



15 October 2021

The Director – Investigations 1
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

Copper tube exported from the Peoples Republic of China

This submission is made on behalf of Zhejiang Hailiang Co., Ltd ("Zhejiang Hailiang"), Shanghai Hailiang Co., Ltd., Hong Kong Hailiang Metal Trading Limited ("Hailiang HK"), and Hailiang Copper Australia Pty Ltd ("Hailiang Australia"). Unless otherwise stated, the above companies are collectively referred to as "Hailiang Group" throughout this submission. The submission responds to the submission made by Metal Manufactures Pty Ltd ("MMK") dated 4 October 2021.

1. Introduction

At the outset, Zhejiang Hailiang wishes to express its dissatisfaction and objection to the timing of certain issues being raised, and the degree to which information has been redacted.

On the question of timing, it is noted that MMK has raised numerous new issues which have not been previously disclosed, and these are only being raised for the first time following the publication of the Statement of Essential Facts Report No. 557 ("SEF 557"). For issues to be properly canvassed and investigated, it is imperative that interested parties bring them to the Commission's early attention and placed on the public record by written submission, so that the Commission and responding parties have sufficient time to consider and address.

This is critically important given that the Commission makes clear to importers and exporters, of the requirement to submit relevant information in a timely manner, otherwise the information may be disregarded. This practice is supported by the Federal Court's finding in *Al Abdullatif Industrial Group Co Ltd v Minister for Justice & Customs*¹:

22 *However, the respondents do have a legal duty to make decisions on the basis of persuasive material made available in the context of the operation of the anti-dumping scheme. This scheme, as the legislation shows, has been established with strict time limits. As one would expect there is often the provision to ACS of information in different languages and in relation to different businesses which must as a matter of law be addressed within the time frame specified. Decision making of this kind must be done in a context where parties affected are in the best position to and should provide material and make responses to enquiries by ACS but this does not create as a matter of law an obligation to investigate each avenue suggested by any interested party. When a party seeks a particular outcome and has the opportunity to make submissions within a known statutory scheme, the decision-maker is entitled to expect that a party affected will, in the ordinary course, draw all relevant material to the decision-maker's attention, particularly where it has knowledge of the material which would substantiate its*

¹ [2000] FCA 758.

position. This approach, the respondent contends, is the one taken in Enichem Anic Srl v Anti-Dumping Authority (1992) 39 FCR 458. To create an implied duty to investigate would make such a scheme unworkable in many cases.

...

27 *There is not, in this situation, a legal obligation to institute further enquiries, particularly considering the strict timetable of the scheme. The imposition of a general duty to enquire which is wider than the enquiries of the applicant in a case such as this would make the scheme unworkable. It follows that a failure to make such enquiries in the context of this case does not amount to an error of law.*

To that end, it is unfair to expect interested parties to properly respond to a multitude of new claims made near the end of an investigation. In our view, it reflects poorly on the applicant as it demonstrates their willingness to make points that are self-serving and manifestly unreasonable.

Zhejiang Hailiang also notes the amount of redaction within the public version of its submission. Whilst interested parties are aware of the confidentiality requirements of the dumping process, it is clear that MMK are using the cover of confidentiality to conceal key information that would allow interested parties to refute the assertions being made.

Our concerns are valid given that MMK refers to information sourced from the Hailiang Group, and yet the submission provides no understanding of how that information has been used. Further, MMK makes assertions based on unknown sources and provides no opportunity for interested parties to understand the relevance of the sourced evidence, which prevents parties from properly responding or defending their interests.

The Hailiang Group therefore requests the Commission to have regard to, and properly enforce the confidentiality requirements outlined in subsection 269ZJ of the *Customs Act 1901* ("the Act"). That is, the provider must first demonstrate that publication of such information will '... *adversely affect a person's business or commercial interests*', and if so, provide a summary '... *that contains sufficient detail to allow a reasonable understanding of the substance of the information*'.

Notwithstanding these genuine concerns about the submission's tardiness and lack of reasonable understanding, Zhejiang Hailiang has addressed each of the substantive points raised by MMK to the best of its ability, despite the limited time and information available.

2. The Process for Fixed Price Copper Tube Export Sales

Zhejiang Hailiang agrees with MMK's general description of the process by which producers will hedge the risks associated with future copper price fluctuations. Importantly, whilst hedging contracts are commonly used, not all producers manage such risks. Those producers may decide to either set prices based on past periods removing the risk associated with future price fluctuations, or apply some form of natural hedging which involves accepting some level of risk.

However, the fundamental flaw in MMK's explanation is its understanding of the basis upon which export prices are set. MMK submits that exporters will rely on LME 3-month forward price for fixing export prices. This is not correct as Zhejiang Hailiang does not reference the LME 3-month forward price suggested by MMK. Zhejiang Hailiang most commonly references the following LME price benchmarks which are preferred by export customers:

- [REDACTED] [copper benchmark]; or
- [REDACTED] [copper benchmark]; or

- [REDACTED] [copper benchmark].

