



Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

Attn: Leora Blumberg
Panel Member
c/o ADRP Secretariat

By email: ADRP@industry.gov.au

Dear Member Blumberg

ADRP Review No. 174: certain interchangeable bolted clipping system clip heads exported from China

I write regarding the notice under section 269ZZI of the Customs Act 1901 (Cth) (the **Act**) published by the Anti-Dumping Review Panel (**ADRP** or **Review Panel**) on 10 December 2025.

The notice advised of your intention to review the decision of the Minister for Industry and Science, under section 269TG(1) and 269TG(2) of the Act for the publication of a dumping duty notice applying to certain interchangeable bolted clipping system clip heads exported from China.

I have considered the application for review submitted by applicant AC Plumbing Supplies Pty Ltd (Australian Consolidated Plumbing or ACP) and make the submissions, under section 269ZZJ(aa) of the Act, at **Attachment A** for your consideration.

Please let us know if we can assist you further in this matter.

Yours sincerely

David Latina
Commissioner

8 January 2026

COMMISSIONER, ANTI-DUMPING COMMISSION SUBMISSION
ADRP Review 2025/174

1. The Commissioner of the Anti-Dumping Commission (the **Commissioner**), with the assistance of officers of the Anti-Dumping Commission (the **commission**), makes this submission under section 269ZZJ(aa) of the *Customs Act 1901* (Cth) (the **Act**).¹
2. The submission is made in response to an application for review to the Anti-Dumping Review Panel (the **ADRP** or **Review Panel**) from AC Plumbing Supplies Pty Ltd (Australian Consolidated Plumbing) (the **Applicant** or **ACP**).
3. The application seeks review of the decision by the Minister for Industry and Science (the **Minister**) for the publication of a dumping duty notice under section 269TG(1) and 269TG(2) of the Act in respect of certain interchangeable bolted clipping system clip heads (the **goods/ clip heads**) exported to Australia from China. The Applicant seeks review of the Minister's decision (the **Reviewable Decision**). The Minister's decision accepted the recommendations of the Commissioner's set out in Final Report 645 (**REP 645**).² REP 645 followed the making of the Statement of Essential Facts (**SEF 645**).
4. The submission includes two parts: **Part A** and **Part B**.
5. **Part A** clarifies that this submission has been informed by the scope of the review as articulated in the Application for Review and set out in the Review Panel's notice under section 269ZZI (**section 269ZZI notice**).
6. **Part B** sets out the following:
 - Section 1 sets out the Commissioner's submissions in respect of **ground 1** of the Application for Review.
 - Section 2 sets out the Commissioner's submissions in respect of **ground 2** of the Application for Review.
 - Section 3 sets out the Commissioner's submissions in respect of **ground 3** of the Application for Review.
 - Section 4 articulates why the Reviewable Decision is the correct and preferable decision.

Part A: Scope of the review

7. The section 269ZZI notice sets the parameters of the review. As required by section 269ZZI(2)(b), the notice identified that the Review Panel 'is satisfied that the following three grounds are reasonable grounds for the Reviewable Decision not being the correct or preferable decision':
 - a. Ground 1 Incorrect reliance on section 269TAC(6) to determine the normal value

¹ All legislative references in this submission are to the *Customs Act 1901* (Cth) ('the Act'), unless otherwise specified.

² The commission notes that the application for review makes some references to Final Report 644 which the commission has taken to refer to REP 645 also.

- b. Normal values not in “ordinary course of trade”
- c. Erroneous determination of material injury, based on the following factors:
 - i. Price undercutting;
 - ii. Market size and composition;
 - iii. Loss of sales volumes to mutual customers;
 - iv. Profit effects; and
 - v. The size of the dumping margin

8. The scope of review is confined to these grounds of review and the Applicants' contentions which underpin those grounds.³
9. Refer to Appendix A for further background information regarding the ADRP review and the commission's investigation and reports.

Part B: The Commissioner's submissions

Section 1: Commissioner's submissions in respect of Ground 1

ACP's submission in respect of ground 1: incorrect reliance on section 269TAC(6) to determine the normal value

10. ACP claim that there was sufficient information to determine Fenghui's normal value under section 269TAC(2)(c) in respect to the goods produced by Qinyan, and that the absence of cost of production information for Zhenli does not prevent the use of section 269TAC(2)(c) in relation to the goods Fenghui purchased from Qinyan.
11. The commission understands ACP's submission to be that:
 - a. it accepts that since the commission did not have the production costs of Zhenli, that when calculating the normal value for like goods supplied by Zhenli there was not sufficient information available and so the use of section 269TAC(6) was open to the commission when determining the normal value for goods supplied by Zhenli; and
 - b. in effect, normal value should be supplier specific rather than exporter focused.

