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4 October 2021

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Public File Copy

Dear Sir/Madam

Investigation No. 557 – Copper tube exported to Australia from China and Korea – MM Kembla Response to Statement of Essential Facts

I. Executive Summary

(a) Erroneous findings

The preliminary findings in Statement of Essential Facts No. 557 ("SEF 557") including the dumping determinations by exporters in China and Korea are flawed and incorrect. The Commission has found that no dumping has occurred for all exporters from China and that the dumping margin was less than two percent for Nungwon, the major Korean exporter.

MM Kembla has evidenced in this submission that the Anti-Dumping Commission's ("the Commission") findings in respect of:

- like goods;
- normal values; and
- export price,

do not support a finding of no dumping (by exporters in China) and negligible dumping by Nungwon Metal Ind. Co., Ltd "Nungwon"" of Korea, and requires an urgent and thorough re-examination of all of the facts.

Normal values for cooperative exporters in China and Korea have been incorrectly determined under section 29TAC(1) of the Customs Act as the domestic sales in China and Korea are for goods that are not "alike" to the goods exported to Australia. Similarly, the normal values for uncooperative exporters under section 269TAC(6) that are based upon normal values for cooperative exporters, are also erroneous. The circumstances of the goods under investigation are that normal values are correctly determined under subsection 269TAC(2)(c) due to the unique nature of different types of seamless copper tube.

(b) Available information does not support a termination recommendation

MM Kembla respectfully rejects the Commissioner's proposed recommendation to terminate Investigation No. 557 as the assumption and findings relied upon by the Commissioner are incorrect as follows:

1. The globally accepted industry practice for hedging of copper costs has been ignored by the Commission;
2. The copper price volatility during the Investigation Period ("IP") and the timing impact for normal value and export price comparisons has not been appropriately considered;
3. The Commission's sales by Hailiang Australia at an average 9 per cent profit do not support a 'no dumping' finding;
4. It is not feasible for price undercutting in the range 7 and 55 per cent to occur, based upon fabrications costs that represent less than 10 per cent of the cost-to-make ("CTM");
5. The Commission's like goods analysis on the goods manufactured by Zhejiang Hailiang, Nungwon and Daejin are erroneous. The goods – where these are sold domestically – are not manufactured to an equivalent standard as goods sold for export to Australia and cannot be considered alike;
6. The adjustment to normal values have not been relevantly considered due to the erroneous findings and conclusions in respect of like goods
7. A proper fair comparison of normal values and export prices has not resulted following the erroneous conclusions on like goods; and,
8. No account has been made of the fact that the Imported goods consistently do not meet the requirements of AS1342 and AS1571 standards (further confirming the imported goods are not identical to the locally produced goods) – therefore normal values cannot be determined under subsection 269TAC(1).

(c) Dumping from Zhejiang Hailaing and Nunwong above negligible levels is evident

The pricing of copper, timing differences impacting dates for domestic sales and export sales comparison, differences in domestic and export standards that necessitate adjustments to normal values, and the unchallengeable sales at a loss by Hailiang Australia, when reflected in the normal values for the cooperative exporters confirm the existence of substantial margins of dumping from exporters in China and Korea.

(d) Re-examination of normal values for cooperative exporters required

MM Kembla urges the Commission to take full account of the issues and concerns raised in this submission. It is requested that the Commission engage with MM Kembla to fully understand the complex industry practices that impact copper tube costs and prices that have generated no questions from the Commission to date.

A considered examination and understanding of the matters identified in this submission will result in an accurate assessment of normal values (under subsection 269TAC(2)(c) and will confirm the existence of dumping margins (greater than negligible levels) for exports of seamless copper tube to Australia from China and Korea.

The exports of the dumped goods have caused and continue to cause, material injury to the Australian industry manufacturing like goods. As such, the imposition of provisional measures on exports of seamless copper tube exported to Australia is warranted and MM Kembla requests the Commissioner to publish a Preliminary Affirmative Determination ("PAD") imposing measures at the earliest opportunity.

MM Kembla looks forward to discussing the content of this submission with the Commission.

II. Background

MM Kembla is disappointed that the Commission has only recently published SEF 557 on 14 September 2021 – 429 days following initiation of the investigation. Over the ensuing timeframe,

there have been three timeframe extensions, along with a change in case manager on three separate occasions.

MM Kembla acknowledges the difficulties associated with the impact of the Covid 19 pandemic and the Commission's ability to conduct the investigation into MM Kembla's claims with a level of robustness. This would appear to have made it difficult for the Commission to gather information and it would appear that the Commission has not fully understood the complexities of the cost economics for copper tube in its verification analysis, including:

- having lost the knowledge imparted initially to the original case manager;
- the absence of questions from the subsequent case managers and verification teams following exporter briefings conducted with MM Kembla; and
- the delay in publication of exporter and importer verification reports – with only the exporter verification reports released two days prior to the release of SEF 557 on 14 September 2021.

These factors have impacted the preliminary findings published in SEF 557.

III. Market situation in China – seamless copper tube

MM Kembla concurs with the earlier findings in other jursidictions (Canada and the USA) that the Government of China ("GOC")influences the raw material copper price on an ongoing basis.

Available information confirms that the GOC:

- has a stated objective to control commodity prices;
- holds and releases copper reserves to intervene in market supply;
- supports a local government takeover of the largest private owned copper smelter, to aid in its control of supply of copper;
- takes measures to stabilise prices that are not market-determined;
- limits volatility on the local Shanghai Exchange such that copper prices are not as volatile as on the LME.

The copper market in China does not operate due to market forces (refer Non-Confidential Attachment 11). Prices for copper are heavily guided by the GOC's intervention. Copper prices, and therefore copper tube prices in China, cannot be considered to be free of GOC influence. A particular market situation for seamless copper tube therefore is evident in China.

IV. Globally accepted practice for hedging of copper costs ignored by ADC

a. <u>Copper Price Volatility During the IP</u>

The LME copper price traded through a wide range during the IP, with an overall average bias to the downside.

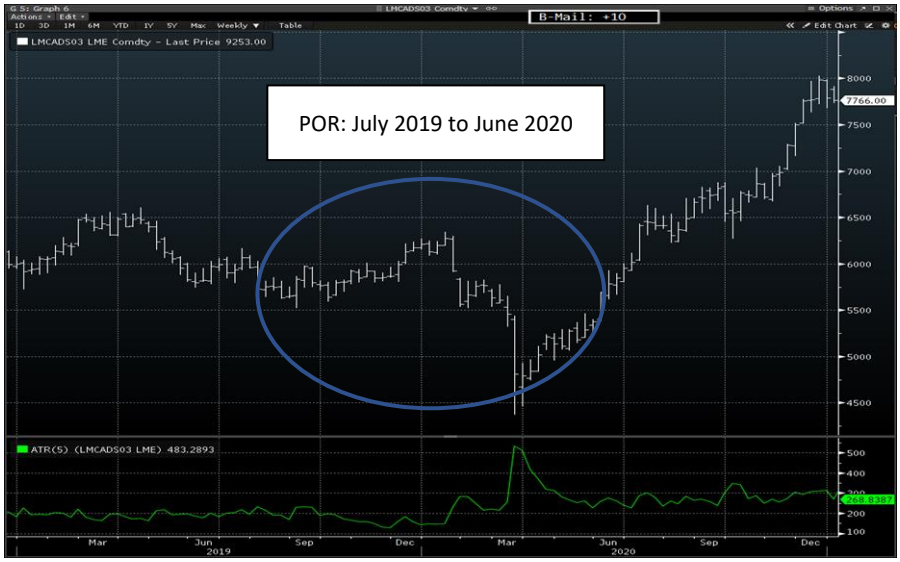

Figure 1 LME Price & Average True Range – weekly (Source Bloomberg)

The copper price was extremely volatile from mid-January 2020 to mid-March 2020. During this two-month interval the copper price fell by xx%, from the January high of $xxxxx to the March low of $xxxxx. The Average True Range (ATR) spiked in this period, indicating that the copper price was moving through a price-range of more than $500/tonne/week.

This chart clearly demonstrates the need for copper producers and fabricators to manage their copper price risk very carefully. The cost of copper can account for 90% to 95% of the total cost of copper tube. Copper fabricators, such as Zhejiang Hailiang Copper Co., Ltd ("Zhejiang Hailiang") and Shangahi Hailiang Copper Co., Ltd ("Shanghai Hailiang") (hereafter both companies referred to as "Zhejiang Hailiang" only), Nungwon Metal Ind Co., Ltd ("Nungwon") and MM Kembla typically manage their copper price risk by using a 'hedge book' process, where offsetting natural internal exposures are netted off and the residual price risk is mitigated using forward copper hedge contracts.

Every purchase and sales transaction to buy or sell copper has an impact on the net hedge book copper exposure for copper tube fabricators.

b. <u>The Process for Fixed Price Copper Tube Export Sales</u>

Export sales of fixed price copper tube expose the tube manufacturer to the risk that the copper price will increase between the time at the which the sales order price is fixed and the invoice date.

The international copper tube markets use a benchmark of three months lead time between fixing the price on an export order to invoicing that order. Tube manufacturers will hedge this risk by buying forward derivative contracts on the LME that match the expected physical delivery date or adjusting the hedge book. Gains and losses on the hedge contract or hedge book adjustment will offset the exposure created by taking the fixed price sales order.

If the copper price falls, then the losses on the hedge contract or hedge book will offset the gains generated by the fixed price sales transaction. These hedge or hedge book gains and losses can be directly associated with the underlying fixed price sales order.

When fixed price export sales orders are being negotiated between the manufacturer and the export customer this will normally be done on a shipping container by container basis. The export customer will contact the tube producer and request a quote on the copper price basis. The manufacturer will closely monitor live LME copper prices, using platforms like Bloomberg. The manufacturer will use the live 3-month LME copper price, at that instant, as the pricing basis to make an offer to the export customer. When the export customer accepts the pricing offer, the tube manufacturer will immediately hedge the copper exposure by buying forward 3-month LME contracts, or by making the necessary adjustments to the hedge book. The agreed fabrication premiums above LME for each

tube product are then added to the agreed fixed copper price to form the total fixed price for the respective different tube sizes. Discounts and rebates may then adjust the net pricing.

