Australian Government
Department of Industry, Science and Resources

Anti-Dumping Commission

Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

Attn: Jaclyne Fisher OAM
Panel Member
c/o- ADRP Secretariat

By email: ADRP@industry.gov.au

Dear Member Fisher

ADRP Review No. 180: Hot rolled coiled steel exported to Australia from the People's Republic of China (China)

I write regarding the notice under section 269ZZI of the *Customs Act 1901* (Cth) (the **Act**) published by the Anti-Dumping Review Panel on 19 June 2026.

The notice advised of your intention to review the decision of the Minister for Industry and Innovation and Minister for Science, under section 269TG(1) and (2) of the Act to publish a dumping duty notice applying to hot rolled coil steel exported from the People's Republic of China.

I have considered the applications for review submitted by Baoshan Iron and Steel Co., Ltd, Baosteel Zhanjiang Iron and Steel Co., Ltd and Shanghai Meishan Iron and Steel Co., Ltd 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

17 July 2026

Attachment A

COMMISSIONER, ANTI-DUMPING COMMISSION SUBMISSION

ADRP Review 2026/180

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 s 269ZZJ(aa) of the *Customs Act 1901* (Cth) (the **Act**).[1]

2. The submission is made in response to applications for review by **Baoshan** Iron and Steel Co Ltd, Baosteel **Zhanjiang** Iron and Steel Co Ltd and Shanghai **Meishan** Iron and Steel Co Ltd (collectively, the **applicants**) to the Anti-Dumping Review Panel (**ADRP** or **Panel Member**).

3. The applications relate to a decision by the Minister for Industry and Innovation and Minister for Science (the **Minister**) to publish a dumping duty notice in relation to hot rolled coil steel (**HRC**) exported to Australia from the People's Republic of China (**China**) (the **Reviewable Decision**).

4. The submission includes three parts: **Part A**, **Part B** and **Part C**.

5. **Part A** sets out the following:

   a. Section 1 outlines the procedural background to the Reviewable Decision.

   b. Section 2 sets out the scope of the ADRP's review, as articulated in the ADRP's notice under s 269ZZI (**s 269ZZI notice**).

6. **Part B** sets out the contentions made by the applicants in their applications for review.

7. **Part C** sets out the following:

   a. Section 1 articulates the submissions made by the commission in respect of **ground 1** of the applicants' applications for review.

   b. Section 2 articulates the commission's submissions in respect of **ground 2** of the applicants' applications for review.

   c. Section 3 articulates the commission's submissions in respect of **ground 3** of the applicants' applications for review.

   d. Section 4 sets out the reasons why the Reviewable Decision was the correct and preferable decision.

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

Part A: Background

Section 1: Background to the ADRP review

8. On 23 September 2024, the commission received an application from **BlueScope** Steel Limited alleging that the Australian industry for HRC has experienced material injury caused by HRC being exported to Australia from China at dumped and subsidised prices.

9. On 15 November 2024, the Acting Commissioner published Anti-Dumping Notice (**ADN**) 2024/093 advising that they had decided not to reject BlueScope's application. The Commissioner subsequently initiated an investigation.

10. On 4 May 2026, the commission published its findings and recommendations in Final Report 658 (**REP 658**) and ADN 2026/043 which contained the Minister's declaration pursuant to s 269TG of the Act that anti-dumping duties were imposed on exports of HRC exported from China to Australia. In making his decision, the Minister accepted the findings and recommendations of the Commissioner as contained in REP 658, which found that the dumping and subsidisation of HRC exported to Australia from China caused material injury to the Australian industry producing like goods.

11. On 19 June 2026, the ADRP received applications from the applicants for review of the Reviewable Decision.

12. Following receipt of the applications, the ADRP published a s 269ZZI notice of its intention to conduct a review.[2] In that notice, the Panel Member advised that a review would be conducted on the basis of the following grounds (which are in near-identical terms across the three applicants' applications):

    a. In relation to Baoshan:

        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.

        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 mines with no GOC involvement, and include them in a Brazilian slab benchmark uplift, without any exporter-specific assessment of evidence that these records failed to reasonably reflect actual costs under Article 2.2.1.1.

        3) The Minister erred in law and fact by accepting the 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.

    b. In relation to Zhanjiang:

        1) The Minister erred in law and fact by accepting the REP 658 recommendation to reject Zhanjiang's verified GAAP-compliant steel slab cost records, and substitute

[2] Public Notice – Intention to conduct a review, 19 June 2026, on the ADRP's website: [ADRP Review 180]().

with an inflated Brazilian benchmark, relying on a generalised particular market situation without any evidence that the records failed to reflect actual costs.

