



Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

Attn: Jan Redfern PSM
Panel Member
c/o- ADRP Secretariat

By email: ADRP@industry.gov.au

Dear Member Redfern

ADRP Review No. 181: Certain strata steel bolts exported from the People's Republic of China

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

The notice advised of your intention to review the decision of the Minister for Industry and Science, under sections 269TG (1) and (2) of the Act to publish a dumping duty notice applying to certain strata steel bolts (the goods) exported from the People's Republic of China (China).

I have considered the application for review submitted by ANTO Mining Equipment Co Ltd (ANTO) and make the submissions, under section 269ZZJ(aa) of the Act, at **Attachment A** for your consideration.

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

Yours sincerely

David Latina
Commissioner
Anti-Dumping Commission

18 September 2026

COMMISSIONER, ANTI-DUMPING COMMISSION SUBMISSION

ADRP Review 2026/181

1. The Commissioner of the Anti-Dumping Commission (the **Commissioner**), with the assistance of officers of the Anti-Dumping Commission (the **commission**), makes this submission under section 269ZZJ(aa) of the *Customs Act 1901* (Cth) (the **Act**).¹
2. The submission is made in response to an application for review to the Anti-Dumping Review Panel (the **ADRP** or **Review Panel**) from ANTO Mining Equipment Co Ltd (the **Applicant**).
3. The application seeks review of the decision by the Minister for Industry and Science (the **Minister**) on 1 June 2026 to publish a dumping duty notice under ss 269TG(1) and (2) of the Act in respect of certain strata steel bolts (**the goods**) exported to Australia from China (the **Reviewable Decision**).
4. The submission includes three parts: **Part A**, **Part B** and **Part C**.
5. **Part A** sets out the following:
 - Section 1 outlines the procedural background to the Reviewable Decision.
 - Section 2 clarifies that this submission has been informed by the scope of the review as articulated in the Application for Review and set out in the Review Panel's notice under section 269ZZI (**section 269ZZI notice**).
6. **Part B** sets out the contentions made by the Applicant in its application for review.
7. **Part C** sets out the following:
 - Section 1 sets out the Commissioner's submissions in respect of **ground 1** of the Application for Review.
 - Section 2 sets out the Commissioner's submissions in respect of **ground 2** of the Application for Review.
 - Section 3 articulates why the Reviewable Decision is the correct and preferable decision.

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

Part A: Background

Section 1: Background to the ADRP Review

8. On 30 September 2024, the commission received an application from DSI Underground Australia Pty Limited (**DSI**) and Jennmar Australia Pty Limited (**Jennmar**) alleging that the Australian industry for strata bolts had experienced material injury caused by the goods being exported to Australia from China at dumped and subsidised prices.
9. The dumping measures were initially imposed on 1 June 2026 following Investigation 659 (**the original investigation**), as set out in Anti-Dumping Notice (**ADN**) No 2026/058.²
10. On 19 December 2024, the Commissioner³ published ADN 2024/108 advising interested parties that the Commissioner had decided not to reject the application.
11. On 6 March 2026, the Commissioner placed a Statement of Essential Facts (**SEF 659**) on the public record proposing to recommend that the Minister publish a dumping duty notice and countervailing duty notice in respect of the goods exported to Australia from China.
12. After completing the original investigation the Commissioner provided Anti-Dumping Commission Report No 659 (**REP 659**) to the Minister, recommending the Minister publish a dumping duty notice and a countervailing duty notice in respect of the goods exported to Australia from China.
13. On 1 June 2026 and under section 269TG (1) and (2), the Minister declared by ADN 2026/058 that he had decided to accept the Commissioner's recommendation to publish a dumping duty notice applying to certain strata steel bolts exported from China.
14. In the Reviewable Decision, the Minister stated he had considered and accepted the Commissioner's recommendations and reasons for recommendations, including all the material findings of facts or law, set out in REP 659. The Reviewable Decision was published on the commission's website on 1 June 2026.
15. On 18 June 2026, the Review Panel received an application for review from the Applicant.⁴ In its application, the Applicant identified the following grounds of review:

Ground 1: *In determining a constructed normal value for the Applicant's domestic sales, the Commission adopted an approach to calculation of profit for the Applicant which, without any proper reason, was different to the calculation of the profit included in the constructed normal value for the only other two co-operative exporters, Sandvik Jining (Sandvik) and Huanghua Tanrimine (Tanrimine). For the Applicant the Commission says that it calculated profit using the weighted average profit of Sandvik and Tanrimine, based on their sales of the same general category of goods. For Sandvik and Tanrimine, the Commission included in the constructed normal value each exporter's own domestic profit achieved on the same general category of goods as the subject goods.*

Ground 2: *In determining a constructed normal value for the Applicant's domestic sales, the Commission adopted an amount for profit which was said to be calculated using*

² Anti-Dumping Commission, *Anti-Dumping Notice* ([ADN 2026/058](#), 01 June 2026).

³ References in this document to individuals holding the position of Commissioner are references to whoever occupies the position at the time. This includes when the position is held in an acting capacity.

⁴ ANTO Mining Equipment Co Ltd, *Application for Review of a Reviewable Decision* (Application, 18 June 2026).

the weighted average profit of two other co-operative exporters, Sandvik and Tanrimine, achieved on the same general category of goods as the subject goods. The calculation undertaken was incorrect.