MMK adds that domestic sales are set by reference to Shanghai Metals Market (SMM) spot prices. Zhejiang Hailiang [REDACTED]

[REDACTED] [copper benchmark] copper prices. However, the copper prices referenced from these metal exchanges are the same as the LME copper price being:

- [REDACTED] [copper benchmark]; or
- [REDACTED] [copper benchmark]; or
- [REDACTED]
[copper benchmark].

Therefore, Zhejiang Hailiang relies on the same basis for its copper prices used to determine export and domestic selling prices. As per the Commission's particular market situation findings in SEF 557, it was established that the market trend and price levels of domestic copper was in line with, and consistently higher than that of LME.

Therefore, there is no support for MMK's contention that adjustment is warranted to domestic prices due to its view that export prices are based on higher LME copper prices. In fact, if MMK's view is that price differences between LME and SMM/[REDACTED] warranted adjustment, then the verified information would support downward adjustment to domestic selling prices given that domestic copper prices were higher than LME copper prices.

It is also important to confirm that the purchased copper costs reported in Zhejiang Hailiang's accounts reflect the prevailing copper market price linked to both domestic and export sales.

Further, MMK refers to hedging gains and losses and asserts that the associated costs of hedging relate to export sales only, and as such, adjustment is warranted to domestic sales which it considers do not involve hedged contracts. This is also incorrect.

Zhejiang Hailiang confirms that hedging contracts are used for both export and domestic copper purchases. As explained to the Commission during verification, the Hailiang Group does not take a position by speculating on future price fluctuations on its hedging contracts with a view to achieving additional profit. This is not the purpose of the copper hedges. The copper hedging contracts are designed solely to eliminate the risks to profits of future sales from copper price fluctuations, by locking in a purchase price at future sales prices. This applies to both domestic and export sales. Therefore, there is no difference in costs or prices of the domestic and export sales caused by the hedging positions, and as such no adjustment is necessary.

MMK erroneously refers to the hedging losses reported by Hailiang HK which it considers are related to export sales only, and argues that those hedging losses should be allocated and used to make adjustment to the normal values. Again, this is not correct as Zhejiang Hailiang confirms that hedging is undertaken for both domestic and export sale.

It is also worth noting that the hedging gains and losses reported by Hailiang HK was negligible. For the investigation period for case 557 (July 2019 to June 2020), Hailiang HK reported a net hedging gain of approximately [REDACTED]% of the cost of goods sold. Irrespective of the hedging gains/losses, Zhejiang Hailiang repeats the following key points which counter the claim by MMK:

- Zhejiang Hailiang does not adopt the LME 3-month price for export sales. Both export and domestic sales are referenced to [REDACTED], [REDACTED] and

[REDACTED], and involve hedging contracts to mitigate risk of future copper price fluctuations;

- Zhejiang Hailiang purchased and recorded copper costs for both domestic and export sales at the prevailing market prices.
- Hailiang HK handles the hedging activities for the Group to manage the risk. The gains or losses generated are trivial compared to its cost of goods sold.

This confirms and supports the view that no adjustment is necessary as both domestic and export sales are made on the same copper price basis, and both are linked to the Hailiang Group's associated hedging contracts.

3. The Process for Domestic Copper Tube Sales in China

MMK suggests that domestic selling prices in China are set differently to export sales, as it considers that Zhejiang Hailiang references '*...the Shanghai Metals Market (SMM) price as the basis for domestic sales*', and as such, there is '*... essentially no price risk to be hedged for Chinese domestic market*'.

Zhejiang Hailiang [REDACTED]

[REDACTED] [copper benchmark] copper prices. However, the copper prices referenced from these metal exchanges are the same as the LME copper price being:

- [REDACTED] [copper benchmark]; or
- [REDACTED] [copper benchmark]; or
- [REDACTED]
[copper benchmark].

Therefore, Zhejiang Hailiang relies on the same basis for its copper prices used to determine export and domestic selling prices. As per the Commission's particular market situation findings in SEF 557, it was established that the market trend and price levels of domestic copper was in line with, and consistently higher than that of LME.

Therefore, there is no support for MMK's contention that adjustment is warranted to domestic prices due to its view that export prices are based on higher LME copper prices. In fact, if MMK's view is that price differences between LME and SMM/[REDACTED] warranted adjustment, then the verified information would support downward adjustment to domestic selling prices given that domestic copper prices were higher than LME copper prices.

Given MMK's obviously flawed understanding of the terms and conditions relating to domestic and export sales, the Commission is urged to disregard all of MMK's claims which are based on an erroneous and fundamentally flawed understanding.

