



Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

Attn: Pouyan Afshar
Senior Member
c/o- ADRP Secretariat

By email: ADRP@industry.gov.au

Dear Senior Member Afshar

**ADRP Review No. 173: interchangeable bolted clipping system brackets
exported from the People's Republic of 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 9 January 2026.

The notice advised of your intention to review the decision of the Minister for Industry and Science, under sections 269TG(1) and (2) of the Act to publish a dumping duty notice applying to interchangeable bolted clipping system brackets exported from the People's Republic of China.

I have considered the application for review submitted by AC Plumbing Supplies Pty Ltd 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
Anti-Dumping Commission

6 February 2026

COMMISSIONER, ANTI-DUMPING COMMISSION SUBMISSION

ADRP Review 2025/173

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 (the **Applicant** or **ACP**).
3. The application seeks review of the decision by the Minister for Industry and Science (the **Minister**) to publish a dumping duty notice under sections 269TG(1) and 269TG(2) of the Act in respect of interchangeable bolted clipping system brackets (**brackets**) exported to Australia from the People's Republic of China. The Applicant seeks review of the Minister's decision (the **Reviewable Decision**). The Minister's decision accepted the recommendations of the Commissioner set out in Final Report 644 (**REP 644**). REP 644 followed the making of the Statement of Essential Facts (**SEF 644**).
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 grounds are reasonable grounds for the Reviewable Decision not being the correct or preferable decision':
 - a. **Ground 1**: Incorrect reliance on s 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.

- b. **Ground 2:** Normal Values not in “ordinary course of trade”
 - c. **Ground 3:** Erroneous determination of material injury.
8. The scope of review is confined to these grounds of review and the Applicants’ contentions which underpin those grounds.²
9. Refer to Attachment 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 ACP’s claims, 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 644. Among the 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 Fenghui liaises with the importer, ACP, a related party to Fenghui.³ 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 644, “while typically the manufacturer may also be the exporter, it is not always the case.”⁴ 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

² Wigney J in *Yara AB v Minister for Industry, Science and Technology* [2022] FCA 847.

³ REP 644, pp. 32-33.

⁴ REP 644, p.34.

provide information on the cost of production, selling, general and administration (**SG&A**) expenses and profit.

The commission's consideration of section 29TAC(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.⁵ 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).⁶

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 **[Confidential Information: ██████████]**) 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 the price of goods purchased from Zhenli differed to the price of goods purchased from Qinyan, 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 644, p.36.

6 REP 644, p.36.

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.⁷
20. The commission notes that in SEF 644, 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 644. The commission altered this approach following a submission⁸ 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 644 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 644 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.⁹
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

⁷ EPR 644, Document 37, page 32.

⁸ EPR 644, Document 37, p 37-38.

⁹ *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).

instances, the normal value is such amount as is determined by the Minister having regard to all relevant information.

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 Qinyan¹⁰ 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.¹¹ 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"

¹⁰ See EPR 644, Document 22.

¹¹ *Powerlift (Nissan) Pty Ltd v Minister of State for Small Business, Construction and Customs* [1993] FCA 38, 40 (Hill J).

method (noting regulation 45(3)(c)),¹² 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.

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.¹³ 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.¹⁴
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 644 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

12 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.

13 REP 644, page 38-41.

14 REP 644, pages 38-41.

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".¹⁵
37. As the commission stated in REP 644, "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."¹⁶ Footnote 63 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.
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 644, 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 269TAA, 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.¹⁷

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 644 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 ordinary course of trade

41. ACP's claim is that for normal values determined under subsection 269TAC(6) (noting the ADRP's determination of Ground 1 will dictate whether that is all goods or only those purchased by Fenghui from Zhenli) the method used in REP 644 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 (OCOT). ACP claim that it is not apparent that

15 ACP Application for Review, p.11.

16 REP 644, p.36.

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

regard was had to the OCOT consideration in determining the normal value and the lack of consideration of this point is evidenced by:

- a. the price base used for the normal value, being the price between Fenghui and its suppliers, not considering whether prices are representative of 'ordinary course of trade' prices; and
- b. the significant profit that was applied to represent a domestic market profit.

Price base for normal value should only use OCOT prices

42. ACP claim that it is observable from Fenghui's submission dated 17 July 2025 that Fenghui has identified particular sales at the product and invoice level that had "unusual" prices. ACP claim these prices were not set having regard to either the nature of the product nor the dynamics of the market, but rather appear to have been set for purposes other than commercial purposes.