16. Following a conference conducted by the Review Panel on 7 August 2026,⁵ the Applicant was invited to clarify whether it wished to refine or narrow its grounds of review.
17. On 19 August 2026, the Review Panel published a notice under s 269ZZI of the *Customs Act 1901* identifying the grounds upon which it intended to conduct the review.⁶ The Review Panel described Ground 1 as follows:

The Minister erred in determining constructed normal value for ANTO by calculation of profit for ANTO which was different to the calculation of the profit included in the constructed normal value for the only other two cooperative exporters, Sandvik Jining (Sandvik) and Huanghua Tanrimine (Tanrimine). Further, because ANTO was not aware of the error made in the ADC's calculations in the profit margin used for ANTO for the Preliminary Affirmative Determination and the Statement of Essential Facts, ANTO was deprived of the opportunity to make submissions and offer its data.

18. The footnote contained in the s 269ZZI notice states:

During a conference under section 269ZZHA of the Act, ANTO was provided with an opportunity to clarify its grounds of review following a written response by the ADC to further information requested by the Review Panel. ANTO provided a written response dated 13 August 2026 clarifying its grounds.

19. A copy of the 13 August 2026 correspondence between ANTO and the Review Panel is provided in Annexure B to the 7 August 2026 Conference Summary,⁷ and relevantly states:

ANTO thanks the Review Panel for convening the conference on 7 August 2026, and for inviting ANTO's representatives to hear the Commission's explanations in response to the Review Panel's queries. As the Review Panel will appreciate, those explanations provided significantly more detail about the processes undertaken by the Commission, and the errors that the Commission says arose in those processes, than was available to ANTO in the Commission's reports in investigation 659. In light of that further explanation, ANTO's position with respect to the two grounds for review in its application to the Review Panel is as follows.

ANTO maintains its concern outlined in ground 1 of the application for review. It now appears from the Commission's explanation that the Commission:

- calculated profit for Sandvik and Tanrimine using sales of the same general category of goods based on information not included in the responses to the exporter questionnaire, but requested from those exporters during verification; and*

⁵ Anti-Dumping Review Panel, 'Conference Summary: Review No 181, Certain Strata Steel Bolts Exported from the People's Republic of China' (Conference Summary, 7 August 2026).

⁶ Anti-Dumping Review Panel, *Notice under Section 269ZZI: Certain Strata Steel Bolts Exported from the People's Republic of China* (Notice, 19 August 2026) 1.

⁷ Anti-Dumping Review Panel, 'Conference Summary: Review No 181, Certain Strata Steel Bolts Exported from the People's Republic of China' (Conference Summary, 7 August 2026) annexure B.

- *did not undertake the same approach for ANTO because the Commission decided not to verify ANTO's data, and not to request ANTO to provide information about its sales of the same general category of goods.*

I am instructed that if ANTO had been asked for that information (and if it is asked for it now) it could be provided within a week. ANTO notes that it would be open to the Review Panel to require the Commission to reinvestigate the sales by ANTO of the same general category of goods. If it did so, ANTO would be in a position to provide the data in respect of those sales.

In the Commission's calculations for ANTO for the Preliminary Affirmative Determination and the Statement of Essential Facts the profit margin that the Commission used for ANTO was [redacted]% - which ANTO considered not unreasonable. Accordingly, ANTO did not make any submission about that profit margin, did not come to understand why the Commission had taken a different approach to its assessment of ANTO's profit margin, and did not offer to make its data available to the Commission.

If the Commission had not made the repeated errors it now says that it made, and had said that it was going to apply a profit margin of [redacted]% at either stage of the investigation, ANTO would have had the opportunity to make submissions and offer its data. It would have done so because [redacted]% is materially higher than its profit margin on such goods. By the Commission's errors and lack of disclosure about them ANTO was deprived of that opportunity.

For those reasons, ANTO maintains ground 1 of its application for review.

20. Accordingly, the Ground 1 identified in the Review Panel's notice includes an additional contention concerning ANTO's alleged deprivation of the opportunity to make submissions and provide data. That contention did not appear in the ground of review stated in the Applicant's application but was raised by the Applicant following the conference conducted on 7 August 2026. The Commission's submissions below address Ground 1 as formulated in the Review Panel's notice.

Section 2: The scope of the review

Division 9 provides for limited merits review

21. The Review Panel's scope of review is confined to the grounds properly before it. Section 269ZZG(5)(c) requires the Review Panel to conduct a review 'in relation to those grounds and no other grounds'. As Wigney J stated in *Yara AB v Minister for Industry, Science and Technology*,⁸ (**Yara Ab**) the review is not a de novo merits review of the investigation generally.⁹
22. That limitation reflects the structure of Division 9 of Part XVB. Section 269ZZD requires an application for review to be lodged within the prescribed 30-day period. Section 269ZZE(2)(b) requires the applicant to identify the grounds upon which it contends that the reviewable decision is not the correct or preferable decision, while ss 269ZZE(2)(c) and (d) require the applicant to identify the decision contended for and explain how the stated grounds support that outcome. The statutory scheme therefore proceeds on the

⁸ [2022] FCA 847.

