PUBLIC FILE

Application for the publication of dumping and/or countervailing duty notices Certain Copper Tube exported from the People's Republic of China and the Republic of Korea

APPLICATION UNDER SECTION 269TB OF THE *CUSTOMS ACT 1901* FOR THE PUBLICATION OF DUMPING AND/OR COUNTERVAILING DUTY NOTICES

DECLARATION

I request, in accordance with section 269TB of the *Customs Act 1901* (the Act), that the Minister publish in respect of goods the subject of this application:

☒ a dumping duty notice for exports from Korea, or

☐ a countervailing duty notice, or

☒ a dumping and a countervailing duty notice for exports from China.

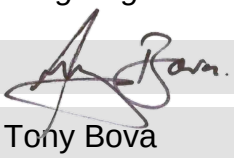
This application is made on behalf of the Australian industry producing like goods to the imported goods the subject of this application. The application is supported by Australian producers whose collective output comprises:

- 25% or more of the total Australian production of the like goods; and
- more than 50% of the total production of like goods by those Australian producers that have expressed either support for, or opposition to, this application.

I believe that the information contained in this application:

- provides reasonable grounds for the publication of the notice(s) requested; and
- is complete and correct.

Please note that giving false or misleading information is a serious offence.

Signature:	
Name:	Tony Bova
Position:	Executive General Manager
Company:	MM Kembla
ABN:	13 003 762 641
Date:	29 May 2020

IMPORTANT INFORMATION

Signature requirements

Where the application is made:

By a company - the application must be signed by a director, servant or agent acting with the authority of the body corporate.

By a joint venture - a director, employee, agent of each joint venturer must sign the application. Where a joint venturer is not a company, the principal of that joint venturer must sign the application form.

On behalf of a trust - a trustee of the trust must sign the application.

By a sole trader - the sole trader must sign the application.

In any other case - contact the Commission's Client support section for advice.

Assistance with the application

The Anti-Dumping Commission has published guidelines to assist applicants with the completion of this application. Please refer to the following guidelines for additional information on completing this application:

- *Instructions and Guidelines for applicants on the application for the publication of dumping and/or countervailing duty notices*
- *Instructions and Guidelines for applicants on the examination of a formally lodged application*

The Commission's client support section can provide information about dumping and countervailing procedures and the information required by the application form. Contact the team on:

Phone: 13 28 46

Email: clientsupport@adcommission.gov.au

Information is available from the Commission's website at www.adcommission.gov.au.

Small and medium enterprises (i.e., those with less than 200 full-time staff, which are independently operated and which are not a related body corporate for the purposes of the *Corporations Act* 2001), may obtain assistance, at no charge, from the International Trade Remedies Advisory (ITRA) Service. For more information on the ITRA Service, visit www.business.gov.au or telephone the ITRA Service Hotline on +61 2 6213 7267.

Important information

To initiate an investigation into dumping and/or subsidisation, the Commission must comply with Australia's international obligations and statutory standards. This form provides an applicant industry with a framework to present its case and will be used by the Commission to establish whether there appear to be reasonable grounds for the publication of a dumping duty or countervailing duty notice and initiate an investigation. To assist consideration of the application it is therefore important that:

- all relevant questions are answered; and

- information that is reasonably available be supplied.

The Commission does not require conclusive evidence to initiate an investigation, but any claims made should be reasonably based. An application will be improved by including supporting evidence and where the sources of evidence are identified. Simple assertion is inadequate to substantiate an application.

To facilitate compilation and analysis, the application form is structured in 3 parts:

1. **Part A** seeks information about the Australian industry. This data is used to evaluate industry trends and assess claims of material injury due to dumping/subsidisation. Where an Australian industry comprises more than one company, each should separately prepare a response to Part A to protect commercial confidentiality.
2. **Part B** relates to evidence of dumping.
3. **Part C** is for supplementary information that may not be appropriate to all applications. However some questions in Part C may be essential for an application, for example, if action is sought against subsidisation.

All questions in Parts A and B must be answered, even if the answer is 'Not applicable' or 'None'. Where appropriate, applicants should provide a short explanation about why the requested data is not applicable. This will avoid the need for follow up questions by the Commission.

The application form does not specifically address all the information required when making a claim that the establishment of an Australian industry producing like goods has been or may be materially hindered. If you are considering making such a claim, please contact the Commission to discuss information requirements.

The application form requests data over several periods (P^1, P^2….P^n) to evaluate industry trends and to correlate injury with dumped or subsidised imports. The labels P^1…P^n are used for convenience in this application form. Lodged applications should identify the period relevant to the data. This form does not specify a minimum period for data provision. However, sufficient data must be provided to substantiate the claims made. If yearly data is provided, this would typically comprise a period of at least four years (for example the current financial year in addition to three prior years). Where information is supplied for a shorter period, applicants may consider the use of quarterly data. Data must also be sufficiently recent to demonstrate that the claims made are current.

When an investigation is initiated, the Commisison will verify the claims made in the application. A verification visit to the Australian industry usually takes several days.

Applicants should be prepared to substantiate all Australian industry financial and commercial information submitted in the application. Any worksheets used in preparing the application should therefore be retained to facilitate verification.

During verification, the Commisison will examine company records and obtain copies of documents relating to the manufacture and sale of the goods.

Appendices

Some questions require attachments to be provided. The attachment numbering sequence should refer to the question answered. For example, question A2.2 requests a copy of an organisation chart. To facilitate reference, the chart should be labelled Attachment A2.2. If a second organisation chart is provided in response to the same question, it should be labelled Attachment A2.2.2 (the first would be labelled Attachment A2.2.1).

Provision of data

Industry financial data must, wherever possible, be submitted in an electronic format.

- The data should be submitted on a media format compatible with Microsoft Windows.
- Microsoft Excel, or an Excel compatible format, is required.
- If the data cannot be presented electronically please contact the Commission's client support section for advice.

Lodgement of the application

This application, together with the supporting evidence, must be lodged in the manner approved by the Commissioner under subsection 269SMS(2) of the Act. The Commissioner has approved lodgement of this application by either:

- preferably, email, using the email address clientsupport@adcommission.gov.au, or
- post to:
  The Commissioner of the Anti-Dumping Commission
  GPO Box 2013
  Canberra ACT 2601, or
- facsimile, using the number (03) 8539 2499.

Public Record

During an investigation all interested parties are given the opportunity to defend their interests by making a submission. The Commission maintains a public record of these submissions. The public record is available on the Commission's website at www.adcommission.gov.au.

At the time of making the application both a confidential version (for official use only) and non-confidential version (public record) of the application must be submitted. Please ensure each page of the application is clearly marked "FOR OFFICIAL USE ONLY" or "PUBLIC RECORD". The non-confidential application should enable a reasonable understanding of the substance of the information submitted in confidence, clearly showing the reasons for seeking the publication of a dumping duty or countervailing duty notice, or, if those reasons cannot be summarised, a statement of reasons why a summary is not possible.

PART A

INJURY

TO AN AUSTRALIAN INDUSTRY

IMPORTANT

All questions in Part A should be answered even if the answer is 'Not applicable' or 'None'. If an Australian industry comprises more than one company/entity, each should separately complete Part A.

A-1 Identity and communication

Please nominate a person in your company for contact about the application:

Contact Name:	Mr Tony Bova
Company and position:	Executive General Manager, MM Kembla
Address:	30 Gloucester Boulevarde, Port Kembla NSW 2505
Telephone:	(02) 4223 5120
Facsimile:	
E-mail address:	tony.bova@kembla.com.au
ABN:	13 003 762 641

Alternative contact

Name:	
Position in company:	
Address:	
Telephone:	
Facsimile:	
E-mail address:	

If you have appointed a representative to assist with your application, provide the following details and complete Appendix A8 (Representation).

Name:	John O'Connor
Business name:	John O'Connor & Associates
Address:	P.O. Box 329, COORPAROO, QLD, 4151
Telephone:	+61 7 3342 1921
Facsimile:	+61 7 3342 1931
E-mail address:	jmoconnor@optusnet.com.au
ABN:	39 098 650 241

A-2 Company information

1. State the legal name of your business and its type (e.g. company, partnership, sole trader, joint venture). Please provide details of any other business names you use to manufacture/produce/sell the goods that are the subject of your application.

The legal entity of the applicant company is METAL MANUFACTURES PTY LIMITED ABN 13 003 762 641. It is a proprietary limited liability company. The trading name of the division manufacturing the goods the subject of the application is "MM Kembla".

(Please note that Metal Manufactures Limited changed its name to Metal Manufactures Pty Limited on the 29th November 2019).

2. Provide your company's internal organisation chart. Describe the functions performed by each group within the organisation.

MM Kembla has included an organisation chart at Confidential Attachment A-2.2.

3. List the major shareholders of your company. Provide the shareholding percentages for joint owners and/or major shareholders.

MM Kembla is a division of Metal Manufactures Pty Limited which is 100 per cent owned by MML Holdings Limited.

(Please note that MML Holdings Pty Limited changed its name to MML Holdings Limited on 14th May 2020.)

4. If your company is a subsidiary of another company list the major shareholders of that company.

MML Holdings Limited is owned 100 per cent by Marshire Holdings Corporation.

5. If your parent company is a subsidiary of another company, list the major shareholders of that company.

Marshire Holdings Corporation owns MML Holdings Limited 100 per cent.

6. Provide an outline diagram showing major associated or affiliated companies and your company's place within that structure (include the ABNs of each company).

A diagram of affiliated companies to MM Kembla is included at Confidential Attachment A-2.6.

7. Are any management fees/corporate allocations charged to your company by your parent or related company?

MM Kembla does receive allocations from its parent company annually. It does receive internal allocations as a Division of MMPL.

8. Identify and provide details of any relationship you have with an exporter to Australia or Australian importer of the goods.

MM Kembla does not have any related party relationships with any of the exporters and/or importers of the goods which are the subject of this application and are exported from China or Korea.

MM Kembla has suppliers in a number of countries (including China and Korea) from whom we purchase products that MM Kembla does not manufacture and in some cases these exporters also compete on other products that MM Kembla does manufacture for the Australian market.

9. Provide a copy of all annual reports applicable to the data supplied in appendix A3 (Sales Turnover). Any relevant brochures or pamphlets on your business activities should also be supplied.

MM Kembla financial statements are included in Metal Manufactures Pty Limited Consolidated Statements at Confidential Attachment A-2.9. The 2019 financial statements have not yet been published for the MML Holdings Limited entity (the new reporting entity).

10. **Provide details of any relevant industry association**.

MM Kembla is a member of:

- International Copper Association Australia.
- Australian Industry Group (AIG)
- Australian Hydraulic Services Association (AHSCA)
- Hydraulic Consultants Association Australia (HCAA)
- Master Plumbers of Australia (MPA)

A-3 The imported and locally produced goods

1. Fully describe the imported product(s) the subject of your application:

- **Include physical, technical or other properties.**
- **Where the application covers a range of products, list this information for each make and model in the range.**
- **Supply technical documentation where appropriate.**

The goods the subject of this application are:

Round seamless copper tube complying with Australian Standard AS 1432, Australian and New Zealand Standard AS/NZ 1571 or Australian Standard AS 1572 with an outside nominal diameter between 9.52 mm and 53.98 mm, and a nominal wall thickness between 0.71 mm and 1.83 mm, including coated tube.

Goods specifically excluded from the goods description are:

- *thermally insulated copper tube, such as Pair Coil;*
- *Annealed coils;*
- *Layer Wound Packs/Level Wound Coils; and*
- *Copper alloy tube*.

Further explanation concerning applicable Standards

The physical and technical characteristics of the goods subject to this application are in accordance with the requirement of one of the following Australia or Australian/New Zealand product standards:

- **AS1432 - Copper Tubes for Plumbing, Gasfitting and Drainage Applications**
  Physically, AS1432 round seamless copper tubes are typically bare or coated copper tube containing ink marking and incising in accordance with and referencing the product standard and are packaged with open ends (uncapped).

- **AS/NZ1571 - Copper - Seamless Tubes for Air Conditioning and Refrigeration**
  Physically, AS/NZS 1571 round seamless copper tubes are bare (uncoated) and contain ink marking in accordance with and referencing the standard, are internally cleaned and tube ends are plastic/rubber capped to protect from internal contamination (green, pink, yellow or black caps).

- **AS1572 - Copper and Copper Alloys - Seamless Tubes for Engineering Purposes**
  Physically, AS 1572 tubes can be round, square or rectangular. For the goods the subject of this application, physically the goods are round seamless copper tubes typically bare, and containing inkmarking in accordance with and referencing the standard.

2. List the tariff classification(s) and statistical code(s) of the imported goods.

The tariff classification of the goods the subject of this application is 7411.10.00 statistical code 11 for “Copper tube and pipes of refined copper”.

The general rate of duty is 5 per cent. Imports of the goods from China and Korea attract a “Free” rate of duty.

3. Fully describe your product(s) that are ‘like’ to the imported product:

- **Include physical, technical or other properties.**
- **Where the application covers a range of products, list this information for each make and model in the range.**

- **Supply technical documentation where appropriate.**
- **Indicate which of your product types or models are comparable to each of the imported product types or models. If appropriate, the comparison can be done in a table.**

Seamless copper tube manufactured by MM Kembla are "like" goods to imported seamless copper tube imported from China and Korea. MM Kemba's product range manufactured to AS 1432 and AS/NZ 1571 are detailed in Non-Confidential Attachments A-3.3.1 to A-3.3.2.

The goods imported from one Chinese supplier are included at Confidential Attachment A-3.3.3. A copy of the Korean exporter Nungwon's model listing is at Non-Confidential Attachment A-3.3.4.

The locally produced goods and the imported goods possess similar dimensions and physical characteristics. Locally manufactured tube and imported tube of the same dimensions are directly comparable.

4. Describe the ways in which the essential characteristics of the imported goods are like to the goods produced by the Australian industry.

