



# ADRP Conference Summary

## 2018/71 Certain Wire Rope Exported from the Republic of South Africa

Panel Member	Leora Blumberg
Date	29 March 2018
Participants	Leora Blumberg (Reviewing Member), Matthew Williams (ADC), Bora Akdeniz (ADC)
Time opened	2:00 pm AEDT
Time closed	4:26 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 Wire Rope exported from the Republic of South Africa (“South Africa”).

In the course of this conference, the Anti-Dumping Commission (“ADC”) may have been asked to clarify an argument, calculation or specific detail contained in Report No. 401 (“REP 401”), related document or a submission. The conference was not a formal hearing of the review and was not an opportunity for parties to argue their case before the Review Panel.

The Reviewing Member (RM) has only had regard to information provided at this conference as it relates to relevant information (within the meaning of section 269ZZK(6) of the *Customs Act 1901*). Any conclusions reached at this conference are based on that relevant information. Information that relates to some new argument not previously in a report, application or submission is not something that the Review Panel has regard to, and is therefore not reflected in this summary.

### Discussion

The specific information that the ADRP sought in this conference related to the second, third and fourth grounds of review of the joint application of Scaw (Pty) Ltd and Haggie Reid (“the Applicants”).

1. Second Ground of Review: Failure to establish corresponding normal values for comparison
  - The RM requested the ADC’s comments on the Applicants’ submission that the substantial cost differences between the exported and domestic models in the PCNs, is not explainable through the export rebate alone.

The ADC Representative(s) (AR) confirmed the ADC’s view that the major portion of the cost differences related to the export rebate, with the steel rod being a significant proportion of the total cost. The AR clarified the ADC’s model matching methodology



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as simply breaking down the Applicants' product codes and grouping them with respect to their attributes, agreed to be the main parameters that affect the CTMS of the product (based on verifications with both the Australian industry and the exporter).

The AR said it was only after the verification visit that model specific CTMS were provided but cost differences couldn't be identified from the data, given that the rebates accounted for the major part. Instead, the Applicants were asked to identify other attributes affecting CTMS, raising issues such as grease and strand layout, but could not demonstrate or quantify how CTMS was affected, and could not provide data substantiating that additional attributes should be incorporated into the model matching. The AR pointed out it did not have the underlying data for the Applicants' two charts relating to cost differences and could not check their accuracy and reliability.

- The RM requested clarification / comment from the ADC on the cost variations between the models of the PCNs, as submitted by the Applicants.

The AR stated that CTMS data provided didn't enable the ADC to do a comparison at product level, as it was aggregated and collapsed.

- The RM requested clarification as to why there was therefore no indication in REP 401 that the Applicants didn't fully cooperate or that their information was deficient.

The AR stated that there is an explanation on file and a record of the discussions, which was agreed would be provided to the Review Panel after the Conference.<sup>1</sup> The AR pointed out that the ADC was initially provided with only one CTMS table for all domestic wire ropes and similarly one CTMS table for all products exported to Australia. AR explained that it requested a product level breakdown of the CTMS data from the applicant before the verification visit took place. AR also explained that it eventually was provided product level quarterly CTMS figures but without any breakdown to any cost components. AR explained that these quarterly lump sum CTMS figures did not allow identification and calculation of the cost components between different product codes which made it impossible to calculate and verify the alleged variations within the PCNs. AR pointed out that the final version of the product level CTMS tables were available at Confidential Appendix 2 of the Final Report. AR clarified that it never received any other product group level breakdown of CTMS.

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<sup>1</sup> Email correspondence and internal documents were subsequently provided to the Review Panel.



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#### 2. Third Ground of Review: Adjustments

##### **Specification Adjustment:**

- The RM requested clarification of methodology used by the ADC for the specification related adjustment, particularly the reasons for using deductive export prices.

The AR advised that since the ADC was not provided with the relevant CTMS data to enable it to calculate specification adjustments, the only option was to use the verified export price data, on the assumption that the cost difference would flow into the price difference, given that no profit was applied in the deductive export price calculation.

- The RM requested clarification on how the assumption was made.

The AR said that, generally, product level profitability was similar across the board and since there was no other reliable information, the assumption was that the cost and price would behave in the same manner. In response to a further clarification request, the AR said that the assumption was not explicitly explained in REP 401 but was self-explanatory since detailed breakdown of product level CTMS data was not available.

- The RM requested further clarification on the statement that insufficient data was provided to do a costing on a per model basis.

The AR pointed out that the costing information received was contained in Confidential Appendix 2 to REP 401, which is very aggregate, and not broken down to the components such as raw material costs, labour costs etc of individual model costs. The AR stated that the ADC also has an aggregate CTMS for entire domestic production, broken down to raw material levels.

