



# ADRP Conference Summary

## Review No. 156 - Hollow Structural Sections exported from the People's Republic of China, the Republic of Korea, Malaysia and Taiwan

Panel Member	Leora Blumberg
Review type	Review of Minister's decision under section 269ZHG(1)(b) of the <i>Customs Act 1901</i>
Date	19 October 2022
Participants	Anti-Dumping Commission representatives: Gabrielle Munro, Helen Tsirlina, Corey Hawke and Kuzman Banden
Time opened	3:00pm AEST
Time closed	4:40pm 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 exported from the People's Republic of China, the Republic of Korea, Malaysia and Taiwan.

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

### **Ground 1: Date of Sale**

1. Discussion Point 1: In Paragraph 13a of the ADC's s.269ZZJ submission it is stated that the Anti-Dumping Commission ("ADC") identified that Hi-Steel's domestic sales were "generally met from inventory", whereas production for export sales commenced after order, and as a result, the invoice date for domestic sales was proximate to the order date. Reference was made to the Verification Work Program, page 21 (domestic sales) and page 19 (export sales). However, the Work Program states on page 21, [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

I requested the ADC clarify and quantify to what extent during the period of inquiry the domestic sales were sold from inventory, [REDACTED]

[REDACTED]

*The ADC Representatives ("AR") stated that the data did not include a breakdown of which sales [REDACTED] were met from inventory. The ADC was, however, able to examine the number of days between order and invoice dates in the data, as an indicator of which sales might be likely to have been met from inventory. AR pointed out that in some instances the date of invoice [REDACTED]*



██████████ indicating that the sale likely came from stock. AR pointed out that the differences in days varied from ████ to ████ days for domestic sales.

2. Discussion Point 2: It was further stated in Paragraph 13a of the ADC's s.269ZZJ submission that for export sales, the ADC's analysis of Hi-Steel's data demonstrated a significant gap between the order date and invoice date, in the order of 3 months. Reference was made to Confidential Attachment 17 (Footnote 15) Hi-Steel – Normal Value, and it was stated that, ██████████  
██████████ Reference was also made to Confidential Attachment 15 (Footnote 16) Hi-Steel – Export Price, and it was stated that ██████████  
██████████. I requested that the ADC indicate where in the relevant worksheets the average number of days between order date and invoice date is shown.

*AR clarified that the actual figures for the average number of days between order and invoice date were not contained in Confidential Attachments 17 and 15 but pointed out that they were calculated using data from those attachments of the order dates and invoice dates, respectively. AR also clarified that the calculation was a simple average, not a weighted average.*

*AR clarified that the “bucket” of export sales that fell into the inquiry period was based on products ‘exported’, as determined by invoice date. The ADC ascertained the order date for all those export sales which fell within the “bucket” and then used a “bucket” of domestic sales which correlated with the order dates for those export sales. AR pointed out that the date of sale for those exports based on order date, may fall outside of the inquiry period, and therefore normal value would include sales before the inquiry period, with earlier order dates.*

3. Discussion Point 3: I requested the ADC indicate at what point Hi-Steel records the sales in its own accounting records, including for income, impacts of discounts, rebates, sales returns, warranty claims and intercompany transfers.

*AR advised that there is a statement in the audited financial statement dated 31 December 2020 that says that revenue is recognised when the goods are delivered. AR pointed out that while this was not the order date, it was also not necessarily the invoice date.*

*AR advised that Hi-Steel's discounts ██████████  
██████████*



[REDACTED]

[REDACTED]

[REDACTED]

*AR advised that one of the main differences between this case and the case reviewed in ADRP Report No.152 was that in that inquiry there was evidence before the ADC of per unit price changes between order and invoicing, which was a significant reason why the ADC was not satisfied that the material terms of sale were established at the order date. AR confirmed that in this case there were no changes in the per unit cost of any of the transactions examined during verification, but only immaterial volume changes within the usual tolerances. There were also no differences between order and invoicing relating to amounts of discounts* [REDACTED]

[REDACTED]

[REDACTED]

4. Discussion Point 4: It is noted in REP 590 (at page 84) that Hi-Steel originally provided its data with the date of sale set as its invoice date and that in its REQ it ‘accepted’ that the date of sale was the invoice date. However, the ADC stated that during verification of Hi-Steel’s data, the ADC identified that it may not be able to properly compare domestic sales with export sales because of the significant increase in the cost of steel during the importation period.

I requested the ADC to clarify whether the change relating to date of sale was initiated by the ADC, or by Hi-Steel, and if by Hi-Steel, to expand on the exact nature of the evidence that was presented to demonstrate that the material terms of sale were, in fact, established by this other date, with reference to the Dumping and Subsidy Manual (“the Manual”).<sup>1</sup>

*AR stated that the ADC was first alerted to a possible issue of whether a fair comparison could be made at the invoice date, by the importer during the importer*

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<sup>1</sup> The Manual states at page 51 [with emphases added]:

“In establishing the date of sale, the Commission will normally use the date of invoice as it best reflects the material terms of sale. For the goods exported, the date of invoice also usually approximates the shipment date.

Where a claim is made that a date other than the date of invoice better reflects the date of sale, the Commission will examine the evidence provided.

For such a claim to succeed it would first be necessary to demonstrate that the material terms of sale were, in fact, established by this other date. In doing so, the evidence would have to address whether price and quantity were subject to any continuing negotiation between the buyer and the seller after the claimed contract date.”



