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## **ANTI-DUMPING NOTICE NO. 2020/107**

*Customs Act 1901 (Cth)*

***Customs (Preliminary Affirmative Determinations) Direction 2015***

**Certain copper tube**

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

**Investigation No. 557 into alleged dumping and subsidisation**

**Day 60 Status Report**

### **Introduction**

The purpose of this Status Report is to set out the reasons why I, Dale Seymour, Commissioner of the Anti-Dumping Commission (Commissioner) have not made a preliminary affirmative determination (PAD) under section 269TD(1) of the *Customs Act 1901* (Cth) (the Act) on 11 September 2020. This date is 60 days after the initiation of the investigation into the alleged dumping of certain copper tube exported to Australia from the People's Republic of China (China) and the Republic of Korea (Korea) and the alleged subsidisation of certain copper tube exported to Australia from China.

This report and the findings contained herein reflect the status of the investigation at day 60. Accordingly, at any time from day 60 onwards during the investigation, I may make a PAD if I am satisfied of the requirements set out in section 269TD(1) of the Act.

### **Background**

On 13 July 2020, I initiated an investigation into the alleged dumping and subsidisation of certain copper tube following an application by Metal Manufactures Pty Ltd trading as MM Kembla under section 269TB of the Act. Further details can be found in the public notice published on 13 July 2020 (refer to *Anti-Dumping Notice No. 2020/071* on the electronic public record (EPR) available at [www.adcommission.gov.au](http://www.adcommission.gov.au)).

Under section 269TD(1) of the Act, I may make a PAD at any time, not earlier than 60 days after I initiate an investigation under Part XVB in relation to the publication of a dumping duty or countervailing duty notice, if I am satisfied that:

- there appears to be sufficient grounds for the publication of such a notice; or
- it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods.

In accordance with the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the Direction), 60 days after the initiation of such an investigation I must either make a PAD or publish a Status Report outlining the reasons why I have not made a PAD.

## **Reasons**

### *Information considered*

In deciding whether to make a PAD on day 60 of this investigation, I have, in accordance with section 269TD(2) of the Act, had regard to:

- MM Kembla's application;
- submissions received in response to the initiation of the investigation;
- exporters' responses to the Anti-Dumping Commission's (Commission's) Preliminary Information Request (PIR); and
- any other matters considered relevant to this investigation.

The issuing of exporter questionnaires was deferred pending the receipt and consideration of the exporters' responses to the PIR. As specified in ADN 2020/071, the Commission would use these responses to assist in the development of the proposed Model Control Codes (MCC) structure, and to determine whether sampling was required due to the large number of exporters of the goods.

Having considered the PIR responses, the Commission established its proposed MCC structure and, in accordance with section 269TACAA(1) of the Act, sent exporter questionnaires to a selected number of exporters who were responsible for the largest volume of exports during the investigation period to Australia that could reasonably be examined. Responses to these exporter questionnaires are due by 12 October 2020. Information on the proposed MCC structure and the exporters selected for further examination is available on the EPR.<sup>1</sup>

The Commission has also recently received further data from MM Kembla which included updated sales and cost data for the period between 1 April 2020 and 30 June 2020.

The verification of information received from the applicant and the receipt of information from the Government of China, importers and exporters have also been delayed by circumstances arising from the COVID-19 pandemic.

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<sup>1</sup> See EPR document number 6.

### *Reasons for not making a PAD*

The Commission is currently examining various issues in the investigation, including:

- export prices, normal values and volume of the goods exported from China and Korea;
- whether, because of a situation in the Chinese domestic market, sales of like goods in this market are not suitable for use in determining normal values under section 269TAC(1); and
- the level (if any) of countervailable subsidies received by Chinese exporters;<sup>2</sup> and
- whether those goods, if dumped or subsidised at above negligible levels, have caused or are causing material injury to the Australian industry.

Presently, information available to the Commission at Day 60 of the investigation, in connection with these issues, is not yet sufficient to ascertain:

- if the goods exported from China and Korea to Australia have been dumped at above negligible levels;
- if the goods exported from China to Australia have been subsidised at above negligible levels; and
- whether those goods, if dumped or subsidised at above negligible levels, have caused or are causing material injury to the Australian Industry.

As a result, at the time of making this report, I am unable to establish that there appear to be sufficient grounds for the publication of a notice or that it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods.

Accordingly, I have not made a PAD.

### **Other considerations**

#### *Relevant matters – section 269TD(2)(b)*

In accordance with the Direction and for the purposes of section 269TD(2)(b) of the Act, I have considered the desirability of providing relief to an injured Australian industry as quickly as possible, where warranted.

I have decided relief is not warranted at this particular time, because I am not satisfied that there appears to be sufficient grounds to establish that the goods are dumped and/or subsidised, or to establish a causal link between the dumped and/or subsidised goods and material injury, for the reasons outlined above

#### *Reconsideration of making a PAD – section 269TDAA*

After publishing this report, I must reconsider whether to make a PAD at least once prior to the publication of the Statement of Essential Facts (SEF) required under section 269TDAA of the Act. The SEF is due to be published on 2 November 2020. Prior to the publication of

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<sup>2</sup> Section 4.4.3 of *Consideration Report No. 557* (CON 557) available on the Electronic Public Record (EPR) record number 2 at [www.adcommission.gov.au](http://www.adcommission.gov.au).

the SEF, or in the SEF itself, I will advise whether a PAD is warranted and the reasons for my decision.

**Anti-Dumping Commission Contact**

Enquiries about this report may be directed to the case manager at:

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Dale Seymour  
Commissioner  
Anti-Dumping Commission

11 September 2020