Factual circumstances relevant to the commission's consideration of normal value

12. For the purpose of evaluating the commission's approach and assessing the claims made by ACP, we set out here the factual context that informed the commission's approach to determining normal value. Fenghui is the exporter of the goods exported from China to Australia, as set out in REP 645. Amongst many facts that support the commission's determination that Fenghui is the exporter is that Fenghui stipulates the specifications for the goods produced by Qinyan and liaises with the importer, ACP, a related party to Fenghui.⁴ However, as the manufacturing of the exported goods is fully outsourced to Qinyan and Zhenli, it is the costs incurred by those entities that are a critical element of determining normal value. Fenghui warehouses and ships the goods to ACP, but the manufacturing process is undertaken by, and those costs attributable to, Qinyan and Zhenli. As the commission notes in REP 645, “while typically the manufacturer may also be the

³ Wigney J in *Yara AB v Minister for Industry, Science and Technology* [2022] FCA 847.

⁴ REP 645, pp. 31-32.

exporter, it is not always the case".⁵ In such cases where the exporter is not the manufacturer, as in this case, the commission approached its task of determining normal value having regard to the range of information made available from all entities that could provide information on the cost of production, selling, general and administration (**SG&A**) expenses and profit.

The commission's consideration of section 269TAC(2)(c)

13. The commission's assessment of normal value followed the steps required under the Act. Given that there was an absence of sales of like goods in China, the commission assessed whether section 269TAC(2)(c) applied.⁶ As only one of the manufacturers supplying Fenghui had provided information and as Zhenli, the other manufacturer, had not provided cost of production information, the commission concluded there was not sufficient information to proceed under section 269TAC(2)(c).⁷

Normal value relates to the goods exported by the exporter

14. The commission's approach is to determine normal value for the goods exported by the exporter (Fenghui), not the normal value as it applies to each separate supplier. In this respect, having regard to the factual circumstances and the available evidence in this case, the commission submits that the determination of the normal value for the goods exported by Fenghui is appropriately determined using the one methodology, under section 269TAC(6).

15. In determining normal value under section 269TAC(6), the commission was determining the normal value of the goods exported to Australia by Fenghui. The commission considers this approach aligns to how the export price is determined.

The determination of normal value took into account the fact that there was more than one party that produced the goods exported to Australia by Fenghui.

16. In this case, the exporter sourced goods from two producers and no cost of production information was available for one of them, Zhenli. Relevant to the commission's consideration was that Zhenli supplied a significant proportion (approximately [REDACTED] [REDACTED]) of the goods purchased by Fenghui. The commission assessed that the use of only Qinyan's cost of production information would not appropriately represent a reliable cost of production for the entire goods exported by Fenghui.

17. In the absence of information provided by Zhenli, the commission was unable to reliably determine if Zhenli's costs to produce were higher or lower than Qinyan's. In the instance that Zhenli's costs to produce were higher than Qinyan's, a normal value that assumed the same cost of production for Zhenli, as that of Qinyan's, would produce an understated normal value. Conversely, if Zhenli's costs to produce were in fact lower than Qinyan's, this would produce an overstated normal value.

18. The commission found that [REDACTED] [REDACTED] which indicates that there are likely cost differences between the two producers also but could not positively establish, given the absence of information from Zhenli, that this was attributable to the cost of production. Therefore, the commission considers that it is not reasonable to assume that the cost of production of the exported goods sourced from both Zhenli and Qinyan are the same.

⁵ REP 645, p. 33.

⁶ See REP 645, p. 34.

⁷ See REP 645, p. 35.

19. Relevantly, it would not in any case have been possible to establish different normal values for each producer that could then be matched to an export price based on the manufacturing source. This is because Fenghui warehouses the goods from both suppliers together and sells the goods to ACP from inventory, and does not track which sales originate from a particular manufacturer. The commission was therefore not able to identify the manufacturer (Qinyan or Zhenli) of the goods in each export sale for models manufactured by both companies.⁸
20. The commission notes that in SEF 645, the commission had calculated the normal value of the goods exported by Fenghui by having regard to Qinyan's cost of production, SG&A expenses and profit on its sales of the goods to Fenghui. The commission also had regard to Fenghui's profit on its domestic sales in China, plus its SG&A expenses. While not explicitly stated in the SEF, the commission had regard to the difference in the price of the goods purchased by Fenghui from Zhenli and Qinyan when determining the normal value in SEF 645. The commission altered this approach following a submission⁹ from Qinyan and Fenghui but still maintaining an approach focused on the exporter by having regard to the cost of purchase of goods sourced from both Qinyan and Zhenli. Both approaches that were used in the SEF and in REP 645 took into account the fact that there was more than one party involved in manufacturing the goods exported to Australia by Fenghui. In both the SEF and REP 645 the commission used the best information available to it at the time that enabled it to determine normal value for the exporter, Fenghui.