The selling price is fixed until the sale is invoiced, regardless of subsequent copper price fluctuations on the LME. The copper hedge contract or hedge book adjustment remains in place until it is settled at maturity.

Export sales are predominantly made at fixed price across the international tube market.

Confidential attachment 2 shows examples of this hedge transaction and actual examples of MM Kembla export sales and import purchases of copper tube.

This globally accepted practice means all export copper sales are back-to-back with the copper cost at the time of order to minimise an exposure to the volatility of the copper cost. The LME 3-month contract is the most actively traded internationally. It is reasonable to assume that the 3-month hedge is the closest date range to match the average lag in the physical copper markets (eg tube market). So, the average lag in the physical market is 3 months.

When Zhejiang Hailiang sets fixed priced export sales orders it uses the LME 3-month price basis, with no adjustments for forward basis points. This indicates that Zhejiang Hailiang's own internal benchmark standard is that they will physically ship in three months' time.

Hailiang Hong Kong's financial statements indicate that significant hedge losses were incurred during the IP. It is common practice for companies that operate internationally to centralise their Treasury and financial risk management operations. The hedge losses presented in the Hailiang HK annual report (Non-confidential attachment 11) indicate that Hailiang has centralised its global Treasury and risk management in its Hong Kong office.

c. The Process for Domestic Copper Tube Sales in China and Korea

The process of taking orders for the domestic tube markets in China and Korea is fundamentally different to the export tube markets.

In China, the manufacturer resets the copper price basis for tube sales [*period*]. They use the Shanghai Metals Market (SMM) price as the basis for domestic sales. This means that there is essentially no price risk to be hedged for Chinese domestic because the tube delivery will be invoiced in a matter of days or weeks after the price has been set.

In Korea, manufacturers reset prices on a weekly timeframe, but they will re-issue the price list during the week if there is a significant LME price fluctuation. There is also no need to hedge this price risk in Korea because the delivery will be invoiced in just a few days or weeks.

V. The copper price volatility during the IP and the timing impact on comparative export invoice values has not been considered.

The Commission has calculated the dumping margins for Zhejiang Hailiang based on a comparison of quarterly weighted average export prices with the corresponding quarterly weighted-average normal value for the investigation period (as per subsection 269TACB(2)(a)).

Further, Section 9 of the Zhejiang Hailiang verification report does not identify any adjustment for copper price variability. The Commission's methodology is considered reasonable ***if*** the same copper price time basis is used in the sales for domestic and export. In reality, this is **not** the case and therefore an adjustment to normal value for the copper price variance is required. As outlined in MM Kembla's application, the copper cost accounts for up to 95% of the total cost of copper tube. Subsequently, the adjustment for copper price variability between domestic and export pricing needs to be considered as it is a significant contributor to the total price of copper tube. The combined effects of high price volatility and high relative cost make it imperative that the cost of copper is normalised for time effects for any comparative analysis between domestic copper tube prices and export copper tube prices.

MM Kembla has a JV in Hong Kong (Kembla (HK) Limited) who is the market leading copper tube distributor in the Hong Kong Market. Kembla HK deals with many copper tube and fitting manufactures in China and as a result we have a good understanding of copper tube pricing in China. The standard practice for pricing in the domestic China market is as follows:

- China domestic market sells based on the copper price every (working) day at 11-11:30am;
- Domestic China sales use the SMM (Shanghai Metals Market) price;
- Domestically price is based on this SMM priced copper plus fabrication cost;
- It is quite common to have rebates to domestic customers, but different customers will have different rebate schemes.

Given the variability of the copper commodity and the exposure risk this creates when domestic and export orders are priced (at date of order), the industry accepted practice of hedging copper prices at the time of order, results in an alignment of the cost of copper for the manufacturer and what the customer pays for the copper component of the pricing model.

During the period of the investigation the LME copper price reduced by nearly xx% from January 2020 to May 2020. The timing difference between pricing dates of the copper cost and invoice date for domestic and export sales had a material impact on the comparative quarterly weighted average export price and domestic sale and a misalignment between the invoice price and product cost.

The table below demonstrates the impact of this 3-month lag of invoicing vs pricing of export orders. This over the 12 months of the investigation period has the impact of inflating export prices on average by $xxx/t.

[*Commercially sensitive Table redacted – Timing difference of Copper Cost US$/T by invoice date*]

[*Commercially sensitive Graph redacted – Timing difference of Copper Cost US$/T by invoice date*]

The Commission has not made any adjustments that recognise the impact of copper price volatility on sales prices. Adjustments for the impact of copper price movements are necessary to ensure a fair comparison of 'normal' values to export prices during the investigation period.

The LME copper price fell heavily during the IP. The LME price fell by an average of USDxxx/t per quarter during the IP. The Commission has failed to make any adjustments for this. The Commission should have either adopted one of the following adjustments:

- Adjusted the export price down by the value of the average LME price fall of $193/tonne, or
- Adjusted the domestic price higher by the value of the average LME price fall of $193/tonne; or
- Substitute the same LME copper cost using the average monthly settlement prices into the Australian export prices and the normal value calculation, thereby taking out this variability of copper movements and pricing methods; or
- Use the same copper cost priced on orders at first point of resale to an unrelated buyer in Australia to calculate the export FOB price and the normal value for invoices in same period. (see Confidential Attachment - Deductive Export Prices).

For Zhejiang Hailiang the "*verification team verified the completeness, relevance and accuracy of the raw material purchase listing provided in the REQ by reconciling the listing up to the general ledger and down to source documents*". The verification team clearly failed to reconcile the total cost of raw material including the industry accepted practice described in this document to include the true hedged cost of copper raw materials. This oversight clearly demonstrates the lack of understanding by the Commission of how copper should be costed during the investigation period. Not calculating the true copper cost matching with invoice prices and the material impact of this due to copper representing up to 95% of the total manufacturing cost is a key flaw in the calculation of the dumping margin.

Methodology used in CBSA case.

MM Kembla notes that the CBSA used the "the average monthly settlement prices reported on the LME" for the purpose of a benchmark copper price for the cost of copper in China.

MM Kembla considers that the average monthly settlement prices are publicly available prices that provide a reliable basis for the benchmark and propose that the Commission similarly adopt this benchmark in Investigation 557. The CBSA added weighted-average amounts for fabrication costs to convert the copper into copper tube, before applying amounts for selling, administrative and other costs (including financial, technical, etc), and an amount for profit.

This methodology removed the impact of the copper price volatility during the IP and the timing impact on comparative export invoice values.

The CBSA process is for determining the "benchmark". In MM Kembla's case, the Commission has treated the costs for domestic and export as the same. MM Kembla therefore has a fundamental issue with the Commission's methodology as reflected in the verification reports and SEF 557 where no consideration has been made concerning the differences in copper pricing, timing differences and quality of raw material.

VI. Sales by Hailiang Australia do not support 'no dumping' finding

The Commission determined that Hailiang Australia's sales of seamless copper tube were sold profitably on the Australian market. The Commission confirmed in the Hailiang Australia Importer Verification Report that "…*on a weighted average basis, Hailiang Australia was profitable* ***by over 9 per cent****"* (emphasis added).

The Commission examined 10 shipments by Zhejiang Hailiang to Australia from China. Of the 10 shipments, seven shipments were profitable. It can be assumed that for a weighted-average profit of over 9 per cent to occur, the seven profitable shipments must have been highly profitable (to cancel out the losses incurred on the three loss-making shipments).

MM Kembla does not consider that the Commission's determination that sales by Hailiang Australia can be sustained. The following details why Hailiang Australia's sales cannot be considered profitable or alternatively why the commissions export FOB pricing comparison methodology is flawed

(a) Deductive export price calculations

The Commission has not undertaken the appropriate deductive export price analysis using the Hailiang Australia customer selling prices to confirm whether the export price from Zhejiang Hailiang (the Chinese exporter) via HK Hailiang to Hailiang Australia was arms-length.

The following deductive export price analysis undertaken by MM Kembla confirms that the selling prices by Hailiang Australia are at ***not*** arms-length as they fail to recover the appropriate copper cost at the date of export (i.e. date of invoice), let alone the LME copper cost plus fabrication and SG&A expenses incurred by the Chinese exporter.

The Commission confirms that it obtained invoice selling prices by Hailiang Australia to its Australian customers that it used to establish the profitability of those sales on the Australian market.

MM Kembla has access to a range of Hailiang Australia selling prices (via weekly list prices obtained from Hailiang Australia) covering the period February 2020 to June 2020. The list prices reflect the prevailing copper cost (based upon actual LME), fabrication cost of US$xxxx-$xxxx per tonne and an addition premium (variable based upon sales volume and product) to reflect import costs, SG&A and profit margin in Australia.

MM Kembla has utilised the selling price to the Australian customer (identified in Confidential Attachment 1 – Deductive Export Price Calculations) and made relevant deductions for the selling price to deduce a Free-On-Board export price, China.

MM Kembla has made the following deductions to Hailiang Australia's selling price to its customer:

- profit (based upon Commission's 9 per cent determined profit);
- delivery to buyer (based upon MM Kembla's costs for imported copper products – refer Confidential Attachment 1a);
- warehousing (based upon MM Kembla's costs – refer Confidential Attachment 1b);
- SG&A (based upon 1 per cent of selling price – Hailiang Australia incurs minimal sales personnel costs in Australia);
- freight from wharf to store (based upon MM Kembla costs – refer Confidential Attachment 1c);
- import clearance and handling (MM Kembla costs for clearance of copper product – refer Confidential Attachment 1d);
- overseas freight and insurance (MM Kembla freight costs ex China – refer Confidential Attachment 1e).