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*verification, and the ADC then raised the issue as a query to be examined during Hi-Steel's verification. AR stated further that the ADC raised the issue during verification and Hi-Steel advised that it also considered that the order date would be the appropriate date of sale as it was the date when the material terms of sale was set and that it would lead to a better comparison.*

*AR stated that the way the Manual is written is that it contemplates a scenario where the party is making the claim that a date other than the invoice date best represents the date of sale, and it provides guidance to parties who are contemplating such a claim. AR pointed out that the Manual does not expressly address this situation where the ADC itself identifies that, based on the evidence, it appears that a date other than the invoice date might better represent the date of sale. AR stated that the ADC applied the same principles and examined the evidence provided, being the information provided by Hi-Steel in its response to the exporter questionnaire and verified during the virtual verification. AR stated that the evidence involved examining the information provided and analysing the samples of order and invoice documentation in relation to export and domestic sales, to ascertain whether or not the evidence demonstrated any changes in the material terms of sale between order and invoice date. AR added that the evidence also included information contained in the response to the exporter questionnaire and examined during the verification process, that is, gaining an understanding of the price setting and price negotiation and purchase order invoicing processes for that particular exporter. AR stated that, based on the evidence the ADC concluded that the material terms of sale were, in fact, established at the order date and that they were not subject to continuing negotiation between Hi-Steel and its customers. AR pointed out that the Manual does not prescribe the kind of evidence that is required and the ADC considers that it very much depends on the circumstances of the case.*

5. Discussion Point 5: I requested the ADC clarify and elaborate on its response to ATM's and Orrcon's criticism that the analysis of Figure 14 in REP 590 is flawed and does not permit the conclusions drawn by the ADC, and ATM's related reference to ADRP Report No. 88 and the ADC's differing approach in Reinvestigation Report 419.

*AR stated that the ADC examined the HRC purchase price trend based on Hi-Steel's reported HRC purchase prices, noting there was no distinction in the data provided by Hi-Steel between HRC purchases for domestic and export sales. AR confirmed that this was reflected in Figure 14 by the yellow data line. This was then compared*



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*with the domestic prices and the export prices based both on invoice and order dates and it was observable from this data that Hi-Steel's HSS prices correlated with the prevailing HRC purchase price when compared at the order date, tracking the trend of the HRC price. AR stated that when there was a comparison between the HRC purchase price and the export price based on invoice dates, it did not indicate a similar correlation, as there was a clear delay in the HSS prices based on invoice dates responding to the prevailing HRC purchase price increases. AR stated further that at a time where the purchase price of HRC commenced trending upwards, the export price based on invoice date was still trending downwards in accordance with the earlier HRC purchase price trends, then at a later point there was a delayed response of that export price based on invoice date responding to the change in the underlying HRC purchase price.*

*AR stated that the ADC understood the criticisms of Figure 14 to be that there were incomplete data sets for some groups to show the full trends across the March 2020 to June 2021 period, and that the data points were insufficient to draw conclusions about the trends (for example, the dark orange data line showing export price at order date was incomplete). AR stated that Figure 14 included all the data available to the ADC. The ADC did not have data for export sales with order dates in the last quarter, because such sales would have had invoice dates falling after the inquiry period. The ADC only requests data for goods exported (based on invoice date) during the inquiry period in its exporter questionnaires. The ADC's position was that it was not necessary to have that additional data to draw conclusions or to observe the trends. AR stated that in the ADC's view it was quite clear that Figure 14 adequately and clearly showed the trends described in REP 590.*

I requested clarification on the different approach taken in respect of ADRP Report No. 88, referred to by the applicants.

*AR stated that it was the ADC's understanding that the applicants' criticisms related to what the applicants say is the different approach taken by the ADC in the reinvestigation related to ADRP Report No. 88, where the ADC had looked at different evidence about the relationship between input costs, and how they factor into domestic and export sales prices. AR stated that in that reinvestigation the ADC analysed different evidence to examine how the purchase price of the input factored into how sales prices are set, for both domestic and export sales, and how that might impact a comparability issue. AR stated that in Investigation 590 it was based on the analysis reflected in Figure 14 and the ADC found that there was a close correlation*



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*between cost and price and how Hi-Steel was setting both its export and domestic prices based on the prevailing HRC price at the time. AR stated that the ADC considered that this analysis was adequate to reach the relevant findings in REP 590.*

**Ground 2: Inclusion of goods not produced by Hi-Steel in normal value calculation**

6. Discussion Point 6: I requested the ADC to confirm that it included the purchased like goods (together with the self-produced like goods) only to establish a unit amount for SG&A costs, for the purpose of assessing whether the sales of those goods were in the OCOT, but not to establish the cost of production.

*AR confirmed that this was the case.*

7. Discussion Point 7: With reference to Paragraph 22 of the ADC's s.269ZZJ submission and Confidential Attachment 17, 'Hi-Steel – Normal Value', I requested the ADC to quantify the proportion of the total volume of domestic sales of the goods not produced by Hi-Steel and included in the normal value calculation.

*AR stated that the traded goods amounted to ■ per cent of total domestic sales, and ■ per cent of sales used to calculate the normal value (that is domestic sales in the OCOT) and ■ per cent were actually used in the dumping margin calculation because not all models were exported.<sup>2</sup>*

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<sup>2</sup> It should be noted that the final percentages in this paragraph have been corrected for errors and updated from the percentage figures provided during the conference, following the ADC's quality assurance review. AR had noted during the conference that the figures provided had not been finally checked.