



Application for review of a Ministerial decision

Customs Act 1901 s 269ZZE

This is the approved¹ form for applications made to the Anti-Dumping Review Panel (ADRP) on or after 2 March 2016 for a review of a reviewable decision of the Minister (or his or her Parliamentary Secretary).

Any interested party² may lodge an application for review to the ADRP of a review of a ministerial decision.

All sections of the application form must be completed unless otherwise expressly stated in this form.

Time

Applications must be made within 30 days after public notice of the reviewable decision is first published.

Conferences

You or your representative may be asked to attend a conference with the Panel Member appointed to consider your application before the Panel gives public notice of its intention to conduct a review. Failure to attend this conference without reasonable excuse may lead to your application being rejected. The Panel may also call a conference after public notice of an intention to conduct a review is given on the ADRP website. Conferences are held between 10.00am and 4.00pm (AEST) on Tuesdays or Thursdays. You will be given five (5) business days' notice of the conference date and time. See the ADRP website for more information.

¹ By the Acting Senior Member of the Anti-Dumping Review Panel under section 269ZY *Customs Act 1901*.

² As defined in section 269ZX *Customs Act 1901*.

Further application information

You or your representative may be asked by the Panel Member to provide further information to the Panel Member in relation to your answers provided to questions 10, 11 and/or 12 of this application form (s269ZZG(1)). See the ADRP website for more information.

Withdrawal

You may withdraw your application at any time, by following the withdrawal process set out on the ADRP website.

If you have any questions about what is required in an application refer to the ADRP website. You can also call the ADRP Secretariat on (02) 6276 1781 or email adrp@industry.gov.au.

PART A: APPLICANT INFORMATION

1. Applicant's details

Applicant's name: ***Croft Steel Traders Pty Ltd***

Address: ***Unit 1, 4 Commercial Drive, Ashmore QLD 4214***

Type of entity (trade union, corporation, government etc.): ***Corporation***

2. Contact person for applicant

Full name: ***Steven Croft***

Position: ***Managing Director***

Email address: ***steven@croftsteel.com.au***

Telephone number: ***07 5532 4271***

3. Set out the basis on which the applicant considers it is an interested party

Croft Steel Traders Pty Ltd were the applicant who applied to the Anti-Dumping Commission (ADC) that led to the reviewable decision.

4. Is the applicant represented?

Yes ✓ No

If the application is being submitted by someone other than the applicant, please complete the attached representative's authority section at the end of this form.

****It is the applicant's responsibility to notify the ADRP Secretariat if the nominated representative changes or if the applicant become self-represented during a review.****

PART B: REVIEWABLE DECISION TO WHICH THIS APPLICATION RELATES

5. Indicate the section(s) of the *Customs Act 1901* the reviewable decision was made under:

☐ Subsection 269TG(1) or (2) – decision of the Minister to publish a dumping duty notice

☐ Subsection 269TH(1) or (2) – decision of the Minister to publish a third country dumping duty notice

☐ Subsection 269TJ(1) or (2) – decision of the Minister to publish a countervailing duty notice

☐ Subsection 269TK(1) or (2) decision of the Minister to publish a third country countervailing duty notice

☐ Subsection 269TL(1) – decision of the Minister not to publish duty notice

☒ Subsection 269ZDB(1) – decision of the Minister following a review of anti-dumping measures

☐ Subsection 269ZDBH(1) – decision of the Minister following an anti-circumvention enquiry

☐ Subsection 269ZHG(1) – decision of the Minister in relation to the continuation of anti-dumping measures

6. Provide a full description of the goods which were the subject of the reviewable decision

Certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes. The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections). Finish types for the goods include in-line galvanised (ILG), pre-galvanised or hot-dipped galvanised (HDG) and non-galvanised HSS.

7. Provide the tariff classifications/statistical codes of the imported goods

The goods are currently classified to the following tariff subheading of Schedule 3 to the Customs Tariff Act 1995:

- *7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37)*
- *7306.61.00 (statistical codes 21, 22 and 25)*
- *7306.61.00 (statistical code 90)*
- *7306.69.00 (statistical code 10)*
- *7306.50.00 (statistical code 45)*
- *7306.69.00 (statistical code 10).*

8. Provide the Anti-Dumping Notice (ADN) number of the reviewable decision

If your application relates to only part of a decision made in an ADN, this must be made clear in Part C of this form.