Following calculation of deductive export prices based upon [*source of competitor selling prices*] over the period February to June 2020, MM Kembla has then contrasted the deduced prices with the prevailing LME copper price corresponding with the quoted sell price. Please refer to

Confidential Attachment 1 – Deductive export price calculations evidencing the range of negative profit derived from [*source of competitor selling prices*].

This comparison has yielded an average xxxx of US$xxx/T (or xxxxxxx per cent of NSV). This comparison is before the cost of fabrication, SG&A and profit is taken into consideration by Zhejiang Hailiang and SGA recovery for Hailiang HK.

The normal value in China can then be estimated by deducting the negative dumping margin of 4.7% from the Deductive Export Price (FOB). This average xxxx increase to US$xxx/t or xx% below the average IP copper price of US$xxxxx/t. Refer to Confidential Attachment 1 – Deductive export price calculations - Summary

[*Redacted – commercially sensitive deductive export price calculations*]

The above analysis demonstrates that the Commission's conclusion that the selling prices for Hailiang Australia can be considered arms-length (before any rebates or reimbursements by Zhejiang Hailiang are even considered) is ***incorrect***.

MM Kembla has established – based upon the Commission's own conclusions on the level of profit on sales achieved by Hailiang Australia and information supplied to the Australian market in [*source of competitor selling prices*] - that the selling prices by Hailiang Australia do not recover the fully-absorbed cost to make and sell (CTMS) seamless copper tube in China by Zhejiang China. In fact, the export prices to Australia by Zhejiang Hailiang do not recover the cost of copper as reflected in LME copper pricing at the date of export.

The real hedged cost of the copper has been ignored. If purely the importer invoice cost is used, then there is a misalignment between the "hedged copper" cost and the selling copper price. Hailiang Hong Kong carries out all the hedging transactions for all raw materials. This is common practice that Treasury functions are centralised. It is clear these real hedge costs have not been allocated to cost of copper for Zhejiang Hailiang and Hailiang Australia sales. In fact, during the 2020-year (January to December 2020) Hailiang Hong Kong made an operating loss 180,520.000 Yuan. In the Zhejiang Hailiang Co., Ltd. 2020 Annual Report, section 3 the following statement explained the operating loss by Hailiang HK. (Non-Confidential Attachment 11)

> "*During the reporting period, the main reason for the net profit loss of Hong Kong Hailiang Copper Trading Co., Ltd. was the hedging loss of the company's overseas raw materials."*

This clearly confirms that Hailiang HK performs all the hedging transactions for the international and domestic businesses operated by Zhejiang Hailiang. These hedging costs have not been addressed by the commission and not delt with as outlined above.

This casts significant doubt over the reliability and rigour of the Commission's understanding of seamless copper tube production costs and industry practice concerning LME copper pricing. The Commission has not considered the total cost of copper including hedging, the global practice to align copper costs to invoice copper cost, or the variability in the timing of the copper price at time of export. Consequently, the preliminary normal value and dumping margin findings in SEF 557 must be considered flawed and cannot be relied upon.

(b) Rebates

Hailiang Australia's importer verification report states:

> "*the verification team did not identify any evidence that Hailiang Australia received any reimbursements, rebates or other support from Zhejiang Hailiang in respect of the goods. The verification team was able to verify that the prices listed on the invoices were the prices paid to Zhejiang Hailiang or Hailiang HK by Hailiang Australia*."

The Commission accepted explanations by Hailiang Australia that the exporter Zhejiang Hailiang "*set its prices to Hailiang Australia (via HK Hailiang) in reference to market selling prices from the London Metal Exchange (LME) plus fabrication cost*.[1]" It was further stated that fabrication costs were included in the sales and profits of the Chinese exporter Zhejiang Hailiang.

However, MM Kembla understands that rebates are provided via the affiliated Hailiang HK trading company for sales made in Australia by Hailiang Australia.

It is also standard practice to provide rebates to merchants in Australia, like [*Merchant names*]. These amounts are paid to head office and not shown on invoice. [*Merchant name*] would be Hailiang Australia's [C*ommercially sensitive*]. It is MM Kembla's understanding that a 20% rebate is paid to the [*Merchant names*] head office. It is important that the commission verification team has included this rebate in assessing profitability of the 10 selected invoices as it is very likely many of these are [*Merchant names*] sales. Confidential Attachment 12 demonstrates that [C*ommercially sensitive pricing information*].

It also cannot be assumed that merely because the Australian importer has stated that it did not receive any reimbursements from the exporter, that the sales between the exporter (via the related party trader) can be accepted as arms-length.

Where the Australian industry evidences information that reimbursements are evident there is an obligation for the Commission to further investigate the claims.

In its Commercial-in-Confidence exporter briefing document (provided by MM Kembla to the Commission on 4 May 2021) MM Kembla demonstrated that Zhejiang Hailiang provides rebates to Australian customers to assist in securing increased sales on the Australian market.

[*Redacted – commercially sensitive comments about rebates available to customers of imported good*s] Confidential attachments 9 & 10.

The rebates were provided by Zhejiang Hailiang in China via Hailiang HK and not from Hailiang Australia.

[1] Importer Verification Report – Hailiang Copper Australia Pty Ltd, Section 6.5 P. 13.

[*Commercially sensitive graph redacted – rebates provided by Hailiang Vietnam parent*]

[*Redacted – commercially sensitive details of rebates paid by Hailiang to Australian customers*).

As outlined previously these rebates are paid by Zhejiang Hailiang in China directly to Australian tube customers.

[*Redacted – commercially sensitive pricing information for imported seamless copper tube*].

MM Kembla has demonstrated that Hailiang Australia's selling prices into the Australian market do not recover the fully-absorbed costs to manufacture copper tube that must achieve compliance with the Australian Standards AS/NZ 1432 and 1571. These sales at a loss by Hailiang Australia are before rebates are accounted for.

It is therefore critical that the Commission re-assess the arms-length nature of sales by Hailiang Australia.

VII. Not possible for price undercutting in the range 7 and 55 per cent to occur, based upon fabrications costs that represent less than 10 per cent of the CTM

The confirmed levels of price undercutting, however, are contrary to the "arms-length" finding.

The reality in the seamless copper tube industry is that where the copper accounts for more than 90 per cent[2] of the Cost to Make ("CTM") and the copper price is the same for the exporters and the Australian industry and based upon the same benchmark (i.e. London Metals Exchange, or the similarly priced Shanghai Futures Exchange), it is not possible (or even feasible) for price undercutting in the range 7 and 55 per cent to occur, based upon fabrications costs that represent less than 10 per cent of the CTM.

Confidential Attachment 3 shows the breakdown of the total MM Kembla manufacturing cost for the 6 highest selling products and compares this to the Hailiang Australia average selling price and calculated manufacturing cost. The Zhejiang Hailiang fabrication costs are clearly shown on the Hailiang Australia price lists. [*Redacted – commercially sensitive pricing information for imported seamless copper tube*].MM Kembla can confirm these fabrication costs are similar to prices provided directly to MM Kembla (all of which were lower than the Hailiang Australia prices as the [*Redacted – commercially sensitive pricing information for imported seamless copper tube*]. to get more MM Kembla business and witnessed by MM Kembla staff stated they "do not care about profit, just market share and volume in Australia")

Using the Hailiang 2018 Annual Report and Q3 2019 Quarterly sales reports, which outline copper pipe segmentation data shown in the Confidential Attachment 3, the fabrication cost could be adjusted for the SGA and Gross Margin, and also split into wages costs and manufacturing costs. What you can see from this comparison with MM Kembla product fabrication costs are identical. When you allow for Sea freight and all other FIS costs, Commission of xx% [*redacted – commercially sensitive source*] local warehousing and freight (based on MM Kembla actual costs) and xx% for other selling costs (based on Zhejiang Hailiang claim of no local staff in Australia and minimal support for R&D, technical support, Debt collection, Finance and other support services provided out of China for the Australia Business). The level of possible price undercutting before making a loss is only 0.2%. This proves that the quoted level of undercutting of 7-55 per cent is physically not possible without making a substantial loss and demonstrates the basis for the comparison of pricing by the commission is not understood and incorrect.

We note the following statement in 7.4.1 of the SEF findings

> *"The commission observes that Hailiang's domestic purchase price for cathode copper during the investigation period has been higher than the LME price in all but two months and almost 3% higher on average over the investigation period.*

[2] SEF 557, Appendix A – Particular Market Situation, Section A5.1, P. 66.

Additionally, the commission has observed that raw materials purchased on the domestic market have not been used in the manufacture of copper tube exported to Australia by Hailiang. Therefore, no benefit has been conferred by Hailiang in its purchase of raw materials. Accordingly, the commission is not satisfied that Hailiang had obtained raw materials at less than adequate remuneration."

The Commissions own assumption in the SEF that the LME is the benchmark for copper pricing, and Zhejiang Hailiang is not obtaining raw materials at less than adequate remuneration. It does appear that the Commission in using the LME benchmark to compare to Zhejiang Hailiang ex works actual cathode cost has **not** included the CIF physical premium for China in the LME. For the investigation period this average US$73/T.

Furthermore, the Commission has not considered the true hedge book cost of all actual copper purchases by Zhejiang Hailiang.

Therefore, when using the Commissions assumption there is no material difference in the LME cost of copper between Zhejiang Hailiang Export FOB and MM Kembla domestic material costs, the level of price undercutting and assumed profitability of Hailiang Australia is again not possible.

The Confidential Table below shows for the top 6 selling products in Australia the comparative fabrication costs and FIS sale price between Hailiang Australia and MM Kembla for the period of investigation. MM Kembla premiums are the actual cost above copper [*Redacted – commercially sensitive pricing information for imported seamless copper tube*] outlined in Confidential Attachment 3. The copper cost assumed is the Average LME US$/T for the period of the investigation. The exchange is the average USD/AUD for the investigation period.

What this shows and the summary table below the total product cost before SG&A ex works in Australia very similar. (MM Kembla is actually xxx%). This demonstrates the cost competitiveness of the MM Kembla business. The chart below shows the year-on-year productivity gains the MM Kembla business has made to remain globally competitive. This is also demonstrated by the xx% of total production volumes are being exported back into Asia.

