Australian Government
Anti-Dumping Review Panel

Anti-Dumping Review Panel Report No. 181

Certain strata steel bolts exported from the People's Republic of China

October 2026

https://www.adreviewpanel.gov.au

Contents

Abbreviations 3

Summary 6

Introduction 6

Background 7

Statutory scheme 9

Conduct of the Review 14

Grounds of Review 23

Reviewable grounds accepted by the Review Panel 23

Grounds raised in the application and updated grounds 23

Consideration 28

Consideration of Grounds 33

Ground 1 33

Ground 2 61

Recommendations 66

Appendix A: Conferences 67

Abbreviations

Term	Meaning
Act	*Customs Act 1901*
ABF	Australian Border Force
ADN	Anti-Dumping Notice
Anti-Dumping Agreement	*Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*
Anti-Dumping Act	*Customs Tariff (Anti-Dumping) Act 1975*
ANTO	Anto Mining Equipment Co Ltd
AUD	Australian Dollar
Appellate Body	Appellate Body of the World Trade Organisation
China	The People's Republic of China
CIO Regulation	*Customs (International Obligations) Regulation 2015*
CTMS	Cost to Make and Sell
Commission	Australian Trade Remedies Commission, formerly Anti-Dumping Commission
Commissioner	Commissioner of the Australian Trade Remedies Commission
DSI	DSI Underground Australia Pty Limited
EPR	Electronic public record
FOB	Free on board
GAAP	Generally accepted accounting principles
Goods	Certain strata reinforcing steel bolts, hollow, made from flat rolled steel, whether or not metallic coated (e.g. galvanised), whether or not containing alloys, with an outside diameter from 44 millimetres up to and including 48 millimetres, of a length from 2.2 metres up to and including 2.5 metres, of

	a base metal thickness from 2.8 millimetres up to and including 3.4 millimetres, whether or not including the welded ring.
GM Holden	*GM Holden Limited v Commissioner of the Anti-Dumping Commission* [2014] FCA 708
IDD	Interim dumping duty
Investigation period	1 October 2023 to 30 September 2024
Jennmar	Jennmar Australia Pty Ltd
Manual	Dumping and Subsidy Manual December 2021
Minister	Minister for Industry and Innovation and Minister for Science
NIP	Non-injurious price
OCOT	Ordinary course of trade
PAD	Preliminary affirmative determination
REQ	Response to Exporter Questionnaire
REP 659	The report published by the Commission in relation to the alleged dumping and subsidisation of strata steel bolts exported from China dated 7 May 2026
Review Panel	Anti-Dumping Review Panel
Reviewable Decision	The Minister for Industry and Innovation and Minister for Science's decision to publish a dumping duty notice under sections 269TG(1) and (2) of the *Customs Act 1901* for certain strata steel bolts exported from China
Sandvik	Sandvik Jining Rocbolt Technologies China Co Ltd
SCM	Agreement on Subsidies and Countervailing Measures
SEF 659	The Commission's Statement of Essential Facts 659
SG&A	Selling, general and administration expenses
Tanrimine	Huanghua Tanrimine Metal Support Co Ltd

USP	Unsuppressed selling price
WTO	The World Trade Organization

Summary

1. This is a review of the decision of the Minister for Industry and Innovation and Minister for Science ('the Minister') to publish a dumping duty notice ('ADN 2026/058') pursuant to s 269TG of the *Customs Act 1901*[1] ('the Act') in respect of certain strata steel bolts ('the goods') exported from the People's Republic of China ('China') ('Reviewable Decision'). The applicant for the review is ANTO Mining Equipment Co Ltd ('ANTO').

2. At the same time as ADN 2026/058 was published, the Minister published a countervailing duty notice in respect of the goods ('ADN 2026/059') pursuant to s 269TJ of the Act. ANTO does not seek review of this decision.

3. ANTO contends that the Anti-Dumping Commission (as it then was, now the Australian Trade Remedies Commission)[2] ('the Commission') adopted an approach to the calculation of profit for ANTO which was incorrect.[3]

4. In summary, I am not satisfied that the reviewable grounds are established and recommend that the Reviewable Decision be affirmed.

Introduction

5. ANTO applied under s 269ZZC of the Act for a review of the Reviewable Decision.

6. 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 application was accepted and notice of the proposed review, as required by s 269ZZI, was published on 19 August 2026.

[1] *Customs Act 1901* (Cth).
[2] Trade Remedies Notice No 2026/139, published 29 September 2026; *Customs Amendment (Safeguard Inquiries) Act* 2026.
[3] The Review Panel held a conference with the applicants and the Commission to obtain further information in relation to the grounds. The conference summary was placed on the public file.

Background

8. On 19 September 2024, the Commissioner of the Commission initiated an investigation into the alleged dumping and subsidisation of the goods exported from China, following an application by DSI Underground Australia Pty Limited ('DSI') and Jennmar Australia Pty Ltd ('Jennmar'). DSI and Jennmar are Australian manufacturers of a range of ground support products, including strata bolts, which they sell into the Australian market. The Commissioner was further satisfied that these manufacturers, together with Split Set Mining Systems, represent the Australian industry for the goods and that DSI and Jennmar represent over 80% of the sales of manufactured strata bolts. DSI is also an importer.

9. The Commissioner established an investigation period of 1 October 2023 to 30 September 2024 ('investigation period'). For the purposes of assessing the economic condition of the Australian industry and potential injury factors, the Commissioner set an injury period from 1 October 2020 ('injury period').

10. In conducting the investigation, the Commission undertook verification visits to the manufacturing facilities of DSI and Jennmar and received completed responses to importer questionnaires from three Australian importers of goods. One of those importers was DSI, which imported solely from related party exporter, Sandvik Jining Rocbolt Technologies China Co Ltd ('Sandvik'). The other two exporters were ANTO, and Huanghua Tanrimine Metal Support Co Ltd ('Tanrimine'). The three exporters cooperated with the investigation. The Commission undertook two overseas verification visits to Sandvik and Tanrimine.

11. On 23 December 2025, the Commissioner made a preliminary affirmative determination ('PAD') that he was satisfied there appeared to be sufficient grounds to publish a dumping duty notice for the goods exported to Australia from China. An interim dumping duty notice ('IDD') was issued to prevent material injury to Australian industry while the investigation continued. The IDD imposed dumping measures of 23% on ANTO, 7.2% on Tanrimine, 10.2% on Sandvik and 35.2% on all other exporters. The Commissioner was not satisfied at that stage that there appeared to be sufficient grounds to make a PAD in relation to the alleged subsidisation of the goods exported to Australia from China.

12. Submissions were made by ANTO and Tanrimine following the publication of the PAD.

13. The Commissioner published a Statement of Essential Facts ('SEF 659') on 6 March 2026. In summary, the Commissioner made preliminary findings that, during the investigation period, exports of the goods from China in relation to all exporters from that country were dumped and subsidised, the volume of the goods and the margin of dumping and countervailable subsidisation was not negligible and the dumped and subsidised exports of the goods from China have caused material injury to the Australian industry producing like goods. The proposed dumping margins were 23% for ANTO, 10.2% for Sandvik, 3.4% for Tanrimine and 35.2% for all other exporters. Findings were also made in relation to subsidy margins for each of these exporters, the detail of which has not been included in this report because those findings are not relevant to this review.[4]

14. DSI and Jennmar made submissions in response to SEF 659. ANTO did not make any submissions. Nor did any other interested party.

15. On 7 May 2026, the Commissioner made a report to the Minister ('REP 659'). The Commissioner recommended that the Minister publish a dumping duty notice, and a countervailing duty notice in respect of the goods exported to Australia from China. The Commissioner recommended dumping duty be imposed of 28.8% for ANTO, 10.2% for Sandvik, 3.4% for Tanrimine and 35.2% for all other exporters.[5]

16. The Minister accepted the Commissioner's recommendations and made a decision to impose dumping duty and countervailing duty on exports from China. The notices of the decisions were published on 1 June 2026.[6]

17. Relevant to the issues raised in the review is that the dumping margin for ANTO increased from 23% in the PAD and SEF 659 to 28.8% in REP 659.

18. ANTO sought review of the decision in respect of ADN 2026/058 by application dated 18 June 2026.

[4] SEF 659 [1.2].
[5] REP 659 [1.2.4].
[6] ADN 2026/058 and 2026/059.

19. The grounds raised by ANTO and the grounds of review accepted by the Review Panel are considered in more detail later in this report.

Statutory scheme

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

    (1) *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*[7] ('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

    (2) *Agreement on Subsidies and Countervailing Measures*[8] ('SCM Agreement') – which regulates measures designed to remedy material injury caused by subsidised imports, along similar lines to the Anti-Dumping Agreement.

21. The *Customs Tariff (Anti-Dumping) Act 1975*[9] ('the Anti-Dumping Act') and the Act is 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]).

22. The Anti-Dumping Act and Part XVB of the Act make provision for special duties to give effect to anti-dumping measures in respect of goods whose importation into Australia involves a dumping or countervailable subsidisation of those goods that

[7] *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').
[8] *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').
[9] *Customs Tariff (Anti-Dumping) Act 1975* (Cth) ('Anti-Dumping Act').

injures, or threatens to injure, Australian industry.[10] Those measures may consist of the publication of a dumping duty notice or a countervailing duty notice.

23. Section 8 of the Anti-Dumping Act provides for the imposition of dumping duties where the amount of the export price of goods imported into Australia is less than the amount of the normal value of those goods. Generally speaking, dumping duty is calculated as an amount equal to "the difference between the amounts that the Minister ascertains to be the export price and the normal value of those particular goods".[11] Section 10 of the Anti-Dumping Act provides for the imposition of countervailing duties where the Minister is satisfied that "countervailable" subsidies have been received in respect of the goods exported to Australia and, because of that, material injury to the Australian industry producing like goods has been caused.

24. As already noted, a countervailing duty notice was issued by the Minister on 1 June 2026 under s 269TJ(1) and (2) of the Act. ANTO does not seek review of this notice and, as such, the legislative provisions dealing with countervailing subsidies are not relevant to this review and will not be referenced in these reasons. Further, as ANTO only seeks to challenge the normal value of the subject goods, I have focussed on the relevant legislative provisions relating to the calculation of normal value.

25. Section 269TACB of the Act contains the provisions dealing with assessing whether dumping has occurred and the levels of dumping where an application is made for a dumping duty notice. Section 269TACB(1) states:

> ***Working out whether dumping has occurred and levels of dumping***
>
> *(1) If:*
>
> *(a) application is made for a dumping duty notice; and*
>
> *(b) export prices in respect of goods the subject of the application exported to Australia during the investigation period have been established in accordance with section 269TAB; and*

[10] Section 269SM of the Act: Overview of the Part.
[11] Section 8(6) of the Act.

> *(c) corresponding normal values in respect of like goods during that period have been established in accordance with section 269TAC;*
>
> *the Minister must determine, by comparison of those export prices with those normal values, whether dumping has occurred.*

26. Critical to the question of whether dumping has occurred and, if so, the level, are the "export prices" for the goods the subject of the application, as established under s 269TAB of the Act, and the corresponding "normal value" for the goods, as established under s 269TAC. The calculation of the export price is not in dispute. As already noted, the calculation of normal value, and whether it was calculated correctly for ANTO, is central to this review.

27. Section 269TAC sets out the definition for the "normal value" of goods exported to Australia and relevantly provides:

> *(1) Subject to this section, for the purposes of this Part, the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arms length transactions by the exporter or, if like goods are not so sold by the exporter, by other sellers of like goods.*
>
> *(1A) For the purposes of subsection (1), the reference in that subsection to the price paid or payable for like goods is a reference to that price after deducting any amount that is determined by the Minister to be a reimbursement of the kind referred to in subsection 269TAA(1A) in respect of the sales.*
>
> *(2) Subject to this section, where the Minister:*
>
> *(a) is satisfied that:*
>
> *(i) because of the absence, or low volume, of sales of like goods in the market of the country of export that would be relevant for the purpose of determining a price under subsection (1); or*

> *(ii) because the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under subsection (1);*
>
> *the normal value of goods exported to Australia cannot be ascertained under subsection (1); or*
>
> *(b) is satisfied, in a case where like goods are not sold in the ordinary course of trade for home consumption in the country of export in sales that are arms length transactions by the exporter, that it is not practicable to obtain, within a reasonable time, information in relation to sales by other sellers of like goods that would be relevant for the purpose of determining a price under subsection (1);*
>
> *the normal value of the goods for the purposes of this Part is:*
>
> *(c) except where paragraph (d) applies, the sum of:*
>
> *(i) such amount as the Minister determines to be the cost of production or manufacture of the goods in the country of export; and*
>
> *(ii) on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export—such amounts as the Minister determines would be the administrative, selling and general costs associated with the sale and the profit on that sale; or*

28. Section 269TAC(5B) provides that the amount determined to be the "profit" on the sale of goods under subparagraph (2)(c)(ii) "must be worked out in such manner, and taking account of such factors, as the regulations provide for that purpose".