MM Kembla submits that seamless copper tube manufactured in Australia has the same essential characteristics as imported seamless copper tube and are considered "alike" in all respects. The following key factors apply:

- Physical likeness – the physical characteristics of the locally produced and imported seamless copper tube are similar – that is of similar shape and dimension, and are made from copper;
- Commercial likeness – the locally produced and imported goods are commercially alike as they are sold to common customers for use in the same applications;
- Functional likeness – the locally produced and imported goods are functionally alike as the perform the same function and are used in the same applications (and are interchangeable);
- Production likeness – the locally produced and imported goods are manufactured in a similar manner, involving similar manufacturing processes and finish treatment (i.e. annealing).

5. What is the Australian and New Zealand Standard Industrial Classification Code (ANZSIC) applicable to your product.

Seamless copper tube is covered by the ANZSIC Class 2149 for Other Non-Ferrous Metal Manufacturing category which is classified as follows:

Division C	Manufacturing
Subdivision 21	Primary Metal and Metal Product Manufacturing
Group 214	Basic Non-Ferrous Metal Manufacturing
Class 2149	Other Basic Non-Ferrous Metal Product Manufacturing

6. Provide a summary and a diagram of your production process.

(i) Manufacturing process

Copper tube is manufactured from raw material copper which is predominately newly refined copper, cathode copper and copper scrap. The raw material copper is melted in a furnace, impurities removed, ready for casting.

Molten metal is transferred from the furnace where it is cast into large “logs” by a continuous casting method. The diameter of the logs is approximately 250mm. As the cast log emerges from the casting machine, a moving saw cuts the log into set lengths. These lengths, each weighing approximately 530kg, are then sent to the next process for Extrusion.

The next step is to cut these logs into shorter lengths called billets. The billets are then reheated and placed in a chamber of an extrusion press. The horizontally mounted chamber contains a die at one end and a hydraulically driven ram at the other end. As the ram moves forward the copper is forced over the mandrel and through the hole in the die, creating a long hollow tube.

Copper tube is sold in either hard i.e. as hard drawn, half hard or in a soft, annealed state. Annealing involves passing the tube through a continuous annealing process at (700 degrees Celsius). Annealed tube can be visually distinguished from hard-drawn tube by its matte surface finish.

In each of the finishing drawing processes, the tube passes through a straightening process, marking line, eddy current testing to test for surface defects, and undergoes a final cut to the required length. The finished tubes are then bundled into pre-determined bundle quantities, strapped, and wrapped.

The next steps in the tube-making process depend on the type of product to be produced and the intended end application. The tube can be put through a cleaning process, plastic coating (lagging) operation, or have end caps applied. They can then undergo final testing as required.

(ii) Manufacturing diagram

MM Kembla has included a schematic of its manufacturing process at Confidential Attachment A-3.6.

7. If your product is manufactured from both Australian and imported inputs:

- **describe the use of the imported inputs; and**
- **identify that at least one substantial process of manufacture occurs in Australia (for example by reference to the value added, complexity of process, or investment in capital).**

Copper tube is manufactured from locally sourced refined copper. The manufacture of copper tube from refined copper involves a capital-intensive process of manufacture where refined copper is melted at temperature and poured from the furnace to produce billets. The billets are again heated and pass through an extrusion where the copper is elaborately transformed into tube.

The manufacture of the copper billet and the extrusion process involve two substantial processes of manufacture that are both capital-intensive in nature.

8. If your product is a processed agricultural good, you may need to complete Part C-3 (close processed agricultural goods).

Seamless copper tube is not a processed agricultural good. Part C-3 of this application does not require completion.

9. Supply a list of the names and contact details of all other Australian producers of the product.

MM Kembla is the sole Australian manufacturer of seamless copper tube the subject of this application.

10. If different models can be established for the goods subject to the application:

- **What are the differences in physical characteristics that give rise to distinguishable and material differences in price?**

  There exist no noticeable differences between the locally produced goods and the imported goods.

- **Provide supporting documentation or analysis supporting the differences in physical characteristics that affects price comparability. Unit costs may also be used to demonstrate differences in physical characteristics where it affects price comparability.**

  Please refer to Confidential Attachment A-3.3.3 which details the dimensions of the imported seamless copper tube. The locally produced and imported copper tube are of the same dimensions by nominal size (i.e. outside diameter and wall thickness).

- **In providing the list of physical differences, identify the characteristics in order of significance.**

  Not applicable**.**

- **Identify key characteristics where the physical differences are significantly different and it is not meaningful to compare models with different physical characteristics.**

  Not applicable.

- **Identify the physical characteristics that can be reported in relation to sales and cost data respectively. This should be reflected in the sales data provided in appendices A4 and A6.**

  Size of outside diameter, wall thickness and length.

- **Complete the table below having regard to the information provided above. The Commission will consider this information in establishing a model control code structure for the investigation.**

  The following Table A-3.10 details the Model Control Codes for seamless copper tube.

  Table A-3.10 – Proposed Model Control Codes

  Legend:

MCC	***Description***
SL	*Small Lagged (OD => 9.52mm & <=22.22mm)*
SP	*Small Plumbing (OD => 9.52mm & <=22.22mm)*
SR	*Small Refrigeration (OD => 9.52mm & <=22.22mm)*
ML	*Mid-size Lagged (OD => 25.40mm & <=54.00mm)*
MP	*Mid-size Plumbing (OD => 25.40mm & <=54.00mm)*
MR	*Mid-size Refrigeration (OD => 25.40mm & <=54.00mm)*

Product	**Code**	**Category**	**Outside Diameter (mm) Min**	**Max.**	**Wall Thickness (mm) Min**	**Max**	**AS/NZ Standard**	**Sales Data**	**Cost Data**	**Characteristics**
Seamless Copper Tube	SL	Lagged	9.52	22.22	0.71	1.69	AS1432	Mandatory	Mandatory	Straight length round seamless copper tube typically coated with Polyvinyl Chloride (PVC) or Low Density Polyethylene (LDPE) in white, green, lilac or brown in colour depending on application and open ended (uncapped). Outside diameters =/> 9.52mm and =/< 22.22mm.
	SP	Plumbing	9.52	22.22	0.71	1.69	AS1432/ AS1572	Mandatory	Mandatory	Straight length round seamless copper tube bare/uncoated and open ended (uncapped). Outside diameters =/> 9.52mm and =/<22.22mm.

	SR	Refrigeration	9.52	22.22	0.71	1.69	ASNZ1571	Mandatory	Mandatory	Straight length round seamless copper tube bare/uncoated and ends sealed (capped) to protect internal cleanliness. Outside diameters =/> 9.52mm and =/< 22.22mm.
	ML	Lagged	25.40	54.00	1.20	1.83	AS1432	Mandatory	Mandatory	Straight length round seamless copper tube typically coated with Polyvinyl Chloride (PVC) or Low Density Polyethylene (LDPE) in white, green, lilac or brown in colour depending on application and open ended (uncapped). Outside DIamaters =/> 25.40mm and =/< 54mm.
	MP	Plumbing	25.40	54.00	1.20	1.83	AS1432	Mandatory	Mandatory	Straight length round seamless copper tube bare/uncoated and open ended (uncapped). Outside diameters =/> 25.40mm and =/< 54mm.
	MR	Refrigeration	25.40	54.00	1.20	1.83	ASNZ1571	Mandatory	Mandatory	Straight length round seamless copper tube bare/uncoated and ends sealed (capped) to protect internal cleanliness. Outside diameters =/> 25.40mm and =/< 54mm.

MM Kembla manufactures seamless copper tube of varying nominal diameters (between 9.52 mm and 53.98 mm) and of nominal thicknesses between 0.71 mm and 1.83 mm. Imported seamless tube is of similar dimensions to that manufactured by MM Kembla (contrast dimensions in MM Kembla catalogue at Non-Confidential Attachment A-3.3.1 to A-3.3.2 and certain imported Chinese goods at Confidential Attachment A-3.3.3) and Korean at (Non-Confidential Attachment A-3.3.4).

A-4 The Australian market

1. Describe the end uses of both your product and the imported goods.

The Australian market for seamless copper tube involves end-use applications involved in the movement of water, gas or refrigerant in HVAC piping systems. End use applications include the following:

- Plumbing;
- Refrigeration piping;
- HVAC (heating, ventilation and air conditioning) piping;
- Mechanical gas tubing;
- Medical gas tubing;
- Water and gas infrastructure.

2. Describe the Australian market for the Australian and imported product and the conditions of competition within the overall market. Your description could include information about:

- **sources of product demand;**
- **marketing and distribution arrangements;**
- **typical customers/users/consumers of the product;**
- **the presence of market segmentation, such as geographic or product segmentation;**
- **causes of demand variability, such as seasonal fluctuations, factors contributing to overall market growth or decline, government regulation, and developments in technology affecting either demand or production;**
- **the way in which the imported and Australian product compete; and**
- **any other factors influencing the market.**

Seamlesss copper tube manufactured by MM Kembla regardless of the market or end application competes based on the following, with price ultimately being a key driver in an increasingly commoditised category:

- Price
- Quality
- Conformance with Australian standards outlined in the goods description and market segmentation
- Service and technical support
- Product

Typically, the channel to market (end user) for importers is the same as that for Australian manufactured tube, i.e. via plumbing, HVAC-R and hardware merchants in Australia. For plumbing tube, sales are predominantly through specialist plumbing distributors and to a lesser extent through hardware stores. For refrigeration and medical gas tube, sales are predominantly through heating, ventilation, air conditioning and refrigeration distributors.

Physically there is no distinct visual difference between local and imported products. Ultimately the main physical or visual difference is in the ink mark applied to the tube, where manufacturer or brand is the only real distinction. Typically, products can be physically identified by the following:

- Plumbing tube – bare uncoated seamless round copper tube; open ended (uncapped); permanently incised with standard and watermark licence; and ink marked in accordance with AS 1432 standard.
- Lagged tube – typically PVC or LDPE coated seamless round copper tube; open ended (uncapped); ink marked in accordance with AS 1432 standard; coated typically with green, lilac, brown or white coating.

- Refrigeration & medical gas tube - bare uncoated seamless round copper tube; sealed ends (capped) to maintain internal cleanliness; ink marked in accordance with AS/NZS 1571 standard; capped typically with pink or red (high pressure), green or black (low pressure) and yellow (specific use or medical gas) rubber or plastic caps.

(i) Sources of product demand

The copper tube market in Australia is broadly driven by new construction and renovations cycle in the residential, commercial and infrastructure markets. Copper tube is generally used for the movement of water, gas or refrigerant in HVAC piping systems.

(ii) Marketing and distribution arrangements

The locally produced goods and imported goods are typically sold to merchants/distributors that on-sell to customers (i.e. plumbers, gas fitters, etc).

(iii) Typical customers/users/consumers of the goods

The end users of copper tube typically purchase copper tube from Plumbing Merchants (e.g. Reece Plumbing, Tradelink), Refrigeration, Air Conditioning, HVAC merchants and hardware stores. The end-user includes:

- Plumbers;
- Refrigeration Mechanics;
- HVAC (heating, ventilation and air conditioning) Services;
- Mechanical services;
- Medical gas industries;
- Water and gas infrastructure.

(iv) Market segmentation

Copper tube can be broadly segmented into the following product categories:

- Plumbing tube – For the reticulation of water & gas;
- Refrigeration tube – For HVAC and Refrigeration systems;
- Medical Gas tube – For the supply of medical gases;
- Lagged tube – PVC coated tube used for inground and corrosive environments;
- Insulated tube – Mostly pair coil used in air conditioning installations.

Plumbing tube must be manufactured and compliant with Australian Standard AS 1432 and must be independently Watermark certified as part of the Watermark Certification Scheme administered by the Australian Building Codes Board (ABCB).

Refrigeration tube must be manufactured and compliant with Australia / New Zealand Standard AS/NZS 1571.

Medical Gas Copper Tube manufactured to AS/NZS1571 conforms with the requirements of the Medical Gas Systems installation standard AS2896 and have been designed to be suitable for the transmission of medical gases such as oxygen and vacuum or suction line applications.

Demand drivers and subsequent demand variability of the copper tube market in Australia can be attributed to the following factors:

- Global copper price volatility/fluctuations. Copper as a raw material contributes to a proportionately large percentage of the price of copper tube;
- Level of investment/activity in multi-residential and non-residential construction sectors such as accommodation, offices, education, health and aged care;

- System designation and operating parameters prescribed by designers or hydraulic and mechanical consultants;
- Seasonal fluctuations predominantly across extended holiday periods where construction activity is lower and warmer seasons for domestic air conditioning copper tube;
- Developments in alternative piping technologies, particularly in gas and hot water distribution and HVAC applications (PPR technology, Gas PEX systems) and large bore alternatives (Stainless Steel, PPR);
- Advancements in Retail/Supermarket sector refrigeration systems requiring copper alloy piping;
- Improved connection technology and methods (Press Fittings, Push-Fittings) supporting growth in demand for copper tube.

(v) The way in which the local and imported goods compete

Australian manufactured tube competes based on quality and conformance with Australian Standards, delivering lower end user and asset owner risk of failure. Local service and technical support create a point of differentiation but ultimately price is a key driver in a category that is becoming increasingly commoditised by cheap imports of inferior quality.

3. Identify if there are any commercially significant market substitutes for the Australian and imported product.

There are no commercially significant market substitutes for the subject goods.

4. Complete appendix A1 (Australian production). This data is used to support your declaration at the beginning of this application.

MM Kembla has completed Confidential Appendix A1 for the 12 month period to 31 March 2020.

5. Complete appendix A2 (Australian market).

MM Kembla has completed Confidential Appendix A2 – Australian market for seamless copper tube.

6. Use the data from appendix A2 (Australian market) to complete this table:

MM Kembla has examined the imports under subheading 7411.10.00 statistical code 11. This classification includes copper tube and some certain products that are not the goods under consideration. For example, pair coil, which is specifically excluded from the goods coverage, has been excluded from the Appendix A2 – Australian market analysis.

Additionally, MM Kembla has examined the remaining import data for copper tube and excluded certain other goods classified to this subheading that do not appear to be seamless copper tube within the dimensions identified in this application. Imports where the unit value is not similar to the shipments from China and Korea are considered not likely to be seamless copper tube.

