

ADRP Review No. 2026/182

Submission on behalf of Nextpower Australia Pty Ltd in response to
GranSolar's application for review

7 September 2026

Introduction

- 1 This submission is made by Nextpower Australia Pty Ltd (**Nextpower**) in its capacity as an interested party within the meaning of section 269ZX of the *Customs Act 1901* (Cth) (**Act**), in relation to the application by GranSolar Construction Australia Pty Ltd (**GranSolar**) for review of the decision of the Minister for Industry and Innovation (**Minister**) published in Anti-Dumping Notice No 2026/064, following Anti-Circumvention Inquiry No 685 (**Reviewable Decision**).
- 2 GranSolar is an importer of octagonal, pre-drilled hollow structural sections (**HSS**), classified under tariff subheading 7308.90.00 (statistical code 65), for use in the construction of utility-scale solar farms in Australia.
- 3 GranSolar raises three grounds in support of its application for review. Nextpower does not oppose the outcomes sought pursuant to, or wish to be heard on, grounds 1 and 2 of GranSolar's application. This submission is only concerned with ground 3 of the application by GranSolar (**GranSolar's Ground 3**). That ground relates to the scope of the extensions to the measures imposed by the Minister as part of the Reviewable Decision. This submission is focussed specifically on the alternate form of measures that GranSolar proposes if the Review Panel recommends an alteration to the measures on the basis of that ground.

Nextpower's submissions in respect of GranSolar's Ground 3*GranSolar's Ground 3 and the relief sought*

- 4 GranSolar's Ground 3 raises a distinct issue that is not reflected in Nextpower's application for review of the Reviewable Decision. It is said to be advanced "strictly without prejudice" to ground 2 of GranSolar's application, which contends that the Commissioner's analysis under sections 48(2) and 48(3) of the Regulation was infected by an error of law and that the Reviewable Decision should accordingly be revoked and substituted with a decision that the original notices remain unaltered.
- 5 GranSolar's Ground 3 contends that the alteration to the notices is in any event too broad, in that the notices as altered capture any electric resistance welded pipe and tube made of carbon or other alloy steel classified to tariff subheading 7308.90.00 (statistical code 65), comprising circular and non-circular HSS, whether or not such goods were the subject of investigation in the anti-circumvention inquiry.
- 6 GranSolar's proposed "correct or preferable decision" under GranSolar's Ground 3 is that the notices be altered to add only:

“Certain electric resistance welded pipe and tube made of carbon or other alloy steel classified to tariff subheading 7308.90.00 (statistical code 65), comprising circular, oval, square and rectangular hollow structural sections (HSS), including circular or oval hollow sections (CHS) with other than plain ends, such as threaded, swaged and shouldered, and any sections with holes (including those created by drilling, punching, piercing, cutting or otherwise) at the end of the section or along its length (or both)”.

- 7 That is, GranSolar proposes to limit the extended goods description to circular, oval, square and rectangular HSS only, as a result excluding octagonal and other non-standard shapes (which GranSolar imports), while expressly including circular HSS with drilled holes. Nextpower’s torque tubes are circular HSS with precision-drilled holes classified to 7308.90.00 (statistical code 65). If the relief proposed in GranSolar’s Ground 3 was recommended by the Review Panel, the anti-dumping measures would apply to Nextpower’s standard torque tubes, but not to GranSolar’s standard torque tubes.
- 8 It is also relevant that, in its submission to the Commission dated 17 April 2026 (which the Commissioner declined to consider), GranSolar recommended confining any alteration to “circular and rectangular hollow sections” only. GranSolar’s position as now formulated in its application for review has expanded to include oval shapes. The shifting formulation underscores the unprincipled character of GranSolar’s approach to the goods description.

GranSolar’s Ground 3 is narrowly self-interested and does not address the substantive issue

