

ADRP Conference Summary¹

Review No. 88A – Reconsideration of Certain Hollow Structural Sections exported from the People’s Republic of China by Tianjin Youfa Steel Pipe Group Co Ltd

Panel Member	Paul O’Connor
Review type	Review of Minister’s decision
Date	15 December 2020
Participants	Rhys Piper, Adam Hourigan and Larry Isaac – Anti-Dumping Commission representatives
Time opened	1:30 pm AEDT
Time closed	2:00 pm AEDT

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 by Tianjin Youfa Steel Pipe Group Co Ltd (**Tainjin Youfa**).

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 Anti-Dumping Commission (**Commission**) representatives to elaborate on a communication received from the Commission on 7 December 2020. That communication included a document headed “*Description of potential methodology for revisions to benchmark and application of the uplift*” (**benchmark methodology document**).

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 of the Act. Any conclusions reached at this conference are based on that relevant information. Information that relates to any 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.

¹ This Summary does not purport to be a verbatim transcript of the discussion between the parties to the conference.

At the time of the conference, I advised the Commission representatives:

- 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 Commission representatives 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

1. The conference was convened in the context of the following communications between the parties:
 - On 19 November 2020 the Commission provided additional analysis on the Tianjin Youfa dumping margin calculations to the Review Panel. The documents were: a *Revised calculation of benchmark* and *Confidential Attachment 1 – Uplift*.
 - A *Product Map* and the transcript of the conference held on 13 November 2020 were provided to the applicant's representative (AR) on 19 November 2020. The AR's comments in response were received on 20 November 2020.
 - On 24 November 2020, the AR's correspondence of 20 November were provided to the Commission. A copy of this correspondence was provided to the AR.

- The AR responded to the suggested next steps on 27 November 2020.
 - The Commission responded to the suggested next steps on 4 December 2020, attaching the benchmark methodology document to their response.
 - On 7 December 2020, the AR provided further comments in relation to the proposed benchmark methodology. On the same day, the AR was provided with *Confidential Attachment 1 – Uplift*, relevant extracts of *Revised calculation of benchmark*, the benchmark methodology document and the Commission’s comments on the Review Panel’s suggested next steps for comment.
 - The AR provided comments on 11 December 2020, along with a copy of *Statement of Essential Facts – 529* and *WTO Report DS529*.
 - The AR’s comments were then provided to the Commission in preparation for the 15 December conference.
2. Reference was made to the applicant’s argument that the benchmark issues should be addressed via the application of the subsidy assessment which was said to have been directly aimed at identifying the extent of Government influence. This assessment was expressed as 1.3%. The applicant argues this uplift should have been applied to its costs in lieu of reliance upon the external benchmark.
 3. It was noted that the term “*countervailable subsidy*” is defined in the Act, whereas the term “*competitive market cost price*” is not. This difference suggests that the terms ought to be given different meanings and that there appears not to have been any legislative intent that one term could be substituted for the other. There appears to be a distinction between what is defined as countervailable subsidy on the one hand, and what is encompassed by the term “*competitive market cost price*” on the other, such that this difference must be given some meaning.
 4. Reference was made to what the applicant perceives to have been the Commission changing its position with respect to the composition of the external benchmark (i.e., whether it was based exclusively upon prices for structural grade HRC). The Commission representatives noted the way in which they referred to the composition of the benchmark may have changed from time to time. However, the underlying facts and

data have remained the same, with the vast majority of the referenced purchases of HRC that make up the benchmark being of a non-structural grade. The Commission, referring to the **benchmark methodology document**, indicated that removing the structural purchases from the benchmark appears to make no significant difference to the benchmark relied on in the original review (REP 419).

5. With reference to the Korean and Taiwanese exporters, whose purchase prices of HRC had been examined in the calculation of the benchmark, the Commission representatives confirmed that it has continued to utilise the data obtained from the same four exporters who had been involved in the original review (REP 419). It was noted that the benchmark methodology document clearly details its reliance upon the data of the same four exporters utilised in the most recent calculations of the benchmark. That is, the HRC purchases of the four companies were re-examined and all purchases of structural grade HRC were removed, as the Commission considers a change to the HRC benchmark on this basis would more closely reflect the actual raw material purchases of the Tianjin Youfa group relevant to the goods exported to Australia.
6. The Commission representatives indicated that the Commission had explored options to try and identify alternative mechanisms that might provide greater precision in the application of the benchmark. This included an examination of purchases of [REDACTED] HRC (both structural and nonstructural) and narrow strip to identify whether it was possible to align any of those purchases with specific grades from the benchmark. However, this was not possible, as there was no way of “following through” a particular purchase of a raw material input into a particular cost of a particular model and, ultimately, the final sale.
7. Accordingly, the Commission grouped the purchases of the raw materials at a global level. In doing so, the Commission’s focus was upon the raw material purchases of only those production entities within the Tianjin Youfa group which had exported the goods to Australia. It was their purchases of nonstructural grade raw material inputs which were compared to the external benchmark of similar nonstructural grade raw material. The quarterly percentage difference between the HRC and HRS purchases of those entities was then calculated, and that difference applied to the benchmark in each quarter to also calculate a “HRS-equivalent” benchmark.

8. It was noted that the recalculated uplift factors are now identical for both RHS and CHS. The Commission representatives advised that, as the revised benchmark had been applied, via weighted averaging, to all of Tianjin Youfa's sales of both RHS and CHS, the dumping margin becomes 4.2%.
9. If the uplift applied to RHS were to remain as originally calculated, those original uplift factors were higher than those used in the current dumping margin calculation. It was noted the majority of Tianjin Youfa's product exported to Australia was of CHS █████%. As weighted-averages are applied to calculate a single dumping margin, the higher normal value of RHS (as a result of the original uplift factors) would likely lead to a slightly increased dumping margin.

Paul O'Connor

Member

Anti-Dumping Review Panel

8 January 2021