



ADRP Conference Summary

ADRP Reviews 120 and 121 – Hot Rolled Structural Steel Sections (HRSS) exported from Japan, the Republic of Korea, Taiwan (except by Feng Hsin Steel Co Ltd) and the Kingdom of Thailand

Panel Member	Jaclyne Fisher
Review type	Reviews of Minister's Decisions
Date	18 February 2020
Participants	Jack Howard and Jeff Waincymer representing Siam Yamato Steel Co Ltd (Siam) Justin Wickes, Jasna Halilovic, and Jessie Wai representing the Anti-Dumping Commission (ADC)
Time opened	9.30 am AEDT
Time closed	11.20 am AEDT

Purpose

The purpose of this conference was to obtain further information in relation to the reviews before the Anti-Dumping Review Panel (Review Panel) in relation to HRSS exported from Japan, the Republic of Korea (Korea), Taiwan and the Kingdom of Thailand (Thailand). The applications relate to a review pursuant to s.269ZDB(1) (review of measures) and another pursuant to s.269ZHG(1) (continuation inquiry) of the *Customs Act 1901* (the Act).

The conference was held pursuant to section 269ZZHA of 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 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 or submission is not something that the Review Panel has regard to, and is therefore not reflected in this conference summary.

At the time of the conference, I advised the participants:



- That the conference was being recorded and transcribed by Express Virtual Meetings Pty Ltd, and that the recording would capture everything said during the conference.
- That the conference was being recorded for the Review Panel to have regard to when preparing a conference summary. The conference summary (non-confidential version) would then be published on the Review Panel's website.
- Any confidential information discussed during the conference would be redacted from the conference summary prior to publication.

Prior to the conference, participants were provided with a copy of the Review Panel's Privacy Statement. The Privacy Statement outlines who the conference recording and transcript may be disclosed to. The Privacy Statement is available on the Review Panel's website [here](#). The participants indicated that they understood the Privacy Statement and consented to:

- The recording of this conference; and
- The recording being dealt with as set out in the Privacy Statement.

Discussion

The Review Panel Member (Review Panel) advised that the reviewable decisions relate to the decisions of the Minister to vary the 'variable factors' for Siam following a review of measures, and to continue the anti-dumping measures for Siam following a continuation review. The specific information that the Review Panel sought in this conference was in reference to the normal value finding as follows:

- (1) In relation to its Ground 4, could Siam explain which export model and normal value it is referring to in relation to its claim that the ordinary course of trade (OCOT) test has not been correctly undertaken as the model referred to states [REDACTED]

Siam stated that its primary position is that only identical goods should have been included in the normal value determination under s.269TAC(1) of the Act. It does not agree with the MCC code structure being used, given there are identical goods in this case. Its secondary position is that if a broader grouping of models is included on the basis that they are "like goods" (goods of similar characteristics) in the normal value calculation then it should include the [REDACTED] models.

The ADC indicated that following the adjustment to the MCC structure applying to Siam (as outlined in Appendix 1 to REPORT 499), [REDACTED] as a sub-category was absorbed into [REDACTED]. It referred the Review Panel to Confidential Spreadsheet 52. 499 and 505 SYS - Appendix 3



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Domestic Sales, which indicates that no domestic sales of [REDACTED] were listed. The ADC stated that following the adjustment of the MCC structure for Siam, these models were now included in the category [REDACTED]. The ADC proceeded to outline the analysis undertaken in the 'sufficiency' and 'profitability' tabs of the above-mentioned spreadsheet and indicated that all such sales that met these tests had been included for normal value purposes. The ADC said it would undertake further analysis of the information in the spreadsheet, using the pivot table technique, to confirm that the models referred to in Ground 4 had been included in the normal value calculation.

- (2) Could Siam advise whether there was evidence provided to the ADC that established that the interest rate claimed as applicable on late payment was actually applied by Siam.

Siam indicated that it had provided a submission (17 February 2020) that included examples of transactions where the invoices reflected prices which incorporated different payment terms. (Siam confirmed that this information had been presented to the ADC at the verification visit.) That is, the price was set at a different level to reflect the terms, for example price set at 60 days or 90 days etc. The credit rate used to set these different prices reflected the rates identified in the internal memo presented to the ADC (referred to in REP 499). Siam claimed the interest rate to be [REDACTED]. It suggested that the company's actual rate should be used for adjustment for credit terms pursuant to s.269TAC(8) of the Act in these circumstances.

The ADC indicated that it had considered the domestic selling prices and the evidence supplied by Siam but had found this inconclusive as to whether the claimed interest rate had been applied consistently on the relevant transactions examined. On this basis it had adopted the approach outlined in the Dumping and Subsidy Manual November 2018 (the Manual) which is the external lending rate for commercial banks (REP 499).

Siam expressed concern that it was not apparent from REP 499 as to why the ADC had rejected the rate shown on the internal document presented at verification and it had therefore been unable to include reference to this in its submission. The Review Panel indicated that as the credit term adjustment is one of the grounds being reviewed, it will be considering what information was used by the ADC in rejecting the use of the credit rate submitted by Siam. Siam considered that the ADC had emphasised the credit rate relied on an internal document, whereas the Minister had relied on other information in making her decision. This other information was not apparent to Siam.



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- (3) Could the ADC elaborate on the methodology used to establish the normal value for Siam by reference to the relevant spreadsheets, particularly in relation to (a) whether there were goods other than identical goods used to establish the normal value and (b) the calculations regarding the goods that were found to be not in the OCOT.

