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COMMENTS ON THE CALCULATION OF DUMPING MARGIN

OF THE

DUMPING AND COUNTERVAILING INVESTIGATION OF LIGHT GAUGE

STEEL STUD AND TRACK EXPORTED TO AUSTRALIA FROM THE

PEOPLE'S REPUBLIC OF CHINA

ON BEHALF OF

WENAN KAIZE BUILDING MATERIAL CO., LTD.

(“KAIZE”)

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I. Case Overview

On 30 June 2025, the **Anti-Dumping Commission of Australia (hereinafter the “Commission”, the “Authority”, or the “ADC”)** issued Anti-Dumping Notice No. 2025/053, announcing the initiation of Investigation No. 679 into the alleged dumping and subsidisation of light gauge steel stud and track exported to Australia from the People’s Republic of China, upon the application filed by the Australian domestic producer Rondo Building Services Pty Ltd. The goods under investigation are described as light gauge steel stud and track, metallic coated, whether or not containing alloys, with a profile of up to and including 170 millimetres in width by 170 millimetres in height, and with a base metal thickness of up to and including 0.69 millimetres. The investigation covers non-structural light gauge products commonly used in drywall applications. Medium and heavy gauge steel stud and track, noggings, and flexible track components are excluded from the scope of the investigation.

Wenan Kaize Building Material Co., Ltd. (hereinafter “Kaize”, or the “Company”) has been fully participating in the proceeding since the initiation, and its Response to the Exporter Questionnaire was placed on the Electronic Public Record on 29 October 2025. On 25 March 2026, the Commission provided Kaize with a further update and disclosed its preliminary dumping margin calculations. In that update, the Commission confirmed that it had accepted the information submitted by Wenan Kaize Building Material Co., Ltd. (“Kaize”) in its revised questionnaire responses and had used that information as the basis for its preliminary dumping calculations. The Commission further stated that, because the sales between Kaize and its importer, Hume Plasterboard Pty Ltd (“Hume”), were considered to be non-arm’s length, the export price was preliminarily determined on the basis of Hume’s verified Australian sales data.

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At the same time, although the Commission acknowledged that Kaize's books and records are consistent with Chinese GAAP and reasonably reflect the actual costs incurred in producing the goods, it nevertheless took the preliminary view that the circumstances in which Kaize's galvanised HRC costs were formed were not "normal or ordinary", and therefore replaced Kaize's recorded HRC costs with an international benchmark in constructing normal value under Article 2.2.1.1 of the **WTO Anti-Dumping Agreement (hereinafter the "ADA")**. The Commission also stated that the constructed normal value was based on Kaize's adjusted export cost to make, SG&A, a profit amount drawn from another Chinese concurrent case, and certain additional amounts including port handling, inland freight, and slitting costs. The present comments are submitted in response to that preliminary disclosure.

Kaize respectfully submits that the Commission's methodology applied in this case is not supported by an adequate factual basis, raises concerns under both Australian domestic law and the WTO ADA, and therefore warrants reconsideration. The submission is developed as follows:

First, the Commission unlawfully disregarded the Company's recorded HRC costs despite acknowledging that they comply with GAAP and reasonably reflect actual costs, contrary to Article 2.2.1.1 of the ADA.

Second, the Commission applies a profit margin derived from the Company's actual costs while simultaneously rejecting those same costs as "distorted", creating a fundamental methodological contradiction. This approach results in an artificially inflated Normal Value and therefore fails to ensure a fair comparison under Article 2.4 of the ADA, as clarified in DS603.

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Finally, the **[Commercially Sensitive Information: Company's profits related data]** export-based profit is not a reasonable proxy under Article 2.2.2, and alternative profit benchmarks should instead be adopted.

II. The Commission's Improper Cost Adjustment Methodology is Inconsistent with WTO Law and Established Precedents

First, we submit that the Authority approach in this case, specifically, the rejection of Kaize's actual recorded raw material costs in favor of an upwardly adjusted external international benchmark, constitutes a *de jure* and *de facto* violation of the affirmative obligations set forth in Article 2.2.1.1 of the WTO ADA.

