Australian Government
Anti-Dumping Review Panel

Application for review of a Ministerial decision

Customs Act 1901 s 269ZZE

This is the approved[1] form for applications made to the Anti-Dumping Review Panel (Review Panel) on or after 20 October 2025 for a review of a reviewable decision of the Minister.

Any interested party[2] may lodge an application to the Review Panel for review of a Ministerial decision.

All sections of the application form must be completed unless otherwise expressly stated in this form.

The Review Panel maintains a public record for reviews of decisions of the Minister. If a review is initiated, a copy of the application will be placed on the Review Panel's website.

Please note that the existence of applications will be disclosed on the Review Panel's 'Pending Applications and Duty Assessments' webpage prior to initiation, including the following information:

- Relevant reviewable decision
- Country and goods to which the application relates
- Number of applications
- Status (e.g. application/s under consideration)

Time
Applications must be made within 30 days after public notice of the reviewable decision is first published.

Conferences
The Review Panel may request that you or your representative attend a conference for the purpose of obtaining further information in relation to your application. The conference may be requested any time after the Review Panel receives the application for review and before beginning to conduct a review. Failure to attend this conference without reasonable excuse may lead to your application being rejected. See the Review Panel website for more information.

Further application information
You or your representative may be asked by the Member to provide further information in relation to your answers provided to questions 9, 10, 11 and/or 12 of this application form (s 269ZZG(1)). See the Review Panel website for more information.

[1] By the Senior Member of the Anti-Dumping Review Panel under section 269ZY *Customs Act 1901*.
[2] As defined in section 269ZX *Customs Act 1901*.

Withdrawal
You may withdraw your application at any time, by completing the withdrawal form on the Review Panel website.

International Trade Remedies Advisory (ITRA) Service
Small and medium enterprises (i.e., those with less than 200 full-time staff, which are independently operated and which are not a related body corporate for the purposes of the *Corporations Act 2001*), may obtain assistance, at no charge, from the ITRA Service.

For more information on the ITRA Service, visit www.business.gov.au or telephone the ITRA Service Hotline on +61 2 6213 7267

Contact
If you have any questions about what is required in an application refer to the Review Panel website. You can also call the Review Panel Secretariat on (02) 6276 1781 or email adrp@industry.gov.au.

PART A: APPLICANT INFORMATION

1. Applicant's details

Applicant's name: **Baoshan Iron & Steel Co., Ltd.**
Address: **No.885 Fujin Road, Baoshan District, Shanghai City, China**
Type of entity (trade union, corporation, government etc.): **Corporation**

2. Contact person for applicant

Full name: **Ms. ZHANG Shichen**
Position: **Legal Counsel**
Email address: **zhangshichen@baosteel.com**
Telephone number: **+86 21 2664 3595**

3. Set out the basis on which the applicant considers it is an interested party:

Baoshan Iron & Steel Co., Ltd. is the producer and exporter of the subject goods.

4. Is the applicant represented?

Yes ☒ **No** ☐

If the application is being submitted by someone other than the applicant, please complete the attached representative's authority section at the end of this form.

It is the applicant's responsibility to notify the Review Panel Secretariat if the nominated representative changes or if the applicant become self-represented during a review.*

PART B: REVIEWABLE DECISION TO WHICH THIS APPLICATION RELATES

5. Indicate the section(s) of the *Customs Act 1901* the reviewable decision was made under:

☒Subsection 269TG(1) or (2) – decision of the Minister to publish a dumping duty notice

☐Subsection 269TH(1) or (2) – decision of the Minister to publish a third country dumping duty notice

☐Subsection 269TJ(1) or (2) – decision of the Minister to publish a countervailing duty notice

☐Subsection 269TK(1) or (2) decision of the Minister to publish a third country countervailing duty notice

☐Subsection 269TL(1) – decision of the Minister not to publish duty notice

☐Subsection 269ZDB(1) – decision of the Minister following a review of anti-dumping measures

☐Subsection 269ZDBH(1) – decision of the Minister following an anti-circumvention enquiry

☐Subsection 269ZHG(1) – decision of the Minister in relation to the continuation of anti-dumping measures

Please only select **one** box. If you intend to select more than one box to seek review of more than one reviewable decision(s), **a separate application must be completed**.

6. Provide a full description of the goods which were the subject of the reviewable decision:

The goods the subject of the reviewable decision are:

Hot rolled coil steel (including in sheet form), with or without patterns in relief (known as checker plate), whether or not containing alloys, not clad, plated or coated (other than oil coated).

7. Provide the tariff classifications/statistical codes of the imported goods:

The subject goods are classified using the classification and associated statistical codes below:

Tariff Classification	Statistical code
7208.25.00	32
7208.26.00	33
7208.27.00	34
7208.36.00	35
7208.37.00	36
7208.38.00	37
7208.39.00	38
7208.53.00	42
7208.54.00	43
7208.90.00	30
7211.14.00	40
7211.19.00	41

8. **Anti-Dumping Notice details:**

Anti-Dumping Notice (ADN) number: **2026/043 (refer to Attachment A)**
Date ADN was published: **4 May 2026**

Attach a copy of the notice of the reviewable decision (as published on the Anti-Dumping Commission's website) to the application

PART C: GROUNDS FOR THE APPLICATION

If this application contains confidential or commercially sensitive information, the applicant must provide a non-confidential version of the application that contains sufficient detail to give other interested parties a clear and reasonable understanding of the information being put forward.

Confidential or commercially sensitive information must be highlighted in yellow, and the document marked '**CONFIDENTIAL**' (bold, capitals, red font) at the top of each page. Non-confidential versions should be marked '**NON-CONFIDENTIAL**' (bold, capitals, black font) at the top of each page.

- Personal information contained in a non-confidential application will be published unless otherwise redacted by the applicant/applicant's representative.

For lengthy submissions, responses to this part may be provided in a separate document attached to the application. Please check this box if you have done so: ☐

Please note: Failure to adequately and accurately respond to questions 9 – 12 below may result in the application or ground/s being rejected pursuant to s 269ZZG(2) or s 269ZZG(5) of the *Customs Act 1901*. Where there are multiple grounds of review, it is important to address each of the questions below for each ground.

9. **Set out the grounds on which the applicant believes that the reviewable decision is not the correct or preferable decision:**

Ground 1: The Minister erred in law and fact by accepting the REP 658 recommendation to reject Baoshan 's verified GAAP-compliant steel slab cost records, and substitute with an inflated Brazilian benchmark, relying on a generalised particular market situation without any evidence that the records failed to reflect actual costs.

Ground 2: The Minister erred in law and fact by accepting the REP 658 recommendation to reject Baoshan 's verified GAAP-compliant iron ore costs, the single largest raw material component of slab, which is sourced at arm's-length international spot prices from unrelated miners with no GOC involvement, and include them in a Brazilian slab benchmark uplift, without any exporter-specific assessment or evidence that these records failed to reasonably reflect actual costs under Article 2.2.1.1.

Ground 3: The Minister erred in law and fact by accepting REP 658 recommendation to use an unadapted Brazilian steel slab benchmark, selected on superficial metrics with only minimal labour adjustments, as the external proxy for Baoshan 's slab costs, without exploring or explaining less distortive alternatives, and without adapting the benchmark to reflect the cost of production in China.

10. Identify what, in the applicant's opinion, the correct or preferable decision (or decisions) ought to be, resulting from the grounds raised in response to question 9:

Please refer at Attachment B.

11. Set out how the grounds raised in question 9 support the making of the proposed correct or preferable decision:

Please refer at Attachment B.

12. Set out the reasons why the proposed decision provided in response to question 10 is materially different from the reviewable decision:

Please refer at Attachment B.

13. Please list all attachments provided in support of this application:

Attachment A: ADN 2026/043 **Attachment B: Grounds of review**

PART D: DECLARATION

The applicant's authorised representative declares that:

- The applicant understands that the Review Panel may hold conferences in relation to this application, either before or during the conduct of a review. The applicant understands that if the Review Panel decides to hold a conference *before* it gives public notice of its intention to conduct a review, and the applicant (or the applicant's representative) does not attend the conference without reasonable excuse, this application may be rejected; and
- The information and documents provided in this application are true and correct. The applicant understands that providing false or misleading information or documents to the Review Panel is an offence under the *Customs Act 1901* and *Criminal Code Act 1995*.