It is MM Kembla's view that the only sources for the competitive goods to locally produced seamless copper tube originate from China and Korea. The import volumes from Vietnam, for example, are understood to be pair coil.

*Indexed table of sales quantities**

Period	(a) Your Sales	(b) Other Aust^{n} Sales	(c) Total Aust^{n} Sales (a+b)	(d) Dumped Imports	(e) Other Imports	(f) Total Imports (d+e)	Total Market (c+f)
2016/17	100	100	100	100	100	100	100
2017/18	94.4	100	94.4	116.3	100	116.3	102.2
2018/19	97.9	100	97.9	112.2	100	112.2	103.0
2019/20	90.5	100	90.5	125.5	100	125.5	103.2

Notes:

1. Data from Confidential Appendix A2 – Australian Market ;
2. Years ending March.

The Australian market for seamless copper tube is supplied from local production by MM Kembla and imports – from China and Korea. MM Kembla has imported small volumes of seamless copper tube – these volumes have been shown separately under MM Kembla's own sales and recorded in the above Table as "Other Australian Sales".

Imports of seamless copper tube have increased year-on-year from China, with a significant surge of 22 per cent in 2019/20. Coinciding with this increase in imports from China, MM Kembla's sales volumes have contracted 7 per cent, and imports from Korea have declined just under five per cent.

It is apparent in a relatively stable market that Chinese exports of seamless copper tube have displaced sales of imports from Korea and sales by the Australian manufacturer MM Kembla.

A-5 Applicant's sales

1. Complete appendix A3 (sales turnover).

MM Kembla has completed Confidential Appendix A3 for the goods the subject of this application.

2. Use the data from appendix A3 (sales turnover) to complete these tables.

MM Kembla has not completed quantities for "All Products" as the quantities for like goods and all other products sold (including manufactured) by MM Kembla are not comparable on a quantity basis.

*Indexed table of Applicant's sales quantities**

Quantity	2016/17	2017/18	2018/19	2019/20
All Products				
Aust. Market	100			
Export Market	100			
Total	100			

Like Goods				
Aust. Market	100	94.41	97.91	90.52
Export Market	100	103.08	79.51	72.70
Total	100	96.68	93.09	85.85

*Index of data. For years ending March.

MM Kembla's sales quantities of like goods decreased in 2017/18, recovered 60 per cent of lost volumes in 2018/19, and declined sharply in 2019/20 (by 7.5 per cent).

*Indexed table of Applicant's sales values**

Revenues	**2016/17**	**2017/18**	**2018/19**	**2019/20**
All Products				
Aust. Market	100	104.99	113.89	105.85
Export Market	100	104.77	96.06	84.35
Total	100	104.94	109.97	101.12
Like Goods				
Aust. Market	100	108.74	118.44	110.27
Export Market	100	115.47	95.67	86.16
Total	100	110.38	112.89	104.39

*Index of data. P^n For years ending March.

MM Kembla's domestic revenues for All Products declined by almost 8 per cent in 2019/20, coinciding with a 9.5 per cent decline in revenues for seamless copper tube in the same period.

3. Complete <u>appendix A5</u> (sales of other production) if you have made any:

- **internal transfers; or**
- **domestic sales of like goods that you have not produced, for example if you have imported the product or on-sold purchases from another Australian manufacturer.**

The applicant has completed Confidential Appendix A5 for sales of goods not manufactured by MM Kembla.

4. Complete appendix A4 (domestic sales).

MM Kembla has completed Confidential Appendix A4 for the period 1 April 2019 to 31 March 2020.

5. If any of the customers listed at appendix A4 (domestic sales) are associated with your business, provide details of the association. Describe the price effect of the association.

MM Kembla does not have sales of like goods to associated parties.

6. Attach a copy of distributor or agency agreements/contracts.

MM Kembla does not sell through distributors/agencies and therefore no agreements/contracts are applicable.

7. Provide copies of any price lists.

MM Kembla has included price lists (effective March 2020) for select customers at Confidential Attachment A-5.7.

8. If any price reductions (for example commissions, discounts, rebates, allowances and credit notes) have been made on your Australian sales of like goods provide a description and explain the terms and conditions that must be met by the customer to qualify.

Price reductions applied to MM Kembla's Australian sales of like goods can be summarised into the following categories. Levels of price reductions and types of price reduction can vary from customer to customer.

- **Trading Rebates** – A rebate based on a % amount off a customer's invoice price for all transactions. These rebates are processed as a credit note at month end to the customer's account of customer consolidated account.

- **Head Office Rebates** – Administrative or head office rebates based on a % amount off a customer's invoice price for all transactions. These rebates generally apply to larger accounts or buying groups and can include rebates for administration and marketing of our products. Generally processed as via EFT on a bi-monthly or quarterly basis.

- **Settlement Discounts** – Discounts applied to account customers for payment of their statement/invoices within the payment term/period as agreed at time of their application for credit. The discount is processed at time of payment as a credit note on the customer's account/consolidated account.

- **Long Term Incentives / Volume Rebates –** Rebates related to customers reaching specified volume/purchase targets or incentives for purchasing/trading at a specified level over a period of time. Processed as an EFT payment or credit note, generally on an annual basis.

- **Other Rebates –** Rebates that aren't clearly categorised but can include the following:

    - *Individual item rebates* – agreed % or unit price rebate for a specified list of products purchased whereby. Payment can be either EFT or credit note and processed usually to head office or buying group.
    - *Opening Order Rebates* – Rebates associated with pipefill orders for new customers or stores. Generally, a specified % rebate off the opening purchased order value.
    - *Target Rebates* – Rebates provided to customers for use with to obtain business of agreed specific customer targets.

- **Where the reduction is not identified on the sales invoice, explain how you calculated the amounts shown in <u>appendix A4</u> (domestic sales).**

- Trading rebates – calculated on the transaction line based on the rebate agreements with customer uploaded in MM Kembla's ERP system.

- Head Office Rebates - calculated on the transaction line based on the rebate agreements with customer uploaded in MM Kembla's ERP system.

- Settlement Discounts – calculated based on the payment terms associated with the relevant customer account.

- Long Term Incentives / Volume Rebates – calculated based on payments/accruals over the 12 month period and weighted across the customers associated transactions.

- Other Rebates - calculated based on payments/accruals over the 12 month period or related rebate period and weighted across the customers associated transactions.

- **If you have issued credit notes (directly or indirectly) provide details if the credited amount has not been reported appendix A4 (domestic sales) as a discount or rebate.**

  All credit notes and credited rebate amounts are shown in Appendix A4 (domestic sales). Credit notes relate to product returns, price discrepancies, damaged product and can be determined by the Invoice type "AR2" on the individual transaction lines. All other credit amounts are shown in "Rebates".

9. Select two domestic sales in each quarter of the data supplied in appendix A4 (domestic sales). Provide a complete set of commercial documentation for these sales. Include, for example, purchase order, order acceptance, commercial invoice, discounts or rebates applicable, credit/debit notes, long or short term contract of sale, inland freight contract, and bank documentation showing proof of payment.

MM Kembla has included two complete sets of commercial documentation for each quarter within the twelve month period 1 April 2019 to 31 March 2020. Please refer to Confidential Attachment A-5.9.

10. Provide a list of model control codes from appendix A4.

The following details the Model Control Codes for the goods the subject of this application. Each category will be further categorised according to the outside diameter and thickness of the copper tube.

Product	**Code**	**Category**	**Outside Diameter (mm) Min**	**Max.**	**Wall Thickness (mm) Min**	**Max**	**AS/NZ Standard**	**Sales Data**	**Cost Data**
Seamless Copper Tube	SL	Lagged	9.52	22.22	0.71	1.69	AS1432	Mandatory	Mandatory
	SP	Plumbing	9.52	22.22	0.71	1.69	AS1432/AS1572	Mandatory	Mandatory
	SR	Refrigeration	9.52	22.22	0.71	1.69	ASNZ1571	Mandatory	Mandatory
	ML	Lagged	25.40	54.00	1.20	1.83	AS1432	Mandatory	Mandatory
	MP	Plumbing	25.40	54.00	1.20	1.83	AS1432	Mandatory	Mandatory
	MR	Refrigeration	25.40	54.00	1.20	1.83	ASNZ1571	Mandatory	Mandatory

A-6 General accounting/administration information.

1. Specify your accounting period.

MM Kembla's full financial year is 1 January to 31 December.

2. Provide details of the address(es) where your financial records are held.

MM Kembla financial records are held at 30 Gloucester Boulevarde, Port Kembla, NSW 2506. Metal Manufactures Pty Limited consolidate accounts/records are held at 19-21 Loyalty Road, North Rocks, NSW, 2151.

3. To the extent relevant to the application, please provide the following financial documents for the two most recently completed financial years plus any subsequent statements:

- **chart of accounts;**

  Metal Manufactures Pty Limited does not have a chart accounts, it is a consolidation of multiple charts. Please refer to Confidential Attachment A-3.3.1.

- **audited consolidated and unconsolidated financial statements (including all footnotes and the auditor's opinion);**

  Audited statements for Metal Manufactures Limited are included at Confidential Attachment A-2.9 for 2017 and 2018.

  As noted above, Metal Manufactures Limited changed its name on 29th November 2019 to Metal Manufactures Pty Limited. Metal Manufactures Pty Limited did not prepare financial statements for the 2019 financial year. Under ASIC Corporations Instrument 2016/785, MML Holdings Pty Limited as the parent of Metal Manufactures Pty Limited is the only company in the group that is required by ASIC to prepared audited consolidated financial statemdenst.

  On 14th May 2020, MML Holdings Pty Limited changed its name to MML Holdings Limited. Unaudited financial statements for the year end 31 December 2019 for MML Holdings Limited are attached for your reference. Audited financial statements will be available in mid-June 2020.

- **internal financial statements, income statements (profit and loss reports), or management accounts, that are prepared and maintained in the normal course of business for the goods.**

  These documents should relate to:

  1. the division or section/s of your business responsible for the production and sale of the goods covered by the application, and

  2. the company overall.

  A copy of the MM Kembla 2019 Profit & Loss, and the March 2020 Profit and Loss are included at Confidential Attachment A-6.3.2.

4. If your accounts are not audited, provide the unaudited financial statements for the two most recently completed financial years, together with your taxation returns. Any subsequent monthly, quarterly or half yearly statements should also be provided.

Refer comments in section 3 above regarding financial statements.

5. If your accounting practices, or aspects of your practices, differ from Australian generally accepted accounting principles, provide details.

Metal Manufactures Limited accounts comply with Australian accounting standards as certified by independent auditors in the 2017 and 2018 Annual Report at Non-Confidential Attachment A-2.9. The draft unaudited financial statements for MML Holdings Limited aslo comply with Australian accounting standards.

6. Describe your accounting methodology, where applicable, for:

- **The recognition/timing of income, and the impact of discounts, rebates, sales returns warranty claims and intercompany transfers;**

  All recognised at despatch of goods, i.e. posted or accrued at date of despatch.

- **provisions for bad or doubtful debts;**

  Three per cent general provision plus 100% specific provision for accounts more than 90 days.

- **the accounting treatment of general expenses and/or interest and the extent to which these are allocated to the cost of goods;**

  General expenses are only allocated to the cost of goods where they are incurred in manufacturing overhead costs. Interest is not allocated to the cost of goods. Both general expenses and interest are recognised in the profit or loss on an accruals basis according to Australian Accounting Standards.

- **costing methods (eg by tonnes, units, revenue, activity, direct costs etc) and allocation of costs shared with other goods or processes;**

  Manufacturing costs are determined using standard cost systems within the Baan ERP platform. Copper costs, including copper inventory hedge gains and losses, are directly costed on the basis of the actual weights for raw materials and work-in-process and nominal weights for finished goods items. Costs are allocated on an activity basis where possible, or generally allocated on the basis of tonnes or net-added-value.

- **the method of valuation for inventories of raw material, work-in-process, and finished goods (e.g. FIFO, weighted average cost);**

  Inventory valuation is split between copper and fabrication cost. Copper is valued on a FIFO basis, with inventory hedge adjustments for copper and currency hedges being absorbed as required. Fabrication costs are based on the Baan ERP standard costs system. Inputs other than copper (such as plastic tube caps and tube insulation) are based on average purchase price.

- **valuation methods for scrap, by-products, or joint products;**

  Copper production scrap is valued at the FIFO copper price, with no fabrication value. Scrap copper tube is remelted in the Billet Caster, then used normally in downstream production processes. There are no by-products or joint products.

- **valuation methods for damaged or sub-standard goods generated at the various stages of production;**

  Damaged copper tube and sub-standard is valued at the FIFO copper price, with no fabrication value. Damaged copper tube is remelted in the Billet Caster, then used normally in downstream production processes.

- **valuation and revaluation of fixed assets;**

  Fixed assets are carried at cost less depreciation, using prime cost method to depreciate. Fixed asset impairment (if any) is calculated at year end. Last building revaluation for the MM Kembla operations was in 1992.

- **average useful life for each class of production equipment, the depreciation method and depreciation rate used for each;**

  Production equipment is classified in Fixed Asset Register (FAR) as “Plant”. Plant items are depreciated over 10 years, 10% depreciation rate using prime cost method.

- **treatment of foreign exchange gains and losses arising from transactions and from the translation of balance sheet items; and**

  Foreign exchange gains and losses are accounted for a hedge acccounting basis.

- **restructuring costs, costs of plant closure, expenses for idle equipment and/or plant shut-downs.**

  Not applicable during the injury periods.

7. If the accounting methods used by your company have changed over the period covered by your application please provide an explanation of the changes, the date of change, and the reasons.

MM Kembla’s accounting methods have not altered over the four-year period reflected in the financial data completed for this application.

A-7 Cost information

1. Complete <u>appendices A6.1</u> and <u>A6.2</u> (cost to make and sell) for domestic and export sales.

MM Kembla has completed Appendices A6.1 and A6.2 for the goods the subject of this application.

2. Provide a list of model control codes from appendix A6.1 and A6.2.

Each category will be further categorised according to the outside diameter and thickness of the copper tube.