2) The Minister erred in law and fact by accepting the REP 658 recommendation to reject Zhanjiang'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 mines with no GOC involvement, and include them in a Brazilian slab benchmark uplift, without any exporter-specific assessment of evidence that these records failed to reasonably reflect actual costs under Article 2.2.1.1.

3) The Minister erred in law and fact by accepting the 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 Zhanjiang's slab costs, without exploring or explaining less distortive alternatives, and without adapting the benchmark to reflect the cost of production in China.

c. In relation to Meishan:

1) The Minister erred in law and fact by accepting the REP 658 recommendation to reject Meishan'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.

2) The Minister erred in law and fact by accepting the REP 658 recommendation to reject Meishan'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 mines with no GOC involvement, and include them in a Brazilian slab benchmark uplift, without any exporter-specific assessment of evidence that these records failed to reasonably reflect actual costs under Article 2.2.1.1.

3) The Minister erred in law and fact by accepting the 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 Meishan's slab costs, without exploring or explaining less distortive alternatives, and without adapting the benchmark to reflect the cost of production in China.

<u>Section 2: The ADRP's scope of review</u>

13. On 19 June 2026, the ADRP published its s 269ZZI notice. The notice advised of the ADRP's intention to review the decision of the Minister to publish a dumping duty notice under s 10(3B) of the *Customs Tariff (Anti-Dumping) Act 1975* in relation to HRC exported to Australia from China.

14. The s 269ZZI notice sets the parameters of the review. As required by s 269ZZI(2)(b), the notice identifies the grounds (as stipulated at paragraph 12 above) that the ADRP was satisfied that there are reasonable grounds for the Reviewable Decision not being the correct or preferable decision.

15. The s 269ZZI notice confirms that '[t]he Review Panel proposes to conduct a review of the Reviewable Decision in relation to the <u>above grounds</u>' (emphasis added).

16. This submission is informed by consideration of the remarks of Wigney J in the Federal Court judgment of *Yara AB v Minister for Industry, Science and Technology* (***Yara***).[3] In *Yara*, Wigney J affirmed that an ADRP review is, in some respects, confined and constrained, and is not:[4]

> …a de novo review or a merits review which is entirely at large. The Review Panel must restrict itself to a consideration of the grounds that it accepted were reasonable grounds for the reviewable decision not being the correct or preferable decision.

17. 'Relevant information' is defined in s 269ZZK(6)(a) as meaning, in the case of a reviewable decision relating to a dumping and countervailing duty notice:

> … information to which the Commissioner had had regard or was, under paragraph 269TEA(3)(a), required to have regard, when making the findings set out in the report under section 269TEA to the Minister in relation to the making of the reviewable decision.

Part B: The applicants' applications for review

18. This section articulates the applicants' grounds for review, as taken from their applications.[5] Where direct quotes are cited from the applications, pinpoint references have been included.

19. The applicants' applications are each brought on three grounds that are in near-identical terms across the applications. Together, the applicants contend that:

    a. **Ground 1**: The Minister erred in law and fact by accepting the REP 658 recommendation to reject the applicants' 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.[6]

    The applicants further contend that:[7]

    1) The applicants' verified, GAAP-compliant cost records for steel slab reflect an input comprising more than 90% of total production cost. The commission substituted an artificially inflated Brazilian market-index benchmark 'solely on the basis of a generalised particular market finding'[8] arising from broad Government of China (**GOC**) influence across the steel sector, without any exporter-specific evidence that the records themselves failed to reflect actual costs incurred.

    2) The commission's methodology directly contravenes Article 2.2.1.1. The authorities establish that 'the two explicit conditions in the first sentence of Article 2.2.1.1

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3 [2022] FCA 847.

4 Ibid [172]-[182]; see also the Act ss 269ZZG(5)(a)–(c).

5 Baoshan Iron and Steel Co Ltd, *Application for review of a Ministerial decision (non-confidential version)* (**Baoshan Review Application**) pp 5-6; Baosteel Zhanjiang Iron and Steel Co Ltd, *Application for review of a Ministerial decision (non-confidential version)* (**Zhanjiang Review Application**) pp 5-6; Shanghai Meishan Iron and Steel Co Ltd, *Application for review of a Ministerial decision (non-confidential version)* (**Meishan Review Application**) pp 5-6.

6 Baoshan Review Application, p 5; Zhanjiang Review Application, p 5; Meishan Review Application, p 5.

7 Baoshan Review Application, pp 9-18; Zhanjiang Review Application, pp 9-18; Meishan Review Application, pp 9-18.

8 Baoshan Review Application, p 18; Zhanjiang Review Application, p 18; Meishan Review Application, p 18.

(GAAP compliance and reasonable reflection of actual costs) are exhaustive'.[9] A particular market finding justifying rejection of domestic selling prices under Article 2.2 does not permit departure from the exporter's records for cost construction.