NON-CONFIDENTIAL

Signature: 

Name: **JOHN BRACIC**

Position: **DIRECTOR**

Organisation: **J.BRACIC & ASSOCIATES PTY LTD**

Date: **02 / 06 / 2026**

PART E: AUTHORISED REPRESENTATIVE

Provide details of the applicant's authorised representative:

Full name of representative: **Ms. ZHANG Shichen**
Organisation: **Baoshan Iron & Steel Co.,Ltd**
Address: **885 Fujin Road, Boashan District, Shanghai, 201900, China**
Email address: **zhangshichen@Meishan.com**
Telephone number: **+86 21 2664 3595**

Representative's authority to act

The person named above is authorised to act as the applicant's representative in relation to this application and any review that may be conducted as a result of this application.

Signature:

Name: Shichen Zhang

Position: Compliance Manager

Organisation: Legal and Compliance Department of Baoshan Iron & Steel Co Ltd

Date: June 1, 2026

J.BRACIC & ASSOCIATES
TRADE REMEDY ADVISORS

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2 June 2026

Anti-Dumping Review Panel
c/o Legal, Audit and Assurance Branch
Department of Industry, Science and Resources
GPO Box 2013
Canberra ACT 2601

INTRODUCTION

On 4 May 2026, the Anti-Dumping Commission ("Commission") published its final report ("Report 658") into its dumping investigation into hot rolled coil steel ("HRC") exported from the People's Republic of China ("China").

Baoshan Iron & Steel Co., Ltd. ("Baoshan") is a Chinese producer and exporter of HRC to Australia, and fully cooperated with the Commission's investigation.

The Minister for Industry and Science (The Minister) accepted the recommendations contained in Report 658, and imposed a 59.1% interim dumping duty on Baoshan's exports.

Baoshan's application for review of the Minister's decision sets out grounds on which it considers that the Minister's decision to determine a dumping margin of 59.1%, is not correct or preferable. [3]

GROUND 1: The Minister erred in law and fact by accepting the REP 658 recommendation to reject Baoshan 's verified GAAP-compliant steel slab cost records, and substitute with an inflated Brazilian benchmark, relying on a generalised particular market situation without any evidence that the records failed to reflect actual costs.

QUESTION 9: SET OUT THE GROUNDS ON WHICH THE APPLICANT BELIEVES THAT THE REVIEWABLE DECISION IS NOT THE CORRECT OR PREFERABLE DECISION

The Minister's decision of 4 May 2026 to impose interim dumping duties on HRC exported by Baoshan is not the correct or preferable decision because the Minister (via the Anti-Dumping Commission ("the Commission") in REP 658) erred in law and fact by rejecting Baoshan's verified, GAAP-compliant cost records for steel slab, the input comprising more than 90% of total production cost, and substituting an artificially inflated Brazilian market-index benchmark. This was done solely

[3] Following a conference meeting with the ADRP Member on 11 June 2026, a number of minor amendments were made to this application which included:
- additional footnotes relevant to referenced Appellate Body and Panel reports;
- clarification of the proposed correct or preferable decision relating to Ground 3;
- amended Ground 3 in Attachment B to be consistent with the description on page 6 of the application; and
- updating of the screenshot referenced in questin 10 of Ground 2.

on the basis of a generalised "particular market situation" (PMS) finding arising from broad Government of China influence across the steel sector, without any exporter-specific evidence that the records themselves failed to reasonably reflect actual costs incurred.

This methodology directly contravenes Article 2.2.1.1 of the WTO Anti-Dumping Agreement (as authoritatively interpreted by the *Panels in Australia – A4 Copy Paper (WT/DS529/R)* and *Australia – Certain Products from China (WT/DS603/R)*, and the *Appellate Body in EU – Biodiesel from Argentina (WT/DS473/AB/R)* and *Ukraine – Ammonium Nitrate (WT/DS493/AB/R)*). Those rulings establish that the two explicit conditions in the first sentence of Article 2.2.1.1 (GAAP compliance and reasonable reflection of actual costs) are exhaustive. A PMS finding justifying rejection of domestic selling prices under Article 2.2 does not permit departure from the exporter's records for cost construction. The Commission's approach constitutes an impermissible "backdoor" non-market-economy surrogate methodology, inconsistent with Australia's 2005 recognition of China as a market economy and the expiry of the transitional provisions in China's WTO Accession Protocol.

QUESTION 10: IDENTIFY WHAT, IN THE APPLICANT'S OPINION, THE CORRECT OR PREFERABLE DECISION (OR DECISIONS) OUGHT TO BE, RESULTING FROM THE GROUNDS RAISED IN RESPONSE TO QUESTION 9.

The correct or preferable decision is that the Minister ought to have:

a) determined that Baoshan 's verified cost records for steel slab (and all other elements of the cost to make and sell HRC) reasonably reflect the actual costs of production in China and must be used without substitution or uplift in constructing normal value under section 269TAC(2)(c)(i) of the Act; and
b) recalculated the normal values and dumping margins for Baoshan on that basis, resulting in a dumping margin that is either negative, zero or negligible;

This outcome would give full effect to the statutory presumption in favour of the exporter's own records, comply with Australia's WTO obligations under Articles 2.2 and 2.2.1.1 of the ADA, respect the 2005 bilateral recognition of China as a market economy, and produce dumping margins that accurately reflect commercial reality rather than an artificial Brazilian surrogate.

QUESTION 11: SET OUT HOW THE GROUNDS RAISED IN QUESTION 9 SUPPORT THE MAKING OF THE PROPOSED CORRECT OR PREFERABLE DECISION.

The reviewable decision is not the correct or preferable decision because the Minister erred in law and in fact by accepting the Commission's recommendation to reject Baoshan 's verified, GAAP-compliant cost records for steel slab, the input representing more than 90 per cent of the total cost to make HRC, and to substitute those costs with an artificially inflated benchmark derived from Brazilian steel slab market indices (adjusted only by minimal and selective labour factors). This substitution was effected in the construction of normal value under section 269TAC(2)(c)(i) of the Act for the purpose of determining a dumping margin for Baoshan during the investigation period 1 October 2023 to 30 September 2024.

In reaching that conclusion, the Commission found (and the Minister accepted) that the Chinese iron and steel industry is subject to a PMS arising from Government of China ("GOC") influence. The Commission determined that this influence has distorted prices and conditions of competition throughout the steel sector, with the effects occurring upstream in the production of key raw materials and inputs such as iron ore and coking coal. As steel slab constitutes the overwhelming majority of the cost to make HRC, the Commission concluded that Baoshan's recorded costs for slab "do not reflect competitive market costs" and that the circumstances of production are not "normal and ordinary".

On that basis the Commission invoked the "normally" qualifier in the first sentence of Article 2.2.1.1 of the Anti-Dumping Agreement ("ADA") to depart from Baoshan's verified records and substitute a

Brazilian surrogate benchmark for the steel slab component (with only limited labour adjustments). The Commission expressly linked its PMS findings in Appendix A of Report 658 to this cost-rejection decision, treating the generalised market distortions as sufficient justification for disregarding the exporter's GAAP-compliant records that otherwise satisfied the two explicit statutory conditions.

The Commission expressly acknowledged in Appendix C of REP 658 (and previously in Statement of Essential Facts No 658) that Baoshan's records satisfied the two explicit conditions of Article 2.2.1.1 of the ADA: they were kept in accordance with Chinese GAAP, and they reasonably reflected the actual costs associated with the production and sale of HRC. Despite this finding, the Minister permitted the Commission to disregard those records on the basis of a PMS arising from generalised GOC influence, and to replace the steel slab component with a Brazilian surrogate index. This approach is fundamentally inconsistent with the ordinary meaning, context and object and purpose of Article 2.2.1.1, as authoritatively interpreted by the WTO Appellate Body and Panels in a series of disputes.

