



ADRP Conference Summary

Review Nos. 120 and 121 – Hot Rolled Structural Steel Sections exported from Japan, the Republic of Korea, Taiwan (except for exports by Feng Hsin Steel Co Ltd and the Kingdom of Thailand).

Panel Member	Jaclyne Fisher
Review type	Review of Minister's decisions under sections 269ZDB(1) and 269ZHG(1) of the <i>Customs Act 1901</i>
Date	5 February 2021
Participants	[REDACTED], [REDACTED], [REDACTED], Infrabuild/Liberty Steel (OneSteel) representatives, Rhys Piper and Roman Maevsky, Anti-Dumping Commission (ADC) representatives
Time opened	10.00 am AEDT
Time closed	10.20 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 Hot Rolled Structural Steel Sections (HRSS) exported from Japan, the Republic of Korea (Korea), Taiwan (except for Feng Hsin Steel Co Ltd) and the Kingdom of Thailand (Thailand).

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

In the course of the conference, I was able to ask parties to clarify any argument, claim or specific detail contained in their 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 to the extent that 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 may have regard to and, therefore, is 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 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 the conference; and
- The recording being dealt with as set out in the Privacy Statement.

Discussion

The Panel Member noted the ADC had provided its Reinvestigation Report on 15 January 2021. The Review Panel subsequently held a conference with the ADC on 22 January 2021 to clarify information in the ADC report on a number of matters, one being the calculation of the Unsuppressed Selling Price (USP) which impacted the Non Injurious Price (NIP) for certain exporters.¹ OneSteel sought a conference with the Review Panel given the changed circumstances regarding the errors made in the NIP calculation to ensure that consideration be given to the correct calculation of the USP and in particular the inclusion of a profit. The Review Panel requested OneSteel to provide information regarding the inclusion of a profit in the USP.

OneSteel indicated that given the ADC's Preliminary Reinvestigation Report had stated '... the Commission is satisfied that the NIP would not be the operative measure for any exporter from any of these countries. The Commission notes that it would therefore make no difference if an amount for profit greater than zero had been included in the USP calculation'. OneSteel's position is that, if the final Reinvestigation Report has not included a finding that a profit is included in the USP and given the NIP will now be a measure for one exporter, it considers that the inclusion of a profit in the USP becomes important and should be further considered by the Review Panel.

¹ Summary published on 28 January 2021.



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OneSteel pointed to its submission to the ADC's Preliminary Reinvestigation Report dated 4 December 2020, where at page 5 it contended that applying no amount for profit is not the correct or preferable decision, as it devalues the so-called USP by reference to the profitability of the domestic industry at a time affected by dumping. OneSteel stated that in that submission it set out an approach to determining a reasonable amount for profit based on options available in the Commission's Dumping & Subsidy Manual, specifically, profit surveys. One such survey was that conducted by the European Commission in the course of their trade remedy inquiries, namely that, it is considered that the level of profit below 6% is insufficient to cover the investments needed to sustain the activity, as in the majority of the recent investigations, the Commission has used a level of around 8% profit as a sufficient profit level in this sector in order to cover investments. OneSteel observed that if the European Commission's survey was not preferred, then the Australian Bureau of Statistics publishes a survey of company gross operating profits seasonally adjusted estimates under catalogue no. 5676.0.

OneSteel said that in the ADC's Preliminary Reinvestigation Report, the Commissioner concluded that the domestic industry's and other exporters' prices were in fact affected by dumping following the original imposition of measures and during the inquiry period. OneSteel noted that there had been clear evidence presented to the ADC that demonstrated the price suppression and price undercutting occurring in the Australian market through the impact of dumped imports. Therefore, OneSteel considered that to say, that industry's selling prices were affected by dumping, but the zero profit margin for the purpose of calculating a NIP, was not affected by dumping, is a non sequitur.

OneSteel also considers that notwithstanding that there may not have been any profit made on these goods during the review period, the intent of the lesser duty rule is to enable a lower duty if this would remove injury, otherwise the normal value is used. In circumstances where dumping has been occurring for a considerable period, and the prices of the Australian industry impacted by such circumstances, the correct calculation of the USP with the full cost to make and sell and a profit rate enables the 'price' at which the material injury would be removed to be set at an appropriate level. It considers the Manual does not envisage a zero amount for profit, because it proposes several different approaches to determine an amount, from the Australian industry's own profitability, to external surveys of profit. It submits that the USP should include a profit to enable the NIP to reflect an appropriate price for the Australian industry to undertake investment.

The Review Panel noted the OneSteel comments regarding the changed circumstances regarding the NIP and profit.



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I advised the participants that a draft conference summary would be provided within one working day to enable participants to provide comments on accuracy and if any confidential information required redaction.