Australian Government
Anti-Dumping Review Panel

Anti-Dumping Review Panel Report No 182

Hollow Structural Sections exported to Australia from the People's Republic of China, the Republic of Korea, Malaysia and Taiwan

October 2026

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Abbreviations

Term	Meaning
Act	*Customs Act 1901* (Cth)
ABF	Australian Border Force
ACLE	ACLE Services Pty Ltd
ADC	Anti-Dumping Commission
AND	Anti-Dumping Notice
Anti-Dumping Agreement	*Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*
Applicants	Nextpower Australia Pty Ltd and Gransolar Construction Australia Pty Ltd
China	The People's Republic of China
CHS	Circular or oval hollow sections
Commissioner	Commissioner of the Anti-Dumping Commission
Dumping Duty Act	*Customs Tariff (Anti-Dumping) Act 1975*
Goods	The goods the subject of the original notices (HSS)
Gransolar	Gransolar Construction Australia Pty Ltd
HSS	Hollow Structural Sections
IDD	Interim dumping duty
ICD	Interim countervailing duty
Inquiry Period	Inquiry Period from 1 July 2012 to 30 June 2025
Orrcon	Orrcon Manufacturing Pty Ltd
Minister	Minister for Industry and Innovation and Minister for Science

Nextpower	Nextpower Australia Pty Ltd
Regulation	*Customs (International Obligations) Regulation 2015*
REP 685	The report published by the Commission in relation to Hollow Structural Sections exported from the People's Republic of China, the Republic of Korea, Malaysia and Taiwan and dated 5 June 2026
Review Panel	Anti-Dumping Review Panel
Reviewable Decision	The decision of the Minister made on 5 June 2026 (ADN 2026/064)
SCM	Agreement on Subsidies and Countervailing Measures
SEF 685	Statement of Essential Facts No 685
US	United States

Summary

1. I have conducted a review of the Minister for Industry and Innovation and Minister for Science's ('the Minister') decision pursuant to s 269ZDBH of the *Customs Act 1901*[1] ('the Act') in respect of Hollow Structural Sections ('HSS' or 'the goods') exported from the People's Republic of China ('China'), the Republic of Korea ('Korea'), Malaysia and Taiwan ('Reviewable Decision').

2. The Applicants for this review were two importers of the goods, Nextpower Australia Pty Ltd ('Nextpower') and Gransolar Construction Australia Pty Ltd ('Gransolar').

3. For the reasons set out in this report, I am satisfied that a new decision which is materially different to the Reviewable Decision is required. Accordingly, I recommend, pursuant to s 269ZZK(1)(b) of the Act that the Minister revoke the Reviewable Decision and substitute it with a new decision declaring that, pursuant to s 269ZDBH(1)(a), the original notices remain unaltered.

Introduction

4. On 30 June 2026, Nextpower Australia Pty Ltd applied under s 269ZZC of the Act for a review of the Reviewable Decision.

5. On 6 July 2026, Gransolar Construction Australia Pty Ltd applied under s 269ZZC of the Act for a review of the Reviewable Decision.

6. On 17 July 2026, the Senior Member of the Anti-Dumping Review Panel ('Review Panel') directed in writing that the Review Panel be constituted by me in accordance with s 269ZYA of the Act.

7. The applications were accepted and notice of the proposed review, as required by s 269ZZI, was published on 7 August 2026.

Background

8. On 4 September 2025, the Commissioner of the Anti-Dumping Commission ('the Commissioner') initiated Anti-Circumvention Inquiry No. 685 in relation to the goods

[1] *Customs Act 1901* (Cth).

exported to Australia from China, Korea, Malaysia and Taiwan, following an application from Orrcon Manufacturing Pty Ltd ('Orrcon'), a producer of like goods in Australia.[2]

9. The Commissioner established an inquiry period commencing 1 July 2012 to 30 June 2025 ('the inquiry period') for the purposes of assessing whether a circumvention activity has occurred. The Commissioner chose the inquiry period to assess patterns of trade before and after the Minister published the original notices in June 2012, which is relevant to the factors in reg 48 of the Regulation.[3]

10. Since the original notice was published, several cases concerning the goods have been undertaken. The key cases are summarised in the following table, sourced from pages 9 and 10 of the ADC's Final Report ('REP 685').

Case type and report number	ADN	Date	Country of export	Findings
Investigation REP 177	2012/31	3 July 2012	China, Korea, Malaysia and Taiwan	Dumping duty and countervailing duty notices published.
Reinvestigation REP 203	2013/35	13 May 2013	China, Korea, Malaysia and Taiwan	REP 177 affirmed with a variation to the dumping duty notice in relation to Dalian Steelforce.
Federal Court Decision[4]	2016/09	17 February 2016	China	Revised dumping duty notice in relation to Dalian Steelforce. Countervailing duty notice no longer applicable to Dalian Steelforce.
Anti-circumvention REP 291	2016/24	18 March 2016	China, Korea and Malaysia	Dumping duty and countervailing duty notice amended to expand tariff classifications covered for certain exporters found to have engaged in a circumvention activity.

[2] ADN 2025/084.

[3] REP 685, Section 3.1.1.

[4] ADN 2016/09 refers. The judgment in *Dalian Steelforce Hi-Tech Co Ltd v Minister for Home Affairs* [2015] FCA 885 is available on the Federal Court of Australia's website.

Continuation REP 379	2017/70	21 June 2017	China, Korea, Malaysia and Taiwan	Continuation of anti-dumping measures. Variation of the dumping duty and countervailing duty notices.
Review REP 419	2018/74	6 June 2018	China, Korea, Malaysia and Taiwan	Variation of the dumping duty and countervailing duty notices.
Review REP 529	2021/11	9 March 2021	China, Korea, Malaysia, Taiwan (and Thailand)[5]	Variation of the dumping duty and countervailing duty notices. Anti-dumping measures revoked with respect to Kukje Steel Co Ltd.
Continuation REP 590	2022/049	30 June 2022	China, Korea, Malaysia, Taiwan	Continuation of anti-dumping measures. Variation of the dumping duty and countervailing duty notices.

11. On 23 March 2026, the Commissioner published a Statement of Essential Facts ('SEF 685').[6]

12. On 5 June 2026, the Commissioner provided the Report to the Minister, and based on the evidence before the Commission, the Commissioner considered circumvention activity in relation to the original notices had occurred.

    a. The Commissioner reached this conclusion being satisfied that all the circumstances set out in reg 48(2) of the Regulation apply, as follows:[7]

        i. the circumvention goods are exported to Australia from a foreign country in respect of which the notice applies, namely China

        ii. before that export, the circumvention goods are slightly modified

[5] Separate anti-dumping measures were imposed in relation to Thailand following Investigation No 254. However, these measures expired on 27 July 2020 (Anti-Dumping Commission Report No 532).
[6] EPR 685, Document #9.
[7] REP 685, Section 1.3.

iii. the use or purpose of the circumvention goods is the same before, and after, they are slightly modified

iv. had the circumvention goods not been so slightly modified, they would have been the subject of the notice, and

v. section 8 of the Dumping Duty Act does not apply to the export of the circumvention goods to Australia.

13. The Commissioner recommended these alterations take effect from the date of publication of the notice initiating this inquiry, being 4 September 2025. This date recognised that circumvention activity has been occurring prior to this inquiry.[8]

14. Applying the recommended alterations retrospectively ensures that interim dumping duty ('IDD') and interim countervailing duty ('ICD') are collected in relation to the circumvention goods which would have been the subject of the original notices had these goods not been slightly modified.[9]

15. REP 685 therefore recommended that the Minister alter the original notices to include certain goods classified to tariff subheading 7308.90.00 (statistical code 65).[10]

16. On 5 June 2026, the Minister accepted the Commissioner's recommendations and reasons for the recommendations including all material findings of facts or law set out in REP 685. Notice of the decision was published on the same date.[11] This is the decision the subject of this review.

Conduct of the Review

17. Pursuant to s 269ZZK of the Act, a report must be provided no later than 60 days beginning on the day of the publication of the notice of review, unless a reinvestigation is required under s 269ZZL(1) of the Act.[12]

18. In accordance with s 269ZZK(1) of the Act, the Review Panel must recommend that the Minister either affirm the reviewable decision, or revoke it and substitute a new specified decision. Section 269ZZK(1A) of the Act requires that the Review Panel may

[8] REP 685, Section 1.4, 6.
[9] Ibid.
[10] REP 685, 5.
[11] ADN 2026/064.
[12] Pursuant to s 269ZZK(3) of the Act.

only make a recommendation to revoke and substitute a new specified decision if the new decision is materially different from the reviewable decision.

19. In undertaking the review s 269ZZ(1) of the Act requires the Review Panel to determine a matter required to be determined by the Minister, 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 if the Minister was determining the matter.

20. Subject to certain exceptions,[13] the Review Panel is not to have regard to any information other than relevant information pursuant to s 269ZZK, i.e. information to which the Commission had regard or ought to have had regard when making its findings and recommendations to the Minister.

21. If a conference is held under s 269ZZHA of the Act, then the Review Panel may have regard to further information obtained at the conference to the extent that it relates to the relevant information, and to conclusions reached at the conference based on that relevant information. The following conferences were held pursuant to s 269ZZHA of the Act for the purpose of clarifying certain statements in REP and the Applications for Review:

    a. 20 August 2026, Conference with Commission representatives;

    b. 27 August 2026, Conference with Nextpower's representatives;

    c. 1 September 2026, Conference with Commission representatives; and

    d. 3 September 2026, Conference with Gransolar's representatives.

    A non-confidential summary of the information obtained at each conference was made publicly available in accordance with s 269ZZX(1) of the Act. A list of conferences held, together with a summary of their purpose, is set out at Appendix A.

22. In conducting this review, I have had regard to the applications and documents submitted with the applications and to submissions received pursuant to s 269ZZJ of the Act insofar as they contained conclusions based on relevant information. A list of the submissions received and accepted is at Appendix B. I have also had regard to the

[13] See s 269ZZK(4).

REP 685, to public and confidential documentation supplied by the Commission and relevant information obtained at the conferences.

23. Australia's anti-dumping and countervailing system implements the following WTO agreements to which Australia is a party:

    a) *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*[14] ('Anti-Dumping Agreement') – which prescribes rules for the conduct of anti-dumping investigations and the application of measures to address dumping, including how member countries may: initiate cases, calculate dumping margins, determine injury, enforce remedial measures and review past determinations; and

    b) *Agreement on Subsidies and Countervailing Measures*[15] ('SCM Agreement') – which regulates measures designed to remedy material injury caused by subsidised imports, along similar lines to the Anti-Dumping Agreement.

24. The Act and the *Customs Tariff (Anti-Dumping) Act 1975 ('*Dumping Duty Act'*)*[16] are the principal legislation relating to anti-dumping measures in Australia. The Review Panel will interpret and apply the legislation, as far as its language permits, so that it is in conformity, and not in conflict, with Australia's international obligations. In practice, this means where the legislation is ambiguous the Review Panel will favour a construction that is consistent with the Anti-Dumping Agreement and the SCM Agreement and the obligations which they impose (see *Pilkington (Australia) Ltd v Minister of State for Justice & Customs* (2002) FCAFC 423 [25]-[27]).

25. Subsection 269ZZG(5) of the Act deals with what must occur if the Review Panel does not reject an application and is satisfied that one or more grounds contained in the application under s 269ZZE(2)(b) of the Act are reasonable grounds for the Reviewable Decision not being the correct or preferable decision. In that context, s 269ZZG(5)(c) of the Act provides that the Review Panel "must accept the reviewable grounds and must conduct the review in relation to those grounds and no other grounds". In *Yara AB v Minister for Industry, Science and Technology*, the Federal

[14] *Marrakesh Agreement Establishing the World Trade Organization*, opened for signature 15 April 1994, 1867 UNTS 3 (entered into force 1 January 1995) annex 1A ('*Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*') ('Anti-Dumping Agreement').
[15] *Marrakesh Agreement Establishing the World Trade Organization*, opened for signature 15 April 1994, 1867 UNTS 3 (entered into force 1 January 1995) ('*Agreement on Subsidies and Countervailing Measures*') ('SCM Agreement').
[16] *Dumping Duty Act* (Cth).

Court considered the operation of s 269ZZG(5)(c) of the Act. In the course of resolving Ground 5 of Yara AB's application, Wigney J observed that it was "clear", having regard to s 269ZZG(5)(a)-(c), that "the review is not a de novo review or a merits review which is entirely at large" and that "[t]he 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]

26. His Honour observed at [182] to [185]:

> …the Review Panel's conduct of the review, including its consideration of whether the Minister's decision was the correct or preferable decision, is confined and constrained in certain respects. In particular, the Review Panel must conduct the review in relation to the reviewable grounds and no other grounds. It must also only have regard to certain information, that information essentially being the information that the Commission had regard to, or was required to have regard to, as well as any reinvestigation report. The Review Panel cannot conduct its own investigations or obtain and use further information.
>
> The fact that the Review Panel is required to conduct the review only in relation to the reviewable grounds is particularly significant, especially given that the criterion for determining whether a ground is a "reviewable ground" is whether it is a "reasonable ground for the Reviewable Decision not being the correct or preferable decision". What that must mean is that the nature of the review undertaken by the Review Panel is to essentially determine whether the Reviewable Decision is not the correct or preferable decision for any of the reasons articulated in the reviewable grounds. It is only to that extent, and on those terms, that the Review Panel is required to consider and determine whether the Reviewable Decision is the correct or preferable decision.
>
> If, on the one hand, the Review Panel, having conducted the review, is not satisfied that the Reviewable Decision is not the correct or preferable decision for any of the reasons articulated in the reviewable grounds, the Review Panel would be entitled to find that the Reviewable Decision was the correct or preferable decision, and therefore entitled to recommend that the Minister affirm the Reviewable Decision. The Review Panel is not required – indeed, it

[17] *Yara AB v Minister for Industry, Science and Technology* (2022) FCA 847 [172] ('*Yara AB'*).

is not permitted – to look beyond the reviewable grounds in order to satisfy itself that there is no other reason for finding that the Minister's decision was not the correct or preferable decision. If, on the other hand, the Review Panel is satisfied that the Reviewable Decision is not the correct or preferable decision for one or more of the reasons articulated in the reviewable grounds, it would be entitled to recommend that the Minister revoke the Reviewable Decision and substitute a new decision.

What that means, as a practical matter, is that it might reasonably be expected that the Review Panel's report, and the reasoning contained therein, will largely focus on the merits or otherwise of the reviewable grounds and the submissions advanced in support of those grounds…

The Reviewable Decision

27. There are three findings of the Commissioner which underpin the recommendation accepted by the Minister in making the Reviewable Decision. These were that the goods imported by Nextpower and Gransolar, the subject of the inquiry, were:

    a. "slightly modified" as defined in reg 48(3);

    b. the use or purpose of the goods was the same before, and after, they were so slightly modified; and

    c. had the goods not been so slightly modified they would have been the subject of the original notices.

28. A summary of each of the findings can be found at pages 28-29 of REP 685 and for ease of reference are reproduced at Annexure A.

Grounds of Review

29. The grounds of review relied upon by the Applicants, which the Review Panel accepted as reviewable grounds, are as follows:

    Nextpower:

    Ground 1: Torque Tubes have never been covered by the HSS measures [i.e., notices under s 269TG(2) and s 269TJ(2)] and there is no evidence of circumvention to warrant the extension of the measures to them.

