



Anti-Dumping Review Panel Conference Summary

2016/43 Certain Hollow Structural Sections

Panel Member	Leora Blumberg
Date	Wednesday, 18 January 2017
Participants	1. Leora Blumberg (Anti-Dumping Review Panel - Member) 2. Gavin Crooks (Anti-Dumping Commission – Case Manager for original investigation)
Duration	150 minutes
Call commenced	12h00
Call ended	14h35

Record of Anti-Dumping Review Panel (ADRP) Conference with the Anti-Dumping Commission (ADC) held under section 269ZZRA of the *Customs Act 1901* (the Act) in relation to an application from Austube Mills Pty Ltd (ATM) for the review of the decision by the Commissioner of the ADC to terminate the investigation relating to HSS exported from India and the United Arab Emirates (UAE) (the Reviewable Decision)

1. Leora Blumberg (Reviewing Member) opened the conference call and participants introduced themselves.
2. The Reviewing Member advised the conference is being held pursuant to section 269ZZRA of the Act and that a summary of further information obtained at this conference will be published on the ADRP website.
3. The Reviewing Member advised that this conference call was being recorded and that the transcript would be used to prepare the summary. The Reviewing Member confirmed that the summary would be provided to the Anti-Dumping Commission (ADC) prior to publication.
4. The Reviewing Member stated that the purpose of the conference is to obtain further information and clarification from the ADC in relation to the grounds raised by the applicant, ATM and that the conference related to parties' confidential information.
5. The Reviewing Member advised that she considered that the discussion points all related to information that was before the ADC during the investigation, but requested the ADC to indicate if any discussion or clarification related to information that was not before the ADC.
6. With regards to the Indian duty 'drawback' adjustment, the Reviewing Member requested clarification from the ADC relating to this adjustment with regard to ATM's claim that there was insufficient evidence of a 'demonstration' that price comparability was affected.



The ADC advised that it was well informed on the mechanics of the Indian drawback from the Indian legislation. It is usually observable in the exporters' accounts and directly affects cost and price structures, and relatively easy to quantify. The ADC clarified that the duty drawback was calculated with reference to the FOB level value of the exports, which was verified at exporter verification visits during an examination of the relevant documents and financial records kept by each exporter. Accordingly, the ADC applied a downward adjustment to the normal value at the FOB level determined under both s.269TAC(1) and (2)(c), pursuant to s.269TAC(8) and s.269TAC(9) respectively. In both cases, the exporter had incurred import duty (cost) to make its products. The Indian Government affords the exporter of the goods, which has used these imported materials, a refund of the import duty equivalent to 1.9% of the FOB value of the goods being exported (irrespective of the amount of duty actually incurred on the imported goods used to make a particular product). No such refund or drawback is provided for goods sold by the exporter on the Indian domestic market, even though import duty costs could have been incurred. The difference in cost base is therefore considered to affect the price of the goods and warrant the adjustment.

7. With regard to the UAE customs duty adjustment the Reviewing Member requested clarification on the ADC's statement in TER 320 that the unit net invoice values for sales by UTP JA were at least 5 per cent higher than UTP DIP and KHK (which did not operate in the JAFZ). In particular, the Reviewing Member requested further information on how the ADC made this calculation, and if comparisons were made by comparing equivalent models and taking into account the various levels of trade and other market factors.
8. During the Conference, the ADC pointed out that the reference to the 5% was a general observation, and in addition to the finding that the adjustment was warranted based on the evidence. The ADC did not consider that it was actually necessary to do the comparison and analysis, being complimentary to the documentary evidence of the adjustment. The ADC nevertheless undertook to provide the Reviewing Member with details of its calculation and analysis relating to the reference to the 5%.
9. With regard to the specification adjustment, the Reviewing Member requested clarification as to why in the Exporter Verification Report (EVR) for UTP and in SEF 320, the ADC made an upwards specification adjustment to the normal value, while in TER 320, this specification adjustment for surrogate models was not applied to the individual UTP entities (UTP JA, UTP DIP and KHK).
10. The ADC confirmed that the specifications adjustment was not made in respect of any of the separated UTP entities in TER 320. It stated that this was not directly related to the fact that the UTP entities were 'uncollapsed' and treated separately, but rather because of



the change in the ADC's model matching methodology from SEF 320, and applied to all exporters in TER 320, as a result of various submissions made to the ADC. When the ADC applied the new model matching methodology to the separated UTP entities, for the purpose of TER 320, it found that, in respect of many models, there were insufficient sales in the ordinary course of trade (OCOT) for a comparison, so the ADC used the cost of manufacture methodology (s.TAC269(2)(c)), with the result that there was no necessity for specification adjustments. The ADC conceded that the reasons for it not applying this adjustment after SEF were not properly explained in TER 320.

