



ADRP Conference Summary

ADRP Reviews 120 and 121 – Hot Rolled Structural Steel Sections (HRSS) exported from Japan, the Republic of Korea, Taiwan (except by Feng Hsin Steel Co Ltd) and the Kingdom of Thailand

Panel Member	Jaclyne Fisher
Review type	Reviews of Minister's Decisions
Date	19 February 2020
Participants	Charles Zhan and Macky Markar representing Hyundai Steel Co., Ltd (Hyundai) Justin Wickes, Jasna Halilovic and Jessie Wai representing the Anti-Dumping Commission (ADC)
Time opened	09.00 am AEDT
Time closed	10.15 am AEDT

Purpose

The purpose of this conference was to obtain further information in relation to the reviews before the Anti-Dumping Review Panel (Review Panel) in relation to HRSS exported from Japan, the Republic of Korea (Korea), Taiwan and the Kingdom of Thailand (Thailand). The applications relate to a review pursuant to s.269ZDB(1) (review of measures) and another pursuant to s.269ZHG(1) (continuation inquiry) of the *Customs Act 1901* (the Act).

The conference was held pursuant to section 269ZZHA of the Act.

In the course of the conference, I may have asked parties to clarify an argument, claim or specific detail contained in the party's 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 as it relates to relevant information (within the meaning of section 269ZZK(6) 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 has regard to, and is therefore not reflected in this conference summary.

At the time of the conference, I advised the participants:



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- 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 (non-confidential version) 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 this conference; and
- The recording being dealt with as set out in the Privacy Statement.

Discussion

The Review Panel Member advised that the reviewable decisions relate to the decisions of the Minister to vary the 'variable factors' for Hyundai following a review of measures, and to continue the anti-dumping measures for Hyundai following a continuation review. The specific information that the Review Panel sought in this conference was in reference to the normal value and export price findings as follows:

- (1) Could Hyundai confirm that in the information verified by the ADC, the transactions where Hyundai is both the exporter and importer are shown as having terms of [REDACTED] in the contract of sale, whereas its application for review refers to [REDACTED] terms in the contract. Were any of the sales made on a [REDACTED] basis?

Hyundai confirmed that the terms listed in the contract are [REDACTED] for these particular transactions.

- (2) Could Hyundai provide information on the nature of the physical differences claimed as an adjustment, given the ADC's comments that the domestic goods (following the changes to the Korean standard) are now similar to the exported models in terms of yield strength? Could this include an explanation of what has changed during the previous 3 years, as it appears that the CTMS has [REDACTED] for the domestically sold models that are considered most 'like' the goods exported to Australia? The



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ADC was asked to provide information on the cost and price analysis undertaken in relation to the physical adjustment claim, as referred to in REP 499 page 33, as well as its comments in the exporter verification report.

Hyundai stated that the correct comparison is between the exported models and the domestic models to identify if there are any specification differences and, if there are, s.269TAC(8) requires that an adjustment be made to enable a fair comparison. Hyundai claims that the main changes between the earlier assessments by the ADC and the current review (499) relate to technical specifications modifications for the domestic sales to meet the revised Korean standard (which has a stronger focus on yield strength and tensile strength). It noted that the ADC had previously made (in the original investigation and Review 465) physical difference adjustments based on cost differences between the domestic models and the export models. It suggested that, notwithstanding the change to the Korean standards (which the ADC proposes are more akin to the Australian standards), there are still different specifications between the exported and domestic models and an adjustment should be applied.

Hyundai indicated that it had presented evidence to the ADC that revealed cost differences between the exported and domestic models. It noted that some of the changes related to the different production arrangements for producing the domestic models relating to the changed Korean standards, which had impacted both costs and prices.

The ADC referred the Review Panel to Confidential Spreadsheets: 2. Attachment to Hyundai EWP GP, 17. A Cost comparison re grade comparison from Review 465 and 3. Attachment to Hyundai EWP GP 17 B Physical Difference Calculation package_revised (the costing information supplied by Hyundai for the domestic and export models for 499). Both periods revealed cost differences between the domestically sold models and the export models. It was noted that the models and the naming for the models (from "████" to "████") that were included differed between the two periods due to the changes to the Korean standard change and the application of the Model Control Code (MCC) in REP 499 which included a slightly different subset of models.

The ADC also referred to an additional confidential spreadsheet, GP17C, that included analysis of the price differences (not previously supplied) and an attachment to its submission (dated 17 Feb 2020) which included additional analysis on this issue.



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The Review Panel asked for a copy of GP17C to be supplied and indicated that at the time of the conference, the above-mentioned submission (attachment) had not been received. A further conference may be called should questions arise from this additional information, once considered by the Review Panel.

The Review Panel also noted that there was a change in the model numbers for Hyundai between 2017 and 2018 in that the [REDACTED] was renamed to [REDACTED]. (It appears that 2017 was a period of transition to the updating of the Korean Standard as either name were used during that year, as shown in Confidential Spreadsheet 2.)