29. The *Customs (International Obligations) Regulation 2015* (made under the Act) ('the Regulations') contains regulations dealing with anti-dumping duties, which are set out in Part 8 of the Regulations. The provisions dealing with the normal value of goods are in Division 2 of that Part. Regulation 45, within Division 2, provides for the determination of profit and states:

(1) For subsection 269TAC(5B) of the Act, this section sets out:

(a) the manner in which the Minister must, for subparagraph 269TAC(2)(c)(ii) or (4)(c)(ii) of the Act, work out an amount (the amount) to be the profit on the sale of goods; and

(b) factors that the Minister must take account of for that purpose.

(2) The Minister must, if reasonably practicable, work out the amount by using data relating to the production and sale of like goods by the exporter or producer of the goods in the ordinary course of trade.

(3) If the Minister is unable to work out the amount by using the data mentioned in subsection (2), the Minister must work out the amount by:

(a) identifying the actual amounts realised by the exporter or producer from the sale of the same general category of goods in the domestic market of the country of export; or

(b) identifying the weighted average of the actual amounts realised by other exporters or producers from the sale of like goods in the domestic market of the country of export; or

(c) using any other reasonable method and having regard to all relevant information.

(4) However, if:

(a) the Minister uses a method of calculation under paragraph (3)(c) to work out an amount representing the profit of the exporter or producer of the goods; and

(b) the amount worked out exceeds the amount of profit normally realised by other exporters or producers on sales of goods of the same general category in the domestic market of the country of export;

the Minister must disregard the amount by which the amount worked out exceeds the amount of profit normally realised by the other exporters or producers.

(5) For this section, the Minister may disregard any information that he or she considers to be unreliable.

(6) For paragraph (3)(b), subsection 269T(5A) of the Act sets out how to work out the weighted average.

30. Division 2 of Part XVB of the Act sets out, among other things, the procedures to be followed and matters to be considered by the Commissioner in conducting investigations in relation to goods covered by applications for the publication of dumping and countervailing duty notices for the purposes of making a report to the Minister. This is relevant contextual background to the review because ANTO says the Commission should have disclosed the errors in its calculations when it became aware of material changes in the profit and normal value calculations that would have an impact on the calculation of ANTO's profit and normal value.

Conduct of the Review

31. Section 269ZZG(1) provides that the Review Panel may reject an application if, for instance, it is not satisfied that an application sets out reasonable grounds for the reviewable decision not being the correct or preferable decision or that the proposed decision is materially different from the reviewable decision. Section 269ZZG(5) states:

If:

(a) the Review Panel does not, under this Subdivision, reject an application; and

(b) in relation to information given by the applicant setting out the grounds for the reviewable decision not being the correct or preferable decision:

(i) the Review Panel is satisfied that one or more of those grounds (the reviewable grounds) are reasonable grounds for the reviewable decision not being the correct or preferable decision; and

(ii) the Review Panel is satisfied that one or more of those grounds (the non - reviewable grounds) are not reasonable

> *grounds for the reviewable decision not being the correct or preferable decision;*
>
> *then:*
>
> *(c) the Review Panel must accept the reviewable grounds and must conduct the review in relation to those grounds and no other grounds; and*
>
> *(d) the Review Panel must reject the non - reviewable grounds.*

32. 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".

33. In *Yara AB v Minister for Industry, Science and Technology*, the Federal 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".

34. His Honour further explained at [182] to [185]:

> *182. As has already been noted, 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.*

183. 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.

184. 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 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.

185. 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. For example, if a reviewable ground was that the Commission had not correctly assessed and calculated the injury caused by the relevant exports, it might reasonably be expected that the Review Panel's reasons would focus on the means by which the Commission assessed and calculated the injury and whether there was any merit in the contention that the assessment and calculation was erroneous for some reason, or not open on the material. Depending on the nature and merits of the asserted errors, it may not be necessary for the

Review Panel to conduct its own separate or independent assessment and calculation of the injury caused by the exports in question.[12]

35. If the Review Panel does not reject the application, the Review Panel is required under s 269ZZI of the Act before it begins to conduct a review, to publish a notice on the Review Panel's website indicating that it proposes to conduct a review. The notice must include details setting out the decision sought to be reviewed and the grounds in relation to which the review is to be conducted. These are the "reviewable grounds" referred to in s 269ZZG as referenced by Wigney J in *Yara AB.*

36. In undertaking the review, s 269ZZ(1) of the Act provides that the Review Panel is 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.

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

38. 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. A list of the conferences is at Appendix A.

39. 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.[14]

40. 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

[12] *Yara AB v Minister for Industry, Science and Technology* (2022) FCA 847 52 [179]-[183] ('*Yara AB*').
[13] See s 269ZZK(4).
[14] Pursuant to s 269ZZK(3) of the Act.

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

41. A conference was held before the review was initiated. The purpose of the conference was to obtain further information regarding the calculations and methodology used by the Commission in calculating the profit and determining the constructed normal value of ANTO's domestic sales.

42. The conference was held with the Commission and ANTO on 7 August 2026 pursuant to s 269ZZHA of the Act. A non-confidential summary of the information obtained at the conference was made publicly available in accordance with s 269ZZX(1) of the Act.

43. In advance of the conference, the Review Panel provided an outline of the further information it was seeking so that the Commission could prepare a step-by-step non-confidential narrative of its methodology and analysis for determining the profit of ANTO under reg 45(3). The Review Panel also requested that the Commission provide further information, also in a non-confidential narrative, of its methodology in respect of the matters particularised in the request relating to the calculation of the constructed normal value for ANTO and the differences in the calculation for normal value for ANTO between SEF 659 and REP 659.

44. In the conference, the Commission provided the further information[15] which can be summarised as follows:

    a) The Commission provided a step-by-step non-confidential narrative of its methodology and analysis for determining profit of ANTO under reg 45(3)(c) as set out in the profit worksheet (e) in confidential attachment 5 to REP 659.

    b) First, the Commission explained that it considered whether profit could be worked out under reg 45 (2) using data relating to ANTO's production and sale of like goods in the ordinary course of trade, but it could not do so as ANTO's sales were unprofitable. Secondly, the Commission considered whether it could work out profit realised by ANTO from the sale of the same general category of goods in the domestic market under reg 45(3)(a) but it did not have sufficient information to do so. Thirdly, the Commission considered

[15] The Commission provided a non-confidential written summary of its approach to the construction of ANTO's normal value. The summary was published on 19 August 2026.

whether it could work out the amount of profit realised by the other two exporters from the sale of like goods in the domestic market under reg 45(3)(b) but could not do so as neither of the other two exporters sold like goods in the domestic market. Finally, the Commission decided to work out an amount of profit for ANTO using any other reasonable method and having regard to all relevant information pursuant to reg 45 (3)(c). As both of the other two exporters had profitable domestic sales of the same general category of goods, the Commission considered that it would be a reasonable approach to work out an amount of profit for ANTO as a weighted average of the actual profits realised by the other two exporters from the sale of the same category goods on the domestic market, noting that their data had been verified. This calculation is set out in Confidential Attachment 5, using the profit margins and sales values of Sandvik and Tanrimine by reference to Confidential Attachments 9 and 14 of REP 659.

c) The Commission provided an explanation of its methodology and analysis for identifying the same general category goods for Sandvik and Tanrimine, as referred to in Confidential Attachments 9 and 14 and at [6.6.3] and [6.7.3] of REP 659. Sandvik did not have domestic sales of like goods and during an on-site verification, provided domestic sales listing the products in respect of which the Commission identified all sales under the product category of “bolts” as sales in the same general category of good. These sales are listed in Confidential Attachment 9. There was a similar process undertaken in relation to Tanrimine following on-site verification whereby the Commission identified all sales under the product category of “friction bolts” as the same general category of good (listed in Confidential Attachment 14). The Commission then calculated weighted average of the profit margin from both these exporters based on the domestic profit achieved in that same general category of goods, as explained at [6.5.2] of REP 659.

d) The Commission further explained the analysis set out in (1) in respect of ANTO, noting that ANTO provided information to the Commission in response to an exporter questionnaire which was received on 17 February 2025; Sandvik and Tanrimine also provided responses and these exporters were selected for on-site verification. ANTO was not selected for verification, and as such its information was not verified. In its response to the questionnaire, ANTO provided a breakdown of its total sales and costs of specified product

categories, and it was not apparent that these other categories were sold on the domestic market. According to the Commission, there was no information in the response to the questionnaire to calculate ANTO's profit on domestic sales of goods "other than on like goods".

e) In response to the request for a step-by-step non-confidential explanation of the difference in ANTO's normal value in REP 659 and the normal value in SEF 659, the Commission advised there were two errors in the profit margin and resulting normal value for ANTO in SEF 659. First, the profit margin applied for Tanrimine in the PAD contained a calculation error, which was identified by Tanrimine and corrected by the Commission for Tanrimine in SEF 659 but not corrected for ANTO in SEF 659, even though the Tanrimine error carried through to the ANTO calculations. Secondly, in the PAD and SEF 659, the profit margin for ANTO was based only on the profit margin for Tanrimine, not a weighted average of Sandvik and Tanrimine, due to the mischaracterisation of Tanrimine domestic sales as like goods, not the same general category of goods. Tanrimine's profit margin was also calculated on this basis at the PAD and SEF stage but after examining the issue further, and following submissions of Jennmar, the Commission formed the view that the Tanrimine friction bolts identified were not like goods but goods in the general category. The Commission therefore corrected its profit calculations for Tanrimine (referred to in [6.7.3] of REP 659) and ANTO (referred to in [6.5.2] of REP 659]. Both of these changes resulted in a change to the profit and therefore the dumping margin for ANTO between SEF 659 and REP 659 from 23% to 28.8%.

45. The conference on 7 August 2026 was held open for ANTO to clarify whether it still maintained the grounds for review in light of the further information obtained by the Review Panel. By correspondence from its representatives dated 13 August 2026, ANTO made clear that its application should also incorporate certain aspects of the Commission's approach:

> *ANTO thanks the Review Panel for convening the conference on 7 August 2026, and for inviting ANTO's representatives to hear the Commission's explanations in response to the Review Panel's queries. As the Review Panel will appreciate, those explanations provided significantly more detail about the processes undertaken by the Commission, and the errors that the*

Commission says arose in those processes, than was available to ANTO in the Commission's reports in investigation 659.

In light of that further explanation, ANTO's position with respect to the two grounds for review in its application to the Review Panel is as follows.

Ground 1

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

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

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

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

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

If the Commission had not made the repeated errors it now says that it made, and had said that it was going to apply a profit margin of [redacted]% at either stage of the investigation, ANTO would have had the opportunity to make submissions and offer its data. It would have done so because [redacted]% is

materially higher than its profit margin on such goods. By the Commission's errors and lack of disclosure about them ANTO was deprived of that opportunity. For those reasons, ANTO maintains ground 1 of its application for review.

Ground 2

The information provided by the Commission in response to the Review Panel's request for information seeks, in effect, to explain why the Commission's calculation of the weighted average profit margin that was used for ANTO was not an error by pointing to two or three aspects of the Commission's process where it made errors.

Given those claimed errors, that those errors were not adequately disclosed until now, and that the underlying calculations of the profit margins for Sandvik and Tanrimine are not available to ANTO, ANTO remains concerned that there may be additional calculation errors that have not been identified by the Commission, or disclosed. For that reason, ANTO maintains ground 2 of its application, and asks that the Review Panel consider whether the calculations did involve errors not now disclosed by the Commission.

46. In light of the further information obtained at the conference pursuant to s 269ZZHA held on 7 August 2026, the Review Panel published a notice pursuant to s 269ZZI of the Act of the reviewable grounds accepted by the Review Panel.[16]

47. In conducting this review, I have had regard to the applications and all 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. I have also had regard to the PAD, SEF 659 and REP 659, Confidential Attachments to SEF 659 and REP 659 (in particular those referred to in this report), the various public documents referred to in this report which were part of the investigation and relevant information obtained at the conferences.

[16] Notice of Intention to Conduct a Review – 19 August 2026.

Grounds of Review

Reviewable grounds accepted by the Review Panel

48. The grounds of review relied upon by ANTO, as clarified by email dated 13 August 2026, which the Review Panel accepted as reviewable grounds, are as follows:

Ground 1

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

Ground 2

The Minister erred in determining constructed normal value for ANTO in undertaking calculations for ANTO that were incorrect.