3) 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.

b. **Ground 2**: The Minister erred in law and fact by accepting the REP 658 recommendation to reject the applicants' 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.[10]

The applicants further contend:[11]

1) The applicants' records establish that their 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 GOC involvement or price distortion at any stage of the supply chain.

2) 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, directly contradicts WTO jurisprudence.

3) The commission failed to adopt the evidence-based methodology adopted by the European Commission in its recent investigation into flat-rolled steel products from China, which preserved the applicants' verified, undistorted iron ore prices rather than substituting benchmarks. In doing so, the commission produced a constructed normal value bearing no reasonable relationship to the actual cost of production in China, violating Article 2.2.1.1.

c. **Ground 3**: The Minister erred in law and fact by accepting REP 658's recommendation to use an unadapted Brazilian steel slab benchmark, selected on superficial metrics with only minimal labour adjustments, as the external proxy for the applicants' slab costs, without exploring or explaining less distortive alternatives, and without adapting the benchmark to reflect the cost of production in China.[12]

The applicants further contend:[13]

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9 Baoshan Review Application, p 10; Zhanjiang Review Application, p 10; Meishan Review Application, p 10.

10 Baoshan Review Application, p 5; Zhanjiang Review Application, p 5; Meishan Review Application, p 5.

11 Baoshan Review Application, pp 15-18; Zhanjiang Review Application, pp 15-18; Meishan Review Application, pp 15-18.

12 Baoshan Review Application, p 6; Zhanjiang Review Application, p 6; Meishan Review Application, p 6.

13 Baoshan Review Application, pp 18-24; Zhanjiang Review Application, pp 18-24; Meishan Review Application, pp 18-24.

1) 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 various identified factors. The result was an average 37 percent uplift that was impermissibly applied across the verifiably undistorted iron-ore component.

2) The commission replaced the 'entire steel slab cost… with an unadapted Brazilian benchmark rather than isolating and preserving the undistorted iron-ore component'[14] and failed to conduct comparative analysis or provide reasoned explanation in relation to the applicants' submissions regarding the Republic of Korea (**Korea**) as a superior alternative.

3) The commission's methodology fell squarely within the approaches prohibited by the authorities, representing a contravention of the commission's obligation under Article 2.2 to construct normal value based on 'the cost of production in the country of origin'.

Part C: Commissioner's submissions in respect of the applicants' applications for review

<u>Section 1: Commissioner's submissions in respect of ground 1</u>

The Commissioner's findings

20. By ground 1, the applicants identify error in the Reviewable Decision because the Minister did not use, and the Commissioner did not recommend the use of, the applicants' recorded steel slab costs to determine their normal value under s 269TAC(2)(c) of the Act. The applicants' submissions on this ground misunderstand or misstate the basis for the commission's finding.

21. The applicants' central contention in respect of ground 1 is that the exporters' records for steel slab were rejected solely on the basis of a generalised 'particular market situation'. No such finding was made. The commission found that the normal value of the goods could not be ascertained under s 269TAC(1) because of the particular market situation, and accordingly would be determined under s 269TAC(2)(c). The finding of a particular market situation was not the basis for the adjustment of the recorded steel slab costs for the purpose of making that determination.

22. The applicants' secondary complaint appears to be the commission's reliance on a 'competitive market costs' tests, which is described as an 'extra-statutory standard'.[15] The use of this test in REP 658 is confined to the commission's consideration of the mandatory statutory assessment required by Regulation 43(2)(b)(ii) of the *Customs (International Obligations) Regulation 2015*. It was not the basis for the adjustment of the applicant's records.

23. REP 658 expressly records that the Commissioner did not use the applicants' recorded steel slab costs because 'the circumstances in which these records are formed are <u>not normal and ordinary</u> for the purposes of Article 2.2.1.1' [emphasis added].[16] The circumstances

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14 Baoshan Review Application, p 18; Zhanjiang Review Application, p 18; Meishan Review Application, p 18.

15 Baoshan Review Application, p 13; Zhanjiang Review Application, p 13; Meishan Review Application, p 13.

16 REP 658, p 56.

referred to are those 'involving the cost of production for steel slab in the cooperating exporters' records' [emphasis added].[17] To the extent the applicants suggest the basis for the decision not to use the recorded steel slab costs was on any other basis, that is inconsistent with the express and detailed findings in REP 658.

The Commissioner independently assessed the two conditions in Article 2.2.1.1 before turning to the normally assessments

24. The applicants also assert an alleged failure by the Commissioner to first consider the two conditions in the first sentence of Article 2.2.1.1: whether the applicants' records were in accordance with GAAP in China (first condition) and reasonably reflected the cost of production in China (second condition). They acknowledge that investigating authorities may invoke a derogation under 'normally' but emphasise that the two explicit conditions are exhaustive and investigating authorities must assess them independently before any derogation.[18]

25. The applicants, by this submission, misunderstand the Commissioner's findings in REP 658. The Commissioner complied with this mandatory order of analysis. There was no failure to independently consider the two conditions. In considering the applicants' steel slab costs and subsequently determining the applicants' normal value under s 269TAC(2)(c) of the Act, the Commissioner assessed the applicants' records against the two conditions and expressly found that these records satisfied the two conditions.[19] The commission then proceeded to make the assessment under 'normally'.