2017/70

9. Provide the date the notice of the reviewable decision was published

26 June 2017

****Attach a copy of the notice of the reviewable decision (as published on the Anti-Dumping Commission's website) to the application****

PART C: GROUNDS FOR THE APPLICATION

If this application contains confidential or commercially sensitive information, the applicant must provide a non-confidential version of the grounds that contains sufficient detail to give other interested parties a clear and reasonable understanding of the information being put forward.

Confidential or commercially sensitive information must be marked '**CONFIDENTIAL**' (bold, capitals, red font) at the top of each page. Non-confidential versions should be marked '**NON-CONFIDENTIAL**' (bold, capitals, black font) at the top of each page.

For lengthy submissions, responses to this part may be provided in a separate document attached to the application. Please check this box if you have done so: ☒

10. Set out the grounds on which the applicant believes that the reviewable decision is not the correct or preferable decision.

a. Due Allowance

- i. *The applicant considers ADC have not provided due allowance for fair comparison in relation to model matching due to physical characteristics and quality as intended by sections 269TAC(8) and 269TAC (9) and as per their Dumping and Subsidy Manual.*
- ii. *Final Report No 381 (page 12-13), refers to submission made on behalf of Alpine Manufacturing SBD BHD Company (Alpine) to the Statement of Essential Facts which states the following:-*
 1. *"After conducting further analysis, the Commission did not find any discernible trend to support a further dividing of the thickness ranges. Alpine also did not provide any evidence attached to its submission on this point. (See Confidential Attachment 1.1)"*
- iii. *When Confidential Attachment 1.1 was provided subsequent to the final report and decision, it is noted the wrong level of trade was used to perform comparison i.e. "END USER" rather than "HARDWARE/TRADING".*
- iv. *Alpine maintains that model matching criteria in three previous investigations should be adopted for consistency and fair comparison.*

b. Suitability of Sales

- i. *The ADC has determined there were sufficient sales of AS/NZS 1163 in Alpine's domestic market for only 2 of the 6 models of ADC selected range.*
- ii. *Although domestic sales of AS/NZS 1163 goods exceeded 5% of Australian export sales, of the 4 with insufficient, 3 models has zero sales and one model had less than 1%.*
- iii. *Of the two models with sufficient sales, 1 was 4 sales of a total of 1.65 tonnes, with export tonnes being 7.57 tonnes.*

- v. *The balance of models are based on the remaining one model with timing, painting and grade adjustment. This one model does not have domestic sales in all quarters of the investigation period which distorts fair comparison.*
- vi. *The following is a summary of sales for each quarter:-*
 1. *Quarter 2015-3 Nil % of total sales*
 2. *Quarter 2015-4 2.6 % of total sales*
 3. *Quarter 2016-1 2.9 % of total sales*
 4. *Quarter 2016-2 94.5 % of total sales*
- vii. *In addition, of the 2.6% of total sales in quarter 2015-4, one sale representing 77.0% of the 2.6% of total sales, is 17.98% higher than any other sale in the ADC model group, which was in quarter 2016-2 and 44.06% higher than the 3rd highest sale in the ADC model group which was also made in quarter 2016-2.*
- viii. *All base normal values (before adjustments) for quarter 2015-3 and 2015-4, have been based on quarter 2015-4, only representing 2.6% with the highest sale value for the investigation period.*
- ix. *This compares to the following summary of export sales for each quarter:-*
 1. *Quarter 2015-3 34.5 % of total sales*
 2. *Quarter 2015-4 24.3 % of total sales*
 3. *Quarter 2016-1 18.8 % of total sales*
 4. *Quarter 2016-2 22.4% of total sales*
- x. *Based on the above it is submitted that the ADC assessment of model groups does not conform with section 269TAC(14) , together with ADC Dumping and Subsidy Manual extract as follows (from pages 33-34):-*
 1. *In assessing whether there are sufficient sales made in the ordinary course, the following tests are performed:*
 - *calculate whether the aggregate volume of all domestic ordinary course of trade sales of the like goods is 5% or more of the overall export sales volume to Australia from that country; and*
 - *if the aggregate volume is greater than 5%, the test is applied individually for each model or type of like goods.*

c. Summary

- i. *ADC model selection criteria, does not provide fair comparison for due allowance.*
- ii. *ADC model selection criteria distorts suitability of sales for normal value.*

11. Identify what, in the applicant's opinion, the correct or preferable decision (or decisions) ought to be, resulting from the grounds raised in response to question 10.