11. With regard to the weight tolerance adjustment, the Reviewing Member requested clarification as to why in the EVR for UTP and in SEF 320 the ADC made an upwards weight tolerance adjustment to the normal value, while in TER 320, this specification adjustment for surrogate models was not applied to any of the individual UTP entities (UTP JA, UTP DIP and KHK).
12. The ADC confirmed that the weight tolerance adjustment was not applied to the normal values of any of the 'uncollapsed' UTP entities in TER 320. It stated that the verification team concluded that an adjustment to account for the differences in the allowable mass tolerance was warranted, based on differences between the standard to which products exported to Australia were manufactured to comply with and the standard to which domestic products were manufactured to comply with. Subsequently, it was found that the mass tolerance assumption on goods exported to Australia was too high and incorrectly based on the mass tolerance for large bundles, rather than on a per piece basis or length of tube, leading to an exaggerated upwards adjustment. Also, after SEF 320, due to the change in model matching methodology, the ADC found that in respect of many models there were insufficient sales in the ordinary course of trade (OCOT) for a comparison, so the ADC used the cost of manufacture methodology (s.TAC269(2)(c)) for a large proportion of normal values. Normal values determined under TAC(2)(c) were not subject to any weight adjustment.
13. The ADC undertook to provide the ADRP with further information relating to the weight tolerance adjustment. The ADC conceded that the reasons for not applying the mass tolerance adjustment after SEF were not properly explained in TER 320.
14. With regard to the causal link claim, and with what ATM considers to be "understated lost volumes of galvanised HSS produced by the Australian industry", the Reviewing Member requested further information relating to the statements in TER 320 that: ATM's sales of 250 grade represented only 10 per cent of its total sales volume of galvanised CHS; the volume of galvanised CHS sold by ATM represented "*an immaterial proportion*" of its total HSS sales during the investigation period; and that the ADC was satisfied that injury



caused by the price undercutting in relation to dumped imports of HDG CHS from India and the UAE was “negligible in the context of ATM’s total HSS sales.” In particular the Reviewing member requested information on the undercutting margin of the imported 250 grade HDG CHS compared with ATM’s 250 grade galvanised CHS, a volume analysis for ATM’s 250 grade galvanised CHS during the injury analysis period, and the actual proportion of volume of galvanised CHS sold by ATM to its HSS sales during the investigation period and how this proportion changed over the injury analysis period.

15. The ADC advised that the only information it had on sales of different graded and shaped HSS was for the investigation period, and not for the whole injury analysis period. It stated that ATM had not provided this information, broken down into grades and shapes, for the whole injury analysis period, but only for the investigation period. It undertook to provide the requested information for the investigation period.
16. Also with regard to the causal link claim and, in particular, ATM’s contention that the ADC failed to consider the inability for ATM to maintain / regain lost galvanised CHS volume and the closure of the Somerton facility, the Reviewing Member requested the ADC to comment on ATM’s claim that the ADC made a factual error in finding that, “*the closure of the Somerton plant was announced as early as June 2015, which was prior to the investigation period,*” (TER 320, page 69) and that therefore, it was unable to attribute ATM’s decision to close the Somerton plant to the effects of dumping from India and the UAE. ATM points out that the investigation period for the purpose of assessing dumping was 1 October 2014 to 30 September 2015 and the announcement month for the Somerton closure of June 2015 falls within that Investigation Period.
17. The ADC confirmed that there was a factual error in TER 320. The announcement of the closure of the Somerton facility was in fact within the investigation period and not announced before the investigation period. The Reviewing Member requested information on the particular products of HSS that the Somerton plant manufactured. The ADC did not have that information on hand in the Conference but undertook to furnish further information with regard to this.
18. The Reviewing Member requested the ADC to provide an explanation for the wide discrepancies in the dumping margins from SEF 320, when UTP entities were collapsed into one entity (4.8%) to TER 320 when UTP JA, UTP DIP and KHK were treated as separate entities (range from -2.3% to 2.7%) as well as the ‘uncooperative and all other exporters’ for UAE (from 4.4% in SEF 320 to 15.9% in TER 320). Also, the Reviewing Member requested an explanation for the large difference in the “weighted average dumping margin” for all exports from the UAE, being 4.6% in SEF 320 (page 46) and negative 2.1 per cent in TER 320 (page 60).



19. The ADC advised that there were a number of reasons for the variations in dumping margins from SEF to TER for the UTP group. The ADC pointed out that the dumping margin (DM) in SEF 320 was not a weighted average margin derived from the three separate calculations, but was the weighted average of the aggregated sales and cost data. Also in SEF 320 the DM was derived from comparisons of sales and costs between entities that would not have been compared when the entities were separated. Also, the change in model matching methodology and treatment of certain adjustments changed the total normal values and export prices. The ADC undertook to provide further information related to this.