Product	Code	Category	Outside Diameter (mm) Min	Max.	Wall Thickness (mm) Min	Max	AS/NZ Standard	Sales Data	Cost Data
Seamless Copper Tube	SL	Lagged	9.52	22.22	0.71	1.69	AS1432	Mandatory	Mandatory
	SP	Plumbing	9.52	22.22	0.71	1.69	AS1432/AS1572	Mandatory	Mandatory
	SR	Refrigeration	9.52	22.22	0.71	1.69	ASNZ1571	Mandatory	Mandatory
	ML	Lagged	25.40	54.00	1.20	1.83	AS1432	Mandatory	Mandatory
	MP	Plumbing	25.40	54.00	1.20	1.83	AS1432	Mandatory	Mandatory
	MR	Refrigeration	25.40	54.00	1.20	1.83	ASNZ1571	Mandatory	Mandatory

A-8 Injury

The principal indicators of injury are price, volume and profit effects – although not all of these must be evident. For this application, profit refers to amounts earned. Profitability is the ratio of profit to sales revenue. Where the application includes a claim of threat of material injury you must also complete question C.2.

1. **Estimate the date when the material injury from dumped and/or subsidised imports commenced.**

   MM Kembla considers that material injury from the dumping and subsidisation of the exports to Australia commenced in 2018.

2. **Using the data from appendix A6 (cost to make and sell), complete the following tables for each model control code of your production. P^n is the most recent period.**

   Index of production variations (model control code)

Period	2016/17	2017/18	2018/19	2019/20
Index	100	96.68	93.09	85.85

*Use data from label A of appendix A6.1

MM Kembla has experienced a reduction in production tonnes of seamless copper tube in 2019/20 as imports from China have increased and displaced MM Kembla's sales.

Index of cost variations (model control code)

Period	2016/17	2017/18	2018/19	2019/20
Index	100	116.69	125.01	126.70

*use data from label J of appendix A6.1

MM Kembla's Cost to make and sell (CTMS) seamless copper tube has increased 26.7 per cent since 2016/17.

Index of price variations (model control code)

Period	2016/17	2017/18	2018/19	2019/20
Index	100	115.19	120.98	121.81

*Use data from label L of appendix A6.1

MM Kembla's weighted-average selling price has increased by 21.81 per cent since 2016/17, however, costs have increased at a much greater rate than selling prices, resulting in profit suppression.

Index of profit variations (model control code)

Period	2016/17	2017/18	2018/19	2019/20
Index	100	70.53	1.00	-23.75

*use data from label N of Appendix 6.1

MM Kembla has experienced an erosion of its margin as raising selling prices has lagged cost increases – particularly in 2018/19 as increasing imports from China were evident in the market.

Index of profitability variations (model control code)

Period	2016/17	2017/18	2018/19	2019/20
Index	100	61.23	0.83	-19.50

*use data from label O of appendix A6.1

The applicant's profitability has reflected the deterioration in unit profit over the period to 2019/20.

3. **Complete appendix A7 (other injury factors).**

Where applicable to injury claims, prepare an indexed table for other injury factor(s) in the format above.

MM Kembla has completed Confidential Appendix A7 for "Other" economic indicators. The indices have been completed on a financial year (i.e. Jan to Dec) basis for four full years, plus the March 2020 quarter data. Data for the March 2020 qtr may be influenced by the lower production levels that naturally occur due to reduced sales in January.

Index of Revenue

Period	2016	2017	2018	2019	2020 ytd
Index	100	109.5	112.6	106.7	91.8

*use data from appendix A7

MM Kembla's revenues from the goods has declined in 2019, and is experiencing a further decline in the first quarter of 2020.

Index of Return on Investment

Period	2016	2017	2018	2019	2020 ytd
Index	100	60.8	20.1	-37.4	-121.0

*use data from appendix A7

MM Kembla's return on investment for seamless copper tube the subject of this application has

deteriorated since 2016, with negative returns in 2019 and 2020.

Index of Capacity Utilisation

Period	2016	2017	2018	2019	2020 ytd
Index	100	106.0	105.2	89.3	63.3

*use data from appendix A7

MM Kembla's production has declined significantly in 2019 as it has surrendered sales to imports (and is consistent with declines in market share).

Index of employment

Period	2016	2017	2018	2019	2020 ytd
Index	100	97.4	97.6	89.6	91.8

*use data from appendix A7

The Applicant has reduced its manufacturing personnel in 2019 as it has sought to reduce costs and overheads to remain competitive with imports.

Index of Inventory

Period	2016	2017	2018	2019	2020 ytd
Index	100	140.5	236.0	217.3	169.0

*use data from appendix A7

MM Kembla has experienced an increase in closing stocks at the end of 2018 and 2019 well above stock levels from earlier periods as it competes with increasing import volumes.

A-9 Link between injury and dumped or subsidised imports

To establish grounds to initiate an investigation there must be evidence of a causal relationship between the injury and the alleged dumping or subsidisation. This section provides for an applicant to analyse the data provided in the application to establish this link. It is not necessary that injury be shown for each economic indicator.

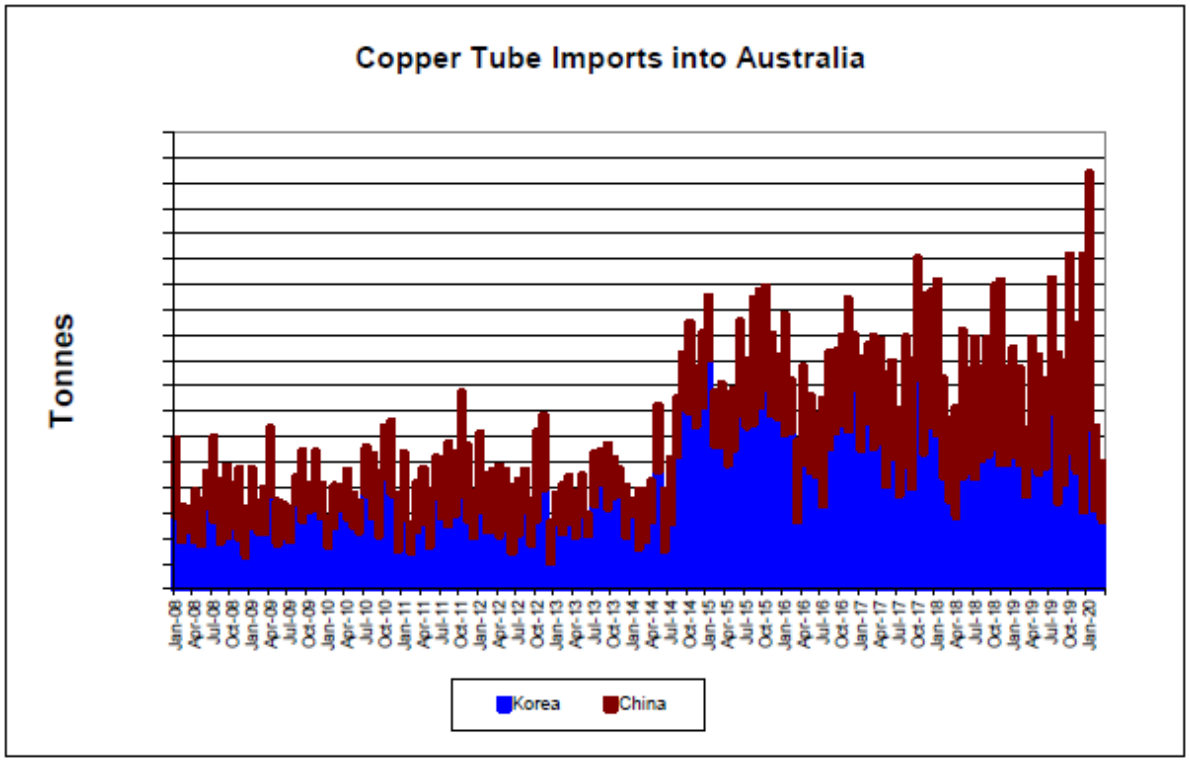
1. Identify from the data at appendix A2 (Australian market) the influence of the volume of dumped and/or subsidised imports on your quarterly sales volume and market share.

The imports of seamless copper tube into Australia from Korea and China have increased over the most recent four-year period from approximately xxxx tonnes in 2016/17, to xxxx tonnes in 2019/20 (by approximately 25 per cent). Over this same period MM Kembla's sales of like goods have declined by xx per cent, with a particular sharp fall in 2019/20 of xxx per cent (following a small recovery in 2018/19). MM Kembla's market share has declined by approximately xxx per cent since 2016/17, with a fall of approximately xxx per cent in 2019/20.

Specifically, imports from China have increased approximately 62 per cent since 2016/17, with an increase of almost 30 per cent in 2019/20 (refer Confidential Appendix A2). The aggressively priced Chinese exports of seamless copper tube at prices that have undercut MM Kembla, have captured increased market share at MM Kembla's expense (and at the expense of the exports from Korea).

The following chart reflects the increasing volumes from China that have displaced MM Kembla's locally produced sales and imports from Korea. The sharp increase in imports in 2014 can be attributed to the closure of the Crane Copper Tube facility in Australia, and the closure of MM Kembla's large bore copper tube production facility. The import volumes from China have in 2019/20 exceeded the levels apparent following the two plant closures in 2014.

Table A-9.1.1 – Copper tube imports 2016/17 to 2019/20 ex China and Korea



Source: Ex ABS data at Confidential Attachment B-1.5.

Table A-9.1.1 confirms the increased volumes from China since 2016/17 – far exceeding earlier periods from 2008.

2. Use the data at <u>appendix A2</u> (Australian market) to show the influence of the price of dumped and/or subsidised imports on your quarterly prices, profits and profitability provided at <u>appendix A6.1</u> (costs to make and sell). If appropriate, refer to any price undercutting and price depression evident in the market.

(i) <u>Price suppression</u>

The Chinese exports of seamless copper tube have impacted MM Kembla's quarterly prices and volumes due to the price undercutting evident in the landed-into-store selling prices versus MM Kembla's selling prices. The increase in imports from China is evident in October 2019 to January 2020 when xxxx tonnes were imported, compared with xxxx tonnes for the same period the previous year (with Korean imports being similar at approx.. xxxx tonnes for the same two periods). Customer feedback is that MM Kembla is xx to xx per cent *uncompetitive* with its pricing against imports. MM Kembla has had to hold prices in many instances (and reduce prices in others) in order to maintain sales volumes. Throughout this time, MM Kembla has incurred increasing costs of production, even though it has reduced employment numbers and improved productivity (see below).

MM Kembla has undertaken cost-saving initiatives across the last four-year period that improved productivity and were also intended to improve MM Kembla's Net Added Value ("NAV") on copper tube. With declines in FOB export prices for Chinese copper tube coinciding with increases in MM Kembla's CTMS, the benefits from improved efficiencies have not materialised. Not surprisingly, MM Kembla has experienced price suppression and a reduction in profit and profitability, particularly from October 2019 as exports from China increased as the largest exporter established warehousing facilities in Australia to sell direct to customers. This change in circumstances with the Chinese exporter xxxx establishing offices in Australia has been accompanied by aggressive pricing into 2020 which has undercut MM Kembla's pricing.

The following graphic depicts the decline in MM Kembla's NAV from the fourth quarter of 2019 in response to declines in the calculated NAV for Chinese exports to Australia.

Table A-9.2.1 – MM Kembla NAV v estimated Chinese NAV

[*Commercially sensitive graph depicting margin analysis*]

MM Kembla has calculated its Net Added Value (NAV) based upon the difference between its Net Selling Prices (NSV) and the prevailing London Metals Exchange (LME) market price for

copper. MM Kembla has further calculated the Chinese NAV based upon its analysis of the Chinese CIF import prices, adjusted for LME copper prices. NAV is a critical aspect of MM Kembla's pricing strategy. The pricing of copper tube in the market can be considered as the sum of two price components, a Premium or NAV, and the LME copper price. For the determination of product prices these are usually represented as $/tonne and converted to a final item price of $/length. These two price components can be defined as follows with regards to Kembla's pricing strategy:

- Premium or NAV - includes cost of producing the goods (cost of fabrication), packaging and other materials excluding copper, freight and distribution costs, cathode premium and margin applied to the item; The NAV or Premium can be determined as the "Net Sell Price less LME Copper Price".

- LME Copper Price - the prevailing London Metals Exchange (LME) market price for copper. Typically MM Kembla prices are determined using the 2mth LME average converted to AUD.

Any reduction in NAV is reflective of reduced pricing in the market. In the absence of any reduction to the cost of producing the goods, the reduction in NAV results in a reduction to profit. Historically Average NAV's in the range of $xxxx to $xxxx per tonne are required to cover total costs and this puts a floor on MM Kembla pricing.

Of concern to MM Kembla is the decline in the Chinese NAV from the end of 2018, which has increased the price pressures on MM Kembla to compete and hold sales volumes. Over this same period, the NAV for imports from Korea has been relatively stable, although from the fourth quarter of 2019 the Chinese NAV has reduced and has impacted the NAV for Korean imports also.

The following graph depicts the decline in selling price for MM Kembla's refrigeration tube since 2014 as it competes with imports from both China and Korea. Refrigeration tube is a major segment for MM Kembla locally produced seamless copper tube.

Table A-9.2.2 – MM Kembla Refrigeration Tube NAV $/MT

[*Commercially sensitive graph depicting pricing analysis*]

(ii) Price undercutting

MM Kembla has encountered price undercutting from imported seamless copper tube from China and Korea. The following case study examples demonstrate the price undercutting from the dumped imports.

- **Example 1 (*Customer)***

[*Customer*] is a xxx – xxx tonne per annum plumbing supplies wholesaler [*commercially sensitive details relating to size of customer]*. [*Customer*] has been approached by [*importer*] for supply at [*Customer*] is approximately $xxx – xxx. [*Date*], MM Kembla provided an offer to supply to [*Customer*] which provided for a xx per cent price reduction and a $xxx per tonne [*commercially sensitive pricing details*] represented an approximate xx per cent net reduction in NSV.

Negotiations continued through until [*date]*. [*Customer*] did not respond to MM Kembla's offer.