Hyundai indicated that the ADC's proposed price comparison (not supplied to Hyundai), compares the differences in prices between the export model exported to Australia and domestic model sold in the Korean market, which indicates nothing but dumping margin, or the differences between two different markets, rather than analysis of the differences between models in the domestic market.

- (3) Could Hyundai provide information regarding its comments on the errors with respect to the OCOT test, as the ADC states in REP 499 that it used domestic selling prices that were in the OCOT, so which selling prices were excluded for the purposes of the normal value assessment?

Hyundai referred to s.269TAAD(1) of the Act which provides that the domestic selling price should be compared with the costs of such goods. Hyundai submits that the domestic price includes inland delivery. For this reason, Hyundai considered it was incorrect for the ADC to deduct the inland freight from the domestic selling price and make the comparison at an ex-works level. The ADC commented that it should not make any difference in the comparison as it has been deducted from the domestic selling price and not added into the CTMS, so the comparison was being undertaken at the same level, that is, ex-works.

Hyundai proposes that it has an impact when undertaking the "recoverability test" pursuant to s.269TAAD(3) of the Act. Hyundai suggested that if the weighted average costs of inland delivery is included in the overall weighted average SG and A percentage, the comparison of the unit selling price with the weighted average of the cost to make and sell (CTMS) for the entire period would lead to more transactions being considered in the OCOT. It claims to have undertaken this calculation and there is a change.



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The ADC referred the Review Panel to Confidential Spreadsheet 6 - Hyundai Appendix 3 Domestic Sales and OCOT. It advised that this information, including the allocation of delivery costs for domestic sales, was provided by Hyundai (allocated to products based on the total invoice cost, as invoices related to multiple products/sales and so an allocation on a per-line basis was required). The ADC deducted this amount from the invoice price for each sale to arrive at a price at ex works per tonne. The Reviewing Member noted that the cost to make and sell must be determined in accordance with Regulations 43 and 44 of the Customs (International Obligation) Regulation 2015.

The ADC indicated it had deducted the total direct delivery costs and had not included this in the Selling, General and Administrative Costs (SG and A) percentage to be applied to calculate the CTMS. It considered the comparison at ex works level would be more accurate calculation of whether sales were made in the OCOT.

Hyundai submits this calculation was at least incorrect for the purposes of s.269TAAD(3) (recoverability test) and the CTMS should have included the total delivery costs allocated on a weighted average basis. Hyundai submits that the inland freight should not be treated differently from other "costs" such as the SG and A cost, which has been allocated on a whole period of investigation basis, to arrive at weighted average CTMS.

There was discussion regarding the underpinning mathematical calculations given that the normal value had been developed based on the domestic selling price (delivered price) with deductions of the unit inland delivery costs (taken from the Hyundai allocated method) with an addition of the export inland freight costs in order to undertake a fair comparison at the FOB level between the normal value and export price. Modifying the freight allocation costs (developed by Hyundai) would have the effect of having a selling price (with the Hyundai allocated delivery cost) being compared with a different freight component for one part of the test. Alternatively, leaving the delivered price as stated and then adding the Hyundai allocated delivery amount, at a per line basis, into the CTMS would lead to exactly the same mathematical outcome as the calculation undertaken by the ADC.

The ADC referred the Review Panel to Confidential Spreadsheet 5 - Hyundai Appendix 5 CTMS, where the SG and A calculations with and without the transport costs are calculated. The ADC considered that as the inland delivery costs are a direct cost they should be allocated as per the original method rather than included as part of the overall SG and A percentage.



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- (4) Could the ADC elaborate on the methodology used to establish the normal value for Hyundai by reference to the relevant spreadsheets: particularly in relation to (a) how many models were used in the normal value assessment and (b) the methodology adopted in relation to the OCOT test regarding delivery charges.

The ADC referred the Review Panel to Confidential Spreadsheet 6 - Hyundai Appendix 3 Normal Value and OCOT. It explained which domestic models were considered comparable and how the OCOT test had been undertaken and referred to Confidential Spreadsheet 5 - Hyundai Appendix 2 CTMS, for information on the SG and A and delivery expense percentages. (The delivery charges were also shown in Appendix 3.)

The Review Panel advised that a draft of the conference summary would be provided to participants within one working day in order to ensure that it is an accurate reflection of the conference and for identification of any confidential information for redaction. It would be appreciated if participant's responses could be provided within two working days.

The Review Panel requested that the conference participants provide the following information following the conference:

- That the ADC provide the confidential spreadsheet GP 17 C from the Hyundai verification visit (supplied to the ADRP Secretariat subsequent to the meeting);
- Hyundai indicated that it would provide its calculation using the weighted average inland delivery costs in the s269TAAD(3) "test" (supplied to the ADRP Secretariat subsequent to the meeting) .