WTO jurisprudence confirms that Article 2.2.1.1 of the ADA establishes a presumption in favour of the exporter's records. Under Article 2.2.1.1, investigating authorities bear an affirmative obligation to calculate costs on the basis of records kept by the exporter, provided two cumulative conditions are met: (1) the records are in accordance with the Generally Accepted Accounting Principles (GAAP) of the exporting country, and (2) they reasonably reflect the costs associated with the production and sale of the product.

Here, the Commission has expressly acknowledged both of those conditions: Kaize's records are GAAP-consistent, and they reasonably reflect the actual costs incurred in producing the goods. Having made those findings, the Commission could not lawfully disregard those records merely because it considered the circumstances surrounding galvanised HRC pricing to be "not normal or ordinary".

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1. The Commission’s Rejection of Kaize’s Recorded HRC Costs and Substitution with an International Benchmark Is Inconsistent with WTO Jurisprudence

WTO jurisprudence consistently confirms that Article 2.2.1.1 is concerned with the exporter’s actual incurred costs, as recorded in its books, rather than with some hypothetical or externally benchmarked cost.

i. EU – Biodiesel (Argentina) (DS473)¹

In *EU – Biodiesel (Argentina) (DS473)*, the WTO Appellate Body rejected the EU’s attempt to replace Argentine producers’ recorded soybean costs with an export-reference benchmark on the basis that domestic input prices were allegedly depressed by government policy. The Appellate Body made clear that Article 2.2.1.1 does not authorize an investigating authority to test whether recorded input prices are “reasonable” by reference to an external benchmark; rather, the provision asks whether the records faithfully reflect the costs actually incurred by the producer under investigation. The Appellate Body further held that, even where out-of-country information is used, it must still be adapted so as to represent the cost of production in the country of origin. That reasoning applies directly here. The Commission’s reliance on an international benchmark for galvanised HRC is not a permissible substitute for Kaize’s own recorded cost merely because the Commission considers the benchmark to be more “normal” or more “ordinary”.

¹ Appellate Body Report, *European Union — Anti-Dumping Measures on Biodiesel from Argentina*, WT/DS473/AB/R, adopted 26 October 2016.

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ii. *Ukraine – Ammonium Nitrate (DS493)*²

The same principle was reaffirmed in *Ukraine – Ammonium Nitrate (DS493)*. There, the investigating authority rejected the producers’ recorded gas costs because domestic gas prices were regulated and lower than external market prices. The Panel, upheld by the Appellate Body, found that this approach impermissibly examined the “reasonableness” of the input price itself rather than whether the producer’s books accurately reflected the costs actually incurred. The Appellate Body also confirmed that the term “normally” in Article 2.2.1.1 is not a blanket licence to disregard records whenever the authority perceives distortion in the relevant market. Departure from the exporter’s records is exceptional, and must be justified by exporter-specific circumstances showing that the records themselves are unreliable as a source of actual cost information. A generalized concern that domestic HRC prices are unusual, distorted, or below an international benchmark is therefore not enough. The Commission’s present approach effectively reintroduces a benchmark-based “reasonableness” test that WTO jurisprudence has already rejected.

iii. *Australia – A4 Copy Paper (DS529)*³

In light of *Australia – Anti-Dumping Measures on A4 Copy Paper (DS529)*, which addressed Australia’s own methodology, the conclusion is also clear. The WTO Panel held that Australia acted inconsistently with Article 2.2.1.1 when the ADC rejected

² Appellate Body Report, *Ukraine — Anti-Dumping Measures on Ammonium Nitrate*, WT/DS493/AB/R, adopted 30 September 2019.

³ Panel Report, *Australia — Anti-Dumping Measures on A4 Copy Paper from Indonesia*, WT/DS529/R, adopted 27 January 2020.

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Indonesian exporters' recorded pulp costs and substituted them with international benchmark costs. The Panel emphasized three points that are directly relevant here. First, the ADC could not reject recorded costs without first properly establishing the conditions of Article 2.2.1.1. Second, a finding of a particular market situation affecting domestic selling prices under Article 2.2 does not, by itself, justify rejection of cost records under Article 2.2.1.1. Third, the phrase "reasonably reflect" concerns whether the records accurately capture the costs actually incurred, not whether the authority regards those costs as competitive, undistorted, or commercially preferable. In other words, WTO law does not permit the Commission to move from a concern about the surrounding market environment to an automatic replacement of Kaize's recorded HRC costs with an international benchmark.