Ground 2: There was no circumvention [i.e., slight modification] by the Applicant or its exporters to the goods the subject of the relevant s 269TG(2) notice and the Minister's decision to alter the notice should have been limited to only apply to particular exporters, from particular countries, who had engaged in circumvention activity.

Ground 3: Torque Tubes are a specialised product that is not manufactured in Australia at any commercial scale and the extension of the anti-circumvention measures to such a product will impose substantial and disproportionate commercial burdens on the Applicant and other downstream users without providing any corresponding benefit to an Australian industry.

Ground 4: In the alternative, if Grounds 1, 2 and 3 above are not accepted, the Minister ought not to have declared that the alterations to the notice should take effect from the date of the publication of the notice initiating the anti-circumvention investigation.

Ground 5: The Applicant has been denied procedural fairness as the final alteration to the notice adopted by the Minister was materially broader than the alteration proposed in the published Statement of Essential Facts, and the Applicant was thereby not afforded a fair opportunity to address that expanded formulation.

Ground 6: The Statement of Essential Facts contains inaccuracy and miscategorises the engineered drilling as having no impact upon the essential purpose of the tube as a structural component or upon the essential character of the goods. Further, there is no indication in the published material that the Commissioner tested the Australian industry's claims regarding the additional costs associated with drilling process.

Gransolar

Ground 1: It was unreasonable for the Commissioner to refuse to take into account Gransolar's submissions of 17 April 2026 notwithstanding that it was received after the end of the period referred to in s 269ZDBG(2)(a)(iv).

Ground 2: The Commissioner's analysis under s 48(2) and 48(3) of the Customs International Obligations Regulation 2015 is infected by an error of law in that the Commissioner made a comparison between the circumvention goods and a narrow subset of the goods that are the subject of the original notices.

Ground 3: The Commissioner's analysis improperly alters the good's description in the notices in that the scope of the notices is now so broad as to capture any electric resistance welded pipe and tube made of steel classified to subheading 7308.90.00 (statistical code 65) whether or not any particular pipe and tube has ever been the subject of any investigation or inquiry by the Commissioner as to whether the products were dumped and/or subsidised; whether there is a domestic industry for a like product; and/or whether any such dumping/subsidisation causes injury to that domestic industry.

Consideration of Grounds

Nextpower

Ground 1 Torque Tubes have never been covered by the HSS measures [i.e., notices under s 269TG(2) and s 269TJ(2)][18] and there is no evidence of circumvention to warrant the extension of the measures to them.

30. The basis of Nextpower's claims under this Ground are somewhat opaque. Although the introductory portion of the Ground claims "torque tubes have never been covered by the HSS measures" [i.e., the notices], this claim is not advanced under this Ground. Similarly, under Ground 4 below, Nextpower again claims "torques tubes were not within the scope of the HSS measures" but again does not advance this claim under that Ground. It is not until we reach Ground 6 that it becomes apparent that Nextpower argues that "the holes are a fundamental component" of the circumvention goods "so that the goods character and use or purpose must be assessed in the context of the slight modification provision"[19]. Accordingly, I addressed the claim regarding the scope of the measures in my analysis of Ground 6 below.

31. The Commission's submission to the Review Panel dated 7 September 2026 ('Commission's submission') reaffirmed that "a correct comparison of the goods was undertaken which supported the finding that torque tubes are slightly modified goods that would, and should, be subject to the notice"[20]. The submission noted, following verification, the Commission had accepted that the Australian industry produced torque

[18] To avoid unnecessary repetition, throughout this analysis I will use the term "notices" as referring to notices under s 269TG(2), Anti-Dumping duties and under s 269TJ(2), Countervailing or Subsidy duties. Copies of these notices can be found in ADN 2016/24 at Annexure B of this report.
[19] Nextpower Conference Summary.
[20] Commission's submission, Part B [10].

tubes “by drilling holes into otherwise identical HSS for use in large scale solar applications, meaning the drilled torque tubes remain fundamentally HSS” and confirmed “’differences in the processes used to manufacture both goods is identical, save for the final modification step.’” [21]

32. The Commission's position is that as it was determined that the circumvention goods were slightly modified having regard to the factors referenced in reg 43(3), this in turn became relevant to a finding in relation to the five circumstances prescribed in reg 48(2) and particularly with reference to ‘use or purpose’ and whether, had the slight modification not been made, the circumvention goods would have been the subject of the notices.

33. The Australian industry’s submission confirms the Commission was required,

> to compare the circumvention goods with the goods the subject of the notice having regard to any relevant factor. REP 685 identifies the statutory comparison as one between the circumvention goods and the goods subject to the original notices[22].

However, the submission did not comment on the significance of the references in the notices to particular tariff headings.

34. Nextpower notes that since the imposition of measures in 2012, the goods to which the measures applied have been described in the relevant notices by reference to specific tariff subheadings, namely HSS falling within tariff subheadings 7306.30.00 (statistical codes31, 32, 33, 34, 35, 36 and 37), 7306.61.00 (statistical codes 21, 22 and 25) and 73.06.00 (statistical code 10)[23] and imported from specific countries and exporters, including from its suppliers. The Reviewable Decision altered the notices to include goods imported under an additional tariff subheading (73.08) but omitted, from goods imported under that subheading, any reference to specific countries or exporters. This results in all goods imported under subheading 73.08 being subject to the notices regardless of the exporter or country of export.

[21] Ibid [11-12].
[22] Orrcon Steel submission dated 7 September 2026.
[23] Nextpower Application for Review Attachment B [11.1].

35. The description of goods falling within tariff subheading 73.08 relevantly includes "Structures … and parts of structures … of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel".[24]

36. Nextpower relies upon a Tariff Advance Ruling (Ruling) provided by the Australian Border Force in September 2017. This Ruling considered whether torque tubes would fall to be classified under subheadings 73.06 or 73.08. Subheading 73.06 was rejected as torque tubes "are not of a kind described in this heading. Goods have been further worked to be used for a specific purpose in a structure".[25] The Ruling endorsed the application of tariff subheading 73.08 as a "tube prepared for use in a structure". Nextpower maintains that all its imports of torque tubes have been entered in accordance with this ruling and have incorporated pre-drilled holes "as an integral manufacturing and functional feature",[26] for incorporation into an automated or moving structural solar array.

37. Whilst I acknowledge the Ruling commends consideration; it will not be determinative for the purposes of *Division 5A-Anti-circumvention inquiries* (Division 5A) of the Act. Issues to be determined under that Division are to be made by reference to objective assessments of the imported goods, including whether the imported goods have been 'slightly modified' as defined under reg 48. The tariff rulings are nevertheless relevant to a finding under reg 48(3) that goods have been "slightly modified" in circumstances where the goods described in the relevant notices adopt tariff subheadings as an integral component of the description of the goods.

38. Nextpower referenced recent rulings by the United States ('US') Department of Commerce which determined that

> similar Chinese origin solar track torque tubes with customised specifications, swaged ends, drilled and deburred holes, and OEM supply … not advertised or sold as ordinary pipe … possessed characteristics consistent with mechanical tubing rather than standard or structural pipe.[27]

39. Although acknowledging that the US rulings are not determinative, Nextpower suggests they nevertheless provide

[24] REP 685, 27, Table 6.
[25] Nextpower Attachment B, Tariff Advance Ruling Application Number 21914800.
[26] Ibid [4].
[27] Ibid.

> persuasive comparable support for the conclusion that solar tracker torque tubes should not be treated as ordinary HSS merely because they are steel tubular products with holes or prepared ends. The relevant inquiry should focus on the commercial and engineering character of the goods and whether there is evidence of actual circumvention conducted by the relevant exporters.[28]

I have considered the significance of the US rulings and agree with Nextpower's assessment that they are not determinative as they focus upon issues going to tariff classification rather than to circumvention.

40. At a conference convened on 27 August 2026, Nextpower confirmed that "its primary position under Grounds 1 and 2 is that a finding of circumvention requires evidence that a good was previously exported in one form and later exported with a slight modification".[29] Nextpower went on to maintain that it "always imported its torque tubes with precision drilled holes, so there is no later introduction of drilling as a means of circumventing the measures". As it has not introduced a modification to circumvent the measures, Nextpower maintains that any remedy should be limited to exporters for whom actual circumvention is established.

41. Nextpower argues that its imported torque tubes are not ordinary HSS that have been slightly modified by drilling, they are made to order components to precise project specifications. In support of this claim, Nextpower relies upon a set of specification drawings for "one of more than 700 different torque tube types".[30] Nextpower maintains its imported torque tubes "have always incorporated pre-drilled holes as an integral manufacturing and functional feature. They were not incorporated recently … as a post-manufacture modification to avoid the HSS measures".[31] Similar arguments were advanced in the submission from ACLE, an engineering, procurement and construction contractor engaged in the delivery of utility-scale renewable energy projects in Australia, including multiple projects affected by the Reviewable Decision[32].

42. Nextpower notes,

[28] Ibid [10].
[29] Conference Summary – 27 August 2026.
[30] Nextpower Attachment B, 17.
[31] Ibid 4.
[32] ACLE submission, 7 September 2026.

> the concept of circumvention in s.269ZDBB is directed at conduct that is intended to, or has the effect of, undermining the effectiveness of existing measures, for example, by slightly modifying goods that were previously covered by the measures to take them outside the scope of those measures ... Report 685 does not identify evidence that torque tubes were developed or modified to avoid the application of the HSS measures.[33]

43. To the extent that Nextpower contends that a relevant element of whether a circumvention activity has occurred is dependent upon the intent of the relevant parties, I disagree with such a contention. Section 269ZDBB(6) provides that a circumvention activity occurs in circumstances prescribed by Regulation. Regulation 48(2) in turn prescribes that such an activity has occurred if each of the circumstances outlined in paragraphs (a) to (e) apply. Paragraph (b) requires "before export, the circumvention goods are slightly modified". In determining whether such a modification has occurred, the Commissioner must have regard to any factor that the Commissioner considers relevant, including any of the factors listed in reg 48(3)(a) to (m). In my view, neither the circumstances nor the factors to be considered by the Commissioner address the subjective intent of the relevant parties. Rather, the Commissioner is required to make an objective assessment of a factual matter, namely whether the circumvention goods have been subject to a slight modification. This is an objective outcome which can be reached without consideration of any subjective intent.

44. I therefore reject Nextpower's argument that its intent with respect to any circumvention activity is a relevant consideration.

45. The Review Panel in *Review Panel Report No. 37 Hollow Structural Sections Containing other alloys exported from the People's Republic of China, Republic of Korea and Malaysia, a*ddressed the argument as to the significance of when the slight modification to the circumvention goods occurred. The Review Panel in that Report agreed with the Commissioner's interpretation of reg 48 and stated the determination "whether goods have been slightly modified involves a comparison between the circumvention goods and goods the subject of the measures, rather than the circumvention goods at different stages of the manufacture of the circumvention goods"[34] and "Regulation 48 does not contemplate an investigation into whether

[33] Nextpower Attachment B, 5.

[34] Report No. 37, 16 [40]. See also Review Panel Report No. 38, *Zinc Coated (Galvanized) Steel from the Republic of Korea, Taiwan and the People's Republic of China*, (September 2016).

changes were made to the particular goods that were exported, before those goods were exported".[35.]

46. Although I am not bound by the views expressed in Review Panel Report No. 37, I do agree with and adopt its interpretation regarding the meaning to be given to the phrase "slightly modified" in the context of reg 48. Accordingly, I dismiss Nextpower's arguments regarding the significance of when the slight modifications are said to have occurred.

47. Nextpower argues that the alteration to the relevant notices affected by "the Reviewable Decision operates, as a de facto new measure on goods classified to tariff subheading 73.08 … without a fresh assessment of dumping, subsidisation or injury for that class of prepared structural goods". It argues such an outcome would "operate as a product extension mechanism rather than a genuine circumvention remedy".[36] Although Nextpower acknowledges "an anti-circumvention inquiry can operate without a full dumping investigation… it should not be used to capture goods that were never within the original measures, were not part of the original investigation, and were not shown to have displaced subject goods to any significant degree".[37]

48. The inquiry which culminated in the reviewable decision was not considering whether material injury was being caused to the Australian industry by the dumping and or subsidisation of the circumvention goods. The purpose of the inquiry was to investigate and report on whether there had been a prescribed circumvention activity and what alterations need to be made to the relevant notices to address that activity. I therefore reject Nextpower's argument that consideration of injury to the Australian industry caused by the circumvention activity was a relevant consideration.

49. As to Nextpower's argument that the alterations to the notices "capture goods that were never within the original measures", this argument must be rejected in light of the express powers given to the Minister under s 269ZDBH(2)(a) enabling the alteration to specify "different goods". Accordingly, Nextpower's argument with respect to the expansion of the scope of the alterations to the notices must be rejected.

50. Accordingly, for the reasons stated above, I reject Ground 1 of the Grounds of Review.

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[35] Ibid 17 [43].

[36] Nextpower Attachment B, [15].

[37] Ibid.

Ground 2 There was no circumvention by the Applicant or its exporters to the goods the subject of the relevant s 269TG(2) notice and the Minister's decision to alter the notice should have been limited to only apply to particular exporters, from particular countries, who had engaged in circumvention activity.

51. The Commission's submission argues that slight modification of the goods may be found "when the circumvention goods are slightly modified *before that export*. The Commissioner is not required to analyse the specific period of time before that export when the goods are modified"[38]. The submission maintains "the analysis and findings in the Final Report are consistent with the requirements under Regulation 48 in determining that a slight modification of the goods has occurred"[39]. I note the submission does not engage with the claim that the alteration to the notices should have been limited to only apply to particular exporters, from particular countries, who had engaged in circumvention activity.

52. The Australian industry's submission noted the Reviewable Decision altered the description of the goods the subject of the original notices by specifying additional goods classified to tariff subheading 7308.90.00, statistical code 65. This alteration is described as being "goods-based rather than exporter specific". The submission argues,

> a goods-based alteration across the existing notices was appropriate because the modification found was a physical characteristic of the goods and not inherently confined to a particular producer or exporter. Consistent with that approach, the alteration amended the existing notices by reference to the characteristics of the goods rather than by reference to named exporters. The alteration did not depend upon a separate finding that circumvention activity had been established in relation to every exporter or that equivalent exports of circumvention goods had been identified from every country covered by the existing notices.[40]

53. Nextpower observes, the anti-circumvention provisions of Part XVB, Division 5A of the Act are directed at conduct that undermines the effectiveness of existing anti-dumping

[38] Commission's submission Part B [28].
[39] Ibid.
[40] Orrcon submission, 7 September 2026, 4.

or countervailing measures by, among other conduct, slightly modifying the goods subject to those measures.[41]

54. Nextpower advances two arguments in support of this ground.

55. The first asserts an unwarranted expansion of the potential exporters now subject to the measures as a result of the alteration of the scope of the measures recommended by the Commissioner and accepted by the Minister. Nextpower observes, "the practice of the Commission and the Minister in previous anti-circumvention inquiries has consistently been to alter notices, and so extend measures, only to the extent that circumvention activity has been identified in respect of **particular exporters**"[42] [emphasis added]. In support of this observation, Nextpower notes that in an earlier related inquiry[43] the alterations to the original Notice included the naming of four Chinese exporters and one Malaysian exporter. Reinforcing its point, with regard to the unwarranted expansion of the measures, Nextpower asserts "the allegation of circumvention underlying Inquiry 685 was that **certain exporters** had begun drilling holes in goods (specifically torque tubes) that otherwise would have been captured by the existing HSS measures" [emphasis added].[44]

56. Notwithstanding the Commissioner's previous practice, and the express request of the Applicant for the anti-circumvention measures, Nextpower asserts "for reasons that have not been explained",[45] the Minister determined an alteration to the original notice which will now capture all exports of the specified goods, from whatever country.