1. Clear WTO findings and reasoning on the interpretation of Article 2.2.1.1

Article 2.2.1.1 of the ADA provides, in its first sentence:

> *For the purposes of paragraph 2, costs shall normally be calculated on the basis of records kept by the exporter or producer under investigation, provided that such records are in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the product under consideration.*

The Panels in *Australia – Anti-Dumping Measures on A4 Copy Paper* applied the reasoning of Article 2.2.1.1 directly to Australia's own investigating authority and reached findings that are indistinguishable from the present case. The Panel[4] held that the phrase "reasonably reflect":

> *"pertains solely to whether the records provide a faithful and logical allocation of costs actually incurred in relation to the production and sale of the product, and not to whether those costs are influenced by external market distortions."*

It emphasised the deliberate textual choice of the drafters[5]:

> *"'Reasonably' is not an adjective modifying the noun 'costs'. Indeed, the drafters of Article 2.2.1.1 could have used the adjective 'reasonable' to modify the noun 'costs'. The fact the drafters did not do so must be seen as intentional."*

The Panel concluded that Australia had acted inconsistently with Article 2.2.1.1 by rejecting the Indonesian exporters' recorded pulp costs solely because of an alleged PMS, without demonstrating that the records themselves failed to reflect the costs actually incurred.

The Panel[6] in *Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China* reached identical conclusions in disputes involving Chinese steel and other products. It rejected Australia's argument that a finding of "not normal" circumstances rendered further analysis of the two conditions redundant and held that:

> *"the word 'normally' may provide a basis for rejecting exporters' record costs when constructing normal value or performing the ordinary-course-of-trade test, but only in rare scenarios beyond the two conditions, such as evident misallocation, and not as a routine PMS exception."*

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[4] WT/DS529/R, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.124

[5] Ibid., para 7.36

[6] WT/DS603/R, *Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China, paras 7.58–7.62 and 7.85–7.87*

The Appellate Body in *European Union – Anti-Dumping Measures on Biodiesel from Argentina*[7] reinforced the same principle in language directly applicable here:

> *"… we agree with the Panel's statement that the EU authorities' determination that domestic prices of soybeans in Argentina were lower than international prices due to the Argentine export tax system was not, in itself, a sufficient basis under Article 2.2.1.1 for concluding that the producers' records do not reasonably reflect the costs of soybeans associated with the production and sale of biodiesel, or for disregarding those costs when constructing the normal value of biodiesel."*

These consistent findings across multiple WTO disputes establish beyond doubt that the two conditions in Article 2.2.1.1 are exhaustive and must be assessed independently before any derogation under "normally" may be invoked. The Commission may not substitute a "competitive market costs" or "undistorted costs" test for the statutory language. Generalised allegations of government influence or PMS do not justify disregarding verified exporter records for cost construction, and the focus remains squarely on whether the exporter's own records faithfully record the costs actually incurred in the country of origin.

2. The assessment in section C.7.1.2 of REP 658 fails to engage with or correct the fundamental legal errors

Section C.7.1.2 of REP 658 contains the Commission's direct response to Baoshan's detailed submissions on the interpretation and application of Article 2.2.1.1. That response is circular, conclusory, and demonstrably inconsistent with binding WTO jurisprudence. It does not correct the errors identified by Baoshan, and it merely restates them with greater emphasis.

The Commission asserts that, although Baoshan's records satisfy the two explicit conditions, the GOC's influence across the steel sector renders the circumstances "not normal and ordinary", thereby permitting departure under the "normally" qualifier. It claims that the records "do not reflect competitive market costs" because they embody the distortions prevailing in the abnormal market. This reasoning is defective for multiple independent reasons.

The Commission relies heavily on the Appellate Body's statement in *Ukraine – Anti-Dumping Measures on Ammonium Nitrate*[8] to justify its broad departure from Baoshan's records on the basis that the circumstances are "not normal and ordinary". However, the Commission's reading of that report is highly selective. While the Appellate Body observed that the word "normally" may admit of derogation in "certain circumstances" beyond the two explicit conditions, it immediately qualified that observation by emphasising the strong presumption in favour of using the exporter's records once those two conditions are satisfied. The Appellate Body stated[9]:

> *"Read in conjunction with the words 'provided that', which introduce the two conditions of the first sentence of Article 2.2.1.1, the word 'normally' indicates that when these two conditions are met, 'under normal or ordinary conditions' or 'as a rule', records shall be used."*

Any derogation is therefore permissible only in narrow, exceptional cases and must be narrowly justified by specific evidence demonstrating that the records themselves are unreliable for allocating costs to the production and sale of the product under consideration. The focus of the investigation remains strictly on whether the records "reasonably reflect the costs associated with the production and sale of the product under consideration", not on whether the underlying costs are

[7] WT/DS473/AB/R, *European Union – Anti-Dumping Measures on Biodiesel from Argentina, para. 6.39*

[8] See footnote 287 of REP 658

[9] WT/DS493/AB/R, *Ukraine – Anti-Dumping Measures on Ammonium Nitrate*, para. 6.89

"competitive", "undistorted", or formed under "normal" market conditions. As the Appellate Body expressly clarified[10]:

> *"There is no standard of reasonableness that governs the meaning of 'costs' itself, which would allow investigating authorities to disregard domestic input prices when such prices are lower than other prices internationally."*

The Commission therefore bears the burden of providing an adequate explanation, grounded in the record evidence, as to why the exporter's own records fail to satisfy this test. In the Ammonium Nitrate case itself, the Appellate Body[11] upheld the Panel's finding that Ukraine had violated Article 2.2.1.1 precisely because generalised government regulation of gas prices was not a sufficient basis to reject the producers' recorded costs.

The Commission has not met any of these requirements. It has identified no exporter-specific evidence that Baoshan's records are unreliable for cost allocation purposes. Instead, it relies exclusively on its generalised PMS findings in Appendix A to declare the entire market "not normal and ordinary". This selective and incomplete reading of the Appellate Body's findings cannot support the Commission's decision to disregard Baoshan's verified records.

The Commission's position is also squarely contradicted by binding WTO jurisprudence. The *Panels in Australia – Anti-Dumping Measures on A4 Copy Paper*[12], and *Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China*[13], expressly held that a PMS finding sufficient to reject domestic selling prices under Article 2.2 does not justify rejecting the exporter's cost records under Article 2.2.1.1. The "reasonably reflect" test is limited to whether the records faithfully allocate costs actually incurred by the exporter. It is not a licence to impose an extra-statutory "competitive market costs" standard. The Appellate Body in *European Union – Anti-Dumping Measures on Biodiesel from Argentina*[14] confirmed that even government-induced price differences are not, in themselves, a sufficient basis to disregard verified records.

At its core, the Commission's defence rests on circular reasoning and conflation of distinct statutory inquiries. It uses the PMS finding (made for the purpose of rejecting domestic sales prices) to declare the market "abnormal", then uses that abnormality to reject the cost records, then uses the rejected (and inflated) records to construct an inflated normal value. This self-reinforcing argument renders the entire analysis unsustainable. Article 2.2 and Article 2.2.1.1 are sequential, not interchangeable. Once domestic prices are set aside, the authority must still apply the independent, exporter-specific disciplines of Article 2.2.1.1.

3. The Minister's Interpretation and Application of Article 2.2.1.1 and Regulation 43 Constitutes an Impermissible Backdoor Method for Treating China as a Non-Market Economy

The Commission's (and thus the Minister's) approach in REP 658 is not merely inconsistent with Article 2.2.1.1, it is functionally equivalent to the exceptional non-market economy (NME) methodologies that Australia is legally precluded from applying to China following its formal recognition of China as a market economy in April 2005.

In REP 658 the Commission adopted an identical methodology to that criticised in earlier investigations. It stated that the significant influence of the GOC has distorted prices in the steel industry, rendering Chinese exporters' records unsuitable because they "do not reflect competitive market costs". Steel slab costs, which comprise the overwhelming majority of HRC cost to make and

[10] Ibid., para. 6.94.