Grounds raised in the application and updated grounds

49. Grounds 1 and 2 are explained in the application. Ground 1 includes an expanded aspect, as referred to in the second sentence of Ground 1. This aspect of Ground 1 was not explained in the application because at the time of the application, ANTO did not have the benefit of the explanation provided by the Commission about its non-confidential step-by-step narrative of its methodology for calculating profit and normal value for each of the co-operative exporters.

50. In summary, ANTO says that in calculating ANTO's constructed normal value, the calculation was distorted by the Commission applying a profit rate methodology that was inconsistent to that applied to the two other cooperative exporters, Sandvik and Tanrimine. The profits of Sandvik and Tanrimine for the purposes of the normal value calculation were based on domestic profit achieved on the same

general category of goods under reg 45(3)(a) of the Regulation. In contrast, the Commission determined ANTO's profit by calculating the weighted average profit of Sandvik and Tanrimine as determined in their respective normal value calculations, namely, based on their domestic sales of same general category of goods. The Commission based its calculations on sales of the same general category of goods as neither Sandvik nor Tanrimine sold like goods for home consumption in China. The position was the same for ANTO and, despite the comparable situations of ANTO and the other two exporters, the Commission seemingly arbitrarily, and without good reason, adopted differing profit methodologies.

51. The Commission failed to provide an explanation for the calculation other than that the Commission "found it was necessary to recalculate ANTO's profit under s 45(3)(c) of the Regulation using any other reasonable methods and having regard to all reasonable information". The Commission did not otherwise articulate on what basis it considered this approach necessary. ANTO submits that to ensure consistency in its approach, the Commission should have determined ANTO's profit on the basis of its sales in the same general category goods, as it has done for Sandvik and Tanrimine.

52. ANTO contends that the correct or preferable decision in respect of this aspect of the Minister's decision would be to ascertain normal value for ANTO in which profit was calculated using ANTO's domestic profit achieved in the same general category goods and that the dumping margin should be adjusted to reflect the revised normal value.

53. In its updated grounds in respect of Ground 1, ANTO's contentions can be summarised as follows:

    a) The explanations provided by the Commission at the conference provide significantly more detail than the processes undertaken by the Commission and the errors that the Commission says arose in those processes that was available to ANTO in the reports and investigations 659;

    b) Its position in relation to Ground 1 is confirmed in the light of the further explanation;

    c) The Commission took a different approach to calculating its profit because it decided not to verify ANTO's data and did not ask ANTO to provide

information about its sales of the same general category of goods. Had ANTO been asked to provide this information it would have done so within a week;

d) It is open to the Review Panel to require the Commission to reinvestigate the sales by the ANTO of the same general category goods. If this occurred, ANTO would be able to provide the data in respect of those sales;

e) ANTO did not consider the profit margin set out in the PAD and SEF 659 was unreasonable which is why it did not make any submission about the profit margin. If the Commission had included the "non-erroneous" profit margin at these earlier stages, it would have made submissions and offered its data since this margin was materially higher than its profit margin on such goods; and

f) Due to the Commission's errors and subsequent lack of disclosure, ANTO was deprived of this opportunity, resulting in the failure of the Commission to take its data into account when calculating profit and normal value, further resulting in error such that the decision made, based on these circumstances, was not the correct or preferable decision.

54. In relation to Ground 2, ANTO says that in the final report, the Commission clarified amended profit calculations in respect of Sandvik and Tanrimine as a result of submissions made by Australian industry members in the investigation following SEF 659. Despite these clarifications and corrections, dumping margins for Sandvik and Tanrimine remained constant while the dumping margin calculated for ANTO increased from 23% to 28.8%. The confidential attachments to REP 659 show that the profits that the Commission attributed to ANTO increased substantially between SEF 659 and REP 659 by almost doubling. ANTO contends that if a profit rate based on the weighted average of Sandvik and Tanrimine profits remains the same, it would logically follow that ANTO's profit rate would not substantially increase and the Commission has failed to explain why the profit rates and dumping margins of Sandvik and Tanrimine remained unchanged between the SEF and the final report while the profit rate and dumping margin of ANTO substantially increased. It is contended that this must disclose an underlying discrepancy as the result of a calculation error.

55. Following the conference held on 7 August 2026, the contentions made by ANTO in respect of Ground 2 have now been superseded and, to a degree narrowed, by

the correspondence provided by ANTO on 13 August 2026. Despite this, ANTO maintains its position that the calculations made by the Commission were incorrect.

56. By submissions made on 18 September 2026, the Commission submitted that this extended second aspect of Ground 1 is not properly a reviewable ground.[17] I reject this contention and summarise, for completeness, my reasons below.

57. The Commission submits that the scope of the review is confined to the grounds properly before it (*Yara AB* and s 269ZZG(5) of the Act). It is not a de novo review. Section 269ZZD requires that an application be lodged within a 30-day period and subs (2)(b) requires the applicant to identify the grounds on which it contends the decision is not correct or preferable. Subsections 269ZZD(2)(c) and (d) require the applicant to identify the decision contended for and to explain how the stated ground supports the contention. The Review Panel is then required to determine whether the grounds advanced constitute "reviewable grounds" for concluding that the reviewable decision is not correct or preferable. Where the Review Panel accepts that one or more grounds are reasonable grounds, it reviews those grounds and no other grounds.[18]

58. The initiation process under s 269ZZI of the Act requires that the Review Panel identify the grounds in relation to which the review is to be conducted. It is a notification provision and does not confer power on the Review Panel to introduce a new contention or a materially different basis on which the decision is said to be correct or preferable from the ground already advanced.[19]

59. While the Act permits the Review Panel to obtain additional information after the application is lodged, those provisions are directed to obtaining further information in relation to the application already made. Neither ss 269ZZG(1) nor 269ZZHA provide a mechanism by which an applicant may introduce an entirely new ground of review after the expiry of the review period.[20]

60. The Commission further submits that, properly construed, the provisions permitting the receipt of further information are directed to the clarification, substantiation or elaboration of grounds already advanced within time. They do not authorise the

[17] Commission's s 269ZZJ submission – 18 September 2026, published 21 September 2026.
[18] Commission's submission [21]-[23].
[19] Commission's submission [24].
[20] Commission's submission [25].

introduction of a new and distinct basis upon which the reviewable decision is said not to be correct or preferable.[21]

61. The Commission submits that in this case there is a material difference between Ground 1 as stated in the application for review and Ground 1 as formulated in the s 269ZZI notice. In its application, ANTO challenged the methodology adopted in determining the profit component of its constructed normal value. Following the conference, ANTO expressly confirmed it continued to maintain Ground 1 as articulated in its application for review. However, it advanced a new contention that it was deprived of the opportunity to make submissions and provide data because it was unaware of the errors in the Commission's calculations. This contention was subsequently incorporated into Ground 1 in the s 269ZZI notice as an expanded aspect of the ground.

62. It is submitted that this expanded aspect of the ground is not capable of constituting a reviewable ground and should not be treated as forming part of Ground 1.[22]

63. The Commission contends that the original ground advanced by ANTO challenged the correctness of the methodology adopted by the Commission in calculating the profit component of ANTO's constructed normal value. By contrast, the additional ground advanced in the s 269ZZI notice concerns whether ANTO was deprived of an opportunity to make submissions and provide information during the investigation process. Resolution of this latter contention requires consideration of a different question, namely whether the investigation process afforded ANTO an adequate opportunity to provide information and to make submissions. This advances a different basis for why the reviewable decision is said not to be correct or preferable. The Commission submits that s 269ZZI does not confer a power to enlarge or reformulate those grounds and the grounds must remain anchored to the grounds identified in the application itself. It is submitted that this is consistent with the decision of Wigney J in *Yara AB*.[23]

64. In the conference held on 2 October 2026, ANTO was asked to provide any further information in response to the submissions made by the Commission in respect of Ground 1. A summary of this conference is published in Annexure B. In essence,

[21] Commission's submission [26]-[29].
[22] Commission's submission [30]-[31].
[23] Commission's submission [39]-[40], [43]-[49].

ANTO did not accept the contentions and stated that the procedural fairness issue was “merely a restatement of the grounds already contained in ANTO’s application”.

Consideration

65. I accept the Commission’s contentions about the scope of a review. As observed in *Yara AB*, the review is not at large or a *de novo* review and is confined to the reviewable grounds as accepted by the Review Panel under s 269ZZG of the Act. I also accept that s 269ZZI is directed to notification and does not empower the Review Panel to formulate a new ground that was not part of the original application for review.

66. The Review Panel is given broad powers under the Act to assist it in conducting reviews. Relevant to this application, s 269ZZHA gives the Review Panel the power to obtain further information, through holding a conference, at any time after receiving an application. This discretion is framed broadly and provides that the Review Panel may hold a conference “of such persons or bodies as it considers appropriate”. The power is not time-limited, and the only restrictions are that it must be for the purposes of obtaining further information “in relation to the application or the review”. However, if the Review Panel decides to hold a conference at any time after receiving the application and before beginning to conduct the review, it must invite the applicant to attend the conference. The provision contemplates, in its terms, the use of the power before the Review Panel commences to conduct the review.

67. Significant amendments were made to the Act in 2015 by the *Customs Amendment (Anti-Dumping Measures) Act (No 1) 2015* (Cth) (‘Amending Act’). Sections 269ZZG and 269ZZHA were introduced in the Amending Act. The Explanatory Memorandum for the Bill for the Amending Act explained the additional powers as follows:

> *The Bill would also give the Review Panel the ability to accept and reject specific grounds of an application. These amendments would improve the quality of information provided at the application stage of a review and ensure the Review Panel is only considering serious and meritorious reviews.*
>
> *To improve the information available to the Review Panel, the Bill would amend the Customs Act to empower the Review Panel to hold a conference for the purpose of obtaining further information. This would include the ability*

> *to hold a conference prior to commencing a review in order to obtain further information from the applicant and the Commission. Consistent with the purpose of increasing information available to the Review Panel, should an applicant be invited to a conference prior to the commencement of a review and then fail to attend, the Review Panel may reject the application. For the purposes of transparency and procedural fairness, non-confidential summaries of any conferences in relation to reviews of decisions of the Minister or decisions of the Commissioner to terminate an investigation will be included on the public record.*[24]

68. Thus, it is clear that the conferencing power may be used to obtain further information before or after the review is initiated. For instance, a conference may be held before the Review Panel initiates the conduct of a review to seek further information from the Commission to better understand the reviewable decision or to clarify the grounds of the review as outlined in the application or to do both. This may be the case where the reasons or explanation of the disputed aspects of a reviewable decision are unclear or not fully explained, either because the calculations used are contained in confidential attachments or because the methodology and analysis relevant to a determinative finding has not been disclosed in the various reports.

69. Where an applicant contends that a decision is not correct or preferable on grounds which allege, as in this case, that there are material differences in the calculation of constructed normal value as between cooperative exporters "without any proper reason", it may be appropriate for the Review Panel to hold a conference under s 269ZZHA. First, the conference can be used by the Review Panel to obtain information about the methodology and basis for the determination on critical aspects of the dumping assessment. Secondly, the conference can be used to provide the applicant and other interested parties with the benefit of this information to assist the applicant, and any other interested parties, to understand the basis for the reviewable decision and therefore assist in the focus of any submissions, or, relevant to the facts of this case, in clarifying and possibly narrowing grounds of review.

[24] Explanatory Memorandum to the Customs Amendment (Anti-Dumping Measures) Bill (No 1) 2015 at p5.

70. As outlined above, in the conference the Commission gave a detailed explanation of its methodology for determining constructed normal value for ANTO and the two other cooperative exporters, Sandvik and Tanrimine. However, the explanation provided was not included in SEF 659 or REP 659 to this level of detail and therefore was not information available to ANTO at the time it made its application for review.

71. The Commission does not dispute the conduct of the conference, nor does it appear to dispute that information obtained in that conference may be used in the review or that it may be used by an applicant to clarify the grounds that it relies on as reviewable grounds.

72. The central contention is that the provisions permitting the receipt of further information are directed to the clarification, substantiation or elaboration of grounds already advanced within time and do not authorise the introduction of a new and distinct basis upon which the reviewable decision is said to be the correct or preferable. In other words, it does not permit a new ground to be introduced after the expiry period and s 269ZZI cannot be used by the Review Panel to accept new grounds formulated by an applicant after the review period has expired.

73. I accept these propositions but reject the Commission's characterisation of the second aspect of Ground 1. I am satisfied that it is permissible, and indeed fair in the circumstances and not inconsistent with the statutory scheme, to consider the second aspect of Ground 1 as part of the reviewable grounds for the reasons that follow. In summary, I am satisfied that the additional contentions are in the nature of a clarification, substantiation or elaboration of grounds already advanced.