26. In support of their position, the applicants refer to decisions of the WTO Panel in *Australia – Anti-Dumping Measures on A4 Copy Paper* and the WTO Appellate Body in *Ukraine – Anti-Dumping Measures on Ammonium Nitrate* and *European Union – Anti-Dumping Measures on Biodiesel from Argentina*.[20]

27. These cited passages relate to the interpretation of the term 'reasonably reflects' in Article 2.2.1.1. The extracts cited explain that, for the second condition, the investigating authority must consider the allocation of costs actually incurred and not external market distortions or the perceived reasonableness of the costs. Consistent with this approach, the Commissioner found that the applicants' recorded costs satisfied the second condition because the costs reasonably reflected the actual cost of production in China.[21] Accordingly, it is not apparent how these passages assist the applicants' argument.

28. The applicants also rely upon an extracted passage from *Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China*. The Commissioner's response is threefold:

    a. First, the passage is cited in support of the proposition that the WTO Panel found that a normally finding may only be made after affirmative findings were made for the first and second conditions in Article 2.2.1.1. The Commissioner agrees such a finding was made

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17 REP 658, pp 56, 167.

18 Baoshan Review Application, pp 10, 12; Zhanjiang Review Application, pp 10, 12; Meishan Review Application, pp 10, 12.

19 REP 658, pp 56, 165

20 Baoshan Review Application, pp 11-13; Zhanjiang Review Application, pp 11-13; Meishan Review Application, pp 11-13.

21 REP 658, pp 56, 165

by the WTO Panel. This requirement was complied with: the 'normally' finding was only made following affirmative findings under the first and second condition.

b. Second, the particular extract cited from that WTO Panel decision inserts words that do not appear in that decision. The first part of the citation appears at the end of paragraph 7.56 of that WTO Panel decision. The second part—'but only in rare scenarios beyond the two conditions, such as evident misallocation, and not as a routine PMS exception'—is a phrase that does not appear anywhere in that decision.

c. Third, in any event, whatever the provenance of the second part of the citation, the 'normally' findings were not made as routine PMS exceptions.

29. The applicants describe the 'two explicit conditions of the first sentence of Article 2.2.1.1' as 'exhaustive'.[22] If the effect of this submission is that there is no meaning to be given to the word 'normally' in Article 2.2.1.1, or that it does not provide a basis for the rejection of records, this is wrong as a matter of law. WTO Panels and the WTO Appellate Body, including in decisions positively relied upon the by the applicants, provide clear support for the proposition that 'normally' must have some meaning as a distinct basis from the first and second condition in Article 2.2.1.1.[23]

The Commissioner undertook an applicant-specific assessment

30. The applicants submit that the Reviewable Decision conflates the particular market situation assessment and the applicants' cost assessment.[24] The commission understands the substance of this complaint to be that the Commissioner's 'normally' assessment 'was made on the basis of its generalised PMS findings in Appendix A'[25] and failed to consider any exporter-specific evidence.

31. These submissions are inconsistent with the explanation provided in REP 658. REP 658 records that the Commissioner methodically considered the individual records of each cooperative exporter, including the applicants' records.[26] The findings relating to the 'normally' assessment are set out in section C.7 of Appendix C. While this section includes cross references to parts of Appendix A, those cross-references are to specific sub-parts of that Appendix. The elements of those sub-parts that the commission identified as most relevant to the 'normally' finding are expressly set out in section C.7. The commission sets out specific and detailed reasoning in support of the 'normally' finding without any reliance upon or adoption of the general particular market situation.

32. The submissions made in ground 1 that the 'normally' finding relied upon an adoption of the particular market situation, and that the commission's findings did not involve exporter level findings about 'normally' were also made by the GOC, in comparable terms, in response to

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22 Baoshan Review Application, p 10; Zhanjiang Review Application, p 10; Meishan Review Application, p 10.

23 See Panel Report, *Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China*, para 7.56; Appellate Body Report, *Ukraine – Ammonium Nitrate*, para. 6.87; Panel Report, *Australia – AD/CVD on Certain Products (China)*, paras 7.56-7.58; Panel Report, *Australia – Anti-Dumping Measures on Paper*, paras. 7.108-7.118; Panel Report, *EU – Biodiesel (Argentina)*, para. 7.227; Panel Report, *China – Broiler Products*, para. 7.161.