⁹ Ibid, [172], [181]-[184].

basis that the grounds of review are identified by the applicant in the review application itself.

23. Consistently with that scheme, s 269ZZG(5) requires the Review Panel to determine whether the grounds advanced by the applicant constitute reasonable grounds for concluding that the reviewable decision is not the correct or preferable decision. Where the Review Panel is satisfied that one or more grounds are reasonable grounds, it must accept those grounds and conduct the review in relation to those grounds and no other grounds. Conversely, grounds that are not accepted must be rejected: s 269ZZG(5).

The Review Panel is limited to only those accepted grounds of review

24. Section 269ZZI(2)(b), which requires the Review Panel's initiation notice to identify the grounds in relation to which the review is to be conducted, is to be properly understood in that context. This provision operates as a notification mechanism informing interested parties which of the grounds advanced in the review application have been accepted for review. It does not confer a power to supplement those grounds by introducing a new contention or materially different basis upon which the reviewable decision is said not to be the correct or preferable decision.
25. While the Act permits the Review Panel to obtain additional material after an application has been lodged, those provisions are directed to obtaining further information in relation to the application already made. Section 269ZZG(1) authorises the Review Panel to seek further information where it is not satisfied that the application adequately establishes the relevant grounds or proposed decision. Similarly, s 269ZZHA permits the Review Panel to conduct a conference for the purpose of obtaining further information in relation to the application or review. Neither provision expressly provides a mechanism by which an applicant may introduce an entirely new ground of review after expiry of the period prescribed by s 269ZZD.
26. Properly construed, the provisions permitting the receipt of further information are directed to the clarification, substantiation or elaboration of grounds already advanced within time. They do not authorise the introduction of a new and distinct basis upon which the reviewable decision is said not to be the correct or preferable decision. To construe those provisions as permitting new grounds to be raised after expiry of the statutory period would substantially undermine the operation of ss 269ZZD and 269ZZE by allowing the mandatory requirements governing review applications to be circumvented.
27. Although the Review Panel must determine the matter 'in like manner as if it were the Minister' and 'having regard to the considerations to which the Minister would be required to have regard', that task does not involve a general reinvestigation of the Commission's findings or a reconsideration of matters falling outside the reviewable grounds.¹⁰
28. The Commissioner submits that Division 9 does not provide a mechanism by which a new ground of review may be introduced following expiry of the period prescribed by s 269ZZD. Rather, the statutory scheme proceeds on the basis that:
 - a. the applicant identifies the grounds of review in its application,

¹⁰ *Yara AB v Minister for Industry, Science and Technology* [2022] FCA 847, [177], [181], [209]; *Infrabuild NSW Pty Ltd v Anti-Dumping Review Panel* [2023] FCA 1229, [134].

- b. the Review Panel determines whether those grounds constitute reasonable grounds for review, and
 - c. the review is then conducted in relation to those grounds and no other grounds.
29. In the Commissioner's submission, that scheme does not contemplate the introduction of a new basis upon which the reviewable decision is said not to be the correct or preferable decision after the period prescribed in s 269ZZD.

The procedural fairness limb of Ground 1 is not a reviewable ground

30. In the present matter, there is a material difference between Ground 1 as stated in the Applicant's application for review and Ground 1 as formulated in the section 269ZZI notice.
31. In its application, the Applicant challenged the methodology adopted in determining the profit component of its constructed normal value. Following the conference conducted on 7 August 2026, the Applicant expressly confirmed that it continued to maintain Ground 1 as articulated in its application for review. However, the Applicant also advanced a new contention, that it had been deprived of the opportunity to make submissions and provide data because it was unaware of errors in the Commission's calculations. That contention was subsequently incorporated into Ground 1 in the section 269ZZI notice.
32. To the extent necessary, the commission addresses Ground 1 as formulated in the section 269ZZI Notice. However, the Commission's primary submission is that the contention concerning an alleged deprivation of the opportunity to make submissions and provide data was not advanced in the application for review and was raised only following the conference process. As such, it is not capable of constituting a reviewable ground under Division 9 of Part XVB and should not be treated as forming part of Ground 1. The Commission's submissions in support of that construction are set out below.

Part B: The Applicant's Application for Review and Contentions

33. In support of Ground 1, the Applicant contends that the commission adopted a different methodology for determining the profit component of ANTO's constructed normal value from the methodology applied to Jining and Tanrimine. The Applicant contends that information concerning ANTO's sales of goods in the same general category could have been obtained had ANTO been requested to provide it.
34. The Applicant further contends that the profit margin applied to ANTO at the Preliminary Affirmative Determination (**PAD**) and SEF stages was "[redacted]%", which it considered "not unreasonable".¹¹ The Applicant contends that, as a consequence, it did not make submissions concerning the profit methodology ultimately adopted by the Commission, seek further information regarding the Commission's calculations, or provide additional information concerning sales of goods in the same general category. The Applicant further contends that, had the commission indicated at either stage of the investigation that it intended to adopt the profit margin ultimately applied in REP 659, it would have made submissions and provided such information.
35. In support of Ground 2, the Applicant contends that, notwithstanding the explanations provided by the commission following the conference, the existence of identified errors gives rise to a concern that further calculation errors may exist which have not been identified or disclosed.