74. At the heart of ANTO's initial contention was that the correct or preferable decision was for ANTO's profit to be calculated using the same methodology as for the two other exporters and that the different approach resulted in unexplained differences in the calculation of ANTO's normal value and therefore dumping margin between the SEF and REP 659 stages. Now the differences have been explained, ANTO remains of the view this was not the proper approach and now says it was deprived of the opportunity to provide its data for domestic profit achieved in the same general category of goods, which it claims it would have done if it had realised the materiality of the changed calculations.

75. Having regard to the matters set out below, I am satisfied that this contention is closely connected to the ground identified in the application and can be considered as part of the reviewable grounds.

76. First, the ground as articulated by ANTO in its application is that the Commission adopted different methodologies for determining normal value and, in particular, adopted a methodology for determining constructed normal value for ANTO "without any proper reason". ANTO contended that the correct or preferable decision is for the normal value for ANTO to be calculated by using its domestic profit achieved in the same general category of goods, consistent with the approach used for the other two co-operative exporters. A fundamental aspect of this contention is that the Commission used inconsistent methodologies resulting in inconsistent outcomes for the cooperative exporters and failed to disclose or provide an explanation for the different calculations used.

77. Secondly, in the absence of an explanation, ANTO could only base its contentions on the inconsistency in the methodology adopted by the Commission which produced, on its face, a materially different dumping margin as between cooperative exporters. This difference was not explained, and it was material because the profit increased between the PAD and SEF stages and the Final Report, which resulted in a material increase in the dumping margin for ANTO.

78. Thirdly, once the methodology was disclosed and ANTO came to understand the relevant calculations for normal value, ANTO not only confirmed its grounds to challenge the decision on this ground but clarified that because this methodology was not disclosed, it now says it was deprived of the opportunity to make submissions and offer its data to allow for the calculation of normal value that it contends is the correct or preferable decision. In the application, ANTO contended that its constructed normal value should be calculated using its domestic profit achieved in the same general category of goods, on the same basis as that used for Sandvik and Tanrimine. After the disclosure of the Commission's step-by step methodology, which was new information, ANTO raised a new aspect to its application. This is not in dispute. However, in my view, this claim is necessarily connected to ANTO's existing ground as formulated; it is not a general claim about procedural fairness in the process but rather is specifically linked to the first aspect of Ground 1.

79. Fourthly, Ground 1, as properly understood by reference to the explanation contained in the application and the email of 13 August 2026, is that the Minister erred in determining constructed normal value and adopted an approach to the calculation of profit which was different to the calculation of the profit included in the constructed normal value for the only other two co-operative exporters. In its application, ANTO claimed the different methodology was "without any proper reason". Now the reason has been disclosed, ANTO remains of the view this was not the proper approach and says it was deprived of the opportunity to provide its data for domestic profit achieved in the same general category of goods, which it claims it would have done if it had realised the materiality of the changed calculations. Relevantly, ANTO's updated position provides various details of what it would have done if the errors in the initial profit margin the subject of the PAD and SEF 659 had been known earlier. ANTO seeks to provide this data, and this necessarily raises the possibility of a reinvestigation. Whether ANTO will succeed on such a contention is properly the subject of the review.

80. Finally, Ground 1 as accepted with the second aspect added is a summary of the essence of the claim made in the explanatory contention set out by ANTO in its updated contentions. In *Electra Cables (Aust) Pty Ltd v Minister for Industry and Innovation* ('Electra')[25] Lee J found, in considering whether an issue raised in the review formed part of the "reviewable grounds" before the Review Panel as follows:

> *72. The term "reviewable grounds" is a specific statutory designation referring to the grounds the Panel accepts for review under s 269ZZG(5). Indeed, they are not necessarily what an applicant for review may classify as "grounds" in their application. They are also the grounds that must be set out in a notice that is published on the Panel's website under s 269ZZI.*
>
> *73. Section 269ZZI(2)(b) "requires that the terms of the relevant notice be sufficient to convey to a reasonable person who is likely to have an interest in such review or reinvestigation the general scope of the proposed review and any findings that the applicant for review seeks to have reinvestigated": Panasia Aluminium (China) Ltd v Attorney-General (Cth) [2013] FCA 870; (2013) 217 FCR 64 (at 112 [163] per Nicholas J). Accordingly, the Panel*

decides what the "reviewable grounds" are and has a degree of discretion in the level of generality at which the grounds are formulated.

81. His Honour further noted at [74] that the Panel had identified the grounds in broad terms and "given the breadth of the identification of the grounds", he was satisfied that the "reviewable grounds" encompassed Electra's more particular complaint in the Court at [75]. These observations suggest that it is permissible for the Review Panel to formulate the reviewable grounds in broad terms as long as the grounds capture the issues raised by the applicant. In my view, the grounds in the s 269ZZI notice capture the contentions raised, particularly as now updated by ANTO in the email of 13 August 2026.

82. For the reasons already outlined, I am satisfied the second expanded aspect of Ground 1 is relevantly connected and a permissible extension of the grounds described by ANTO in its original application.

83. Having decided the second aspect of Ground 1 should appropriately be considered as part of the reviewable grounds, I will proceed to consider each of the grounds raised.

Consideration of Grounds

Ground 1

ANTO's grounds and supporting arguments

84. ANTO's grounds and supporting arguments have already been outlined for the purposes of dealing with the threshold question but it is convenient to repeat them in summary form here.

85. ANTO contends:

    a) In REP 659, the Commission calculated the constructed normal value for Sandvik and Tanrimine based on each exporter's own domestic profit achieved in the same general category of the subject goods. However, the Commission calculated the profit for ANTO, and thereby the constructed normal value, by using the weighted average profit of Sandvik and Tanrimine based on their domestic sales in the same general category of goods. The

Commission therefore adopted an approach for ANTO which was different to the calculation of profit included in the constructed normal value for the other two co-operative exporters and this was without any proper reason. It was inconsistent with the approach taken in respect of the other two exporters and prejudiced ANTO by providing an entitlement to Sandvik and Tanrimine, being the opportunity to adopt their sales data, which was not afforded to ANTO. Instead, ANTO was relegated to a position where the dumping margin imposed on it is, without justification, reliant on data provided by competitors. The Commission decided not to verify ANTO's data and did not ask ANTO to provide information about sales of goods in the same general category of goods.

b) ANTO did not consider the profit margin set out in the PAD and SEF 659 was unreasonable which is why it did not make any submission about the profit margin. However, there was prejudice to ANTO because it was not disclosed to ANTO until the conference that at the SEF stage, the Commission had based ANTO's profit only on the profit margin for Tanrimine, not a weighted average of Sandvik and Tanrimine, and this was in error for two reasons. First, there was a calculation error in the PAD (which was corrected for Tanrimine in the SEF stage) and, second, the Tanrimine domestic sales were mischaracterised as like goods, not the same general category of goods.

c) If the Commission had included or disclosed the corrected profit margin earlier, namely in SEF 659 or before REP 659, ANTO would have made submissions on SEF 659 and offered its data because the profit margin calculated on the weighted average profit of Sandvik and Tanrimine based on their sales of the same general category of goods is materially higher than ANTO's profit margin on such goods. Due to the Commission's errors and subsequent lack of disclosure, ANTO was deprived of this opportunity to make submissions and to offer its data. If ANTO had been asked to provide this information, it would have done so within one week and it is open to the Review Panel to require the Commission to reinvestigate the sales by ANTO of the same general category goods.

The Commission's findings on constructed normal value

86. The calculation of constructed normal value goes to the heart of the dispute in this review. It is therefore apt to set out in some detail the approach taken by the Commission in calculating normal value as part of its investigation, which resulted in the final report, REP 659, and the recommendations made to the Minister. Those recommendations were accepted by the Minister and resulted in the publication of the anti-dumping notice ADN 2026/058. The Commission based its findings on calculations, which were necessarily the subject of confidentiality because of commercial sensitivities, and those calculations were set out in confidential attachments to the reports and determinations.

87. It is apparent that the methodology and basis for those calculations in respect of the calculation for normal value were not understood by a number of the interested parties because it was submitted at various stages of the investigation that the methodology was not adequately disclosed in the relevant reports and determinations. As noted, there was a material change to the calculation of normal value for ANTO from the preliminary assessment stages to REP 659. Relevantly, this forms part of the grounds of the current review by ANTO.

88. On 23 December 2025, an IDD was issued by the Commissioner through PAD made under s 269TD(1) of the Act. The IDD was issued to prevent material injury to Australian industry while the investigation continued and imposed dumping measures of 23% on ANTO, 7.2% on Tanrimine, 10.2% on Sandvik and 35.2% on all other exporters.[26]

89. The IDD was calculated by reference to the export price of goods exported by the three cooperative exporters, including ANTO, and the "normal value" for the goods of the co-operative exporters. The level of dumping, as assessed for the purposes of the Act, was calculated by reference to the difference between the export price and the normal value of the goods. In calculating the normal value for the goods, the Commission had regard to its published preliminary findings in relation to Investigation No 658 in its Statement of Essential Facts No 658 ('SEF 658').[27]

[26] 2025 FCA 1677
[27] PAD (Document #14 on EPR 659) Section 2.3, 9.

90. The calculations of the normal value for goods exported by the three cooperative exporters for the purposes of the PAD were set out in confidential attachments. As such, the actual calculations used for each of the exporters were not disclosed. However, the PAD described in general terms the basis for the calculations for each of the exporters. In the calculation of the normal value of goods for Sandvik, the Commission had regard to Sandvik's domestic profit achieved on the same general category of goods. It was noted that this calculation was used because Sandvik did not sell the goods in the domestic market, so the profit achieved on sales of goods in the ordinary course of trade was not available.[28] The Commission calculated the normal value of goods for Tanrimine having regard to its domestic profit achieved on sales of goods in the ordinary course of trade. The Commission calculated the normal value for ANTO having regard to the weighted average amount of profit realised by “the other exporters” from the sale of like goods in the domestic market in China. In a footnote to the PAD, it is noted that ANTO did not make a profit on its sales of the goods in the ordinary course of trade and that a profit on the same general category was not reasonably ascertainable at the time of making the PAD.[29]

91. Submissions were made by ANTO and Tanrimine following the publication of the PAD.[30]

92. ANTO made submissions that the Commission should not make a preliminary finding that a particular market situation existed based on SEF 658 (this was also a submission made by Tanrimine). ANTO also requested that the Commission exclude an identified product when calculating the normal value on the basis of domestic sales and that the Commission correct the error of deducting domed plate costs twice. ANTO did not otherwise make submissions at that stage contending that the Commission should have calculated its normal value by reference to its domestic profit achieved on the same general category of goods.

93. In addition to its submissions that there was an error in the preliminary finding that a particular market situation existed based on SEF 658, Tanrimine stated that the

[28] PAD (Document #14 on EPR 659) Footnote 20, 10 referring to Confidential Attachment 3.
[29] PAD (Document #14 on EPR 659) Footnote 18, page 10.
[30] Submission - Exporter - Anto Mining Equipment Co Ltd - Response to Preliminary Affirmative Decision (Document #15 on EPR 659); Submission – Exporter - Huanghua Tanrimine Metal Support Co., Ltd - Submission on PAD 659 (Document #17 on EPR 659).

Commission had made errors in calculating its profit margin. It was submitted that the dumping margin calculation was therefore overstated.

94. The Commissioner published a Statement of Essential Facts ('SEF 659') on 6 March 2026.[31] In summary, the Commissioner made preliminary findings that, during the investigation period, exports of the goods from China in relation to all exporters from that country were dumped and the volume of the goods and the margin of dumping was not negligible; the exports of those goods were subsidised and the volume of subsidised goods and the margin of countervailable subsidisation was not negligible; and the dumped and subsidised exports of the goods from China have caused material injury to the Australian industry producing like goods. The proposed dumping margins were 23% for ANTO, 10.2% for Sandvik, 3.4% for Tanrimine and 35.2% for all other exporters. Findings were also made in relation to subsidy margins for each of these exporters, the detail of which has not been included in this report because those findings are not relevant to this review.[32]

95. SEF 659 addressed the issues raised by ANTO in response to the PAD.[33]

96. In summary, it was noted that the product that ANTO requested be excluded was not exported to Australia and had a single sale in the domestic market. As this sale was not found to be in the ordinary course of trade, it did not affect the profit calculation or the calculation of normal value and had no impact on the calculation of normal value for ANTO. The Commission corrected the error identified by ANTO to ensure the cost of the domed plate was only deducted once. However, according to the Commission this change did not result in ANTO's domestic sales being profitable on a weighted average basis, so the Commission continued to use the amount of profit realised by other exporters from sale of like goods in the domestic market in China. In brief, the matters raised by ANTO in its submissions on the PAD were taken into account by the Commission, but neither was found to impact the dumping margin and therefore no change was made.