- 9 GranSolar’s Ground 3 is directed primarily to benefiting GranSolar and its exporters at the expense of other Australian importers and their suppliers. The relief sought under GranSolar’s Ground 3 is tailored to exclude GranSolar’s own octagonal HSS imports from the scope of the measures, without seeking a principled narrowing of the goods description by reference to the evidentiary findings of the anti-circumvention inquiry.
- 10 It is, in substance, an attempt to carve out a commercial exemption for GranSolar while consenting to the imposition of duties on other importers whose goods were never within the scope of the original HSS measures, and in respect of which no circumvention activity has been established.
- 11 GranSolar’s Ground 3 implicitly concedes (if its other grounds are not accepted) the legitimacy of the anti-circumvention finding as applied to circular HSS with holes. By proposing a goods description that expressly includes “circular or oval hollow sections (CHS) with other than plain ends” and “any sections with holes”, GranSolar accepts, for the purposes of this ground, that the extension of the measures to such goods is properly made. Consistently with the grounds articulated its own application for review, Nextpower’s submits that the Review Panel should not adopt the relief proposed in GranSolar’s Ground 3 - it represents neither the correct, nor the preferable, decision.
- 12 GranSolar has not advanced any meaningful evidence or demonstrated a principled basis as to why octagonal tubes should be excluded from the measures other than the fact that GranSolar imports them.
- 13 The central issue raised by Nextpower’s application is whether there was any proper basis for extending the HSS measures to goods classified to 7308.90.00 (statistical code 65) at all. GranSolar’s Ground 3 does not engage with this question. It accepts the premise that the anti-circumvention finding was validly made and concerns itself only with the shape of products captured. This is, in substance, a dispute about commercial classification, rather than the merits of the underlying decision.

- 14 If the basis for the relief proposed by GranSolar in this ground is that there is no evidence of circumvention activity in relation to octagonal torque tubes, then as outlined in ground 2 of Nextpower's application for review, the appropriate approach is to extend the measures only to exporters who have engaged in circumvention activity, or alternately to exclude from the extended measures all who have not.
- 15 GranSolar's proposed goods description captures goods and exporters in respect of which no circumvention has been demonstrated. Even accepting GranSolar's argument that octagonal HSS should be excluded, the "narrower" formulation it proposes would still extend the measures to circular HSS with pre-drilled precision holes (torque tubes) when (as advanced in Nextpower's application):
- (a) no evidence of circumvention activity for those goods has been identified by the Commissioner;
 - (b) the goods have always been classified to 7308.90.00 (statistical code 65) and were never within the scope of the original HSS measures;
 - (c) GranSolar's own application acknowledges that drilling renders the goods "wholly unusable for other applications of the goods covered by the Original Notices". That supports the proposition that drilled torque tubes are functionally distinct from standard HSS and should not be captured by an extension of the measures premised on circumvention of those measures;
 - (d) the pre-drilled holes are an integral engineered feature specific to Nextpower's torque tubes (precision-drilled to tolerances of half a degree), and this is distinguishable from the position of any importers whose goods may have been modified to avoid the application of the measures;
 - (e) the same goods have always been manufactured to the same specifications by Nextpower's exporters with no change to production processes; and
 - (f) the United States Department of Commerce has twice determined (in 2019 and 2024) that materially similar torque tubes fall outside the scope of US anti-dumping orders on circular welded pipe from China. Those scope rulings were obtained in proceedings involving a related entity of Nextpower and relate specifically to torque tubes imported by that related entity. They provide persuasive comparative support for Nextpower's position that its torque tubes are purpose-engineered solar tracker components that should not be treated as ordinary HSS merely because they are steel tubular products with holes or prepared ends. GranSolar has no comparable evidentiary support for the proposition that its octagonal tubes should be specifically excluded from the measures.
- 16 The relief sought by GranSolar also does not address the broader impact on the Australian renewables sector. GranSolar's approach, if accepted, would provide a narrow commercial benefit to one importer while leaving in place a flawed extension of the measures that imposes unjustified costs on the broader renewables industry and its participants.

The appropriate remedy if the goods description is too broad

- 17 Like GranSolar, Nextpower contends that if the Minister considers that, contrary to its primary arguments, extended measures are warranted, then the goods description in the Reviewable Decision is too broad. However, Nextpower and GranSolar arrive at that conclusion for fundamentally different reasons and seek fundamentally different remedies.
- 18 GranSolar's position is that the description is too broad because it captures HSS of shapes (including octagonal) that were never within the historical scope of HSS measures. GranSolar's

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proposed remedy is to narrow the description by shape, limiting it to circular, oval, square and rectangular HSS. This is a product classification approach that takes no account of whether circumvention was demonstrated in respect of the goods that remain captured.

- 19 Nextpower's position is that the description is too broad because it extends measures to goods in respect of which no circumvention activity has been demonstrated. Nextpower's proposed remedy is that there be no alteration at all, or alternatively, that any alteration be confined to the specific exporters found to have engaged in circumvention conduct. This is a substantive approach that addresses the merits of the anti-circumvention finding.
- 20 For these reasons, Nextpower respectfully submits that the Review Panel should not recommend to the Minister the relief advanced under GranSolar's Ground 3.



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