¹¹ Anti-Dumping Review Panel, 'Conference Summary: Review No 181, Certain Strata Steel Bolts Exported from the People's Republic of China' (Conference Summary, 7 August 2026) annexure B, 2.

Part C: The Commissioner's Submissions

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

The procedural fairness contention does not properly form part of Ground 1

36. As set out above, Ground 1 as formulated in the section 269ZZI notice differs from Ground 1 contained in the Applicant's application for review.
37. Ground 1 in the section 269ZZI notice retains the same Ground 1 as articulated in the application, but also includes a further allegation that:

...because ANTO was not aware of the error made in the ADC's calculations in the profit margin used for ANTO for the Preliminary Affirmative Determination and the Statement of Essential Facts, ANTO was deprived of the opportunity to make submissions and offer its data.
38. That allegation does not appear in Ground 1 as stated in the application for review, in either the stated ground of review or in the supporting reasons. Rather, it emerged solely in the Applicant's correspondence dated 13 August 2026 following the conference conducted on 7 August 2026.¹²
39. The original ground as advanced by ANTO challenged the correctness of the methodology adopted by the commission in calculating the profit component of ANTO's constructed normal value. By contrast, the additional allegation in the s 269ZZI notice concerns whether ANTO was deprived of an opportunity to make submissions and provide information during the investigation process.
40. Resolution of this latter allegation requires consideration of a different question, namely whether the investigation process afforded ANTO an adequate opportunity to provide information and make submissions. It advances a different basis upon which the reviewable decision is said not to be the correct or preferable decision.
41. That distinction is significant having regard to the statutory scheme which provides for merits review by the Review Panel:
 - a. Section 269ZZD requires an application for review to be made within the prescribed 30-day period of the Reviewable Decision being published.
 - b. Section 269ZZE(2)(b) requires the application to contain a statement setting out the grounds on which the applicant believes the reviewable decision is not the correct or preferable decision.
 - c. The application must also explain how those grounds support the decision contended for by the applicant: s 269ZZE(2)(d).
42. The Act therefore distinguishes between the grounds upon which review is sought and the information or submissions advanced in support of those grounds and proceeds on the basis that the grounds themselves are identified in the application lodged within time.

¹² Anti-Dumping Review Panel, 'Conference Summary: Review No 181, Certain Strata Steel Bolts Exported from the People's Republic of China' (Conference Summary, 7 August 2026) annexure B, 1-2.

The function of a s 269ZZI notice is to notify interested parties of those reviewable grounds accepted by the Review Panel

43. The statutory scheme proceeds on the basis that the grounds of review are identified in the application lodged within the period prescribed by s 269ZZD. The Review Panel must then determine which of those grounds are reviewable and publish a notice under s 269ZZI identifying the grounds upon which the review is to proceed. Properly construed, s 269ZZI(2)(b) requires the Review Panel to identify reviewable grounds advanced in the application; it does not confer a power to enlarge or reformulate those grounds. To construe the provision otherwise would undermine the operation of ss 269ZZD and 269ZZE by permitting an applicant, after expiry of the statutory period, to introduce a new basis upon which the reviewable decision is said not to be the correct or preferable decision.
44. This construction is also consistent with the role of the s 269ZZI notice within the broader statutory scheme. The notice is published only after the Review Panel has determined that the application should proceed to review and is required to identify 'the grounds in relation to which the review is to be conducted'.
45. The function of the notice is to identify the grounds upon which the review will proceed, not to create or expand those grounds. Were it otherwise, the requirements imposed by ss 269ZZD and 269ZZE could readily be circumvented by permitting an applicant, after expiry of the statutory period, to advance a new basis upon which the reviewable decision is said not to be the correct or preferable decision and then characterise that basis as a clarification of an existing ground.
46. The grounds in relation to which a review is to be conducted must remain anchored to the grounds identified in the application itself.

The Commissioner's submission is consistent with the judgment in Yara AB

47. In Wigney J's consideration of the ADRP review scheme in *Yara AB*, the Court explained that the Review Panel must determine which grounds constitute reviewable grounds and must then conduct the review in relation to those grounds and no other grounds, referring to s 269ZZG(5) and (6). The review is not a de novo merits review and the Review Panel is not permitted to look beyond the reviewable grounds in order to identify some other basis for concluding that the reviewable decision is not the correct or preferable decision.¹³
48. The allegation that ANTO was deprived of an opportunity to make submissions and provide data was not advanced in the application for review and emerged after expiry of the period prescribed by s 269ZZD. Although further information may be provided after lodgement of an application, the mechanisms in ss 269ZZG and 269ZZHA are directed to the clarification, elaboration or substantiation of grounds already advanced. They do not permit the introduction of a new and distinct ground of review. Accordingly, the allegation does not properly form part of Ground 1.
49. Alternatively, should the Review Panel proceed with examining the procedural fairness limb of Ground 1, the commission addresses that contention below and submits that the contention does not have merit and should nevertheless be rejected for the reasons set out below.

¹³ *Yara AB*, [27], [172], [181]–[184].