- The RM requested clarification of the CTMS used for determining OCOT.

The AR stated that the domestic CTMS (as in the Confidential Appendix 2 of the Final Report) was used, being aggregate data, not broken down into raw materials. The AR pointed out that a more detailed CTMS is required for s.269TAC(2)(c). Further, there was no compelling argument or evidence as to why the products weren't comparable in order for s.269TAC(2)(c) to be enlivened.

- The RM requested clarification of the statement that using the exporter's product codes would be "unnecessary complicated" when a number of the PCNs didn't have comparable domestic models and a surrogate PCN had to be used with specification adjustments (using deducted export prices). This seemed complicated, bearing in



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mind that the Applicants contended that the ADC had the per model CTMS in a sophisticated format that had been verified.

The AR stated that its PCN methodology was based on the applicant's product codes and the attributes of the wires, therefore the ADC's approach is still more reasonable, since the ADC did not have the required data.

- The RM requested clarification as to whether the product specific data was requested before verification.

The AR confirmed that detailed costing breakdown at product level was requested before verification, but was only received in the format available in Confidential Appendix 2 (REP 401). The AR confirmed that the ADC had not verified the product levels CTMS. The AR further stated that most of the correspondence related to calculating the specification adjustments or trying to fix errors that were noted during verification.

#### **Export Rebate**

- The RM requested clarification on the approach of the ADC to the export rebate adjustment claim and how it is differentiated from an import duty rebate.
- The AR said the export rebate has nothing to do with import duty, being an arrangement between a supplier and exporter, allowing the exporter to sell overseas at a lower price. This was different to a volume based rebate between exporter and customer which could be available on both the export and the domestic market if certain volume thresholds were met. It was further pointed out that an import duty rebate is set by the government and is generally a fixed quantifiable amount. To make an adjustment to the normal value for this type of rebate would be artificial, as the rebate is not available on the domestic market.
- The RM requested clarification relating to verification of the export rebates. The AR agreed to provide the information to the Review Panel after the Conference. <sup>2</sup>

#### **Reels Returns Adjustment**

- The RM requested clarification of the ADC approach in respect of reel returns.

The AR likened this to offering an 'incentive' to the purchaser to return the reels, plus paying for the transportation cost, with a downwards adjustments to normal value for the domestic cost of recollecting reels on the one hand, and an upwards adjustment

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<sup>2</sup> This information was subsequently provided.



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for the Australian cost of collecting reels, on the other hand. The AR said amounts for reel returns were extracted from Scaw's accounting system during verification and captured as a separate cost item in their system. The total shipment cost (based on weight) was calculated based on exporting and returning the reels.

#### **Claim for Exchange Gain Adjustment**

- The RM requested clarification of the ADC's approach to the exchange gain claim.

The AR stated that the price was set in AUD with the SA Rand value unknown and with no contractual agreement to fix the exchange rate. Therefore it is not possible to estimate forex gains /losses and factor that into price, thus it would not have affected price comparability of domestic and export sales. The AR also confirmed that the verification team found that the gain related to products outside the POI.

#### **Issue of bad debt**

- The RM requested clarification as to whether there was any documentary evidence supporting the oral evidence, such as minutes of meetings or management accounts.

The AR stated that there was no compelling evidence provided that could link the bad debt or the acceptance of that bad debt to the pricing.

### 3. Fourth Ground of Review: Export price incorrectly ascertained

#### **Timing Differences**

- The RM requested clarification of ADC's response to the Applicants' submissions relating to "significant timing differences".

The AR said timing doesn't affect the pricing, based on the Applicants' submission that prices had remained static in 3½ years. In addition, post-investigation period sales data showed only a [REDACTED] variance. Therefore, timing didn't affect the calculation of the deductive export price. The AR also confirmed that there is no exact way to determine when the imported products are actually sold.

- The RM requested clarification of Footnote 25 of REP 401.

The AR referred to the calculation under the importer verification work programme and the recoverability assessment and stated that it appeared that the importer made losses in [REDACTED] months of the POI and there was no pattern indicating that those costs could be recovered in the future.

#### **Settlement amount**



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- The RM requested clarification of ADC's approach to claim for "settlement amount" adjustment.

The AR indicated that it related to a dispute [REDACTED] which was settled. The AR said that although the dispute related to [REDACTED], the wire ropes couldn't be sold [REDACTED], so it is considered it to be related to the product concerned.

- The RM requested clarification as to whether this type of "settlement fee" was a consistent annual amount or if it was a once off.

The AR confirmed that it's a once off, but believed that amounts were paid over a period of time.