*iv. Australia – Certain Products from China (DS603)*⁴

In DS603, the WTO Panel examined Australia's practice of rejecting Chinese exporters' recorded steel input costs on the basis that those records did not reflect "competitive market costs," and replacing them with third-country or regional benchmarks. The Panel held that this Australian "competitive market cost" inquiry is materially different from the test required by Article 2.2.1.1. Asking whether records reflect "competitive market costs" is not the same as asking whether they reflect the costs actually incurred by the exporter. The Panel further found that Australia acted inconsistently with Article 2.2.1.1 by improperly rejecting the exporters' recorded costs, and that the resulting benchmark substitution methodology was biased and

⁴ Panel Report, *Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China*, WT/DS603/R, adopted 26 April 2024.

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incompatible with the ADA. That finding is highly significant here.

In this case, the Commission’s email expressly accepts that Kaize’s books are GAAP-consistent and reasonably reflect actual costs, yet proceeds to replace those costs because the circumstances of HRC pricing are said not to be “normal or ordinary.” That is precisely the kind of analytical move that DS603 condemns: replacing an inquiry into actual incurred costs with an inquiry into some external notion of undistorted or competitive cost.

Similar reasoning was confirmed in *EU – Cost Adjustment Methodologies II (Russia)* (DS494), where the Panel reiterated that investigating authorities cannot disregard recorded costs merely because domestic input prices diverge from international benchmarks.⁵

Indeed, the WTO line of authority now establishes several propositions that are fatal to the Commission’s present methodology. First, Article 2.2.1.1 focuses on the exporter’s own records and the actual costs incurred, not on hypothetical benchmark costs. Second, the second condition in Article 2.2.1.1 asks whether the records faithfully reproduce those costs, not whether the input prices are commercially “reasonable.” Third, the mere existence of government intervention, regulated prices, or a divergence between domestic prices and international benchmarks is not, without more, a sufficient basis to reject GAAP-compliant records. Fourth, if an authority seeks to rely on the flexibility implied by the word “normally,” it must provide a reasoned and contemporaneous explanation grounded in exporter-specific evidence, rather than a

⁵ Panel Report, *European Union – Cost Adjustment Methodologies and Certain Anti-Dumping Measures on Imports from Russia (Second Complaint)*, WT/DS494/R, adopted 28 February 2020.

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generalized assertion of distortion. Kaize respectfully submits that the Commission’s current methodology satisfies none of those requirements.

2. Even If the Authority Were Entitled to Depart from Kaize’s Records, WTO Law Requires Any Alternative Methodology to Reflect the Cost of Production in the Country of Origin

Furthermore, even on the assumption that the Commission were entitled to depart from Kaize’s records, WTO law would still require the substitute methodology to remain anchored in the “cost of production in the country of origin.” In *EU – Biodiesel* and again in DS603, it was made clear that out-of-country information cannot simply be imported wholesale; it must be adapted so that it represents the producer’s actual circumstances in the exporting country. The research materials also identify this “adaptation” requirement as a separate and independent weakness in benchmark-based methodologies, particularly where external benchmarks fail to account for exporter-specific and country-specific realities. Here, the Commission has used an international benchmark for galvanised HRC and added further amounts such as slitting costs, but it has not explained in a reasoned and adequate manner how that benchmark was adapted so as to represent Kaize’s cost of production in China. That omission provides a further basis for concluding that the benchmark uplift is inconsistent not only with Article 2.2.1.1, but also with Article 2.2 of the ADA. **[Commercially Sensitive Information: Alternative benchmark related data]**⁶

3. In Any Event, the Commission Cannot Justify Its Methodology by

⁶ See Supplementary Exhibit 1 (Supplementary_Exhibit_1.xlsx) and Annex I for further details.

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Invoking Domestic Concepts Such as “Competitive Market Costs”

Kaize also notes that the Commission cannot cure this defect by invoking domestic Australian concepts such as “competitive market costs.” Australian domestic law has historically introduced a broader “competitive market cost” inquiry. However, DS529 and especially DS603 make clear that this domestic inquiry is not the same as, and cannot displace, the WTO test in Article 2.2.1.1. To the extent the Commission’s methodology relies on that broader domestic concept to justify the rejection of Kaize’s actual HRC costs, it places Australian administrative practice in direct tension with Australia’s WTO obligations. That tension should be resolved, in the present investigation, in a manner consistent with the ADA and the aforementioned WTO jurisprudence.