The change to the profit amount reflected a difference in available information to the commission, not a change in methodology

50. The commission's approach to determining an amount of profit for ANTO does not suffer from a denial of procedural fairness. During the course of investigation 659, the commission conducted itself in accordance with the procedural and legal requirements of the Act. The commission afforded interested parties with opportunities to provide information, initiated a public and transparent process of its attempts to source and consider the relevant evidence.
51. The methodology applied in REP 659 in determining ANTOs profit was consistent with the legislative requirements. The difference between the approach adopted for ANTO and that adopted for Sandvik and Tanrimine reflects a difference in available information.
52. The situations of ANTO, Sandvik and Tanrimine were materially different.
53. Sandvik and Tanrimine were selected for on-site verification. During verification, the commission obtained information concerning their domestic sales of goods in the same general category. This enabled the commission to determine amounts for profit under regulation 45(3)(a) of the *Customs (International Obligations) Regulation 2015* (Cth) (**International Obligations Regulation**).
54. ANTO was not selected for on-site verification. However, for the purposes of the dumping investigation, most of its data was reviewed and its data largely accepted.¹⁴ At no point during the investigation did ANTO object or raise concerns about the decision not to be selected for onsite verification or the methodology for determining its profit amount.
55. The exporter questionnaire does not request information concerning domestic sales of goods in the same general category. As the commission explained during the s 269ZZHA conference, that information is ordinarily obtained during verification.¹⁵ Accordingly, the commission did not have sufficient information to determine profit for ANTO under regulation 45(3)(a) of the International Obligations Regulation.
56. Under the International Obligations Regulation, the commission was unable to determine profit under regs 45(2), 45(3)(a) or 45(3)(b). It therefore applied reg 45(3)(c) and determined profit using a weighted average of the profit margins achieved by the verified exporters on sales of goods in the same general category. That approach was both lawful and reasonable.
57. The difference in methodology therefore reflected the difference in available verified information.

The decision not to verify ANTO does not establish error

58. The Applicant's contention that it could have provided information concerning sales of goods in the same general category if requested to do so does not establish that the reviewable decision was not the correct or preferable decision.

¹⁴ For example, REP 659, section 6.5.2: the commission accepted ANTOs export cost to make (with an adjustment to its HRC costs) and its domestic SG&A.

¹⁵ Anti-Dumping Review Panel, 'Conference Summary: Review No 181, Certain Strata Steel Bolts Exported from the People's Republic of China' (Conference Summary, 7 August 2026) 3.

59. The relevant question is whether the methodology adopted in REP 659 was correct having regard to the information available to the commission during the course of the investigation. It is not whether, with the benefit of hindsight, additional information might have been obtained from ANTO.
60. In AD RP Report No. 176,¹⁶ the Review Panel rejected a construction that would require a 'post-facto revisiting of the investigation outcomes after the sampling process has been undertaken'¹⁷ and considered that the 'purpose and efficacy' of the relevant statutory process would be compromised if the commission were required, with the benefit of hindsight, 'to retrospectively extend the sample or undertake individual determinations'.¹⁸
61. While those observations were made in the context of sampling, the Commissioner submits that the same reasoning is applicable to the current matter. ANTO's contention proceeds on the premise that the investigation outcome should now be revisited because ANTO says it would have supplied additional information had it been aware of the commission's calculations. However, acceptance of that contention would necessarily involve treating the investigation as incomplete and requiring the commission to receive, assess and, if necessary, verify additional information after the relevant investigative decisions had already been made. In the Commissioner's submission, the mere fact that additional information is said to have been available does not establish that the methodology ultimately adopted in REP 659 was erroneous.
62. The Applicant's contention that it could now provide information concerning sales of goods in the same general category is not, of itself, a basis for disturbing the reviewable decision. Ground 1 concerns the methodology adopted by the commission in determining the profit component of ANTO's constructed normal value. The fact that additional information might have been available, or that ANTO may have made different submissions had it appreciated the significance of particular calculations during the investigation, does not establish that the methodology adopted in REP 659 was incorrect.

The commission was transparent about the status of the investigation through the EPR and SEF 659

63. Staged decision making with opportunities for submissions, and publicly available material are at the core of the statutory scheme¹⁹ and the approach undertaken by the commission.
64. The statutory scheme incorporates procedural fairness through both the Statement of Essential Facts (**SEF**) and the Electronic Public Record (**EPR**).
- a. The SEF discloses the Commissioner's proposed factual findings and methodology and affords interested parties a statutory opportunity to respond.
 - b. The EPR provides transparent access to relevant submissions, data and key investigative documents.

¹⁶ Anti-Dumping Review Panel, *Hot Rolled Deformed Steel Reinforcing Bar in Lengths Exported from Malaysia, the Kingdom of Thailand, the Republic of Türkiye and the Socialist Republic of Vietnam* (Report No 176, May 2026).

¹⁷ Ibid, 194(c).

¹⁸ Ibid, 180.

¹⁹ *GM Holden*, [158].