24 Baoshan Review Application, p 14; Zhanjiang Review Application, p 14; Meishan Review Application, p 14.

25 Baoshan Review Application, p 13; Zhanjiang Review Application, p 13; Meishan Review Application, p 13.

26 REP 658, p 56.

the SEF. As a consequence, REP 658 includes specific responses to the very complaints now made by the applicants. By way of summary, REP 658 records:

a. that the commission expressly agreed with the GOC's submissions that a finding under 'normally' should usually involve 'exporter level findings of abnormality in the [exporters'] cost structure'. The commission went on to explain that it had concluded that 'the distortions identified at the industry level were found to in fact translate to the individual exporters' recorded cost of steel slab'.[27]

b. the commission had 'careful regard to the two distinct legal tests' for a particular market situation and 'normally'. The commission observed that the two findings 'do rely on some common factual findings' and explained that this is because '[t]hose factual findings are in fact relevant to both tests, and do not reflect any misunderstanding of the legal requirements for each'.[28]

The asserted 'impermissible backdoor'

33. The applicants submit that the Reviewable Decision represents a 'backdoor revival' of the non-market economy treatment of China.[29] Non-market economy treatment, under s 269TAC(4) of the Act, would require the Commissioner to consider the extent of a government's monopoly on trade or influence on domestic prices on goods.

34. The substance of this complaint appears to be that the if 'a generalised PMS finding of 'broad GOC intervention' is enough to trigger 'normally' derogation, then the commission has created an automatic switch that operates in every Chinese steel case'.[30]

35. For the reason set out above, the commission's finding under 'normally' does not rely upon a particular market situation finding. REP 658 records that the finding under 'normally' was made having regard to detailed and distinct reasoning, was made at the exporter-level, and bearing in mind the differences between the 'normally' and particular market situation tests.

<u>Section 2: Commissioner's submissions in respect of ground 2</u>

36. For ground 2, the applicants contend that the Minister erred because the Minister did not use, and the Commissioner did not recommend the use of, the applicants' recorded iron ore costs to determine their normal value under s 269TAC(2)(c) of the Act. The applicants consider that any rejection and uplift of the applicants' recorded steel slab costs should have been limited to the non-iron ore portion.[31] The applicants contrast the reasoning in REP 658 with that in a different investigation conducted in 2025 by the European Commission.

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27 REP 658, p 170. See also REP 658, p 167: '… the effects on raw material pricing have also flowed through to the cooperating exporters' recorded cost of production. The commission observes that for the raw materials where the selected exporters provided their detailed purchase listings, the 3 Baosteel manufacturers purchased all of the raw materials from suppliers based in China …'.

28 REP 658, p 171.

29 Baoshan Review Application, p 14; Zhanjiang Review Application, p 14; Meishan Review Application, p 14.

30 Baoshan Review Application, p 14; Zhanjiang Review Application, p 14; Meishan Review Application, p 14.

31 Baoshan Review Application, p 16; Zhanjiang Review Application, p 16; Meishan Review Application, p 16.

The applicants' assertions as to the sources of the iron ore do not reflect the records

37. The applicants submit that their records establish that the iron ore they acquired 'during the investigation period were sourced exclusively from unrelated international miners at prevailing arms-length international spot prices on the global seaborne market'.[32]

38. This assertion is not borne out in the records that were considered by the Commissioner and examined in Investigation 658.

39. An identical submission was made to the commission in response following the publication of SEF 658. In REP 658, the Commissioner found that, according to the raw materials purchase listing provided by the applicants, the applicants sourced their iron ore entirely through a large number of SIEs (including several related parties).[33] The applicants' records did not show that they directly sourced the entirety of their iron ore from unrelated miners.

40. Specifically, the Commissioner's review of the supplier list is in Confidential Attachment 31 to REP 658. Confidential Attachment 31 records [**Confidential information**: [redacted]

[redacted]

[redacted]

[redacted]]

41. Confidential Attachment 31 also includes the 'one related supplier list' referenced in REP 658.[34] [**Confidential information:** [redacted]]

42. The applicants do not acknowledge or address this finding in REP 658. They do not identify any error in the reasoning in REP 658 or identify alternative supplier records that they consider the Commissioner ought to have considered.

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32 Baoshan Review Application, p 15; Zhanjiang Review Application, p 15, Meishan Review Application, p 15.