Sufficient information

21. The commission considers that it did not have sufficient information regarding the cost of production for producer Zhenli (to determine the cost of production for the exported goods) and so the commission did not consider it appropriate to use section 269TAC(2)(c) due to the information that was lacking and moved to applying section 269TAC(6).
22. The commission submits that ACP misconceives the statutory test of "sufficient information". Sufficiency is a qualitative and contextual assessment, requiring information that is complete, reliable and representative of the cost of the production of goods under consideration.
23. The Act does not oblige the commission to extrapolate unknown costs from partial data, nor to accept information that would result in an unrepresentative normal value.¹⁰
24. Given the information available to the commission in this case, it was open to the Commissioner to conclude that the normal value of the goods exported to Australia by Fenghui could not be determined under section 269TAC(2)(c) and to instead apply the methodology in section 269TAC(6), which is available when "*the Minister is satisfied that sufficient information has not been furnished or is not available to enable the normal value of goods to be ascertained under the preceding subsections...*". In such instances, the normal value is such amount as is determined by the Minister having regard to all relevant information.

⁸ EPR 645, Document no. 20, p. 6.

⁹ EPR 645, Document no. 28.

¹⁰ *Steelforce Trading Pty Ltd v Parliamentary Secretary to the Minister for Industry, Innovation and Science* [2018] FCAFC 20, the no evidence ground is touched on in this case. It was also discussed in the original case (*Steelforce Trading Pty Ltd v Parliamentary Secretary to the Minister for Industry, Innovation and Science* [2016] FCA 1309).

Qinyan's information

25. The commission considers that ACP's claim that Qinyan's records meet the requirements of Regulation 43 of [Customs \(International Obligations\) Regulations 2015](#) ("the Regulations") is misdirected. As the commission has explained in the preceding paragraphs, the commission after determining that there was an absence of sales in China, was next required to assess whether it was able to proceed under section 269TAC(2)(c) and subsequently determined that it could not. For the purpose of applying Regulation 43(2) as required under section 269TAC(2)(c), the commission did not have the information available to it that would have enabled it to apply that regulation.
26. The commission agrees with ACP that the records of producers can be used but considers that this is not the central point at issue given the facts of this case. The commission considers it was not possible to apply Regulation 43(2) in circumstances where information from Zhenli was not provided and the goods that Zhenli produced made up a significant portion of the goods exported by Fenghui. The commission in its Verification Report did make findings on the adequacy of the information provided by Qinyan¹¹ but did not proceed to apply Regulation 43(2) to Qinyan's information as it was not appropriate to do so in light of the fact that the records of the cost of production of the exported goods did not cover all goods the subject of the investigation, being those supplied to Fenghui by both Qinyan and Zhenli. It was unnecessary to consider whether Qinyan's records complied with Regulation 43.
27. The commission, in light of the absence of information provided by Zhenli, appropriately had recourse to section 269TAC(6). This approach provided for a proper comparison with the export price (being the purchase price from Fenghui, as exporter and not the purchase price from the producers (Qinyan or Zhenli)). The commission submits that there needs to be congruence between the method of calculating the normal value and the export price to ensure like is compared to like.¹² Ultimately, the objective of the various methodologies is to arrive at variable factors applicable to the exporter.

Profit

28. ACP claim profit should be determined under section 269TAC(2)(c)(ii) which would require consideration of the Regulations, specifically regulation 45.
29. At the outset the commission submits that for the reasons set out above in paragraphs 13 to 27 the commission was correct in determining normal value under section 269TAC(6) and therefore, there was no obligation for the commission to consider Regulation 45, specifically Reg 45(4). Nonetheless, the commission has addressed certain claims made by ACP relating to profit.
30. With respect to ACP's claim that a view could easily be formed that profit normally realised by other producers is zero, the commission submits that would not be a "reasonable" method (noting regulation 45(3)(c)),¹³ particularly when on the available evidence before the commission, the commission established that Fenghui's own sales of general plumbing products on the domestic market were profitable.

¹¹ See EPR 645, Document no. 19.

¹² *Powerlift (Nissan) Pty Ltd v Minister of State for Small Business, Construction and Customs* [1993] FCA 38, 40 (Hill J).

¹³ Noting the commission does not accept that regard must be had to Regulation 45(3)(c) in any case, given the commission's section 269TAC(6) was the correct provision to determine normal value under.

31. For completeness, the commission notes that it undertook a comprehensive analysis of Fenghui's domestic sales/selling prices to address Fenghui's profit claims made in the course of the investigation as to different levels of trade and concluded that Fenghui's claims could not be substantiated.¹⁴ The commission fully evaluated Fenghui's proposal to use CITIC Metal Co., Ltd's (**CITIC**) profit margin but did not consider that CITIC's profit margin was a reasonable or relevant profit amount to use in determining the normal value. The commission reached this considered position given CITIC's products were not in the same category as the goods sold by Fenghui, CITIC was a subsidiary of a large conglomerate in China that was ultimately state-owned, and the commission did not have detail of CITIC's sales transactions to enable assessment of the specific terms and conditions including whether sales were arm's length. The commission reasoned that it was not clear how, or why, this profit margin would make the transaction conditions more comparable to the exported goods. The same or similar issues arose with respect to other alternative profits margins put forward by Fenghui with respect to other companies.¹⁵
32. For the reasons outlined above, the commission considers it correct and preferable to use Fenghui's own profit margin, for the same general category of goods, as explained in REP 645 to determine the profit margin.
33. For the above reasons the profit used by the commission was the correct and preferable profit margin to use, in determining the normal value for like goods.