[*Redacted – Commercially sensitive graph on tube mill efficiency for MM Kembla*]

Once the SG&A costs in China for Zhejiang Hailiang and Hailiang Australia are considered it is not possible for Hailiang Australia to price undercut and be profitable. This table finds the average level of undercutting possible before making a loss is xx% this compares with the average actual level of undercutting of xx%.

[*Redacted – Commercially sensitive Table on price undercutting versus cost of copper*]

The Commission's findings on price undercutting confirm a significant error in the negative 4.7 per cent dumping margin finding for Zhejiang Hailaing, the true profitability of Hailiang Australia and the 0.9 per cent dumping determination for Nungwon.

The price undercutting and dumping margin determinations are in conflict and must be re-examined.

VIII. Like goods

MM Kembla disagrees with the finding of the verification teams' assessment of like goods in each of the cooperative exporter verification reports. The like goods assessment is incorrect on the following grounds:

- The applicable product standards for copper tube for Plumbing applications in the exporters local market are not the same as those in the Australian market;
- The goods are not interchangeable as they do not meet the mandatory requirements in Australia of National Construction Code (NCC) in Australia (Vol.3 Plumbing Code of Australia);
- The exporters local product standard is not referenced in the Watermark Schedule of Products for plumbing tube;
- Evidence to suggest imported tube from China and Korea present a high rate of non-conformances across a range of product standard requirements;
- The national product standards applicable to the local market in China are non-mandatory;
- There are precedents in other jurisdictions involving seamless copper tube dumping that have determined that the goods sold in the exporters local market do not constitute "like goods".

(a) <u>China – Zhejiang Hailiang</u>

The Commission concluded in the Zhejiang Hailiang exporter verification report (EPR Document No. 0030) that[3]:

> "*The verification team considers that the goods produced by Zhejiang Hailiang for domestic sale have characteristics closely resembling those of the goods exported to Australia and are therefore 'like goods' in accordance with section 269T(1)"*.

In its examination of the goods manufactured by Zhejiang Hailiang, the Commission determined that the goods produced by the exporter like goods sold on the domestic market as they:

- *are physically alike – the exported and domestically sold goods are produced in the same way and look alike;*

  The goods may look alike, but there are major differences in the details relating to product dimensions, product quality, copper content, product cleanliness and chemical composition. The Australian standards differ greatly from the Chinese standards. The Chinese standards are not mandatory.

[3] Zhejiang Hailiang Co., Ltd exporter verification report, EPR Document No. 030, P. 8.

- *have production likeness – the goods in both markets are produced at the same facilities and have the same manufacturing process. However, there is a difference in the cost of production as Zhejiang Hailiang utilises the "import processing scheme' for the raw material inputs in the manufacture of exported goods, while for domestic goods it uses domestic priced raw materials;*

  The Commission has noted a difference in raw material inputs but has chosen to overlook its own observation. The mandatory product standards applicable to the Australian market mean that non-compliant goods should not be exported to Australia, whereas non-compliant goods can be sold in China. The stringent Australian product standards require strict quality controls throughout the manufacturing process. These controls are costly to implement, maintain and apply. Application of the quality controls throughout the manufacturing process inevitably results in the identification of faulty product that should be either reworked or scrapped. Both outcomes greatly increase overall production cost for goods to be exported to Australia and reduce production yields and efficiency. The goods produced for the Chinese market do not need these high levels of quality control.

- *are commercially alike – the goods can compete in the same market sector because they are interchangeable. However, due to tax considerations, Zhejiang Hailiang does not sell the goods produced for export on the domestic market. Aside from tax considerations, the goods are interchangeable and use similar distribution channels;*

  The goods are NOT interchangeable. While it may be allowable for Zhejiang Hailiang to sell the goods produced for export into their domestic market it is untrue that goods produced for the domestic Chinese market can be sold in Australia. In fact, even the goods exported by Zhejiang Hailiang have been laboratory tested and frequently found not to comply with the Australian standards.

- *are functionally alike – in that the exported goods and goods sold domestically have similar end uses.*

  The fundamental functional purpose of copper tube is to safely facilitate the movement of various liquids and gases, generally throughout buildings and air conditioning systems. The standards for copper tube are designed to ensure that the tube is physically strong enough to safely deal with varying pressures, the types of liquid or gas and the physical environment into which the tubes will be installed. In order for Chinese copper tube standard product to meet the equivalent safe working pressure of AS 1432 copper tube, the wall thickness of the tube would be required to be increased, subsequently weight of the product to increase and cost of the total product would increase.

The Commission's like goods analysis for seamless copper tube manufactured by Zhejiang Hailiang is considered erroneous.

MM Kembla references the Commission's findings in the exporter verification report for Guilin International Wire and Cable Co Ltd in PVC Electrical Cables exported from China[4], the locally produced goods differ from the exported goods due to the latter being manufactured to Australian Standard AS 1432 and AS/NZ 1571 whereas the locally produced goods are manufactured to a Korean Standard KS D5301 (which is essentially the same as the Japanese Standard JIS H3300).

Further, in Investigation 469 the Commission acknowledged that there existed a difference between the goods sold domestically in China and the exported goods on the following grounds:

Physical likeness

[4] Guilin International Wire and Cable Co., Ltd verification report, Case 469, EPR Document 019, P. 4-5.

The domestic good is manufactured to a different technical standard, voltage capacity and is fire-resistant.

Commercial likeness

There is no marketing of the domestic good in the housing market in China whereas the export good is a key product that competes with other suppliers in the housing and construction market in Australia.

Functional likeness

Based upon the operation of different wiring standards the domestic and export good are not interchangeable between Chinese and Australian markets.

Production likeness

There is a significant production difference regarding the number and diameter of the wires used in the manufacturing of the domestic and export product.

The Commission's findings in Investigation 469 that PVC electrical cable manufactured for the Chinese domestic market is not identical to the PVC electrical cable exported to Australia due to the applicable National Standards applicable in the respective market applies equally to the differences in the Chinese domestic and export markets for seamless copper tube.

Chinese Standard G/BT 18033 requires a completely different range of outside diameter and wall thicknesses for its tube, and two types of chemical composition or grades. This range while falling into the definitions of the MCC, the majority of OD's are larger (between x% and xx%) and wall thicknesses are lower (between x% and xx%) than the closest AS1432 comparable size. The ratio of OD to Wall Thickness size is on average xx-xx% greater than the closest AS 1432 comparable size. Such variances in the characteristics of the copper tube between local market and export market should not lead to a conclusion that products can be considered "alike" when significant variances are evident.

The applicable standards for seamless copper tube manufactured in China are different to the goods manufactured and exported to Australia which comply with the applicable Australian standards. The differences between to the seamless copper tube produced for the Chinese market and the goods exported to Australia include differences in:

- manufacturing standard;
- safe working pressures.
- manufacturing wall thickness tolerance;
- Manufacturing OD tolerance.

The differences in these factors significantly impact the manufacturing cost (necessitating adjustments for specification differences between domestic and export models) and when the copper price is fixed (as reflected in the London Metals Exchange (LME) price) this represents a large percentage of the conversion cost (i.e. different manufacturing costs for domestic versus export seamless copper tube). The following explanations detail the clear differences.

(i) Made to different standards

The local standard has different Outside Diameter and Wall Thickness dimensions compared to the goods sold in Australia. The domestic standard appears to be Chinese Standard G/BT – 18033 which is comparable to BS EN 1057 (European Standard).

Refer product sizing table included in Non-Confidential Attachment 4 Product Table Comparisons GBT 18033, that show the differences in Outside Diameter ("OD") and Wall thickness ("WT") between Australian goods produced to AS 1432 standard. There is no alignment in sizing of OD no direct comparisons on WT. Charts 1 and 2 also show the OD and WT relationship across

sizes in both plumbing standards. For the sake of convenience, GBT sizes have been referred to as Type X (thinner wall) and Type Y (thicker wall).

[*Redacted – Commercially sensitive Figure - OD & WT Plot AS 1432 v G/BT 18033 Copper Tube -Type A & Type B*]

(ii) Made to different working pressures

As a result of the differing standards and product dimensions in (i), the safe working pressures are different across sizes due to the calculation between OD and WT dimensions.

Subsequently the tube chosen will have varying safe working pressures and may/may not be suitable for the same application in local/export markets. These should not be considered comparable or interchangeable for normal value purposes as safe working pressures are a critical determining factor in the selection of product for an application.

The range difference between similar sizes and their equivalent safe working pressures shows AS 1432 tube safe working pressures calculated at 50°C operating temperature is between xx% and xx% across 6 main products. Refer to the radar charts below illustrating the differences in safe working pressures by product standard and equivalent outside diameters.

In order for Chinese copper tube standard product to meet the equivalent safe working pressure of AS 1432 copper tube, the wall thickness of the tube would be required to be increased, subsequently weight of the product to increase and ***cost*** of the total product would increase.

Based on these significant differences in the selection of copper tube for a required application, the copper tube sold in the Chinese domestic market cannot be considered like goods to those exported to the Australian market. Subsequently, it is recommended that the normal value in the Chinese domestic market cannot be ascertained and other means for determining the normal value employed.

Subsequently the tube chosen will have varying safe working pressures and may/may not be suitable for the same application in local/export markets. These should not be considered comparable for normal value purposes as safe working pressures are a critical determining factor in the selection of product for an application.

[*Redacted Safe working pressures by diameter AS1432 Type B vs G/BT 18033, and Type X*]

[*Redacted Safe working pressures by diameter AS1432 Type vs G/BT 18033, Type Y*]

(iii) Made to different manufacturing wall thickness tolerance

The Chinese product is not mandated to a minimum or maximum standard, meaning that a range of varying dimensions are likely.

The local product standard not only has varying dimensions but also varying allowable min and max. tolerances of the tube wall thickness.

Minimum and maximum tolerances in the local standard are set at xx%, in the standard exported to Australia, tolerances range between xxxx% and xxxx%.