Over the subsequent periods into [*date to date*], MM Kembla has experienced an approximate xxx tonne per annum reduction in supply to [*Customer*]. MM Kembla understands that [*Customer*] continues to dual-source seamless copper tube from MM Kembla and imports from [*source of supply*].

Please refer to supporting documentation at Confidential Attachment A-9.2.1.

- **Example 2 (*Customer)***

[*Customer*] is an approximate xxx tonne per annum customer that MM Kembla [*frequency of supplies*] as the company had been sourcing imports. In mid [*year*], [*Customer*] was offered supply by MM Kembla to compete with current import purchases of copper tube from [*importer*] and [*importer*] from China.

MM Kembla received feedback from [*Customer*] that the imported copper tube was xx per cent below the best market price available at that time.

MM Kembla has had only limited supply at [*Customer*].

Refer to Confidential Attachment A-9.2.2 for supporting documentation).

- **Example 3 (*Customer)***

[*Customer and linkages to ownership*]. MM Kembla received a request from [*Customer*] concerning supply of imported copper tube by [i*mporter*] sourced from China in [*date*].

Import supply was for xx-xx Tonnes. The price offered by [*importer]* was xx-xx per cent below competitive prices at the time.

MM Kembla was unable to match the pricing and did not supply. Refer to Confidential Attachment A-9.2.3.

- **Example 4 (*Customer)***

[*Customer*] has a total estimated volume of copper tube for refrigeration applications of almost xxx tonnes per annum. [*Customer*] encounters regular competing offers from importers including supply from China. Importers include [*importer*], [*importer*] and [*importer*]. The top xxxx refrigeration lines involve annual sales of almost xxxx tonnes per annum for MM Kembla. [*Customer*] was receiving price offers that were up to xxxx per cent below MM Kembla's pricing.

In *[date*] MM Kembla responded to offer [*Customer*] an average xxx per cent decrease on the local supply of refrigeration copper tube that resulted in a $xxx reduction in margin for MM Kembla.

Refer to Confidential Attachment A-9.2.4.

- **Example 5 (*Customer)***

In February 2018 MM Kembla was provided with an opportunity to supply [*Customer*] with refrigeration grade copper tuning for a 12 month period. The supply was for approximately xxx tonnes. [*Customer*] had been offered pricing for imported copper tube (understood to be China) which was priced below MM Kembla. MM Kembla offered a xxx per cent saving on pricing at the time. Despite the reduction in pricing offered by MM Kembla, [*Customer*] went with the import supply.

Refer Confidential Attachment A-9.2.5.

- **Example 6 (*Customer)***

MM Kembla worked with [*Customer*] during the period [*date*] to [*date*] to drive increased volumes for the supply of copper tube. In [*date]*, MM Kembla was notified that [*Customer*] had been provided with an offer for supply of approximately xxx tonnes by *[importer*] of [*source*] that was approximately xxx per cent below MM Kembla's pricing.

MM Kembla understands that as time progressed from [*date*] to [*date*] [*importer*] further reduced pricing by up to xxxx per tonne.

The pricing provided by [i*mporter*] was below Kembla (by xx per cent) and has seen MM Kembla lose tonnes at [*Customer*] of approximately xx –xx per cent of previous volumes.

Refer Confidential Attachment A-9.2.6.

- **Example 7 (*Customer)***

In [*date*] [*Customer*] was seeking supply of xx Tonne of copper tubing. MM Kembla's offer was undercut by approximately xx per cent (with best offer xx-xx per cent) below MM Kembla's pricing. MM Kembla was unsuccessful in securing volumes at [*Customer*] .

Refer Confidential Attachment A-9.2.7.

- **Example 8 – (*Customer)***

[*Customer*] was approached by the Chinese exporter [*company*] for direct supply of its copper tube requirements. The volumes at [*Customer*] are approximately [*volume*] tonnes per annum.

[*Company]* offered supply from China at prices that were approximately xx per cent below MM Kembla. [*Commercially sensitive details relating to negotiations*].

Negotiations are continuing. MM Kembla driving supply chain cost savings to assist [*Customer*].

Refer Confidential Attachment A-9.2.8.

- **Example 9 (*Customer)***

In [*date*] [*Customer*] was seeking supply of xxx tonnes through [*supplier*] . Import offers received by [*Customer*] include from [*importer]* and [i*mporter*] ex China. The supply period was over an [*timing*] timeframe.

MM Kembla understands the import price offers were xx per cent below MM Kembla's price offer.

[*Customer*] did not accept MM Kembla's offer [*via supplier*]. MM Kembla has lost [*volume*] tonnes to imports at [*Customer*].

Refer Confidential Attachment A-9.2.9.

- **Example 10 (*Customer*)**

In recent (May 2020) discussions MM Kembla was presented with an opportunity to supply [*details and customer*]. MM Kembla was notified that imported xxxxxx copper tube was on offer. MM Kembla offered xx per cent below the xxxx market rate. Imported copper tube ex xxxxxx was xx per cent below MM Kembla's best price.

[*Supplier*] won the business with imported xxxxxx copper tube. MM Kembla was unsuccessful.

Refer Confidential Attachment A-9.2.10.

(iii) Impact on profit and profitability

The foregoing examples confirm the price undercutting experienced by MM Kembla from copper tube imported from both China and Korea since early 2018. The increased import volumes from China from October 2019 at reduced prices has impacted MM Kembla's NAV and that for competing Korean imports, resulting in injury to the Australian industry. The impact of the price undercutting has seen MM Kembla lose sales volumes and market share, experience price suppression which has negatively impacted MM Kembla's profit and profitability. Since 2016/17, MM Kembla's xxxx has declined from a xxxx $xxxx M to a xxxx of $xxx in 2019/20 – a substantial deterioration in a relatively short period of time.

3. Compare the data at appendix A2 (Australian market) to identify the influence of dumped and/or subsidised imports on your quarterly costs to make and sell at appendix A6.1 (for example refer to changes in unit fixed costs or the ability to raise prices in response to material cost increases).

MM Kembla has demonstrated at Part A-8.2 above that it is has experienced an approximate xxx per cent increase in its unit CTMS since 2016/17. Due to the increasing competition from the dumped imports, MM Kembla has been unable to raise selling prices to recover increases in its CTMS. Whilst it Is recognised that a significant proportion of this increase can be accounted for in rising LME copper prices, this increase should also be reflected in the selling prices of fairly-priced imports from China and Korea.

The MM Kembla copper tube price is determined by the [*basis for copper tube price*] This [*pricing]* incorporates the net added value above the material price of copper. These [*pricing*] are calculated slightly differently by customer but the basis for its calculation has not increased in the last 8 years. In fact, the only changes to the calculation has seen [*pricing]* come down. Price reductions had been introduced for difference bundle quantity price breaks reducing prices further. The inability to increase pricing has been driven by lower import tube pricing and the resulting increasing volumes of imported tube.

MM Kembla's cost of manufacturing copper tube products has steadily increased over the last 5 years. Cost increases in electricity, gas, wage rates, plant utilisation costs from reduced volumes has resulted in lower contributions. Total cost per tonne of manufacturing has increase xx% in last 4 years despite constantly investing to drive productivity. Total SG&A costs have increased xx% during his same period. Constant restructuring has been required reduce costs to compete as a consequent over the last 10 years employee number have reduced by xx%.

In response to reducing profitability, MM Kembla has pursued cost-saving initiatives including reduced employee numbers, and improved productivity. The following graphs confirm the recent employment and productivity trends for MM Kembla.

Graph A-9.3.1 – MM Kembla Tube & Fittings employee numbers

[*Commercially sensitive graph depicting employee numbers*]

Graph A-9.3.2 – MM Kembla productivity

[*Commercially sensitive graph depicting productivity efficiency*]

Across the last 10 years MM Kembla has invested in productivity improvements to remain globally competitive, improving the key measure of KG's of output per man hour significantly over this time. Automation and flexible work practices particularly in material handling end of the manufacturing process has resulted in significant gains. Closure of all manufacturing in Brisbane

and consolidating all production at Port Kembla allowed for more flexible use of labour between lines. Upgrades of PLC's systems delivered higher yields less downtime and fast line speeds increases productivity and capacity.

These improvements have been essential in the face of increasing import competition over the four-year injury period identified in this application. MM Kembla has been unable to pass on price increases for copper as it is forced to suppress prices in order to maintain volumes against aggressively dumped imports from China that have been matched with comparative selling prices for Korean imported copper tube. In 2019/20, MM Kembla has incurred losses as dumped imports undercut MM Kembla's prices further impacting MM Kembla's ability to raise prices to recover increases in costs.

4. The quantity and prices of dumped and/or subsidised imported goods may affect various economic factors relevant to an Australian industry. These include, amongst other things, the return on investment in an industry, cash flow, the number of persons employed and their wages, the ability to raise capital, and the level of investment in the industry. Describe, as appropriate, the effect of dumped and/or subsidised imports on these factors and where applicable use references to the data you have provided at appendix A7 (other economic factors). If factors other than those listed at appendix A7 (other economic factors) are relevant, include discussion of those in response to this question.

MM Kembla has completed Confidential Appendix A7 and is able to demonstrate injury in each of the following "other" indicators:

(a) Utilisation rates

The increasing exports to Australia from China have impacted MM Kembla's production and sales volumes for seamless copper tube. MM Kembla has experienced a deterioration in production utilisation – most notably in the 2019/20 year as utilisation rates for like goods have declined xx per cent.

(b) Increased inventories

The decline in production and sales has also made it difficult to manage inventories over the last three-year period. Stock levels for the subject goods have been higher in 2018/19 and 2019/20 than earlier periods.

(c) Return on Investment

MM Kembla's ROI has deteriorated year-on-year since 2016/17 as imports of dumped seamless copper tube have increased and MM Kembla has surrendered market share. Accompanying a decline on ROI is the ability of the business to attract capital for reinvestment purposes.

(d) Employment

As indicated above, MM Kembla has reduced employment numbers for people directly involved in the manufacture of the subject goods. In 2019, there was an almost xx per cent reduction in manufacturing employees involved in the production of like goods.

5. Describe how the injury factors caused by dumping and/or subsidisation and suffered by the Australian industry are considered to be 'material'.

The injury experienced by the Australian industry from the dumped exports from China and Korea is considered to be "material" in nature.

The availability of the dumped and subsidised seamless copper tube exports from China, and the dumped exports from Korea, have impacted the Australian market for some years. In 2014, a second local producer Crane Copper Tube, exited from local manufacture in Australia due to

continued reductions in import prices and lack of industry profitability. The Crane Copper Tube factory in Penrith ceased manufacturing and domestic trading at the end of 2014. Crane Copper Tube had been unprofitable for a number of years due to a range of factors including competitiveness with cheap imports. This resulted in 108 job losses.

In 2014 MM Kembla closed its large bore (greater than 54mm tube) due to declining critical scale, increasing costs of production and inability to get an adequate return on the required investment in plant upgrades. The free trade agreement with Korea further impacted MM Kembla's competitiveness with imports.

As a result of the closure of MM Kembla's No.2 large bore mill, 17 operator positions where made redundant.

MM Kembla has demonstrated with examples of the pricing pressures (refer Part A-9.2 above) where it has encountered price undercutting from the dumped and subsidised Chinese exports from early 2018, and the dumped exports from Korea. The impact of the injurious exports has lead to a decline in sales volumes, loss of market share, reduced employment as MM Kembla addresses its own cost base, and price suppression. Over the last two years (i.e. 2018/19 and 2019/20, MM Kembla's profit and profitability has deteriorated as the injurious imports – lead by aggressive pricing by the Chinese exporter xxxx (aided also by the benefit of subsidies received from the Government of China) with reducing NAVs, has significantly undercut MM Kembla's selling prices.

MM Kembla has suffered injury that it is material as its profit has diminished since 2016/17. MM Kembla's xxxx achieved on sales in 2016/17 of $xxxx M was $xxxx M. In 2019/20 on sales of $xxxx M, and a xxxx of $xxxx M. This reduction in profit is significant to MM Kembla's ongoing viability and is injury that is not "immaterial, insignificant or insubstantial" when contrasted with the revenues generated for this category of goods.

6. Discuss factors other than dumped and/or subsidised imports that may have caused or may threaten to cause injury to the industry. This may be relevant to the application in that an industry weakened by other events may be more susceptible to injury from dumping and subsidisation.

The manufacture of copper tube involves the purchasing of raw material refined copper or copper scrap. Both raw material inputs are priced in accordance with LME traded copper prices. The price of copper is a significant factor in the production costs of a copper tube manufacturer. Across the four-year period from 2016/17, demand for copper tube in Australia has increased moderately, yet MM Kembla's sales volumes and market share have deteriorated.

MM Kembla has demonstrated that it has experienced injury from the dumped exports from China and Korea as reflected in its NAV (i.e. net added-value) margin that is represented by the difference between selling price and raw material copper costs (as reflected in the LME price). This is despite MM Kembla reducing costs and improving productivity, which has delivered no benefit to MM Kembla's bottom line.

MM Kembla operates on an average NAV margin of circa $xxxxx to $xxxxx per tonne which it submits has been eroded due to the injurious effects of the dumping. Where offers for dumped imports are below this NAV, MM Kembla must walk away from the business. This has the impact of continuing to drive up manufacturing cost per tonne with the inability to recover in price due to price suppression from dumped imports.

MM Kembla has experienced increases in the cost of energy over the last couple of years. This cost increase however has been relatively insignificant when contrasted with the price undercutting and price suppression experienced from the dumping (and subsidisation).

7. This question is not mandatory, but may support your application. Where trends are evident in your estimate of the volume and prices of dumped and/or subsidised imports, forecast their impact on your industry's economic condition. Use the data at appendix A2 (Australian market), appendix A6 (cost to make and sell), and appendix A7 (other economic factors) to support your analysis.

This application demonstrates that exports to Australia of seamless copper tube from China has increased by approximately 60 per cent since 2016/17 and that the growth in volumes is due to price undercutting from the dumped and subsidised exports over this period. The Chinese exports have also impacted the exports from Korea which have been priced to compete with the export prices for Chinese seamless copper tube.

