



ADRP Conference Summary

2017/61 Certain Aluminium Extrusions Exported from Malaysia and the Socialist Republic of Vietnam and Certain Aluminium Extrusions Exported from Malaysia

Panel Member	Leora Blumberg
Date	27 February 2018
Participants	Leora Blumberg (Reviewing Member), Matthew Williams (ADC Representative), Gavin Crooks (ADC Representative)
Time opened	1:00 pm AEDT
Time closed	2:06 pm AEDT

Purpose

The purpose of this conference was to obtain further information in relation to the review before the Anti-Dumping Review Panel (ADRP) in relation to Certain Aluminium Extrusions exported from Malaysia and the Socialist Republic of Vietnam and Certain Aluminium Extrusions exported from Malaysia.

In the course of this conference, I may have asked the ADC to clarify an argument, calculation or specific detail contained in Report No. 362 (REP 362), related document or a submission. The conference was not a formal hearing of the review, and was not an opportunity for parties to argue their case before me.

I have only had regard to information provided at this conference as it relates to relevant information (within the meaning of section 269ZZK(6) of the *Customs Act 1901*). Any conclusions reached at this conference are based on that relevant information. Information that relates to some new argument not previously put in an application or submission is not something that the ADRP has regard to, and is therefore not reflected in this conference summary.

Discussion

The specific information that the ADRP sought in this conference related to the grounds of review of Global Vietnam Aluminium Company Limited (GVA), more specifically, in regard to GVA's claim for an adjustment relating to difference in duties payable on imported machinery, equipment and raw materials used in the production of domestic products.



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1. The Reviewing Member (RM) requested clarification on two related issues:

- i) Other Downwards Adjustments to the normal values of East Asia Aluminium Company Ltd (EAA) and Mien Hua Precision Mechanical Co., Ltd (Mien Hua)

The RM referred to the list of adjustments in REP 362 for EAA, Mien Hua and GVA, noting that there were only two adjustments (upwards) for GVA, while EAA and Mien Hua had longer lists of adjustments, including downwards adjustments to the normal value, for example, both EAA and Mien Hua had a downward adjustment for inland transport. The RM sought clarification as to why GVA shouldn't benefit from such an adjustment, since its normal value was determined using the domestic sales of EAA and Mien Hua.

The ADC Representative(s) AR clarified that although not specifically listed as an adjustment in relation to GVA, as explained on page 50 of REP 362, the normal value for GVA was calculated by using ex-works (that is, not including inland transport) selling prices of the other sellers and adding GVA's export related adjustments. In effect, therefore, GVA benefited from the same downwards adjustments as the other sellers.

- ii) The RM sought further clarification of the ADC's broad statement in REP 362 that GVA was not the lowest cost producer, particularly in comparison to EAA and Mien Hua.

The AR confirmed this statement as being correct but did not have access to the cost figures during the Conference to provide the comparison with EAA and Mien Hua. The AR undertook to subsequently provide the information.¹

2. The RM expressed concern at the ADC's clarification during the First Conference of the reasons for rejection of GVA's claim for adjustment for difference in taxation and duties on inputs used in the manufacture of the goods (that is, the ADC's explanation that it related to GVA's claim of an alleged lower cost base, which was not found to be correct since GVA was not observed to be the lowest cost producer). The RM stated that she considered this explanation to be reasonable only for GVA's claim relating to differences in import duties on

¹ The ADC subsequently provided the RM with three tables showing the Cost to Make and Sell (CTMS) reported for each of GVA, EAA and Mien Hua and indicated that the cost base comparison referred to in REP 362 at Section 5.13.4 on page 52 is a reference to the data shown in these tables. The data confirmed that for the mill finish model, which represents [REDACTED] GVA was not the lowest cost producer, notwithstanding [REDACTED]. To clarify the statement in REP 362, and as shown by the data, the ADC pointed out that GVA [REDACTED].



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machinery and equipment, but not regarding the part of the claim relating to differences in taxation or import duties on inputs used in the manufacture of the goods. The RM pointed out that an adjustment for differences in taxation was specifically provided for in s.269TAC(8) and in the Manual, and that GVA's claim in this regard was different to the claim under GVA's first ground of review relating to cost structure. The RM pointed out that while exporters claiming adjustments are required to provide evidence in support of and to quantify their claim, there is also an affirmative information-gathering burden on the investigating authority to ensure a fair comparison. This was particularly significant in this case since GVA did not have access to EAA and Mien Hua's relevant confidential data.

The AR firstly confirmed that there was no issue arising with regard to VAT on aluminium (being the main raw material and accounting for a large proportion of the cost to manufacture the product). It was pointed out that while GVA [REDACTED] VAT, the local producers either [REDACTED] VAT or [REDACTED] VAT, so ultimately there was no difference in VAT that warranted an adjustment.

The RM specifically requested clarification in relation to any customs duty exemptions or rebates on aluminium or other inputs (other than VAT), that is, firstly whether the amounts exempted or rebated were quantifiable from GVA's data and secondly whether the ADC could confirm if EAA and Mien Hua paid such duties in respect of the goods manufactured for sale on the domestic market. The AR did not have the information on hand but undertook to provide the information after the conference.²

² The AR subsequently provided the following information:

- i. GVA - Verification of source documents in relation to all importations of aluminium materials confirmed GVA [REDACTED] import duty on aluminium;
- ii. Mien Hua - With reference to Mien Hua's Verification Report, the ADC concluded at section 9.1 that Mien Hua had imported ingot and billets "*from countries where a treaty was in force and the import duty was zero*". This was verified against Government of Vietnam Customs information. The ADC was satisfied that Mien Hua was [REDACTED] pay import duty on any of its aluminium materials purchased during the investigation period.
- iii. EEA - The ADC provided details of all EEA's aluminium purchases, which had been verified, and determined that it [REDACTED] paid the equivalent of [REDACTED] import duty on the total value of all its importations of aluminium materials during the investigation period.