57. Section 269ZDBH(1) sets out the Minister's power with regard to consideration of recommendations from the Commissioner in relation to alterations to the scope of original notice. The Minister is not limited in their consideration only to the matters addressed in the Commissioner's report nor to the issues raised in the application for the imposition of the anti-circumvention measures. Section 269ZDBH(1) relevantly provides that the Minister may have regard to "any other information that the Minister considers relevant".

58. Section 269ZDBH(2) sets out the kinds of alteration which the Minister may determine. These do not constitute a closed list. It is therefore clear that the alterations determined

[41] Nextpower submission [10].
[42] Ibid [21].
[43] ADC REP 291.
[44] Nextpower Attachment B [20].
[45] Ibid [23].

by the Minister, and, in this case, as recommended by the Commissioner, clearly fall within the Minister's power. The language of s 269ZDBH is unambiguous, no inference can be drawn as to any mandatory consideration which the Minister was obligated to consider but failed to do so. Further, I do not consider the Commissioner's, nor indeed the Minister's, previous practice regarding the scope of alterations, nor the express wishes of an Applicant for the imposition of anti-circumvention measures, create any obligation or limitation on the Minister's powers with respect to the determination of alterations. I therefore reject Nextpower's first argument in support of this ground of review.

59. I note one possible but unstated explanation or practice for allowing an alteration to capture subsequent exporters from previously unnamed exporters is to enhance the effectiveness of measures. A broad application of the measures would avoid the need for the Australian industry to lodge applications for repeated inquiries into any future exporters who may appear in the Australian market from time to time. In such circumstances, new exporters would have the option to apply for a specific inquiry as to their particular circumstances whilst the measures remained in place for the benefit of the Australian industry.

60. The second argument advanced by Nextpower appears to link the object and purpose of the anti-circumvention provisions with the intent of Nextpower and its suppliers.[46] Nextpower maintains that in relation to its imports of torque tubes, it's exporters:

> have manufactured torque tubes incorporating pre-drilled precision holes to the same specifications and using the same production processes throughout the entire period of importation into Australia (10 years or more). Accordingly, Nextpower asserts there has been no change to the design, physical characteristics, manufacturing processes, or tariff classification of torque tubes in response to, or in order to avoid, the HSS measures.[47]

61. To reinforce this point, Nextpower references Attachment 1 to its Application for Review, which consists of:

    a. an engineering drawing from 17 February 2015 of Nextpower's torque tubes, showing the precise specifications of the drilled holes in the tube;

[46] The relevance of the intent of relevant parties in the consideration of anti-circumvention circumstances has been addressed and rejected in Ground 1 above.
[47] Nextpower Attachment B [25].

b. a description, in a letter dated 17 August 2017 from the certified engineer of Nextpower's torque tubes, which states they "also have a [redacted] pre-drilled holes in each tube"[48].

62. Nextpower then goes on to reference its:

> commercial reliance on the proper classification of its torque tubes under 73.08 as prepared structural components, including past [Australian Border Force] tariff rulings. [Nextpower's] torque tubes were not entered under 73.08 as an artificial avoidance device. They were entered under the heading because they are prepared structural components for use in solar tracking structures.[49]

63. The relevant circumstances for the determination of whether there is evidence of circumvention activities is outlined in reg 48(2). Each of these circumstances requires satisfaction of an objective fact and do not involve consideration of the intent of either the importer or exporter. To the extent that reg 48 references "the use or purpose of the circumvention goods", read in context, this is to be objectively determined having regard to the physical properties of the good and its potential applications. It does not require consideration of the intent of the relevant parties. I therefore do not accept Nextpower's second argument in support of this Ground of Review.

64. For the reasons stated above, I reject this Ground of Review.

Ground 3 Torque Tubes are a specialised product that is not manufactured in Australia at any commercial scale and the extension of the anti-circumvention measures to such a product will impose substantial and disproportionate commercial burdens on the Applicant and other downstream users without providing any corresponding benefit to an Australian industry.

65. The Commission's submission maintains that the inquiry was conducted

> in accordance with legislative requirements for an anti-circumvention inquiry and therefore did not consider any other matters, including, for example, whether the goods or circumvention goods are being dumped in the

[48] Ibid [26].
[49] Ibid [29].

> Australian market or whether the Australian industry is being injured by the imports of the circumvention goods[50].

66. The Commission submission references a non-confidential File Note placed on the Electronic Public Record which summarises a meeting between Commission officers and Nextpower's representatives in which Nextpower raised "certain issues around potential project and broader injury impacts might arise should duties be imposed"[51]. The submission notes that the Commission did not receive further quantifiable evidence from Nextpower to support the assertions made in that meeting. It also notes Nextpower did not provide any submission in response to SEF 685 substantiating its assertions. The Commission therefore considered the claims made by Nextpower in the meeting "were not probative enough to displace the findings and conclusions that the Commissioner found when undertaking the prescribed analysis required by the legislation"[52] and that "it was appropriate for the Minister to have considered the report from the Commissioner, and not exercise his discretion to consider this information from Nextpower"[53]. Stated differently, Nextpower's assertions regarding the broader economic impact of an alteration to the notice were considered but not accepted.

67. The Review Panel received two submissions from more than 20 entities describing themselves as "Engineering Procurement and Construction Contractors, Project Owners, and Stakeholders involved in the delivery of major solar and infrastructure projects across Australia… writing in support of the application for review lodged by Nextpower Australia Pty Ltd"[54]. These entities are importers of torque tubes that are affected by that decision, or parties directly impacted by its effects. They are concerned that:

> without a clear distinction between genuine circumvention and downstream fabrication that is integral to project delivery, the reviewable decision will produce serious collateral harm, including:
>
> i. Significant cost increases on projects already financed and committed;

[50] Commission submission, Part B [33].
[51] Ibid.
[52] Ibid [35].
[53] Ibid [39].
[54] Submissions dated 1 September 2026.

ii. Delays to construction schedules and energization milestones tied to contracted obligations;

iii. Increased risk to financing arrangements and offtake agreements;

iv. Reduced investment confidence across Australia's renewable energy pipeline; and

v. Broader impacts on the energy transition outcomes the government is actively working to accelerate.[55]

68. In essence, in advancing this Ground of Review, Nextpower appears reliant upon the application or outcome of a cost benefit analysis and the consideration of the attainment of policy objectives beyond those pertaining to Division 5A of the Act. So much is evident by the following statements:

a. "The extension of anti-circumvention measures to torque tubes imposes substantial and disproportionate commercial burdens on Australian businesses, including [Nextpower] and its downstream customers, without providing any corresponding benefit to the domestic steel industry that the HSS measures are designed to protect"[56];

b. "There are also significant comparative advantages in the overseas production of torque tubes that will persist regardless of the imposition of measures: the manufacturing process is highly labour intensive, and Australia's substantially higher labour costs render domestic production commercially inefficient,"[57] and

c. "Torque tubes are a critical input in utility scale solar farm development. The increase in costs, as a result of the imposition of retrospective and ongoing duties, may well have the effect of rendering the financial models for some of those solar projects unviable."[58]

69. In light of the above, Nextpower concludes:

[55] Ibid.
[56] Nextpower Attachment B [35].
[57] Ibid [37].
[58] Ibid [39].

> a decision that imposes cost burdens on downstream users of torque tubes without achieving any protective benefit for domestic steel manufacturers, and which has the potential to impede progress towards reviewable energy objectives, is not the correct or preferable decision … the correct or preferable decision is that the Notice not be altered.[59]

70. Nextpower's entreaty to the Review Panel to adopt the correct or preferable decision prompts three responses. First, considerations of cost benefit or broader national interests are not mandatory relevant considerations for determinations made under Division 5A - Anti-circumvention inquiries. Whilst the Commission's submission acknowledges that the Minister may consider any other information, they consider relevant, it correctly notes that the Act does not prescribe nor indeed provide any guidance as to the form or nature of that other information.[60]

71. Second, the Minister's determination states that the Report's recommendations and reasons for the recommendation, including all the material findings of fact or law were considered and accepted. The Commission's submission observes that the Minister's determination "does not outline any further considerations the Minister may have had regard to when making the Reviewable Decision, indicating that the Minister did not consider any other information he considered relevant, including the considerations raised by the Applicant in their application".[61] I agree with this observation.

72. Third, the standard to be applied to determine what is a correct or preferable decision was considered in *Drake v Minister for Immigration and Ethnic Affairs*[62]. There, the Court held that such a determination is not restricted to the kinds of consideration relevant to judicial review of decision-making. The Court suggested it will not be met by asking whether a decision-maker acted reasonably in relation to the facts. The standard involves an element of discretion in that the reviewer must be satisfied that the decision in its view, was objectively, the right one to be made.

73. In the present case it should not be inferred that the Review Panel's discretion, conferred by its standard of review, is unfettered. The Review Panel is engaged in the review of a decision of the Minister under Division 5A of Part XVB of the Act. A decision

[59] Ibid [41].
[60] Commission submission [36].
[61] Ibid [38].
[62] (1979) 46 FLR 409.

under Division 5A is limited in its ambit.[63] It is narrower than the exercise which must be undertaken before a final duty notice is published which imposes measures. A decision to impose such a notice follows an extensive investigation, in the dumping context, into normal value, export price, material injury and causal link. In some such cases, but which are not the norm, the final decision by the Minister could involve considerations of cost benefit or national interest. It would be curious if the limited scope of relevant circumstances and factors that are contemplated under Division 5A (i.e., regs 48(2) & (3)) could carry with it the broader ambit of the considerations that would be open to the Minister when determining the initial imposition of final measures.

74. Stated differently, the Review Panel's focus and powers are limited to the Minister's decision under Division 5A of the Act. Ministerial decisions at that level are not of the type which would direct attention to consideration of broader national interest or policy considerations, such considerations being reserved for the initial imposition of the measures.

75. I acknowledge that s 269ZDBH(2)(d), contained within Division 5A, empowers the Minister to make 'alterations' to the variable factors (i.e., normal value and/or export price) but note that no such alteration was requested in the application for the anti-circumvention measures nor pressed by any of the interested parties in the course of the inquiry. Consideration of an alteration to encompass such matters was therefore not required to be addressed by the Commissioner in REP 685.

76. For the above reasons, I reject this Ground of Review.

Ground 4 In the alternative, if Grounds 1, 2 and 3 above are not accepted, the Minister ought not to have declared that the alterations to the notice should take effect from the date of the publication of the notice initiating the anti-circumvention investigation.

77. The Commission's submission notes,

> there is nothing in section 269ZDBH that indicates what factors may be relevant to the Minister's consideration of whether an alteration to the notice should have retrospective effect. It was appropriate for the Minister to alter the notice with retrospective effect given that circumvention activity in relation to the notices had been found to have been occurring during the inquiry

[63] See *Campanhia Vidraria Santa Marina v Minister for Small Business & Consumer Affairs* [1997] FCA 300, Emmett J.

> period. As such it was appropriate for the Minister's declaration to take effect as early as permitted in the legislation"[64] (i.e., from the date of initiation of the inquiry - 4 September 2025).

78. The Australian industry's submission notes, at a conference on 20 August 2026,

> the Commission advised that it had considered volume and trade displacement in the section 48 assessment, but had not treated those matters as connected to the separate power to determine the date of effect.[65]

Stated differently, the Australian industry argues that Nextpower's claims regarding the adverse impact of the retrospective effect of the alteration of the notices were considered by the Commission, albeit in a different context.

79. In response to the claims regarding the broader adverse economic impact of the reviewable decision, the Australian industry's submission correctly observed,

> those contentions concern the consequences of the Reviewable Decision rather than whether the circumstances prescribed by section 48 of the Regulation occurred" and that "the anti-circumvention provisions applicable to Inquiry 685 do not prescribe a separate public interest test[66].

80. This Ground is advanced by Nextpower in the alternative and will only be pressed if Grounds 1 to 3 are not accepted and the notices remain unaltered and applicable to torque tubes supplied by Chinese exporters to the Applicant and its customers as from the date of the initiation of the Inquiry on 4 September 2025.

81. Nextpower advances two arguments in support of this Ground of Review. First, it invokes the Review Panel's obligation to recommend to the Minister a "correct or preferable decision". The second is framed as one of procedural fairness in the outcome. It is said the outcome "constitutes a procedural unfairness that is contrary to the objects of Part XVB of the Act."[67]

82. As to the correct or preferable argument, although Nextpower concedes that under ss 269ZDBH(1) and (8) of the Act, the Minister has the power to alter the notices with

[64] Commission's submission [49].
[65] Orrcon's submission, 5.
[66] Ibid 6.
[67] Nextpower Attachment B [54].

retrospective effect, it nevertheless argues that such an outcome would not be preferable having regard to the following circumstances:

a. If the altered notices remain in place, as Nextpower's Chinese exporters of torque tubes are not specifically referenced in the altered notices, their exports will be subject to "all other exporter" combined (anti-dumping and countervailing) rates of approximately 48%;

b. Due to separate statutory time limits, Nextpower's exporters will be unable to apply for an accelerated exporter review or an individual dumping margin before the duty accessed at 48% will be payable.

Nextpower therefore argues that the correct or preferable decision is that the notices be altered but only with prospective effect from the date of the publication of the reviewable decision and not from the date of the initiation of the Inquiry.

83. In a conference convened with the Commission on 20 August 2026, I asked for comment on Nextpower's claims that:

a. The volume of torque tubes identified by the Commission as exported to Australia is extremely small in comparison to the overall volume of exports of HSS; and

b. The Commission has not identified significant displacement of trade in HSS by torque tubes.

84. The Commission representatives responded that:

> the Commissioner did not take the relatively small volume of circumvention goods or the identified level of trade displacement into account when recommending the effective date of the alteration to the Notice. Rather the recommendation was based on the finding that circumvention activity had occurred prior to the inquiry.[68]

85. The Commission's submission maintains:

> it was appropriate for the Minister to alter the notice with retrospective effect given that circumvention activity in relation to the notices had been found to have been occurring during the inquiry period. As such it was appropriate for

[68] Conference Summary.

> the Minister's declaration to take effect as early as permitted in the legislation.[69]

86. Review Panel Report No. 38 *Zinc Coated (Galvanised) Steel from the Republic of Korea, Taiwan and the People's Republic of China*, 4 October 2016, considered the issues of the alteration of a notice with retrospective effect and its consequential duty impact upon importers. In that case, the Review Panel determined that once the Commission published a notice of the initiation of the anti-circumvention inquiry, importers ought to have been on notice that the goods they were importing were subject to the inquiry and that they could be made retrospectively liable to interim dumping duties from the date of the publication of the initiation notice. In that case, the Review Panel was of the opinion that by continuing to import, importers had chosen to take the risk of a liability for duty on those imports for which it may subsequently be out of time to seek a final duty assessment. The Review Panel went on to observe,

> [g]iven the time taken for the inquiry and the report to the Minister, the effectiveness of anti-circumvention measures would be compromised if the alterations to the notice were only prospective. Limiting the retrospective operation to the date of the notice of the inquiry provides a degree of fairness to the importers in not subjecting their imports to retrospective duties before they are put on notice of the inquiry. Once notice of the inquiry is given, they continue to import the circumvention goods with the risk that they could retrospectively be subject to dumping duties.[70]

87. Importantly, the Review Panel in Report No. 38 concluded,

> section 269ZDBH(8) was inserted into the framework of the legislation which provided the deadline for duty assessments. Had the legislative intent been as contended by [the Applicant], then the limit on the Ministerial power to make the alterations retrospective would have been imposed differently.[71]

88. In considering the arguments advanced against retrospectivity, the Review Panel in Report No. 38 cautioned,

> it needs to be kept in mind that the power of the Minister to make the alterations to the dumping duty notice apply retrospectively is only enlivened

[69] Commission's submission [49].
[70] Review Panel Report No. 38 [30].
[71] Ibid [31].

