



Australian Government
Anti-Dumping Review Panel

Anti-Dumping Review Panel
C/O Legal, Audit & Assurance
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By EMAIL

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

Dear Commissioner,

ADRP Review No. 88 – Certain Hollow Structural Sections exported from the People’s Republic of China, the Republic of Korea, Malaysia and Taiwan

The Anti-Dumping Review Panel (Review Panel) is currently conducting a review of the decision of the former Parliamentary Secretary to the Minister for Jobs and Innovation (Assistant Minister) made on 31 May 2018 under subsection 269ZDB(1)(a)(iii) following a review of anti-dumping measures applying to Certain Hollow Structural Sections exported from the People’s Republic of China, the Republic of Korea, Malaysia and Taiwan.

The Review Panel accepted applications for review from the following applicant/s:

1. Dalian Steelforce Hi-Tech Co., Ltd;
2. Tianjin Youfa Steel Pipe Group Co., Ltd; and
3. Ursine Steel Co., Ltd (Ursine).

As you are aware, I am conducting the review.

Pursuant to section 269ZZL of the *Customs Act 1901* (the Act), I require the following findings in Report 419, relating to one of Ursine’s grounds for review, be reinvestigated:

The Commission established normal values for the Ursine under section 269TAC(1) based upon the price paid or payable for like goods sold in the ordinary course of trade, for home consumption in Taiwan that were arm’s-length transactions.

The export price for Ursine was calculated under section 269TAB(1)(a), as the price paid by the importer to the exporter, less transport and other costs arising after exportation.

When it came to comparing the normal value with the export prices so determined, the Commission took as the operative or determinative date, the date of the export invoice and compared that export price with sales of like goods on the Taiwanese domestic market which occurred on or about the date of the export invoice.

I am referring for further investigation, the Commission's decision to fix upon the date of the export invoice, rather than the date of the export sales contract, as the operative date for the selection of comparable domestic sales prices.

I provide below a summary of my reasons for making the request under s 269ZZL of the Act:

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, or within the same month as the contract date, the dumping margin would have been reduced. The difference being due to two factors.

First, variations (i.e. price increases) of the cost of the main raw material input to the goods Hot Rolled Coil (HRC) which, it is acknowledged, occurred over the review period.

Secondly, the difference in the production and delivery times for export and domestic sales following the date of the respective sales contracts (the export sales contract and the contract to Ursine's domestic customer). Following the date of the export sales contract there is a lag of between 2 to 3 months until the goods are produced and exported. On the other hand, for domestic sales the like goods are produced and dispatched within a month.

By adopting the date of the export invoice as the operative date and comparing that price with a contemporaneous domestic price, the Commission was in fact comparing an export price, influenced by a lower price of HRC prevailing at the time of the export sales contract with a domestic price influenced by the increased price of HRC prevailing in the month of export. The outcome of such a comparison may be in breach of the Commission's obligation to conduct a fair comparison between export prices and normal values.

In undertaking the reinvestigation the Commission will need to determine, if at the date of the export sales contract all the material terms of that contract had been settled and were not subject to variation. Similarly, with regard to domestic sales, the Commission will need to determine whether the HRC used in the production of the like goods, so sold, was sourced from inventory or purchased from Ursine's supplier and the material terms of such purchases.

If you have any issues in relation to the reinvestigation or if you consider that a conference under s 269ZZHA of the Act would assist in obtaining the further information the subject of the reinvestigation, please contact the Secretariat.

Please could you report the result of the reinvestigation within 65 days, that is, by **8 November 2018**.

Thank you for your assistance.

Yours Sincerely,

A handwritten signature in black ink that reads "Paul O'Connor". The signature is written in a cursive style with a long horizontal flourish extending to the right. The name "Paul" is written above "O'Connor", and there is a horizontal line underlining the "O'Connor" part.

Paul O'Connor
Panel Member
Anti-Dumping Review Panel
4 September 2018