65. In investigation 659, the Commissioner maintained the EPR, published the PAD and SEF, disclosed the methodology used to determine ANTO's profit amount, and invited submissions at each stage.
66. Following publication of the SEF, submissions from DSI and Jenmar specifically raised the alleged error in ANTO's profit calculation, and those submissions were placed on the EPR:

For Anto, the profit of "other exporters" on domestic sales of like goods is difficult to reconcile with the factual findings in the SEF. If Sandvik Jining had no domestic sales at all, and Tanrimine's only domestic sales were two sample sales not in the OCOT, it is unclear which exporter's profit was used, or how a weighted average could have been calculated from the available data. If the profit ultimately applied was derived from Tanrimine's two sample sales, the applicants would have concerns about the reliability of that figure given the Commission's own finding that those sales were not in the OCOT.²⁰

67. ANTO therefore had visibility of both the methodology applied and the criticisms advanced by other interested parties yet did not make submissions concerning the profit methodology or provide information regarding sales of goods in the same general category.
68. The SEF expressly stated that 'this SEF may not represent the final views of the Commissioner' and invited interested parties to make submissions in response to the SEF by a particular date.²¹ ANTO was, as were all other parties, put on notice that the SEF contained *preliminary* findings that might be subject to change.
69. Section 269ZI of the Act serves as a critical mechanism for ensuring the Commissioner affords procedural fairness to interested parties in respect of any investigation, review or inquiry. As Mortimer J stated in *GM Holden Limited v Commissioner of the Anti-Dumping Commission* in respect of the public record:²²

A scheme such as Part XVB assumes interested parties can take responsibility for accessing material when they choose to do so, in order to advance their own interests and perspectives on the contentions and issues in a particular investigation.²³

70. The Commissioner adhered to these requirements by maintaining the EPR for investigation 659 by publishing key documents, including PAD 659 and SEF 659, and submissions from interested parties in response to these documents.
71. ANTO was provided with its calculations following the PAD on 24 December 2025 and again following publication of the SEF on 6 March 2026. At both stages, the calculations disclosed that ANTO's profit amount had been determined using data from other exporters under a 'weighted average approach'.
72. ANTO made submissions in response to the PAD and raised two matters concerning its calculations, neither of which concerned the profit methodology or sought to provide

²⁰ EPR 659, Document no. 26, p. 5, EPR 659, Document No. 27, p. 5.

²¹ REP 659, p. 7.

²² [2014] FCA 708.

²³ *GM Holden*, [158].

information regarding ANTO's sales of goods in the same general category. ANTO did not make a submission in response to the SEF.

73. ANTO had visibility of both the methodology used by the commission to determine ANTO's profit and normal value. It had visibility of the submissions from DSI and Jenmar regarding an alleged error in the calculation of that amount for profit and normal value. ANTO, as were all other parties, were invited to make submissions to SEF 659. ANTO did not avail themselves of that opportunity.

The allegation of procedural fairness does not establish the reviewable decision as not being correct and preferable

74. Even accepting that the calculations provided to ANTO contained errors which were later corrected in REP 659, those errors did not conceal the methodology being applied.
75. Throughout the investigation, ANTO was aware that its profit amount was being determined using data from other cooperative exporters under reg 45(3)(c) rather than by reference to its own sales of goods in the same general category.
76. ANTO therefore had an opportunity to challenge that methodology at multiple opportunities during the investigation, to seek further information concerning the application of that methodology, or to offer its own information in response. It did not do so.
77. The subsequent corrections altered the inputs to the calculation, not the methodology itself. The change in the profit amount between the SEF and REP 659 resulted from the correction of inputs to the calculation, not from the adoption of a different methodology. The methodology applied to ANTO remained reg 45(3)(c) of the International Obligations Regulation. The errors identified at the conference, namely the mischaracterisation of Tanrimine's sales and the failure to carry forward the corrected Tanrimine profit margin, were corrected in REP 659. Those corrections did not alter the basis upon which ANTO's profit amount was determined, which remained the use of data from the other cooperative exporters.
78. The Commissioner submits that the correction of those errors did not, of itself, require the commission to reopen the investigation or provide ANTO with a further opportunity to make submissions and provide information. The PAD and SEF processes had disclosed the methodology applied to ANTO and afforded ANTO opportunities to address that methodology. The fact that correction of the calculation resulted in a higher profit amount does not establish that ANTO had been excluded from addressing the basis upon which its profit was determined.
79. Accordingly, the fact that ANTO did not appreciate the precise profit amount ultimately adopted does not establish a denial of procedural fairness, nor does it demonstrate that the reviewable decision was not the correct or preferable decision.
80. The Commission correctly applied the hierarchy in reg 45 and, in the absence of information concerning ANTO's own sales in the same general category, relied upon verified data from other cooperative exporters.

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

81. Ground 2 does not identify or substantiate any error in the calculation adopted in REP 659 in forming the basis of the reviewable decision.
82. The specific discrepancy originally relied upon by ANTO has been explained. It arose from two errors in the superseded PAD and SEF calculations, both of which were corrected before REP 659 was finalised. ANTO's subsequent contention that further, unidentified errors may exist is speculative and does not establish that the reviewable decision was not the correct or preferable decision.²⁴ Nor does that speculation render the information before the Review Panel insufficient to permit it to make a recommendation, such that reinvestigation under s 269ZZL is required.
83. The ADRP's task is confined to determining whether the reviewable decision is not the correct or preferable decision for the reasons advanced in the reviewable grounds.²⁵ It is not required, and is not permitted, to conduct a broader inquiry into whether some unidentified error might exist.²⁶

Conference on 7 August 2026

84. The Review Panel convened a conference on 7 August 2026 to obtain further information concerning the allegation in Ground 2 that the calculation of ANTO's profit amount was incorrect. Ground 2 was stated in the Applicant's Revised Application for Review as follows:

In determining a constructed normal value for the Applicant's domestic sales, the Commission adopted an amount for profit which was said to be calculated using the weighted average profit of two other co-operative exporters, Sandvik and Tanrimine, achieved on the same general category of goods as the subject goods. The calculation undertaken was incorrect.