> once there has been an inquiry and report which finds that there has been circumvention activity. Such activity is designed to avoid the full payment of duties on products the subject of a dumping duty notice. In those circumstances, it is not surprising the legislation gives the Minister the power to make the alterations to the notice apply retrospectively.[72]

89. I endorse the reasoning with respect to the retrospectivity outlined in Review Panel Report No. 38 and endorse its application to the current review. In doing so I acknowledge the interaction of the duty assessment and anti-circumvention provisions reflects what must be acknowledged as a deliberate legislative choice. Accordingly, I reject Nextpower's arguments to recommend to the Minister that the alterations to the notices should be of prospective effect.

90. Nextpower's use of the phrase “procedural fairness” in the context of this Review carries with it two possible interpretations. First, and in the more traditional sense, Nextpower ought to have been put on notice and afforded an opportunity to comment prior to the Minister's determination altering the notices. Alternatively, the interaction of the application of the statutory framework pertaining to both the imposition of anti-circumvention measures and the assessment of anti-dumping and countervailing duties has resulted in an outcome that was unintended, unfair and or contrary to the intent of the anti-circumvention provisions.

91. In Review Panel Report No. 38,[73] the then Senior Member of the Review Panel addressed similar concerns to those raised by Nextpower. The Senior Member analysed the issues as follows:

> once the [Commission] published notice of the anti-circumvention inquiry, [the importer] was on notice that the goods it was importing which were subject to the inquiry, could be made retrospectively liable to interim dumping duties. By continuing to import the alloyed galvanised steel while the inquiry took place, [the importer] chose to take the risk that it would be liable to pay dumping duty on those imports for which it may subsequently be out of time to seek a final duty assessment.

[72] Ibid [32].

[73] *Zinc Coated (Galvanized) Steel from the Republic of Korea, Taiwan and the People’s Republic of China*, (September 2016), 8 [29]-[32].

92. Section 269ZDBH(8) of the Act clearly gives the Minister power to make the alterations to the duty notices apply retrospectively as far back as the date the anti-circumvention inquiry was notified. Given the time taken for the inquiry and the report to the Minister, the effectiveness of anti-circumvention measures would be compromised if the alterations to the notices were only prospective. Limiting the retrospective operation to the date of the initiation or commencement of the inquiry provides a degree of fairness to the importers in not subjecting their imports to retrospective duties before they are put on notice of the inquiry. Once notice of the inquiry is given, they continue to import the circumvention goods with the risk that they could retrospectively be subject to dumping duties.

93. Nextpower argues that it would be inconsistent with the Dumping Duty Act to impose the dumping duties in a time frame that denies the importer the opportunity to seek a final assessment.[74] I do not accept this argument. Section 269ZDBH(8) was inserted into the framework of the legislation which separately provided the deadline for duty assessments. Had the legislative intent been as contended by Nextpower, then the limit on the Ministerial power to make the alterations retrospectively would have been imposed differently.

94. In considering the arguments made by Nextpower against retrospectivity it needs to be kept in mind that the power of the Minister to make the alterations to the dumping duty notice apply retrospectively is only enlivened once the Minister has considered the report of the Commissioner and any other information they consider relevant, and subsequently determines there has been circumvention activity which requires the dumping duty notice to be altered. Such activity results in the avoidance of the full payment of duties on products the subject of a dumping duty notice. In those circumstances, it is not surprising the legislation gives the Minister the power to make the alterations to the notice apply retrospectively.

95. There is nothing before me which calls into question either the Senior Member's analysis or its application to the current review. I accept and endorse the Senior Member's reasoning and reject Ground 4 of the Review Application.

Ground 5 The Applicant has been denied procedural fairness as the final alteration to the notice adopted by the Minister was materially broader than the alteration proposed in the

[74] Nextpower Attachment B [49].

published Statement of Essential Facts, and the Applicant was thereby not afforded a fair opportunity to address that expanded formulation.

96. The Commissioner published a SEF on 23 March 2026. It proposed to replace the existing description of the goods the subject of the original notices (i.e., s 269TG(2) and s 269TJ(2)) with the following:

> Certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections. Normally referred to as either CHS (circular or oval hollow sections) or RHS (rectangular or square hollow sections) collectively referred to as hollow structural sections (HSS), including CHS with other than plain ends, such as threaded, swaged and shouldered, and any HSS that has been drilled at the end or along the length of the section.

97. In response to the SEF, Orrcon, a member of the Australian industry, argued for an expansion of the proposed description of the goods "to include references to alloy steel". Orrcon suggested that the goods description in the SEF was too narrow if limited to HSS that had been drilled. It also argued that the determining feature should not be the method by which the holes were formed but rather the focus should be on a range of alternate processes such as punching, piercing and cutting.[75]

98. The Commissioner agreed with Orrcon's suggested modifications to the proposed description and recommended the following be included in the description to be adopted by the Minister,

> 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 and non-circular 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).

[75] Orrcon's Submission on Response to SEF 685, 3.

99. In making these changes the Commissioner stated he wanted "to ensure the notices are amended to only address the circumvention activity found and not inadvertently include products other than the circumvention goods".[76]

100. The Commission's submission notes the:

> preliminary findings set out in SEF 685 including the Commissioner's preliminary conclusion that circumvention activity had occurred. Those preliminary findings were based on the application and submissions to the inquiry made by interested parties. SEF 685 notes that it may not represent the Commissioner's final view of the findings. Further, SEF 685 invited interested parties to make written submissions in response to the SEF for the Commissioner's consideration in preparing the report and recommendations to the Minister.[77]

101. Nextpower argues that the alteration adopted by the Minister "was materially broader than the alteration proposed in the SEF". It views such changes as not merely a drafting clarification. Such changes resulted in a broadening of the class of goods exposed to retrospective and prospective duties and were made in the absence of an opportunity to comment on these proposed changes. Therefore, Nextpower argues that it and its Chinese suppliers "were not afforded a fair opportunity to address that expanded formulation".[78]

102. As noted above, the Federal Court in *Pilkington (Australia) LTD v Minister for Justice and Customs* commented on certain features of the administrative scheme for determinations to be made by the Minister with respect to dumping and countervailing matters. The Court referenced extracts from a Second Reading Speech which included the statement: "[t]he Government accepts that it is in the interests of all parties for these investigations and reviews to be completed as soon as practicable" and concluded "these provisions point to a clear legislative intention that the investigation is to be a timely one".[79]

103. The procedural steps prescribed by the Act governing the initiation, investigation and the ultimate report and recommendations to the Minister reflect a balance between the desire to achieve a timely outcome and the desire to deliver fairness throughout the

[76] REP 685, 36.
[77] Commission's submission [53].
[78] Nextpower Attachment B [58].
[79] [2002] FCA 770 [41].

process. I note the initiation of the current inquiry was notified publicly and invited submissions from interested parties. That notice foreshadowed the publication of a SEF which occurred on 23 March 2026. The SEF invited submissions to a proposed recommendation to the Minister to alter the description of the goods to include “swaged and shouldered” and “drilled”. Nextpower did not respond to either of these invitations.

104. Nextpower’s assertion of an additional right to be afforded an opportunity to address the ultimate recommendation to the Minister regarding the description of the goods is inconsistent with the statutory scheme. The scheme is intended to strike a balance between the interests of all interested parties, importers and the Australia industry alike, and the timely completion of inquiries. Interested parties were invited on two separate occasions, at initiation of the inquiry and upon publication of the SEF, to comment on the exercise of the Minister’s powers which included the effective date of any alteration to the notices. The date of effect of any alteration was therefore a live issue at the time of each of these invitations. Nextpower’s suggested interpretation would not acknowledge the balance of interests which the legislative scheme strives to achieve and would give rise to a potentially unworkable system adversely impacting upon the timely completion of the inquiry. For these reasons I reject this Ground of Review.

Ground 6 The Statement of Essential Facts contains inaccuracy and mischaracterises the engineered drilling as having no impact upon the essential purpose of the tube as a structural component or upon the essential character of the goods. Further, there is no indication in the published material that the Commissioner tested the Australian industry's claims regarding the additional costs associated with drilling process.

105. Nextpower’s arguments in support of this ground begin with an examination of certain statements in the SEF which it says “contains inaccuracies and incorrect information” which have coloured the Minister's reviewable decision. Nextpower asserts that such inaccuracies “mischaracterises the goods, or records factual propositions not supported by the material before the Commission in relation to matters going to the character of the goods, the significance of the drilling processes or the commercial comparability analysis”.[80]

106. Nextpower focuses upon comments by the Commission in section 1.2 of the SEF, namely “the **use or purpose** of the circumvention goods is the same before and after they are slightly modified” [emphasis added] and suggests such comments

[80] Nextpower Attachment B [65].

"mischaracterises the function of the holes in the torque tubes"[81]. Drawing upon arguments in support of an earlier Ground of Review, Nextpower implies that "solar tracker torque tubes should not be treated as ordinary HSS merely because they are steel tubular products with holes or prepared ends. The relevant inquiry should focus on the commercial and engineering character of the goods".[82] The Commissioner ought to have accepted "the holes are not superficial or incidental. They are functionally determinative engineering features that allow the torque tubes to be assembled with precision into a solar tracking system".[83]

107. As has been noted in the analysis of Ground 5 above, the views expressed in the SEF were preliminary. Interested parties were expressly cautioned that such views may not represent the Commission's final view of the findings. The SEF invited comment from interested parties on the preliminary views expressed. The Commission's submission states that it "received no submissions from Nextpower or any other interested party in relation to the … preliminary findings under regulation 48(2)(b), (c) and (d) as set out in SEF 685".[84]

108. Nextpower relies upon information conveyed to Commission staff in a meeting on 12 February 2026 to the effect that "the drilling process materially changes the functional application, commercial application and suitability of the goods"[85] and as such it alters the essential character of the goods. As noted in Ground 5 above, this information was considered, but not accepted, as it was before the Minister when the Reviewable Decision was made.

109. Nextpower's arguments then focused upon the relevance of the comparative cost of drilling the holes in the tubes either as part of the manufacturing process or at the installation stage of the solar panels. Nextpower also questioned the local industries capacity and capability to incorporate the drilling of the holes into the manufacturing process.

110. In light of these claims, in the conference convened with Nextpower on 27 August 2026, confirmation was sought as to the focus of this Ground of Review. Nextpower confirmed the Ground "principally criticises the Commission's treatment of factual matters and its

[81] Ibid [67].
[82] Ibid [10].
[83] Ibid [13].
[84] Commission's submission [67].
[85] Nextpower Attachment B [69].

interpretation of the use or purpose provision [reg 48(2)(c)], including its reliance on the proposition that the goods remain structural steel despite the drilling".

111. Nextpower's position is that "the holes are a fundamental component rather than a minor feature, so the goods character and use or purpose must be assessed in the context of the slight modification provision" [86]. As such, torque tubes should not be treated as conventional HSS merely because they are steel tubular products. ACLE also argues torque tubes are specialised components used in solar tracking systems and should be distinguished from conventional structural HSS products. In contrast, the Commission's position, and that of the Australian industry, is that torque tubes remain fundamentally HSS with the principal difference being the addition of holes, which does not alter the underlying nature of the goods.

112. I begin my analysis by first outlining the evolution of the scope of the notices. Measures were first put in place in 2012 by a Notice expressed in "narrative terms"[87] by which the goods were relevantly described as "certain electric resistance welded pipes and tube made of carbon steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes". Importantly this "narrative description" did not make any reference to tariff subheadings or statistical codes. Following an initial circumvention inquiry in 2016 (ADC REP 291), the notices were altered. The "narrative terms" were abandoned and the description of the altered notices relevantly referred to the goods as "certain hollow structural sections … classified to tariff subheadings 7306.30.00" and certain statistical codes. It was the goods as described in the 2016 Notice that were the subject of the anti-circumvention inquiry (REP 685) culminating in the Reviewable Decision.

113. Accordingly, the Minister's decision in the 2016 alteration to move away from the "narrative terms" of the 2012 notice to the express reference of tariff subheadings must be viewed as significant and given meaning. A key characteristic of pipes and tubes of tariff subheading 73.06 is that they are not generally identifiable as having been prepared for a specific end use. A crucial element of the description of the goods included in the 2016 alteration is a requirement for them to be "classified under tariff subheading 73.30.00". That subheading is reproduced at Table 1 of the Report and

[86] Nextpower Conference Summary.
[87] See discussion in REP 685, 35.

describes the goods falling under that heading as “other tubes, pipes and hollow profiles …. of iron and or steel”.[88]

114. The scope of the notice is to be determined by applying the ordinary meaning of the words when read in context. This will incorporate the reference to the subheading as the tariff classification was regarded as pivotal to the goods description, which in turn is integral to the effective operation of the anti-dumping and countervailing measures.

115. It is convenient at this point to define the goods imported, otherwise referred to as the circumvention goods, also commonly referred to as torque tubes and which were imported under tariff subheading 73.08. The relevant description of the goods falling under that subheading is set out in Table 6[89] of the REP 685 as “Structures … of iron or steel; … rods, angles, shapes, sections, tubes and the like **prepared for use in structures,** of iron or steel” [emphasis added]. This is a heading that focuses not just on the objective characteristics of the goods, but the purpose of those characteristics, i.e., whether the goods were prepared for use in structures. This in turn results in the purpose of the goods becoming a relevant consideration or element of the description. Logically, goods prepared for a specific end use compete in a different market to generic tube and pipe which can have unlimited end uses.

116. It is recalled that the Minister's power under s 269ZDBH(1)(b) to alter a notice is only enlivened following consideration of a report and a recommendation from the Commissioner. The Commissioner’s report must state their satisfaction that circumvention activity in relation to the original notice has occurred. “Circumvention activity” occurs in circumstances prescribed by s 269ZDBB(6) of the Regulations. Regulation 48(2)(a) to (e) then requires each of the following five circumstances must be established:

> (a) goods (the circumvention goods) are exported to Australia from a foreign country in respect of which the notice applies;
>
> (b) before that export, the circumvention goods are **slightly modified**;
>
> (c) the use or purpose of the circumvention goods is the same before, and after, they are so **slightly modified**;

[88] REP 685, Table 1. 8.
[89] Ibid 27.

(d) had the circumvention goods not been so **slightly modified**, they would have been the subject of the notice;

(e) section 8 or 10 of the Customs Tariff (Anti-Dumping) Act 1975 , as the case requires, does not apply to the export of the circumvention goods to Australia.

117. In turn, these five paragraphs introduce two concepts. The first is "circumvention goods" which are to be identified by the Commissioner as having been exported to Australia. The second is goods which are found to have been "slightly modified". This concept features in sub-paragraphs (b), (c) and (d) and is the focus of Nextpower's challenge of the Reviewable Decision.