97. DSI and Jennmar made submissions in response to SEF 659.[34] These submissions were published on the Commission's website on 30 March 2026.

[31] SEF 659 (Document #24 on EPR 659) – 6 March 2026.
[32] SEF 659 at [1.2], Table 1.
[33] SEF 659 at [6.5.2].
[34] Document #26 & 27 on EPR 659.

98. DSI stated that it supported the publication of the proposed dumping duty notice and countervailing duty notice but raised concerns with certain aspects of SEF 659. DSI submitted that it could not ascertain from the SEF what profit had been applied in the constructed normal values for the three cooperative exporters or how the Commission had applied reg 45 in determining that amount. It was further submitted the treatment of Tanrimine in calculating the profit component appeared to be contradictory because the SEF found Tanrimine did not sell like goods for home consumption in China, yet the Commission applied a profit based on Tanrimine's sales of like goods in the ordinary course of trade.

99. DSI requested that the Commission clarify what profit figure was in fact applied to Tanrimine's constructed normal value. DSI further submitted that the profit component was a material element of the constructed normal value and, to the extent it was understated, the resulting normal values and dumping margins would also be understated. DSI also requested that the Commission clarify the profit figure applied to each cooperative exporter's constructed normal value and the specific limb of reg 45 under which it is determined. Further submissions were made regarding industry concern about the form of measures applied. As this is not the subject of the current review or dispute, these submissions will not be repeated in this report.

100. Jennmar supported the Commissioner's preliminary finding in SEF 659 that Australian industry has experienced material injury caused by the dumped and subsidised exports of strata steel bolts from China but raised concern about the profit component of the constructed normal values calculation. Jennmar submitted that there was a lack of transparency to be able to meaningfully comment on this aspect of the preliminary findings. Jennmar also made submissions that the profit component disclosed in SEF 659 was internally inconsistent, particularly in relation to Tanrimine, and raised similar issues to those raised by Sandvik. Further, Jennmar raised concerns about how profit was calculated for Sandvik based on the same general category goods in circumstances where SEF 659 does not identify what the general category of goods is, nor the basis on which those goods were determined to fall within the same general category as strata bolts. Jennmar requested that the Commission clarify the profit figure applied to each cooperative exporter's constructed normal value and the specific limb of the relevant regulation under which it is determined (being a reference to regulation 45 of the *Customs (International Obligations) Regulation 2015*, which is considered later in this report).

101. ANTO did not make any submissions. Nor did any other interested parties.

102. On 7 May 2026, the Commissioner provided the Final Report to the Minister recommending that dumping duty be imposed.

103. Included in REP 659 was a comparison between the IDD in the PAD and the proposed dumping duty in the SEF 659 and final dumping margin, as recommended in REP 659 (Tables 4 and 5).[35] It is evident from Tables 4 and 5 that the dumping margin for ANTO increased from 23% in the PAD and in SEF 659 to 28.8% in REP 659.

104. The dumping assessment for ANTO is set out at [6.5] in REP 659 and the calculation of normal value is set out [6.5.2]. The Commissioner stated that he was satisfied during the operation of s 269TAC(2)(a)(ii) that ANTO's domestic sales were not suitable for determining a normal value under s 269TAC(1) and that the normal value was determined under s 269TAC(2)(c) having regard to, amongst other things, profit determined under reg 45(3)(c) using "any other reasonable methods and having regard to all relevant information". It was noted that this method was used because ANTO did not make a profit on its domestic sales of like goods in the ordinary course of trade.[36] Specifically, the Commission determined an amount for profit by calculating weighted average profit of Sandvik and Tanrimine as determined in their respective normal value calculations (based on the sales of the same general category of goods).

105. REP 659 addressed the submissions made by Jennmar and DSI following SEF 659 to the effect that the profit methodology applied to ANTO, using the weighted average profit of Sandvik and Tanrimine, was inconsistent with the Commission's findings that Sandvik did not sell like goods domestically, and that Tanrimine did not sell like goods for home consumption other than two sales which were not in the OCOT. The response as recorded in REP 659 was as follows:

> *The Commission makes a correction that Tanrimine's profit was determined using domestic profit achieved on the same general category of goods and not realised profit from the domestic sales of like goods in the OCOT (see further below at 6.7.3). The Commission found it was necessary to recalculate*

[35] REP 659 [1.2.9.1], Tables 4 and 5.
[36] REP 659 at [6.5.2], Footnote 28.

ANTO's profit under section 45(3)(c) of the Regulation using any other reasonable method and having regard to all relevant information.

The Commission calculated a weighted average of profit margin from Sandvik Jining and Tanrimine, based on domestic profit achieved on the same general category of goods by both exporters. As a result, the Commission has updated ANTO's normal value and dumping margin calculations.

106. REP 659 also addressed ANTO's pre-SEF 659 submissions as follows:

The following two paragraphs relate to a correction done in the SEF. The Commission notes that a normal value is calculated for export sales to Australia, based on domestic sales of like goods. In this case, during the investigation period, model N-L2-D2-B2 was not exported to Australia and had a single sale in the domestic market. This sale was not found to be in the OCOT. As such, it does not affect the profit calculation or the calculation of normal value.

Regarding the claimed 'clerical error', the Commission has corrected the error and ensured the cost of the domed plate is only deducted once. This change does not result in ANTO's domestic sales being profitable on a weighted average basis, so the Commission has determined an amount of profit under section 45(3)(c) of the Regulation as described above. The rectification of this error caused no change in ANTO's final dumping margin.

107. The Commissioner determined the dumping margin for the goods exported to Australia by ANTO as 28.8% and the calculations are set out in Confidential Attachment 6. The calculation for normal value is set out in Confidential Attachment 5.

108. The dumping margin for Sandvik is set out at [6.6] and the calculation for normal value at [6.6.3]. The Commissioner adopted the same reasoning for Sandvik as it did for ANTO and therefore found that Sandvik's normal value should be determined under s 269TAC(2)(c) having regard to Sandvik's domestic profit achieved on the same general category of goods. It was noted that Sandvik did not sell goods on the

domestic market, so the profit achieved on sales of goods in the ordinary course of trade was not available.[37]

109. The Commissioner addressed the submissions received in respect of the calculation of Sandvik's normal value as follows:

> *DSI and Jennmar's 30 March 2026 submissions submitted that the SEF profit calculation methodology was not transparent. The submissions raised concerns that the SEF did not identify what the general category of goods is, nor does it explain the basis on which those goods were determined.*
>
> *The Commission further clarifies that Sandvik Jining's domestic profit was calculated based on the general product category classified as "bolts". The verification team found that Sandvik made no domestic sales of friction bolts, as a result friction bolts could not be used as the general category of goods. The "bolts" category includes all other types of mining support bolts sold domestically by Sandvik Jining, excluding "cable bolt" type products. The Commission consider this product category suitable for determining Sandvik Jining's domestic profit.*

110. The Commissioner determined the dumping margin for the goods exported to Australia by Sandvik as 10.2% and the calculations were set out in Confidential Attachment 11. The Commission's calculation of profit on the same general category of goods for goods exported by Sandvik is set out in Confidential Attachment 9 and the normal value calculation at Confidential Attachment 10.

111. The dumping margin for Tanrimine is set out at [6.7] and the calculation for normal value at [6.7.3]. The Commissioner adopted the same reasoning for Tanrimine as it did for ANTO and Sandvik and also determined that Tanrimine's normal value should be determined under s 269TAC(2)(c) of the Act. Relevantly, the Commissioner found that Tanrimine did not sell like goods for home consumption in China and determined that Tanrimine's normal value should be determined having regard to Tanrimine's domestic profit achieved on the same general category of goods. It is apparent that this is the key difference between the findings in SEF 659 and REP 659 in relation to the determination of constructed normal value for ANTO.

[37] Refer Footnote 33.

112. The Commissioner addressed the submissions received in respect of the calculation of Tanrimine's normal value as follows:

> *In its 10 February 2026 submission, Tanrimine noted that the Commission had made an error when calculating its profit margin. The Commission has rectified this error.*
>
> *DSI and Jennmar's 30 March 2026 submissions submitted that the SEF disclosure was inconsistent. Tanrimine did not sell like goods for home consumption in China, while SEF 659 states that the profit was based on sales of like goods in the OCOT.*
>
> *In response to the submission, the Commission makes a correction to the SEF. Tanrimine's profit had been determined using domestic profit achieved on the same general category of goods, and not the domestic sales of like goods in the OCOT. The general goods category contains "friction bolts" outside the goods description, specifically bolts that are shorter than 2.2 metres in length. The profit calculation methodology and the amount of profit determined for Tanrimine remains unchanged.*

113. The Commissioner determined the dumping margin for the goods exported to Australia by Tanrimine as 3.4% and the calculations were set out in Confidential Attachment 15.

114. The Minister accepted the Commissioner's recommendations in REP 659 and made a decision to impose dumping duty and countervailing duty on exports from China. The notices of the decisions were published on 1 June 2026.

Submissions of the Commission

115. The Commission submits that its approach in determining amount of profit for ANTO was not in error and there was no denial of procedural fairness.[38]

116. During the investigation, the Commission conducted itself in accordance with the procedural and legal requirements of the Act. It afforded interested parties the opportunity to provide information and initiated a public and transparent process for its attempts to source and consider the relevant evidence. The methodology

[38] Commission's s 269ZZJ submission dated 18 September 2026.

applied in SEF 659 was consistent with the legislative requirements and the difference between the approach adopted for ANTO and that adopted for Sandvik and Tanrimine reflects a difference in the available information. Sandvik and Tanrimine were selected for on-site verification and during the process, the Commission obtained information concerning the domestic sales of goods in the same general category of goods. This enabled the Commission to determine amounts for profit under reg 45(3)(a) of the Regulation. ANTO was not selected for on-site verification, however, most of its data was reviewed and its data was, largely accepted. At no point during the investigation did ANTO object or raise concerns about the decision not to be selected for on-site verification or the methodology for determining its profit amount.[39]

117. The exporter questionnaire does not request information concerning domestic sales of goods in the same general category and the Commission therefore did not have sufficient information to determine profit for ANTO under reg 45(3)(a) of the Regulation. Because the Commission was unable to determine profit under regs 45(2), 45(3)(a) or 45(3)(b) it applied reg 45(3)(c) and determined profit for ANTO using a weighted average of profit margins achieved by the verified exporters in the sales of goods in the same general category. It is submitted by the Commission that this approach was both lawful and reasonable.[40]

118. The question is whether the methodology adopted in REP 659 was correct having regard to the information available to the Commission during the course of the investigation; it is not whether, with the benefit of hindsight, additional information might have been obtained from ANTO. ANTO's contention proceeds on the premise that the investigation outcome should now be revisited because it says it could have supplied additional information had it been aware of the Commission's calculations. However, the acceptance of that contention would necessarily involve treating the investigation as incomplete, requiring the Commission to receive, assess and, if necessary, verify additional information after the relevant investigative decisions have already been made. The fact that additional information might have been available, or that ANTO may have made submissions had it appreciated the significance of particular calculations during the

[39] Commission's submission [50]-[54].
[40] Commission's submission [55]-[56].

investigation, does not establish that the methodology adopted in REP 659 was incorrect.[41]

119. The Commission was transparent about the status of the investigation through the electronic public records (EPRs) published on its website and in the SEF process. Relevantly, the EPRs provide a transparent access for relevant submissions, data and investigative documents.[42]

120. Following the publication of SEF 659, submissions from DSI and Jennmar specifically raised the alleged error in ANTO's profit calculations. Those submissions were placed on the EPR. ANTO therefore had visibility of both the methodology applied and the criticism advanced by other interested parties and did not make submissions concerning the profit methodology or provide information regarding sales of goods in the same general category.[43]

121. Section 269ZI of the Act serves as a critical mechanism for ensuring the Commissioner affords procedural fairness to interested parties in respect of any investigation, review or enquiry. The Commissioner relies on the observations made by Mortimer J in *GM Holden Limited v Commissioner of Anti-Dumping Commission* as follows:

> *A scheme such as Part XVB assumes interested parties can take responsibility for accessing material when they choose to do so, in order to advance their own interests and perspectives on the contentious issues in a particular investigation.*[44]