SG&A Costs

34. ACP claim SG&A should be determined under section 269TAC(2)(c)(ii) and in accordance with the regulations, being Fenghui's SG&A costs on sales of the same general category of goods (plumbing products) in China because Fenghui's records meet generally accepted accounting principles (**GAAP**) requirements and Fenghui has been identified as the exporter (as per regulation 44(3)(a)). Alternatively, ACP claim that regulation 44(3)(c) could be used.
35. The commission submits that for the reasons set out above in paragraphs 13 to 33 the commission was correct in determining normal value under subsection 269TAC(6) and therefore, there was no obligation for the commission to consider Regulation 44(3), specifically Reg 45(4). The commission had regard to Fenghui's SG&A expenses, which appears to be what ACP claims is appropriate, albeit under section 269TAC(6).

Qinyan's SG&A and profit

36. The commission here addresses what appears to be ACP's primary claim in relation to SG&A and profit, that the normal value ascertained by the commission on the basis of section 269TAC(6) "effectively has two levels of SG&A and two levels of profit".¹⁶
37. As the commission stated in REP 645, "because there is more than one party involved in the exportation of the goods, the price of the goods exported to Australia by Fenghui essentially reflects the price of the goods as purchased by Fenghui from the manufacturers, plus Fenghui's respective margin and SGA&A expenses."¹⁷ Footnote 60 makes clear that '[t]he price paid by Fenghui for these goods is essentially the cost of the goods as incurred by Fenghui." That conclusion was based on factual evidence of the sales price paid by Fenghui to both producers, Qinyan and Zhenli.

¹⁴ REP 645 pp. 37-40.

¹⁵ See REP 645, p. 39.

¹⁶ ACP Application for Review, p. 11.

¹⁷ REP 645, p. 35.

38. The commission considers that Qinyan's SG&A costs and profit are integral elements that are to be factored in when the objective is to arrive at "the normal value" being "the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arms length transactions by the exporter". In REP 645, the commission in using the actual sales price paid by Fenghui to Qinyan included the SG&A and profit of Qinyan because goods sold in the OCOT for home consumption will necessarily include those costs and profit and there was no evidence before the commission to indicate otherwise. The commission does not consider it unreasonable to assume a profit in the ordinary course of trade, consistent with section 269TAAD, absent any information to the contrary and using information provided by Qinyan that disclosed a profit.
39. The commission considers that ACP's reading of Regulation 43 to support its contentions is misplaced. The choice of records to use, either the exporter's records or a producer's records, does not alter the objective of achieving a normal value that can be compared to the export price. Regulation 43 mandates the use of records in certain circumstances; it is not a substitute for the requirements of section 269TAC.¹⁸

Commission's view of correct or preferable decision

40. The commission submits that the approach for determining normal value undertaken in the inquiry under section 269TAC(6), set out in REP was sound and it properly supported its finding with respect to the normal value.

Section 2: Commissioner's submissions in respect of Ground 2

ACP's submission in respect of ground 2: Normal Value in the ordinary course of trade

41. ACP's claim is that the normal value as assessed in REP 645 is not correct or preferable because it was not determined with a view to achieving a value akin to a price achievable in the ordinary course of trade. ACP claim that it is not apparent that regard was had to that consideration in determining the normal value and the lack of consideration of this point is evidenced by the significant profit that was applied to represent a domestic market profit.
42. As outlined above in paragraphs 28 to 33, the commission carefully considered the most reasonable, reliable and appropriate profit margin to use based on the facts and circumstances of this case. The commission submits that ACP has not outlined a reasonable argument as to why any other profit margin is correct and/or preferable.
43. While it may be that a price in the ordinary course of trade that "breaks even" can be in the ordinary course of trade, ACP gives no reason as to why a "zero amount of profit" or a break even profit should be used. Especially in circumstances where the commission submits that the most reasonable and relevant profit margin to use would be Fenghui's own profit relating to its domestic sales of the same general category of goods (products used in plumbing applications).
44. ACP cannot claim a profit is not in the ordinary course of trade simply because it is not a "zero" or "break even" profit, or on the basis that they consider the profit to be "inflated". In fact, the concept of "ordinary course of trade" under section 269TAAD contemplates that a lower price, in particular where it is below the cost of such goods, is indicative of a transaction that is not in the ordinary course of trade.

¹⁸ *Steelforce Trading Pty Ltd v Parliamentary Secretary to the Minister for Industry, Innovation and Science* [2018] FCAFC 20, paragraph 108.

45. The profit margin used, as outlined in REP 645, came from actual domestic sales that the commission carefully considered and was of the view were commercially normal and representative (and not based on whether they were "high" or "low").¹⁹

46. The commission submits that the profit margin used was correct and preferable. The commission has set out in REP 645 the reasoning for why it considered the profit reasonable and representative, based on the information the commission had available to it.

