



ADRP Conference Summary

2018/80 Steel Reinforcing Bar Exported from Greece, the Republic of Indonesia, Spain (Nervacero S.A), Taiwan (Power Steel Co. Ltd) and the Kingdom of Thailand

Panel Member	Leora Blumberg
Date	24 April 2018
Participants	Leora Blumberg (Reviewing Member), Mr Charles Zhan (Moulis Legal)
Time opened	2:00 pm AEST
Time closed	2:35 pm AEST

Purpose

The purpose of this conference was to obtain further information from the representatives of Nervacero S.A. (Nervacero) in relation to the review before the Anti-Dumping Review Panel (ADRP) in relation to Steel Reinforcing Bar exported from Greece, the Republic of Indonesia, Spain, Taiwan and the Kingdom of Thailand.

In the course of this conference, the Reviewing Member (RM) may have asked Nervacero's representative (NR) to clarify an argument, calculation or specific detail contained in the application for review, REP 418, related document or submission. The conference was not a formal hearing of the review, and was not an opportunity for Nervacero to argue its case before the RM.

The RM has 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 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 Nervacera's fourth ground of review challenging the determination of the dumping margin and in particular sub-ground (a), relating to the determination of the 'date of sale'.

Sub-ground 4(a): Date of sale

The RM pointed out that the requested clarification did not relate to the substance of sub-ground 4(a) but rather with the requirement in s.269ZZE(2)(e) to set out the reasons why the proposed decision is materially different from the reviewable decision.



The RM requested clarification as to whether there was any document referred to in the application or incorporated by reference (such as the confidential version of Nervacera's submission on SEF 418) that could give an indication of how the dumping margin would be affected if this ground were to be accepted.¹

Firstly, NR pointed out that it was submitted in the application for review that, because there was an incorrect determination for the date of sale, it resulted in incorrect comparisons of normal value and export prices, with the comparisons being different because the 'date of sale' system is very different if based on order confirmation date, rather than the commercial invoice date.

NR referred to a confidential spreadsheet which the ADC had provided to Nervacero and which formed part of the Confidential Appendices to REP 418, which had all the normal value data (both relating to the order confirmation dates and commercial invoice dates). NR pointed out that using the order confirmation date would have resulted in a substantially different universe of domestic sales to be compared to the export sales, as a result of certain relevant sales being included in the "universe" of normal values, that were excluded from the period of investigation, based on the ADC's determination of 'date of sale' for domestic sales. It was pointed out that universe of export sales did not change because that export sales 'universe' is determined by physical exportation. However, a different 'date of sale' for export sales would result in different comparisons with normal value.

NR pointed out that the applicant's proposed position is that the 'date of sale' should be when the terms of the contract were established, as matter of law, and it results in a comparison between normal value and export price that is very different to the comparison in REP 418. It was pointed out that based on the data in the spreadsheet referred to, the proposed decision would have amounted to a ■■■% reduction in the dumping margin.

In response to a clarification request, NR advised that there was no reference to the relevant spreadsheet in the application for review, since the information was available to the ADC.

The RM requested clarification as to whether the additional information (arising out of the proposed expanded 'universe' of domestic sales) had been verified. NR confirmed that it was provided to the ADC during the verification and the ADC had not at any pointed indicated that Nervacero failed to cooperate.

NR expressed the view that the relevant statement in the application met the requirements of s.269ZZE(2)(e) of the Act. NR also pointed out that the ADRP could request further information

¹ The RM pointed out that the Review Panel only has access to the confidential information from the ADC, once the review is initiated.



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pursuant to s.269ZZG(1). The RM advised that if further information was required, Nervacero would receive the appropriate notice.