



ADRP Conference Summary

2018/82 Steel Rod in Coils Exported from the Republic of Indonesia, the Republic of Korea and the Socialist Republic of Vietnam - Review of Termination Decision

Panel Member	Jaclyne Fisher (Panel Member)
Review type	Review of Commissioner's decision
Date	22 June 2018
Participants	Rhys Piper and Bora Akdeniz - Anti-Dumping Commission (ADC)
Time opened	11.00 AEST
Time closed	12.40 AEST

Purpose

The purpose of the conference is to obtain further information in relation to the application before the Anti-Dumping Review Panel (Review Panel) in relation to steel rod in coils (RIC) exported from the Republic of Indonesia, the Republic of Korea and the Socialist Republic of Vietnam for a review of the termination decision (reviewable decision).

The conference is held pursuant to s.269ZZRA of the *Customs Act 1901* (the Act) as it is a review of a Commissioner's decision.

In the course of the conference, I may ask parties to clarify an argument, claim or specific detail contained in the OneSteel application or in relation to the findings in TER 416. The conference is not a formal hearing of the review, and is not an opportunity for the ADC to argue its 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 Act). Any conclusions reached at this conference are based on that relevant information. Information that relates to some new argument not previously put in the application is not something that the Review Panel has regard to, and is therefore not reflected in this conference summary.

Discussion

The specific information that the Review Panel sought in this conference was:



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1. The ADC, on page 42 of TER 416, indicates that 'it did not agree with OneSteel's contention that the domestic prices of RIC are lower than they would otherwise have been as a result'. Could the ADC outline the particular evidence used in its analysis in making this statement?

The ADC advised that it relied on two pieces of evidence in making this statement in its report. Firstly, the degree of import penetration in the Vietnamese market (Confidential imports statistics) [REDACTED]

[REDACTED] led the ADC to form the view that prices were market driven (and impacted by prices of imports) rather than cost driven.

Secondly, when the 'uplifted' electricity costs (confidential attachment 6 of TER 416 contains these calculations) were used in undertaking the ordinary course of trade test, sales by Hoa Phat remained profitable, albeit at a lower level than when the actual electricity costs were used. On this basis, the ADC did not think that prices in Vietnam were driven by the costs but rather market forces and that the electricity price of itself would not have necessarily changed the price of RIC in the domestic market.

2. OneSteel has suggested that the comparison of world prices should have been conducted at landed price into Vietnam given it appears to be a comparison of market prices, could the ADC provide its reasoning for undertaking this comparison at the FOB level as this is not outlined in TER 416?

The ADC advised that it was assessing whether the Vietnamese domestic prices were aligned to world RIC prices. While it acknowledged that it could be done on the basis of prices into the Vietnamese market (as proposed by OneSteel), in its view this added more variables/assumptions regarding freight costs etc to be calculated given the different comparative countries being assessed for which there was no reliable evidence. Whereas, undertaking the comparison based on the known Vietnamese domestic prices and inland freight costs a comparison could be made at a similar level, that is, FOB with the other countries/regions FOB prices. The ADC stated, and as referred to in TER 416, this is just one indicator of whether Vietnamese domestic prices were similar to other world prices. The ADC acknowledged that it was not possible to assess whether any of these comparative FOB prices were at 'dumped' prices.

3. In TER 416 section 6.7.3, the ADC states 'the dumping margin has been assessed by comparing the normal value to the corresponding weighted average normal value for the review period, in accordance with subsection 269TACB(2)(aa) and has been



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calculated at FOB terms'. Could the ADC clarify that it means the export price has been compared to the normal value?

The ADC acknowledged that this is an error and thought it had flagged this at the conference held on the 9 May 2018. The paragraph relating to the assessment of the dumping margins should reflect that it was a comparison of export prices with normal values and undertaken in accordance with section 269TACB(2(a) of the Act.

4. Could the ADC clarify its comments on page 56 regarding the normal values calculated for when there were gaps in domestic sales by Hoa Phat?

The ADC advised that for periods where there were no domestic sales in the ordinary course of trade by Hoa Phat, it used an index calculated from all sales during the period to make appropriate adjustments to domestic prices in other periods to ensure price comparability for timing differences.

