement outlines the general test for initiating an investigation. This test is focused on a "written application" from the domestic industry. Article 11.4 forms a step in this general test and is also concerned with situations involving written applications. In contrast, Article 11.6 of the SCM Agreement concerns itself with the initiation of an investigation in circumstances where no written application has been made by or on behalf of the domestic industry.

[17] Article 11.6 of the SCM Agreement.
[18] China's first written submission, para. 1293.

18. Consequently, given assessing industry support under Article 11.4 of the SCM Agreement is tied to a written application, Australia's view is that the assessment of industry support is not a relevant consideration under Article 11.6.

IV. THE LEGAL STANDARD FOR DETERMINING A "PUBLIC BODY" UNDER ARTICLE 1.1(A)(1) OF THE SCM AGREEMENT

19. Article 1.1(a)(1) of the SCM Agreement provides that a subsidy is deemed to exist, *inter alia,* if there is a "financial contribution by a government or any public body within the territory of a Member" and "a benefit is thereby conferred".[19] The SCM Agreement does not define "public body".

20. Australia notes that China and the European Union have expressed divergent views on key aspects of the legal and evidentiary standards to be applied by investigating authorities in determining whether an entity is a "public body" under Article 1.1(a)(1) of the SCM Agreement.[20]

21. China claims that the European Union violated Article 1.1(a)(1) of the SCM Agreement because it did not conduct an entity-by-entity analysis to establish whether each entity is a public body and erred by basing its determination on the alleged conduct of the relevant entities (as opposed to their nature).[21] An entity-by-entity analysis would require an investigating authority to examine every entity individually to determine whether it possesses, exercises or is vested with governmental authority.

22. To support its claim, China refers to the Appellate Body's finding in *US – Countervailing Measures (China) (Article 21.5 – China)* which, China submits, clarified that "the central focus of a public body inquiry is on the entity at issue".[22] China also refers to the Panel's finding in *EU – CVD/AD on SSCRFP (Indonesia)*, noting that it confirmed that "the determination of whether an entity is a public body requires an authority to engage in an entity-focused – rather than a conduct focused – examination of the 'core' or 'essential' characteristics of the entity in question and its 'relationship' with the government."[23]

---

[19] Article 1.1(a)(1) of the SCM Agreement.
[20] China's first written submission, paras. 321 – 328; European Union's first written submission, paras. 106 – 115.
[21] China's first written submission, Section V.B.
[22] China's first written submission, para. 323.
[23] China's first written submission, para. 323.

23. The European Union claims that China "errs in how it frames the applicable legal standard"[24] and the "evidential threshold an investigating authority must meet to support a determination that the provision of those goods is conducted through a "public body"".[25]

24. Australia wishes to explain its understanding of the legal standard and expand on the analysis required when applying the evidentiary standard associated with making a public body determination.

25. **First,** Australia notes an investigating authority is not precluded from determining that a group of entities, including all the entities in a particular sector of the economy, are public bodies, if its assessment is based on an examination of the entities' core characteristics and their relationship with government.[26]

26. While China also relies on paragraph 7.156 of *EU – CVD/AD on SSCRFP (Indonesia)* to support its submission,[27] it omits a key part of the Panel's determination. The full quotation reads:

> While an authority is not precluded from determining that a group of entities, including all the entities in a particular sector of the economy, are public bodies, an authority cannot arrive at such a sector-wide public body finding based solely on evidence relating to the nature of the conduct in which the entities at issue may be required to engage pursuant to the domestic regulatory framework. Instead, an authority's assessment that a group of entities are public bodies ought to be based on an examination of the entities shared core characteristics and their relationship with government.[28]

27. Australia considers, in certain circumstances, a determination that focuses on evidence that a group of entities, whose core characteristics include non-commercial behaviour driven by their relationship with the government, may be sufficient evidence that the entities are exercising governmental functions.[29]

28. Australia submits that the role of a Panel when evaluating an investigating authority's public body findings is not to start this inquiry from the beginning. Rather, the Panel should

[24] European Union's first written submission, para. 920.
[25] European Union's first written submission, para. 930.
[26] Panel Report, *EU – CVD/AD on SSCRFP (Indonesia),* para. 7.156.
[27] China's first written submission, para. 338.
[28] Panel Report, *EU – CVD/AD on SSCRFP (Indonesia),* para. 7.156.
[29] Panel Report, *EU – CVD/AD on SSCRFP (Indonesia),* para. 7.156.

review whether in light of the relevant factual circumstances, the investigating authority has conducted a proper evaluation of the group of entities' core features and their relationship to the government to justify its findings that the entities are public bodies.

