

# ADRP Conference Summary<sup>1</sup>

## 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	23 December 2020
Participants	Mr Waincymer, Tianjin Youfa’s representative
Time opened	11:00 pm AEDT
Time closed	11:40 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.

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 consider the matters raised by Mr Waincymer in communications from him which were relayed to me via the Secretariat. The communications were dated: 20 November, 11 December and 23 December 2020.

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.

At the time of the conference, I advised Mr Waincymer:

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

- The conference was being recorded and transcribed by Express Virtual Meetings Pty Ltd, and that the recording would capture everything said during the conference.
- 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, Mr Waincymer was 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](#).

Mr Waincymer indicated he 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. I confirmed the Commission agrees that all of Tianjin Youfa's CHS product exported to Australia was derived or manufactured from HRS (i.e. narrow strip).
2. The Commission also accepts, contrary to its previously stated position, the external benchmark was not exclusively based upon purchase prices paid by the Korean and Taiwanese producers for structural grade HRC. The difference was the result of some imprecision in relation to the language adopted in earlier communication. It is now accepted that the benchmark did in fact include some purchases of nonstructural grade HRC, although the volume of such purchases is now described as being insignificant or inconsequential.
3. The Commission also confirms that the benchmark included in the most recent calculations was based upon the purchases of the same four (Taiwanese and Korean) exporters as referred to in REP 419. Accordingly, there can be no issue concerning any "selectivity" in the use of their data in the most recent calculations. Tianjin Youfa argues the external benchmark should be based solely upon the lowest cost Taiwanese or

Korean exporter, for to do otherwise is by definition distorted. Any prices higher than that achieved by the most efficient exporter in the foreign country cannot be explained by PRC government influences and are more likely to be explained by poor buying power by those foreign entities paying higher prices than their local competitors.

4. Tianjin Youfa argues that the degree of Government influence over relevant prices of HRS in China should equate to the level of subsidisation identified in REP 419, i.e. 1.3%. It was noted that the term “countervailable subsidy” is expressly defined in section 269T of the Act whereas the phrase “particular market situation” is not similarly expressly defined. This difference suggests that each phrase has its own meaning and that one cannot be substituted for the other. Whilst accepting this point Tianjin Youfa argues that as both the concepts of subsidisation and “particular market situation” have as their focus the same commercial problem; namely, the quantification of government diminution over pricing it would be nonsensical if one produced an outcome manifestly higher than the other.
5. However, Tianjin Youfa argues that normal value can only be calculated under section 269TAC(2) following a finding as to the existence of “a particular market situation” and that no such finding can be found in REP 419 where only a finding with respect to HRC was made. Accordingly, there can be no statutory basis upon which normal values could be calculated under section 269TAC(2).
6. Tianjin Youfa also seeks to rely upon a recent WTO Panel Report which found that in order to demonstrate “a particular market situation” the extent of Government influence over domestic and export prices had to be different, such that a comparison between the two was inappropriate. Tianjin Youfa further argues that as there is no evidence the Commission gave any consideration to the extent of government influences over export prices, the Commission therefore had no basis upon which to conclude that a comparison of Tianjin Youfa’s domestic prices with its export prices to Australia would not provide a suitable comparison.
7. Tianjin Youfa acknowledges that the term “countervailable subsidy” and “particular market situation” may be different but, importantly, in this case the Commission looked at the same data sets (or Government programs) to identify the financial benefit of the subsidy, as were used to determine the extent of government influence over prices.

8. Tianjin Youfa also notes that in its recent calculations the Commission expressed an adjustment as a percentage of the external benchmark (HRC) rather than as a percentage of Tianjin Youfa's purchase prices paid for HRS. Accordingly the dumping margin is higher than if Tianjin Youfa's method of adjustment was adopted.

Paul O'Connor  
Member  
Anti-Dumping Review Panel  
3 February 2021