The aggregate import volumes from China and Korea have increased by 25 per cent since 2016/17, whereas sales of locally produced like goods by MM Kembla have declined by xx per cent. The overall market has increased moderately since 2016/17. MM Kembla's market share has declined by xx per cent since 2016/17 from approximately xx per cent to xx per cent. Additionally, MM Kembla has experienced price undercutting from the dumped exports from China and Korea, resulting in price suppression and reduced profits and profitability.

MM Kembla has observed an increase in price undercutting from the end of 2019 as the Chinese exporters seek to increase sales of seamless copper tube on the Australian market. Based upon the growth in the last twelve months for Chinese exports to Australia, a further increase in Chinese exports of 30 per cent is likely by the end of 2020/21.

In this application, MM Kembla has demonstrated that it has also experienced injury in certain "other" economic indicators, including:

- reduction in return on investment;
- reduced capacity utilisation;
- reduced employment;
- increases in inventories from levels of 2016/17 and 2017/18.

The injury experienced by MM Kembla has occurred at a time when MM Kembla has worked to improve productivity as represented by output per employee.

MM Kembla considers that the injury from the dumping from China and Korea is "material". That is, the injury cannot be considered "*immaterial, insignificant or insubstantial*" when the reductions in market share (xx per cent), sales volumes (almost xx per cent), profit and profitability [*commercially sensitive details*] are considered.

MM Kembla requests the Commissioner to initiate an investigation into the dumping and subsidisation of exports of seamless copper tube to Australia from China, and the dumping of exports from Korea, to fully examine the dumping, subsidisation and material injury impacting the seamless copper tube market in Australia. MM Kembla further requests that the Commissioner pro-actively consider the imposition of provisional measures from Day 60 of the investigation to limit further material injury to the Australian industry from the dumped and injurious exports.

MM Kembla considers that early provisional measures are justified given the sharp increase in exports from China – in the most recent twelve month period, as well as since the 2016/17 base year. MM Kembla is concerned that in the absence of provisional measures, exporters in China and Korea will continue to reduce prices on the Australian market to either maintain or seek increased shares of the Australian market.

PART B

DUMPING

IMPORTANT

All questions in Part B should be answered even if the answer is 'Not applicable' or 'None' (unless the application is for countervailing duty only: refer Part C). If an Australian industry comprises more than one company/entity, Part B need only be completed once.

B-1 Source of exports

1. Identify the country(ies) of export of the dumped goods.

The countries of export of the goods are The People's Republic of China ("China") (the dumped and subsidised exports) and The Republic of Korea ("Korea") (dumped goods).

2. Identify whether each country is also the country of origin of the imported goods. If not, provide details.

The applicant understands that the country of export is also the country of origin for the goods (i.e. where the goods were manufactured).

3. If the source of the exports is a non-market economy, or an 'economy in transition' refer to Part C.4 and Part C.5 of the application.

China and Korea are not considered non-market economy or economy in transition countries for the purposes of Australia's Anti-Dumping provisions.

4. Where possible, provide the names, addresses and contact details of:

- **producers of the goods exported to Australia;**
- **exporters to Australia; and**
- **importers in Australia.**

The following companies are understood to be exporters of the goods from China:

- Zhejiang Hailiang Co., Ltd
  No. 386, Jiefang Road
  Industry Park Diankou Town Zhuji
  Shaoxing Zhejiang Zhuji
  Zhejiang, China, 311835
  Tel: +86 575 8706 9033
  www.hailiang.com

- Shanghai Hailiang Copper Co., Ltd

Shanghai Hailiang is also a member of the Hailiang Group of companies, and the above contact address applies.

- Zhejiang Maile Copper Co., Ltd
  CAO'E Development Zone
  Shangyu, Shaoxing
  Zhejiang Province, China

- Foshan Huahong Copper Tube Co., Ltd
  Songgang Songxia Industrial Park
  Shishan Town, Nanhai District
  Foshan City, Guangdong Province, China
  Tel: +86 757 8523 8222

The following companies are understood to be exporters of the dumped goods from Korea:

- Nungwon Metal Industry Co., Ltd
  Headquarters:
  431, Cheonggyecheon-ro, Dongdaemun-gu,
  Seoul Korea 02586

  Factory:
  366, Geurugogae-ro, Eunhyeon-myeon,
  Yangju-si, Gyeonggi-do, Korea 11431

  Tel: +82 2 3290 9088
  www.nwmetal.com

The following companies are understood to be importers of the goods from China and Korea:

- Airefrig Australia Pty Ltd
  75 Beechboro Road
  Bayswater WA 6053
  Tel: (08) 9271 0500
  Fax: (08) 9272 8837

- Totaline Pty Ltd
  8 Murdoch Cct
  Acacia Ridge QLD 4110
  Tel: (07) 3711 0800

- Arrow Sales Pty Ltd
  Cawarra Road
  Carringbah NSW 2229
  Tel: (02) 9525 0970
  Fax: (02) 9540 2899

- Forza Global Pty Ltd
  73 Wentworth Place
  Banyo QLD 4014
  Tel: (07) 3266 1001

- Plumbers Supplies Cooperative
  55 Sherwood Road
  Rocklea QLD 4106
  Tel: 1300 107 526

- Total Eden
  A business of Ruralco
  Level 1, 33-47 Doherty's Road
  Laverton North, Victoria 3026
  Tel: (03) 8340 2333
  Fax: (03) 9335 6611

- Austral Wright Metals
  133-139 Cowpasture Road
  Wetherill Park NSW 2164
  Tel: (02) 9827 0790
  Fax: (02) 9827 0745

5. If the import volume from each nominated country at Appendix A.2 (Australian Market) does not exceed 3% of all imports of the product into Australia refer to Part C.6 of the application.

Copper tube imports into Australia in 2019/20 are sourced from China and Korea only. In 2019/20, imports of the goods the subject of this application from China accounted for 68.5 per cent of total imports, with the balance from Korea accounting for the remaining 31.5 per cent of imports.

MM Kembla has not encountered imports of copper tube from other sources of supply that fall within the description of the subject goods during the 2019/20 injury period[1].

The imports from China and Korea each exceed 3 per cent of total import volumes in 2019/20. Please refer to Confidential Appendix A2 confirming that China and Korea are the major sources of supply for seamless copper tube. Refer to Confidential Attachment B-1.5 for ABS import data.

6. In the case of an application for countervailing measures against exports from a developing country, if the import volume from each nominated country at Appendix A.2 (Australian Market) does not exceed 4% of all imports of the product into Australia refer to Part C.6 of the application.

The imports from China exceed 4 per cent of total imports in 2019/20, and those from Korea exceed 3 per cent of total imports over the same period.

B-2 Export price

Possible sources of information on export price include export price lists; estimates from the Australian Bureau of Statistics; a deductive export price calculation from the Australian selling price of the imported goods; export sales quotations or invoices; foreign government export trade clearances.

1. Indicate the FOB export price(s) of the imported goods. Where there are different model control codes or levels of trade involved, an export price should be supplied for each.

MM Kembla has obtained Australian Bureau of Statistics ("ABS") import data for seamless copper tube imported under subheading 7411.10.00 statistical code 11.

Imported copper tube classified to 7411.10.00 includes copper tube of all dimensions. MM Kembla has examined the ABS import data and, based upon its broader knowledge of the Australian copper tube market, has assessed the goods that likely fall within the range of the goods the subject of this application.

Based upon this analysis (which reflects a combination of export volumes from Chinese ports, and unit values), MM Kembla has identified the competitive imports to MM Kembla's copper tube manufacture in Australia.

The FOB export values for the subject goods as published in the ABS data for subheading 7411.10.00 statistical code 11, on a quarterly basis, are as follows:

Table B-2.1.1 – China Quarterly A$FOB Values

China	Qty	Value (A$FOB)	Unit A$FOB/MT
Apr-Jun 2019	808.155	8392782	$10,385
Jul-Sep 2019	983.196	9918650	$10,088
Oct-Dec 2019	1459.819	14323972	$9,812

[1] It should be noted that imports from other sources, noteably Vietnam, are not the goods the subject of this application but involve imports of pair coil.

Jan-Mar 2020	960.173	9343101	$9,731

Source: ABS import data.,

Table B-2.1.2 – Korea Quarterly A$FOB Values

Korea	Qty	Value (A$FOB)	Unit ASFOB
Apr-Jun 2019	498.200	5205110	$10, 448
Jul-Sep 2019	603.680	6021581	$9,975
Oct-Dec 2019	425.472	4198922	$9,869
Jan-Mar 2020	409.800	4190693	$10,226

Source: ABS import data.

2. Specify the terms and conditions of the sale, where known.

The FOB export prices are considered to be point of export, in China and Korea. The FOB price includes export inland freight.

3. If you consider published export prices are inadequate, or do not appropriately reflect actual prices, please calculate a deductive export price for the goods. Appendix B1 (Deductive Export Price) can be used to assist your estimation.

MM Kembla considers that the ABS data from which the A$FOB unit prices for seamless copper tube have been derived are reliable for the purposes of comparing with prevailing normal values.

4. It is important that the application be supported by evidence to show how export price(s) have been calculated or estimated. The evidence should identify the source(s) of data.

MM Kembla has included ABS import data at Confidential Attachment B-1.5.

B-3 Selling price (normal value) in the exporter's domestic market

Possible sources of information about domestic selling prices in the country of export include: price lists for domestic sales (with information on discounts); actual quotations or invoices relating to domestic sales; published material providing information on the domestic selling prices; or market research undertaken on behalf of the applicant.

1. State the selling price for each model control code of like goods sold by the exporter, or other sellers, on the domestic market of the country of export.

I. China

The applicant contends that a "particular market situation" exists on the domestic market in China and that selling prices for seamless copper tube in China are not suitable for determining normal values under subsection 269TAC(1) of the *Customs Act*.

In the CBSA's Statement of Reasons concerning the dumping and subsidisation of certain copper tube originating from China[2], the CBSA confirmed that there exists a wide range of measures applied by the Government of China ("GOC") that have resulted in a significant influence on the Chinese non-ferrous industry including the copper sector, which includes copper tube. These influences caused CBSA to be of the opinion that[3]:

[2] Statement of Reasons, Certain Copper Tube Originating In or Exported from the Federative Republic of Brazil, The Hellenic Republic, The People's Republic of China, The Republic of Korea and the United Mexican States, and the subsidizing of Certain Copper Tube Exported from The People's Republic of China, 3 December 2013.
[3] *Ibid*, P. 22.

- domestic prices are substantially determined by the GOC; and
- there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.

The CBSA formed the view that the GOC influenced domestic selling prices in China for copper tube having identified the existence of the following plans and policies that impact the non-ferrous industry in China. The relevant factors of influence are addressed below.

(a) Industrial policies

The GOC operates a number of policies impacting the non-ferrous industry including:

(i) The Admittance Qualification of Chinese Copper Smelting – Issued in 2006 by the National Development and Reform commission, conditions of access to the copper smelting industry were detailed. CBSA noted that "*The conditions highlighted that newly built or reconstructed copper smelting projects must conform to the requirements of national industrial policies and plans. The conditions imposed various restrictions and requirements on smelting operations, including specification of plant layouts and production capacity, equipment requirements and limits on energy consumption*."

(ii) Plan for Adjustment and Revival of Non-Ferrous Metal Industry – the Plan Issued by State Council in 2009 covered the planning period from 2009 to 2011 and applied to the operation and growth in the non-ferrous metal industry. The plan also called for further "*optimisation of the industry structure*" and "*enhanced capacity for technological innovation*".

(iii) Industrial Restructuring and Upgrade Plan (2011 to 2015) – the original plan [Guo Fa (2011) No. 47] was issued by the State Council in December 2011, which called for the elimination of out of date production facilities.

(iv) Five-Year Development Plan for the Nonferrous Metals Industry – the plan was published by the Ministry of Industry and Information Technology in January 2012. Specific objectives of the plan included[4]:

- *Production output of refined copper is controlled at 6.5 million tonnes;*
- *Annual production output growth for refined copper is targeted at 7.3%;*
- *Elimination of out-of-date smelting production facilities and further reduction of energy consumption;*
- *Large and medium enterprises establish technological innovation with R&D output of 1.5% of income;*
- *Optimisation of industrial layout and organisation, and further increase of industrial concentration; and*
- *Acceleration of international mining capacity and expansion of smelting capacity*.

The 13th Five Year Plan for the Non-Ferrous Metals Industry was issued by the Ministry of Industry and Information Technology (MIIT) on 18 October 2016 and covers the period 2016-2020[5].

(v) State Council Work Notice on Further Strengthening Phase Out backward production, Guo Fa (2010) No.7 – detailing the phase out of out-of-date production facilities.

(vi) The Catalogue for the Guidance of Foreign Investment Industries (Amended in 2011) – encouraging the production of high-tech non-ferrous metallurgical materials such as copper tube and restricts non-ferrous metal refining of copper.

[4] *Ibid*, P.17.

[5] Refer kslaw.com, News & Insights, 25 October 2016.

(b) GOC Ownership and Control of Suppliers

The Canadian Industry applicant identified a number of participants in the Chinese copper sector in China are state-owned and/or controlled by the central government or by regional and local authorities. The following SOEs were identified:

- Jiangxi Copper Corporation (Jiangxi Copper), a state-owned enterprise, engaged in the production and processing of refined copper;
- Zijin Mining Group, a large-scale state-owned mining group in China involved in the production of refined copper;
- Jinchuan Group Co. Ltd., a large state-owned enterprise and producer of refined copper in China;
- Yunan Copper Group (Yunnan Copper), a unit of Chinalco, producing refined copper in China; and
- the China Nonferrous Metal Mining (Group) Co. Ltd. (Nonferrous Metal), a large scale enterprise under the management of the State-owned Assets Supervision and Administration of the State Council (SASAC) with copper mining and smelting operations in China, Africa and South America.