33 REP 658, p 186. See also Confidential Attachment 31 to REP 658.

34 REP 658, p 186.

The Commissioner was unable to determine the reliability of the applicants' iron ore costs

43. As set out in REP 658, the Commissioner was unable to determine if the iron ore costs incurred in the production of HRC by the applicants necessarily reflected the price of the iron ore sold by the original miners.[35] Specifically:

    a. The Commissioner was unable to verify the records of each supplier[36] or the related supplier list[37] because of the multitude of iron ore suppliers and intermediaries. The Commissioner could not ascertain or verify the upstream prices from the miner to the original supplier.

    b. The 'one related supplier list' records the prices from the miner to that single related supplier. However, the Commissioner had not received any information from the applicants, such as company structure and the price negotiation process, which would have supported a conclusion that this related supplier's purchases were at arm's length.[38]

    c. Even if the Commissioner accepted that the purchases of the single related supplier were at arm's length, this would not support a generalised inference that all the applicants' iron ore purchases from every other supplier— [**Confidential information:** [redacted]] —were also at arm's length.[39]

44. It would have been inconsistent with the evidence before the Commissioner to isolate or preserve the applicants' iron ore costs, from a surrogate cost of steel slab, when determining the applicants' normal value. The Commissioner's approach in REP 658 was correct and preferable.

The assessment of costs at the level of steel slab

45. The Commissioner understands that an implicit element of the applicants' complaint is that the Commissioner undertook the assessment at the level of steel slab. The rationale for this approach is set out in detail in REP 658.

46. The Commissioner considers that an assessment at the level of steel slab was correct and preferable given the evidence before him. In particular:

    a. As shown in Confidential Attachment 31, the applicants purchased different subtypes of iron ore, namely [**Confidential information:** [redacted]].

    b. Each subtype has its own cost profiles with differing sizes and chemical composition found between the varieties of each subtype.[40] Comparing iron ore subtypes directly to other subtypes, for an assessment of the applicants' cost at an iron ore level, would have resulted in the impracticalities and inaccuracies detailed in REP 658.[41]

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35 REP 658, p 187.

36 REP 658, p 186.

37 REP 658, p 187.

38 REP 658, p 187.

39 REP 658, p 187.

40 REP 658, p 172.

41 REP 658, pp 171-173.

47. Aside from the submissions about the internationally sourced iron ore, addressed above, the applicants have not identified any error in this approach in their submissions.

The purported absence of a finding under 'reasonably reflects'

48. The applicants allege that their 'verified GAAP-compliant iron ore costs' were rejected 'without any evidence that these records failed to reasonably reflect actual costs under Article 2.2.1.1'.

49. The commission did not make a finding that the applicants' records of iron ore costs did not reasonably reflect their actual costs. The commission expressly found that the applicants' 'records relating to the cost of production of like goods…reasonably reflected the actual cost of production'.[42]

50. Rather, the basis for the commission's decision to adjust the applicants' recorded raw material costs were that:

    a. The commission considered that the not normal and ordinary circumstances materially affect the applicants' costs of production of HRC.[43]

    b. The applicants' submission that their iron ore costs were not affected by the identified not normal and ordinary circumstances because they were 'sourced entirely from unrelated suppliers in Australia at international market prices' was not established by the records submitted in support, for the reasons set out above.[44]

51. The Commissioner notes the applicants' reliance on various WTO Panel and WTO Appellate Body decisions in support of ground 2.[45] For the reasons set out above at paragraphs 26-29, these do not assist the applicants.

The investigation under EU regulation 2025/1042 does not assist the applicants' submissions

52. The applicants contrast the reasoning in REP 658 with that adopted in the European Commission's 2025 investigation into flat-rolled steel products from China, set out in EU regulation 2025/1042.[46]

53. As a starting point, the fact that another investigating authority conducting a different investigation in another jurisdiction reached different conclusions would not establish any error of law or fact by the Minister.

54. In any event, this submission was raised following the publication of SEF 658 and expressly addressed in REP 658. For the reasons set out in REP 658, EU regulation 2025/1042 does not assist the applicants to establish any error.[47] Namely:

    a. A key aspect of the Commissioner's recommendation in REP 658 is the role of the CMRG. The European Commission, on the other hand, addressed a different investigation period that began and ended six months earlier than the investigation

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42 REP 658, p 165.

43 REP 658, p 171.

44 REP 658, pp 186-187.

45 Baoshan Review Application, p 17; Zhanjiang Review Application, p 17; Meishan Review Application, p 17.

46 Baoshan Review Application, pp 15, 18; Zhanjiang Review Application, pp 15, 18; Meishan Review Application, pp 15, 18.

47 REP 658, p 187.

period in Investigation 658.[48] In contrast to Investigation 658, the CMRG was not fully operational during the investigation period considered by the European Commission.[49]

b. In addition, although there was evidence of CMRG involvement in iron ore procurement before the European Commission, the allegation was raised late in the investigation, and the European Commission was unable to fully investigate it.[50]

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

55. By ground 3, the applicant challenges both:

a. the selection of the Brazilian steel slab market indices as the external benchmark for constructing the steel slab component of the applicants' normal value, and

b. the adaptation of that external benchmark to ensure it reflected the cost of production in China.