The ADC indicated that it used a pool of models for normal value purposes that included both identical goods and other “like” goods that were in the same MCC category (██████████ and ██████████). The ADC referred to Confidential Spreadsheet No. 52. 499 and 505 - SYS - appendix 3 Domestic sales, and outlined the process it had followed which included determining whether there were sufficient volumes and also whether the transactions could be considered to be in the OCOT. The ADC also advised that it had prepared analysis of the sufficiency test for the ██████████ sales on the Thai domestic market and referred the Review Panel to Confidential Spreadsheet No. 55. 499 and 505 SYS - Analysis - Appendix 3 sufficiency test ██████████ only. While domestic sales of ██████████ (exported model) were sold in sufficient volumes during the period of review, it was noted that one model had transactions at a loss. The ADC noted that all sales that were considered to be in the OCOT were included in the normal value calculation.

Siam referred the Review Panel to its submission dated 17 February 2020 which reinforced its claim that the ADC should only have used the domestic sales of the identical goods as those exported to Australia in normal value determination under s.269TAC(1) of the Act.

Refer also to the response to Question 1 which dealt with the issue relating to the ‘OCOT test’ for certain models sold on the domestic market.

- (4) Could the ADC provide information on the document (Number 62) that is titled Domestic sales credit pricing comparison.

Confidential Spreadsheet 62 SYS analysis – Domestic Sales credit pricing comparison (tab credit pricing overview) provides analysis of the selling prices with information on the impact of different credit terms (for example: cash, 30 days, 60 days, 90 days, 120 days). This demonstrated that while there were impacts on prices for the different credit terms, there was not a consistent pattern for all models or across all periods. The prices at 120 days showed the most variability. The ADC considered that the evidence did not reflect the credit terms outlined in the internal memo. This analysis was based on confidential selling price provided by Siam in its Exporter Questionnaire Response.



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Siam indicated that its position is that it offers different prices on the basis of various credit terms and the rate offered is identified in the internal document presented to the ADC at verification. It re-stated that this rate should have been used for adjustment purposes pursuant to s.269TAC(8). As stated in its response to Question 2, the price includes the credit terms agreed with the buyer (and embedded in the price) Siam indicated that it had referred to this in its submission (dated 17 February 2020) and had provided examples of relevant invoices (previously supplied to the ADC) that illustrate the rate applied on the domestic market.

- (5) Could the ADC provide information on the price analysis undertaken to ascertain if MCC affected price as referred to at page 23 of REP 499.

The ADC referred the Review Panel to Confidential Spreadsheet 49. 499 and 505 SYS GP2.E Grade Pricing Analysis. This information outlined the ADC's analysis of the price differences between the sales of the identical model (to that exported) sold on the domestic market as well as other comparable like goods of different models/grades. Certain grades, [REDACTED], had similar prices to the exported model [REDACTED]. It was evident that [REDACTED] was generally lower than [REDACTED]. There appeared to be an inconsistency in the spreadsheet prepared by the ADC, given the information presented by Siam at Attachment B (in its review application) revealed that there were domestic sales of the identical models exported for most quarters during 2018. The spreadsheet did not reflect this information. The ADC indicated it would need to revisit this spreadsheet and advise the Review Panel.

The ADC noted that the MCC subcategory B (as shown in Appendix 1 to REPORT 499) indicated an exception of the MCC structure for Siam, that the minimum yield strength was modified to "equal to or greater than 245 MPa and less than 325 MPa". This meant that [REDACTED] and [REDACTED] were in the same MCC category. The pricing analysis includes these models and it noted that there were similarities in pricing between [REDACTED] and [REDACTED].

The ADC commented that the main difference between [REDACTED] and [REDACTED] is different technical specifications based on the standards of Australia and Thailand.

The MCC model grouping for Siam included in subcategory B, minimum yield strength equal to or greater than 245 MPa and less than 325 MPa. Siam commented that it did not necessarily agree with the MCC code including the [REDACTED] with the [REDACTED] due to the



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differences in the yield strength, given identical goods are available for comparison purposes.

The Review Panel advised that a draft of the conference summary would be provided to participants within one working day in order to ensure that it is an accurate reflection of the conference and for identification of any confidential information for redaction. It would be appreciated if participant's responses could be provided within two working days.

The Review Panel, requested that the participants provide the following information following the conference:

- (1) The ADC to examine the price analysis shown in Spreadsheet 49 to consider the domestic sales of model [REDACTED] to ensure that all were included in the pricing analysis.

The ADC has advised the Review Panel, subsequent to the conference, that its pricing analysis had been disaggregated by applying certain parameters and this had not been identified at the time of the conference. The ADC indicated to the Review Panel that further tabs within its pricing analysis spreadsheet show all sales throughout the period of review. This will show the complete pricing analysis in Document 49.

- (2) The ADC to check with the verification team regarding what evidence was before the ADC as to the credit terms on domestic sales.

The ADC confirmed, subsequent to the conference, the documents reviewed as part of the verification visit in relation to credit terms on domestic sales. Two supplied with the REQ and a series of document supplied at the verification visit. This aligns with Siam's statements at the conference.

- (3) The ADC to confirm the analysis of the OCOT undertaken in relation to [REDACTED] domestic sales to ensure that the [REDACTED] sales were considered (via a pivot table analysis).

The ADC has advised the Review Panel, subsequent to the conference, that it included [REDACTED] sales in the [REDACTED] code, following the adjustment of the MCC structure for Siam. All these transactions were considered in terms of the requirements of s.269TAC(1). Sales that were not able to be recovered were not included in the normal value calculation. The ADC advised, using filters applied to the one model, that approximately [REDACTED] of these sales were unprofitable but of these a small percentage were 'recoverable' and accordingly, used for normal value purposes. Overall, the majority of the transactions of the [REDACTED] model were able to be used in the normal value assessment.