Accordingly, Kaize respectfully submits that the Commission’s upward adjustment of Kaize’s recorded HRC costs must be withdrawn. Again, the Commission has already found that Kaize’s records comply with Chinese GAAP and reasonably reflect the actual costs incurred in producing the goods. On those findings, Article 2.2.1.1 required the Commission to use those records as the basis for constructing normal value. By replacing Kaize’s actual recorded HRC costs with an international benchmark simply because the Commission considered the surrounding market circumstances to be “not normal or ordinary,” the Commission has adopted a methodology that is inconsistent with WTO law and with the established line of authority in DS473, DS493, DS529, and DS603. At a minimum, the Commission should recalculate Kaize’s cost of production and normal value using Kaize’s own verified recorded HRC costs.

III. The Commission's Profit Calculation Is Inconsistent with WTO Jurisprudence and Australian Law

The most egregious *de facto* violation in this investigation lies in the Authority's profit calculation. While rejecting Kaize's raw material costs as "abnormal" and artificially inflating them, the Authority simultaneously applies a **[Commercially Sensitive Information: Company's profits related data]** profit margin derived directly from Kaize's actual, unadjusted export costs.

Here, as aforementioned, the goods under consideration produced by Kaize were exported exclusively to Australia, with no domestic sales. In constructing the normal value, the Commission significantly increased the cost of raw materials (by up to 70%). However, when calculating the profit margin, the Commission adopted an export profit margin based on Kaize's actual costs (i.e., the same costs that the Commission considers to be "unreasonable").

This approach not only violates the relevant provisions of the WTO ADA and the Australian Customs Act, but also creates a logically self-contradictory loop, resulting in a significant artificial inflation of the dumping margin. Kaize considers that the above approach lacks legal basis and factual foundation, constitutes a legal error which should be corrected.

1. The Commission Fails to Apply the Hierarchy of Profit Source under Article 2.2.2 ADA

i. Legal Basis

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Article 2.2.2 of the WTO ADA sets out the methods for determining profit in the construction of normal value, and establishes the following order of application:

- (i) the actual amounts incurred and realized by the exporter or producer in question in respect of production and sales in the domestic market of the country of origin of the same general category of products;
- (ii) the weighted average of the actual amounts incurred and realized by other exporters or producers subject to investigation in respect of production and sales of the like product in the domestic market of the country of origin;
- (iii) any other reasonable method, provided that the amount for profit so established shall not exceed the profit normally realized by other exporters or producers on sales of products of the same general category in the domestic market of the country of origin.

ii. Legal Inconsistency in the Selection of the Profit Source

- a) The profit rate relied upon by the Commission is not the purported “profit rate from a related case”.

Kaize notes that the Commission stated that the profit rate used was “achieved on sales of the goods in the ordinary course of trade (OCOT) from another Chinese concurrent case using HRC as a raw material input.” However, in reality, in the normal value calculation document (679 - Appendix 3 - Constructed NV (1) (1)), the **[Commercially Sensitive Information: Company’s profits related data]** cited by the Commission is derived from the Kaize’s actual costs and prices of the goods under consideration exported to Australia. The sources of the two are entirely different, and

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their legal bases are also fundamentally distinct.

[Commercially Sensitive Information: Company's profits related data-1]

[Commercially Sensitive Information: Company's profits related data-1]

The Company respectfully requests the Commission to clarify whether the above profit rate has been incorrectly cited. If the Commission intends to rely on the domestic profit rate from the aforementioned related case, the Company further respectfully requests the Commission to provide sufficient evidence demonstrating the comparability of the products between that case and the present case, the consistency of raw material inputs, and the existence of sales in the ordinary course of trade.

- b) Kaize's export profit rate relied upon by the Commission does not comply with the prescribed hierarchy under Article 2.2.2 of the WTO ADA.

As noted above, **[Commercially Sensitive Information: Company's profits related data]** is derived by subtracting the Company's actual costs from its export prices to Australia. In essence, this constitutes the erroneous use of export-stage profitability to construct the normal value in the domestic market. This approach gives rise to a dual violation.