43. ACP claim, based on the policy set out in the Dumping and Subsidy Manual, which states that:

"Depending on the circumstances, profitable sales may not be in the ordinary course of trade. These circumstances may include sample sales, promotional sales made at special prices, end of season sales, low quantity sales, or sales in other unusual circumstances"

that the "unusual sale" referred to in Fenghui's submission¹⁸ should be excluded from the price base/ sales used to determine the normal value, as not being in the ordinary course of trade.

44. ACP claim that given the commission has been able to determine a profit on these sales they assume the commission must at least have price and cost information and so be in a position to determine whether the price charged on an invoice for the good is in-line with other transactions for the same products across the investigation period. If not, that would support Qinyan's position that the relevant sale was not normal and ACP claim it should then be removed from the price-base used to determine the normal value.

45. The commission submits if ACP is of the view that the particular "unusual price" or "unusual sale" concerned should be excluded, that ACP would need a really strong argument as to why it should not be included, given the following:

- a. The OCOT provisions in the legislation do not explicitly provide for what is to occur in circumstances where the price is "unusually" high, but rather only explicitly refers to prices not being in the OCOT when they are lower than the cost of the goods and the seller is unlikely to recover the cost of such goods in a reasonable period.¹⁹ Given the legislation does not explicitly provide that unusual, presumably higher, priced items are not in the OCOT, given the transaction appears to be arms length there would not

18 Please note that while ACP refer to this submission as "Fenghui's submission", this was actually a joint submission on behalf of Fenghui and Qinyan, which is important because they (the submitting consultants) have access to information from both parties.

19 See section 269TAAD of the Customs Act 1901.

appear to be a strong argument to apply the policy as set out in the Dumping and Subsidy Manual to this case.

- b. In any case the particular "unusual sales" listed in the Dumping and Subsidy Manual, while referred to as "profitable sales" still tend to be sales that are at reduced prices. For example "sample sales", and "promotional sales" made at "special prices", and end of "season sales". The general category of "profitable sales" listed in the Dumping and Subsidy Manual are still reduced price sales, not sales that have "significant" or "unusual" profit (noting for the reasons below we do not actually consider the prices to be "unusual" or the profit to necessarily be "significant", but rather commercially justifiable given the facts and circumstances present). None of Qinyan's sales to Fenghui were sales of 'promotional' or 'sample' goods, nor were they 'end of season' sales or sales of non-prime ('low-quality') goods.
- c. As mentioned above, the sales appear to have occurred in the OCOT given there is nothing to suggest they were not arms-length transactions²⁰ ACP claim the prices were set for "other commercial purposes". However, Fenghui and Qinyan's submission seems to suggest the higher price was because the goods concerned were a new model for Qinyan to produce and that the goods were to be produced within a short timeframe. This would appear to be a genuine commercial reason for increasing the price for a good, given producing a new model and within a short time frame are factors that would likely increase the cost to make. For instance, it is likely these changes would lead to additional costs for employees to work overtime, for employees with particular expertise to assist in the production of the new model, and for the set up costs to produce the new model (e.g. the manufacturer would need new tooling for the new model, the template of which, would likely have set up costs). In this respect the submission states:

*"The reason for this unusual price is that **this is the first time for Qinyan to produce this model** and Fenghui agreed to accept this unusual price in gratitude for Qinyan's good effort in **supplying the products in time** and for supporting Qinyan as a newly established enterprise, which is not based on the product reason or the market reason. Since this sale does not happen in the normal trade situation, we request the Commission with respect to delete this sale accordingly."*

- d. In addition, with respect to ACP's claim that the "unusual" prices were not set having regard to the either the nature of the product nor the dynamics of the market but rather appear to have been set for purposes other than commercial purposes, the commission notes that Fengui and Qinyan have not provided any information or evidence to confirm this claim (nor has ACP).

ACP claim Profit too high that it cannot have considered OCOT concept

46. With respect to ACP's claim that the profit added was too high, 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.

²⁰ See section 269TAA of the Customs Act 1901.

The commission submits that ACP has not outlined a reasonable argument as to why any other profit margin is correct and/or preferable.

47. With respect to whether any profit needs to be included in the normal value, ACP claim that even a price 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).
48. 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 269TAAAD 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.
49. The profit margin used, as outlined in REP 644, 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”).²¹
50. The commission submits that the profit margin used was correct and preferable. The commission has set out in REP 644 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

51. The commission submits that the material injury determination made in the investigation, as set out in REP 644 and discussed below, was sound and provided proper support for the finding that dumped goods have caused material injury to an Australian industry under sections 269TG(1) and 269TG(2).
52. ACP claim more generally that during the period of investigation Abey has increased its total sales volume, its unit price, and its profit and profitability,²² and have not suffered injury in the forms of price suppression or price depression.
53. Noting the levels of price undercutting observed, the commission considers that the Australian industry has prioritised maintaining a margin of profit on its sales rather than competing on price with dumped goods that are undercutting its prices. While the

21 In SEF 644 and REP 644, 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 644 and REP 644.

22 See REP 644, pages 45-47.

commission did not find that this has caused any material price depression or price suppression in the investigation period, it has led to the Australian industry foregoing sales volumes and losing market share to dumped goods that have undercut its selling prices.