29. **Second**, the Appellate Body has explained, and it appears to be accepted by both China and the European Union, that the term "public body" in Article 1.1(a)(1) of the SCM Agreement means "an entity that possesses, exercises or is vested with governmental authority".[30] However, Australia agrees with the European Union that China's characterisation of this legal standard as requiring that an "entity must be governmental in nature in order to be deemed to be a "public body", is only correct insofar as it refers to the governmental authority which the entity has been accorded".[31]

30. Australia cautions against trying to apply the notion of "governmental authority" too rigidly. Australia considers that no single test can be applied because there are complex and varied governance structures that exist across governments.

31. Australia further considers that no single characteristic is determinative and different types of evidence may be relevant to show that a government has bestowed authority on a particular entity.[32]

32. Relevantly, the evidence that may be considered in making a public body determination can include:

a) any statute or legal instrument which expressly vests authority in an entity;

b) evidence that points to a "sustained and systematic practice" of an entity exercising governmental functions; and

c) evidence that a government exercises "meaningful control" over an entity and its conduct.[33]

33. In Australia's view, an approach which looks at the nature and extent of governmental control of an entity is consistent with the object and purpose of Article 1.1,

---

[30] Appellate Body Report, *US – Anti-Dumping and Countervailing Duties (China),* para. 317; Appellate Body Report, *US – Carbon Steel (India)*, para. 4.29.
[31] European Union's first written submission, para. 107; China's first written submission, para. 322.
[32] Panel Report, *US – Carbon Steel (India) (Article 21.5 – India)*, para. 7.79.
[33] Appellate Body Report, *US – Anti-Dumping and Countervailing Duties (China)*, para. 318.

which is to ensure that a subsidy provided by ***any*** public body within the meaning of Article 1.1(a)(1) is captured by the SCM Agreement.

34. In considering the meaningful control evidentiary standard, the Panel in *US – Carbon Steel (India) (Article 21.5 – India)* relevantly observed that even if an entity is acting autonomously or "in commercial ways", this does not necessarily disqualify it from being found to be a public body.[34] Moreover, if an entity's practice is "not profit-maximising, or if it is structurally incapable of acting in profit-maximising ways, this could corroborate other evidence from which it can be inferred that the entity is performing a governmental function".[35]

35. **Third**, Australia submits that a "public body" determination requires consideration of the "core characteristics and functions of the relevant entity, its relationship with the government, and the legal and economic environment prevailing in the country in which the investigated entity operates".[36]

36. Australia considers that each of these elements is a relevant consideration when making a public body determination and notes the Commission's assertion that it assessed battery suppliers having due regard to these factors.[37]

37. Australia submits that an investigating authority should avoid "focusing exclusively or unduly on any single characteristic without affording due consideration to others that may be relevant".[38]

38. In light of the above, Australia makes the following observations about the Commission's countervailing duties investigation:

a) the Commission considered the legal and economic environment prevailing in China. In particular, the Commission determined:

> As a result, businesses in China operate in a specific environment which - unlike the Western economies where market forces represent the dominant organizing principle – features numerous mechanisms that provide the GOC with substantial degree of control over any aspect of the economic activity

[34] Panel Report, *US – Carbon Steel (India) (Article 21.5 – India)*, paras. 7.23 – 7.24.
[35] Panel Report, *US – Carbon Steel (India) (Article 21.5 – India)*, para. 7.24.
[36] Appellate Body Report, *US – Carbon Steel (India)*, para. 4.29.
[37] European Union's first written submission, para. 1023.
[38] Appellate Body Report, *US – Anti-Dumping and Countervailing Duties (China)*, para. 319.

in the country. This tight control prevents economic operators from acting as rational market operators seeking to maximise profits, and in fact forces them to act as an arm of the government in implementing its policies and plans;[39]

b) the Commission focused on the relationship between the battery producers and the GOC. In examining this relationship, the Commission identified:

- "evidence in national and local policies that battery producers were benefiting from a series of support measures, covered in recital … These included rewards, provision of land, electricity and gas at cheaper prices, loans from state-owned banks at a non-commercial basis and preferential fiscal policies";[40]

- that the industry associations were not acting according to free economic principles but were guided by the GOC[41], including performing tasks pertaining to supply chain regulation and implementing the decisions and deployments of the Chinese Communist Party Central Committee and the State Council;[42]

- that a significant number of "domestic battery suppliers are members of associations such as the CBIA and CIAPS and/or are State-owned and that this was a mechanism through which the GOC was able to exercise control over the battery producers";[43]

- that members of such associations "must abide by the directions of the association aimed at regulating the economic behaviour of their members in order to comply with GOC policies, in order to avoid repercussion inflicted upon them by the CBIA";[44] and

- that the "GOC took a "more active role than mere acts of encouragement" and that the measures taken by the GOC restrict the freedom of action of