On the one hand, it violates the prescribed hierarchy of profit sources. Using export-stage profitability to construct the normal value in the domestic market is entirely inconsistent with the fundamental principle under Article 2.2.2 of the WTO ADA, which requires that profit should be based on **"the ordinary course of trade" in the domestic market of the exporting country.**

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On the other hand, it constitutes a misuse of the “any other reasonable method.” The application of “any other reasonable method” is not an unfettered discretion. Its use is conditional upon the unavailability of the first two methods, and **the resulting profit must not exceed the profit normally realized in the domestic market.** Using the Company’s profitability derived from a specific export market and a limited volume of customized products as the benchmark for profit is not representative in general terms. Moreover, as it is based on costs that have been artificially increased, it essentially constitutes circular reasoning — **the higher the export price, the higher the profit rate, the higher the normal value, and the higher the dumping margin.** If the Company’s export price were below cost, resulting in a negative profit rate, this would instead reduce the normal value and the dumping margin, which is clearly inconsistent with the definition and logic of dumping.

The Company wishes to emphasize that the **[Commercially Sensitive Information: Company’s profits related data]** rate for the products exported to Australia is based on profitability in a specific market. **This data neither reflects the conditions of the domestic market in China, nor does it represent a level “normally realised”.** This is because, for Kaize, the products exported to Australia are characterized by small sales volumes, customized specifications, and supply to specific customers. Under such circumstances, only by maintaining a sufficiently high profit margin can the products sustain commercial viability. Treating such a profit rate as a level normally realized in the ordinary course of trade, particularly in a context where raw material costs have been significantly and artificially increased, results in a profit rate that deviates substantially from industry averages and constitutes a typical abnormal profit, which should not be used as the basis for constructing the normal value.

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2. Reasonable Alternative Profit Methodologies

Given that the Company has no domestic sales of the goods under consideration, no exports to third countries, and no other Chinese producers participating in this case, the Commission should, in accordance with the law, apply “any other reasonable method.” However, such a method must be reasonable rather than arbitrary. Kaize hereby proposes the following alternative solutions for the Commission’s careful consideration:

i. Alternative 1: Use of the Company’s overall profit margin

Although the Company has no domestic sales of the goods under consideration, it produces and sells domestically other similar products, including ceiling suspension systems and painted steel framing (metal furring channels). These products are also steel construction materials, with higher production and sales volumes, and are more representative. The Company’s overall profit margin (Kaize’s overall net profit margin during the investigation period was 1.4%) can genuinely reflect the reasonable level of profit that Kaize, as a normally operating enterprise, can achieve in the domestic market in China. This data is consistent with the spirit of Article 2.2.2 of the ADA, which requires that profit should reflect the level achieved “in the ordinary course of trade” in the domestic market, and avoids the logical error of improperly attributing export profits to the construction of normal value.

In ADRP Report No. 174, the investigating authority found that Ningbo Fenghui Metal Products Co., Ltd. (“Fenghui”) had no domestic sales of any “like product” and

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there was no evidence of other domestic sellers of like goods.⁷ Under such circumstances, the Panel ultimately upheld the ADC’s use of the profit achieved by Fenghui on sales of “**goods of the same general category**” in the exporting country to construct its normal value.⁸ This case demonstrates that, in the absence of relevant data, the investigating authority should rely on the data of the exporter that is most closely connected (consistency).

ii. Alternative 2: Use of the average profit margin of the Chinese steel industry or similar products

If the Commission has concerns regarding the Company’s internal financial data, it may alternatively use publicly available and authoritative industry average profit margins. For example, industry research reports such as the *2025 China Light Steel Keel Product Data Report*.⁹ Page 14, paragraph 2, line 4 of this report states that “in 2024, the net profit margin of large light steel keel manufacturers reached 8%–12%”; or profit margins of comparable listed companies in China’s A-share market (such as a leading Chinese keel manufacturer — Beixin Building Materials, whose profit margin in 2025 was only 11.86%).¹⁰ Industry averages are more representative and equitable than profitability data derived from specific export transactions with particular customers in an individual case.

⁷ See ADRP Report No. 174, para.25.