122. ANTO was provided with its calculations following the PAD on 24 December 2025 and again following publication of SEF 659 on 6 March 2026. At both stages, the calculations disclose that ANTO's profit amount had been determined using data from other exporters under a weighted average approach. When ANTO made submissions in response to the PAD, the issues raised did not concern the profit methodology nor did ANTO seek to provide information regarding ANTO's sales of

[41] Commission's submission [59], [61].
[42] Commission's submission [63]-[65].
[43] Commission's submission [66]-[67].
[44] *GM Holden Limited v Commissioner of Anti-Dumping Commission [2014] FCA 708 at [158].*

goods in the same general category. ANTO did not make a response submission in response to SEF 659.[45]

123. In summary, it is submitted that ANTO had visibility of the methodology used by the Commission to determine its profit and normal value, it had visibility of the submissions from DSI and Jennmar regarding the alleged error in the calculation of the profit and normal value, ANTO (as were all other parties) was invited to make submissions on SEF 659 and it did not avail itself of that opportunity.[46]

124. Even accepting that the calculations provided to ANTO contained errors which were later corrected in REP 659, those errors did not conceal the methodology being applied. Throughout the investigation, ANTO was aware that its profit amount was being determined using data from other cooperative exporters under reg 45(3)(c) rather than by reference to its own sales of goods in the same general category.[47]

125. The subsequent corrections altered the inputs to the calculation, not the methodology itself and the change in the profit between SEF and REP 659 resulted from correction of inputs to the calculation; not from the adoption of a different methodology. The errors identified in the conference, namely the mischaracterisation of Tanrimine's sales and the failure to carry forward the corrected Tanrimine profit margin, were corrected in REP 659. It did not change the *basis* on which the profit amount was determined, which remained the use of data from the other cooperative exporters.[48]

126. The Commission submits that the correction of those errors did not itself require the Commission to reopen the investigation or to provide ANTO with the further opportunity to make submissions and provide information. Accordingly, the fact that ANTO did not appreciate the precise profit amount ultimately adopted does not establish a denial of procedural fairness, nor does it demonstrate the reviewable decision was not the correct or preferable decision. The Commission correctly applied the provisions under reg 45 and in the absence of information concerning

[45] Commission's submission [71]-[72].
[46] Commission's submission [73].
[47] Commission's submission [74]-[76].
[48] Commission's submission [77].

ANTO's own sales in the same general category, relied on the verified data from other importers.[49]

127. The Commission contends that Ground 1 should be rejected.

Analysis

128. There are two aspects to Ground 1.

129. Firstly, there is a question about whether the calculation of profit and normal value for ANTO and the methodology undertaken by the Commission, as disclosed in REP 659 and explained more fully in the conference, is correct. This is because ANTO takes issue with the calculation of profit for ANTO and the differences in approach between the cooperative exporters.

130. I accept that the calculations made, and the determinations recommended to the Minister in respect of profit and normal value for ANTO, and for the other two cooperative exporters, are lawful and in accordance with the legislative requirements.

131. The Commission was correct in calculating normal value under s 269TAC(2)(c) given the finding that under s 269TAC(2)(a) normal value could not be ascertained under s 269TAC(1). This is not in dispute. Under s 269TAC(2)(c), the calculation of profit is critical to the determination of normal value. The Commission correctly identified the relevant provisions of reg 45 which sets various options for the calculation of profit. The Commission correctly found, and this is not in dispute, that ANTO did not make a profit on domestic sales of like goods in the ordinary course of trade. Having made this finding, the Commission, also correctly in my view, then proceeded to consider whether profit could be calculated under reg 45(3). At the time the Commission was calculating profit for ANTO for the purposes of REP 659, it did not have information available to establish the amount of profit under reg 45(3)(a). Again, this is not in dispute. The Commission considered whether reg 45(3)(b) could apply because neither Tanrimine nor Sandvik had sales of like goods in the domestic market. The Commission determined, correctly in my view, that reg 45(3)(b) could not apply and it was required to consider the calculation of profit under reg 45(3)(c).

[49] Commission's submission [78]-[80].

132. The Commission decided to use the weighted average profit of the two other exporters, Sandvik and Tanrimine, as determined for their respective normal value calculations. This decision was made by the Commission pursuant to reg 45(3)(c) "using any other reasonable method and having regard to all relevant information".

133. The Commission provided an explanation for the methodology and approach taken for the calculation of profit for ANTO under reg 45. Given this is at the heart of the dispute, it is convenient to set out the detailed response provided by the Commission in the conference as follows:

> *The commission considered whether profit could be worked out under r 45(2) using data relating to ANTO's production and sale of like goods in the ordinary course of trade (OCOT). The commission calculated the profitability of ANTO's domestic sales in the OCOT in worksheet (e) of Confidential Attachment 5 (rows 1-9) and found that ANTO's sales were unprofitable by a margin of [CONFIDENTIAL]. The commission could not therefore work out an amount of profit under r 45(2).*
>
> *The commission considered whether it could work out the amount of profit realised by ANTO from the sale of the same general category of goods in the domestic market in accordance with r 45(3)(a), however the commission did not have sufficient information to do so. See answer to 2d below.*
>
> *The commission considered whether it could work out the amount of profit realised by other exporters from the sale of like goods in the domestic market in accordance with r 45(3)(b), however neither of the other 2 exporters sold like goods on the domestic market. As explained below in response to question 3, Tanrimine initially mischaracterised its domestic sales as like goods, which led to an error in the calculation of ANTO's normal value in the SEF.*
>
> *The commission therefore considered whether it could work out the amount of profit using any other reasonable method and having regard to all relevant information in accordance with r 45(3)(c). Both of the other 2 exporters had profitable domestic sales of the same general category of goods. The commission considered it to be a reasonable approach to work out an amount of profit for ANTO as the weighted average of the actual amounts realised by*

those exporters from the sale of the same general category of goods on the domestic market.

The commission calculated the weighted average profit of the 2 verified exporters, Sandvik and Tanrimine, in worksheet (e) of Confidential Attachment 5 (rows 18-22). The weighting is based on the value of the domestic sales of each exporter. Weighting by value is preferred to quantity because the common quantity is "pieces" and the of size of each model of bolt can vary significantly. The result is a profit margin of [CONFIDENTIAL].

134. The calculations for profit and normal value for ANTO are contained in Confidential Attachments 5, 6, 9, 10, 11, 14 and 15. I have examined the calculations made in each of these confidential attachments and I am satisfied that the calculations are mathematically correct and that the Commission has calculated the profit from the weighted average of the profit of the sales of Sandvik and Tanrimine in the same general category of goods the subject of dispute.

135. ANTO's contention is that the Commission calculated its profit and therefore normal value using different methodologies without any proper reason. The reasons for the different approach were explained by the Commission at the conference held on 7 August 2026.

136. Having regard to the explanation provided by the Commission, as detailed above, the information available to the Commission at that time, the explanation for the calculations in REP 659 and examining the Confidential Attachments on which the calculations are based, I am satisfied that this methodology was appropriate. I am not satisfied that there was error.

137. In other words, I accept the Commission's submissions that it used different methodologies and calculations because it had different information available on which to base those calculations at the time it was preparing REP 659. The methodology used was otherwise consistent between the three cooperative exporters. The principal difference was because the Commission did not have information about ANTO's sales of the same general category of goods in the domestic market. It was therefore not able to calculate ANTO's profit based on reg 45(3)(a), reg 45(3)(b) was not available because neither Sandvik nor Tanrimine had profits on the sale of like goods in the domestic market and the Commission needed to use another method to calculate profit for ANTO. It decided to use the

weighted average of profits calculated for Sandvik and Tanrimine on the sales of the same general category of goods in the domestic market. This approach was in accordance with the methodology prescribed in the Act and the Regulations and therefore lawful and on the face of it, reasonable at that time.

138. I am therefore satisfied that the decision made by the Minister based on the recommendations of the Commissioner was correct and lawful, for the reasons outlined above. Given the issues raised in the review, the further question that arises is whether the decision was the preferable decision in the circumstances. Relevantly, should the Commission have taken a different approach in calculating profit, and thereby normal value for ANTO, once the errors in the calculation were identified.

139. This is the second issue raised by ANTO, which is loosely referred to as "denial of procedural fairness" by the Commission. ANTO says it was deprived of the opportunity to make submissions and provide data to the Commission prior to the publication of REP 659. ANTO further says that the mistakes made in the PAD and SEF 659 calculations should have been disclosed to ANTO earlier, namely before the issue of REP 659, and because these matters were not disclosed, the impact on the resulting impact on its normal value was not apparent and ANTO was "deprived of the opportunity" to make submissions and provide data. It is said that; relevant to this issue and as is clear from the above, the errors made in the Tanrimine calculations had a material impact on the calculation of ANTO's normal value.

140. Characterising the second aspect as a denial of procedural fairness fails to recognise the nature of the role of the Review Panel in conducting merits review. As Mortimer J (now the Chief Justice) observed in *GM Holden*, in making the distinction between challenges based on allegations about the denial of procedural fairness and merits review of the approach taken in the exercise of a function under the Act, as follows:

> *170. Holden accepted that although these grounds came under a procedural fairness heading in the second further amended application, it was not in reality a procedural fairness challenge but rather a challenge to the approach taken by the TMRO to his function under the Customs Act. I accept that is the correct characterisation. Ground 5 (see above) refers to this ground*

and picks up the consequences Holden submits must follow if ground 4 is correct.

171. Holden submitted that, by refusing to consider its complaints about denial of procedural fairness where they went to the non-existence of facts critical to the imposition and calculation of duty under Part XVB, the TMRO had imposed limitations on its review powers for which there was no basis in Div 9 of Part XVB of the Customs Act.

172. I reject both aspects of the submission. First, the TMRO's review is not, on the statute, concerned with claims in the nature of denial of procedural fairness. It was not contentious between the parties that the TMRO has a limited review function. The terms of the statute make that clearly so. Its function is to hear and determine an applicant's claim that there are "reasonable grounds" to warrant a further investigation of specified findings set out in the review application: see s 269ZZF.

173. The TMRO is empowered only to make recommendations, not to make her or his own decision. A recommendation by the TMRO does not bind the Minister, who can reject it: see s 269ZZL(1)(b). There are limits to the recommendation function under s 269ZZK: if the TMRO determines not to recommend affirming the CEO's decision, all he or she is empowered to do is recommend that specified findings be further investigated. The TMRO is expressly limited to the material which was before the CEO: ss 269ZZK(4), (6).

174. The TMRO's function is to assess factual and reasoning errors in the CEO report, which an applicant for review articulates in its application to the TMRO. It is a method by which the scheme ensures that the Minister's decision whether to issue notices or not is based on probative material which has been rationally considered. The TMRO review does not exist to change either the Minister's decision or the CEO's recommendations, but rather to ensure both the fact finding and the reasoning of the CEO are as complete as possible, and have been exposed to some testing.

175. That being the function, there is no basis in the scheme to impose an obligation on the TMRO to consider and deal with a claim of denial of procedural fairness in its own terms. What the TMRO may need to do, as it

> *did in this case, is examine an underlying factual and reasoning challenge articulated by the party said to have been denied procedural fairness in relation to a particular "finding" in the CEO report.*
>
> *176. Otherwise, to import into the scheme a process review function, given that the TMRO ultimately makes a recommendation to the Minister, would be to have the Minister herself or himself also engage in some kind of supervisory function over the CEO in the production of his report. There is no basis to consider the scheme intended such a function to be performed by the Minister.*

141. In my view, the question is not whether the Commissioner breached a procedural fairness obligation to advise ANTO of the material change in its profit and normal value following the errors identified to thereby give it the opportunity to make submissions and provide further data. Notably, procedural fairness obligations are embedded in the Part XVB process. The question is rather whether, once the Commissioner identified the error and the change in calculation which had a material effect on ANTO's profit and dumping margin, it should have identified whether *another* reasonable method to calculate profit should have been undertaken in the circumstances of the case. The focus of this inquiry is what is the correct or preferable decision, and relevantly, the approach that should or could have been taken in the circumstances of this case and having regard to the information before the Commissioner at the relevant time, namely after SEF 659 but before REP 659 was published. For instance, was there further information to which the Commissioner should have regard in making his recommendations.

142. As such, the question that arises is whether, in the exercise of the functions under the Act and in the circumstances of this case, the Commissioner should have asked ANTO before REP 659 was finalised to provide information about its sales in the same general category of goods in the domestic market to identify whether profit could be more appropriately calculated by reference to reg 45(3)(a), in using the same methodology used for the other two cooperative exporters.

143. Alternatively, it may be argued, as seems to be the contention of the Commission, that this opportunity was already lost because at the time of assessment post SEF 659, reg 45(3)(a) and (b) had already been eliminated as viable options, it did not have verified data for ANTO to be able to calculate its profit by reference to reg

45(3)(a), ANTO did not request (but could have made submissions or offered its data earlier in the process) and all that remained was to calculate ANTO's profit under reg 45(3)(c).