(iv) Made to different manufacturing mean outside diameter tolerance

The Chinese product is not mandated to a particular standard. Therefore, minimum mean OD tolerances are unknown, whereas in the Australian standard they range between xx – xx%.

Maximum mean OD tolerances are also unknown, whereas in the Australian standard, there is no allowable tolerance from the specified OD.

(v) *More than one grade of copper allowable*

The grades specified in G/BT 18033 provide 2 (two) options for the grade of copper tube used, T2 which is min. 99.90% copper and TP2 which is phosphorous deoxidised copper. Based on the non-mandatory standard, the use of either chemical composition is available and evaluation of the material used for sales in the exporters local market would need to be determined.

The required grade for AS 1432 copper tube is listed in Section 2 Materials of AS 1432 (p.6) and reads “Tubes shall be manufactured from phosphorous deoxidised copper complying with the chemical composition requirements of alloy designation C12200 of AS 2738”.

This analysis confirms (consistent with the findings in Investigation 469) that the verification team’s conclusions that domestic and exported goods are the same and can be used “interchangeably” is incorrect. Similarly, it is erroneous to conclude that the costs of production for models sold on the domestic and export markets are the same, as there are specification adjustments required to ensure a fair comparison can be made.

There exist considerable cost differences between seamless copper tube produced for sale on the domestic market in China and the goods produced and exported to Australia. These differences are material in terms of the copper cost (primarily) and the cost of conversion. The differences therefore warrant adjustments for copper cost and conversion costs for the differences in the domestic and export models.

Following consideration of the above-mentioned items, normal values for seamless copper tube produced and sold by Zhejiang Hailiang are not alike to the goods exported to Australia that comply with specific Australian industry standards As 1432 and 1571 and therefore cannot be determined under subsection 269TAC(1).

(b) Nungwon of Korea

MM Kembla highlights with the Commission its representations in its submission dated 9 September 2021[5] commenting on the Korean exporter Nungwon exporter verification report. In its submission, MM Kembla brought to the attention of the Commission that copper tube manufactured by Nungwon and sold domestically are not identical to the goods produced and exported to Australia. MM Kembla provided a detailed submission to the Commission dated 9 September addressing the differences between applicable Standards for domestic and export sales for goods manufactured by Nungwon. The discussion points for tube manufactured by Hailiang in China are largely the same in relation to the Nungwon goods.

The goods sold domestically in Korea are not identical to the goods exported to Australia by Nungwon. Specification adjustments to account for the technical differences in the respective goods are therefore required.

(i) Made to different standards

The local standard has different Outside Diameter and Wall Thickness dimensions compared to the goods sold in Australia. The domestic standard appears to be a Korean standard KS D 5301 which is comparable to JIS H3300 (Japanese Standard) and ASTM B88 (American Standard).

Refer product sizing table (Non-Confidential Attachment 5) that show the differences in Outside Diameter (“OD”) and Wall thickness (“WT”) between Australian goods produced to AS 1432 standard. There is very little alignment in sizing of OD above 19.05mm and no direct comparisons on WT.

(ii) Made to different working pressures

[5] MM Kembla submission 9 September 2021, EPR Document No. 034.

As a result of the differing standards and product dimensions in (i), the safe working pressures are different across sizes due to the calculation between OD and WT dimensions.

Point 1 illustrates the product sold in the domestic market is not considered identical (and hence costs are not the same) to the product exported to Australia.

Subsequently the tube chosen will have varying safe working pressures and may/may not be suitable for the same application in local/export markets. These should not be considered comparable for normal value purposes as safe working pressures are a critical determining factor in the selection of product for an application.

(iii) Made to different manufacturing wall thickness tolerance

The local product standard not only has varying dimensions but also varying allowable min and max. tolerances of the tube wall thickness.

Min and max tolerances in the local standard can range between xx% and xx%. In the standard exported to Australia, tolerances range between xx% and xx%.

(iv) *Made to different manufacturing mean outside diameter tolerance*

The local product standard not only has varying dimensions but also varying allowable min and max. tolerances of the tube mean outside diameter.

Minimum mean OD tolerances for the local standard range between xx - xx%, in the Australian standard they range between xx – xx%.

Maximum mean OD tolerances for the local standard range between xx - xx%, in the Australian standard, there is no allowable tolerance from the specified OD.

From the preceding commentary, it is evident that the verification team's conclusions that the differences between the domestic and exported goods are immaterial and that the costs of production for models sold on the domestic and export markets are the same, are incorrect. Critically, the conclusion that the domestic and exported goods are interchangeable is also flawed and incorrect.

There exist considerable cost differences between seamless copper tube produced for sale on the domestic market in Korea and goods produced and exported to Australia. These differences are material in terms of the copper cost (primarily) and the cost of conversion.

The differences therefore warrant adjustments for copper cost and conversion costs for the differences in the domestic and export models.

Due to the outlined differences (and consistent with the Zhejiang Hailiang basis for normal value above) normal values for Nungwon are correctly determined under subsection 269TAC(2)(c).

(i) Like goods conclusions

The seamless copper tube manufactured by Zhejiang Hailiang, Nungwon and Daejin for sale on the domestic market in China and Korea are not the same as the goods exported to Australia as the former do not meet the requirements of the applicable Australian Standard (whether it is AS/NZ Standard 1432 or 1571).

The available evidence confirms that the goods manufactured for domestic sale are not interchangeable with the goods produced and exported to Australia. The Commission's findings on this ground are erroneous and cannot be relied upon.

IX. Normal Values

The correct and relevant adjustments to normal values for differences in copper OD and WT, working pressures, and different standards have not been considered by the Commission due to the incorrect conclusions determined for like goods. The differences identified above warrant adjustments for copper cost and conversion costs for the differences in the domestic and export models.

(a) China – Zhejiang Hailiang

MM Kembla considers there are additional relevant considerations to the issue of like goods and normal value that have not been adequately considered. These include:

- The seamless copper tube manufactured for domestic sale by Zhejiang Hailiang is manufactured from scrap and locally sourced cathode which introduces quality and differing manufacturing processes to the goods produced from imported cathode only and exported to Australia;
- Timing basis for copper cost and price is mismatched between domestic goods and export goods during a period of sharp reduction in the LME copper price;
- Additional draw thin in domestic China market - lowers real cost of copper in China domestic sales;
- Difference in fabrication cost on a $/T basis for manufacturing to the local standard vs exported goods produced to Australian standard;
- Tube imports into Australia do not meet Australian standards. The goods that are the subject of the application are defined by a fundamental requirement that they comply with Australian standards AS 1432, AS/NZ 1571 or AS 1572;
- Adjustment for cost of capping and cleaning in domestic China market for refrigeration tube.

(i) Scrap

The Commission states that Zhejiang Hailiang utilises an import processing scheme for imported copper used for the production of copper tube that meets the Australian Standards quality requirements. MM Kembla understands that Zhejiang Haliang purchases significant quantities of scrap copper and low grade copper cathode for use in the production of goods for the domestic market (and confirmed by the Commission's statement that Zhejiang Hailiang imports copper for use on its export sales). For this reason alone, the domestic and export goods cannot be construed as being the same, with the selling prices and costs for the domestic and export costs being substantially different due to the raw material input (and costs thereof).

The Commission "*has observed that raw materials purchased on the domestic market have not been used in the manufacture of copper tube exported to Australia by Hailiang*". That all export sales to Australia only use LME imported cathode.

[*Redacted – commercially sensitive detail on raw material product used by Zhejiang Hailiang*] that contradict the statements made by Zhejiang Hailiang in the export verification report.

[*Redacted – commercially sensitive information about scrap copper being used by Zhejiang Hailiang in its production process*].

The table below shows for the period of the investigation period the difference in the China copper scrap price and the discount to the SSM cathode price. The average discount (excluding VAT) for this 12-month period for mixed scrap is US$xxx/T or xx% and for Bare Bright Copper Wire - Zhejiang the average discount is US$xxx/t or xx%. Based on the factory visit both types of scrap was present so an average of US$xxx/t plus US$xx/t cathode premium or xxxx% should be assumed.
[*Redacted – commercially sensitive graph on SMM copper scrap discount to A class Cathode*]

If this scrap is only used in domestic products, then this is because of the lower quality expectation of the domestic market versus the Australian market. This was confirmed given Zhejiang Hailiang submission that only imported LME copper is used for export production. The average US$/T difference in the production of domestic product to this lower standard needs to add to the normal value calculation for comparison to export Australian standards produced copper tube. With 50% scrap used in the production process this result in a $xxx/t ***increase*** required to normal value.

MM Kembla only use 100% A grade LME cathode sourced from [*MM Kembla supplier*] for the manufacturing of copper tube.

(ii) Copper Costs

The Commission has calculated the dumping margins for Zhejiang Hailiang on the basis of a comparison of quarterly weighted average export prices with the corresponding quarterly weighted-average normal value for the investigation period (as per subsection 269TACB(2)(a)).

As outlined in Sections iii & iv above the Commission in this approach fails to account for real hedge book cost of copper and the alignment of the copper costs with invoice date between domestic and export sales.

The LME copper price fell heavily during the IP. The LME price fell by an average of USDxxx/t per quarter during the IP. The Commission has failed to make any adjustments for this. The Commission should have adopted one of the following adjustments:

- Adjusted the export price down by the value of the average LME price fall of $xxx/tonne; or
- Adjusted the domestic price higher by the value of the average LME price fall of $xxx/tonne;
- Substitute the same LME copper cost using the average monthly settlement prices into the Australian export prices and the normal value calculation taking out this variability of copper movements and pricing methods; or
- Use the same copper cost priced on orders at first point of resale to an unrelated buyer in Australia to calculate the export FOB price and the normal value for invoices in same period.