[11] Ibid., para. 6.107

[12] WT/DS529/R, *Australia — Anti-Dumping Measures on A4 Copy Paper*, paras 7.3.2 – 7.3.4

[13] WT/DS603/R, *Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China*, paras 7.75 and 7.76

[14] WT/DS473/AB/R, *European Union — Anti-Dumping Measures on Biodiesel from Argentina*, para. 7.2

sell, were rejected on this basis alone and replaced with a Brazilian surrogate benchmark. The Commission expressly linked its PMS findings to the cost assessment, asserting that GOC-driven distortions in upstream inputs affect the conditions of commerce such that the records cannot be relied upon to reasonably reflect competitive market costs.

This reasoning is unsustainable and represents a backdoor revival of NME treatment. Market situation findings under Article 2.2 of the ADA (and section 269TAC(2)(a) of the Act) are concerned exclusively with the suitability of domestic selling prices for normal value purposes. Once domestic sales are rejected, the investigating authority must construct normal value in accordance with the ordinary rules of Article 2.2.1.1 and Regulation 43 of the Customs (International Obligations) Regulations 2015. The PMS assessment does not, and cannot, provide an independent basis for rejecting the exporter's cost records.

The Commission's attempt to conflate the two inquiries effectively bypasses the strict disciplines of Article 2.2.1.1 and substitutes the very exceptional methodologies that are reserved for genuine NME situations. The interpretative second Ad Note to Article VI:1 of the GATT 1994 recognises that special difficulties may exist "in the case of imports from a country which has a complete or substantially complete monopoly of its trade and where all domestic prices are fixed by the State", permitting importing Members to depart from a strict comparison with domestic prices. Section 15 of China's WTO Accession Protocol contained a similar, time-limited derogation allowing Members to use methodologies "not based on a strict comparison with domestic prices or costs in China" where market economy conditions could not be shown. Both the Panel[15] and Appellate Body[16] and have confirmed that these are exceptional provisions.

Australia[17] itself acknowledged this principle as a third party in the *EU – Biodiesel* dispute. The Panel recorded Australia's submission that Article 2.2 only addresses when normal value may be constructed, not how it must be constructed, and that explicit derogations (such as the second Ad Note and accession protocols) are required to disregard domestic costs. The Panel[18] expressly agreed.

If a generalised PMS finding of "broad GOC intervention" is enough to trigger the "normally" derogation, then the Commission has created an automatic switch that operates in every Chinese steel case, precisely what Australia's 2005 recognition of China as a market economy, and the expiry of Section 15(a)(ii) of China's Accession Protocol were designed to prevent. The second Ad Note to Article VI:1 of the GATT and Section 15 were exceptional provisions requiring explicit derogations. The Commission cannot achieve the same result by stretching the ordinary rules of Article 2.2.1.1.

Taken together, these flaws demonstrate that the Commission's invocation of the "normally" qualifier in section C.7.1.2 is not a legitimate application of Article 2.2.1.1. It is an impermissible rewriting of the provision that cannot withstand scrutiny and that risks undermining the predictability and consistency of Australia's trade remedy regime.

QUESTION 12: SET OUT THE REASONS WHY THE PROPOSED DECISION PROVIDED IN RESPONSE TO QUESTION 10 IS MATERIALLY DIFFERENT FROM THE REVIEWABLE DECISION.

The proposed decision is materially different from the reviewable decision because the erroneous cost-replacement methodology was the dominant driver of the positive dumping findings and the substantial duty rates ultimately imposed. Steel slab constitutes more than 90 per cent of the cost to make HRC. The Commission's average 37 per cent uplift to that single cost element produced a correspondingly large increase in constructed normal value. When compared against the verified

[15] WT/DS473/R, *EU – Anti-Dumping Measures on Biodiesel from Argentina*, paras 7.240 – 7.242

[16] WT/DS379/AB/R, *US – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China*, paras 568 – 572 and 583 – 586.

[17] WT/DS473/R, *EU – Anti-Dumping Measures on Biodiesel from Argentina*, paras 7.98 – 7.100

[18] Ibid., para 7.241

export prices (themselves subject to separate but related adjustments for profit, trader mark-up, ocean freight and marine insurance), this inflation generated the reported dumping margins that resulted in the combination-method dutie of 59.1 per cent for Baoshan.

Absent the uplift, normal values would be dramatically lower. The resulting margins would be expected to be negligible within the meaning of section 269TDA of the Act. A negligible margin precludes the publication of a dumping duty notice or requires a duty rate of zero. The difference is therefore not incremental but qualitative, as the reviewable decision imposes material, long-term duties that restrict trade and impose significant compliance costs. The proposed decision removes those duties entirely (or reduces them to de minimis levels).

GROUND 2: The Minister erred in law and fact by accepting the REP 658 recommendation to reject Baoshan 's verified GAAP-compliant iron ore costs, the single largest raw material component of slab, which is sourced at arm's-length international spot prices from unrelated miners with no GOC involvement, and include them in a Brazilian slab benchmark uplift, without any exporter-specific assessment or evidence that these records failed to reasonably reflect actual costs under Article 2.2.1.1.

QUESTION 9: SET OUT THE GROUNDS ON WHICH THE APPLICANT BELIEVES THAT THE REVIEWABLE DECISION IS NOT THE CORRECT OR PREFERABLE DECISION

The reviewable decision is not the correct or preferable decision because the Minister erred in law and in fact by accepting the Commission's recommendation in REP 658 to reject Baoshan's verified, GAAP-compliant iron ore costs, the single largest raw material component of its steel slab costs. The Commission did so without undertaking any exporter-specific assessment of whether Baoshan's iron ore records satisfied the "reasonably reflect" condition in Article 2.2.1.1 of the Anti-Dumping Agreement. Baoshan's records establish that its iron ore requirements during the investigation period were sourced exclusively from unrelated international miners at prevailing arm's-length international spot prices on the global seaborne market, with no Government of China involvement or price distortion at any stage of the supply chain.

The Commission's failure to conduct any such exporter-specific analysis, and its decision instead to apply the full Brazilian slab uplift across the entire slab cost component (including the verifiably undistorted iron ore element), directly contradicts binding WTO jurisprudence. The Commission offered no such evidence and made no attempt to isolate or preserve the undistorted iron ore component before applying the benchmark.

The Commission's approach is particularly stark when contrasted with the European Commission's recent 2025 investigation into flat-rolled steel products from China, which expressly preserved Baoshan's verified, undistorted iron ore import prices rather than substituting benchmarks. By failing to adopt a similarly granular, evidence-based methodology and by artificially inflating an entirely undistorted, internationally-priced cost component by approximately 37 per cent, the Commission produced a constructed normal value that bears no reasonable relationship to the actual cost of production in China. This constitutes a clear and independent violation of Article 2.2.1.1 of the Anti-Dumping Agreement.

QUESTION 10: IDENTIFY WHAT, IN THE APPLICANT'S OPINION, THE CORRECT OR PREFERABLE DECISION (OR DECISIONS) OUGHT TO BE, RESULTING FROM THE GROUNDS RAISED IN RESPONSE TO QUESTION 9.

The correct or preferable decision is that the Minister ought to have:

(a) determined that Baoshan's verified iron ore costs sourced from unrelated miners at international spot prices reasonably reflect the actual costs of production in China and must be used without substitution or uplift in constructing normal value under section 269TAC(2)(c)(i) of the Act;

(b) isolated the iron ore component of slab costs and applied any adjustment only to genuinely distorted elements (if any), consistent with the granular approach adopted by the European Commission in its 2025 flat-rolled steel investigations;
(c) recalculated the normal values and dumping margin for Baoshan on that basis, resulting in a materially lower dumping margin; and
(d) revoked or varied the dumping duty notice in respect of Baoshan accordingly.

Baoshan proposes that the correct and preferable decision involved adopting a more nuanced and WTO-consistent approach that preserves undistorted inputs while addressing alleged distortions. Specifically, given that Baoshan's iron ore imports reflect competitive international spot prices, verified as transactions free from GOC influence, the Commission ought to have followed the methodology employed by the European Commission in its flat-rolled products of iron or non-alloy steel plated or coated products investigation (*Commission Implementing Regulation (EU) 2025/1042*).