- a. **Refer attached submissions to SEF, both Confidential and Non-Confidential versions of submission on behalf of Alpine in relation to SEF, specifically sections on Model Matching and Suitability of Sales.**

- b. On page 13 of the ADC Report No 381, they state:-
 - i. “As described in the SEF the Commission found sufficient volumes of models that were of identical standard to Alpine’s export sales, (BS EN 10219 is not an identical model) which were sold in the ordinary course of trade. The sales of these models were used for the purpose of determining normal value.”
- c. However, in dumping calculations they identify BS EN 10219 as comparable to AS/NZS 1163.

12. Set out the reasons why the proposed decision provided in response to question 11 is materially different from the reviewable decision.

- a. *Adopting a more accurate model matching criteria, to also adopt those of three previous investigations, will provide a more accurate dumping margin.*

Do not answer question 12 if this application is in relation to a reviewable decision made under subsection 269TL(1) of the Customs Act 1901.

PART D: DECLARATION

The applicant/the applicant's authorised representative *[delete inapplicable]* declares that:

- The applicant understands that the Panel may hold conferences in relation to this application, either before or during the conduct of a review. The applicant understands that if the Panel decides to hold a conference *before* it gives public notice of its intention to conduct a review, and the applicant (or the applicant's representative) does not attend the conference without reasonable excuse, this application may be rejected;
- The information and documents provided in this application are true and correct. The applicant understands that providing false or misleading information or documents to the ADRP is an offence under the *Customs Act 1901* and *Criminal Code Act 1995*.

Signature:.....



Name: **Steven Croft**

Position: **Managing Director**

Organisation: **Croft Steel Traders Pty Ltd**

Date: **26/07/2017**

PART E: AUTHORISED REPRESENTATIVE

This section must only be completed if you answered yes to question 4.

Provide details of the applicant's authorised representative

Full name of representative: **Troy Morrow**

Organisation: **Mobile Business Consultants**

Address: **46 Chisholm Road, Carrara QLD 4211**

Email address: **troy@lentro.com.au**

Telephone number: **0419 782205**

Representative's authority to act

****A separate letter of authority may be attached in lieu of the applicant signing this section****

The person named above is authorised to act as the applicant's representative in relation to this application and any review that may be conducted as a result of this application.

Signature:..........

(Applicant's authorised officer)

Name: **Steven Croft**

Position: **Managing Director**

Organisation: **Croft Steel Traders Pty Ltd**

Date: **26/07/2017**



ANTI-DUMPING NOTICE NO. 2017/71

HOLLOW STRUCTURAL SECTIONS

Exported to Australia from Malaysia

by Alpine Manufacturing SND BHD Company

Findings in Relation to a Review of Anti-Dumping Measures

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

The Commissioner of the Anti-Dumping Commission has completed a review, which commenced on 31 October 2016, of the anti-dumping measures applying to certain hollow structural sections ('HSS or 'the goods') exported to Australia from Malaysia. The review examined whether the variable factors relevant to the taking of the anti-dumping measures as they affect Alpine Manufacturing SND BHD Company (Alpine) have changed.

Recommendations resulting from that review, reasons for the recommendations and material findings of fact and law in relation to the review are contained in *Anti-Dumping Commission Report No. 381* (REP 381).

I, CRAIG LAUNDY, the Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science¹ have considered REP 381 and have decided to accept the recommendations and reasons for the recommendations, including all the material findings of facts or law set out in REP 381.

Under subsection 269ZDB(1)(a)(iii) of the *Customs Act 1901* (the Act), I declare, for the purposes of the Act and the *Customs Tariff (Anti-Dumping) Act 1975*, that, with effect from the date of publication of this notice, the dumping duty notice currently applying to the goods exported to Australia from Malaysia by Alpine is to be taken to have effect as if different variable factors (being the export price, normal value and non-injurious price) had been fixed in respect of Alpine, relevant to the determination of duty.

