

STAUGHTONS

Independent trade advisory group on anti-dumping & customs issue solutions

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PUBLIC RECORD VERSION

February 26, 2013

Mr John Bracic
Director, OPS 1
International Trade Remedies Branch
Australian Customs & Border Protection
Canberra ACT 2601

CC: Ms Lydia Cooke

Dear Mr Bracic

Re: ACDN NO. 2013/07
CERTAIN HOLLOW SECTIONS
REINVESTIGATION

I am writing on behalf of the Malaysian Exporter “Alpine” being in relation to the abovementioned re-investigation and on the basis that the following claims be taken into consideration by the re-investigation team on “Alpine’s” export price and dumping margin.

DETAILS

Case	ACDN No 2013/07 Investigation No. 177
Goods	Certain HSS exports by Alpine Pipe Manufacturing SDN BHD (Alpine)
Company	Alpine – as above
Person	M J Howard Representative for Alpine
Contact Details	jack@itada.com.au ph: 0459 212 702
Role	Alpine was an exporter of the subject goods and was investigated pursuant to Investigation No. 177.
Introduction	The TMRO Report contained references to Alpine, inter alia, at <i>paras 170 to 178</i> , being “Review of Export Prices”.

PUBLIC RECORD VERSION

Minister's Direction	The calculation of Alpine's Export Price, and, if necessary the Dumping Margin, is one of the findings that the CEO has been directed to reinvestigate – refer (3) of ACDN 2013/07.
Claims	Essential basis for seeking reinvestigation of Alpine's Export Price, and thus, the resultant Dumping Margin, is our claim that Customs should have had regard to the information provided and available on the "actual vs theoretical" weight factor.
Reference	Para 6.9 of Report No. 177 refers to Alpine and Alpine Submissions.
Visit Report	<p>Para 3.6 of the Alpine Visit Report outlines the issue and the treatment accorded by Customs during the Verification process.</p> <p>Para 3.6 did conclude with the following Statement: - "We therefore consider that these documents do provide conclusive evidence of the quantum difference between the actual HRC input and theoretical weight of finished goods. In the absence of confidence of this differential we consider that there is not sufficient justification to take into account this matter when comparing costs to prices for domestic profitability tests".</p>
Claim	<p>We claim that, given the previously established and current acceptance of this practice by Australian and other overseas producers;-</p> <ul style="list-style-type: none">• The information was not new;• The information was available;• The Case Management Team must have been aware of this industry practice;• The failure to have regard to Alpine's information is considered to have been unwarranted and a denial of procedural fairness resulting in a Dumping Duty Margin of 3%.
Customs Acceptance	<p>This industry practice which is publicly available via the relevant Australian Standard AS1163 and company brochures, was accepted by Customs in this Investigation No. 177 for the following: -</p> <ol style="list-style-type: none">1. The Applicant, Onesteel ATM Ref: Paras 5.7.3; 6.3.1 of relevant Visit Report2. Saha Thai Steel Pipe Co Ref: Para 3.5 Visit Report

PUBLIC RECORD VERSION

3. **Pacific pipe Public Co Ltd**
Ref: Para 5.1, Visit Report
4. **Hengshui Jinghua Steel Pipe Co Ltd**
Ref: Paras 5.5; 8.1, Visit Report
5. **Huludao City Steel Pipe Industrial Co**
Ref: Paras 6.4; 10.3, Visit Report
6. **Kukje Steel Co Ltd**
Ref: Para 5.1, Visit Report

Alpine

Submission No. 1

Alpine submits the following:

- Actual and theoretical weights for production compared to sales were verified by the Customs Verification Team as per **para 3.6** of Alpines Exporter Visit Report.

No. 2

- Abnormal instances of production Tonnes (actual) exceeding calculated theoretical Tonnes from a particular production line on a particular day does not render the information unreliable.

No. 3

Operational factors can, and do, result in over-rollings

- The Verification Team on Alpine actually verified that sales are based on theoretical Tonnes and that production Tonnes were actual.

No. 4

- Should Customs maintain that the Alpine data (albeit of a limited sampling exercise) cannot be taken into consideration for calculation and adjustment purposes, then we respectfully submit that the other verified data of other producers (including the sole applicant), being in relation to this recognised and clearly accepted tolerance benefit, be utilised in providing Alpine with its entitled and acknowledged adjustment.

No. 5

- Whilst Alpine offered the information we submit that Customs should have had regard to this and if further substantiation was considered necessary, Alpine would have willingly provided it.

We further submit that according to the WTO Agreement the Verification process is meant to be an opportunity to provide this information.

PUBLIC RECORD VERSION

The fact that it may have been offered late is not, in our opinion, a valid reason for rejecting a known and established adjustment factor.

No. 6

- Given the calculated Dumping Margin is 3%, the fact that the Customs Verification of the information, provided by Alpine was assessed at being in the range of [REDACTED]% to [REDACTED]% demonstrates the significance of this adjustment factor.

Conclusion

Alpine supports the TMRO's findings and recommendation that its Export Price and Dumping Margin be reinvestigated.

Other Matters

Relevant date of Export Price and foreign currency conversion.

Alpine supports reinvestigation recommendation into foreign currency conversion in relation to calculation of export prices and suggest the following:-

- i) s 269 TAF (1) should apply for determining the appropriate **daily** exchange rate of USD export sales to Australia rather than the Alpine accounting standard required rate from US\$ to MYR for Normal Value comparisons; and,
- ii) that appropriate **daily** exchange rate of export sales to Australia, for establishment of Ascertained Export Price (AEP) has been used, as AEP in this case has been expressed in AUD, rather than "denominated in the currency export sales are usually made" (ACBPS Dumping and Subsidy Manual, August 2012, paragraph 27.3, page 144).

Summary

Alpine supports the following TMRO recommendations relating to a reinvestigation of Alpines export data, namely: -

- (a) "The calculation of the export price, and, if necessary the dumping margin for Alpine and all other relevant exporters such as those from whom Stemcor imports HSS".
- (b) Relevant date of export price and foreign currency conversion, (paragraphs 172 to 183), specifically:-

***Para 179**, I recommend that the Minister direct the CEO of Customs to reinvestigate the methods of the calculation of the export prices for Alpine and all other affected exporters such as those from whom Stemcor imports HSS in line with the above conclusion.

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(c) Actual weight and theoretical weight, (paragraphs 184 to 189) specifically:-

***Para 189**, For the above reasons, I recommend that the minister direct the CEO of Customs to reinvestigate the dumping margin for Alpine, taking account of any necessary adjustments to be made as between export price and normal value”.

***TMRO Report**

Confidential Attachment

We offer the attached confidential suggestion on how any adjustment for actual production volumes compared to theoretical sales volumes would be calculated in existing ACBPS prepared spreadsheets at **confidential Appendix 1.5**.

Please contact the writer for any clarification relating to this Submission.



M J Howard