Section 3: Commissioner's submissions in respect of Ground 3

ACP's submission in respect of ground 3: Erroneous determination of material injury

47. The commission submits that the material injury determination undertaken in the investigation, set out in REP 645 and below, was sound and properly supported its finding that dumped goods have caused material injury to an Australian industry under sections 269TG(1) and 269TG(2).

Price undercutting

Competitive cross-over between Abey and ACP imported goods

48. ACP claims that for the commission's price under-cutting analysis, there was limited competitive cross-over between Abey's goods and imported goods, citing that Abey's sales to mutual customers represented only a small share of its overall sales and that the cross-over with Radius was negligible. ACP further contends that REP 645 improperly attributed unprofitability, price depression, and price suppression across the injury analysis period to dumped imports.

49. As explained in REP 645, the commission's price-undercutting analysis did not rely solely on the volume of mutual customer sales.²⁰ Rather, the commission examined pricing dynamics and market behaviour during the investigation period, including evidence that ACP and Radius significantly undercut Abey's prices on almost all sales to mutual customers and that ACP and Radius (via its customer) supplied a greater volume of goods to these customers than Abey.²¹ The commission found that the volume of dumped goods imported from China and sold to mutual customers was equivalent to a quarter of the total volume of like goods sold by the Australian industry in the investigation period.

50. The commission found that price undercutting was significant and widespread, particularly in relation to common customers. This analysis supports the conclusion that dumped imports exerted downward pressure on prices, resulting in price depression and suppression during the investigation period.

51. The commission considers that the pricing behaviour observed in these transactions is indicative of broader market dynamics. The commission also notes that the injury determination was based on multiple factors, including reduced profitability, price effects, and loss of market share, all of which coincided with increased volumes of dumped imports

¹⁹ In SEF 645 and REP 645, the commission agreed with Fenghui's submission that in calculating the profit achieved on its domestic sales, the commission should exclude or disregard a sale of a particular product (confidential). The commission considers that this product is not a finished product that is normally sold by Fenghui and is therefore not relevant to the goods (being finished or final products) under consideration. Accordingly, the commission had excluded the sale of this product from the calculation of profit in SEF 645 and REP 645.

²⁰ REP 645, pp. 61-62.

²¹ REP 645, pp. 53, 58-59.

PUBLIC RECORD

from China.²² These findings support the conclusion that dumped imports materially contributed to the injury suffered by the Australian industry.

Amount of ACP's goods that price undercut Abey's goods

52. The commission also notes ACP's claim regarding the estimated proportion of goods that undercut Abey's prices. However, as explained in pages 52 to 53 of REP 645, the commission's analysis of price undercutting levels shows that, for most products (identified by product code) sold by both ACP and Abey, ACP undercut Abey's prices.²³ In terms of the three largest products by volume, prices were largely consistent across the products with prices within a 4% price band.
53. Importantly, in REP 645 the commission found that Abey had reduced prices in order to compete with ACP's dumped goods and ACP could only maintain comparable pricing for these high-volume codes by sourcing dumped goods.²⁴ Had ACP purchased imported goods at undumped prices, its prices would have been between 13% and 49% higher than Abey's.²⁵ This supports the finding that dumping materially contributed to price depression and suppression during the investigation period. The commission considers this analysis, instead of the proportion of ACP's goods that undercut Abey's prices, to be more relevant to the injury determination.

Price-undercutting is a key determinant causing material injury

54. The commission notes that REP 645 expressly considered ACP's submissions on non-price factors, including claims that customers are highly influenced by product availability, range, and that suppliers offering a broader range of products are more likely to secure sales. These submissions were addressed in detail in the REP 645.²⁶ For these reasons, the commission does not accept ACP claims that REP 645 failed to address its argument that non-pricing factors, such as product range and supplier capability, influence customer purchasing decisions and therefore undermines the conclusion that price undercutting caused material injury.
55. The commission's findings in REP 645, based on all available information, shows that there is no evidence to suggest that these 'other factors' were decisive or that they negate the impact of price undercutting. The commission undertook steps to verify ACP's claims, including sending questionnaires to customers identified in ACP's submissions and approaching a major retailer to obtain information on procurement arrangements. None of the customers responded, and the retailer did not provide any information.²⁷ In the absence of such evidence, the commission had to rely on all other available information.
56. The commission's analysis indicates that retailers typically source goods from multiple suppliers and that purchasing decisions are not exclusively driven by product range. Evidence shows that some of Abey's customers purchased clip heads from both Abey and ACP during the investigation period, and that clip heads represent a not insignificant proportion of the total value of some orders.²⁸ Further, evidence provided by ACP and Abey shows that customers do (and are encouraged to) compare prices of products within the same product category, such as the 'clips' category which captures the goods the subject

²² REP 645, pp. 44-45.

²³ REP 645, p. 52.

²⁴ REP 645, pp. 52-53, 59-60 and 61-63.

²⁵ REP 645, p. 53.

²⁶ REP 645, pp. 66-72.

²⁷ Ibid.