(iii) Draw Thin

In price negotiations with Zhejiang Hailiang on a range of copper tube products they have regularly raised the option of buying the "lite" product with thinner wall thickness and lower copper content to reduce costs. The Chinese tube standards are different to Australia, and the standards are not mandatory in China. Customers can and do negotiate to buy tube using customer defined specifications. Customers are highly motivated to set their own wall thickness specifications well below the official product standards due to the high cost of copper as a % of total costs. Zhejiang Hailiang has demonstrated this reduced wall thickness option in the export markets as well. Tube exported to Australia must comply with strictly specified wall thickness tolerances to comply with the Australian standards.

The increased draw thin percentage is in the order of an additional x% saving in copper cost.

Using the average period of review copper price of US$xxxxx/t, an additional $xxx/t increase to normal value is required.

(iv) Difference in fabrication cost on a $/T basis for manufacturing to the local standard vs Australian standard.

In Australia the tube product standards are more strictly applied and enforced, and the compliance levels are maintained at much higher levels than for the Chinese markets. As well as the copper saving as a result of the drawing thinner wall thickness and no mandatory nature of the China copper tube standards, The flexibility of manufacturing making to a non-mandatory standard that is largely unregulated in China enables weaker quality assurance systems to exist within Chinese tube manufacturing plants. Production processes in China, with weak quality assurance systems, are much cheaper to operate, and will typically result in much higher production yields with and lower detection rates for non-compliant product. This generates far less fewer rejects that must be scrapped or reworked. The presence of high levels of non-compliant export copper tube arriving in Australia would also be largely driven by the trade-off between minimising production and materials cost while continuously running a high risk of manufacturing faulty, non-compliant tube and rework of copper.

It is estimated this yield improvement would equate to x%. MM Kembla total yield loss is xx% which is world best practice.

With an average fabrication cost in China based on its price list equating to US$xxx this x% rework cost improvement equates to an additional US$xx/T.

(v) Capping and cleaning

The determination that capping costs are not material components of cost and no material difference in selling price between capped and uncapped copper tube is an inaccurate evaluation by the verification team.

The requirement for cleaning and capping of tube to Australian Standard AS 1571 is to ensure the product is suitable for its intended application – for installation in refrigeration and air conditioning systems. Such applications require that the copper tube is internally cleaned and maintained prior to installation. The only way to achieve this requirement is to suitably clean the

tube during the manufacturing process; or perform a treatment after manufacture; and maintain its internal cleanliness prior to installation. This can only be assured and conform with the product standard by capping the tube.

These requirements are explicitly stated in Australian Standard *AS 1571: 2020 – Copper – Seamless tubes for air-conditioning and refrigeration* (see Figures 1 and 2 below) a product standard referenced in Australia's National Construction Code (Volume 3) for heating, ventilation and air-conditioning systems. Capping and cleaning are considered material components of this type of copper tube. All capped products in the MCC should be re-instated and the products not be considered "like goods" with those sold in the exporters domestic market.

The requirement for "cleaning and capping" is above and beyond the requirements of product uncapped and for Plumbing purposes. No such requirement for cleaning and capping is included in the Australian Standard *AS1432 – Copper tube for plumbing, gasfitting and drainage application*s and any such costs for cleaning and capping cannot be considered a general packaging expense and allocated more generally over items that relate to "Plumbing" and "Uncapped" categories within the MCC's.

MM Kembla maintains a fully absorbed costing system which provides a standard cost for every product based on a breakdown of direct labour cost, production costs, and manufacturing fixed overheads. This cost per product is reviewed annually and is based on the bill of materials, production routings and machine time by product. Confidential Attachment 7 details the product cost detail and includes extracts from the Bill of materials from MM Kembla's ERP system.

As illustrated in MM Kembla's Capping Costs submission on 14 May 2021 (EPR Document No. 23) and Confidential Attachment 7, the average capping cost (this excludes the cleaning cost); including the cost of cap material and associated process of capping for the top 10 products; is a weighted average of A$xxx/tonne and represents xxxx% of the total conversion/fabrication cost of capped refrigeration tubes. The capping cost is a direct cost associated with refrigeration copper tube to comply with AS 1571 and should be correctly assigned to those products. For hard drawn capped product an offline washing process is required prior to capping and the additional cost A$xxx/tonne.

[*Redacted – commercially sensitive information MM Kembla capping and cleaning costs – Confidential Attachment 7*].

Capping is a defining characteristic of refrigeration and medical gas copper tube, and it is proposed all cleaning and capping costs be included in evaluation of exporter prices or the goods should not be deemed "like goods" in the treatment of its normal value.

5.3 End sealing

Tubes shall be either capped, plugged, crimped or otherwise packaged in order to maintain internal cleanness under normal conditions of handling and storage.

Figure 1 - Excerpt from AS 1571 - Clause 5.3 (End Sealing)

12 Cleanness

The measured residue of the internal surface of a tube (supplied with ends sealed) shall not exceed 0.038 g/m^2 of the internal surface when tested by either of the following methods:

(a) When washed with trichloroethylene, or other suitable solvent, the residue after evaporation of the solvent shall not exceed the limit stated above. Testing for cleanness shall be conducted in accordance with the method described in ASTM B280.

(b) When tested in accordance with the method described in EN 723, the lubricant residue as total carbon content shall not exceed the limit stated above.

Tubes manufactured or tested with trichloroethylene, or any chlorinated hydrocarbon solvent, shall not be supplied to the market with any residual solvent present.

NOTE UV radiation from arc welding processes and/or intense heat from gas brazing processes in the vicinity of certain solvents may cause the formation of highly toxic by-products.

Figure 2 - Excerpt from AS 1571 - Clause 5.3 (Cleanness)

The Commission claimed the following in its verification report for Zhejiang Hailiang (P6):

> "*Zhejiang Hailiang submitted that capping does not affect its selling prices and therefore should not form part of its MCC structure. The verification team undertook an analysis and found that capping did not have an effect on prices*."

Zhejiang Hailiang did allocate costs for capping to the relevant MCCs (refer Table 6.2 of Zhejiang Hailiang verification report at P.13).

MM Kembla questions Zhejiang Hailiang's comments that capping costs do not affect price.

The requirement to have capped product is linked to the cleanliness requirement of the AS 1571 standard as outlined above. Once cleaned the immediate capping ensures cleanliness is maintained throughout the supply chain. The MCC code for capped product for refrigeration tube (R-H-U-C-S-P & R-B-U-C-S-P) therefore have an additional requirement in the production process to be cleaned to the required level in AS 1571.

MM Kembla's ability to determine very accurately the difference in costs for capped and uncapped tube is evident, but the ADC has chosen to ignore our submission and detailed costing and take the word of exporters who are unable to identify the true cost of these MCC's through their own admission and take the word of the exporter that it is immaterial when MM Kembla has detailed costings.

This is demonstrated in the Zhejiang Hailiang Exporter Questionnaire Response comment below included at Section C-3.1:

> "*Including cap or not is a requirement from the customers. So, for a material code, it may have caps and it may not, based on what the customer requires. Therefore, in sales table B-2 and D-2, Zhejiang Hailiang could organize the complete MCC, because technician staff would know for each transactions that whether the customer asks for using caps, but it is impossible to identify, in cost table, which material code uses cap"*

From the foregoing it is not clear what costs the Commission has verified for Zhejiang Hailiang's capping cost and whether it includes cleaning costs, labour, rerouting in the factory and packaging also.

As a result of Zhejiang Hailiang not being able to accurately capture the cost of cleaning and capping they do not vary the fabrication cost included in the selling price either hence the following statement below included in the Zhejiang Hailiang exporter verification report.

2.2.1 Amendments to MCCs

Based on analysis of the price comparability of the goods under consideration, the verification team considers that it is necessary to make amendments to the MCC structure.

No.	Exception	Resolution
1	Zhejiang Hailiang submitted that capping does not affect its selling prices and therefore should not form part of its MCC structure. The verification team undertook an analysis and found that capping did not have an effect on prices.	The verification team amended the MCC to exclude the capping category from the MCC structure. All the remaining MCC categories and subcategories remain the same.

Table 1 Amendments to the MCC

This failure to recognise the additional production cost of AS 1571 refrigeration tube and resulting in no material change in pricing demonstrates that Zhejiang Hailiang is not recovering all costs for these MCC and results in additional price suppression and undercutting as a result. Furthermore, laboratory testing of imported copper tube indicates that the internal cleanliness standards of AS 1432 were breached in xx% of the samples tested. This again illustrates the impact that weaker quality assurance systems in Chinese manufacturing plants produce an unacceptably high proportion of goods that fail to comply with Australian standards.

It clearly again demonstrates the economics of manufacturing copper tube are not understood by the verification teams or the ADC and exporters have purposely directed the commission incorrectly.

(vi)Additional rebates paid to customers in China.

MM Kembla has a JV in Hong Kong (Kembla (HK) Limited) who is the market leading copper tube distributor in the Hong Kong Market. Kembla HK deals with many copper tube and fitting manufactures in China and as a result we have a good understanding of copper tube pricing in China. The standard practice for pricing in the domestic China market as outlined by our MM Kembla HK purchasing team:

- China domestic market sells based on the copper price every (working) day at 11-11:30am
- Domestic China sales use the SMM (Shanghai Metals Market) price
- Domestically price is based on this SMM priced copper plus fabrication cost.
- ***It is quite common to have rebates to domestic customers, but different customers will have different rebate schemes.***

In the Zhejiang Hailiang exporter questionnaire D-1 Q5.

> *Did you provide on-invoice discounts and/or off-invoice rebates to the customer or an associate of the customer in relation to the sale of the like goods during the period? If yes, provide a description; and explain the terms and conditions that must be met by the importer to obtain the discount.*
>
> *RESPONSE:*
>
> *"Zhejiang Hailiang may give its customers [Redacted]".*

Zhejiang Hailiang is indicating some rebates or off invoice prices are made in the domestic market in China.

An increase to normal value is required to account for rebates paid in China. Based on MM Kembla's experience in China this will average x% of the invoice value. Using the average period

of review copper price of US$xxxx/t and average fabrications cost US$xxx/t therefore an adjustment of US $xxx/t is required.

(vii) Summary of Normal Value adjustments – Zhejiang Hailiang

[*Redacted – commercially sensitive detail of actual amounts for each category of adjustment to Zhejiang Hailiang normal value*].