This involves applying the uplift exclusively to the non-iron ore portion of Baoshan's slab costs, thereby isolating and retaining the undistorted iron ore component. Such a granular adjustment ensures the constructed normal value remains reflective of "the cost of production in the country of origin" under Article 2.2 of the ADA, avoiding the disproportionate inflation caused by blanket substitution.

Baoshan submitted detailed costing information enabling precise tracing of costs back to iron ore purchases in “spreadsheet G-5 Australian CTM”, equipping the Commission with the data needed to calculate iron ore as a percentage of the raw material cost of HRC (iron ore as % of raw material cost of HRC). See screenshot below. Based on this, the ratio is approximately [redacted]% for Baoshan.

[SCREENSHOT REDACTED]

Subsequently, the proportion of slab cost to the HRC cost to make (slab as % of as-rolled coil CTM) has been calculated by the Commission in their worksheet “(a) Baoshan slab cost calcs” within “2026-03-06 - 658 - 3 Baosteel exporters - Cost replacement.xlsx” as approximately [redacted]%. See screenshot below.

[SCREENSHOT REDACTED]

These steps allow for an accurate determination of iron ore's proportion in the total raw material cost of the slab, ensuring that any uplift deemed appropriate by the Commission, is applied only to the non-iron ore cost elements.

The formula for this adjustment is as follows:

1. Iron ore as % of raw material cost of slab = iron ore as % of raw material cost of HRC * slab as % of as-rolled coil CTM
2. Replaced CTM = iron ore as % of raw material cost of slab * original raw material cost * (1 + uplifted ratio) + other part of raw materials cost + other part of cost item (such as labor, overheads)

This methodology aligns with WTO jurisprudence requiring adaptations to preserve undistorted costs, promoting fairness and proportionality. Baoshan urges its adoption to rectify the current overstatement.

This methodology preserves the undistorted iron ore component while allowing a targeted adjustment only to genuinely distorted elements (if any), ensuring the constructed normal value remains reflective of “the cost of production in the country of origin” under Article 2.2 of the ADA.

QUESTION 11: SET OUT HOW THE GROUNDS RAISED IN QUESTION 9 SUPPORT THE MAKING OF THE PROPOSED CORRECT OR PREFERABLE DECISION.

The reviewable decision is not the correct or preferable decision as the Minister erred in law and in fact by accepting the Anti-Dumping Commission's recommendation to reject Baoshan's verified, GAAP-compliant iron ore costs, the single largest raw material component of its steel slab costs. Instead it erroneously included those costs within a blanket Brazilian slab benchmark uplift of approximately 37 per cent, without any exporter-specific assessment of whether Baoshan's iron ore records satisfied the second condition of Article 2.2.1.1 of the Anti-Dumping Agreement. Baoshan's verified records demonstrate that all of its iron ore requirements during the investigation period 1 October 2023 to 30 September 2024 were sourced exclusively from unrelated international miners such as BHP, Rio Tinto and Vale, at prevailing international spot prices. These were arm's-length, USD-denominated transactions concluded on the global seaborne market, with no involvement of the Government of China at any stage of the supply chain. The Commission made no finding, and could credibly make none, that these specific transactions or the prices paid were distorted by GOC interventions.

The Appellate Body in *Ukraine – Anti-Dumping Measures on Ammonium Nitrate*[19] made clear that any derogation from the exporter's records under the "normally" qualifier is permissible only in narrow, exceptional cases and must be narrowly justified by specific evidence demonstrating that the records themselves are unreliable for allocating costs to the production and sale of the product under consideration. Generalised findings of market distortion in the Chinese steel sector are manifestly insufficient where the dominant raw material input is demonstrably purchased at competitive international prices free of any governmental influence.

The Commission failed entirely to undertake any such exporter-specific assessment in respect of Baoshan's iron ore purchases. It simply applied the Brazilian uplift across the entire slab cost component without isolating or preserving the verifiably undistorted iron ore element. This approach directly contradicts the Appellate Body's ruling, and the consistent jurisprudence in *European Union – Anti-Dumping Measures on Biodiesel from Argentina*[20], where the Appellate Body held that government-induced distortions in raw material prices do not, by themselves, justify disregarding GAAP-compliant records that reasonably reflect the actual costs incurred by the exporter.

The same principle was affirmed by the Panels in *Australia – Anti-Dumping Measures on A4 Copy Paper*[21] and *Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China*[22], both of which rejected Australia's attempt to use generalised PMS findings as a basis for disregarding verified exporter records without demonstrating that the records themselves failed the "reasonably reflect" test.

Baoshan provided detailed evidence of its iron ore contracts, pricing mechanisms, supplier relationships, payment terms, and the complete absence of any GOC involvement or price distortion in the supply chain. The Commission did not engage with this evidence in any meaningful way in REP 658, Appendix C, or the verification report. It offered no analysis of Baoshan's specific iron ore transactions, no finding that the records failed to allocate costs reasonably, and no attempt to isolate the iron ore component before applying the Brazilian benchmark.

The Commission's approach to disregarding Baoshan's iron ore imported costs is particularly stark when contrasted with the WTO-consistent methodology employed by the European Commission in its recent anti-dumping investigation on flat-rolled products of iron or non-alloy steel plated or coated products from China (*Commission Implementing Regulation (EU) 2025/1042*[23]). In section 3.2.1 of that regulation (recital (45)), the EU Commission explicitly used the undistorted import

[19] WT/DS493/AB/R, *Ukraine – Anti-Dumping Measures on Ammonium Nitrate*, paras 6.100 – 6.107

[20] WT/DS473/AB/R, *European Union — Anti-Dumping Measures on Biodiesel from Argentina*, para. 7.2

[21] WT/DS529/R, *Australia — Anti-Dumping Measures on A4 Copy Paper*, paras 7.3.2 – 7.3.4

[22] WT/DS603/R, *Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China*, paras 7.75 and 7.76

[23] Commission Implementing Regulation (EU) 2025/1042

prices paid by the Baoshan Group for iron ore sourced from countries without distortion allegations under Article 2(6a) of the EU basic Regulation, rather than substituting benchmarks. Despite claims regarding the potential influence on imported iron ore purchases (recitals (46)-(48)), the EU Commission concluded there was "insufficient evidence to corroborate" these allegations (recital (55)). This granular, evidence-based approach, which prioritises Baoshan's verified data over generalised distortions, aligns with WTO jurisprudence by preserving actual costs where undistorted, as required under Article 2.2.1.1.

The Commission did not adopt a similar rigorous, case-specific evaluation in this HRC investigation which would have concluded that Baoshan's iron ore imports are undistorted, and reflect competitive market conditions, negating any basis for abnormality. The Commission's failure to do so, without providing the requisite "adequate explanations", not only contravenes DS529 and DS603, where PMS alone was insufficient for rejection, but also deviates from international best practices, leading to an arbitrary and disproportionate constructed normal value. As PMS allegations do not suffice on their own, and the Commission admits no compelling reasons beyond these generalisations, the deviation under "normally" ought to have been rejected, restoring reliance on Baoshan's verified records.

The result is that an entirely undistorted, internationally-priced cost component was artificially inflated by approximately 37 per cent, producing a constructed normal value that bears no reasonable relationship to the actual cost of production in China. This constitutes a clear and independent violation of Article 2.2.1.1.

QUESTION 12: SET OUT THE REASONS WHY THE PROPOSED DECISION PROVIDED IN RESPONSE TO QUESTION 10 IS MATERIALLY DIFFERENT FROM THE REVIEWABLE DECISION.

The proposed decision is materially different from the reviewable decision because the erroneous inclusion of Baoshan's verified iron ore costs within the 37 per cent Brazilian slab uplift was a significant and independent driver of the inflated normal values and positive dumping margins.