⁸ See ADRP Report No. 174, para.106: “For the reason discuss above……”.

⁹ See link: <https://max.book118.com/html/2026/0109/8050046076010033.shtm#:~:text>

¹⁰ See link: https://vip.stock.finance.sina.com.cn/q/go.php/vReport_Show/kind/lastest/rptid/827915557220/index.phtm

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Furthermore, pursuant to subsection 45(4) of the Regulations, the Minister must disregard any amount of profit that exceeds the amount normally realized by other exporters or producers. The **[Commercially Sensitive Information: Company's profits related data]** profit rate adopted by the Commission far exceeds the general profit level of Chinese producers.

In addition, in *Steelforce Trading Pty Ltd v Parliamentary Secretary to the Minister for Industry, Innovation and Science* [2018] FCAFC 20 (19 February 2018), the Court stated: “Whilst it is true that the inquiry in s 269TAC(2)(c)(ii) is hypothetical, the methodologies for assessing that hypothesis are not hypothetical. Indeed, what reg 45 sets out is a range of real world proxies which can be determined and which are to stand in the place of, and provide the answer to, the hypothetical question posed by s 269TAC(2)(c)(ii).”¹¹ This means that, in determining constructed profit, the Commission must rigorously assess the relevance and reasonableness of the selected proxy, rather than artificially inflating the normal value without a factual basis.

IV. The Commission’s Methodology Fails to Ensure a Fair Comparison

1. WTO and Australian Legal Framework Establishes the Requirement of Fair Comparison

Article 2.4 of the WTO ADA provides: “A fair comparison shall be made between

¹¹ See link: https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2018/20.html?context=1;query=%5B2018%5D%20FCAFC%2020;mask_path=, para.93.

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the export price and the normal value. This comparison shall be made at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time.”

Section 269TAC(2)(ii) of the *Australian Customs Act and Regulation 45(3) of the Customs (International Obligations) Regulation 2015* (the “Regulation”) permit the investigating authority to construct the normal value under certain conditions, but require that such constructed value must be based on a “reasonable” basis and must not lead to unfairness.

2. Legal Inconsistency in the Commission’s Methodology

The Commission’s approach in this case reflects a tendency of “selective reliance”:

- (i) *In constructing costs:* the Commission considers that the Company’s raw material costs “are not considered normal or ordinary,” and therefore applies third-party benchmarks to increase raw material costs by 52%–70%.
- (ii) *In determining profit:* the Commission nevertheless adopts an export profit rate calculated based on the Company’s actual costs (i.e., the same costs that are considered “not normal”).

This approach gives rise to a logical inconsistency: **if the Commission considers that the Company’s actual costs are “not normal” and therefore cannot be used to construct the normal value, then the profitability derived from those same “not normal” costs should likewise not be regarded as a “normal” source of profit.** Conversely, if the Commission considers that the profit rate calculated on the basis of

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actual costs is reliable, this implies an acceptance of the reasonableness of those costs, and there would be no basis to adjust them upward.

3. Relevant Judicial and WTO Practice

In the case of *Changshu Longte Grinding Ball Co., Ltd v Parliamentary Secretary [2019] FCAFC 122*,¹² heard by the Full Federal Court of Australia, the appellant explicitly raised the exact same issue of logical inconsistency as in this case. In that case, the investigating authority replaced the raw material costs with higher values when determining Chinese production costs, but did not use these higher costs when determining the related profit (if the adjusted production costs had been used to calculate the profit rate, the profit rate would have been lower). In short, the authority constructed value using inflated costs but calculated profit based on actual costs, resulting in an artificially increased profit rate.

Although the appeal was ultimately dismissed, the Full Federal Court formally examined and recorded this issue of logical inconsistency as a central ground of appeal. In other words, the Australian judicial system has recognized the existence of this methodological controversy and its potential impact on the calculation of the dumping margin.

Similarly, in the WTO dispute concluded in May 2024 involving Chinese wind towers, stainless steel sinks, and railway wheels (DS603), the Panel explicitly found that the practice of the Australian anti-dumping authority violated WTO rules. The Panel stated: “we note that the ADC applied a profit rate to a constructed cost of

¹² See link: <http://mailhost.worldlii.org/au/cases/cth/FCAFC/2019/122.html>.

