



ADRP Conference Summary

Review No. 131 - Hollow Structural Sections exported from the People's Republic of China, the Republic of Korea, Malaysia, Taiwan and the Kingdom of Thailand

Panel Member	Paul O'Connor
Review type	Review of Minister's decision
Date	23 April 2021
Participants	Mr Rhys Piper, Ms Kathryn Marnell & Ms Allison Quek (Anti-Dumping Commission)
Time opened	13:00 AEST
Time closed	14:30 AEST

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 hollow structural sections (HSS) exported from the People's Republic of China, the Republic of Korea, Malaysia, Taiwan and the Kingdom of 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 Anti-Dumping Commission (ADC) representatives to clarify aspects of documentation submitted in response to the review application.

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 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 ADC 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, ADC representatives were referred to the Review Panel's Privacy Statement which outlines to whom the conference recording and transcript may be disclosed. The Privacy Statement is available on the Review Panel's website [here](#). The ADC 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. Prior to the conference, the ADC was provided with questions relating to documentation on which clarification would be sought.
2. Reference was made to the Applicant's submission dated 17 December 2020 (the submission), which was lodged in response to the publication of the SEF. The ADC understood that the submission was trying to demonstrate that dumping was occurring after the review period, i.e. subsequent to 30 September 2019.
3. Commenting on the broad methodology adopted by the Applicant in the submission to estimate normal values and export prices, the ADC representatives acknowledged the approach was "reasonable" and one that had been adopted by the ADC in some previous investigations in the absence of other relevant information. Nevertheless, the ADC representatives maintained that, whilst the Applicant's methodology was a reasonable attempt to try to guesstimate normal values, it remained just that, a guesstimate.
4. Referring to the submission, REP 529 made the following observations:
 - the submission contains "insufficient information to make any finding as to whether dumping has or has not occurred after the review period";
 - that "errors were found ... which cause the analysis and [the Applicant's] subsequent conclusions to be unreliable"; and



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- “[the Applicant] has over- and under-estimated to certain elements in its calculations”.

The ADC representatives were asked to elaborate as to the basis of such comments.

5. ADC representatives noted that dumping as defined in the legislation arises out of the comparison of export prices with normal values. As the ADC had only collected normal value data relevant to the review period it was not in a position to form a view as to whether dumping was or was not occurring beyond that timeframe, and it considered the information within the submission “insufficient” for that purpose, particularly as it was not based upon the exporter’s verified information. Therefore, the ADC regarded the submission data as going solely to the question of the likelihood of the recurrence of dumping. The submission was relevant and subjected to analysis to assess the persuasiveness of the information contained within it.
6. The ADC representatives referred to *Confidential Attachment 21* to REP 529 which, at Tab “Orrcon’s SEF analysis”, reflected some of the detailed analysis of the submission undertaken by the ADC. That attachment, in turn, incorporated *Confidential Attachment 1* of the submission which detailed the Applicant’s calculated dumping margin for Kukje for the period 2013 to 2020 inclusive. Such margins ranged from negative ■■■% in 2013 to positive ■■■% in 2020.
7. *Confidential Attachment 21* noted that the export price calculated by the Applicant in the submission for 2020 was nearly identical to the price calculated by the ADC, and that whilst that attachment acknowledged “the idea of using Chinese exports to Korea as the basis for the domestic price is clever (i.e. direct competitor price) – the results do not align with the dumping margin as calculated for Kukje”.
8. The ADC representatives noted the only occasion in which a positive dumping margin has been determined for Kukje was in 2012 (REP 177) with a positive margin of 3.2%. The Applicant’s *Confidential Attachment 1* to the submission recorded an estimated margin of negative ■■■% for the period July 2010 to June 2011. The Applicant’s estimate for 2015 recorded a negative margin of ■■■% whereas the ADC determined a margin of negative ■■■% for a corresponding period (REP 266). Further, the ADC representatives noted that for 2018 the Applicant estimated a positive dumping margin of ■■■% whereas ADC investigations undertaken over the period from July 2015 to June 2017 (REP 379 and REP 419) each determined negative margins. Such variations between the Applicant’s estimates, based upon public source data, and the margins determined by



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the ADC, based upon Kukje's information, supported the conclusion that there was not a lot of correlation between the Applicant's estimations and the ADC determinations.

9. ADC representatives stated that their close and deep analysis of the movements in the cost of HRC over the review period reflected very little pricing difference between export and domestic markets for HSS. Therefore, the divergence between HRC prices and HSS normal values depicted in *Confidential Attachment 1* to the submission appears severe and very rapid, but not consistent with the ADC's analysis and experience of the markets for both products. The ADC representatives suggested that what the Applicant proposed was that the prices for HSS in Korea went up significantly and in isolation from other markets and at a time when the HRC costs in Korea were decreasing. Accordingly, the ADC did not feel it could place much weight on the Applicant's analysis. Whilst the Applicant's estimation of Australian export prices looked very similar to that determined by the ADC its estimates of normal values were more doubtful.
10. REP 529 and supporting documentation contains several references to assertions by Kukje regarding the setting of export prices and infers a policy or practice that export prices were set, on an ad hoc basis, by reference to prevailing domestic prices so as to not generate a positive dumping margin. The ADC representatives noted if that was Kukje's practice or policy it had not been documented and therefore the ADC remained doubtful as to the exporter's claims in this regard. What was considered by the ADC to be of more significance was that the exporter had demonstrated it had not dumped for several years, and that on each occasion on which the exporter was examined it was found not to have been dumping. Even if the Applicant's estimates were accepted, and produced a positive dumping margin, that would have been considered as being out of character for the exporter given the ADC's experience with that company over an almost 10 year period.
11. In terms of the ADC's reference to "errors" in the submission, this was said to have been derived from the ADC's comparison between the Applicant's estimates of Kukje's normal values over the period 2013 to 2020 and the normal values determined by the ADC.
12. As detailed in *Confidential Attachment 21*, this comparison revealed several instances in which the Applicant's estimates appeared to be grossly overstated. The comparison focused upon the Applicant's estimates of Kukje's prices for multiple quarters for a product within a HS code which the ADC identified as accounting for 90% of the volume of the GUC analysed by the Applicant and which consequently impacted upon the weighting of its estimates. It was noted the Applicant's estimates are based upon data