The CBSA in its investigation identified a further two SOEs in the production of refined copper:

- Tongling Non-Ferrous Metal Corp. (Tongling Corp) is a large scale enterprise that engages mainly in copper mining, mineral processing, smelting, refining and copper products processing. There is information available that indicates the company receives special support from the GOC and receives preferential support from the Anhui Provincial government; and
- China Daye Non-Ferrous Metals Mining Limited (China Daye) is a state-owned enterprise in Hubei Province. The company is involved in the production of raw copper and refined copper with operations in southeast Hubei, the Yangtze River Delta, the Pearl River Delta, Hunan, Xinjiang, Hong Kong, Kyrgyzstan and the Republic of Mongolia.

According to the report Sustainable Development of the Chinese Copper Market, the top five Chinese refined copper producers in terms of output are: Jiangxi Copper, Tongling Copper, Yunnan Copper, Jinchuan Group and China Daye, which have been identified as SOEs and account for approximately 60 per cent of refined copper output.

(c) Chinese domestic copper prices

The CBSA confirmed that following its analysis of LME, SHFE and COMEX (Copper Futures Prices) it identified discrepancies between the copper prices on the respective exchanges which indicated "that domestic prices of copper in China are not determined under competitive market conditions". It identified that copper prices were low and thereby impacted the price of copper tube (as copper accounts for up to 95 per cent of the cost of the tube).

(d) Domestic Copper Tube prices

The CBSA Investigation examined exports of copper tube to Canada from a number of countries. The Chinese selling prices were the lowest of the five countries analysed (including Korea). These led the CBSA to conclude that "*as with copper inputs, domestic prices of Copper Tube in China, are not substantially the same as they would be if they were determined in a competitive market*[6]".

(e) Conclusion – Market situation for copper tube in China

MM Kembla considers that the available evidence confirms that the GOC's plans and policies for the non-ferrous metals industry – including copper – are broad and pervasive and significantly influence the domestic selling prices for raw material copper and the finished copper tube products

[6] CBSA Report, P.22.

(i.e. the subject goods).

The impact of the GOC policies is such that domestic selling prices for copper tube in China are - due to the GOC's plans and policies for the sector - lower than they otherwise would be and are not determined on a competitive basis. Therefore, domestic selling prices for copper tube are not suitable for determining normal values in China in accordance with subsection 269TAC(1) and a fair comparison between domestic and export selling prices cannot be made.

II. Korea

Domestic selling prices for copper tube in Korea are not published in industry newsletters or publications. MM Kembla does not have access to domestic selling prices for copper tube on the Korean domestic market. The applicant is therefore unable to determine normal values for copper tube sold in Korea in accordance with subsection 269TAC(1).

III. Conclusion

Normal values for copper tube in China and Korea cannot be determined under subsection 269TAC(1) on the basis of domestic selling prices in the respective countries.

Please refer to Part B-4.1 below for normal value information for copper tube exported from China and Korea.

2. Specify the terms and conditions of the sale, where known.

Please refer to Part B-4.1.

3. Provide supporting documentary evidence.

Please refer to Part B-4.1.

4. List the names and contact details of other known sellers of like goods in the domestic market of the exporting country.

MM Kembla has identified the names of Chinese and Korea exporters/producers at Part B-1.2 above.

B-4 Estimate of normal value using another method

This section is not mandatory. It need only be completed where there is no reliable information available about selling prices in the exporter's domestic market. Other methods of calculating a normal value include:

- the cost to make the exported goods plus the selling and adminstration costs (as if they were sold in the exporter's domestic market) plus an amount for profit (if applicable);

OR

- the selling price of like goods from the country of export to a third country.

1. Indicate the normal value of the like goods in the country of export using another method (if applicable, use appendix B2 Constructed Normal Value).

A. China

(i) Introduction

MM Kembla does not have access to reliable export pricing information for copper tube producers in China to other markets. The applicant has therefore constructed selling prices in China for the

purposes of determining prima facie normal values for seamless copper tube in China.

(ii) Methodology

The Applicant has obtained LME prices for refined copper from an industry source source (LME.com[7]) and constructed a selling price for seamless copper tube manufactured in China using MM Kembla's 2019/20 manufacturing costs. Costs for labour and electricity have been adjusted to reflect Chinese labour and electricity costs in 2019/20.

The applicant has applied fixed and other variable costs from its own manufacturing costs to arrive at a cost to manufacture. To this, an amount for selling and general administrative expenses has been added. For profit, the Applicant has obtained the profit achieved by the Hailiang Group in its 2018 financial year and included this in the normal value calculation.

B. Korea

(iii) Introduction

MM Kembla does not have access to reliable export pricing information for copper tube producers in Korea to other markets. The applicant has therefore constructed selling prices in Korea for the purposes of determining prima facie normal values for seamless copper tube in Korea.

(iv) Methodology

The Applicant has obtained LME prices for refined copper from an industry source (LME.com) and constructed a selling price for seamless copper tube manufactured in Korea using MM Kembla's 2019/20 manufacturing costs. Costs for labour and electricity have been adjusted to reflect Korean labour and electricity costs in 2019/20.

The applicant has applied fixed and other variable costs from its own manufacturing costs to arrive at a cost to manufacture. To this, an amount for selling and general administrative expenses has been added. For profit, the Applicant has used its profit achieved in 2016/17, a period where it was able to achieve a moderate (although not acceptable) level of profit on domestic sales (evidencing profit is achievable).

2. Provide supporting documentary evidence.

Refer to Confidential Attachment B-4.1 for basis for *prima facie* normal values for seamless copper tube sold in China and Korea.

B-5 Adjustments

A fair comparison must be made between the export price and the normal value. Adjustments should be made for differences in the terms and circumstances of the sales such as the level of trade, physical characteristics, taxes or other factors that affect price comparability.

1. Provide details of any known differences between the export price and the normal value. Include supporting information, including the basis of estimates.

The Applicant considers that adjustments will be required for packing for export and for export inland freight (from manufacturer to port of export). MM Kembla cannot access these costs associated with the export of the subject goods from China and Korea and has not included such amounts in the calculation of dumping margins.

[7] Lme.com/en-GB/Metals/Non-ferrous/Copper#tabIndex=0

The inclusion of the identified adjustments will result in net upward adjustments to the exporter's normal values.

2. State the amount of adjustment required for each and apply the adjustments to the domestic prices to calculate normal values. Include supporting information, including the basis of estimates.

The Applicant does not have access to cost information for packing and export inland freight in China and Korea and has not included estimates in normal value assessments.

B-6 Dumping margin

1. Subtract the export price from the normal value for each model control code of the goods (after adjusting for any differences affecting price comparability).

The Applicant has calculated weighted-average quarterly dumping margins for seamless copper tube exported from China and Korea.

Table 6.1 identifies dumping margin calculations for the subject goods exported to Australia during 2019/20.

Table B-6.1 – Weighted average dumping margins – China and Korea

China	**Apr-Jun 2019**	**Jul-Sep 2019**	**Oct-Dec 2019**	**Jan-Mar 2020**
Margin A$/MT	1556	1556	2005	2012
Margin as % of export price	14.98	15.42	20.43	20.67
Korea				
Margin A$/MT	1764	1960	2241	1808
Margin as % of export price	16.88	19.65	22.70	19.15

The weighted average dumping margin for China in 2019/20 was $1815 per tonne (or 18.21 per cent). The weighted average dumping margin for Korea in 2019/20 was $1939 per tonne (or 18.59 per cent).

2. Show dumping margins as a percentage of the export price.

Please refer to Part B-6.1 for margins as a percentage of export price.

PART C

SUPPLEMENTARY SECTION

IMPORTANT

Replies to questions in Part C are not mandatory in all instances, but may be mandatory for certain applications.

C-1 Subsidy

This section must be completed where countervailing duties are sought to offset foreign government assistance through subsidies to exporters or producers.

If the application is for countervailing duty alone, the domestic price information required by Part B of the application need not be supplied.

Responses to questions A-9 will need to identify the link between subsidisation and injury.

1. Identify the subsidy paid in the country of export or origin. Provide supporting evidence including details of:

(i) the nature and title of the subsidy;
(ii) the government agency responsible for administering the subsidy;
(iii) the recipients of the subsidy; and
(iv) the amount of the subsidy.

I. Countervailing – China

The CBSA published its Statement of Reasons on 3 December 2013 concerning its final determination in the dumping of certain copper tube exported from Brazil, Greece, China, Korea and Mexico and the subsidisation of exports from China, detailing its finding that Chinese exports of certain copper tube were at subsidised prices.

The Canadian application for dumping and subsidy measures was taken by Great Lakes Copper Inc., and involved copper tube as follows:

> "*Circular copper tube with an outer diameter of 0.2 inch to 4.25 inches (0.502 centimetre to 10.792 centimetres) excluding industrial and coated or insulated copper tube*".

The goods the subject of this application fall within this broader category of copper tube.

II. Subsidy findings

The CBSA investigation identified 178 programs that were examined to establish if the exporters received subsidies from the Government of China ("GOC"). The CBSA forwarded a "Request For Information" questionnaire to the GOC, however, no reply was received. The CBSA relied upon information it received from the Hailiang Group of companies (Shanghai Hailiang "SH Hailiang" and Zhejiang Hailiang "ZJ Hailiang").

At the commencement of the investigation, CBSA identified 170 potential subsidy programs that were included in the following eight categories:

1. Special Economic Zones (SEZ) and Other Designated Areas Incentives;
2. Preferential Loans and Loan Guarantees;
3. Grants and Grant-equivalents;
4. Preferential Income Tax Programs;
5. Relief from Duties and Taxes on Inputs, Materials and Machinery;
6. Reduction in Land Use Fees;
7. Goods/Services Provided by the Government at Less than Fair Market Value; and
8. Equity Programs.

The 178 programs investigated by CBSA are included at Non-Confidential Attachment C-1.1 (refer CBSA Statement of Reasons, Appendix 2 – Subsidy Programs).

CBSA determined that 100 per cent of exports from China were found to have been subsidised by the GOC. CBSA investigated the following programs with SH Hailiang and determined a subsidy

margin equal to 0.19 per cent of the export price for SH Hailiang, in respect of the following five programs:

- Program 45: Grant - Cleaning-production Qualified Enterprise Reward (Subsidy of Audit Fees for Key Enterprises Cleaning Production);
- Program 79: Advanced Science/Technology Enterprise Grant (Advanced Units for Safety Production in Fengxian District);
- Program 80: Award for Excellent Enterprise (First Prize within Top 100 Enterprises in Situan Town for Year 2012);
- Program 147: Reduced Tax Rate for Productive FIEs Scheduled to Operate for a Period Not Less Than 10 Years;
- Program 163: Exemption of Tariff and Import VAT for the Imported Technologies and Equipment.

In respect of ZJ Hailiang, benefits under the following 27 programs were examined and a subsidy margin of 0.65 per cent was determined:

- Program 40: Emission Reduction and Energy-Saving Award25
- Program 40-1: Emission Reduction and Energy-Saving Award (Special Funds for Reduction of Pollutant Emission)
- Program 40-2: Emission Reduction and Energy-Saving Award (Advanced Units within Top 30 Electricity Consumption Enterprises in the Competition of Energy-Saving contest)
- Program 51: Grant - Resources Conservation and Environment Protection Grant (Funds for Pollution Sources Monitoring Facilities in 2011)
- Program 118: Subsidy for Certification of Clean and Green Production in Zhejiang (Funds for Cleaning Production Demonstration Enterprises)
- Program 120: Policy to Promote Industrial Restructuring and Upgrading, and Enhance the Level of Economic Development in Dianko Township26
- Program 120-1: Policy to Promote Industrial Restructuring and Upgrading, and Enhance the Level of Economic Development in Dianko Township (Funds for Fulfill Incentive Policies on Industry for the Year 2011)
- Program 120-2: Policy to Promote Industrial Restructuring and Upgrading, and Enhance the Level of Economic Development in Dianko Township (Incentives of Circular Economy in 2011)
- Program 121: Funds for Standardizing Industrial Systems in the Nonferrous Metals Industry
- Program 122: Award for Science and Technology in Shaoxing City
- Program 125: Funds for Science and Technology Award
- Program 127: Funds for Science and Technology Award of Zhuji City
- Program 128: Funds for Patent Award
- Program 129: Funds for Key Innovation Team
- Program 132: Subsidies to Full-time Environmental Monitoring Officer
- Program 141: Special Funds for Use in the Open Economy27
- Program 141-1: Special Funds for Use in the Open Economy (Award for Open Economy)
- Program 141-2: Special Funds for Use in the Open Economy (Reduction/Exemption of Water Conservancy Fund)
- Program 142: Grant to Promote Economic Innovation and Enhance Development28
- Program 142-1: Grant to Promote Economic Innovation and Enhance Development (Award for Refinancing by Rationed Shares)
- Program 142-2: Grant to Promote Economic Innovation and Enhance Development (Incentives of Industrial Economic Policies in 2011)
- Program 142-3: Grant to Promote Economic Innovation and Enhance Development (Funds for Award of Innovation Carrier)
- Program 142-4: Grant to Promote Economic Innovation and Enhance Development (Funds for Award of Talent for the Year 2012)
  Program 143: Funds for Scientific and Technology Project for the Year 2011 in Zhuji City

- Program 144: Grant for Scientific and Technological Projects Which Passed Appraisal and Certification in Zhuji City29
- Program 144-1: Grant for Scientific and Technological Projects Which Passed Appraisal and Certification in Zhuji City (Funds for City-Grade Project in 2012)
- Program 144-2: Grant for Scientific and Technological Projects Which Passed Appraisal and Certification in Zhuji City (Funds for Award of Scientific & Technological Achievements through Identification/Review and Project of National Torch, Spark, Key New Product Program)
- Program 150: Preferential Tax Policies for the Research and Development of FIEs (Tax offsets for Research and Development)
- Program 155: Corporate Income Tax Reduction for New High-Technology Enterprises
- Program 163: Exemption of Tariff and Import VAT for the Imported Technologies and Equipment
- Program 171: Tax offsets for the investment in the acquisition of special facilities for environmental protection, energy and water conservation and work safety etc.
- Program 172: Preferential Loans From State-Owned Banks

In respect of all other Chinese exporters (for which no information was furnished) the CBSA determined a subsidy margin of 31.3 per cent (as a percentage of the export price). The "Other exporters" subsidy margin was based on:

1. the highest amount of subsidy for each of the 31 subsidy programs found to have conferred benefits to the cooperative exporters located in China; plus
2. the highest amount of subsidy for Program 167 - Raw Materials Provided by the Government at Less than Fair Market Value found at the final determination to have potentially conferred benefits to any exporter located in China that did not cooperate in the investigation; plus
3. the simple average of the amounts of subsidy for the 32 programs in (1) and (2), applied to each of the remaining 146 potentially actionable subsidy programs for which information is not available or has not been provided at the final determination.