²⁸ Ibid.

of the investigation. There is also evidence to suggest that customers also provide ‘feedback’ to suppliers on pricing of goods within the same category by providing information on the variance in prices offered by their current supplier and the competing supplier, presumably with the aim of leveraging a better price.²⁹

57. This, combined with the commission’s price undercutting analysis on pages 51 to 54 of REP 645, demonstrates that price cannot be discounted as a factor influencing customer decisions.

Market size and competition

Abey has lost market share in an injurious manner

58. ACP claims that REP 645 did not establish that Abey lost market share in an injurious manner, citing concerns about the completeness of the market share analysis and the absence of direct evidence linking price undercutting to Abey’s inability to capture more of the market growth. ACP also contends that the commission’s market estimate was insufficient because it relied on data from Abey, ACP, and Radius, and did not include other suppliers such as Couta. ACP further notes that Abey captured approximately one-third of the market growth based on the three participants analysed.³⁰
59. The commission acknowledges that Abey captured some growth during the investigation period. However, as explained in REP 645, despite overall market expansion for the goods, Abey’s relative position with Chinese imported goods deteriorated. Imports from China captured a much greater share (approximately 70%) of the market growth, while Abey captured only around 30%.³¹ This resulted in a further reduction in Abey’s market share in the investigation period, coinciding with a significant increase in dumped imports that undercut Abey’s prices. The commission considers this trend to be indicative of material injury caused by dumping.
60. Regarding ACP’s claim that the market share analysis was incomplete, the commission notes that the analysis was based on the best available information, including data obtained from Abey, ACP, and Radius—the key parties identified during the investigation. While ACP suggests that other suppliers may exist, ACP did not provide evidence of additional suppliers beyond those already considered. As discussed on pages 26 to 27 of REP 645, the commission has also relied on ABF import data and conducted relative value comparisons of Couta’s goods. Based on this information, the commission is satisfied that the volume of Couta’s goods is significantly lower than goods imported by ACP and Radius, and is satisfied that Couta’s imports trended similarly to the overall market and increased significantly in the investigation period.³²
61. The commission therefore maintains that its market share analysis was reasonable and consistent with the statutory framework. While Abey captured some growth, the commission considers that the loss of market share relative to the growth captured by dumped imports, combined with evidence of price undercutting, establishes that the dumped goods caused material injury to the Australian industry.

²⁹ REP 645, p. 68.

³⁰ See ACP Application for Review, Attachment 2, p. 18.

³¹ REP 645, p. 56.

³² *Ibid.*

Loss of sales to mutual customers

Use of loss of sales data from prior to the investigation period was not to attribute injury prior to investigation period to dumping

62. ACP claims that REP 645 relied on loss of sales data prior to the investigation period, as far back as FY2018, as a factor in its material injury recommendation (REP 645, pp. 58 and 72). ACP cited the *Infrabuild* case³³ in support of its position that there is no statutory basis to attribute injury prior to the injury period to dumping.

63. The commission agrees with the principles articulated in *Infrabuild* at paragraphs 61 to 64. Specifically, section 269T(2AD) must be read in light of the Minister's statutory task to reach a state of satisfaction, which permits examination of periods prior to the investigation period to inform that task.³⁴ However, the Minister cannot investigate dumping margins outside the investigation period and cannot presume that goods exported before the investigation period were dumped.³⁵ Further, there is no statutory basis to attribute injury observed in a prior period to dumping.³⁶

64. Consistent with these principles, the commission confirms that REP 645 did not attribute injury prior to the investigation period to dumping. Rather, earlier periods were examined to assess whether material injury during the investigation period was caused by dumping, without inferring or presuming dumping occurred before the investigation period. Historical data was used solely for context and trend analysis, not for attributing injury outside the investigation period to dumping. Specifically, the data demonstrated that customers previously sourced significant volumes from Abey before switching to imports³⁷ and showed that the decline in Abey's sales volumes coincided with ACP and Radius entering the market in 2018–2019.³⁸

65. The commission considers that the mutual customers assessment is relevant because it shows that customers that are supplied by Abey purchased a greater volume of the goods from either ACP or Radius (via its customer, a distributor). It also shows that because ACP and Radius' customer are now supplying these customers, Abey is supplying a much lower volume of these goods than it used to.

66. The commission found that Abey's prices were undercut before and during the investigation period. In the investigation period, the goods were significantly dumped and price undercutting was significant, particularly in respect of sales made to the same customers supplied by Abey and its competitors. There is also evidence that ACP approached Abey's customers and encouraged them to compare ACP's prices to Abey's prices in an effort to 'win' new customers or business, including evidence of customer feedback with respect to prices.³⁹ The evidence provided by ACP is consistent with evidence provided by Abey that customer's compare prices across suppliers. This indicates that prices are considered by customers and underlines the importance of price in that consideration.

67. The commission considers that while Abey's sales volumes to common or mutual customers were in decline prior to the investigation period, the significant undercutting evident in the investigation period further eroded Abey's sales volumes to these customers which are

³³ *Infrabuild NSW Pty Ltd v Anti-Dumping Review Panel* [2023] FCA 1229 ('*Infrabuild*').

