



ADRP Conference Summary

2019/100 Wind Towers exported from the People's Republic of China and the Republic of Korea

Panel Member	Ms Joan Fitzhenry
Review type	Review of a Minister's decision made under subsection 269ZH(1) of the <i>Customs Act 1901</i>
Date	19 June 2019
Participants	Rhys Piper, Ben Merlin and Heidi Yang (Anti-Dumping Commission)
Time opened	10:00am AEST
Time closed	10.42am AEST

Purpose

The purpose of this conference was to obtain further information in relation to the review before the Anti-Dumping Review Panel (ADRP) in relation to Wind Towers exported from the People's Republic of China and the Republic of Korea. The conference was in relation to the application for review by Shanghai Taisheng Wind Power Equipment Co., Ltd (TSP).

The conference was held pursuant to section 269ZZHA of the *Customs Act 1901* (the Act).

In the course of the conference, I may have asked parties to clarify an argument, claim or specific detail contained in the party's application or submission. The conference was not a formal hearing of the review and was not an opportunity for parties to argue their 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 *Customs Act 1901*). 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 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 was:

Section 269TAC(8) adjustments



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- I noted that the Anti-Dumping Commission (ADC) had found that the wind towers sold domestically in China were like goods to the wind towers exported to Australia but because the wind towers have unique technical properties there were no comparable sales in the domestic market to enable an exact match to the goods exported to Australia. I asked for clarification whether the ADC had considered making adjustments under s 269TAC(8) for the physical differences.

OCOT test

- I referred to the finding in the Exporter Verification Report for TSP that in the absence of weighted average cost to make and sell data, to conduct a recoverability test, sales at a loss were considered not recoverable in this case. I also referred to page 36 of the Final Report which noted that the ADC had conducted a recoverability test on TSP's domestic sales by comparing the net invoice revenue to the weighted average cost to make and sell over the inquiry period. The Final Report also stated that due to the nature of wind towers being produced on a project-by-project basis, the cost to make and sell, which in this case was calculated on a project specific base, was equal to the weighted average cost to make and sell over the inquiry period. The ADC therefore affirmed it had conducted the OCOT test in accordance with section 269 TAAD.
- I also referred to the confidential attachment 3 to REP 487 which indicated that the recoverability test was not applicable.
- Finally, I asked whether there were sales at a loss in substantial quantities, that is over 20%.

Cost of production

- I asked why the ADC went back to the original investigation rather than just uplift TSP's cost of production during the inquiry period by the benchmark? Why not, in other words, do what the ADC did in the original investigation, but do it with updated costs and the relevant benchmarks within the inquiry period?

The ADC provided the following information:

Section 269TAC(8) adjustments

- Yes, making s 269TAC(8) adjustments was considered. However, each tower section is different, within one design. Within each section the components are all different, so once you start building the internal structure, for example lifts, stairs, safety harnesses, cabling and those sorts of things, it makes it very difficult to even compare section to section, let alone project to project.
- To make adjustments under s 269TAC(8) would require a great amount of detail about the weight and the cost of each component in the finished tower. The



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differences from tower to tower are just too great to be able to accurately account for.

- Each project is a result of a tender process that is negotiated on a project-by-project basis. Once it is awarded, then the material, steel, et cetera are specified and purchased for that project. The wind towers are not built to stock orders. In terms of being able to compare one project to the next, when there are different specifications in the steel and the inputs, to make an accurate adjustment would be close to impossible.

OCOT Test

- Reference was made to the spreadsheet “487 – TSP - Appendix 3 - Domestic Sales.
- Because of the substantial variation from project to project, the way the profitability test was done is that each project is compared only against itself. So, if it is unprofitable, it is 100% unprofitable with respect to that project.
- The ADC treated each project as being a model for comparison only against itself for a few reasons. First, the costs associated with a “project 1”, which might be delivered to one part of the country for one particular design, are not really comparable to costs associated with a “project 2” which is delivered to another part of the country and with a completely different design.
- Wind tower producers tender for particular projects, they calculate their costs for that tender based on the specific design, and they build in their margins associated with what profit they think they can achieve. If the producer ends up being wrong because of, for example, production delays or some other reason, it does not make sense (from a profitability and recoverability test point of view) to balance out the loss made on one project to the profit achieved on another project when those projects are fundamentally different.
- Section 269TAAD presumes, to some extent, that the test is being done on products that are essentially commodity type products. There is a known cost that fluctuates from period to period, but over time, the product will be ultimately profitable or unprofitable across the whole of the period. The profitability / recoverability test does not readily lend itself to project-based exports.

Cost of Production

- In the approach that was taken in the original case, the ADC had access to contemporary plate steel prices in China, Korea and Taiwan at the time. So, the ADC was able to compare the relative difference between Chinese plate steel, and Korean and Taiwanese plate steel, work out that percentage difference and then apply it to the plate steel purchase for wind towers.
- The steel for wind towers tends to be thicker than other plate steel, and there are particular grade arrangements. It is not consistent all the way up the tower. Different sections can often have different thicknesses of plate steel.



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- The ADC was not able to get the same level of detail for this inquiry as it had for the original investigation. The ADC did not have access to contemporary plate steel prices in Korea and Taiwan (as it had during the original investigation).
- Most of the wind tower products use a steel plate with thicknesses of 20 mm and beyond. The Platts prices are for steel plate of 1.2 to 2.5 metres wide and 12 to 25 mm thick. The ADC did not know enough about the Platts benchmark to be able to say what proportions of plate steel are driving the price outcome and to what extent it is, for example, weighted to 12, 14, 15 mm thickness plates. The ADC understood there is a price difference, but did not know what that price difference was, because the ADC did not have contemporary plate steel prices for those thicknesses. As a result, the ADC could not simply replace the exporters' costs with the Platts benchmark.
- The ADC had a competitive market cost of plate steel for wind towers in the original investigation (already uplifted). The uplifted cost was a competitive market cost back in 2013 and the ADC sought to make it contemporaneous in some way and then use that to adjust the recorded costs for TSP.
- The ADC also had the Platts steel benchmark that covered that original investigation period and the current period. The ADC could take into account movements in that Platts steel benchmark and apply a similar movement to plate steel in wind towers based on the already uplifted cost from the original investigation.
- The application of this methodology resulted in movements to the 2012-2013 uplifted cost, up or down, according to movements in the benchmark.
- The new competitive cost for the investigation period is lower than it was in the original investigation back in 2013 on an average basis because steel prices have come down overall.

I requested that ADC provide the following information following the conference;

- Documents which were relevant information within the meaning of s 269ZZK(6) which demonstrated the variety of thicknesses covered by the Platts benchmark.

I was subsequently referred to Confidential Attachment 4-487-Steel Cost uplift analysis (China) and to the tab called "Specification". The ADC also supplied me with:

- 487 - KPE - GP10-B - 812109 Material 2016-19 – Plate.
- 487 - TSP - EWP Attachment - GP11 - TSP spreadsheets received on 18 October 2018.