56. As set out in REP 658, after examining the available datasets and considering the available alternatives, the commission selected Brazil price indices as the most appropriate starting point to calculate a cost of production for steel slab in China that is free from the effects of the not normal and ordinary circumstances. The commission summarised its reasons for doing so in the following terms:[51]

a. Brazil and China both primarily use blast furnaces to produce steel.

b. Brazil's total annual steel production is relatively high, being the 10th highest globally. This compares to China as the largest global producer of steel.

c. The commission did not identify similar steel market interventions in Brazil to the interventions identified in China. The commission did not identify SOE steel manufacturers in Brazil and did not find evidence of other significant market intervention in Brazil.

d. Brazil is broadly similar to China in socioeconomic metrics like GDP per person, the Human Development Index, the Human Capital Index and manufacturing sector wages.

57. The commission acknowledged that it was necessary to make adjustments to the benchmark to ensure it was an appropriate comparator to determine cost of production for steel slab in China. The adjustments considered and the rational for why they were, or were not made, are set out in REP 658.[52]

The commission had regard to relevant factors and structural differences when selecting the benchmark

58. The applicants submit that the commission selected Brazil 'on the basis of superficial similarities in population, GDP and urbanisation'.[53]

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48 REP 658, p 187.

49 REP 658, p 187.

50 REP 658, p 187.

51 REP 658, p 176.

52 REP 658, p 177 and following.

53 Baoshan Review Application, p 18; Zhanjiang Review Application, p 18; Meishan Review Application, p 18.

59. These submissions misstate the commission's reasoning. Comparative population, GDP and urbanisation were elements that formed only part of the analysis conducted by the commission in selecting Brazil. They were not the only considerations.

60. The commission explained that its selection of Brazil, among the other available alternatives, was based on the common use of blast furnaces to produce steel, Brazil's relatively high total annual steel production, the absence of similar steel market interventions or SOE manufacturers in Brazil and socioeconomic metrics.[54] The socioeconomic metrics considered are set out in detail in Confidential Attachment 2. They included, but were not limited to, population, GDP, the Human Development Index and the Human Capital Index.[55]

The commission considered and made necessary adjustments to identify a cost of production in China

61. The applicants further submit that, while the commission made labour adjustments, it made no adjustments for China's economies of scale, lower utility rates, technological efficiencies, the effect of Brazilian trade remedies measures, alloy input prices or the iron-ore price premium embedded in Brazilian slab prices.

62. The commission conducted detailed analysis in making labour adjustments, as set out in Confidential Attachment 2 (a record of the labour costs collected); Confidential Attachments 6A, 8A and 10A (which contain labour calculation formulas that reflects Chinese and Brazilian labour costs, calculate average wage prices for both markets, and reflect the proportion of labour in steel slab production costs); and Confidential Attachments 6, 8 and 10 (which demonstrate the commission's use of slab labour cost in arriving at the total slab cost-to-make on a quarterly basis).

63. In relation to the adjustments that the applicants contend should have been made by the commission, REP 658 demonstrates that the commission considered each proposed adjustment and gave a reasoned explanation for why such an adaption was not made. This reasoning is summarised below.

    a. **Economies of scale**: The commission did not make an adjustment for economies of scale, because analysis of MEPS steel slab price data for each of China and Brazil in 2023 and 2024 showed that, in both countries, the year with higher production quantities in that country did not have lower steel slab prices.[56] The commission also researched information about economies of scale but did not find sufficient information to confirm the need for an economies of scale adjustment to the information the commission relied upon for the applicants' cost of production. The commission also did not find sufficient information to establish a method to calculate an adjustment, even if a need were identified.[57] Put in summary, the evidence did not establish the existence of economies of scale. The applicants have not themselves identified any evidence, either before the commission or in their application, that establishes the existence of economies of scale in China relative to Brazil. In economic theory, the existence of an economy of scale is not inevitable simply because a producer or country has greater production than a comparator.

    b. **Utility rates:** The commission found that the GOC intervened extensively in markets for utilities, resulting in a lower utility price than what would have otherwise prevailed in the

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[54] REP 658, p 176.

[55] See Confidential Attachment 2 at tab titled 'Analysis Findings'.

[56] REP 658, p 179.