85. Specifically, a non-confidential explanation of the following was requested from the commission.
- a. 'the methodology used to determine the amount of profit included in ANTO's constructed normal value under regulation 45';
 - b. 'the basis on which sales of goods in the same general category were identified';
 - c. 'the calculation of the weighted average profit amount applied to ANTO'; and
 - d. 'the reasons for the change in the profit amount applied to ANTO between the PAD/SEF and the final report'.
86. In response, the commission explained, among other things, that:

²⁴ For completeness, the commission notes that the only difference between the normal value determined for profit before and after the final report is the amount of profit applied to the constructed normal value. The CTM, CTMS, adjusted CTMS (after application of HRC benchmark), and s 269TAC(9) adjustments are identical.

²⁵ Section 269ZZG(5)(c).

²⁶ *Yara AB*, [182]–[183]; *Infrabuild NSW Pty Ltd v Anti-Dumping Review Panel* [2023] FCA 1229, [134].

- a. ANTO's domestic sales 'did not generate a positive profit margin' and the commission 'could not therefore work out an amount of profit under r 45(2)';
 - b. the commission 'applied regulation 45(3)(c) and calculated a weighted average profit amount using the profit margins achieved by [the other cooperating] exporters on domestic sales of goods in the same general category';
 - c. the weighted average was calculated using 'the value of the domestic sales of each exporter';
 - d. the profit amount applied at the PAD and SEF stages 'was based solely on the profit margin of one cooperating exporter'; and
 - e. following further consideration, the commission 'recalculated ANTO's profit amount using a weighted average of the profit margins achieved by both exporters on domestic sales of goods in the same general category', which resulted in the profit amount adopted in the Final Report.
87. Following the Conference, ANTO maintained Ground 2.²⁷ However, rather than identifying an error in the calculation adopted in REP 659, ANTO stated that it remained concerned that 'there may be additional calculation errors that have not been identified by the commission or disclosed' and asked the Review Panel to consider whether the calculations contained errors 'not now disclosed by the Commission': Appendix B to the Conference Summary.
88. Such speculation is unfounded, unsupported by evidence, and does not demonstrate that the calculation of ANTO's profit and normal value were not correct and preferable.

The specific discrepancy

89. As originally formulated, Ground 2 asserted that 'the calculation undertaken was incorrect'. In support of that assertion, ANTO relied on the substantial increase in the profit amount applied to ANTO between the SEF and REP 659, notwithstanding that the dumping margins determined for Sandvik and Tanrimine remained broadly unchanged. ANTO contended that, if its profit amount had been calculated as a weighted average of the profit margins of Sandvik and Tanrimine, such an increase could not logically have occurred without a corresponding change in the underlying margins.
90. The discrepancy identified by ANTO has now been fully explained by the commission in the conference of 7 August 2026 and above. It arose from errors in the superseded PAD and SEF calculations, not from an error in the calculation adopted in REP 659 and forming the basis of the reviewable decision.

Error identified and corrected

91. At the Conference on 7 August 2026, the commission provided, step by step explanation of the difference between ANTO's profit amount in SEF 659 and REP 659. The commission identified two errors that existed in the earlier stages of the investigation (the PAD and the SEF), both of which were corrected before the final report:

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- a. **Error 1 (mischaracterisation of Tanrimine's domestic sales):** Tanrimine's domestic sales were initially treated as sales of like goods, when they were in fact sales of the same general category of goods. As a consequence, ANTO's profit at the PAD and SEF stages was based solely on Tanrimine's margin, rather than a weighted average of both Sandvik and Tanrimine.
- b. **Error 2 (failure to carry the corrected Tanrimine profit margin through to ANTO's calculation):** Following the PAD, Tanrimine identified an error in the calculation of its profit margin. The commission corrected that error in Tanrimine's normal value for the SEF but inadvertently failed to carry the corrected profit margin through to the calculation of ANTO's normal value.

Final calculation in REP 659

- 92. Neither error was carried into the calculation adopted in REP 659. In preparing the final report, the Commission:
 - a. Correctly characterised both Sandvik's and Tanrimine's domestic sales of the same general category of goods;
 - b. Calculated ANTO's profit as the weighted average of the profit margins achieved by both Sandvik and Tanrimine on domestic sales of the same general category of goods, in accordance with regulation 45(3)(c) of the *Customs (International Obligations) Regulation 2015*; and
 - c. Applied the corrected Tanrimine profit margin in performing that weighted average calculation.
- 93. The Minister's reviewable decision was made on the basis of REP 659. Although ANTO maintains that the calculation adopted in REP 659 was incorrect, it has not identified any particular error in that calculation. The two errors identified through the conference process concerned the superseded PAD and SEF calculations and had been corrected before REP 659 was finalised. Accordingly, the specific discrepancy relied upon by ANTO does not establish that the calculation forming the basis of the reviewable decision was incorrect.
- 94. Consistent with *Yara AB*, the question for the ADRP is whether the Reviewable Decision is not the correct or preferable decision on the grounds properly before it.²⁸ The review is not a de novo review or a merits review 'entirely at large',²⁹ nor is the ADRP permitted to embark upon its own investigation in search of possible alternative errors.³⁰