Iron ore constitutes the single largest component of steel slab costs. Applying the full Brazilian uplift to this verifiably undistorted cost element artificially inflated normal value by a substantial quantum. Correcting this error by reverting to Baoshan's verified iron ore costs (or isolating the component) would produce materially lower the dumping margin for Baoshan, changing the outcome from the imposition of substantial combination-method duties to either the termination of the investigation or the application of materially lower duties. The difference is therefore decisive and goes to the heart of whether anti-dumping measures are justified at all in relation to Baoshan .

Ground 3: The Minister erred in law and fact by accepting REP 658 recommendation to use an unadapted Brazilian steel slab benchmark, selected on superficial metrics with only minimal labour adjustments, as the external proxy for Baoshan's slab costs, without exploring or explaining less distortive alternatives, and without adapting the benchmark to reflect the cost of production in China.

QUESTION 9: SET OUT THE GROUNDS ON WHICH THE APPLICANT BELIEVES THAT THE REVIEWABLE DECISION IS NOT THE CORRECT OR PREFERABLE DECISION

The reviewable decision is not the correct or preferable decision because the Minister erred in law and in fact by accepting the Anti-Dumping Commission's recommendation in REP 658 to use Brazilian steel slab market indices (via MEPS data) as the external benchmark for constructing the steel slab component of Baoshan's normal value. The Commission selected Brazil solely on the basis of superficial similarities in population, GDP and urbanisation, applied only minimal and selective labour adjustments, and made no adjustments for China's vastly superior economies of scale (950–1,000 million tonnes annual crude steel production versus Brazil's 33–36 million tonnes), lower utility rates, technological efficiencies, alloy input prices, or the documented 13 per cent iron-ore price premium embedded in Brazilian slab prices. The result was an average 37 per cent uplift that

was impermissibly applied across the verifiably undistorted iron-ore component, representing approximately [redacted] per cent of slab costs and [redacted] per cent of HRC production costs.

Even assuming (which Baoshan firmly denies) that rejection of its verified records was permissible under Article 2.2.1.1, Article 2.2 requires any constructed normal value to be based on "the cost of production in the country of origin". When an investigating authority resorts to third-country information, that information must be properly adapted to reflect prevailing conditions in the exporting country. The Appellate Body in *European Union – Anti-Dumping Measures on Biodiesel from Argentina*[24] made this obligation explicit, holding that replacement costs must reflect the costs actually incurred by the producer in the country of origin and that perceived market distortions do not, by themselves, justify disregarding verified records. The Panels in *Australia – Anti-Dumping Measures on A4 Copy Paper*[25], and *Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China*[26] reinforced that the authority must consider available alternatives that preserve undistorted components of the producer's costs, must not rely on superficial similarities without rigorous adjustment for scale, input costs and market structure, and must explain its choice of benchmark in light of less distortive options.

The Commission's methodology fell squarely within these prohibited approaches. It replaced the entire steel slab cost (over 90 per cent of HRC production costs) with an unadapted Brazilian benchmark rather than isolating and preserving the undistorted iron-ore component. Despite Baoshan's detailed, evidence-based submissions identifying the obvious unsuitability of Brazil and proposing verified slab costs from POSCO Korea (a far more comparable North Asian, blast-furnace-based producer with materially similar iron-ore sourcing conditions) as a superior alternative, the Commission conducted no comparative analysis, offered no reasoned explanation, and simply dismissed the evidence as "insufficient" or "not material". This cursory selection, inadequate adaptation, and failure to discharge the affirmative obligation under Article 2.2 to conduct a proper objective examination, and consider less distortive alternatives, produced a constructed normal value that bears no reasonable relationship to the cost of production in China, and constitutes a clear violation of Australia's obligations under the Anti-Dumping Agreement.

QUESTION 10: IDENTIFY WHAT, IN THE APPLICANT'S OPINION, THE CORRECT OR PREFERABLE DECISION (OR DECISIONS) OUGHT TO BE, RESULTING FROM THE GROUNDS RAISED IN RESPONSE TO QUESTION 9.

The correct or preferable decision is that the Minister ought to have:

(a) rejected Brazil as an appropriate surrogate country for benchmarking Chinese steel slab production costs;
(b) either reverted to Baoshan's verified slab costs in full, or (if any adjustment was considered necessary) derived an uplift factor from a more comparable market-economy producer such as POSCO (Korea) in the concurrent hot rolled plate investigation (Case 688), with proper adaptation to Chinese conditions;
(c) at minimum, isolated the iron ore component of slab costs and applied any benchmark uplift only to the non-iron ore portion, consistent with the methodology utilised by the European Commission's in its 2025 flat-rolled steel investigations; and
(d) recalculated normal values and the dumping margin for Baoshan, resulting in materially lower (or zero) margins.

QUESTION 11: SET OUT HOW THE GROUNDS RAISED IN QUESTION 9 SUPPORT THE MAKING OF THE PROPOSED CORRECT OR PREFERABLE DECISION.

[24] WT/DS473/AB/R, *European Union — Anti-Dumping Measures on Biodiesel from Argentina*, para 6.280

[25] WT/DS529/R, *Australia — Anti-Dumping Measures on A4 Copy Paper*, paras 7.3.2 – 7.3.4

[26] WT/DS603/R, *Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China*, paras 7.75 – 7.80 and 7.85 – 7.87.

The reviewable decision is not the correct or preferable decision because the Minister erred in law and in fact by accepting the Anti-Dumping Commission's recommendation to use Brazilian steel slab market indices (via MEPS data) as the external benchmark for constructing the steel slab component of Baoshan 's normal value.

The Commission selected Brazil on the basis of superficial similarities in population, GDP and urbanisation, applied only minimal and selective labour adjustments, and made no adjustments for China's vastly superior economies of scale (950–1,000 million tonnes annual crude steel production versus Brazil's 33–36 million tonnes), lower utility rates, technological efficiencies, alloy input prices, or the documented 13 per cent iron-ore price premium embedded in Brazilian slab prices. The result was an average 37 per cent uplift and impermissible "smearing" of that uplift across the undistorted iron-ore component (approximately [redacted] per cent of slab costs and [redacted] per cent of HRC production costs).

Even assuming (which Baoshan firmly denies) that rejection of Baoshan's verified records was permissible under Article 2.2.1.1, Article 2.2 requires that any constructed normal value be based on "the cost of production in the country of origin" plus a reasonable amount for administrative, selling and general costs and for profits. When an investigating authority resorts to third-country information for cost construction in a market-economy investigation, that information must be properly adapted to reflect the prevailing conditions in the exporting country.

The Appellate Body in European Union – Anti-Dumping Measures on Biodiesel from Argentina[27] made this requirement explicit:

> *"… the cost of production in the country of origin … must be the cost actually incurred by the producer in that country."*

The Appellate Body further held that any replacement of actual costs with out-of-country information cannot be justified merely by perceived market distortions:

> *prices of soybeans in Argentina were lower than international prices due to the Argentine export tax system was not, in itself, a sufficient basis under Article 2.2.1.1 for concluding that the producers' records do not reasonably reflect the costs of soybeans associated with the production and sale of biodiesel, or for disregarding those costs when constructing the normal value of biodiesel."*[28]

The Panel in *Australia – Anti-Dumping Measures on A4 Copy Paper*[29] applied the same principle in circumstances directly analogous to the present case. The Panel assessed whether the ADC had acted in violation of Article 2.2 by replacing the pulp costs of exporters with a benchmark based on third-country exports, instead of replacing the costs of woodchips (the direct input into the production of pulp). The Panel found that, pursuant to the obligation under Article 2.2 to use the "cost of production in the country of origin", the investigating authority was obliged to explore alternative methods enabling it to arrive at "the cost of production in the country of origin" by utilizing components of the producer's costs unaffected by a distortion.