[39] European Union's first written submission, para. 1028.
[40] European Union's first written submission, para. 1460.
[41] European Union's first written submission, para. 1462.
[42] European Union's first written submission, para. 1692.
[43] European Union's first written submission, paras. 1103 – 1107.
[44] European Union's first written submission, para. 1463.

the battery producers by limiting in practice their business decision at what price to sell their product".[45]

c) the Commission examined the core characteristics and functions of the relevant battery producers and identified, based on the evidence before it that:

- "company decisions and management of the battery producers are clearly affected by the GOC policies to supply batteries at cheaper prices for the development of the BEV industry, as well as to follow the guidance on production targets, which therefore cannot be considered expression of private behaviour in a free market economy";[46]
- "pricing behaviour on the export market vis-à-vis the domestic pricing behaviour further confirms that battery producers in China abide by the GOC policies rather than by free market principles";[47] and
- "the characteristics of the Chinese domestic market and the pricing mechanisms that are implemented and monitored by the battery associations, their members, and the battery and LFP suppliers, further corroborate the conclusion that they are vested with government authority and exercise governmental functions."[48]

39. Australia considers that such findings are relevant to a determination of whether the battery producers come within the term "public body" as that term is used in Article 1.1(a)(1) of the SCM Agreement.

V. ENTRUSTMENT OR DIRECTION OF PRIVATE BODIES

40. China and the European Union disagree as to the circumstances under which an investigating authority could properly determine that a government has "entrusted" or "directed" a private entity to provide goods at less than adequate remuneration within the meaning of Article 1.1(a)(1)(iv) of the SCM Agreement.[49]

[45] European Union's first written submission, para. 1468.
[46] European Union's first written submission, para. 1162.
[47] European Union's first written submission, para. 1162.
[48] European Union's first written submission, para. 1162.
[49] European Union's first written submission, para. 960; China's first written submission, paras. 313 and 582.

41. China contends that an investigating authority must demonstrate that the government deprived suppliers of the ability to sell their products freely.[50] The European Union disagrees and contends that an entrustment or direction determination can be established based on broader evidence including evidence pertaining to the broader legal and economic environment prevailing in the relevant jurisdiction.[51]

42. Australia agrees with China that the evidence in support of "entrustment or direction" should support a "demonstrable link between the government and the conduct of the private body".[52]

43. Australia considers that Article 1.1(a)(1)(iv) of the SCM Agreement is intended to ensure that governments do not evade their obligations under the SCM Agreement by using private bodies that would otherwise fall within Article 1.1(a)(1), were they to be taken by the government itself. In other words, Article 1.1(a)(1)(iv) "is, in essence, an anti-circumvention provision".[53]

44. As such, Australia agrees with the Appellate Body that "an interpretation of the term "entrusts" that is limited to acts of "delegation" is too narrow",[54] that "an interpretation of the term "directs" that is limited to acts of "command" is also too narrow",[55] and that "in some circumstances, "guidance" by a government can constitute direction".[56]

45. In addition, subtle and informal means of "direction" and "entrustment" are not excluded from the scope of Article 1.1(a)(1)(iv) under the SCM Agreement, where properly supported by the evidence.[57] As the Panel in *Japan – DRAMs (Korea)* observed, "entrustment or direction of a private body will rarely be formal, or explicit. For this reason, allegations of government entrustment or direction are likely to be based on pieces of circumstantial evidence".[58]

---

[50] China's first written submission, paras. 466 and 673.
[51] European Union's first written submission, paras. 979 and 1473.
[52] China's first written submission, para. 459.
[53] Appellate Body Report, *US – Countervailing Duty Investigation on DRAMS*, para. 113.
[54] Appellate Body Report, *US – Countervailing Duty Investigation on DRAMS*, para. 110.
[55] Appellate Body Report, *US – Countervailing Duty Investigation on DRAMS*, para. 111.
[56] Appellate Body Report, *US – Countervailing Duty Investigation on DRAMS,* para. 116.
[57] Appellate Body Report, *US – Countervailing Duty Investigation on DRAMS*, para. 110.
[58] Panel Report, *Japan – DRAMs (Korea)*, para. 7.73. See also, Appellate Body Report, *US – Countervailing Duty Investigation on DRAMS*, fn. 277: "… [a holistic] approach is particularly relevant **in cases of entrustment or direction under Article 1.1(a)(1)(iv), where much of the evidence that is publicly-available, and therefore readily accessible to interested parties and the investigating authority, will likely be of a circumstantial nature**." (emphasis added)

46. As such, Australia disagrees with China’s suggestion that an investigating authority must provide evidence which "demonstrate[s] that the [government or public body] require[s], induce[s], force[s], or prevail[s] upon" the relevant private body to provide a financial contribution.[59]

VI. CONCLUSION

47. Australia thanks the Panel for the opportunity to submit its views on the issues raised in this dispute.

[59] China’s first written submission, para. 487.