118. Regulation 48(3) then prescribes that for the purposes of determining whether a circumvention good is slightly modified, the Commissioner must compare the circumvention good and the good the subject of the notice, having regard to any factor that the Commissioner considers relevant, including any of 13 specified factors (reg 48(3)(a) to (m)). Those factors are instructive as to the character or nature of what the Commissioner may lawfully consider to be a slight modification within the scope of reg 48.

119. For convenience, I reproduce reg 48(3) here:

> For the purpose of determining whether a circumvention good is slightly modified the Commissioner must compare the circumvention good and the good the subject of the notice, having regard to any factor that the Commissioner considers relevant, including any of the following factors:
>
> (a) each good's general physical characteristics;
>
> (b) each good's end use;
>
> (c) the interchangeability of each good;
>
> (d) differences in the processes used to produce each good;
>
> (e) differences in the cost to produce each good;
>
> (f) the cost of modification;
>
> (g) customer preferences and expectations relating to each good;

(h) the way in which each good is marketed;

(i) channels of trade and distribution for each good;

(j) patterns of trade for each good;

(k) changes in the pricing of each good;

(l) changes in the export volumes for each good;

(m) tariff classifications and statistical codes for each good.

120. In REP 685, the Commissioner addressed each of these thirteen factors and acknowledged "the Commissioner does not have to be satisfied that all those factors indicate that the circumvention goods are slightly modified".[90] The determinative factor for the Reviewable Decision will be the nature of the comparison undertaken pursuant to reg 48(3), which may include any other factor that the Commissioner considers relevant. For completeness, I note that REP 685 does not reference any such other factor.

121. Before proceeding with a review of this comparison, it should be noted that REP 685 [and Gransolar and Nextpower] acknowledge that the local industry can produce torque tubes which can be used for the same end use as the circumvention goods,[91] that is, as supporting structural steel framework for solar panels and that such goods would also fall under tariff subheading 73.08[92]. That said, such goods, produced by the Australian industry, are irrelevant for the comparison to be undertaken under reg 48(3).

122. REP 685 then undertakes a comparison of factor (a), "**physical characteristics**". It begins by referencing torque tubes incorporating drilled holes produced by the two members of the Australian industry. Attached to REP 685 is a photograph of one such torque tube incorporating holes. REP 685 notes that tube "would otherwise meet the goods description except for the addition of the drilled holes".[93] This constitutes an implied concession that the physical characteristics of the good, namely "the addition of the drilled holes" excludes the imported goods (i.e.., the circumvention goods) from the description of the goods in the relevant notices.

[90] REP 685, 21.
[91] Ibid 24.
[92] REP 685, Table 6, 27.
[93] REP 685, 22.

123. REP 685 then goes on to reference a photograph of the circumvention goods supplied by a member of the Australian industry and observed "the physical characteristics of the torque tubes depicted are near identical to the torque tubes observed by the Commission at [the premises of a member of the Australian industry], being HSS with drilled holes".[94] This reference does not support the determination as it seeks it compares torque tubes produced by the Australian industry [being HSS with drilled holes] which are not within the goods described in the notices with torque tubes imported by Nextpower which are also not goods described in the relevant notice.

124. REP 685 then concludes "based on **the above information** [i.e., the two comparisons referred to in the preceding paragraphs] the Commission considers that the general **physical characteristics** of the goods and the alleged circumvention goods remain the same, apart from the addition of drilled holes in the circumvention goods".[95] Clearly a comparison of the circumvention goods with locally manufactured torque tubes cannot support this conclusion as the locally produced torque tubes incorporating holes would not fall within the tariff heading specified in the notice.

125. Regarding torque tubes, Rep 685 states,

> the underlying steel section remains the goods subject to measures (HSS). Drilling does not create a new or different product- it simply prepares the same HSS for its intended application within a solar mounting system.
>
> Both the undrilled HSS and the drilled torque-tube product serve **the same structural function** as part of a steel support assembly. The drilled holes facilitate installation, but they do not alter the essential purpose of the tube as a **structural component** [emphasis added][96].

This suggests the Commission was looking to any common characteristics, similarities or likenesses between the goods the subject of the notices and the circumvention goods. In this instance the Commission appears to have focused upon the structural characteristics of the steel, for example its tensile or structural strength. That the two types of goods referred to in reg 48(3) share a common characteristic or likeness is not relevant to the question of whether circumvention good meets the description of the goods in the relevant notices.

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[94] Ibid.

[95] REP 685, 22.

[96] Ibid 29.

126. At this point, it may be useful to make some general observations regarding the characteristics of the goods the subject of the notices and the circumvention goods based upon their respective tariff classifications. As can be seen from the description of the HSS falling under 73.06, a key characteristic of pipes and tubes is that they are not identified as having been prepared for a specific end use and are therefore considered a more generic product. This is to be contrasted with the description given to torque tubes under 73.08 as tubes "prepared for use in structures", a heading that focuses not just on the objective characteristic of the goods, but on the purpose of those characteristics. The reference to the purpose or end use is to contrast them with a more generic good such as HSS.

127. Accordingly, the Commission's comparison of the physical characteristics of the goods the subject of the notices and the circumvention goods does not support the Reviewable Decision.

128. REP 685's comparison under factor (b), ***end use,*** begins with torque tubes used as "the structural support to which drive components, brackets and hardware are fastened"[97]. REP 685 then notes that as the goods the subject of the notice [HSS] "can be used for torque tubes by first drilling holes before delivering to the construction site. The Commission considers that the goods and circumvention goods can have the same end-use".[98] However, a common end use of the goods the subject of the notice and the circumvention goods can only be achieved if it is the goods the subject of the notices which are the subject of a "slight modification" (drilling) and by which they are rendered no longer the subject of the notices. REP 685's conclusion regarding this comparison factor is therefore rejected.

129. The comparison under factor (c), **interchangeability** suffers from the same error as the preceding factor. The conclusion is based upon the fact that the Australian industry can supply products in either of two conditions. The first is "pre-processed HSS (drilled/swaged torque tube)"[99] i.e., slightly modified HSS, which by virtue of such modifications would take such a modified product outside the scope of the notices. Alternatively, the Australian industry could supply HSS, presumably to a third party, for further processing. Both circumstances reinforce that HSS, the subject of the notices, is not interchangeable with the circumvention goods and further undermines the

[97] Ibid.
[98] Ibid.
[99] Ibid.

comparison required to support a conclusion of the occurrence of circumvention circumstance.

130. The comparison under factor (d), **differences in the processes used to produce each good,** confirms that the goods the subject of the notices and the circumvention goods have to "undergo the same manufacturing process until the final modification step",[100] i.e., the step which takes the HSS produced by the Australia industry outside the scope of the notices by implementing an additional process, the drilling of holes. Gransolar and Nextpower argue that this "final modification" needs to be precise and within tight tolerances. Such a requirement is a further illustration of the different end uses to which the products are suited. The comparison undertaken by the Commission therefore does not support the Reviewable Decision.

131. The comparison under factors (e) and (f) relate to **the costs to produce and modify** the respective goods. REP 685 notes the only difference in cost between the goods the subject of the notices and the circumvention goods "relates to the further drilling process. The additional cost is for labour and overheads, as there are no additional materials required other than the HSS itself"[101]. Nextpower is critical of the Commission's approach as it reflects the acceptance of "confidential pricing assertions without adequate verification, or without disclosing their substance sufficient to permit meaningful response"[102]. I do not view the absence of the verification of the cost of the additional drilling as determinative. What is more relevant is the application of a further process to the HSS (i.e., the additional drilling) which has the effect of rendering the resultant good, the torque tube, beyond the scope of the notices. The comparison of this factor does not support the Reviewable Decision.

132. For the comparison under factor (g), **customer preferences and expectations**, REP 685 concludes that "a customer purchasing torque tube (for application within solar panel installations) would expect holes to be drilled in the tube when delivered to site, as it is a requirement".[103] This expectation could only be met by the Australian industry by supplying HSS to a steel processor for further processing who would then on sell the finished torque tubes to the end user. In such circumstances, the Australian industry's customer would be the steel processor and not the end user and in such circumstances the steel processor, and not the Australian industry, would be the entity able to access

[100] REP 685, 23.
[101] Ibid.
[102] Nextpower Attachment B, [72].
[103] Ibid.

Division 5A of Part XVB of the Act. Alternatively, the Australian industry could undertake the further processing (drilling) and then supply the processed product, a good not subject to the notices, to the end user. The comparison of this factor does not support the Reviewable Decision.

133. With respect to the comparison under factor (h), **the way in which each good is marketed**, REP 685 notes a claim by the Australian industry that "the goods and circumvention goods are manufactured in compliance with Australian standard for cold-formed structural steel hollow sections".[104] However, compliance with that standard is inconclusive as to the purpose or end use for which each of the goods were prepared. Clearly, goods the subject of the notice and the circumvention goods could both comply with the standard. The Commission's comparison is therefore not determinative.

134. Curiously, REP 685 restates another argument made by the Australian industry regarding its capacity to produce torque tubes (incorporating drilled holes) "as evidence that Australian **like goods** are used in the same end use application as the circumvention goods"[105] [emphasis added]. The phrase "like goods" is defined in s 269T of the Act but has no work to do in the application of either s 269ZDBG or reg 48.

135. REP 685 does concede, "it is unlikely that the goods without the holes drilled would be marketed as torque tube"[106] and by doing so concedes the different end use applications and resultant marketing of both goods. The outcome of this comparison factor does not support the Reviewable Decision.

136. With respect to the comparison under factor (i), **channels of trade and distribution for each good**, the Commission's conclusion that "the goods would have to be shipped to a steel processor to undertake the drilling, prior to delivery to the customer"[107] reinforces the earlier point regarding the differences in end uses of the goods the subject of the notices and those of the circumvention goods. Consequently, consideration of this factor does not support the Reviewable Decision.

137. The comparison under factors (j), (k) and (l), **patterns of trade, changes in pricing and export volumes** appear not to have been considered as determinative in the REP

[104] REP 685, 24.
[105] Ibid.
[106] REP 685, 24.
[107] Ibid.

685 and therefore do not add weight to the overall conclusion in support of the Reviewable Decision.

138. With respect to the comparison under factor (m), **tariff classifications**, the Commission begins by asserting that the classification of torque tubes under tariff subheading 73.08 as "prepared or worked structural items" is "by reason of the presence of holes, rather than any difference in their underlying physical characteristics, dimensions or material composition".[108] In doing so, the Commission appears to overlook the express language of the subheading where it refers to tubes "prepared for use in structures" which places clear emphasis not just on the objective characteristics of the goods but on the purpose of those characteristics i.e., whether the goods were prepared for use in structures. This is in clear contrast to the key characteristic of pipes and tubes under 73.06 where they are not generally identifiable as having been prepared for a specific end use. As a result, goods prepared for a specific end use compete in a different market to generic type tube and pipe which can have a limited end use.

139. The Commission then concludes its comparison of this factor by stating:

> Absent the addition of holes, the [circumvention] goods would fall within the tariff classification [73.06]. The change in tariff classification is therefore attributable to the slight modification identified in this inquiry and supports a finding that the circumvention goods are slightly modified goods for the purposes of section 48 of the Regulation.[109]

This conclusion is unobjectionable but for the fact that it is the crucial difference between the goods the subject of the notices and the circumvention goods, namely the addition of holes, which confers upon the circumvention goods their essential character and enables their application in an end use not available to the goods the subject of the notices.

140. In conclusion and for the reasons stated above, I cannot discern a sufficient basis arising from the Commission's comparison under reg 48(3) between the goods the subject of the notices and the circumvention goods which supports the conclusion that the circumvention goods were slightly modified. Consequently, there was no basis for the Commissioner's recommendation that circumvention activity had occurred.

[108] REP 685, 28.
[109] Ibid.

141. Accordingly, I find that this Ground of Review is upheld. Therefore, I consider that, in respect of this Ground of Review, the Minister's decision was not the correct or preferable decision, and I recommend that the Minister declare that the original notice remain unaltered.

Gransolar

Ground 1 It was unreasonable for the Commissioner to refuse to take into account Gransolar's submissions of 17 April 2026 notwithstanding that it was received after the end of the period referred to in s 269ZDBG(2)(a)(iv).

142. On 23 March 2026, the Commission published a Statement of Essential Facts (SEF) which set out the facts on which the Commissioner proposed to base recommendations to the Minister concerning the anti-circumvention inquiry. The SEF invited interested parties to make written submissions in response to the Statement no later than 13 April 2026. The SEF drew interested parties' attention to s 269ZDBG(3) of the Act which relevantly provides that the Commissioner would not be obliged to have regard to submissions made in response to the SEF received after 13 April 2026, if to do so would, in the opinion of the Commissioner prevent the timely preparation of the Commissioner's final report and recommendations to the Minister.

143. At 5:01 PM on Friday 17 April 2026, four days after the due date for submissions, Gransolar's representative ('the representative') emailed the Commission with a copy of its response to the SEF noting "we shall forward our Letter of Authority **shortly**" [emphasis added].

144. On Friday 24 April 2026, a Commission officer emailed the representative noting "we still have not received a letter of authority from your client" and again referenced s 269ZDBG(3). Later that day the representative emailed the Commission in response, noting they "have sent a further reminder for our client to provide the LOA" [Letter of Authority] and that "unfortunately, client feedback on our submission was delayed". On Monday 27 April 2026, the representative emailed the Commission a copy of the Letter of Authority.

145. REP 685[110] noted Gransolar's submission had been received after the due date for submissions in response to the SEF and that a Letter of Authority had not been received by the Commission until 27 April 2026. REP 685 stated, "the Commissioner

[110] REP 685, 18.

has not had regard to the submission as to do so would prevent the timely preparation of this report to the Minister".[111]

146. Gransolar argues that there is "no legal authority that mandates the provision of an authority letter prior to the filing and acceptance of a submission by the Commission".[112] It then makes two claims. First, to the extent that the failure to provide the Letter of Authority at the time of filing the submission on 17 April was thought by the Commissioner to constitute a bar to its acceptance, such a conclusion was based upon an irrelevant consideration as there was no such bar. Second, the exercise of the Commissioner's discretion under s 269ZDBG(3) was unreasonable.

147. As to the first claim, at a conference convened on 20 August 2026, Commission representatives acknowledged that although there is no express legislative requirement for provision of a Letter of Authority, guidance is provided on the Commission's website relating to the lodgement of submissions. This guidance requires representatives to identify themselves and the interested party they represent.[113] The Commission's submission to the Review Panel dated 7 September asserted "requests for evidence of an authority to act or represent is necessary in order to fulfil certain statutory obligations and requirements, including to determine whether a person is acting on behalf of an entity that claims interested party status under section 269T(1)"[114].

148. While I acknowledge that Gransolar is correct in its statement that there is no legislative requirement for the provision of a Letter of Authority, I accept that it is a policy or practice of the Commission to require one. This no doubt reflects privacy concerns especially given the commercial-in-confidence nature of the material to be considered by the Commissioner. In any event the representative's foreshadowing in the email of 17 April that such an authority would be forwarded "shortly" reflects their awareness of this policy or practice. I therefore reject the claim that the absence of the Letter of Authority was irrelevant to the Commissioner's decision.

149. In support of its claim of unreasonableness, Gransolar seeks to rely upon the submissions the representative had sent to the Commissioner on two prior occasions, on 6 and 19 December 2025. Gransolar points out that those submissions are

[111] Ibid.
[112] Gransolar Application for Review Attachment B (Gransolar Attachment B) [12.1].
[113] ADC Conference summary – 20 August 2026.
[114] Commission Submission [98].

referenced in REP 685.[115] Gransolar notes that on neither occasion had the Commission sought a Letter of Authority from the representative.

