



ANTI-DUMPING NOTICE NO. 2020/071

Public notice under section 269TC(4) of the *Customs Act 1901*

Certain copper tube

Exported to Australia from the People's Republic of China and the Republic of Korea

Initiation of Investigation No. 557 into alleged dumping and subsidisation

Customs Act 1901 – Part XVB¹

I, Dale Seymour, the Commissioner of the Anti-Dumping Commission, have initiated an investigation following an application lodged by Metal Manufactures Pty Ltd trading as MM Kembla, a manufacturer of certain copper tube (the goods) in Australia. The application seeks the publication of a dumping duty notice in respect of certain copper tube exported to Australia from the People's Republic of China (China) and the Republic of Korea (Korea) and a countervailing duty notice in respect of certain copper tube exported to Australia from China.

The application alleges that the goods have been exported to Australia at prices less than their normal value and were in receipt of countervailable subsidies and that the dumping and subsidisation has caused material injury to the Australian industry producing like goods through:

- loss of sales volume
- reduced market share
- price suppression
- loss of profits
- reduced profitability
- reduced cash flow
- reduced employment
- reduced capacity utilisation
- reduced return on investment

¹ Unless stated otherwise, all legislative references in this notice are to the *Customs Act 1901*.

The non-confidential version of the application, which contains the basis of the alleged dumping and subsidisation and injury, is available on the public record.

Particulars of the reasons for the decision to initiate this investigation are in *Anti-Dumping Commission Consideration Report No. 557*, which is available on the public record.

The date of initiation of this investigation is the date of publication of this notice.

The Goods

The goods the subject of the application (the goods) 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.*

Tariff Classification

The goods are generally, but not exclusively, classified to the following tariff classification in Schedule 3 to the *Customs Tariff Act 1995*:

- 7411.10.00 (statistical code 11)

This tariff classification and statistical code may include goods that are both subject and not subject to this investigation. The listing of this tariff classification and statistical code is for convenience or reference only and do not form part of the goods described above. Please refer to this description for authoritative detail regarding goods, the subject of this investigation.

Investigation Process

The investigation period is 1 July 2019 to 30 June 2020. I will examine exports to Australia of the goods during this period to determine whether dumping and subsidisation has occurred. I will examine details of the Australian market from 1 July 2016 for the purposes of injury analysis.

Where the Minister for Industry, Science and Technology (the Minister) is satisfied, as to goods of any kind, that:²

- (a) the amount of the export price of the goods that have already been exported to Australia is less than the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and
- (b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered;

the Minister may, by public notice, impose interim dumping duties.

Where the Minister is satisfied, as to goods of any kind, that:

- (a) a countervailable subsidy has been received in respect of the goods that have been exported to Australia, and may be received in respect of like goods that may be exported to Australia in the future; and
- (b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered;

the Minister may, by public notice, impose interim countervailing duties.³

Where there are grounds for the Minister to publish a dumping and countervailing duty notice in respect of the goods, I will examine whether the trade in the dumped or subsidised goods give rise to retrospective notices being published pursuant to section 269TN, and make recommendations to the Minister accordingly.⁴

Proposed model control code structure

The Commission undertakes model matching using a Model Control Code (MCC) structure to identify key characteristics that will be used to match models of the goods exported to Australia and like goods sold domestically in the country of export.⁵

In developing the MCC structure the Commission will have regard to differences in physical characteristics that give rise to distinguishable and material differences in price.

² In accordance with section 269TG.

³ In accordance with section 269TJ.

⁴ In accordance with sections 269TG(1) and TJ(1).

⁵ Further information on the Commission's approach to model matching is in the Dumping and Subsidy Manual, available on the Commission's website (www.adcommission.gov.au).

The Commission considers that there may be variances in the physical characteristics between the goods and like goods and has elected not to propose an MCC structure at the outset of this investigation. However, information gathered in responses received from importers and exporters, and from the Australian industry, will be examined to assess if an appropriate MCC structure can be developed.

The Commission welcomes proposals with respect to a MCC structure, preferably no later than 3 August 2020 being the day Preliminary Information Requests (PIR's) concerning this investigation are due.

If an MCC structure is developed, interested parties will have an opportunity to discuss the structure and propose modifications. Any changes to the MCC structure will be considered by the Commission and reported in verification reports or in the Statement of Essential Facts (SEF).

Public Record

I must maintain a public record of each investigation. Documents included in the public record are available at www.adcommission.gov.au.

The public record will contain, among other things, a copy of the application, *Anti-Dumping Commission Consideration Report No. 557* and copies of all non-confidential submissions from interested parties. Letters and electronic mail are generally regarded as submissions if they contain information relevant to the investigation.