144. Regulation 45(3)(c) provides that if the Minister is unable to work out the amount of profit using the data in reg 45(2) (as was the case here) he or she must work out profit by using the methods under reg 45(3)(c), being "any other reasonable method and having regard to all information". There is nothing within reg 45(3)(c) that requires that it must be considered as a hierarchy, as signified by the word "or" connecting each option. On the face of it, the Minister may consider any of the methods set out in sub-paras (a), (b) or (c).

145. This is recognised by the commentary in the Commission's Dumping and Subsidy Manual issued December 2021 about 'Methods for working out an amount for profit' as follows:[50]

> *Where profit cannot be determined under Regulation 45(2), for example because sales of like goods are not in the ordinary course of trade, Regulation 45(3) sets out three other methods to determine profit.*

And further, after summarising reg 45(3)(a), (b) and (c), providing the following guidance:

> *Any of these three alternatives can be used as there is no hierarchy.*
>
> *There is no requirement to test for ordinary course of trade in any of these three alternatives, nor will the Commission read any ordinary course of trade requirement into them.*
>
> *Actual amounts realised: This term requires attention to a 'real world figure' that was actually realised.11 For example, under Regulation 45(3)(a), it is necessary to calculate the actual amounts realised by the exporter on the sale of goods of the same general category, rather than an approximation based on the cost to make and sell.*
>
> *Same general category: This term in Regulation 45(3)(a) is not defined. The Commission will decide on a case by case basis what goods will be included*

[50] The Manual at p 39.

in this category. For example, the Commission may decide that the best approximation of profit on a domestic sale for the like goods in question is a narrower, rather than a broader, category. A narrower category may be preferred if it is determined this most meets the policy intent for establishing normal value based on the constructed method (section 9.2 above). The Commission will issue supplementary information requests where it needs to collect data on a same general category of goods. Under this provision the Commission will not use the profit reported in an income statement where the income statement includes goods that are not in the same general category, or if the income statement includes export sales.

Weighted average: The Commission will apply this provision in Regulation 45(3)(b) only where there are two or more other exporters providing data in relation to domestic sales of the like goods. The Commission may determine the weighted average using volume or value. Regulation 45(3)(c) provides for any other reasonable method. However, Regulation 45(4) caps the profit that may be added. The profit added must not exceed the profit normally realised by other exporters or producers on domestic sales of the same general category of goods. In determining this cap, the Commission can use data from one other exporter or producer, or may use data from a number of other exporters or producers. The Commission will not apply this provision if it is unable to determine the capped amount. The Commission will consider claims that a profit rate to be added may not be one that is 'normally realised' on the domestic market by the exporters in question.

146. In this case, the Commission proceeded to consider each methodology in sequential order, starting at (a) then moving through to (b) then (c).

147. After the error in calculating the Tanrimine profit for the purposes of reg 45(3) was identified, the Commission did not "issue supplementary information requests" to ANTO to collect data on the same general category of goods.

148. While this is an option contemplated in the Manual, it is relevant to note that this was at a late stage of the investigation process and this was not an issue previously raised by ANTO at any stage, even though it knew its profit for the purposes of the normal value determination was being calculated by reference to the profit of "the other exporters". This data would need to be verified, and this

would have delayed the finalisation of the investigation, which was commenced on 19 September 2024 and was already the subject of extensions under s 269ZHI of the Act, including an extension in relation to the date for the Final Report.[51]

149. Given the issues raised in the review, the question that arises is whether the Commission should have taken a different approach in calculating profit and therefore normal value for ANTO once the errors in the calculation were identified and whether the failure to do so impugns the recommendations in REP 659 and, thereby, the Minister's decision.

150. Prior to the issue of REP 659, the information available to the Commission was as follows:

a) The Commission had verified information from Sandvik and Tanrimine to calculate profit from the sale of the same general category of goods in the domestic market, pursuant to reg 45(3)(a);

b) The Commission did not have sufficient information about the sale of the same general category of goods in the domestic market by ANTO such that it was unable to calculate, by verifying ANTO's data, that the profit could be calculated by reference to reg 45(3)(a);

c) ANTO was aware that the Commissioner had made a preliminary assessment of dumping margin based on the weighted average amount of profit realised by other exporters from the sale of like goods in the domestic market. At this stage the only other exporter that was used by the Commission in its calculations for the purposes of SEF 659 was Tanrimine; there was no dispute that Sandvik did not have profit from the sale of like goods in the domestic market;

d) The preliminary assessment for the ANTO's dumping margin in SEF 659 was 23% but this assessment was based on "errors" in the calculations for Tanrimine;

e) Following the PAD, ANTO was on notice through the public record that Tanrimine made submissions following the PAD that the Commission had

[51] On 10 April 2026 time was extended to publish the final report and recommendation to the Minister to 7 May 2026: Document #31 on EPR 659.

made errors in calculating its profit margin. Tanrimine also submitted that its dumping margin calculation was therefore overstated;

f) Following the publication of SEF 659, ANTO was again on notice through the public record, that DSI and Jennmar made submissions on 26 March 2026 to the effect that the treatment of Tanrimine in calculating the profit component appeared to be contradictory because the SEF found Tanrimine did not sell like goods for home consumption in China, yet the Commission applied a profit based on Tanrimine's sales of like goods in the ordinary course of trade. DSI requested that the Commission clarify what profit figure was in fact applied to Tanrimine's constructed normal value and submitted that the profit component was material element of the constructed normal value and, to the extent it was understated, the resulting normal values and dumping margins would be also understated;

g) The last day for submissions on SEF 659 was 26 March 2026[52] and the submissions were published on the Commission's website on 30 March 2026;[53]

h) ANTO did not make any submissions relating to or requesting that its data be provided to allow calculation to be made under reg 45(3)(a), nor did it make any submissions following SEF 659;

i) As a result of errors identified by the Commission, both prior to and after the SEF stage, it was decided ANTO's profits could not be calculated under reg 45(3)(b) because Tanrimine did not have profits from the sale of like goods in the domestic market and decided to use reg 45(3)(c) using a weighted average of the profits of the sales of the two other cooperative exporters in the same general category. This change, which also incorporated the other error identified by Tanrimine, nearly doubled ANTO's profit for the purposes of the constructed normal value calculation and increased its dumping margin from 23% to 28.8%.

151. ANTO says that it decided not to lodge submissions following SEF 659 because it considered the dumping margin of 23% was "not unreasonable" but it did not

[52] Refer SEF 659 at [1.1].
[53] Documents #26-30 EPR 659.

realise there were errors in this calculation for normal value that would materially impact its dumping margin in the Final Report.

152. In this regard, it seems that ANTO relied on the SEF 659 calculation being correct. It did not identify the issues subsequently raised by the industry participants, which arguably should have been apparent from SEF 659 at [6.7.3] where the Commissioner found:

> *Tanrimine did not sell like goods for home consumption in China. Under section 269TAC(1), where like goods are not so sold by the exporter, the normal value is the price paid in such sales by other sellers of like goods.*

But then relevantly found:

> *Therefore, Tanrimine's normal value should be determined under section 269TAC(2)(c) having regard to the following information:*
>
> - *….*
> - *…..*
> - *Tanrimine's domestic profit achieved on sales of like goods in the OCOT*

153. These are the findings that Jennmar and DSI said were internally inconsistent. ANTO did not make submissions about these matters in response to SEF 659 but nor did it know at that stage about the impact of the changes to its profit calculations and therefore normal value. These were matters known by the Commission after it reviewed the SEF 659 submissions and made the recalculations for the purposes of REP 659 but this was not known by ANTO until REP 659 was published. It is also apparent that ANTO did not understand the reasons for the differences until they were disclosed in the conference.

154. As already noted, subs 269TEA (1) and (2) of the Act set out the time limits for the report to the Minister and time limits for submissions following the publication of a SEF (20 days). Section 269TEA(3)(a) provides that in deciding the recommendations to be made to the Minister, the Commissioner's report must have regard to, relevantly, any submission concerning the publication of the notice which the Commissioner has had regard to for the purpose of formulating the statement

of essential facts and any submission made in response to the statement received by the Commissioner within 20 days. Despite this, section 269TEA(3)(b) also provides that the Commissioner may have had regard to "any other matter". Section 269TEA(4) provides that the Commissioner is not obliged to have regard to any submissions made in response to the Statement of Essential Facts that is received by the Commissioner *after* the end of the period if to do so, in the Commissioner's opinion, it would prevent the timely preparation of the report to the Minister. As such, s 269TEA directs the Commissioner to consider certain matters but also gives the Commissioner broad discretion about the material that may be considered in making recommendations to the Minister while recognising the importance of the timely finalisation of recommendations following an investigation.

155. Whether a decision, other than the decision made by the Minister on recommendation from the Commissioner, is the correct or preferable decision are "matters of weight and degree": *GM Holden* at [177]. This requires a balancing of the competing factors and, to an extent depending on the accepted grounds of review, consideration of the steps taken in the investigation process.

156. In this case, and having regard to the following matters, I am not satisfied ANTO has established that the decision is not the correct or preferable decision on the basis of Ground 1.

157. First, the Commission adopted a proper basis for calculating ANTO's profit using the verified data of the other co-operative exporters based on the profit from the sales of the same general category of goods. It did not have verified data from ANTO in respect of its profit from its own sales in the same general category and there is no allegation that it was required to verify further data or conduct an on-site visit of ANTO to obtain this further information. The Commissioner had three options available to calculate ANTO's profit under reg 45(3). The process adopted and the available options were dependent on the available verified data and the approach adopted was explained in the information provided by the Commission, as outlined at [133] above. In my view, this approach and methodology was reasonable in the circumstances of the case.

158. Second, ANTO did not request that its profit be calculated based on reg 45(3)(a), nor did it make submissions about providing the relevant data, which it now says is readily available, after either the PAD or SEF 659 stages. This was in

circumstances where ANTO was aware the Commission was calculating its profit by reference to the profit of “other exporters” rather than its own data.

159. Third, even if ANTO did not know about the errors in the SEF 659 calculation, the inconsistencies should have been apparent from a careful analysis of SEF 659. Further, ANTO was on notice of these inconsistencies, which were identified by the industry participants as published on the Commission’s website. Even though ANTO may not have become aware of these inconsistencies until on or after 30 March 2026, it could have made a timely and detailed, albeit late, submission to the Commissioner providing its data and seeking the decision for which it now contends. ANTO did not do so. If this had been done, the Commissioner may have considered those submissions and adopted an alternative recommendation about the approach to be taken to the calculation of its dumping duty.

160. Fourth, I accept the submission of the Commission that the relevant question is whether the methodology adopted and calculations used in REP 659 were correct or preferable having regard to the information available to the Commissioner during the course of investigation, not whether, with the benefit of ‘hindsight’ submissions by a party, additional information might have been obtained during the investigation. While I accept it may be appropriate for the Commissioner to consider whether further information should be obtained to assist in calculating constructed normal value for cooperative exporters, such as ANTO, it was also ANTO’s obligation through the process to make any relevant submissions and to provide relevant information to the Commissioner.

161. Fifthly, even though ANTO did not know about the detail of the calculation errors until the Commission provided information about this in the conference, the errors and lack of disclosure about the errors did not of itself deprive ANTO from making submissions and providing its own data. ANTO, on its own admission, made a decision not to challenge the preliminary and foreshadowed dumping margin based on the calculations made because it was “not unreasonable”. While it may be expected that any final dumping margin would be similar to the dumping margin calculated at the SEF stage, an interested party would also be aware that there is a possibility the calculation may change as a result of other submissions made.

162. Finally, the process established under Part XVB allows submissions to be made after the SEF is published and these submissions, given the tight timeframes

imposed under s 269TEA, are intended to be final submissions before the final report to the Minister. This is what happened and, as it turned out, the submissions generated further review by the Commission which resulted in changes to the dumping margin for ANTO which was material. Relevantly, s 269TEA contemplates that the Commissioner may consider late submissions, subject to the discretion not to have regard to those submissions if to do so would prevent the timely preparation of the report to the Minister. ANTO did not make any further submissions after the publication of the PAD but could have done so for the reasons earlier outlined.

