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MITI.600-2/54/1(S)(1)  
9 June 2026

The Commissioner  
Productivity Commission  
Fabricated Structural Steel Safeguards Inquiry  
GPO Box 1428  
Canberra City ACT 2601  
AUSTRALIA

Dear Sir/Madam,

**THE GOVERNMENT OF MALAYSIA'S INTERVENTION ON THE INITIATION OF  
THE SAFEGUARDS INVESTIGATION BY AUSTRALIA ON IMPORTS OF  
FABRICATED STRUCTURAL STEEL**

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Reference is made to the notification to the WTO Committee of Safeguards (G/SG/N/6/AUS/5) dated 23 January 2026, issued by Australia on the initiation of a safeguards investigation concerning imports of **Fabricated Structural Steel**.

2. The **Ministry of Investment, Trade and Industry (MITI)** hereby wishes to **register** the interest of the **Government of Malaysia (GOM)** to **participate** in the **investigation**, as well as **extend** the **GOM's intervention statement** as detailed in **Annex I**.

3. We look forward to receiving an acknowledgement of this intervention statement and trust that the facts highlighted herein will receive your full attention and due consideration.

Thank you.

**(GAYATRI KUMARAVELOO)**  
Director, Trade Practices Section  
for Secretary General  
Ministry of Investment, Trade and Industry  
**MALAYSIA**

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Copy:

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INTERVENTION STATEMENT BY THE GOVERNMENT OF MALAYSIA ON THE SAFEGUARDS INVESTIGATION BY AUSTRALIA ON IMPORTS OF FABRICATED STRUCTURAL STEEL

The **Government of Malaysia** presents its compliments to the esteemed **Productivity Commission** (Commission) of **Australia** and has the honour to refer to the **safeguards investigation on imports of Fabricated Structural Steel (FSS)**, as per the notification to the WTO Committee of Safeguards (**G/SG/N/6/AUS/5**) dated **23 January 2026**.

2. The Government of Malaysia notes that this safeguard investigation was initiated following an application by the Australian Steel Institute, which alleges that a surge of FSS imports into the Australian market has caused serious injury to its domestic industry. While Malaysia respects Australia's right to conduct such investigations, it emphasizes that safeguard measures are extraordinary remedies intended solely for exceptional circumstances. Consequently, the Government of Malaysia is of the view that the available evidence fails to meet the high legal thresholds mandated by the WTO Agreement on Safeguards.

3. In this regard, the Government of Malaysia respectfully submits the following observations and substantive comments for the Commission's consideration. These comments are offered in a spirit of transparency, mutual respect, and constructive engagement, with the shared objective of ensuring a fair, balanced, and objective investigation. The Government of Malaysia trusts that these observations will be given due consideration and affirms its readiness to cooperate fully with the Commission, aiming for an outcome that reflects fairness and strengthens bilateral trade relations between Malaysia and Australia.

**Negligible Import Volume**

4. The Article 9.1 of the WTO SG Agreement clearly outlines “*safeguard measures shall not be applied against a product originating in a developing country Member as long as its share of imports of the product concerned in the importing Member does not exceed 3%, provided that developing country Members with less*

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*than 3% import share collectively account for not more than 9% of total imports of the product concerned".*

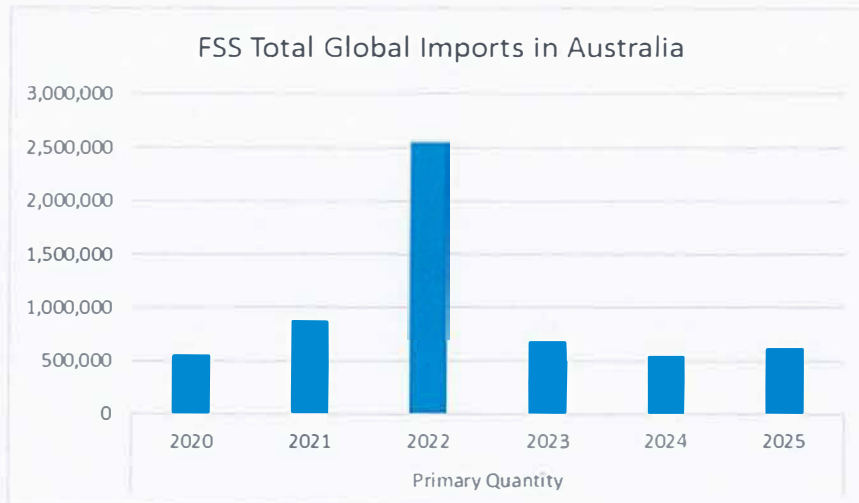
5. According to the Australian Bureau of Statistics, Malaysia's export volume of the FSS to Australia remains strictly negligible. The **imports from Malaysia** accounted merely **1.11%** and **0.78%** of Australia's total global imports of FSS in **2024** and **2025** respectively. Over the six-year period from **2020 to 2025**, **imports from Malaysia consistently remained marginal** between **0.31%** and **1.11%** of Australia's total global FSS imports. Furthermore, **Malaysia's individual import share falls well below the 3% threshold** and the **collective import share of developing countries** meeting this criterion also remains **below the 9% aggregate threshold**. In light this, pursuant to Article 9.1 of the WTO SG Agreement, the Government of Malaysia **seeks the Commission's indulgence to exclude Malaysia from any provisional and definitive safeguards measure that may be applied**.