5. The ADC commented in section 5.5 (p32) of TER 416 that it had undertaken analysis based on the confidential Government of Vietnam (GOV) submission regarding its alleged influence on upstream raw materials. The ADC indicated in its report that it had undertaken this analysis to establish whether there was a causal relationship between the government's intervention to the market at the upstream level and the corresponding end product prices. Later in section 5.5.2.4 (p.38) the ADC makes further comments on coke, coal etc import and export volumes and alignment with world prices and refers to information in Confidential Attachment 3? Could the ADC provide the references to the information on prices of the raw materials as these could not be located in Confidential Attachment 3?

*The ADC confirmed that Confidential Attachment 3 is a summary of the import and export volumes, as well as values, for the raw materials used in RIC manufacture and additional confidential information on pricing is in the GOV submission. It commented that the import and export volumes revealed there was a significant level of import penetration for raw materials in the Vietnam market. It considered this was impacting prices in the Vietnam market rather than the Government's policy on import and export tariffs. It noted there were no other GOV export or import related policies apparent other than the mentioned tariffs which is stated in TER 416. The ADC will provide the references, if any, of other confidential pricing information supplied by the GOV in its submission and not already shown in Confidential Attachment 3. **Subsequent to the conference, the ADC advised 'that it assessed the level of intervention by the GOV by evaluating the impact of export and import tariffs, quotas (if any), export restrictions (if any) and taxation policy. ...***



Similarly, in section 5.5.2.4, the ADC only refers to a comparison of RIC prices in Vietnam to other countries and regions. There is no other reference to any price analysis for upstream raw materials in TER 416. The unit prices of imported upstream raw materials were obtained from the GOV submission dated 20 October 2017 and are included in Confidential Attachment 3. ... The ADC observed that the level of imports increased in a way consistent to the increase of demand in Vietnam for steel products (including RIC). Comparing changes in volume of imports with the import and export tariff rates over the same period, the ADC concluded there was no correlation between import and export tariff rates and volume of imports of these raw materials.

6. The ADC outlined its price undercutting analysis (associated with causal link) on pages 69 - 70 of TER 416. It noted that it had changed its methodology, could the ADC clarify how it conducted the undercutting analysis and why it conducted this differently to its normal practice?

*The ADC advised that it would normally use all domestic selling prices of importers as a point of comparison with the Australian industry selling prices at the same level. In this case, there were certain circumstances which prevented this approach, namely, it did not have verified selling prices of all importers as its visits had been limited to three importers, namely CMC, Sanwa and Stemcor. While these importers represented the **majority of imports** (Confidential import information) [REDACTED], they did not necessarily provide coverage of all the subject countries found to be dumping. **The ADC provided the exact percentage of imports subsequent to the conference.** The ADC considered that it was appropriate to develop a complete view of the prices in the Australian market.*

*In terms of the process adopted, the ADC advised that it used the actual selling prices of OneSteel to unrelated parties throughout the investigation period. For all imports, it constructed a notional selling price based on the actual FOB price, plus actual freight and insurance costs (where available) or a calculated freight and insurance cost (based on weighted average actuals), plus calculated post exportation costs including profit (derived from verified importers' profits). The ADC to confirm the construction of these amounts in the spreadsheets. **Subsequent to the conference, the ADC advised that in confirming the construction of these amounts in the confidential spreadsheets it had identified some minor calculation errors. The ADC provided the corrected spreadsheets together with the revised graphs, subsequent to the conference. This correction had the effect of increasing the***



prices for imported products compared with the original information shown in TER 416 and lowering the amount of price undercutting in the relevant graphs.

The ADC considered this enabled the price undercutting comparison to be undertaken at the correct level. This is the basis of the information contained in Figure 127 of TER 416. Given OneSteel's criticism of this approach following it's submission to SEF 416, the ADC modified this analysis to allow an additional month for sales delivery in Australia. This modified information is shown in Figure 138 of TER 416 and also includes the 'undumped' prices of Vietnam and Ispat (Indonesia) prices. The Review Panel requested the ADC to provide Figure 138 adjusted to include the 'undumped' prices of Vietnam and Ispat and without the timing adjustment.