Lodgement of Submissions

Interested parties, as defined by section 269T(1), are invited to lodge submissions concerning the publication of the dumping/countervailing duty notice sought in the application, no later than the close of business on 19 August 2020 addressed to:

The Director
Investigations 2
GPO Box 2013
Canberra ACT 2601
Australia

or by email to investigations2@adcommission.gov.au.

Interested parties wishing to participate in the investigation must ensure that submissions are lodged by the due date. Interested parties should note that I am not obliged to have regard to a submission received after the date above if to do so would, in my opinion, prevent the timely placement of the SEF on the public record.

Interested parties should also note that I am directed to consider the matters set out in the *Customs (Extensions of Time and Non-cooperation) Direction 2015* in certain circumstances.⁶ This is available at www.legislation.gov.au.

Interested parties may reply to matters raised by other parties during the course of the investigation and in response to the SEF.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (i) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- (ii) satisfy me that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "FOR OFFICIAL USE ONLY".

Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above (clearly marked "PUBLIC RECORD").

Lodgement of Preliminary Information Requests

Exporters of the goods to Australia are invited to participate in this investigation by completing the PIR and the associated spreadsheets by 3 August 2020

The PIR and the associated spreadsheets are available under the case information for ADC 557 (which can be found under 'current cases and their electronic public record' on the Commission website, www.adcommission.gov.au). Alternatively, exporters can email investigations2@adcommission.gov.au and the Commission will forward the PIR and spreadsheets for completion.

The case team will use responses to the PIR to assist in the development of the proposed MCC, and to determine whether sampling is required due to the large number of exporters of the goods.

If an exporter does not respond to the PIR, the Commission may not examine its situation and may consider that the exporter did not cooperate with the investigation.

⁶ Certain powers and functions under the *Customs (Extensions of Time and Non-cooperation) Direction 2015* have been delegated to the Anti-Dumping Commission's General Managers (Anti-Dumping Notice No. 2017/10, available at www.adcommission.gov.au refers).

Provisional Measures

Pursuant to section 269TD, I will make a preliminary affirmative determination (PAD) provided I am satisfied that there appears to be sufficient grounds for the publication of a dumping and countervailing duty notice or there appears that there will be sufficient grounds for the publication of a dumping and countervailing duty notice subsequent to the importation of the goods into Australia. This can occur no earlier than day 60 of an investigation.

In accordance with section 269TD, the Commonwealth may apply provisional measures, including the taking of securities under section 42, in respect of interim dumping and countervailing duty that may become payable on the goods, where: a PAD has been made; and the Commissioner is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

Where a PAD is not made 60 days after initiation of the investigation, the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction) directs me to publish a status report providing reasons why a PAD was not made. The PAD Direction is available on the Federal Register of Legislation website, www.legislation.gov.au.

Statement of Essential Facts

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Minister within the legislative timeframe. In accordance with section 269TDAA of the Act, a SEF will be placed on the public record by 2 November 2020, being the first business day after 110 days following initiation, or by such later date as allowed in accordance with section 269ZHI.⁷ The SEF will set out the essential facts on which I propose to base my recommendations to the Minister. Interested parties are invited to lodge submissions in response to the SEF within 20 days of it being placed on the public record.

Submissions received in response to the SEF within 20 days of that statement being placed on the public record will be taken into account in completing the report and recommendation to the Minister.

Report to the Minister

A recommendation to the Minister will be made in a report on or before 15 December 2020 (or such later date as allowed under section 269ZHI), on the basis of the examination of exportations of the goods to Australia during the investigation period, unless I terminate the investigation.

The Minister must make a declaration within 30 days after receiving the report, or such longer period as the Minister considers appropriate.

⁷ On 14 January 2017, certain powers and functions of the Minister under section 269ZHI were delegated to the Commissioner of the Anti-Dumping Commission. Refer to ADN No. 2017/10 for further information.

Anti-Dumping Review Panel

Certain persons will have the right to seek review with the Anti-Dumping Review Panel in accordance with Division 9 of Part XVB in relation to a decision by me to terminate the investigation or a decision of the Minister to publish or not to publish a dumping duty notice and countervailing duty notice after considering my report.

Interested Party List

Throughout the investigation, the Commission will maintain an internal list of interested parties. If you would like to be added to the interested party list, please email investigations2@adcommission.gov.au.

Anti-Dumping Commission Contact

Enquiries about this notice may be directed to the Case Manager on telephone number +61 3 8539 2447, or investigations2@adcommission.gov.au.

Dale Seymour
Commissioner
Anti-Dumping Commission

13 July 2020