The duty that has been determined is an amount worked out in accordance with the combination duty method, as outlined in the table below.²

Exporter	Dumping margin	Duty calculation method
Alpine Manufacturing SND BHD Company	53.1%	Combination duty method

¹ On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of this decision the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

² s.5(2) *Customs Tariff (Anti-Dumping) Regulation 2013*

Affected parties should contact the Anti-Dumping Commission (the Commission) on 13 28 46 or +61 2 6213 6000 or email to clientsupport@adcommission.gov.au for further information regarding the actual duty liability calculation in their particular circumstance.

To preserve confidentiality, details of the revised variable factors will not be published.

Interested parties may seek a review of this decision by lodging an application with the Anti-Dumping Review Panel (www.adreviewpanel.gov.au) in accordance with the requirements in Division 9 of Part XVB of the Act, within 30 days of the publication of this notice.

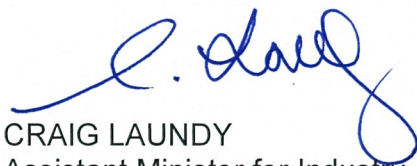
The Anti-Dumping Review Panel can be contacted by mail, phone, fax or email:

Anti-Dumping Review Panel
c/o Legal, Audit and Assurance Branch
Department of Industry, Innovation and Science
10 Binara Street
CANBERRA CITY ACT 2601
AUSTRALIA
Phone: +61 2 6276 1781
Fax: +61 2 6213 6821
Email: ADRP@industry.gov.au

REP 381 has been placed on the Commission's public record. The public record may be examined at www.adcommission.gov.au. Alternatively, the public record may be examined at the Commission's office during business hours via the details provided below.

Enquiries about this notice may be directed to the case manager on telephone number +61 3 8539 2443, fax number +61 3 8539 2499 or email at operations2@adcommission.gov.au.

Dated this 22nd day of June 2017



CRAIG LAUNDY
Assistant Minister for Industry, Innovation and Science
Parliamentary Secretary to the Minister for Industry, Innovation and Science

1 May 2017

NON-CONFIDENTIAL

The Commissioner of the Anti-Dumping Commission
55 Collins Street
Melbourne VIC 3000

By E-mail: operations2@adcommission.gov.au

Dear Commissioner

STATEMENT OF ESSENTIAL FACTS NO. 379

INQUIRY CONCERNING THE CONTINUATION OF ANTI-DUMPING AND COUNTERVAILING MEASURES APPLYING TO HOLLOW STRUCTURAL SECTIONS EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA, REPUBLIC OF KOREA, MALAYSIA AND TAIWAN

1. We make this submission to the above Statement of Essential Facts (SEF) on behalf of Alpine Pipe Manufacturing Sdn Bhd (Alpine).

Alpine Visit Report

2. The timeframe for Alpine to check the draft Visit Report and calculations for accuracy and confidentiality was inadequate.
3. Alpine were provided the draft report and calculation spreadsheets (in compressed ZIP files) on the evening of 6 April 2017 and provided two business days to reply before the SEF was due to be published on 11 April 2017.
4. The compressed ZIP files were incorrectly created and could not be uncompressed and were unable to be opened. Alternative spreadsheet file for download was finally made available late on Sunday evening of 9 April 2017, allowing 1 business day prior to publication of SEF.
5. Alpine consider this timeframe unreasonable and disappointing, considering the verification visit was completed 74 days prior and Alpine was informed at conclusion of verification visit the draft report and calculations would be available within 21 days.

Model Matching

6. Alpine consider the model matching criteria selected by the verification team is too broad and does not take into account true commercial price breaks for proper comparison.



- a. Paragraph 2.3 on page 4 of Visit Report states the following:-

For the purpose of model matching, the verification team used the following criteria and hierarchy:

- *Standard (AS/NZS 1163)*
- *Grade (C350 or C450)*
- *Finish (black or painted)*
- *Shape (CHS or RHS)*
- *Size (CHS diameter $\leq 48.3\text{mm}$ or $> 48.3\text{mm}$; RHS width $< 65\text{mm}$ or $\geq 65\text{mm}$)*
- *Thickness ($\leq 2\text{mm}$ or $> 2\text{mm}$)*

Based on this criteria, Alpine's export sales of the goods to Australia have been categorised into six model groups.