150. Gransolar argues that as the Letter of Authority was provided on 27 April 2026, the next business day following the request from the Commission for its provision, "it cannot have been the case that the preparation of that letter at that time could have had any bearing on the timely preparation of the Final Report to the Minister for the purpose of s 269ZDBG(3)."[116]

151. In relation to the representative's email of 6 December 2025, this "attached our submission seeking an exemption from the current Ani-Circumvention (sic) Inquiry". On 9 December 2025, the Commission wrote to the representative and explained the requirement to provide both confidential and non-confidential version of any submission.

152. On 19 December 2025, in response to the Commission's request, the representative provided revised confidential and non-confidential submissions. However, "REP 685 notes this revised submission did not meet the necessary requirements, as it was extensively redacted, did not identify Gransolar as the submitting party and did not provide reasons for the confidentiality claims".[117] The Commissioner wrote to the representative on 21 January 2026 and invited a revised public version for inclusion in the public record. The Commission sent a follow-up email on 5 February 2026 to the representative asking whether Gransolar intended to provide a revised public version of the submission. Although the representative responded indicating it expected to provide an updated submission within a week, REP 685 notes Gransolar ultimately failed to "provide a public version of the submission which would allow a reasonable understanding of the substance of the information".[118]

153. I note the representative's email of 17 April 2026, which forwarded the response to the SEF, assured the Commission "we shall forward our Letter of Authority **shortly**". Despite that assurance, the Letter was not provided until 10 days later. Given the Commission's experience of Gransolar's difficulties with and ultimate failure to adhere to the established protocols for the lodgement of its 6 December 2025 submission, the

[115] REP 685, 17-18.
[116] Ibid [12.3].
[117] REP 685, 17.
[118] Ibid 18.

assurance provided by the representative on 17 April 2026 could not have provided certainty and was of questionable value.

154. Accordingly, I accept that it was not unexpected that the Commission would defer consideration of the submission until the Letter of Authority had been provided. Reading REP 685 in context, the Commissioner did not form the opinion that consideration of the 17 April 2026 submission "would prevent the timely preparation" of REP 685 until the Letter of Authority had been provided on 27 April 2026, approximately 10 days before publication of REP 685 and the Reviewable Decision. Therefore, the decision as to the consideration of the submission in response to the SEF is therefore to be assessed as at 27 April 2026. Stated differently, the issue as at 27 April 2026 was whether consideration of the Letter would prevent the timely completion of REP 685.

155. The authority not to have regard to a submission is contingent upon the Commissioner holding a state of satisfaction That consideration of an 'out of time' or late submission would preclude the timely preparation of the Commission's final report and a recommendation to the Minister. In support of this Ground of Appeal Gransolar seeks to rely upon a decision of the High Court in *Buck v Bavone*[119] which dealt with the circumstances in which a court could review certain actions contingent upon the existence of certain matters specified in a statute. This judgment does not provide conclusive support for Gransolar's argument as, in that decision, the Court drew a distinction where the authority was required "to be satisfied on the existence of particular matters of objective fact" and where, as in this review, "the matter of which the authority is required to be satisfied is a matter of opinion or policy or taste it may be very difficult to show that … in such cases the authority will be left with a very wide discretion which cannot be effectively reviewed by the courts".

156. The Federal Court in *Pilkington (Australia) LTD v Minister for Justice and Customs*[120] commented on certain features of the administrative scheme for determinations to be made by the Minister with respect to dumping and countervailing matters. The Court noted "the scheme contains several timelines in which specified steps are to be taken". Such steps include the provision of comments by parties on the SEF within a specified time frame. The Federal Court went on to note "these provisions point to a clear legislative intention that the investigation is to be a timely one"[121].

[119] 135 CLR 110 [118]-[119] (Gibbs CJ).
[120] [2002] FCA 770 [40] ('*Pilkington*').
[121] Ibid.

157. The Federal Court went on to cite extracts from the Second Reading Speech introducing the legislative amendments including those introducing certain timelines. In the speech, the Minister noted,

> the government accepts that it is in the interests of all parties for these investigations and reviews to be completed as soon as practicable … However, this balance can only be maintained if all interested parties are subject to a discipline which requires that if they wish to participate in the investigation or review process they must ensure that their submissions are lodged promptly. Therefore, at various milestones throughout the investigation or review process the government's reforms confer a power upon the relevant decision maker to disregard submissions which are received after specified periods, if there is insufficient time remaining for their proper consideration. Without such powers, the statutory deadlines would never be met and the balance which such deadlines are designed to preserve would be undermined.[122]

158. In the recent case of *Hyundai Steel Company v Minister for Industry and Innovation*[123] the Federal Court restated "the standard of legal unreasonableness is a high bar". The Court went on to state that "it would be a rare case to find that the exercise of a discretionary power was unreasonable where the reasons demonstrated a justification for that exercise". Further, "irrationality or unreasonableness is not made out merely by pointing to a different reasoning, and the drawing of different inferences"[124] as between in this case, Gransolar on the one hand, and the Commissioner on the other.

159. REP 685 stated the reason why the submission of 17 April 2026 was not considered, "as to do so would prevent the timely preparation of this report to the Minister".[125] The Commission's submission argues this reason constitutes an

> 'evident and intelligible justification' in the sense explained in *Minister for Immigration and Citizenship v Li* (2013) 249 CLR 332. Gransolar's submission was received after the prescribed period, without any prior indication that a late submission would be made, and when the substantive steps towards finalising the Commissioner's report and recommendations were already

[122] *Pilkington* [41].
[123] [2026] FCA 1137, 14 August 2026.
[124] Ibid [118]-[119].
[125] Gransolar Attachment B [18].

underway. In those circumstances, it was open to the Commissioner to form the opinion of having regard to the submission would prevent the timely preparation of the report"[126].

160. The stated reason needs to be viewed in the context of the Commission's history of correspondence with Gransolar and its representative. Whilst the Commission could have taken into account the submission of 17 April 2026, it did not. I accept the stated reason why it was not considered as a sufficient justification for the exercise of the power.

161. Accordingly, for the reasons stated above, I dismiss this Ground of Review.

Ground 2 The Commissioner's analysis under regs 48(2) and 48(3) of the *Customs International Obligations Regulation 2015* is infected by an error of law in that the Commissioner made a comparison between the circumvention goods and a narrow subset of the goods that are the subject of the original Notice.

162. Gransolar begins its argument in support of this Ground of Review by correctly restating the task that was before the Commissioner was outlined in reg 48. Namely, "the Commissioner make a comparison between the circumvention good and the good the subject of **the notice** when determining whether a circumvention good is slightly modified"[127] [emphasis added].

163. For the purposes of this comparison, the circumvention goods are defined in reg 48(2)(a) as goods exported to Australia from a foreign country in respect of which the notice applies and which are the focus of the Australian industry's application for the imposition of anti-countervailing measures.

164. It is recalled that the initial Notices under s 269TG(2) and s 269TJ(2) are dated 12 June 2012 and were published in response to the Commissioner's findings and recommendations set out in Rep 177. Each notice referenced the dumping and subsidies investigations carried out in respect of the importation of certain hollow structural sections classified to certain tariff headings and statistical codes. The notices declared that ss 8 and 10 of the *Dumping Duty Act* would apply to like goods that are exported to Australia after the date of the publication of the notices. Each of those notices were subsequently reviewed, and alterations were accepted with respect to tariff headings, statistical codes, and exporters. Such changes did not result in the

[126] Commission submission [94].
[127] Application 6.

cancellation of the original notice and the substitution of new notices. Rather, "alterations"[128] were to be made to the original notices. At the time of the initiation of the anti-circumvention investigation which culminated in REP 685, the operative altered notice was set out in ADN No. 2016/24, dated 17 March 2016[129].

165. In undertaking the comparison between the circumvention goods and the goods the subject of **the notices**, Gransolar notes that the Commissioner first identified or defined the circumvention goods as being "HSS with holes"[130] and "for use in the construction of a commercial solar facility".[131] Gransolar does not dispute the Commissioner's conclusion that "the only physical difference between the goods [defined in the notices] and the circumvention goods is the presence of drilled holes (either along the length or at the ends) and the circumvention goods are otherwise identical to the goods".[132]

166. It was at the next step of the comparison of the circumvention goods (i.e., HSS with holes for use in solar mounting) with the goods the subject of the notice that Gransolar argues the Commissioner fell into error. Gransolar attributes the error to the terms in which the Australian industry formulated its application. Gransolar argues that the scope of the potential goods which could be caught by the goods described in the notice is broad (i.e., HSS without holes). Such goods are said to be "myriad" and constitute a "panoply of goods" which go well beyond those for use in solar mounting systems".[133]

167. Gransolar argues "the Commissioner's analysis effectively was a comparison between HSS without holes for use in solar mounting systems and HSS with holes for use in solar mounting systems".[134] Stated differently, Gransolar argues that the Commissioner should have compared the imported circumvention goods with HSS for use in any and all applications beyond installation in a solar mounting system. Had the Commissioner done so Gransolar argues it would have been observed the "the drilling of holes would render the circumvention goods wholly unusable for other applications of the goods covered by the Original Notice".[135] For example, drilling holes in the HSS produced by the Australian industry would render the HSS unable to be utilised for the transfer of

[128] See s 269ZBDG(1)(d)(ii).
[129] The notices are set out in Annexure B of this report.
[130] REP 685, 20.
[131] Ibid 22.
[132] REP 685, 21.
[133] Gransolar Attachment B, 9 [21].
[134] Ibid 9.
[135] Gransolar Attachment B, 10-11.

liquids or gases. Accordingly, Gransolar concludes in so limiting the scope of the comparison the Commissioner failed to perform the statutory comparison required by reg 48(3) [i.e., "compare the circumvention good with the good the good the subject of the notice"] and committed an error of law".[136] Gransolar argues that "the Commissioner's analysis should have compared the circumvention goods with the panoply of goods falling within the scope of the original notices".[137]

168. Gransolar concludes that,

> because the Commissioner's conclusion that the circumvention goods are slightly modified for the purposes of s.48(3) is infected with an error of law, it follows that the Commissioner's conclusion that the circumstance under s.48(2)(b) of the Regulation, and under s.269ZDBB(6) of the Act, is similarly affected by an error of law. By extension, the Commissioner did not identify "circumvention activities" under s.269ZDBB and there is subsequently no basis for the alteration of the Original Notices set out in the Final Report.[138]

169. The Australian industry's submission agrees that REP 685 correctly identified the goods subject to the original notices as the statutory comparator and that the Commission "did not expressly redefine the goods subject to the notices as HSS used only in solar applications"[139].

170. The Commission's submission to the Review Panel maintains that the statutory comparator had been correctly identified and applied, "as 'the goods the subject of the notice' (HSS) properly applied the statutory factors in s 48(3) of the Regulation to the evidence before [the Commission], and was entitled to assess the circumvention goods against a version of the good subject to the notice possessing the relevant characteristics encompassed by the good's description in the notice".[140] The submission goes on to assert the "'only intelligible' way to determine whether goods have being subject to a slight modification is to compare them to 'the version of the subject good from which it was derived; that is, the product as it existed before the modification occurred".[141]

[136] Ibid 9.
[137] REP 685, 9-10.
[138] Gransolar Attachment B, 11 [26].
[139] Orrcon submission, 6.
[140] Commission's submission [113].
[141] Ibid [114].

171. The Commission submission also makes the following relevant comment,

> to require the Commissioner to compare the circumvention goods against the entire range of HSS encompassed by the notice (circular and non-circular, across all sizes, finishes and material compositions) would be to ask a question the statute does not pose, and would produce the perverse result that the broader goods description, the harder it would be to establish circumvention. That is because the circumvention goods would invariably differ from some versions of the subject good in ways entirely unrelated to the modification. That outcome would defeat the legislative purpose of Division 5A … which exists to prevent exporters from avoiding duties through minor modifications to goods.[142]

I agree with and adopt the Commission's reasoning.

172. Therefore, I do not accept Gransolar's interpretation that the goods the subject of the notice constitute "a panoply of goods" and that for the purposes of the relevant comparison with the circumvention goods the Commissioner was precluded from selecting locally manufactured HSS which could be modified for use in a solar array. Acceptance of Gransolar's arguments would introduce unnecessary complexity and consequential delay into a regime dominated by tight statutory timeframes. The circumstances which were presented to the Commissioner, and in turn to the Minister, were of a local manufacturer of HSS with drilled holes for use in a solar mounting system in competition with imported HSS with drilled holes for use in similar systems. As was observed by the Federal Court in *Enichem ANIC Sri v Anti-Dumping Authority*,[143] admittedly in the context of an anti-dumping inquiry, "decision-making is a function of the real world".

173. Accordingly, for the reasons stated above I reject this Ground of Review.

Ground 3 The Commissioner's analysis improperly alters the good's description in the Notice in that the scope of the Notice is now so broad as to capture any electric resistance welded pipe and tube made of steel classified to subheading 7308.90.00 (statistical code 65) whether or not any particular pipe and tube has ever been the subject of any investigation or inquiry by the Commissioner as to whether the products were dumped and/or subsidised;

[142] Ibid [140].
[143] (1992) 29 ALD 431.

whether there is a domestic industry for a like product; and/or whether any such dumping/subsidisation causes injury to that domestic industry.

174. REP 685 notes that in response to the SEF, the Australian industry urged the Commissioner to consider the opportunity presented by the inquiry to make further adjustments to the description of the goods. It suggested that the description in the notices should include references to other alloy steel. It also suggested that a reference to holes resulting from drilling would be too limited and suggested the alteration ought to embrace a range of processes, including punching, piercing, and cutting which could also be used to create holes.[144]

175. REP 685 addressed the Australian industry's proposed alterations and in doing so expressed caution was warranted so as to ensure that the notices were amended to only address the circumvention activity found and not indirectly provide too broad a description which would capture goods other than the circumvention goods. Nevertheless, REP 685 agreed that the alteration to the goods description should also include a reference to other alloy steel and methods of creating holes other than drilling[145].

176. Gransolar applauded the Commissioner's initial cautionary approach as reflecting a desire to ensure that the goods description is not altered to apply dumping and/or countervailing duties to goods that should not properly be subject to those duties.

177. However, Gransolar notes the alterations adopted by the Minister are now so broad as to capture any electric resistant welded pipe, particularly octagonal sections, whether such pipe has ever been subject to any investigation or inquiry. As an importer of octagonal pre-drilled HSS, Gransolar is critical of "the Reviewable Decision [applying] dumping and countervailing duty to goods that have not been the subject of any analysis by the Anti-Dumping Commission, the Commissioner and/or the Minister at all, including the octagonal drilled HSS imported by Gransolar"[146].

178. Gransolar concludes by arguing that REP 685 "is infected by an error of law, because it applies dumping and countervailing duty to goods with no evidence of those goods being properly subject to such duty based on an analysis under Part XVB of the Act, and/or is otherwise unreasonable".[147] Gransolar therefore asks that the Review Panel

[144] REP 685, 35-36
[145] Ibid 36.
[146] Gransolar Attachment B, 36.
[147] Ibid [37].

recommended to the Minister that the reviewable decision be revoked and substituted with a new decision which would not encompass its importations of octagonal torque tubes.