³⁴ *Ibid*, paragraph 61.

³⁵ *Ibid*, paragraphs 62 to 63.

³⁶ *Ibid*, paragraph 64.

³⁷ REP 645, p. 60.

³⁸ REP 645, p. 58.

³⁹ REP 645, p. 60, see also footnote 91.

PUBLIC RECORD

supplied by imported goods. In addition, the price advantage resulting from the high levels of dumping identified undermined Abey's ability to reclaim or at least maintain market share in relation to sales to these customers.

68. In the context that ACP encouraged customers compare prices, the commission considers that if the goods were not dumped, the price advantage afforded to importers of the goods from China would have been eliminated, and in respect of the highest volume product codes sold in the Australian market, the imported goods would likely have been uncompetitive relative to Abey's prices.
69. Based on the above, the commission considers that the level of dumping identified in the investigation period, which was reflected in the levels of undercutting observed, has entrenched the price advantage importers enjoy relative to Abey in respect of those common or mutual customers that have shifted sourcing away from Abey in favour of imported goods. The entrenched price advantage resulting from the high levels of dumping identified undermined Abey's ability to reclaim some of the sales volumes to these customers and therefore led to a further reduction in Abey's market share in the investigation period.

The commission considered 'other factors that could have caused injury' under section 269TAE(2A)

70. The commission notes that the Minister's responsibility under section 269TAE(1) is to reach a state of satisfaction that the exportation of dumped goods is causing material injury to the Australian industry. In doing so, section 269TAE(2A) requires the Minister to consider whether any other factors (aside from the exportation of the dumped or subsidised goods) are causing injury and, if so, ensure that such injury is not attributed to dumping. This is the non-attribution requirement that reflects Article 3.5 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (WTO Anti-Dumping Agreement) and Article 15.5 of the *Agreement on Subsidies and Countervailing Measures* (SCM Agreement).
71. Under section 269TAE(2A), the obligation is to consider other potential causes and exclude any injury caused by them from being attributed to dumping. However, other causes must be supported by evidence. As *Infrabuild* emphasises, the Minister's task is a state-of-satisfaction exercise grounded in evidence, not speculation.⁴⁰ ACP's claim that customer needs "may have changed" was not accompanied by evidence, and REP 645 properly records that no evidence was provided and none was found by the commission.⁴¹
72. The Federal Court has consistently characterised the causation inquiry under section 269TAE of the *Customs Act 1901* as "essentially a practical exercise" that involves assessing and weighing the evidence rather than requiring mathematical precision. In *Yara*,⁴² the Court observed that causation is a question of fact requiring the assessment and weighing of evidence, and that material injury can be identified even where precise quantification is not possible. Similarly, in *Siam*,⁴³ the Court stated that the decision-maker must have an objectively identified basis to conclude that dumping has caused or is causing material injury after excluding other causes in accordance with section 269TAE(2A).
73. REP 645 meets this standard. In section 7.8 of REP 645, the commission considered factors other than dumping that could have caused injury, and concluded that these other factors have not played a decisive or causative role in the injury found. The commission identifies

⁴⁰ *Infrabuild*, paragraphs 61-64.

⁴¹ REP 645, p. 61.

⁴² *Yara v Minister for Industry* [2022] FCA 857 at paragraph 88.

⁴³ *Siam Polyethylene Co Ltd v Minister of State for Home Affairs* [2009] FCA 837 at paragraph 107.

price undercutting linked to dumped imports in pages 60 to 61, documents customer switching among mutual customers in pages 65 to 69, and records the absence of any evidenced alternative cause in pages 70 to 72. This constitutes proper application of section 269TAE(2A). Accordingly, ACP's allegation that REP 645 failed to conduct the required non-attribution exercise should be rejected. The commission properly turned its mind to "other factors," took steps to look for evidentiary support for any such factor, and could identify none, and accordingly found that dumped imports caused material injury during the investigation period.

74. The commission submits that the Minister's overarching question under sections 269TG and 269TAE is whether the exportation of dumped goods caused material injury during the investigation period. REP 645 demonstrates compliance with this requirement.

Profit effects

75. ACP submits that REP 645 did not establish a strong argument that growing competition from dumped imports contributed to price suppression and loss of profit, citing its earlier claims that the market share finding was inconclusive and that the majority of ACP's sales did not undercut Abey's prices.

76. The commission notes that REP 645 outlines the basis of the commission's finding that while there may be other factors which could have influenced Abey's profitability over time, increasing competition from dumped goods and the associated loss of market share were the significant contributing factors to material injury during the relevant period.⁴⁴ This conclusion was supported by evidence of price undercutting, price suppression, and price depression which coincided with the entry and expansion of dumped imports from China.