(b) Korea – Nungwon

(i) Copper cost

The Commission has calculated the dumping margins for Nungwon on the basis of a comparison of quarterly weighted average export prices with the corresponding quarterly weighted-average normal value for the investigation period (as per subsection 269TACB(2)(a)).

Further, Section 9 of the Nungwon verification report does not identify any adjustment for copper price variability. The Commission's methodology is considered reasonable ***if*** the same copper price is used in the sales for domestic and export. Where this is not the case an adjustment to normal value for the copper price variance is required. As outlined in MM Kembla's application, the copper cost accounts for up to 95% of the total cost of copper tube. Subsequently, the adjustment for copper price variability between domestic and export pricing should be considered as it is a significant contributor to the total price of copper tube.

As outlined in sections iii & iv above the Commission in this approach fails to account for real hedge book cost of copper and the alignment of the copper costs with invoice date between domestic and export sales.

The LME copper price fell heavily during the IP. The LME price fell by an average of USDxxx/t per quarter during the IP. The Commission has failed to make any adjustments for this. The Commission should have either adopted one of the following adjustments:

- Adjusted the export price down by the value of the average LME price fall of $xxx/tonne, or
- Adjusted the domestic price higher by the value of the average LME price fall of $xxx/tonne;
- Substitute the same LME copper cost using the average monthly settlement prices into the Australian export prices and the normal value calculation taking out this variability of copper movements and pricing methods; or
- Use the same copper cost priced on orders at first point of resale to an unrelated buyer in Australia to calculate the export FOB price and the normal value for invoices in same period.

Nungwon prices to the Australian export market using a 2 weekly price list. The copper price is fixed for 2 weeks but is updated if there is a material movement in the copper price.

This globally accepted practice means all export copper sales are back-to-back with the copper cost at the time of order to minimise an exposure to the volatility of the copper cost. The LME 3-month contract is the most actively traded internationally. It is reasonable to assume that the 3-month hedge is the closest date range to match the average lag in the physical copper markets (eg tube market). So, the average lag in the physical market is 3 months.

(ii) Scrap

During several MM Kembla visits to the Nungwon factory over the last 5 years large amounts of scrap copper was also witnessed as being used in the production of copper tube.

While not to the same levels as witnessed in China the quality of the scrap appeared relatively poor.

South Korea is a large net exporter of copper scrap, with the majority going to China. Copper scrap is a traded commodity like copper cathode so it reasonable to assume the copper scrap price in China is at an Asia parity price. The discount to cathode of xxxx% or on average during the period of review US$xxx/T. It is estimated Nungwon would use approximately xx% scrap in the production process. Therefore, a normal value upward adjustment of US$xxx/T is required.

(iii) Fabrication cost

The copper tube manufactured by Nungwon and sold domestically are not identical to the goods produced and exported to Australia.

The locally produced goods differ from the exported goods due to the latter being manufactured to Australian Standard AS 1432 and AS/NZ 1571 whereas the locally produced goods are manufactured to a Korean Standard KS D5301 (which is essentially the same as the Japanese Standard JIS H3300). The Korean Standard KS D5301 requires a completely different range of outside diameter and wall thicknesses for its pipe and tube. This range while falling into the definitions of the MCC the majority of OD and wall thicknesses are larger than the closest AS1432 comparable size. Across the entire range (Type L) the average kg/metre of Nungwon's seamless copper pipe and tube is xx% higher than AS1432 type B.

The thinner the wall thickness and lower the total weight of the product the conversion cost increases on a $/T basis. In MM Kembla's experience every xx% increase in weight equates to A$xx/T reduction in variable conversion cost. The 19% difference equates to A$xxx/t difference across the range due to the difference in the KS D5301 standard and AS1432. This represents a material difference and should be a positive adjustment to the Nungwon normal value (so that the dumping margin truly reflects the difference in conversion cost between the domestic and export sales).

(iv) Capping and cleaning

In the Nungwon Metals exporter Questionnaire response C1 Q2 Nungwon stated the following:

> "*NWM has listed all MCCs of the goods sold to Australia during the review period is as below table. And NWM do not manage or record the use of caps in operating data rather when the products are shipped, NWM cap the product as customer's orders, because the cost of cap is very low. The cost of caps are included in packaging cost in manufacturing cost which are allocated to the products. Accordingly, NWM classified 4th standard of MCC, whether cap or uncap, to uncap to all products to export Australia and to sell domestic market*."

As outline above in the China normal value adjustments, the requirement for cleaning and capping of tube to Australian Standard AS 1571 is to ensure the product is suitable for its intended application – for installation in refrigeration and air conditioning systems. Such applications require that the copper tube is internally cleaned and maintained prior to installation. The only way to achieve this requirement is to suitably clean the tube during the manufacturing process; or perform a treatment after manufacture; and maintain its internal cleanliness prior to

installation. This can only be assured and conform with the product standard by capping the tube.

These requirements are explicitly stated in Australian Standard AS 1571: 2020 – Copper – Seamless tubes for air-conditioning and refrigeration (see Figures 1 and 2 below) a product standard referenced in Australia's National Construction Code (Volume 3) for heating, ventilation and air-conditioning systems. Capping and cleaning are considered material components of this type of copper tube. Any verification team evaluation that considered capping to not be a material component of this type of tube would require that all capped products in the MCC should be re-instated and the products not be considered "like goods" with those sold in the exporters domestic market.

The requirement for "cleaning and capping" is above and beyond the requirements of product uncapped and for Plumbing purposes. No such requirement for cleaning and capping is included in the Australian Standard AS1432 – Copper tube for plumbing, gasfitting and drainage applications and any such costs for cleaning and capping cannot be considered a general packaging expense and allocated more generally over items that relate to "Plumbing" and "Uncapped" categories within the MCC's.

MM Kembla maintains a fully absorbed costing system which provides a standard cost for every product based on a breakdown of direct labour cost, production costs, and manufacturing fixed overheads. This cost per product is reviewed annually and is based on the bill of materials, production routings and machine time by product. Confidential attachment 7 details the product cost detail and includes extracts from the Bill of Materials from MM Kembla's ERP system.

As illustrated in MM Kembla's Capping Costs submission on 14 May 2021 (EPR Document No. 23) and Confidential Attachment 7, the average capping cost (this excludes the cleaning cost); including the cost of cap material and associated process of capping for the top 10 products; is a weighted average of A$xxx/tonne and represents xxx% of the total conversion/fabrication cost of capped refrigeration tubes. The capping cost is a direct cost associated with refrigeration copper tube to comply with AS 1571 and should be correctly assigned to those products. For hard drawn capped product an offline washing process is required prior to capping and the additional cost A$xxx/tonne.

[*Redacted – commercially sensitive information MM Kembla capping and cleaning costs – Confidential Attachment 7*].

Capping is a defining characteristic of refrigeration and medical gas copper tube, and it is proposed all cleaning and capping costs be included in evaluation of exporter prices or the goods should not be deemed "like goods" in the treatment of its normal value.

This adjustment to normal value for refrigeration tube should be made for Nungwon tube.

As indicated, normal values for Nungwon should be assessed under subsection 269TAC(2)(c), with relevant adjustments reflecting differences between the domestic and exported goods produced and sold by Nungwon.

(v) *Summary of Normal Value adjustments - Nungwon*

[*Redacted – commercially sensitive detail of actual amounts for each category of adjustment to Nungwon normal value*].

(c) Korea – Daejin

(i) Capping and cleaning

Daejin exported only 3 MCC's to Australia during the investigation review period.

- R-H-U-C-S-P
- R-S-U-C-S-P
- R-B-U-C-S-P

All these products are Refrigeration AS1571 standard tube and R-S-U-C-S-P is not subject goods.

In Daejin exporter questionnaire G-6, it is stated:

> *"Daejin does not record the production costs by using specific stock keeping unit like model or specification. Instead, Daejin calculates and manages single production costs for all copper tube products. Daejin does not compute the production costs by specific SKU specification. Instead, Daejin uses single production cost for finished products.*
>
> *Daejin does not record the "capping" status in the production report. Instead,*
>
> *Daejin records it as part of packing expense in its accounting system."*

As outlined in the China and Korea normalisation adjustments above for cleaning and capping costs, it would be misleading to use average costs produced for domestic and export markets for all tube products as reflective of the real cost of production for AS1572 export copper tube.

As illustrated in Confidential Attachment 7, the average capping cost (this excludes the cleaning cost); including the cost of cap material and associated process of capping for the top 10 products; is a weighted average of A$xxx/tonne and represents xxx% of the total conversion/fabrication cost of capped refrigeration tubes. The capping cost is a direct cost associated with refrigeration copper tube to comply with AS 1571 and should be correctly assigned to those products. For hard drawn capped product an offline washing process is required prior to capping and the additional cost A$xxx/tonne.

[*Redacted – commercially sensitive information MM Kembla capping and cleaning costs – Confidential Attachment 7*].

A normal value adjustment needs to be made for Daejin AS1571 refrigeration tube.

(ii) Copper cost

An adjustment to normal value for the copper cost consistent with Zhejiang Hailiang and Nungwon outlined above is also required.

(iii) Scrap

An adjustment to normal value for the scrap copper cost consistent with Nungwon outlined above is also required.

Normal values for Daejin should be assessed under subsection 269TAC(2)(c), with relevant adjustments reflecting differences between the domestic and exported goods produced and sold by Daejin.

(iv) *Summary of Normal Value adjustments - Daelin*

[*Redacted – commercially sensitive detail of actual amounts for each category of adjustment to Daejin normal value*].

X. Imported tube consistently not meeting the AS1342 & AS1571 standards, enabling lower export prices and further undercutting of domestic prices.

a. Laboratory testing of products produced by [*exporter of goods*]

Twelve samples of [*export category*] AS1432 copper tube (3x DN15, 3x DN20, 3x DN25 and 3x DN32) and six samples of Zhejiang Hailiang AS1432 copper tube (3x DN15 and 3x DN32) were received for testing against the requirements for AS1432.