Subsequent to the conference, the ADC provided a modified Figure 138 as requested, which included the corrected calculations referred to in the earlier paragraph.

The ADC advised that it adopted its approach (in the original Figure 138) to align with its understanding of the method by which OneSteel sets its prices in the Australian market, the so called import parity price model (IPP). The ADC advised that OneSteel (Confidential OneSteel pricing information) [REDACTED]

[REDACTED]

The price undercutting analysis undertaken includes the actual prices achieved by OneSteel at particular periods, with the constructed selling prices of the imported product based on the actual FOB price (at time of exportation) plus other costs. However, these constructed selling prices are not actual selling prices and may reflect time lags inherent in the time between export and delivery. These time differences may not always be significant (given price changes or exchange rates), however it does provide an additional variable into the assessment of the degree of correlation between the prices in the undercutting analysis.



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As a result of undertaking the correction of the price undercutting analysis referred to above, the ADC also developed a graph using the actual selling prices of verified importers together with the OneSteel actual selling prices for price undercutting purposes. This graph was provided to the Review Panel subsequent to the conference.

7. Could the ADC outline the source of the information provided in Confidential Attachment 8 and who is the information confidential to?

The ADC advised that Confidential Attachment 8 has been developed from a range of sources. It contains OneSteel's actual selling prices (confidential) during the investigation period and the exporter's confidential information, some of which is provided by particular exporters, and other sources including the construction of prices as outlined in the earlier question (and this information is confidential to the various particular exporters and importers).

8. Can the ADC outline the source of the data contained in Confidential Attachment 9 - is this solely from OneSteel information or does it contain confidential information from the exporters and importers?

The ADC confirmed that the majority of information in Confidential Attachment 9 is confidential information provided by OneSteel. However, it has been modified by the ADC to incorporate confidential information about particular exporter's prices to enable assessment of the impact of dumped and undumped offers. The ADC advised that it developed the table in Confidential Attachment 9 based on its analysis of the impact of the various price offers during the investigation period. This formed the basis of its comments of the causative effects in the causation analysis section 8.4 of TER 416 (pages 71 - 72). There were some offers that could not be identified as either dumped or undumped offers, and accordingly could not be determinative of causal link. In relation to OneSteel's criticism that it only considered the 50 offers provided by OneSteel, the ADC indicated that it considered this issue and formed the view that it was a material number of offers (given the number of imports during the period) on which to base its comments.

9. Could the ADC explain whether s269TDA(13A) was assessed given the cumulation of exports?

The ADC confirmed that the termination decision was considered on the cumulative effect under s.269TDA(13A) of the Act.



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10. Can the ADC elaborate on its consideration of future threat of material injury of volumes from Korea and Indonesia in light of OneSteel's claims that future injury was not considered in TER 416.

The ADC advised that it could not recall whether there had been any particular claims of threat of injury presented by OneSteel, and therefore before the Commissioner, when he decided to terminate the investigation, other than that already referred to in TER 416. In relation to s.269TAE(2B) it requires the threat to be imminent and foreseeable. The Review Panel requested that this be confirmed.

Subsequent to the conference, the ADC confirmed that it had not located any specific claims by OneSteel as to threat of injury not referred to in TER 416.

The Panel Member advised that a draft of the conference summary would be provided to the ADC to confirm accuracy.

The ADC is to provide the following information to the Review Panel as referred to in the conference:

- *The ADC will provide the references, if any, of other confidential pricing information supplied by the GOV in its submission and not already shown in Confidential Attachment 3.*
- *The ADC to provide the proportion of imports covered by its verification process for price undercutting analysis.*
- *The ADC to confirm the construction of the selling price amounts used for price undercutting purposes.*
- *The Review Panel requested the ADC to provide Figure 127 adjusted to include the 'undumped' prices of Vietnam and Ispat and without the timing adjustment.*
- *The ADC to confirm whether any evidence submitted on threat of injury being imminent and foreseeable prior to the decision of the Commissioner.*

All requested information provided by the ADC subsequent to the conference has been highlighted in bold print.

Jaclyne Fisher
Anti-Dumping Review Panel Member
28 June 2018