77. The commission's price undercutting analysis observed that the margins of price undercutting were greater for common customers of Abey and ACP, and that ACP supplied a significantly higher volume of goods to these customers than Abey, reinforcing the finding that price competition driven by dumped goods displaced Abey's production volumes and caused injury.⁴⁵

78. The commission considers ACP's argument that the majority of its sales did not undercut Abey's prices and note that the finding of material injury in REP 645 focuses on whether dumped goods materially affected pricing and profitability in the market. The commission maintains that its finding on price suppression and loss of profit are based on a comprehensive analysis of pricing behaviour, market share trends, and the impact of dumped goods during the investigation period.

Size of dumping margin

79. ACP claims that the dumping margins calculated in REP 645 are inaccurate and significantly inflated because the commission did not determine normal value under section 269TAC(2)(c) but rather under section 269TAC(6). In addition, ACP claim that REP 645 did not consider, when determining a normal value under section 269TAC(6) the concept of the "ordinary course of trade" as a relevant consideration when determining price/profit. The commission disagrees with ACP's claim and refers to the reasoning outlined above for Grounds 1 and 2 and the detailed reasoning set out in REP 645.⁴⁶

⁴⁴ REP 645, p. 72.

⁴⁵ REP 645. pp. 52-53.

⁴⁶ REP 645, pp. 34-37.

PUBLIC RECORD

80. As detailed in REP 645 and above, the commission considered whether normal value could be determined under section 269TAC(2)(c), and assessed that there was not sufficient information to proceed on that basis. In applying section 269TAC(6), the commission considered the prices paid by Fenghui to Qinyan and Zhenli, as well as Fenghui's margin and SG&A expenses, and made adjustments to ensure comparability with the export price. The commission also considered Fenghui's actual profit on products in the same general category (plumbing) sold in China, as outlined in REP 645. The commission considers that its approach to calculate normal value is consistent with the statutory framework.

Section 4: Reviewable Decision was the correct and preferable decision

81. The commission considers that the reviewable decision is the correct and preferable decision. The evidence before the commission informed its approach to assessing which methodology was to be used for determining normal value, and this was in accordance with the legislative requirements. The commission determined that there was not sufficient information to establish the normal value under section 269TAC(2)(c) and properly applied section 269TAC(6) having regard to the totality of the information before it. In line with its conclusion that there was not sufficient information, its recommendations on profit and SG&A costs were appropriately made under section 269TAC(6) and utilised the best information available. In addition, the commission's findings on injury were made as a result of extensive analysis and well supported.

Appendix A: Background to ADRP Review

82. On 9 April 2024, the commission received an application from Abey Australia Pty Ltd (Abey) seeking the publication of a dumping duty notice and a countervailing duty notice in respect of certain interchangeable bolted clipping system clip heads (the goods) exported to Australia from China. On 25 June 2024, the Commissioner published Anti-Dumping Notice (ADN) No 2024/041 under section 269TC(4) of the Act to advise interested parties that the Commissioner had initiated an investigation under Division 2 of the Act.
83. On 12 March 2025, the Commissioner made a Preliminary Affirmative Determination (PAD) under section 269TD(1) after being satisfied that there appeared to be sufficient grounds for the publication of a dumping duty notice and required securities to prevent material injury to the Australian industry while the investigation continued. At the time, the Commissioner was not satisfied that there appeared to be sufficient grounds to make a PAD in relation to the publication of a countervailing duty notice.
84. On 27 June 2025, the Commissioner published a Statement of Essential Facts (SEF 645) proposing to recommend to the Minister to publish a dumping duty notice in relation to the goods.
85. On 11 August 2025, the Commissioner terminated the subsidy investigation pursuant to section 269TDA(2)(b)(ii) based on finding a negligible subsidy margin. Public notification of this decision was made on 11 August 2025. Termination Report No. 645 (TER 645) sets out the material findings of fact supporting this decision.
86. After completing the investigation, the Commissioner provided the final report 645 (REP 645) dated 12 September 2025 to the Minister, recommending the Minister to publish a dumping duty notice in relation to the goods exported from China.
87. On 2 October 2025, the Minister declared by ADN 2025/090 that he had decided to publish a dumping duty notice:
 - a. under section 269TG(1) (noting section 45) and declare that section 8 of the Customs Tariff (Anti-Dumping) Act 1975 (the Dumping Duty Act) applied to like goods and like goods that were exported to Australia from China four months prior to the publication of the notice; and
 - b. under section 269TG(2) and declare that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia from China after the date of publication of the notice.
88. In the Reviewable Decision, the Minister stated that he had considered and accepted the Commissioner's recommendations and reasons for recommendations, including all material findings of fact or law set out in REP 645. The Reviewable Decision was published on the commission's website on 2 October 2025.
89. The Review Panel received an application for a review of the Reviewable Decision from AC Plumbing Supplies Pty Ltd (Australian Consolidated Plumbing, the applicant, or ACP) and following a conference with the Legal Representatives of the Applicants on 20 November 2025 and 2 December 2025, published a section 269ZZI notice on

PUBLIC RECORD

10 December 2025 advising of the Review Panel's intention to review the decision of the Minister.⁴⁷

⁴⁷ Anti-Dumping Review Panel, Public Notice - Intention to conduct a review, (Notice of ADRP Review 174, 10 December 2025)