The speculation about undisclosed errors is unsupported

- 95. In its correspondence dated 13 August 2026, ANTO did not identify any error in the calculation adopted in REP 659. Rather, following the Commission's explanation of the specific discrepancy upon which it had relied, ANTO stated:

'Given those claimed errors, that those errors were not adequately disclosed until now, and that the underlying calculations of the profit margins for Sandvik and Tanrimine are not available to ANTO, ANTO remains concerned that there may be

²⁸ *Yara AB*, [179].

²⁹ *Yara AB*, [172].

³⁰ *Yara AB*, [182]–[183].

additional calculation errors that have not been identified by the Commission, or disclosed’.

96. That subsequent contention does not substantiate Ground 2. It does not identify any input, profit margin, weighting, sales value or mathematical operation in the REP 659 calculation that is said to be incorrect. Instead, it raises the possibility that some further, unidentified error may exist. The possibility of an unidentified error does not, without more, establish that the calculation adopted in REP 659 was incorrect or that the reviewable decision was not the correct or preferable decision.
97. The fact that errors occurred at earlier stages of the investigation does not, without more, support a reasonable contention that the calculation adopted in REP 659 also contains an error. Both identified errors were corrected before the final report.
98. To accept ANTO’s residual contention as sufficient to sustain Ground 2 would require the Review Panel to undertake an open-ended examination of the calculation in search of an error not identified in the application or in ANTO’s subsequent correspondence. The Commissioner submits that such an inquiry would extend beyond determination of Ground 2 as advanced.
99. Nor does ANTO’s concern establish a basis for requiring reinvestigation under s 269ZZL. The information obtained through the conference explains the discrepancy relied upon in support of Ground 2 and establishes that the identified errors were corrected before REP 659 was finalised. The Review Panel is therefore able to determine whether Ground 2 establishes that the reviewable decision was not the correct or preferable decision. Speculation that some further, unidentified error may exist does not make the available information insufficient to permit the Review Panel to make its recommendation and does not warrant an open-ended reinvestigation of the calculation.
100. For those reasons, Ground 2 should be rejected. The explanation provided through the conference process answers the specific discrepancy relied upon by ANTO, and ANTO has not identified any error in the calculation adopted in REP 659. Its concern that further unidentified errors may exist is insufficient to establish that the reviewable decision was not the correct or preferable decision or to warrant reinvestigation under s 269ZZL.

Section 3: Reviewable Decision was the correct and preferable decision

101. Neither Ground 1 nor Ground 2 establishes an error in the methodology or calculation ultimately adopted in REP 659 or otherwise demonstrates that the reviewable decision was not the correct or preferable decision.
102. In relation to Ground 1, the commission correctly applied the hierarchy in reg 45 International Obligations Regulation. The different treatment of ANTO, on the one hand, and Sandvik and Tanrimine, on the other, reflected differences in the information available to the Commission. As the commission was unable to determine an amount for ANTO's profit under regs 45(2), 45(3)(a) or 45(3)(b), it determined that amount under reg 45(3)(c) using verified information from the other cooperative exporters.
103. ANTO's contention that it could have provided additional information concerning sales of goods in the same general category does not establish that the methodology adopted in REP 659 was incorrect. Nor, if the procedural fairness allegation is treated as forming part of Ground 1, does that allegation establish that the reviewable decision was not the correct or preferable decision. ANTO was given opportunities to make submissions, was aware that its profit amount was being determined using information from other exporters and did not challenge that methodology or offer its own information concerning sales of goods in the same general category. The increase in the profit amount between the SEF and REP 659 resulted from the correction of errors in the calculation, not from the adoption of a different methodology.
104. In relation to Ground 2, the specific discrepancy relied upon by ANTO has been explained. It arose from two errors in the superseded PAD and SEF calculations, both of which were corrected before REP 659 was finalised. Although ANTO maintains that the calculation adopted in REP 659 was incorrect, it has not identified any particular error in that calculation. Its residual concern that further, unidentified errors may exist is speculative and does not establish that the reviewable decision was not the correct or preferable decision.
105. Neither ground provides a basis for requiring reinvestigation under s 269ZZL. Ground 1 seeks, in substance, an opportunity for ANTO to provide information that was not provided during the investigation. Ground 2 identifies no error in the calculation adopted in REP 659 and instead rests on the possibility that an unidentified error may exist. The Review Panel is able to determine both grounds on the information before it, and neither contention warrants an open-ended reinvestigation.
106. Accordingly, the reviewable decision was based on the proper application of reg 45 of the International Obligations Regulation to the information available to the commission and on the corrected calculations contained in REP 659. Neither Ground 1 nor Ground 2 establishes that the reviewable decision was not the correct or preferable decision. The Minister's decision should therefore be affirmed.