Loss of market share

54. ACP claim the Australian market for the goods grew in the period of investigation and that despite Abey increasing its sales volumes, Abey claims its market share decreased.
55. The commission acknowledges that Abey captured some growth during the investigation period. However, as explained in REP 644, 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 87%) of the market growth, while Abey captured only around 13%.²³ This resulted in a further reduction in Abey's market share in the investigation period, coinciding with a significant increase in dumped imports that enabled importers to be significantly more competitive on price than would have been the case had the goods not been dumped. The commission considers this trend to be indicative of material injury caused by dumping.

Material injury should not be based on only reduced market share

56. ACP claims that the decision and finding of material injury appears to be based on Abey's reduced market share and market share is only one of ten factors to be considered in section 269TAE(3) and should not be the decisive factor.
57. The commission considers that the loss of sales volumes (figure 3 in chapter 6 of REP 644) and market share (figure 2 in chapter 6 of REP 644) over the injury period has directly resulted in reduced capacity utilisation (Table 10 in Chapter 6). Further, it is evident that the Australian industry reduced capital investment (table 10 in chapter 6) during the period when its sales volumes and market share decreased. The commission considers that it is reasonable to conclude from this that the Australian industry has decided to not invest in circumstances where it is continuing to lose sales volumes and market share.
58. The commission submits that the Commissioner was satisfied that exports of the dumped goods from China caused material injury to the Australian Industry producing like goods in the form of forgone sales volume, loss of market share, and forgone profit as a result of the loss of market share as set out in REP 644.²⁴ In addition, the Australian Industry suffered injury in the form of reduced value of assets, reduced capital investment, reduced capacity utilisation, reduced production and increased inventory.²⁵
59. While there is a focus in REP 644 on loss of market share, the various economic factors interrelate and impact upon each other. As can be seen, REP 644 also considered price undercutting, forgone sales volume, forgone profit, reduced value of assets, reduced value of capital investment, reduced capacity utilisation, reduced production and increased inventory.

23 REP 644, p 54.

24 REP 644, section 1.4.5 and Chapter 7.

25 See REP 644, at Part 7.7.

Abey lost market share in an injurious manner

60. ACP submit that because the market used is an “estimate” and a “reasonable approximation” based on “available information”, it does not demonstrate accuracy.
61. ACP’s position regarding accuracy arises from import consignments considered as part of ACP’s verification not always containing the goods concerned. ACP submits that if this is the case, any inaccuracy could impact the approximation of the size and growth of the Australian market and the participants’ shares in the market.
62. ACP assert that one other issue affecting the accuracy of the market share determination is that Flexistrut was identified by Abey as a competitor but disappeared from the market. This should result in changes in market shares, but no change has been captured.
63. ACP refer to the “assumptive nature” of the finding that profit foregone was because the decline in market share was material. ACP claim that basing a material injury finding on the assumption that the Australian industry should have been able to take sales from other market participants, based on a rough approximation of the Australian market is not the correct or preferable decision.
64. ACP claim the underlying assumption appears to be that Abey is injured if it cannot sell more products at historically high prices and profit margins.
65. Regarding ACP’s claim that the market share analysis was inaccurate or 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 and Abey’s competitors in the Australian market. While ACP suggests that other suppliers may exist, ACP did not provide evidence of additional suppliers beyond those already considered. The commission did not rely on ABF data for ACP’s import volumes, but rather used the data provided by ACP to determine their share of the market.
66. In addition, REP 644, has already answered this same previous submission from ACP.²⁶ In this respect, the commission notes that with respect to Flexistrut, as noted on page 27 of REP 644 and as noted in Confidential Attachment 2 to REP 644, the commission is satisfied that Flexistrut did not import the goods. The commission also could not identify any imports of the goods by Flexistrut in the ABF data.
67. The commission also submits that REP 644 acknowledges that Abey provided evidence to demonstrate that it used to supply a particular customer with much greater volumes.²⁷ Volumes have now significantly decreased to this customer. Noting the price undercutting observed, the commission considers the distributor has gained sales volumes and built market share at the expense of Abey by significantly undercutting Abey’s prices to this customer.
68. In addition, as mentioned in REP 644,²⁸ there were no assumptions made about the prices or sales volumes that Abey should have been able to achieve during the investigation

26 REP 644, page 28.

27 REP 644, page 57-58.

28 See REP 644, at section 7.6 Profit effects.

period because the estimate was based on the actual reduction in its market share in the investigation period. As the commission has information on Abey's prices and profit margin in the investigation period, the commission was able to use the percentage point reduction in Abey's market share to estimate the profit forgone due to the reduction in Abey's market share in the investigation period.