179. The Australian industry's submission notes,

> Rep 685 recognises that a tariff classification may include goods both within and outside the measures. Neither the octagonal shape nor the tariff classification therefore resolves whether Gransolar's undrilled product would have been the subject of the original notices. That question requires application of the goods description to the characteristics of the particular goods. [The Australian industry] submits that Gransolar has not established that octagonal sections must be excluded as a class[148].

180. Nextpower notes the relief sought by Gransolar under this Ground

> 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". Nextpower agrees that "Gransolar has not advanced any meaningful evidence or demonstrated a principled basis why octagonal tubes should be excluded from the measures other than the fact that Gransolar imports them[149].

181. The Commission's submission notes,

> the fact that the Commission did not compare and make findings in relation to the circumvention goods with the [octagonal] profile as imported by Gransolar, does not prevent the Commissioner from recommending an alteration to the notices which extends to circumvention goods with a [octagonal] profile … it was reasonable to alter the notice to include circumvention goods of all profiles, including those with non-circular profiles[150].

182. Section 269ZDBH of the Act outlines what the Minister may do upon considering a report and recommendation provided by the Commissioner. The Minister's

[148] Orrcon submission, 6-7.
[149] Nextpower submission, 2.
[150] Commission submission [153].

consideration can have regard to any other information beyond the Commissioner's report that the Minister considers relevant. The Minister is given broad powers to either declare the original notice is to remain unaltered or alternatively, the Minister may specify alterations are to be made to the original notice. However, when read in context, s 269ZDBH does not support Gransolar's contention that the Minister is precluded from altering the notices to impact goods and exporters in the absence of any inquiry and finding of dumping and/or subsidisation with respect to such goods or exporters.

183. In Review Panel Report No. 28,[151] the then Senior Member confirmed that although s 269ZDBH(2)(d) did allow the Minister to alter variable factors, such a power was limited in its application. In that case, the issue before the Senior Member was whether a circumvention activity had been established following a comparison of the circumvention goods and the goods the subject of the notice. The Senior Member found that it was not necessary to consider whether there had been changes in the variable factors as,

> the inquiry is not considering whether or not the variable factors determined for the original notice have changed. Nor is its purpose to consider whether or not material injury is being caused to the Australian industry by the dumping of the relevant goods. The purpose of the inquiry is to investigate and report on whether or not there has been the prescribed circumvention activity and what alterations need to be made to the dumping duty notice to address that activity.[152]

184. The Senior Member's analysis is applicable to the current review, and I adopt and apply it. In the course of the inquiry currently under review, neither the Australian industry, the applicant for the circumvention measures, nor any other interested party sought adjustment to the variable factors in the alteration to the notice. It was therefore unnecessary for the Commissioner to consider such factors. Equally, the inquiry was not required to address whether any new anti-dumping or subsidy duty measures were necessary.

185. The Minister's powers with regard to alterations are at large, i.e., they are unfettered. That is, they are not restricted to any finding or recommendation of the Commissioner, and the Minister is at liberty to have regard to any other information that the Minister

[151] *Zinc Coated (Galvanised) Steel from the Republic of Korea, Taiwan and the People's Republic of China*, September 2016.
[152] Ibid [49].

considers relevant and consistent with the purposes or objects of the legislation, in this case Part XVB of the Act.

186. Further, the exercise of the powers with respect to alterations to the scope of the notices are not contingent upon any condition precedent nor the establishment of an objective fact.

187. Although s 269ZDBH(2) of the Act outlines several matters which may be considered, such an outline is illustrative only nor does it impose any restriction on actions available to the Minister. As demonstrated by the express statement in subsection (2), the matters listed in the subsection do not imply any limitation upon the exercise of the alteration power.

188. Gransolar references four reports of the Commission[153] to demonstrate "the history of the imposition of dumping and countervailing duty on HSS" and asserts "such measures have always been directed at circular, square, rectangular, and oval shaped sections classifiable to subheadings within heading 7306"[154] but not including octagonal sections. Whilst consistency is generally regarded as a desirable feature of the decision making, Gransolar has not demonstrated, in the context of the Reviewable Decision, that the Commission's departure from its alleged previous practice was beyond power.

189. The Commission's submission challenges Gransolar's assertions regarding the history of HSS measures noting,

> the goods the subject of the original notices prior to the [Reviewable Decision] … included all HSS classified to the relevant tariff heading- it was not limited to circular, oval, square and rectangular HSS … The fact that the Commission did not compare and make findings in relation to the circumvention goods with a [octagonal] profile as imported by Gransolar, does not prevent the Commissioner from recommending an alteration to the notices which extends to circumvention goods with a [octagonal] profile[155].

I agree with the Commission's interpretation that the relevant notices included the octagonal profiles imported by Gransolar.

[153] Report Nos. 291, 379, 419 and 590.
[154] Gransolar's submission [39].
[155] Commission submission [153].

190. An alternative argument raised by Gransolar in support of this Ground of Review is that the Minister's decision with respect to the alteration "is otherwise unreasonable".

191. In Ground 1 of Gransolar's Ground of Review referred to above, I referred to a recent Federal Court decision in *Hyundai* in which the Court restated "the standard of legal unreasonableness is a high bar". Gransolar has not pointed to any argument beyond the economic impact of the Minister's alteration to the notices. As the Minister's decision with respect to the alteration was within the power conferred by the legislation, Gransolar's challenge to the decision based upon unreasonableness represents nothing more than dissatisfaction with the outcome rather than a demonstration of invalidity or unlawfulness on the part of the Minister.

192. For the reasons stated above this Ground of Review is rejected.

Conclusion and Recommendation

193. For the reasons set out in this report, and in particular with reference to my findings with respect to Nextpower's Ground 6 of its Review Application, pursuant to s 269ZZK(1A) of the Act, I am satisfied that a new decision which is materially different to the Reviewable Decision is required.

194. Accordingly, pursuant to s 269ZZK(1)(b) of the Act, I recommend that the Minister revoke the Reviewable Decision and substitute it with a new decision declaring that, pursuant to s 269ZDBH(1)(a), the original notices remain unaltered.



Paul O'Connor
Panel Member
Anti-Dumping Review Panel
6 October 2026

Appendix A: Conferences

Date of conference	Participants	Purpose of conference
20 August 2026	Commission	To clarify comments made in REP 685 in light of matters raised in the Grounds for Review
27 August 2026	Nextpower	To clarify comments raised in the Grounds for Review
1 September 2026	Commission	To further clarify certain comments within REP 685
3 September 2026	Gransolar	To clarify comments raised in the Grounds for Review

Appendix B: Submissions

The following submissions were received pursuant to s 269ZZJ and accepted by the Review Panel.

Submitting party	Dated
ACLE Services Pty Ltd	7 September 2026
Anti-Dumping Commission	7 September 2026
Nextpower Australia Pty Ltd	1 September 2026
Nextpower Australia Pty Ltd	1 September 2026
Nextpower Australia Pty Ltd	1 September 2026
Orrcon Manufacturing Pty Ltd	7 September 2026

Appendix C: Legislation

Section 269T(1) of the Act states:

> *…like goods*, in relation to goods under consideration, means goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

Section 269TG(1) and (2) of the Act provides:

> (1) Subject to section 269TN, where the Minister is satisfied, as to any goods that have been exported to Australia, that:
>
> (a) the amount of the export price of the goods is less than the amount of the normal value of the goods; and
>
> (b) because of that:
>
> i. material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered; or
>
> ii. in a case where security has been taken under section 42 in respect of any interim duty that may become payable on the goods under section 8 of the Dumping Duty Act--material injury to an Australian industry producing like goods would or might have been caused if the security had not been taken;
>
> the Minister may, by public notice, declare that section 8 of the Dumping Duty Act applies:
>
> (c) to goods of in respect of which the Minister is so satisfied; and
>
> (d) to like goods that were exported to Australia after the Commissioner made a preliminary affirmative determination under section 269TD in respect of the goods referred to in paragraph (c) but before the publication of that notice.
>
> (2) Where the Minister is satisfied, as to goods of any kind, that:

(a) the amount of the export price of like goods that have already been exported to Australia is less than the amount of the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and

(b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered;

the Minister may, by public notice (whether or not he or she has made, or proposes to make, a declaration under subsection (1) in respect of like goods that have been exported to Australia), declare that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia after the date of publication of the notice or such later date as is specified in the notice.

Section 269TJ(1) and (2) of the Act provides:

(1) Subject to section 269TN, where the Minister is satisfied, as to any goods that have been of any kind exported to Australia, that:

(a) a countervailable subsidy has been received in respect of the goods; and

(b) because of that:

(i) material injury to an Australian industry producing like goods has been or is being caused or is threatened or the establishment of an Australian industry producing like goods has been or may be materially hindered; or

(ii) in a case where security has been taken under section 42 in respect of any interim duty that may become payable on the goods under section 10 of the Dumping Duty Act—material injury to an Australian industry producing like goods would or might have been caused if the security had not been taken;

the Minister may, by public notice, declare that section 10 of that Act applies:

(c) to the goods in respect of which the Minister is so satisfied; and

(d) to like goods that were exported to Australia after the Commissioner made a preliminary affirmative determination under section 269TD in respect of the goods referred to in paragraph (c) but before the publication of that notice.

(2) Where the Minister is satisfied, as to goods of any kind that:

(a) a countervailable subsidy:

(i) has been received in respect of goods the subject of the application that have already been exported to Australia; and

(ii) may be received in respect of like goods that may be exported to Australia in the future; and

(b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is being threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered;

the Minister may, by public notice (whether or not he or she has made, or proposes to make, a declaration under subsection (1) in respect of like goods that have been exported to Australia), declare that section 10 of the Dumping Duty Act applies to like goods that are exported to Australia after the date of publication of the notice or such later date as is specified in the notice.

Section 269ZDBA of the Act provides:

If a notice has been published under subsection 269TG(2) or 269TJ(2) in respect of goods, this Division allows a person representing, or representing a portion of, the Australian industry producing like goods to apply for the conduct of an anti-circumvention inquiry in relation to the notice. This Division also allows the Minister to request such an inquiry. It:

- sets out when applications may be made; and
- sets out the procedure to be followed by the Commissioner in dealing with applications or requests and preparing reports for the Minister; and
- empowers the Minister, after consideration of such reports, to leave the notice unaltered or to alter the notice as appropriate.

Section 269ZDBB(1)–(6) of the Act provides:

(1) This section sets out when circumvention activity, in relation to a notice published under subsection 269TG(2) or 269TJ(2), occurs.

Assembly of parts in Australia

(2) Circumvention activity, in relation to the notice, occurs if the following apply:

(a) goods in the form of individual parts (the circumvention goods) are exported to Australia;

(b) those parts are manufactured in a foreign country in respect of which the notice applies;

(c) those parts are assembled in Australia, whether or not with other parts, to create goods (the assembled goods) that would be the subject of the notice if they were exported to Australia by an exporter in respect of which the notice applies;

(d) the total value of the parts manufactured in that foreign country is a significant proportion of the value of the assembled goods;

(e) section 8 or 10 of the Dumping Duty Act, as the case requires, does not apply to the export of the circumvention goods to Australia.

Assembly of parts in third country

(3) Circumvention activity, in relation to the notice, occurs if the following apply:

(a) goods in the form of individual parts are manufactured in a foreign country (the original country) in respect of which the notice applies;

(b) those parts are assembled in a foreign country in respect of which the notice does not apply, whether or not with other parts, to create goods (the circumvention goods) that would be the subject of the notice if they were exported to Australia by an exporter in respect of which the notice applies;

(c) the circumvention goods are exported to Australia;

(d) the total value of the parts manufactured in the original country is a significant proportion of the customs value (within the meaning of section 159) of the circumvention goods;

(e) section 8 or 10 of the Dumping Duty Act, as the case requires, does not apply to the export of the circumvention goods to Australia.

Export of goods through one or more third countries

(4) Circumvention activity, in relation to the notice, occurs if the following apply:

(a) goods (the circumvention goods) are exported to Australia from a foreign country in respect of which the notice does not apply;

(b) before that export, there were one or more other exports of the goods from a foreign country to another foreign country;

(c) the first of those other exports was from a foreign country in respect of which the notice applies;

(d) the circumvention goods would be the subject of the notice if they were exported to Australia by an exporter in respect of which the notice applies;

(e) section 8 or 10 of the Dumping Duty Act, as the case requires, does not apply to the export of the circumvention goods to Australia.

Arrangements between exporters

(5) Circumvention activity, in relation to the notice, occurs if the following apply:

(a) goods (the circumvention goods) are exported to Australia from a foreign country in respect of which the notice applies;

(b) the exporter exported the circumvention goods under an arrangement with another exporter from that foreign country;

(c) the other exporter is an exporter in respect of which the notice applies;

(d) the circumvention goods would be the subject of the notice if they were exported to Australia by the other exporter;

(e) either:

(i) section 8 or 10 of the Dumping Duty Act, as the case requires, does not apply to the export of the circumvention goods to Australia; or

(ii) section 8 or 10 of the Dumping Duty Act, as the case requires, applies to the export of the circumvention goods to Australia, but the interim duty payable in relation to that export is less than the interim duty that would have been payable if the other exporter had exported the goods to Australia.

Avoidance of intended effect of duty

(5A) Circumvention activity, in relation to the notice, occurs if the following apply:

(a) goods (the circumvention goods) are exported to Australia from a foreign country in respect of which the notice applies;

(b) the exporter is an exporter in respect of which the notice applies;

(c) either or both of sections 8 and 10 of the Dumping Duty Act apply to the export of the circumvention goods to Australia;

(d) the importer of the circumvention goods, whether directly or through an associate or associates, sells those goods in Australia without increasing the price commensurate with the total amount of duty payable on the circumvention goods under the Dumping Duty Act;

(e) the circumstances covered by paragraphs (a) to (d) occur over a reasonable period.

Regulations

(6) Circumvention activity, in relation to the notice, occurs in the circumstances prescribed by the regulations for the purposes of this subsection.

Section 269ZDBF(1)–(3) of the Act provides:

(1) If the Commissioner publishes a notice under subsection 269ZDBE(4) or (5) about the conduct of an anti-circumvention inquiry in relation to an original notice and subparagraph 269ZDBE(6)(d)(i) applies, the Commissioner must:

(a) within 110 days after the publication of the notice under subsection 269ZDBE(4) or (5); or

(b) within such longer period as the Minister allows under section 269ZHI;

place on the public record a statement of the facts (the statement of essential facts) on which the Commissioner proposes to base a recommendation to the Minister in relation to the original notice.

Note: For original notice, see section 269ZDBC.

(2) In formulating the statement of essential facts, the Commissioner:

(a) must have regard to:

(i) the application or request; and

(ii) any submissions concerning the inquiry that are received by the Commissioner within 37 days after the publication of the notice under subsection 269ZDBE(4) or (5); and

(b) may have regard to any other matters that the Commissioner considers relevant.

Late submissions

(3) The Commissioner is not obliged to have regard to a submission concerning the inquiry that is received by the Commissioner after the end of the period referred to in subparagraph (2)(a)(ii) if to do so would, in the Commissioner's opinion, prevent the timely placement of the statement of essential facts on the public record.