As indicated, the CBSA found that <u>all</u> exports of copper tube were found to have been subsidised by the GOC.

III. <u>Hailiang Group 2018 Financial Report</u>

Hailiang is a Chinese government-owned enterprise. The Company has a number of subsidies including the parties identified as exporters of copper tube to Australia. Section 3 of the Hailiang 2018 Financial Statements (refer Non-Confidential Attachment C-1.2) details the "Business Overview" for the Company. This commentary includes a summary of the activities occurring in the copper processing industry in China, which align with the GOC's detailed plans and policies referred to at Part B-3 .1 above. These include[8]:

> "*The cost advantage has basically disappeared, and is facing a trend from extensive to intensive development. Future industry development will continue to phase out production [of] low-end copper processing products with excess capacity and low added value of products are guided by innovation, with high technology, high precision and high value development direction, constantly improving product performance and quality, optimizing industrial structure, reducing production costs, and improving production efficiency*.".

And further:

> "*The current policy of China on the copper processing industry is mainly to accelerate the adjustment and optimization of industrial structure, and vigorously develop a circular economy.*

[8] Hailiang Group 2018 Financial Statements, P.10.

To achieve the sustainable development of the copper industry, to meet the growing demand for copper products in the development of the national economy, and to have a certain production enterprise with strong business scale and strong R & D and innovation capabilities continue to develop healthily."

As confirmation that Hailiang is adhering to the GOC's Master Plan for the Non-Ferrous Metals Industry through until 2025, Hailiang is focused on "*becoming a "Master" development vision, accelerate the construction of new production lines, optimize the layout of industrial bases, strengthen technical innovation, and seize opportunities. The implementation of industry mergers and acquisitions has accelerated the reshuffle of industries worldwide, further enhancing the company's product manufacturing capabilities and market share.*"

Note 26 to Hailiang's Financial Statements details the Government subsidies received which it divides into (i) government subsidies related to assets; and (ii) government subsidies related to income. The note is reproduced below:

Note 26 Government Subsidies

1. Types of government subsidies and accounting treatment

Government subsidies refer to the monetary or non-monetary assets that the company obtains from the government for free (but does not include the government input as the owner capital). It is mainly divided into two types: government subsidies related to assets and government subsidies related to income.

Government subsidies related to daily activities are included in other income in accordance with the substance of economic business. Government subsidies not related to daily activities, included in Non-operating income and expenses.

Government documents clearly stipulate that government subsidies used to purchase or construct or otherwise form long-term assets are recognized as government subsidies related to assets.

If the government document does not clearly specify the subsidy target and can form a long-term asset, the part of the government subsidy corresponding to the value of the asset shall be regarded as related to the asset.

Government subsidies related to assets are recognized as deferred income. The amount recognized as deferred income shall be A reasonable and systematic method is included in the current profit and loss in installments.

Government grants other than those related to assets are recognized as government grants related to income. For government subsidies related to income. If the related expenses or losses of the enterprise are compensated in the later period, it is recognized as deferred income, and it is included in the current profit and loss during the period of confirming the related expenses;

Those used to compensate the related expenses or losses incurred by the enterprise shall be directly included in the current profit and loss.

The company obtains a policy discount loan discount, and the finance allocates the discount fund to the loan bank, and the loan bank If the company provides a loan, the actual amount of the loan received is taken as the book value of the loan, and it is calculated according to the loan principal and the preferential policy rate Relevant borrowing costs; if the finance directly allocates discount funds to the company, the company will offset the corresponding borrowing costs with the corresponding discount.

2. Government subsidy confirmation time

Government grants are confirmed when they meet the conditions attached to government grants and can be received. The government subsidies measured in accordance with the receivable amount are confirmed at the end of the period Evidence shows that it can meet the relevant conditions stipulated in the financial support policy and is expected to be confirmed when it can receive financial support funds. Except for receivables

Government subsidies other than government subsidies measured in amount shall be recognized when the subsidy is actually received.

The foregoing note confirms that Hailiang has received government subsidies to assist in the acquisition of assets and related to income. The range of subsidies received includes financial payments, grants, reductions in interest payable on loans, and other financial support.

Section 6 of the Financial Statements refers to Taxation. Note 2 includes "Tax incentives" that relate to the applicable tax rate for "High-Tech Enterprises" as stipulated in "*Administrative Measures on the Identification of High-tech Enterprises" (Guokefahuo [2016] No. 32)"* with Guangdong Hailiang Copper Co., Ltd passing the qualification as a high-tech enterprise which is valid for three years from 2017.

Note 48 of the Financial Statements refers to the "government subsidy" amount received during the period totalling RMB56.148 Million. Thereafter follow further notes detailing the relevant subsidies and the projects for which certain subsidies have been received by Hailiang.

It is noted that Zhejiang Hailiang Co., Ltd's tax expense in 2018 was less than one per cent. It appears that the benefits of reduced tax rates for the subsidiary companies – including Shanghai Hailiang Copper Co., Ltd which benefits from the reduced 15 per cent rate of company tax. The "High-Tech" reduced taxation rate was not in existence in 2013 during the CBSA investigation (only having an effect from the 2017 year) and hence is a significant benefit that is contemporary in 2019 and influences the exporter's competitiveness to export at reduced prices to Australia.

IV. Conclusion – GOC subsides.

The Zhejiang Hailiang Co., Ltd 2018 Financial Statements confirms that entities in the copper industry in China benefit from subsidies from the GOC. The Statements confirm that the company is aligned to the plans and policies of the GOC as detailed in the Master Plan to 2025 for the Non-Ferrous Metals Industry, to which copper and copper tube are included.

The Applicant submits that Zhejiang Hailiang Copper Co., Ltd – a Chinese company that is the largest exporter of copper tube to Australia is a beneficiary of subsidies from the GOC as evidenced in the Company's 2018 annual report. The subsidy programs identified by CBSA in its 2013 Investigation appear to have continued beyond the period of CBSA's investigation and would seem to extend beyond the subsidy programs identified in the CBSA Statement of Reasons.

MM Kembla requests the Commission to fully investigate the subsidy programs provided by the GOC as referenced in Appendix 2 to the CBSA's Statement of Reasons, and further investigate any new subsidy programs that have emerged post the CBSA investigation that impact exports of seamless copper tube to Australia.

C-2. Threat of material injury

1. Identify the change(s) in circumstances that would make material injury foreseeable and imminent unless dumping or countervailing measures were imposed, for example by having regard to:

(i) the rate of increase of dumped/subsidised imports;
(ii) changes to the available capacity of the exporter(s);
(iii) the prices of imports that will have a significant depressing or suppressing effect on domestic prices and lead to further imports;
(iv) inventories of the product to be investigated;
(v) for applications claiming subsidisation, the nature of the subsidies in question and the trade effects likely to arise therefrom; or
(vi) any other relevant factor(s).

The Applicant submits that the increase in imports of seamless copper tube – a 25 per cent overall increase since 2016/17 in a relatively stable market – will continue unless anti-dumping measures are applied to arrest the exports at dumped and subsidised levels.

The exports from China have, individually, increased by more than 60 per cent since 2016/17 and will continue to grow in light of the price undercutting that has increased since early 2018. The price undercutting has retarded MM Kembla's ability to raise prices to recover increases in costs – particularly raw material copper costs – and has caused price suppression, and reduced profit and profitability to the Australian industry.

MM Kembla further contends that the increasing export volumes from China are due to the dumped prices that benefit from artificially low, government-induced support that distorts local raw material prices in China. The distorted input prices enable Chinese manufacturers to export at prices which are lower than prevailing prices in domestic markets around the world (as evidenced in the CBSA Statement of Reasons on copper tube from China).

As evidence that the imports from China pose a "foreseeable and imminent threat" of material injury, MM Kembla directs the Commission to the recent trend in declining NAVs for copper tube exported by xxxx of China. In the first six months of 2020, xxxx has revised its selling prices [*commercially sensitive details concerning pricing trends*]. This reduction in NAV for xxxx exported copper tube also influences the pricing behaviour for importers of Korean copper tube that also adjust prices to remain competitive. MM Kembla, meanwhile, must either match the prices or walk away from the sales. The reductions in selling prices by xxxx demonstrate a future threat of injury that is "foreseeable and imminent" and will result in reduced selling prices and further lost sales volumes and market share for MM Kembla.

MM Kembla considers that in the absence of anti-dumping measures, the Australian industry will continue to experience material injury from the increasing exports from China, and the dumped exports from Korea that have been priced to match Chinese exports to Australia. The material injury to the Australian industry is foreseeable and imminent and represents a significant future threat of injury to the Australian industry from the dumping and subsidisation.

2. If appropriate, include an analysis of trends (or a projection of trends) and market conditions illustrating that material injury is both foreseeable and imminent.

Refer to comments at C-2.1 above future trends of increasing exports of seamless copper tube to Australia from China and Korea. The continued downward spiral in NAVs for imported copper tube poses a significant threat to the viability of manufacture of copper tube in Australia. At recent levels evidenced in Chinese FOB export prices, MM Kembla cannot compete with the dumped and subsidised exports from China, and the dumped exports from Korea, as MM Kembla is unable to recover costs.

MM Kembla incurred an operating loss on its copper tube manufactured goods in 2019/20 and the further price reductions as announced by xxxx since March 2020 indicate that [*commercially sensitive*

analysis] are “foreseeable and imminent” as MM Kembla will lose sales volumes and consequently this will result in higher per tonne production costs and further profit and profitability reductions.

C-3. Close processed agricultural goods

Where it is established that the like (processed) goods are closely related to the locally produced (unprocessed) raw agricultural goods, then – for the purposes of injury assessment – the producers of the raw agricultural goods form part of the Australian industry. This section is to be completed only where processed agricultural goods are the subject of the application**. Applicants are advised to contact the Commission’s client support section before completing this section**.

1. Fully describe the locally produced raw agricultural goods.

Seamless copper tube is not close processed agricultural goods. This question is not applicable.

2. Provide details showing that the raw agricultural goods are devoted substantially or completely to the processed agricultural goods.

Not applicable.

3. Provide details showing that the processed agricultural goods are derived substantially or completely from the raw agricultural goods.

Not applicable.

4. Provide information to establish either:

- **a close relationship between the price of the raw agricultural goods and the processed agricultural goods; or**
- **that the cost of the raw agricultural goods is a significant part of the production cost of the processed agricultural goods.**

Not applicable.

C-4. Exports from a non-market economy

Complete this section only if exports from a non-market economy are covered by the application. The domestic price information required by Part B of the application need not be supplied if this question is answered.

Normal values for non-market economies may be established by reference to selling prices or to costs to make and sell the goods in a comparable market economy country.

1. Provide evidence the country of export is a non-market economy. A non-market economy exists where the government has a monopoly, or a substantial monopoly, of trade in the country of export and determines (or substantially influences) the domestic price of like goods in that country.

China and Korea are not considered “non-market economies” for the purposes of Australia’s Anti-Dumping provisions.

This question does not apply to this application.

2. Nominate a comparable market economy to establish selling prices.

This question does not apply to this application.

3. Explain the basis for selection of the comparable market economy country.

This question does not apply to this application.

4. Indicate the selling price (or the cost to make and sell) for each model control code of the goods sold in the comparable market economy country. Provide supporting evidence.

This question does not apply to this application.

C-5 Exports from an 'economy in transition'

An 'economy in transition' exists where the government of the country of export had a monopoly, or substantial monopoly, on the trade of that country (such as per question C-4) and that situation no longer applies.

Complete this section only if exports from an 'economy in transition' are covered by the application. **Applicants are advised to contact the Commission's client support section before completing this section**

1. Provide information establishing that the country of export is an 'economy in transition'.

China and Korea are not considered "economy in transition" countries for the purposes of Australia's Anti-Dumping provisions. This question is not applicable.

2. A price control situation exists where the price of the goods is controlled or substantially controlled by a government in the country of export. Provide evidence that a price control situation exists in the country of export in respect of like goods.

This question does not apply to this application.

3. Provide information (reasonably available to you) that raw material inputs used in manufacturing/producing the exported goods are supplied by an enterprise wholly owned by a government, at any level, of the country of export.

This question does not apply to this application.

4. Estimate a 'normal value' for the goods in the country of export for comparison with export price. Provide evidence to support your estimate.

This question does not apply to this application.

C-6 Aggregation of Volumes of dumped goods

Only answer this question if required by question B-1.5 of the application and action is sought against countries that individually account for less than 3% of total imports from all countries (or 4% in the case of subsidised goods from developing countries). To be included in an investigation, they must collectively account for more than 7% of the total (or 9% in the case of subsidised goods from developing countries).

	Quantity	%	Value	%
All imports into		100%		100%

Australia				
Country A*				
Country B*				
etc*				
Total				

* Only include countries that account for less than 3% of all imports (or 4% in the case of subsidised goods from developing countries). Use the data at Appendix A.2 (Australian Market) to complete the table.

The goods the subject of this application exported from China and Korea do not account for less than 3 per cent of the total import volume of goods imported into Australia during the 2019/20 period.

APPENDICES

Appendix A1	Australian Production
Appendix A2	Australian Market
Appendix A3	Sales Turnover
Appendix A4	Domestic Sales
Appendix A5	Sales of Other Production
Appendix A6.1	Cost to Make and Sell (& profit) Domestic Sales
Appendix A6.2	Cost to Make and Sell (& profit) Export Sales
Appendix A7	Other Injury Factors
Appendix A8	Authority to Deal With Representative
Appendix B1	Deductive Export Price
Appendix B2	Constructed Normal Value