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production using surrogate costs, rather than using the Chinese exporter's recorded costs of production we find that the ADC acted inconsistently with Article 2.2.2(i).”¹³

The timing of this Panel report (2024) is very close to the investigation period of the present case and is of significant reference value. The Commission's approach in this case of “increasing costs while retaining the profit rate based on actual costs” is, in essence, the same as the practice identified as non-compliant in the aforementioned WTO ruling. The Commission's approach effectively creates an artificially inflated normal value, calculated as follows:

[Commercially Sensitive Information: Company's calculation related data]

This combination of “high costs + high profit” results in a normal value far exceeding any reasonable level. With export prices unchanged, it inevitably leads to an excessively high dumping margin. This directly contravenes the fundamental requirement of “fair comparison” under Article 2.4 of the WTO ADA.

In this regard, the Company recall China's submission in the DS603: “On the one hand, actual export prices were formulated by the Chinese exporters on the basis of their knowledge and understanding of the production of those goods in China, the actual costs of production in China, and the exporters' desired profit for producing and selling those products from China to customers in other countries. On the other hand, constructed normal values were calculated by the Commission on the basis of unrealistic and inflated costs of production, which did not reflect the recorded cost of

¹³ See Para 7.338, page 98, Panel Report of DS603.

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the exporters nor the cost of production in China as the country of origin.”¹⁴

Specifically, in this case, the Commission used costs higher than the exporter’s recorded costs when constructing the normal value. These costs were not known to the exporters at the time of setting export prices and therefore could not have served as a basis for pricing. However, the profit adopted by the Commission is based on the profits that the exporter expected to earn using its own actual, lower costs. If the exporter had set the export price based on the Commission’s increased costs, the profit rate could not remain the same as that based on lower costs, because the exporter could not have sold at the original price under such elevated costs.

In summary, the method is objectively unreasonable in terms of logic. If the Commission continues to apply this method in this case, such method will similarly face inherent logical flaws and be difficult to withstand judicial scrutiny.

V. Conclusion and Requests

For the reasons set out above, Kaize respectfully submits that the Commission’s preliminary dumping margin calculations suffer from fundamental legal and methodological defects.

First, the Commission’s decision to reject Kaize’s recorded costs of galvanised HRC and replace them with an upwardly adjusted international benchmark is inconsistent with Article 2.2.1.1 of the WTO ADA. The Commission has expressly acknowledged that Kaize’s accounting records are maintained in accordance with

¹⁴ See Para 7.105, page 45, Panel Report of DS603.

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GAAP and reflect the actual costs incurred. Under established WTO jurisprudence, such records must form the basis for cost calculations unless the investigating authority demonstrates a legally sufficient basis for departing from them. Regrettably, no such basis exists in the present case.

Second, the Commission's methodology for determining profit is internally inconsistent and inconsistent with Article 2.2.2 of the ADA. The Authority simultaneously treats the Company's costs as "distorted" while relying on profit information derived from those same allegedly distorted market conditions. This approach results in an artificially inflated constructed normal value.

Third, the Commission's approach ultimately produces a constructed normal value that is inconsistent with the requirement of a fair comparison under Article 2.4 of the ADA and the corresponding provisions of Australian law, including section 269TAC of the Customs Act 1901 and Regulation 45 of the Customs (International Obligations) Regulation 2015. The combination of an upwardly adjusted cost base and an inflated profit margin leads to a normal value that no longer reflects the commercial reality of the exporter.

In light of the above, Kaize respectfully requests that the Commission:

Recalculate the constructed normal value using Kaize's recorded HRC costs, which the Commission has already confirmed to be GAAP-consistent and reasonably reflective of the Company's actual production costs;

Reconsider the selection of the profit source and apply a profit methodology consistent with the hierarchy established under Article 2.2.2 of the ADA and the

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requirement of reasonableness under Australian law;

Revise the preliminary dumping margin calculations accordingly, ensuring that the resulting normal value reflects a commercially realistic and legally compliant comparison.

Kaize appreciates the Commission's careful consideration of these comments and remains available to provide any further information that may assist the Authority in reaching a legally sound and economically accurate determination. Thank you for your continued efforts.



Luo, Xinqu

Partner, Jingtian & Gongcheng

Dated: 31 March 2026

(END)