69. The commission therefore maintains that its market share analysis, price undercutting analysis, and profit forgone finding was reasonable and consistent with the statutory framework. While Abey captured some growth (13%),²⁹ the commission considers that the loss of market share relative to the growth captured by dumped imports (imports from China capturing around 87%),³⁰ combined with evidence of price undercutting, forgone sales volume, forgone profit, reduced value of assets, reduced value of capital investment, reduced capacity utilisation, reduced production and increased inventory, establishes that the dumped goods caused material injury to the Australian industry.

Price Undercutting

70. ACP claim some of the assumptions seem to be based on a finding of price undercutting. ACP claim it is not clear Abey lost material volumes of sales to mutual customers of ACP and Abey in the investigation period, or that the growth in the market related to these customers.
71. As outlined in REP 644,³¹ the commission undertook an analysis of price undercutting based on sales data provided by the Australian industry, ACP and Radius. The commission firstly compared the Australian industry's Free into Store (FIS) prices in the investigation period to the FIS prices achieved by ACP for its Chinese imports in the same period.
72. REP 644 found that for the largest 3 product codes by volume sold to common customers (amounting to 86% of the combined sales of both), the rates of undercutting observed in the investigation period for these 3 product codes were 29%, 39% and 40%. This analysis showed the margins of undercutting were greater in relation to common customers.³²
73. 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.
74. ACP claim REP 644 does not cover the fact that price of goods is not determinative in a customer's choice of supplier. Market participants are not solely sellers of brackets, but also other products.

29 REP 644, page 54.

30 Ibid.

31 REP 644, page 50-53

32 REP 644, pages 69-71

75. REP 644 did consider whether price was a factor in customers' or purchasers' decision-making,³³ and considered based on sales data provided by ACP and Abey, that ACP has built the bulk of its market share since entering the Australian market by attracting customers that had previously sourced the goods from the Australian industry rather than new sources of demand.
76. The commission considered this shift has been facilitated by the significant levels of price undercutting observed in relation to common customers.
77. 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.³⁴ This indicates that prices are considered by customers and underlines the importance of price in that consideration.
78. The commission submits, as it did in REP 644, that the price undercutting and loss of market share analysis should be considered within the context of the size of the dumping margins of at least 71.2%. Meaning that the price paid by importers for undumped goods would have been up to 28% more expensive than what was in fact paid.³⁵
79. 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.

Section 4: Reviewable Decision was the correct and preferable decision

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

33 REP 644, page 52-53.

34 REP 644, page 59.

35 Ibid.

Appendix A: Background to ADRP Review

81. On 5 April 2024, the commission received an application from Abey Australia Pty Ltd (**Abey**) seeking the publication of a dumping duty notice and countervailing duty in respect of certain interchangeable bolted clipping system brackets (**the goods**) exported to Australia from China. On 25 June 2024, the Commissioner published Anti-Dumping Notice (ADN) No 2024/040 under section 269TC(4) of the Act to advise interested parties that the Commissioner had initiated an investigation under Division 2 of the Act.
82. On 12 March 2025, the Commissioner³⁶ 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.
83. On 27 June 2025, the Commissioner placed a Statement of Essential Facts (**SEF 644**) on the public record proposing to recommend that to the Minister to publish a dumping duty notice in relation to the goods.
84. 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. 644 (TER 644) sets out the material findings of fact supporting this decision.
85. After completing the investigation, the Commissioner provided Anti-Dumping Commission Final Report No 644 (**REP 644**) to the Minister, recommending the Minister to publish a dumping duty notice in relation to the goods exported from China.
86. On 2 October 2025, the Minister declared by ADN 2025/089 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 six months prior to the publication of the notice; andunder 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. In the Reviewable Decision, the Minister stated he had considered and accepted the Commissioner's recommendations and reasons for recommendations, including all the material findings of facts or law, set out in REP 644. The Reviewable Decision was published on the commission's website on 02 October 2025.
87. 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 published a section 269ZZI notice on 9 January 2025 advising of the Review Panel's intention to review the decision of the Minister.³⁶

³⁶ Anti-Dumping Review Panel, *Public Notice – Intention to conduct a review*, (Notice of ADRP Review 173, 9 January 2025).