Section 269ZDBG(1)–(3A) of the Act provides:

Commissioner recommendations

(1) The Commissioner must, after conducting an anti-circumvention inquiry in relation to an original notice and within:

(a) if subparagraph 269ZDBE(6)(d)(i) applies--155 days after the day the notice under subsection 269ZDBE(4) or (5) about the inquiry is published or such longer period as the Minister allows under section 269ZHI; or

(b) if subparagraph 269ZDBE(6)(d)(ii) applies--100 days after the day the notice under subsection 269ZDBE(4) or (5) about the inquiry is published or such longer period as the Minister allows under section 269ZHI;

give the Minister a report recommending:

(c) the original notice remain unaltered; or

(d) the following:

(i) the original notice be altered because the Commissioner is satisfied that circumvention activities in relation to the original notice have occurred;

(ii) the alterations to be made to the original notice.

Note: For original notice, see section 269ZDBC.

(2) In deciding on the recommendations to be made to the Minister in the report, the Commissioner:

(a) if paragraph (1)(a) applies--must have regard to:

(i) the application or request for the inquiry; and

(ii) any submission concerning the inquiry to which the Commissioner has had regard for the purpose of formulating the statement of essential facts in relation to the inquiry; and

(iii) that statement of essential facts; and

(iv) any submission made in response to that statement that is received by the Commissioner within 20 days after the placing of that statement on the public record; and

(aa) if paragraph (1)(b) applies--must have regard to:

(i) the application or request for the inquiry; and

(ii) any submission concerning the inquiry that is received by the Commissioner within 37 days after the publication of the notice under subsection 269ZDBE(4) or (5); and

(b) in any case--may have regard to any other matter that the Commissioner considers to be relevant to the inquiry.

Late submissions

(3) The Commissioner is not obliged to have regard to a submission made in response to the statement of essential facts that is received by the Commissioner after the end of the period referred to in subparagraph (2)(a)(iv) if to do so would, in the Commissioner's opinion, prevent the timely preparation of the report to the Minister.

(3A) The Commissioner is not obliged to have regard to a submission concerning the inquiry that is received by the Commissioner after the end of the period referred to in

subparagraph (2)(aa)(ii) if to do so would, in the Commissioner's opinion, prevent the timely preparation of the report to the Minister.

Section 269ZDBH(1) and (2) of the Act provides:

Minister's decision

(1) After considering the report of the Commissioner and any other information that the Minister considers relevant, the Minister must declare, by notice published in accordance with subsection (9), that for the purposes of this Act and the Dumping Duty Act:

(a) the original notice is to remain unaltered; or

(b) the alterations specified in the declaration are taken to have been made to the original notice, with effect on and after a day specified in the declaration.

Note: For original notice, see section 269ZDBC.

(2) Without limiting subsection (1), the alterations may be of the following kind:

(a) the specification of different goods that are to be the subject of the original notice;

(b) the specification of different foreign countries that are to be the subject of the original notice;

(c) the specification of different exporters that are to be the subject of the original notice;

(d) in relation to existing exporters that are the subject of the original notice--the specification of different variable factors in respect of one or more of those exporters;

(e) in relation to exporters that are to be the subject of the original notice--the specification of variable factors in respect of those exporters.

Regulation 48(2) and (3) of the Customs (International Obligations) Regulation 2015 provides:

(2) A circumvention activity occurs if:

(a) goods (the circumvention goods) are exported to Australia from a foreign country in respect of which the notice applies;

(b) before that export, the circumvention goods are slightly modified;

(c) the use or purpose of the circumvention goods is the same before and after they are so slightly modified;

(d) had the circumvention goods not been so slightly modified, they would have been the subject of the notice; and

(e) section 8 or 10 of the Customs Tariff (Anti-Dumping) Act 1975, as the case requires, does not apply to the export of the circumvention goods to Australia.

(3) For the purpose of determining whether a circumvention good is slightly modified, the Commissioner must compare the circumvention good and the good the subject of the notice, having regard to any factor that the Commissioner considers relevant, including any of the following factors:

(a) each good's general physical characteristics;

(b) each good's end use;

(c) the interchangeability of each good;

(d) differences in the processes used to produce each good;

(e) differences in the cost to produce each good;

(f) the cost of modification;

(g) customer preferences and expectations relating to each good;

(h) the way in which each good is marketed;

(i) channels of trade and distribution for each good;

(j) patterns of trade for each good;

(k) changes in the pricing of each good;

(l) changes in the export volumes for each good;

(m) tariff classifications and statistical codes for each good.

Annexure A – Extracts from REP 685

Table 1: General tariff classifications for the goods

Tariff subheading	Statistical code	Description
7306	OTHER TUBES, PIPES AND HOLLOW PROFILES (FOR EXAMPLE, OPEN SEAM OR WELDED, RIVETED OR SIMILARLY CLOSED), OF IRON OR STEEL:	
7306.30.00	Other, welded, or circular cross-section, of iron or non-alloy steel:	
	Exceeding 21 mm but not exceeding 60.3 mm external diameter:	
	31	Wall thickness not exceeding 2.5 mm
	32	Wall thickness exceeding 2.5 mm but not exceeding 3.6 mm
	33	Wall thickness exceeding 3.6 mm
	Exceeding 60.3 mm but not exceeding 114.3 mm external diameter:	
	34	Wall thickness not exceeding 3.2 mm
	35	Wall thickness exceeding 3.2 mm but not exceeding 4.5 mm
	36	Wall thickness exceeding 4.5 mm
	37	Exceeding 114.3 but not exceeding 165.1 mm external diameter
7306.50.00	45	Other, welded, or circular cross-section, of other alloy steel
7306.6	Other welded, of non-circular cross-section:	
7306.61.00	Of square or rectangular cross-section of iron or non-alloy steel:	
	Not exceeding 279.4 mm perimeter:	
	21	Wall thickness not exceeding 2 mm
	22	Wall thickness exceeding 2 mm
	25	Exceeding 279.4 mm
	90	Other
7306.69.00	10	Of other non-circular cross-section

Table 6: General tariff classifications for tariff heading 7308

Tariff subheading	Statistical code	Description
7308	STRUCTURES (EXCLUDING PREFABRICATED BUILDINGS OF 9406) AND PARTS OF STRUCTURES (FOR EXAMPLE, BRIDGES AND BRIDGE-SECTIONS, LOCK-GATES, TOWERS, LATTICE MASTS, ROOFS, ROOFING FRAMEWORKS, DOORS AND WINDOWS AND THEIR FRAMES AND THRESHOLDS FOR DOORS, SHUTTERS, BALUSTRADES, PILLARS AND COLUMNS), OF IRON OR STEEL; PLATES, RODS, ANGLES, SHAPES, SECTIONS, TUBES AND THE LIKE, PREPARED FOR USE IN STRUCTURES, OF IRON OR STEEL:	
7308.10.00	01	Bridges and bridge-sections
7308.20.00	Towers and lattice masts	
	03	*Tubular, whether or not tapered*
	04	*Other*
7308.30.00	Doors, windows and their frames and thresholds for doors	
	04	*Of stainless steel*
	Other	
	05	*.Windows and their frames*
	06	*.Thresholds for doors*
	07	*.Other*
7308.40.00	05	Equipment for scaffolding, shuttering, propping or pit-propping
7308.90.00	**Other**	
	Columns, pillars, posts and beams, girders, bracing, gantries, brackets, struts, ties and similar structural units:	
	.Roll formed structures:	
	52	*..Hot rolled*
	53	*..Plated or coated with zinc or with aluminium-zinc alloys, of a thickness less than 1.2 mm*
	54	*..Plated or coated with zinc or with aluminium-zinc alloys, of a thickness of 1.2 mm or more*
	55	*..Other*
	56	*.Other*
	57	*Steel grating, stairways and treads*
	58	*Racking and shelving*
	59	*Sheet-metal roofing, siding, flooring and roof drainage equipment (or rainwater goods)*
	60	*Handrails and stanchions*
	62	*Guard rails and road barriers, prepared for use on bridges and roads*
	63	*Sectional components, prepared for use in towers and lattice masts*
	64	*Lintels, prepared for use with doors and windows*
	65	***Other***

4.2.2.14 Summary of findings - are the circumvention goods slightly modified?

The commission notes that, the Commissioner may have regard to any of the factors listed in section 48(3) to determine whether a circumvention good is slightly modified.

Having compared the circumvention goods and the goods the subject of the notice, the Commissioner finds that the:

- general physical characteristics for each good are the same, with the only difference being the presence of drill holes
- circumvention goods and the goods can have the same end use
- goods requiring holes to be drilled, are fully interchangeable with the circumvention goods
- manufacturing process for both goods is the same until the final modification step, being the drilling of holes

- differences in cost are labour and overheads relating to the further drilling process for the circumvention goods
- cost of modification is less than 5% of the total manufacturing cost of the goods
- customer purchasing circumvention goods would expect holes to be drilled in the HSS, however would be unlikely to have a preference for whether the holes were drilled prior to export or in Australia
- goods are unlikely to be marketed in the same way as the circumvention goods are marketed without the drill holes incorporated
- circumvention goods can be shipped directly to the customer, the goods would have to be shipped to a steel processor to undertake the drilling, prior to delivery
- circumvention goods do not appear to have displaced trade in the goods to a significant degree
- circumvention goods and the goods are similarly priced
- volume of circumvention goods appears to be small in comparison to the volume of exports of the goods, and
- circumvention goods and the goods are classified to a different tariff subheading and statistical code.

The Commissioner considers that while the circumvention goods and the goods have the same general physical characteristics, the circumvention goods are slightly modified with the difference being the presence of drill holes (either along the length or at the ends).

Therefore, the Commissioner finds that the circumvention goods are slightly modified, with that modification taking place before export.

4.2.3 Is the use or purpose of the circumvention goods the same before, and after, they are so slightly modified?

The commission has assessed whether the use or purpose of the circumvention goods is the same before, and after, they are so slightly modified (section 48(2)(c)).

While the addition of drilled holes means the product is commonly referred to in the solar industry as “torque tube”, the underlying steel section remains the goods subject to measures (HSS). Drilling does not create a new or different product — it simply prepares the same HSS for its intended application within a solar mounting system.

Both the undrilled HSS and the drilled torque-tube product serve the same structural function as part of a steel support assembly. The drilled holes facilitate installation, but they do not alter the essential purpose of the tube as a structural component.

Accordingly, the Commissioner considers that the use or purpose of the circumvention goods remains the same before and after the slight modification.

4.2.4 Had the circumvention goods not been so slightly modified, would they have been the subject of the original notices?

The commission has assessed whether the circumvention goods would have been the subject of the original notices had they not been so slightly modified (section 48(2)(d)).

As per the description of the goods outlined in chapter 2, the goods are HSS classifiable to the tariff classifications identified in the original notices. The goods examined in this inquiry are HSS that have had holes added. It is the presence of those holes—rather than any change to the size or basic form of the product—that causes the circumvention goods to fall outside the HSS classifiable to the tariff classifications identified in the original notices.

The Commissioner notes that Orrcon's application and verification evidence demonstrate that the circumvention goods are manufactured as standard HSS to AS/NZS 1163, which prescribes fixed external diameters, wall thicknesses and section parameters corresponding to the size ranges set out in the tariff classification identified in the original notices. The drilling, punching or cutting of holes occurs after tube formation and does not alter those dimensional characteristics.

Import documentation and ABF data show that the circumvention goods are classified under tariff subheading 7308.90.00 due to the presence of holes. Absent that slight modification, the goods would retain the same physical characteristics and dimensions as subject HSS and would fall within the scope of the original notices.

The Commissioner considers that, had the circumvention goods not been so slightly modified, they would have been subject to the original notices.

Annexure B – Section 269TG(2) and 269TJ(2) Notices – Anti-Dumping Notice No. 2016/24, 17 March 2016

Australian Government
Department of Industry, Innovation and Science

Anti-Dumping Commission

Anti-Dumping Notice No. 2016/24

Customs Act 1901 — Part XVB

Findings in relation to an anti-circumvention inquiry into the slight modification of goods exported to Australia

Hollow Structural Sections containing other alloys Exported from the People's Republic of China, Republic of Korea and Malaysia

Public Notice under subsection 269ZDB(1) of the Customs Act 1901

Following applications for anti-circumvention inquiries, the Commissioner of the Anti-Dumping Commission (Commissioner) initiated Inquiry 291 into the slight modification of certain hollow structural sections (the goods) exported to Australia from the People's Republic of China, the Republic of Korea (Korea) and Malaysia.

The goods exported from those countries are subject to a dumping duty notice published under subsection 269TG(2) of the *Customs Act 1901* (the Act) on 3 July 2012, and to a countervailing duty notice published under subsection 269TJ(2) of the Act on 3 July 2013 (collectively, the original notices).

The full description of the goods in the original notices is:

certain hollow structural sections (the goods) classified to tariff subheadings 7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37), 7306.61.00 (statistical codes 21, 22 and 25) and 7306.69.00 (statistical code 10) in Schedule 3 of the Customs Tariff Act 1995.

The Commissioner has completed his anti-circumvention inquiry and has provided me with the final report that sets out his findings Final Report 291 (REP 291). Recommendations resulting from the inquiry, reasons for the recommendations and material findings of fact and law in relation to the inquiry are contained in REP 291.

I, Karen Lesley Andrews, the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science have considered REP 291 and have decided to accept the recommendations and reasons for the recommendations, including all the material findings of facts or law set out in REP 291.

Under subsection 269ZDBH(1) of the Act, I DECLARE that for the purposes of the Act and the *Customs Tariff (Anti-Dumping) Act 1975:*

the original notice under subsection 269TG(2) of the Act be altered by amending the goods description to:

certain hollow structural sections (the goods) classified to tariff subheadings 7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37), 7306.61.00 (statistical codes 21, 22 and 25) and 7306.69.00 (statistical code 10) in Schedule 3 of the Customs Tariff Act 1995.

and

certain hollow structural sections (the goods) classified to tariff subheadings 7306.50.00 (statistical code 45) and 7306.61.00 (statistical code 90) exported from:

- ***China by Dalian Steelforce Hi-Tech Co.;***
- ***China by Tianjin Friend Steel Pipe Co., Ltd;***
- ***China by Tianjin Ruitong Iron and Steel Co., Ltd;***
- ***China by Roswell SA R L Limited;***
- ***Malaysia by Alpine Pipe Manufacturing SDN BHD.***

- the original notice under subsection 269TJ(2) of the Act be altered by amending the goods description to:

certain hollow structural sections (the goods) classified to tariff subheadings 7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37), 7306.61.00 (statistical codes 21, 22 and 25) and 7306.69.00 (statistical code 10) in Schedule 3 of the Customs Tariff Act 1995.

and

certain hollow structural sections (the goods) classified to tariff subheadings 7306.50.00 (statistical code 45) and 7306.61.00 (statistical code 90) exported from:

- ***China by Dalian Steelforce Hi-Tech Co.;***
- ***China by Tianjin Friend Steel Pipe Co., Ltd;***
- ***China by Tianjin Ruitong Iron and Steel Co., Ltd;***
- ***China by Roswell SA R L Limited.***

I also DECLARE that the alterations specified in this declaration are taken to have been made to the original notices for HSS exported from China and Malaysia, with effect on and after 11 May 2015.

REP 291 has been placed on the public record, which may be examined at the Anti-Dumping Commission's office during business hours by contacting the case

manager using the contact details provided below. Alternatively, the public record is available at www.adcommission.gov.au

Enquiries about this notice may be directed to the case manager on telephone number 03 8539 2440, or +61 3 8539 2440 (outside Australia), fax number +61 3 8539 2499 or email at operations1@adcommission.gov.au.

Dated this 17th day of March 2016



Karen Lesley Andrews
Assistant Minister for Science
Parliamentary Secretary to the Minister for Industry, Innovation and Science