The Panel[30] stated (assuming arguendo that Article 2.2 allows for replacement of costs distorted by the effects of a particular market situation):

> *"We note that, in challenging this specific aspect of the ADC's determination, i.e. the ADC's choice to replace the cost of the main input into the production of A4 copy paper (pulp) rather than the cost of the input into production of the main input (woodchips), Indonesia proceeds by assuming arguendo that the ADC was allowed to replace Indah*

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[27] WT/DS473/AB/R, *European Union – Anti-Dumping Measures on Biodiesel from Argentina*, para. 6.37

[28] Ibid., para. 6.39

[29] WT/DS529/R, *Australia — Anti-Dumping Measures on A4 Copy Paper*, paras 7.3.2 – 7.3.4

[30] WT/DS529/R, *Australia – Anti-Dumping Measures on A4 Copy Paper,* paras 7.58–7.62 and surrounding analysis.

> *Kiat's recorded costs which were affected by the distortion resulting from the 'particular market situation'. For the purposes of our analysis, we will proceed to address the argument on the same basis. … [W]here the investigating authority uses information other than that contained in the records kept by the exporter or producer to construct the cost of production, it has to ensure that it adapts the information appropriately. Although we agree with Australia that Article 2.2 does not specify precisely to what evidence an authority may resort in constructing the cost of production, the words 'in the country of origin' define the parameters of the investigating authority's inquiry. The investigating authority is required by Article 2.2 to arrive at the 'cost of production in the country of origin'. By virtue of this requirement, the investigating authority shall consider available alternatives for replacing recorded costs. In particular, we consider that the investigating authority is obligated to, as much as possible, use replacement information that conforms to the requirement to use 'the cost of production in the country of origin' for the exporter or producer under the investigation. … The circumstances of the investigation, in our view, called for the ADC to consider an alternative to replacing Indah Kiat's cost of producing pulp with the pulp benchmark which replaces all the costs used in producing pulp with external information. We note the ADC's above findings to the effect that the source of the distortions was in Indonesia's timber market. Although Australia argued that the ADC was only able to determine the cost data for pulpwood (input into production of woodchips) for one month, we do not find this relevant to deciding whether the cost of woodchips (input into production of pulp) could have been replaced … In light of the evidence on the ADC's record and the ADC's own findings regarding the source of the distortion, we find that the ADC should have considered using a replacement cost for woodchips in combination with Indah Kiat's other costs for producing pulp which were not found to be affected by the distortion (labour, energy, etc.). If the ADC had undertaken such analysis, it should have explained its choice of the final benchmark in light of this alternative. The Final Report, however, contains no such explanation."*

The Panel in *Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China*[31] reached identical conclusions in disputes involving Chinese steel and other products. The Panel examined Australia's use of surrogate country data for cost construction and found that the ADC had acted inconsistently with Article 2.2 by failing to ensure that the surrogate information was properly adapted to reflect the cost of production in China. The Panel emphasised that the obligation to use "the cost of production in the country of origin" defines the parameters of the inquiry and requires the authority to consider available alternatives that conform to that requirement, rather than simply applying an unadapted third-country benchmark. The Panel further stated that superficial similarities (such as GDP or population) are insufficient without rigorous adjustments for differences in production scale, input costs, market structure, technological efficiencies and other relevant factors. Where the authority uses surrogate data without such adaptation, the constructed normal value does not satisfy the requirement under Article 2.2 to arrive at "the cost of production in the country of origin".

The Commission's methodology falls squarely within these prohibited approaches. It replaced the entire steel slab cost (the main input, representing over 90 per cent of HRC production costs) with an unadapted Brazilian benchmark, rather than isolating and preserving the verifiably undistorted iron-ore component (approximately [redacted] per cent of slab costs and [redacted] per cent of HRC production costs). The Commission made no attempt to consider or explain the availability of a more targeted replacement that would have conformed to the Article 2.2 obligation to use the "cost of production in the country of origin". This failure is precisely what the DS529 Panel condemned.

[31] WT/DS603/R, *Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China*, paras 7.85 – 7.87.

In Appendix C of REP 658 (pp. 176–190), the Commission acknowledges Baoshan's detailed submissions identifying the obvious unsuitability of Brazil as a surrogate (scale disparity, iron-ore price spreads, downstream price umbrella effects, smearing of the 37% uplift across non-iron-ore elements, etc.). However, it repeatedly dismisses these points on the basis that the evidence is "insufficient" or "not material" to warrant any change to the benchmark.

Prior to Baoshan raising these issues, the Commission had not turned its mind to them at all. Upon being alerted to the obvious flaws, the Commission did not discharge its affirmative obligation under Article 2.2 to conduct a proper, objective examination, to consider less distortive alternatives, or to provide a reasoned, exporter-specific explanation. It simply declared the evidence insufficient and retained the unadapted Brazilian index. This approach impermissibly reverses the onus that properly rests with the investigating authority, and is inconsistent with the jurisprudence cited above.

These deficiencies are directly illuminated by the following authoritative findings of the Appellate Body and Panels, which articulate the precise obligations the Commission failed to discharge.

The Appellate Body[32] in *EU – Biodiesel (Argentina)* noted:

> *"whatever the information that it uses, an investigating authority has to ensure that such information is used to arrive at the 'cost of production in the country of origin'. Compliance with this obligation may require the investigating authority to adapt the information that it collects."*

The Appellate Body repeatedly stresses that the words "in the country of origin" define the parameters of the inquiry and that the authority bears the responsibility to make the necessary adaptations.

The Panel in *Australia – Anti-Dumping Measures on A4 Copy Paper* [33], considered this very point and found that the Commission was in breach of the same error. The Panel held that, even assuming arguendo that replacement of distorted costs was permitted, the authority was obligated to consider less distortive alternatives that preserve undistorted components of the producer's costs and to explain why it chose the more distortive option:

> *"… the investigating authority shall consider available alternatives for replacing recorded costs. In particular, we consider that the investigating authority is obligated to, as much as possible, use replacement information that conforms to the requirement to use 'the cost of production in the country of origin' …"*
>
> *"… the circumstances of the investigation … called for the ADC to consider an alternative … If the ADC had undertaken such analysis, it should have explained its choice of the final benchmark in light of this alternative. The Final Report, however, contains no such explanation."*

This is precisely the situation here. The ADC did not proactively investigate or adapt for the obvious distortions in the Brazilian benchmark (scale, iron-ore spreads, smearing effect, etc.) until Baoshan pointed them out, then simply declared the evidence "insufficient" or "not material" without any meaningful analysis or explanation.

The Panel in *Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China*[34] reinforces that superficial similarities are insufficient and that the authority must undertake rigorous adaptation.

Finally, Baoshan specifically proposed that the Commission adopt verified slab costs from Korea (POSCO), drawn from the concurrent Case 688 investigation into hot rolled steel plate, which is also

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[32] WT/DS473/AB/R, *EU – Biodiesel (Argentina),* para. 6.37

[33] WT/DS529/R, *Australia – Anti-Dumping Measures on A4 Copy Paper,* paras 7.58–7.62

[34] WT/DS603/R, *Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China*, paras 7.87.

produced from slab, as a far more appropriate and less distortive external benchmark. Korea is one of the world's largest steel-producing nations, with annual crude steel production exceeding 60 million tonnes, and its industry is overwhelmingly based on the blast furnace–basic oxygen furnace production method, the same primary production method that dominates the Chinese steel industry.

Moreover, as both China and Korea are located in the North Asian region, they face substantially similar competitive market forces and logistics considerations in sourcing iron ore, the primary raw material input. Both countries rely heavily on seaborne imports from the same major suppliers in Australia, and operate within the same international iron ore spot market, where prices are determined by transparent, competitive global benchmarks rather than domestic distortions.

Baoshan further demonstrated, by reference to the MEPS International Steel Review for May 2024, that Brazilian domestic slab prices (US$[redacted] – [redacted] /mt) were materially higher than South Korean domestic HRC transaction prices (US$[redacted] /mt) in the same period, an illogical outcome given that slab, as a semi-finished input, typically trades at a discount to finished HRC. Baoshan submitted that this discrepancy, together with Korea's operational similarities to China (identical slab inputs for HRC/HRP, comparable production technology, and avoidance of Brazil's structural distortions, vastly smaller scale, higher energy/labour/environmental costs, different input structures, and protective trade measures creating a "price umbrella"), rendered the Brazilian benchmark wholly unsuitable.