Details are provided in Table 8 below. The samples supplied did not meet all requirements of AS1432 for Type B copper tube. Refer to the relevant sections above for failure details. A summary is provided in Table 8, where '✓' means specification requirements were met and 'x' means specification requirements were not met.

[*Redacted – commercially sensitive laboratory testing of imported samples from China*]

100% of the [*exporter]* tube tested failed to meet the AS 1432 on a range of parameters. Every product tested failed at least one requirement of the standard. The majority failing the minimum wall thickness test further demonstrates that Zhejiang Hailiang drawn extra thin (below the minimum in the standard) to reduce copper cost. This is what enables exporters to sell at lower prices. Therefore, these cannot be considered like goods without an adjustment to the export FOB price to recognise the copper and fabrication cost impacts of this out of specification product being sold in the Australian market against MM Kembla tube as AS 1432 compliant tube.

b. Korea – [*exporter*]

Nine samples of latent AS/NZS 1571 copper tube (2x 9.53x0.81, 3x 12.70x0.81, 2x 15.88x1.02 and 2x 19.05x1.14) were received for testing against the requirements for AS1571. The Latent product is produced by [e*xporter*].

The samples supplied did not meet all requirements of AS/NZS 1571 copper tube. Refer to the relevant sections above for failure details. A summary is provided in Table 15, where '✓' means specification requirements were met and 'x' means specification requirements were not met.

[*Redacted – commercially sensitive laboratory testing of imported samples from Korea*]

See Laboratory Report at Confidential Attachment 8. The [*exporte*r] tube tested failed to meet the AS 1574 on a range of parameters. Every product tested failed at least one requirement of the standard. 100% failed the minimum wall thickness test, further demonstrating that *[exporter*] draws extra thin (below the minimum in the standard) to reduce cost. This is what enables exporters to sell at lower prices. Therefore, these cannot be considered like goods without an adjustment to the export FOB price to recognise the copper and fabrication cost impacts of this out of specification product being sold in the Australian market against MM Kembla tube as AS 1571 compliant tube.

XI. Subsidies

MM Kembla notes that the Commission has identified financial grants that Zhejiang Hailiang has confirmed that it is in receipt of (refer Section 7.4.3 of SEF 557).

In respect of preferential loans from the GOC, the Commission states that for loans from government-owned banks "the interest rates paid by Hailiang are in line with the published lending and real interest rates for China". MM Kembla disagrees.

Note 33 of the Zhejiang Hailiang 2020 Annual Report confirms that "*The company obtains policy-based preferential loan interest discounts, and the finance allocates the interest subsidized funds to the lending bank, and the lending bank pays the policy preferential interest rate*."

Zhejiang Hailiang confirms that it is in receipt of discounted interest rate loans. This statement in its 2020 Annual Report is in conflict with the Commission's stated finding. Additionally, the Zhejiang Hailiang 2020 Annual Report discloses a number of additional subsidy programs that the Commission has not identified at Section 7 of SEF 557 – please refer to Non-Confidential Attachment 15.

The publicly available information confirms that Zhejiang Hailiang is in receipt of GOC loans at discounted rates of interest which have not been adequately considered in SEF 557.

XII. Material injury

The Commission concluded in SEF 5578 that the Australian industry manufacturing seamless copper tube had suffered in jury in the following forms:

- reduced sales volume;
- reduced market share;
- price depression;
- price suppression;
- loss of profit;
- reduced profitability;
- reduced assets;
- reduced capital expenditure;
- reduced sales revenue;
- reduced return on investment;
- reduced capacity utilisation;
- reduced employment; and
- reduced wages.

The Commission concluded that the injury experienced by the Australian industry was not caused by the dumped exports to Australia from the Korean exporter Daejin. The injury attributed to Daejin by the Commission was considered not to be 'material'.

The Commission did not indicate what was the cause of the injury that was experienced by MM Kembla.

It would appear from SEF 557 that the Commission has not questioned whether its finding in relation to the dumping by Zhejiang Hailiang and Nungwon was the cause of the Australian industry's selling prices being undercut by between 7 and 55 per cent. The Commission has not questioned its findings on dumping and, in the absence of any further commentary as to the cause of the injury sustained by the Australian industry, appears to conclude that the Australian industry is not competitive with imports.

The Australian industry is cost competitive with imports. Its largest competitor is Zhejiang Hailiang Australia (sourcing from China and Vietnam) followed by Nungwon. MM Kembla has not experienced any other non-import related injury and hence the only cause of the injury experienced by the industry across the injury period is from imports from the two major sources of supply – China and Korea (and more recently, Vietnam).

The Commission's conclusions on injury experienced by the industry as not being caused by dumping are not supported by the available evidence. The Commission must re-consider the determination of normal values for the cooperative exporters in China and Korea and include the identified adjustments to permit a fair comparison of normal values and export prices that correctly incorporate copper prices at the correct point in time when prices are "locked in". Further adjustments to reflect the differences in the "lighter", lower-grade copper for goods manufactured for domestic consumption when contrasted with goods exported to Australia that must meet the Australian Standards 1432 and 1531 are also required.

Once account is made of the correct treatment for copper timing costs and relevant differences for thickness and pressure requirements so that an adjusted normal value can be correctly compared with export prices for the goods to Australia, dumping margins can be accurately determined.

It is MM Kembla's expectation that the correct determination of normal values for exporters in China and Korea will confirm dumping margins that are above negligible levels and consistent – in injury terms – with the confirmed price undercutting levels that have resulted in material injury to the Australian industry.

XIII. Conclusions and recommendations

MM Kembla respectfully disagrees with the Commissioner's proposed recommendation to terminate the investigation into the dumping and subsidisation of seamless copper tube exported from China, and the dumping of the goods from Korea.

MM Kembla considers that a particular market situation for seamless copper tube does prevail on the domestic market in China (Refer Non- Confidential Attachment 14) which is consistent with earlier findings in other jurisdictions by CBSA and USDOC.

The determinations concerning no dumping by Zhejiang Hailiang of China and negligible dumping by Nungwon of Korea as outlined in SEF 557 cannot be sustained based upon the information available to the Commissioner. Normal values in SEF 557 have been incorrectly assessed under section 269TAC(1) when it is evident that the goods sold domestically and those exported to Australia are not 'alike' and do not permit fair comparison.

Normal values for exporters in China and Korea are correctly determined under subsection 269TAC(2)(c) on the basis fo a constructed selling price methodology using correct costs and incorporating adjustments as identified by MM Kembla in this submission.

In particular, normal value determinations for Zhejiang Hailiang and Nungwon must reflect the following differences between domestic and export sales of seamless copper tube:

- the raw material copper price that is determined at a different time for domestic sales versus export sales (due to copper pricing volatility and fluctuations);
- the physical differences that exist (including OD and WT, and test pressures) between goods produced and sold in China (no standard) and Korea, and the goods for export produced and sold to the strict AS Standards 1432 and 1531;
- the sales in Australia by Hailiang Australia were made at a loss that do not cover the true LME copper price (refer Deductive Export price calculations at Confidential Attachment 1);
- the full cost associated with cleaning and capping for refrigerated copper tube models; and
- the reality that the goods exported to Australia from China and Korea have been "rolled light" thereby negating the contrasting of weighted-average prices for domestic and export sales due to the existence of differences in the physical attributes of the goods.

Following full consideration of the factors identified in this submission, the Commissioner will be in a safe position to compare adjusted domestic normal values (under subsection 269TAC(2)(c)) and export prices for the cooperative exporters Zhejiang Hailiang of China and Nungwon of Korea. A fair comparison of adjusted normal values and export prices will provide for positive margins of dumping in excess of negligible levels.

MM Kembla further urges the Commissioner to conduct deductive export price calculations on the selling prices for Hailiang Australia to confirm the non-arms length nature of the export sales for seamless copper tube exported to Australia by Zhejiang Hailiang. This critical step is necessary as it is evident from the available information that Hailiang Australia is facilitating rebates on sales as supported by Zhejiang Hailiang.

A measured re-assessment of the issues addressed by MM Kembla in this submission will permit the Commissioner to conclude that the Australian industry has suffered material injury from dumped exports to Australia of seamless copper tube from China and Korea and that a Preliminary Affirmative Determination imposing provisional measures should be applied to prevent further material injury to the Australian industry.

If you have any questions concerning this submission, please do not hesitate to contact me.

Your sincerely

Tony Bova
Executive General Manager

Attachments

- Confidential Attachment 1 - Deductive Export Price
    - Confidential Attachment 1a – Delivery to Buyer
    - Confidential Attachment 1b – Warehousing Costs
    - Confidential Attachment 1c – Freights from wharf
    - Confidential Attachment 1d – Import Clearance and Handling
    - Confidential Attachment 1e – Overseas Freight & Insurance
- Confidential Attachment 2 - Volatility of Copper and Hedge book explained with examples
- Confidential Attachment 3 - Calculation MM Kembla & Hailiang Australia price undercutting
- Confidential Attachment 4 - Product comparison table China Standard GBT 18033
- Confidential Attachment 5 - Product comparison table Korean Standard KS D5301
- Confidential Attachment 6 - Hailiang Factory July 2018 - photos
- Confidential Attachment 7 - Capping & Cleaning Costs – Bill of materials extract ERP
- Confidential Attachment 8 - Laboratory Testing Summary and Reports
- Confidential Attachment 9 - Hailiang Rebate Agreement – MM Kembla
- Confidential Attachment 10 - Hailiang HK Rebate Credit Note Paid to MM Kembla
- Non-Confidential Attachment 11 - Zhejiang Hailiang Co., Ltd. 2020 Annual Report
- Confidential Attachment 12 - Comparison Merchant Pricing v Market 211001
- Confidential Attachment 13 - Cathode to Scrap discount - China
- Confidential Attachment 14 - The Particular Market Situation in China is Changing
- Confidential Attachment 15 – Extract Zhejiang Hailiang Co., Ltd. 2020 Annual Report – Subsidies