



# ADRP Conference Summary

## Review No. 143 – Precision Pipe and Tube Steel

Panel Member	Paul O'Connor
Review type	Review of Minister's decision
Date	15 November 2021
Participants	Corey Hawke (ADC Representative) Larry Isaac (ADC Representative)
Time opened	12:30 AEDT
Time closed	13:00 AEDT

### Purpose

The purpose of this conference was to obtain further information in relation to the application before the Anti-Dumping Review Panel (Review Panel) in relation to Precision Pipe and Tube Steel exported to Australia from the People's Republic of China and the Socialist Republic of Vietnam.

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 the ADC representatives to clarify aspects of the reviewable decision referred to in the application before the Review Panel.

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.

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, the ADC's representatives 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 ADC's 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

The specific information that the Review Panel sought in this conference was:

- clarification as to whether the subsidy margins for “non-cooperative entities” from China included an amount with respect to what was referred to as Program 20; and
- clarification as to whether the ADC had changed its approach from that adopted in previous cases for the determination of the relevant benchmarks in the context of a countervailing investigation. If there has been such a change, the ADC's representatives were asked to outline the rationale for that change.

### **“Non-cooperative entities”**

The ADC representatives confirmed that the subsidy margin determined for “non-cooperative entities” did not have regard to what were alleged to have been subsidies provided under Program 20.

I noted that at page 85 of REP 550 the Commission stated that the subsidy margin for “non-cooperative entities” would be determined by one of two methods. One such method referred to two recent ADC Reviews: Review 419 and Review 529. The latter review did conclude that Program 20 was countervailable. The ADC confirmed there had been a change of approach in REP 550 in the identification of the relevant benchmark since the decision in a Review 529.

The ADC representatives confirmed that Program 20 could be countervailable in circumstances where raw material inputs such as HRC had been purchased from SOE/SIE at prices lower than prices offered by “private” companies.

Accepting that the only co-operative Chinese exporter had purchased HRC from “private” suppliers, the ADC representatives were asked on what basis had they concluded that a similar arrangement ought to be assumed with respect to purchases of HRC by the “non-cooperative entities”. The ADC representatives explained that decisions relating to the “non-



cooperative entities” of necessity could only have reliance upon the best information available, which in this case was that provided by the single cooperative exporter. The ADC considered the cooperative exporter’s information to be more relevant than information from another case such as Review 529.

### **Change of approach and inconsistency**

The applicant argues that not only has the ADC changed its approach regarding acceptance of the Chinese domestic prices for HRC, but the change is internally inconsistent with its reasoning with respect to the analysis of the sole Chinese co-operative exporter’s costs in the context of the dumping investigation.

In the dumping investigation, the ADC did not accept the co-operative exporter’s purchase costs of HRC as those costs had clearly benefited from lower prices for its raw materials because of the market situation affecting steel prices in the country. Nevertheless, with respect to the countervailing investigation, the ADC accepted prices in the Chinese domestic market for HRC supplied by “private” entities.

The ADC representatives referred to differences in the legislative provisions relating to anti-dumping and countervailing investigations. The legislation refers to “particular market situation” in the context of a dumping investigation whilst in countervailing investigations the relevant statutory phrase is “prevailing market conditions” [s.269TACC(4)]. Accepting that purchases of HRC from “private” companies in China were distorted due to the particular market situation, nevertheless that distortion was viewed by the ADC as a feature or factor in the “prevailing market conditions” which must be considered in the context of a countervailing investigation. Stated differently, purchases of HRC from “private” entities would be distorted but would not be considered to be a subsidy.

Recent WTO decisions have influenced the Commission’s thinking around ‘market conditions’ which has led the Commission to prefer the interpretation taken in REP 550.

The ADC representatives foreshadowed that that the Commission’s submission to the Review Panel would further elaborate on its position.

Paul O’Connor  
Member  
Anti-Dumping Review Panel  
23 November 2021