163. Despite this, ANTO says it could now provide within seven days information about its sales on the same general category of goods for review and verification by the Commission. This would require reinvestigation. However, I am not satisfied that reinvestigation would ultimately yield a "correct or preferable" outcome and is warranted. In the information provided by ANTO in the conference on 7 August 2026, ANTO asserts that it would have provided submissions and offered its own data because the profit margin calculated by the Commissioner using the weighted average profit for Sandvik and Tanrimine using sales of the same general category of goods "is materially higher than its profit margin on such goods". ANTO has provided no information or further submissions in support of this contention but rather simply seeks that the Review Panel require the Commission to reinvestigate the sales of ANTO in the same general category of goods so that "ANTO would be in a position to provide data in respect of those sales".

164. On balance and having regard to those competing matters referred to above, I am not satisfied that the mere fact that additional information "might" have been available or that ANTO may have made different submissions if it had appreciated the significance of particular calculations during the investigation, warrants reinvestigation.

165. The change in the profit calculation was primarily brought about because the Commission realised after SEF 659 (when this issue was raised in the submissions by Australian industry) that the profit for ANTO could not be calculated in accordance with reg 45(3)(b) by reference to the amount of profit realised by "other exporters" from the sale of like goods in the domestic market. This was because it was discovered that Tanrimine did not have such sales. The original calculation was based on a "mischaracterisation" of the domestic Tanrimine goods as like

goods, not goods in the same general category of goods. This highlights the complications in calculating profit under reg 45(3) and demonstrates the importance of the verification processes. At that stage, the only other option was to proceed to calculate profit for ANTO under reg 45(3)(c). The basis chosen was the weighted average profit for both co-operative exporters on the sales of the same general category of goods. The approach was open to the Commissioner as part of the investigation process, and I am not satisfied, based on the submissions and material provided by ANTO, that there was another more preferable method to calculate its profit in the circumstances and at such a late stage. Relevantly, the contention by ANTO that a more favourable or more appropriate profit rate could have been used, is untested.

166. I am therefore satisfied that the recommendations of the Commissioner to the Minister were lawful; based on the relevant legislative provisions, using the appropriate available information and methodology and that the calculations undertaken to arrive at ANTO's profit and constructed normal value are correct. I am also satisfied that, insofar as the recommendations were based on a methodology for the calculation of profit for ANTO using the weighted average of profit for Sandvik and Tanrimine using verified sales of the same general category of goods, these recommendations were open to the Commissioner and they were reasonably based. I am not satisfied that the Commissioner should have delayed the investigation and obtained further data from ANTO to calculate its profit under reg 45(3)(a), being the methodology now contended by ANTO to be the preferable methodology.

167. It follows that I am not satisfied there is error or that the decision made by the Minister, which is based on those recommendations, is not "correct or preferable". It also follows that I am not satisfied that the correct or preferable decision is for ANTO's profit to be calculated using the same methodology as for the two other exporters, namely, based on its sales of the same general category of goods, which would require re-investigation as verified data is not available.

Conclusion

168. For the reasons set out above, this ground of review fails.

Ground 2

ANTO's grounds and supporting arguments

169. This ground is related to Ground 1 and incorporates, to an extent, some of the supporting arguments made by ANTO in Ground 1. Relevantly, ANTO contended in its application that in determining constructed value for ANTO's domestic sales, the Commission adopted an amount for profit which was said to be calculated using a weighted average profit of the two other co-operative exporters, Sandvik and Tanrimine's, achieved on the same general category of goods as the subject goods. It was contended that this calculation undertaken was incorrect.

170. In support of the ground, ANTO noted that the Commission rectified errors relating to the calculation of Tanrimine's profit margin, including calculating its profit for the purposes of reg 45 using domestic profit achieved on the same general category of goods. Despite these corrections and clarifications, the dumping margins for Sandvik and Tanrimine remained consistent while the dumping margin calculated for ANTO increased from 23% to 28.8%. It was contended that Confidential Attachments 4, 5 and 6 to REP 659, and the corresponding attachments to SEF 659, show no changes to the calculation of the constructed normal value for the applicant between the SEF and Final Report other than to profit. These confidential attachments showed that the profit that the Commission attributed to ANTO increased substantially from [redacted]% in SEF 659 to [redacted]% in REP 659. It was submitted that if ANTO's profit rate is based on the weighted average of Sandvik and Tanrimine's profits, it logically followed that ANTO's profit rate could not substantially increase in the absence of any corresponding change to the profit of the other two exporters. This discrepancy, which was said to be unexplained, was the basis for ANTO's contention that the calculation of normal value was incorrect.

171. Following the conference held on 7 August 2026, the contentions made by ANTO in respect of Ground 2 have now been superseded by the clarification email provided by ANTO on 13 August 2026. The Commission provided an explanation for the differences between the SEF calculations and the calculations in REP 659. ANTO accepts those calculations but now contends that the Commission pointed to two or three aspects of the Commission's process where it made errors. ANTO submits that given those errors, that were not previously disclosed, and the fact that the underlying calculations of the profit margins for Sandvik and Tanrimine are

not available to ANTO, it "remains concerned" that there may be additional calculation errors identified that have not been disclosed by the Commission.

172. ANTO maintains its position that the calculations made by the Commission were incorrect and further contends that the Review Panel should consider whether the calculations involved errors not disclosed.

Submissions from the Commission

173. The Commission submits that Ground 2 does not identify or substantiate any error in the calculation adopted in REP 659 forming the basis of the reviewable decision. The specific discrepancy originally relied on by ANTO has been explained. It arose from two errors in the superseded PAD and SEF calculations, both of which were corrected before REP 659 was finalised. It is submitted that ANTO's contention that further, unidentified errors may exist, is speculative and does not establish that the reviewable ground was not the correct or preferable decision. Speculation alone does not render the information before the Review Panel sufficient to permit it to make a recommendation, such as reinvestigation under s 269ZZL.[54]

174. It is not the role of the Review Panel to conduct a broader inquiry into whether some other unidentified error exists. The Commission was requested, and provided, a non-confidential explanation of, among other things, the methodology used to determine the amount of profit included in ANTO's constructed normal value under reg 45. The Commission explained its methodology, which in turn explained the differences between the PAD and SEF stage calculations and the calculations included in REP 659 whereby the Commission recalculated ANTO's profit amount using a weighted average of the profit margins achieved by both exporters on domestic sales of goods in the same general category.[55]

175. The specific discrepancy identified by ANTO has been fully explained by the Commission in the conference of 7 August 2026. The discrepancy arose from errors in the superseded PAD and SEF calculations, not from an error in the calculation adopted in REP 659 which forms the basis of the Minister's reviewable decision. REP 659 specifically corrected those errors, as explained by the Commission in the conference of 7 August 2026. As such, it follows that the

[54] Commission's submission [81]-[82].
[55] Commission's submission [83]-[86].

Minister's reviewable decision which was made on the basis of REP 659 is correct.[56]

176. While ANTO maintains the calculation for normal value adopted in REP 659 is incorrect, it has not identified any particular error in that calculation but rather says that it "remains concerned" there may be additional calculations which have not been identified. This contention does not substantiate Ground 2 and instead raises the possibility that some further unidentified error may exist. The possibility of an unidentified error does not, without more, establish that the calculation adopted in REP 659 was incorrect or that the reviewable decision was not the correct or preferable decision. To accept ANTO's residual contention would require the Review Panel to undertake an open-ended examination of the calculation in search of an error not identified in the application or in subsequent correspondence. ANTO's concern does not establish a basis for requiring a reinvestigation under s 269ZZL. Relevantly, the explanation provided through the conference process answers the specific discrepancy relied on by ANTO, and it has not identified any error in the calculation adopted in REP 659.[57]

177. It is contended that Ground 2 should be rejected.

Analysis

178. Ground 2, as originally formulated, was related to Ground 1 in that the contention raised the question of whether the Minister erred in determining constructed normal value for ANTO, having regard to the issues raised in Ground 1 and, relevantly, the claim that the methodology and calculations were unexplained. Ground 2 was caste in broad terms stating that the calculation undertaken was incorrect. After ANTO was provided with the Commission's calculations, it maintained this ground. Ground 2 was accepted in broad terms but only as it related to the review in Ground 1, not as an open-ended inquiry about the normal value calculations undertaken for ANTO.

179. ANTO's contention is that, in the absence of it having access to the information contained in the Confidential Attachments and given there were errors identified by the Commission in the calculations, the Review Panel should consider whether the

[56] Commission's submission [89]-[93].
[57] Commission's submission [95]-[100].

calculations made were correct. In my view, this inquiry is necessarily limited to the issues raised by ANTO in the application or arising from the information provided by the Commission at the conference on 7 August 2026. As observed by Wigney J in *Yara AB*, the role of the Review Panel is not at large, nor is it to conduct full merits or de novo review. ANTO does not point to a specific error, other than what has already been raised and addressed in Ground 1, and did not provide any submissions to this effect.

180. I accept the submissions of the Commission that ANTO has not identified any particular error in the normal value calculation other than those raised in its contention in respect of Ground 1. It has been provided with the methodology and basis for the calculations and the amount of profit calculated for ANTO at both the SEF and Final Report stages. The only information that is not available to ANTO (because it is commercially sensitive) is the list of the domestic sales for the goods in the same general category of goods for the other exporters, the calculation for the profit achieved on those sales, and the actual calculations for the weighted average of profit of Sandvik and Tanrimine as determined in their respective normal value calculations.

181. As already noted at [134] above, the calculations for profit and normal value for ANTO are contained in Confidential Attachments 5, 6, 9, 10, 11, 14 and 15. Having examined the calculations made in each of these confidential attachments, I am satisfied that the calculations are correct. The Commission has calculated the profit for ANTO from the weighted average of the profit of the sales of Sandvik and Tanrimine in the same general category of goods the subject of dispute. I am also satisfied these calculations are correct.

182. The errors in the normal value calculations for ANTO and Tanrimine identified in respect of SEF 659 were corrected in REP 659. It is not accurate to say the errors were not disclosed. The errors and corrections are referred to at [6.5.2] and at [6.7.3] and they were identified and made following submissions made by Australian industry. While I accept the detail and impact of those errors was not disclosed in REP 659, this does not compel, nor even support, a finding that the failure to disclose the detail of these matters undermines the credibility and reliability of the calculations contained in REP 659. The Final Report was lengthy and detailed and covered a wide range of contentious issues. Even if this issue

could have been more clearly explained, this does not undermine the veracity of recommendations made in REP 659.

183. As the Commission submits, and I accept this submission, the specific discrepancy identified by ANTO has been fully explained by the Commission in the conference of 7 August 2026. No other discrepancies have been identified. ANTO does not point to any other error, nor is there evidence of any other error identified by other interested parties. I have reviewed those submissions, and the relevant parts of those submissions have been outlined in this report. REP 659 identified the relevant submissions made in the SEF and Final Report stages, including submissions made by ANTO. Those submissions were addressed in REP 659.

184. The fact that there were errors in the calculation of constructed normal value or that there were changes in the approach adopted by the Commission as between the SEF and Final Report stages does not of itself support the contention that the calculations are flawed or that there is an underlying issue with the reliability or veracity of the calculations and approach. The information provided by the co-operative exporters and Australian industry was both complicated and detailed. It is possible that error may arise at preliminary stages and through the investigation and it is for this reason that the Commission discloses to interested parties its preliminary calculations and assessments, culminating in the SEF, which gives interested parties the final opportunity to consider the proposed findings and to make submissions before any final report is issued. This is what happened in this case. Transparency and accountability at various stages of the investigation is embedded in Part XVB of the Act. The investigation process was just over 12 months in duration and was extensive.

185. I accept the submission of the Commission that ANTO's contention that further unidentified errors may exist, is speculative and without foundation. Three errors in the calculation of constructed normal value, which were identified and corrected by the Commission in REP 659, does not establish that the reviewable decision was not the correct or preferable decision.

186. I am therefore not satisfied that the calculations of constructed normal value in REP 659 are incorrect. It follows that the Minister's reviewable decision which was made on the basis of REP 659 is correct. ANTO does not make submissions or contend that there is an alternative preferable decision.

Conclusion

187. This ground of review fails for the foregoing reasons.

Recommendation

188. Pursuant to s 269ZZK(1) of the Act and for the reasons given above, I consider that the Reviewable Decision was the correct or preferable decision.

189. For the reasons set out in this report, I recommend that the Minister pursuant to s 269ZZM(1)(a) of the Act affirm the Reviewable Decision.

Jan Redfern PSM

Jan Redfern PSM
Panel Member
Anti-Dumping Review Panel
19 October 2026

Appendix A: Conferences

Date of conference	Participants	Purpose of conference
7 August 2026	Commission and ANTO	To obtain further information from the Commission about its methodology and the calculation of profit and constructed normal value for each of the cooperative exporters and to ANTO clarify its grounds having regard to this information
2 October 2026	ANTO	To obtain information about ANTO's response to the Commission's contention about the reviewable grounds