

# ADRP Conference Summary

## 2018/88 Certain Hollow Structural Sections - Review of Measures

Panel Member	Paul O'Connor
Review type	Review of Minister's Decision - Certain Hollow Structural Section exported from the People's Republic of China, the Republic of Korea and Taiwan
Date	24 August 2018
Participants	Ms Catherine Gladman, Mr Mick Kenna and Ms Maria Themistocleous, Anti-Dumping Commission (Commission)
Time opened	15:30 AEST
Time closed	16:00 AEST

### Purpose

The purpose of this conference was to obtain further information in relation to the Review before the Anti-Dumping Review Panel (Review Panel) in relation to Certain Hollow Structural Sections exported from the People's Republic of China, the Republic of Korea, Malaysia and Taiwan.

The Conference was held pursuant to section 269ZZHA of the *Customs Act 1901*<sup>1</sup> (the Act).

In the course of the Conference, I may have asked the Anti-Dumping Commission Representatives (Commission Representatives) to clarify an argument or specific detail contained in the applications to the Review Panel or in Commission Report 419 (REP 419). The Conference was not a formal hearing of the review.

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 an application is not something that the Review Panel has regard to, and is therefore not reflected in this Conference summary.

---

<sup>1</sup> Unless otherwise stated, all statutory references are to the *Customs Act 1901*.

## Discussion

1. The Conference was convened to address the conduct of a proposed reinvestigation of one aspect of one of Ursine Steele's grounds for review and to clarify certain claims made in Ursine's application for review regarding certain specifications.
2. Ground 2 of Ursine's application to the Review Panel states that the Minister erred in determining the incorrect date of sale for the exported goods. Ursine alleges the Minister incorrectly adopted the date of the invoice for the exported goods as the operative date and compared that export price with a contemporaneous domestic sale of the goods to derive a dumping margin.
3. Ursine argues if the Minister had determined the contract date for the export transaction as the operative date and then compared the contract price with the domestic sale occurring at the same time, all within the same month as the contract date, the dumping margin would have been reduced. The difference being due to variations (i.e. price increases), over the review period, of the cost of the main raw material input to the goods Hot Rolled Coil (HRC).
4. Prior to the Conference the Review Panel forwarded, via the Secretariat, an email to the ADC foreshadowing a reinvestigation request in relation to the Commission's decision to adopt the export invoice date, rather than the date of the export sales contract, as the operative date for the purposes of the comparison of export prices and normal values.
5. In the Conference the Commission sought guidance as to the scope of the reinvestigation in order to estimate how much time would be needed to undertake the task.
6. The Review Panel confirmed the scope required a reinvestigation of the rationale for maintaining, in this particular review, the Commission's practice of focusing upon the date of the export invoice and not adopting the date of the export sales contract.
7. Commission Representatives agreed that any reinvestigation would need to thoroughly examine the issue. The Commission remains of the view that what they had examined in

REP 419 fell considerably short of reaching the standard that would cause the Commission to move away from the invoice date.

8. The Commission Representatives indicated that a reinvestigation would involve a detailed examination of issues relating to the raw materials in terms of lead times and when the raw material was purchased for production. Such an examination would extend to both domestic and export transactions. Consideration of other factors impacting upon production costs may also be required.
9. It was agreed that the Commission would consider the time needed for such a reinvestigation, noting that an on-site verification may be required. The Commission will liaise with the ADRP Secretariat regarding the time needed for the reinvestigation.
10. Commission Representatives confirmed that the minimum yield strength to comply with [REDACTED] was [REDACTED].
11. The Commission Representatives were referred to page 11 of Ursine's application to the Review Panel. The Table specifies the minimum yield strength of [REDACTED] and [REDACTED] as being [REDACTED] and [REDACTED] respectively. The Representatives were asked whether they would agree with the following statement at page 11 of the application, "the export model [REDACTED] and domestic model [REDACTED] share common galvanised coils specifications ... As such, they **possess the same minimum yield strength** as required by [REDACTED] [REDACTED], despite the lower yield strength requirements stipulated in the [REDACTED] standard" [emphasis added]. Commission Representatives are of the view that the statement is inaccurate and reference was made to Ursine's response to the Exporter Questionnaire (C 4.2) where it is stated that the "Standard Yield Strength" for [REDACTED]-Domestic, [REDACTED]-Export and [REDACTED] are [REDACTED] respectively.
12. The Commission Representatives were asked to comment on the following statement at page 17 of Ursine's application to the Review Panel "[REDACTED] has a greater actual yield strength value ([REDACTED]) than that of the exported [REDACTED], which results in a higher unit price." The Representatives responded to the effect that the minimum yield strength is the most determinative feature in terms of appropriate comparisons, as the minimum

yield strength is what drives the market value of the product. Buyers set the price having regard to the certainty derived from meeting the minimum requirements of the standard.

13. Commission Representatives acknowledged that the physical properties of HRC vary from coil to coil and that although a particular product is sold as meeting a particular standard, for example [REDACTED], its actual yield strength may be greater. The Commission Representatives stated, the buyer will not know the actual yield strength until the mill certificate is delivered with the goods. The actual yield strength is therefore not a relevant consideration when agreeing on price. The Commission Representatives therefore agreed with Ursine's comment in its application to the effect that [REDACTED] has a greater actual yield strength of value ([REDACTED]) than that of the exported [REDACTED].
14. The Commission Representatives noted that if the mill certificates for the exported [REDACTED] were examined their actual yield strength may well be above [REDACTED]. Nevertheless, the Commission Representatives reiterated that it is compliance with the minimum yield strength of a particular standard which drives the price.

Paul O'Connor

Panel Member

Anti-Dumping Review Panel

3 September 2018