[57] REP 658, p 182.

absence of that intervention. Accordingly, adjusting a Brazilian benchmark to reflect actual Chinese electricity costs would also likely reintroduce an aspect of the effects of GOC market intervention that the use of the benchmark was intended to remove. The purchased electricity identified in the exporters' steel production costs came from Chinese SOE sources or other Baosteel subsidiaries, and some coal purchased came from Chinese SOE suppliers.[58] The applicants do not identify any error in this reasoning.

c. **Technological efficiencies:** The applicants asserted, both in Investigation 658 and in their application, that China benefited from technological efficiencies. The commission could not identify relevant evidence (in the applicants' submissions or in public record research) to support the applicants' claims that Brazil is an inappropriate country to compare with China due to China's blast furnace operations being advanced and having technological efficiencies. The commission noted, to the contrary, the similarities in the use of blast furnace production of steel between China and Brazil.[59]

d. **Brazilian trade remedies:** The applicants assert that the commission did not consider the 'market distortions created by Brazil's protective trade measures'.[60] This factor was raised and specifically addressed in REP 658. The commission explained that it did not consider that trade remedies measures inflate domestic prices and considers it would be incorrect to assume that Brazil's steel slab or iron ore markets were uncompetitively priced merely because it had a lower proportion of imports than China.[61]

e. **Alloy input prices**: The applicants asserted, both in Investigation 658 and in their application, that China benefited from variances in alloy input prices. No evidence was or is cited in support of these submissions. The commission found that such inputs were already appropriately captured in its assessment of 'other production costs' and in any event comprise a small proportion of the total cost of production for steel slab. The commission further found that it could not find evidence to reliably estimate the difference between costs for alloying elements for Chinese and Brazilian steel slab manufacturers, nor to support that this difference is material as a proportion of total steel slab costs, and no additional adjustment to the benchmark is warranted for such inputs.[62]

f. **Brazilian iron ore premium**: The commission considered the applicants' analysis in their post-SEF submissions of the two types of Brazilian iron ore prices. These submissions dismissed the effect of the Brazilian iron ore having a higher iron content. The evidence provided by the applicants in support of this submission did not confirm the moisture content of the two types of iron ore. The commission also disregarded potential differences in ocean freight to China from Brazil compared to Australia. The commission's analysis therefore did not account for these factors, and in that context the evidence did not establish that Brazilian iron ore is materially more expensive than Australian iron.[63]

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58 REP 658, pp 182-183.

59 REP 658, p 183.

60 Baoshan Review Application, p 23; Zhanjiang Review Application, p 23; Meishan Review Application, p 23.

61 REP 658, pp 183-184.

62 REP 658, p 185.

63 REP 658, p 187.

64. The applicants have not identified any error in the commission's reasoning for why it did not make the above adjustments. The alleged error is simply that those adjustments were not made. For the reasons set out above, the evidence before the commission demonstrates that it reached the correct and preferable decision.

The commission could not proactively investigate Korea as an alternative

65. The applicants submit that the commission superficially dismissed Korea as a benchmark without undertaking any comparative analysis of production methods, geographic proximity, iron ore sourcing dynamics, or the relevant MEPS data comparisons. This, the applicants submit, demonstrates a failure by the commission 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 of the country of origin'.[64]

66. REP 658 records that the commission actively considered viable alternative benchmarks, including the applicants' proposal to use data obtained in relation to Korean producers in Investigation 688. The commission gave a considered and reasoned explanation for why that was not a viable alternative.

67. As set out in REP 658, the commission explained that it did not consider that information sufficiently reliable to act as a benchmark for normal value calculations in Investigation 658 because:

a. the POSCO data from Investigation 688 put forward by the applicants covered only one quarter of the investigation period for Investigation 658; and

b. the data submitted by POSCO had not been verified, so no assessment had been made of its reliability.[65]

68. Moreover, the commission was unable to locate any reliable, publicly or privately available steel slab price information for Korea from either MEPS or Bloomberg. [**Confidential information**: [redacted]] The only relevant information located by the commission was South Korean HRC price information.[66] The Commissioner submits it would be inaccurate to work backwards from finished input price to semi-finished input price rather than input price, including because of the various grades of HRC, and because it is a widely used commodity.

69. In this context, Korea was not an available alternative that was capable of being proactively investigated and analysed as an alternative benchmark. Given these limitations in the data, the correct and preferable decision would not have been to derive an uplift factor from Korea, including by using the POSCO data obtained from Investigation 688.

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64 Baoshan Review Application, pp 22-25; Zhanjiang Review Application, pp 22-25; Meishan Review Application, pp 22-25.

65 REP 658, p 184.

66 REP 658, p 152; Confidential Attachment 2 to REP 658.

Section 4: The Reviewable Decision was the correct and preferable decision

70. Throughout Investigation 658, the commission conducted its investigation consistent with the requirements drawn from statute and the authorities.

71. During its investigation, the commission undertook extensive engagement with the applicants and interested parties, and made relevant findings on the basis of verified, publicly and privately available information.

72. The commission correctly determined the normal value for the applicants pursuant to s 269TAC(2)(c). The evidence before the commission resulted in the Minister being satisfied, pursuant to the legislative obligations in s 269TG of the Act, that the amount of the export price of the goods was less than the amount of the normal value of those goods, and because of that, the Australian industry producing like goods experienced material injury.