The Commission's response to this detailed, evidence-based proposal was cursory. It merely stated that it had "considered the submission by Baoshan that slab costs from Korea would be a more appropriate benchmark" but maintained that the Brazilian steel slab benchmark "remains the most appropriate third-country benchmark for the reasons set out in the SEF and this report", without undertaking any comparative analysis of production methods, geographic proximity, iron ore sourcing dynamics, or the MEPS data comparisons placed before it. This superficial dismissal further demonstrates that the Commission failed to discharge its affirmative obligation under Article 2.2 to proactively investigate and consider available alternatives that would better conform to the statutory requirement to arrive at "the cost of production in the country of origin".

At the very least, the Commission ought to have undertaken a comparative analysis of iron ore purchase prices and slab production costs between Baoshan, POSCO Korea and the MEPS Brazil benchmark data. Had this information identified Brazil as the outlier, it would have provided sufficient evidence that Brazil was not an appropriate proxy for blast furnace producers in the Asian region, let alone reasonable for replacement of Baoshan's slab costs in constructing normal values for comparison with the exported goods.

The Commission's handling of the Brazilian slab benchmark reveals a fundamental failure to discharge its statutory and WTO obligations. Far from conducting the objective examination required by Article 2.2, the Commission performed a cursory selection of a surrogate country based solely on superficial metrics (population, GDP per capita, and urbanisation), without any meaningful investigation into whether Brazil's steel sector bore any reasonable resemblance to China's.

Having selected an unsuitable proxy, the Commission then attempted to adapt it through basic, negligible adjustments limited almost exclusively to labour costs via GDP-per-capita metrics, while ignoring the profound structural differences in production scale, iron ore sourcing dynamics, energy and utility costs, technological efficiencies, and market distortions created by Brazil's protective trade measures. When presented with detailed, evidence-based submissions from Baoshan , including compelling MEPS data comparisons and a fully articulated proposal to use Korean slab costs from POSCO as a far more appropriate North Asian, blast-furnace-based benchmark with materially similar iron ore sourcing conditions, the Commission did not engage.

It offered no comparative analysis, no consideration of less distortive alternatives, and no reasoned explanation for its choices. Instead, it simply dismissed the evidence as "insufficient" or "not

material" and reaffirmed its original, unadapted benchmark. This approach stands in direct contrast to the clear requirements articulated by the Appellate Body in DS473, and the Panels in DS529 and DS603. It represents not an objective examination, but a superficial exercise that failed to discharge the investigating authority's affirmative responsibility to ensure that any constructed normal value reflects "the cost of production in the country of origin". The result is a constructed normal value that bears no reasonable relationship to prevailing conditions in China and that violates Australia's obligations under the Anti-Dumping Agreement.

QUESTION 12: SET OUT THE REASONS WHY THE PROPOSED DECISION PROVIDED IN RESPONSE TO QUESTION 10 IS MATERIALLY DIFFERENT FROM THE REVIEWABLE DECISION.

The failures outlined above were not incidental. The proposed decision is materially different from the reviewable decision because the erroneous Brazilian slab benchmark was the dominant driver of the positive dumping findings and the high duty rates imposed on the Baoshan exporters. The steel slab component constitutes over 90% of HRC production costs. The Commission's 37% uplift to that component (without adequate adaptation or consideration of alternatives such as the Korea benchmark) generated the substantial increase in constructed normal value that produced a dumping margins of 59.1%.

Removing or properly limiting that uplift, whether by reverting to Baoshan's verified, GAAP-compliant cost records or by adopting the Korea slab benchmark supported by MEPS data and operational similarities, reduces normal value by a quantum that renders the margins negligible or substantially lower.

Customs Act 1901 – Part XVB

Hot rolled coil steel

Exported from the the People's Republic of China

Findings in Relation to a Dumping Investigation

Public notice under sections 269TG (1) and (2) of the Customs Act 1901

Anti-Dumping Notice (ADN) No 2026/043

The Commissioner of the Anti-Dumping Commission (the Commissioner) has completed the investigation into the alleged dumping of hot rolled coil steel (the goods), exported to Australia from the People's Republic of China (China).

A full description of the goods is available in Anti-Dumping Notice (ADN) number 2024/093.[1] This ADN is available on the public record at www.adcommission.gov.au.

The Commissioner reported his findings and recommendations to me in *Anti-Dumping Commission Report No 658* (REP 658), in which he outlines the investigations carried out and recommends the publication of a dumping duty notice in respect of the goods. I have considered REP 658 and accepted the Commissioner's recommendations and reasons for the recommendations, including all material findings of fact or law on which the Commissioner's recommendations were based, and particulars of the evidence relied on to support the findings.

Particulars of the dumping margins established and an explanation of the methods used to compare export prices and normal values to establish each dumping margin are set out in Table 1.

Exporter	Duty method	Interim dumping duty rate
Baoshan	Combination	59.1%
Zhanjiang	Combination	38.1%
Meishan	Combination	54.9%
LY Steel	*Ad valorem*	41.6%
All other exporters	*Ad valorem*	79.0%

Table 1: Summary of dumping margins

I, TIM AYRES, the Minister for Industry and Innovation and Minister for Science, have considered, and accepted, the recommendations of the Commissioner, the reasons for the recommendations, the material findings of fact on which the recommendations are based and the evidence relied on to support those findings in REP 658.

[1] The notice is available on the public record at www.adcommission.gov.au.

I am satisfied, as to the goods that have been exported to Australia, that the amount of the export price of the goods is less than the normal value of those goods and because of that, material injury to the Australian industry producing like goods might have been caused if the security had not been taken. Therefore, under section 269TG(1) and section 45 of the *Customs Act 1901* (the Act), I DECLARE that section 8 of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) applies to:

(i) the goods; and

(ii) like goods that were exported to Australia after the Commissioner made a Preliminary Affirmative Determination under section 269TD on 23 December 2025 but before the publication of this notice.

I am also satisfied that the amount of the export price of like goods that have already been exported to Australia is less than the amount of the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods and because of that, material injury to the Australian industry producing like goods has been caused or is being caused. Therefore, under section 269TG(2) of the Act, I DECLARE that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia after the date of publication of this notice.

This declaration applies in relation to all exporters of the goods and like goods from China.

I am also satisfied that certain subsets of the goods should be exempt from interim dumping duty and dumping duty pursuant to section 8(7) of the Dumping Duty Act. Further details about the exempt goods are provided in REP 658 and Ministerial Exemption Instrument No 1 of 2026.[2]

The considerations relevant to my determination of material injury to the Australian industry caused by dumping are the size of the dumping and subsidy margins, the effect of dumped and subsidised imports on prices in the Australian market in the form of price undercutting and the consequent impact on the Australian industry including price depression, price suppression, loss of profits and reduced profitability.

In making my determination, I have considered whether any injury to the Australian industry is being caused or threatened by a factor other than the exportation of dumped goods and have not attributed injury caused by other factors to the exportation of those dumped goods.

Interested parties may seek a review of this decision by lodging an application with the Anti-Dumping Review Panel, in accordance with the requirements in Division 9 of Part XVB of the Act, within 30 days of the publication of this notice.

Particulars of the export prices, non-injurious prices, and normal values of the goods (as ascertained in the confidential tables to this notice) will not be published in this notice as they may reveal confidential information.

[2] See EPR 658.

Clarification about how measures and securities are applied to 'goods on the water' is available in Australian Customs Dumping Notice (ACDN) 2012/34, available at www.adcommission.gov.au.

REP 658 and other documents included in the public record may be examined at the Anti-Dumping Commission office by contacting the case manager on the details provided below. Alternatively, the public record is available at www.adcommission.gov.au

Enquiries about this notice may be directed to the Investigations 1 team by email or our client support team by telephone or email:

- Investigations 1 email: Investigations1@adcommission.gov.au
- Client support telephone number: + 61 2 6213 6000
- Client support email: clientsupport@adcommission.gov.au.

Dated this 4th day of May 2026

TIM AYRES
Minister for Industry and Innovation and Minister for Science