published by a subscription service, whereas the ADC's determinations of export prices and normal values are based upon information submitted by Kukje and, in most cases, verified. For the identified periods, the Applicant's estimates of selling prices within certain HS codes were greater than the ADC's determinations of normal values. In several instances the estimates of normal value were greater than the ADC normal values by significant multiples, for the same HS codes and for contemporaneous periods. In relation to those significant variations *Confidential Attachment 21* noted "these numbers don't seem realistic to the GUC and are therefore spiking the data for [the Applicant's] calculations."

13. The ADC representatives noted that as the HS codes also include significantly larger diameter pipes, which were not within the GUC, that difference may be driving the higher figures included in the Applicant's estimates. The ADC representatives also commented that currency conversion undertaken by the publishers of the data upon which the Applicant relied may also be contributing to the identified variances.
14. Further, the ADC noted "a very close relationship" between the cost of HRC and the price charged in terms of export pricing, a relationship inconsistent with that represented in *Confidential Chart 1* to the Applicant's submission for 2019 and 2020. The ADC representatives also stated that their observations with respect to the relationship between HRC costs, normal values and export prices was consistent with what had been observed in previous investigations.
15. In relation to the third ground of review, the ADC representatives were asked to comment upon the different practice adopted in REP 521 and 522 to that adopted in REP 529. In REP 529, in determining the benchmark adjustment for HRC, the ADC excluded imports of HRC from China and "unknown" sources from the markets of the cooperating exporters, whereas in REP 521 and 522 the ADC excluded all imports.
16. The ADC representatives noted there was an inconsistency in the approach adopted in the two cases. In relation to REP 521 and 522, the ADC representatives noted that as the original investigation into the goods then under consideration (REP 190) had excluded imports from all sources from the benchmark determination it was determined that the same methodology should be applied in the review which culminated in REP 521 and 522.
17. The Applicant's argument for seeking the exclusion of all imports of HRC from the relevant markets is that as Chinese steel exports to the Asian region are so dominant,



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they influence the prevailing prices within the region for products destined for both the domestic and export markets. Therefore, the import prices of HRC into Korea from Asian exporters would be influenced by the influence of the GoC on Chinese HRC prices.

18. The ADC representatives noted that the HRC market (as indicated in the HRC purchase records of the cooperating exporters from Korea, Taiwan, Malaysia and Thailand) was not supplied exclusively by Asian exporters, European exporters were also present.
19. Further, with respect to REP 529, the investigation team did not have sufficient information to quantify the degree to which Chinese exports of HRC had impacted upon the pricing of other Asian producers. The ADC had not identified a precise way in which it could remove the influence of the GoC from HRC prices in other countries within the region. What the ADC did was to examine prices actually paid in the markets of other countries as representative of prices paid in competitive markets for products that are coming from sources other than China, including domestic production.
20. The ADC representatives referred to *Confidential Attachment 6* of REP 529 which lists HRC purchases by the cooperating exporters by source country. It was noted that even if the approach argued for by the Applicant had been adopted, and all imports had been excluded, the difference to the HRC adjustment cost would have been insignificant.
21. The ADC was asked to utilize the data contained within *Confidential Attachment 6* and exclude from the benchmark determination imports of HRC from all sources to gauge the impact if Applicant's approach had been adopted. The ADC undertook to submit these calculations in the days following the conference.
22. *Confidential Attachment 6* suggests that all imports of HRC do not have a high penetration into the cooperating exporters' markets, suggesting the impact of their prices within those markets may not have been significant. Korea is a very large producer of steel and REP 529 acknowledges that in the review period Kukje did not import any HRC during the review period. The ADC's representative suggested there are several reasons why this may have been the case. First, Chinese prices of HRC may not have been competitive in Korea. Secondly, there may be questions relating to grades, supplier reliability or quantity issues. Accordingly, price may be only one consideration in a purchasing decision. Therefore, to eliminate all import sources seemed to the ADC to be going too far in attempting to remove the GoC influence.
23. Further, the ADC representatives noted, taking the Applicant's argument to its extreme, if it is accepted that Chinese HRC prices impact upon Korean market prices then the



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domestic prices of domestically produced Korean HRC would also be influenced to some extent and therefore ought to also have been excluded. The ADC representatives stated they had no evidence of any such influence or how it may be quantified.

Paul O'Connor
Member
Anti-Dumping Review Panel
14 May 2021