7. In three previous investigations (in addition to how Alpine submitted their verification information) the commission adopted an expanded thickness range for fair comparison of the following:-
- Less than 2.00mm;
 - 2.00mm to 3.99mm;
 - 4.00mm to 8.99mm; and
 - 9.00mm and greater.
8. For the verification team to create a new model matching criteria without consultation and discussion with Alpine, we believe is very unreasonable and the resulting outcome creates an incorrect dumping outcome.
9. Alpine further submit that in addition to the above thickness price variance, premiums are charged for larger RHS/SHS being:-
- XXX x XXX; **[Redacted confidential commercial price information]**
 - XXX x XXX;
 - XXX x XXX;
 - XXX x XXX; and
 - XXX x XXX.

Suitability of Sales

10. Paragraph 5.6 on page 11 of Visit Report states two of the six models using the model matching criteria, established by the verification team, were sold in sufficient volumes for fair comparison. As stated above, Alpine consider the model matching criteria inaccurate and unreasonable, providing a detrimental outcome as the calculation of adjustments between sufficient sales and insufficient sales are incorrect, and provide an unreasonable outcome.



11. In addition, the 4 models where there are insufficient sales make up 72% of Australian export sales, which by any measure, cannot be considered an adequate sample.

AS/NZS 1163 Sales

12. The verification team used domestic sales of AS/NZS 1163 sales only for calculation of normal value. Alpine submit this is too limited a sample group, due to the following:-
- AS/NZS 1163 sales are generally sold from ex-stock from export production overruns.
 - These are sales where domestic customers require goods urgently from stock and are willing to pay a premium. These are generally also sold in small volumes due to the urgency, further distorting price comparison.
 - Alpine manufactures goods to meet minimum requirements of multiple specifications/standards for production efficiency, stock holding and selling options.
 - Alpine submitted to the verification team, and maintain subsequent to SEF, that sales of BS EN 10219 specified goods should be included for accurate and reasonable calculation of normal value, as these goods are manufactured to the minimum specifications of both AS/NZS 1163 and BS EN 10219.
 - This will provide a greater volume of sufficient sales for fair and accurate comparison.
13. In addition, as demonstrated to the verification team, one sale of AS/NZS 1163 in the Malaysia was mistakenly overcharged by Alpine, which will require refund to customer, and this overcharged sale further perverts the use of only AS/NZS 1163 sales due to the small volume of these sales.

Likelihood of Material Injury Continuing

14. As the Commission is aware both Australian Tube Mills Pty Ltd (subject to Deed of Company Arrangement) (ATM) and Orrcon Pty Ltd (Orrcon) either directly or through associated entities, import significant quantities of the goods under consideration, which they can't or don't manufacture.
15. These primarily consist of Hot Dipped Galvanised Pipe (GDGP) and larger Hollow Sections.
16. ATM in the past have claimed that pre-galvanised goods are substitutable or out-sourced galvanising is a competitive alternative. If so, why do both ATM and Orrcon or associates continue to import large volumes of HDPG?
17. Similarly, with large Hollow Sections, ATM in the past, have claimed two smaller lengths can be joined to substitute larger hollow sections. Again, if this the case, why do both ATM and Orrcon or associates continue to import large volumes of large hollow sections.
18. Has the Commission quantified the volume of these imports by the applicants and their impact?



Conclusion

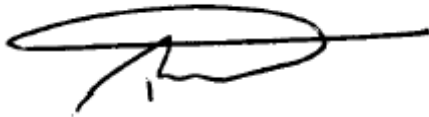
19. Alpine submit that dumping margins should be recalculated taking into account the following:-

- a. More detailed model matching, including thickness ranges as previously applied, and larger RHS/SHS, for accurate and fair comparison;
- b. Domestic sales of BS EN 10219 specified product be included to provide a greater volume of sufficient sales to establish a more accurate normal value for fair comparison.

20. Alpine also submit the Commission investigate and verify the impact of ATM and Orrcon or associates own imports of like goods.

21. Should you require any additional information or assistance, please contact the writer.

Yours faithfully



Troy Morrow
Partner – Mobile Business Consultants
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