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Mr Justin Wickes
Director
Investigations 2
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

Email: investigations2@adcommission.gov.au

Public File

Dear Mr Wickes

Investigation No. 557 – Copper tube exported to Australia from China and Korea – Submission by Airefrig Australia Pty Ltd

I. Introduction

We refer to the submission by Airefrig Australia Pty Ltd (“Airefrig”) dated 13 August 2020.

Metal Manufactures Pty Ltd trading (“MM Kembla”) seeks to comment on a number of matters referenced in the submission.

II. Airefrig assertions

Airefrig is an importer of copper tube from the countries the subject of Investigation No. 557 and is seeking an exemption for certain imports of copper tube by it which it claims “...*there is no legal recourse for implementing such duties.*” The Anti-Dumping Commission (“the Commission”) has only recently commenced its investigation into the export of copper tube from China and Korea. The Commission has not considered – at this stage – whether it is appropriate to impose measures (including provisional measures) hence it is premature to be requesting an exemption from measures.

Airefrig has not demonstrated grounds exist for its imports to be excluded from the goods description the subject of Investigation 557. It has not shown that the claimed imports fall outside the goods description being investigated by the Commission. At this stage of the investigation, there can be no grounds for acceding to Airefrig’s request for an exemption.

Airefrig contends that following the closure of the local producer Crane Copper Tube (“CCT”) in 2014 that “...*the current applicant, who, based on having a monopoly on the local industry, preceded to increase prices and restrict supply to local companies like Airefrig.*” It appears that this claim is not supported by any evidence. MM Kembla can provide detailed evidence that its net added value (“NAV”) has been eroded since that time. This would seem to dispute Airefrig’s unsubstantiated allegations. MM Kembla notes that Airefrig claims that MM Kembla’s prices were “uncompetitive”. MM Kembla submits that the import pricing with which Airefrig claims that MM Kembla is *uncompetitive*, represent dumped and subsidised prices that have undercut local prices.



III. MM Kembla imports

MM Kembla confirmed in its application that it has imported some limited volumes of copper tube. The limited categories include certain copper tube (i.e. small diameter) where MM Kembla is uncompetitive with the dumped and subsidised imports.

IV. Causal Link

Airefrig appears to indicate that it cannot address the particular causal link examples included in MM Kembla's application. However, it has offered comments about the imports and industry in a more general manner.

In addressing the historic trend for the industry, Airefrig claims that the industry as a whole has been contracting since 2014. It further states the construction and plumbing industries "...have been moving away from the higher cost copper tubing.....to substitute plastic tubes and fittings into areas where copper tubing would normally have been used." It is MM Kembla's experience that that there was a period of substitution that occurred in the early 2000's to plastics but since then there has been a trend back to copper with press fittings and the failure of alternative systems such as PPR (Polypropylene Random Copolymer) tube. MM Kembla's Confidential Appendix A2 confirms a relatively stable market over the most recent four-year period.

Airefrig asserts that the "causal effect" of the apparent substitution is a declining market and lower prices. It is not clear how this assessment is made, however, MM Kembla contends that the reasons for the decline in prices can be attributed to the price undercutting apparent from the dumped (and subsidised) imports the subject of the investigation.

MM Kembla notes Airefrig's following comment:

"Plastic tube and fittings are becoming more prominent in a number of industries and in relation to air conditioning there is also substitutable goods which have properties more conducive to that industry that has caused the price suppression on copper tubing."

Airefrig, however, does not promote other products itself, so it would seem that the substitution is not evident. Airefrig promotes and sells copper as this is what the majority of the market and customers request.

Airefrig further indicates that the pricing and profit pressures are also influenced from sources not identified in MM Kembla's application. At the time of the lodgement of the application, the imports that were considered injurious were from China and Korea only. Imports of subject goods from other sources were not material during the investigation period and therefore not included in the application.

The Airefrig submission calls for the Commission to investigate factors other than dumping and subsidisation as causes of injury to the Australian industry. The Commission will undertake this analysis as part of its investigation. It is therefore premature for Airefrig to be seeking the termination of the investigation at this early stage when the full effect of the dumped and subsidised exports from China and Korea have not been fully investigated.

V. Conclusions

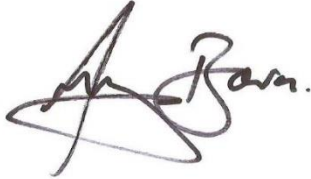
MM Kembla rejects the request by Airefrig to terminate Investigation No. 557 on the grounds that the exports from China and Korea have not caused injury that is material to the Australian industry manufacturing like goods. The Commission's analysis is yet to be undertaken.

The Commission's investigations will establish whether the dumping and subsidisation of exports of certain copper tube from China, and the dumped exports from Korea, have caused, or threaten to cause, material injury to the Australian industry. The available evidence supports a position that the selling prices for certain copper tube from China and Korea have been at dumped (and subsidised) prices that have undercut the Australian industry's selling prices. Respectfully, Airefrig is unable to demonstrate that exporters in China and Korea have not been exporting at dumped prices. Similarly, the alleged substitution away from copper occurred in the early 2000s, a period well before the current injury period.

Airefrig's claims and assertions in its 13 August submission have not been sufficiently evidenced to be relied upon.

If you have any questions concerning this submission, please do not hesitate to contact me on (02) 4223 5120 or MM Kembla's representative Mr John O'Connor on (07) 3342 1921.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tony Bova' with a stylized flourish at the end.

Tony Bova
Executive General Manager