### **No surge in imports that was recent, sudden, sharp and significant enough to cause serious injury**

6. The Appellate Body Report in Argentina – Footwear (EC) (DS121) has explained with regard to the nature of the increase in imports:

*"The determination of whether the requirement of imports 'in such increased quantities' is met is not a merely mathematical or technical determination. In other words, **it is not enough for an investigation to show simply that imports of the product this year were more than last year – or five years ago**. Again, and it bears repeating, not just any increased quantities of imports will suffice. There must be 'such increased quantities' as to cause or threaten to cause serious injury to the domestic industry in order to fulfil this requirement for applying a safeguard measure. And this language in both Article 2.1 of the Agreement on Safeguards and Article XIX:1(a) of the GATT 1994, we believe, requires that the increase in imports must have been **recent enough, sudden enough, sharp enough, and significant enough, both quantitatively and qualitatively, to cause or threaten to cause 'serious injury'**."*

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Source: Australian Bureau of Statistics

7. The Petitioner claimed that there was surge of imports in FSS from 2022 to 2024, however the data from the Australian Bureau of Statistics demonstrates otherwise. On the contrary, while imports surged in 2022, however it decreased significantly throughout 2023 and 2024. Given these **conflicting trends**, the Government of Malaysia urges the **Commission to provide the actual statistics** of the FSS within the scope of the investigation in the upcoming WTO notification on findings of serious injury. Full transparency is important to ensure that interested parties, including the Government of Malaysia can adequately safeguard the trade interest of Malaysian manufacturers.

8. Furthermore, the Government of Malaysia observed that the Petitioner's own findings derived from the sampled six questionnaire replies (which are representative of the situation of the whole Australian FSS industry) reveals that the FSS domestic industries' **performance in sales volume and value, profits, profitability and employment improved** ranging from **0.70 points to 119.07 points in 2024**. Conversely, the production and capacity utilisation experienced only minor declines of 1.52 points and 13.74 points respectively. These empirical clearly **demonstrate an absence of causal link between the alleged import surge and any serious injury to the Australian FSS industry**.

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9. The Appellate Body in US – Lamb (DS177) described "serious injury" as a "very high standard of injury":

*"The standard of 'serious injury' set forth in Article 4.1(a) is, on its face, very high. Indeed, in United States – Wheat Gluten Safeguard, we referred to this standard as 'exacting'. Further, in this respect, we note that the word 'injury' is qualified by the adjective 'serious', which, in our view, underscores the extent and degree of 'significant overall impairment' that the domestic industry must be suffering, or must be about to suffer, for the standard to be met....."*

*In making a determination on ... the existence of 'serious injury' ... panels must always be mindful of the very high standard of injury implied by these terms."*

In this vein, the Government of Malaysia **stresses** that the **Application does not meet the legal pre-requisites for serious injury** as outlined in the SG Agreement.

### **Conclusion**

10. The Government of Malaysia would like to **stress** that Article 4.1 of the SG Agreement, which stipulates that a "**threat of serious injury shall be based on facts and not merely on allegation, conjecture or remote possibility**". Malaysia remains confident that the Commission will conduct this investigation with the utmost dedication, ensuring a fair and objective process in strict accordance with the SG Agreement. Furthermore, the Government of Malaysia requests timely updates on the progress of this matter, as well as access to relevant investigation reports and documents. This will ensure Malaysia has a meaningful opportunity to participate and present its views. The Government of Malaysia also reserves the right to raise these and any other issues regarding this investigation at a later date.

***Ministry of Investment, Trade and Industry (MITI),***

***MALAYSIA***

***9 June 2026***