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

In highlighting the volatility of the copper price during the investigation period, MMK expresses the view that adjustment should be made for copper price differences between export and domestic prices of finished goods. Despite it being somewhat confusing to understand what MMK appears to be proposing, it is clear that its suggestions are not consistent with either the domestic legislation, the Anti-Dumping Agreement or the Commission's policy.

First, it is unclear whether MMK is suggesting that a transaction-to-transaction ("T-T") approach is preferable to the quarterly weighted average approach comprehensively adopted by the Commission. That is, does MMK expect that the Commission would seek to compare individual domestic and export sales that occurred on the same day and subject to the same LME copper price.

MMK's objection appears to be caused by the fact that prices for domestic and export transactions are set everyday having regard to the prevailing price of copper inputs, and the prevailing copper price changes each and every day. It is unclear how this situation is any different to all the other commodity-based products subject to dumping investigations, which are primarily driven by the cost of a key commodity input. This would include all steel, aluminium and paper products which are manufactured from inputs subject to fluctuating prices.

It's also important to note that the copper input that MMK is suggesting should be adjusted, is identical in producing the export and domestic goods. This is important given that the Commission's guidelines make clear that adjustment in these circumstances would not be warranted:

Adjustments will not be made for the following situations:

- *where the goods sold in the domestic and export markets are essentially identical—notwithstanding that there are differences in costs because different raw materials are used. For example, the same models or types of a good, or fungible commodities where their nature is such that one part or quantity may readily be replaced with another equal part or quantity;*
- *where there is a two-tier pricing arrangement—which occurs when raw materials having different prices are used in production for export and production for domestic sale—adjustments are not made for the price differences of the raw materials under such arrangements which generally provide a cost advantage in the manufacture of goods for export;*

The Commission's policy is informed and developed following interpretation and rulings by the Anti-Dumping Review Panel and the Federal Court. It would be a clear error to ignore such policy.

Zhejiang Hailiang also notes the three options submitted by MMK for making the proposed adjustment.

The first involves adjusting '... the domestic price lower by the value of the average LME price fall of \$xxx/tonne'. It is assumed that this is an incorrect description of the methodology as this would further reduce normal values, and confirm that dumping margins were de minimis.

The second option involves ignoring the reported actual copper costs incurred in the production of the exported goods and domestic goods, and replacing them with identical average monthly copper price. As noted above, this is not permissible under the Act or the Agreement, as the costs must be based on the exporter's records where such records are kept in accordance with generally accepted accounting principles, and reasonably reflect the (competitive) costs associated with the production.

In addition, it's not clear how MMK expects that adjustment to export prices can be made pursuant to section 269TAB of the Act, given that due allowance to ensure proper comparison is made only to normal values, pursuant to section 269TAC of the Act.

The third option is incredibly difficult to comprehend, given that it proposes that export prices and normal values be referenced to resale prices in Australia. This option departs completely from any notion of a fair value domestic price that it cannot be seriously considered.

It is also noted that MMK considers that adjustment is required for copper price volatility because it holds the view that exporters have regard to the forward 3-month LME copper price for export sales and spot prices for domestic sales. This view is not correct as Zhejiang Hailiang has confirmed that domestic prices and export prices are set by reference to various copper settlement prices. Depending on the customer's requested settlement preference, on any given day, domestic and export prices will vary accordingly.

This is precisely the purpose of the weighted average method utilised by the Commission, as this method effectively averages the differences to provide an accurate estimation of the weighted average margin by which export prices are sold above or below the corresponding normal value.

Finally, MMK considers that the Commission has not taken account of the hedged cost of copper raw materials, and references Hailiang HK's accounts as evidence that hedging gains/losses exist. As confirmed by Hailiang HK's income statement and trial balance, negligible hedging gain of [REDACTED] % was recorded for the investigation period. Importantly though, Hailiang HK does not take a position by speculating on future price fluctuations on its hedging contracts with a view to achieving additional profit. This is not the purpose of the copper hedges. The copper hedging contracts are designed solely to eliminate the risks to profits from copper price fluctuations, by locking in a purchase price at future sales prices.

5. Methodology used in CBSA case

MMK references the past Canadian findings as evidence that the Commission has not properly taken account of '*... the differences in copper pricing, timing differences and quality of raw material.*' As explained in our previous submission, the CBSA section 20 inquiry applies a different methodology to the particular market situation considered by the Commission.

In any case, it is worth noting that MMK references the CBSA's use of an '*average monthly settlement prices reported on the LME*' for benchmarking purposes. This is [REDACTED] [copper benchmark]. It is also worth noting the Commission's finding that domestic copper prices were higher than imported copper used in the production of exports. According to MMK's understanding, there would need to be a downward adjustment to normal values to ensure proper comparison with the export prices. Zhejiang Hailiang is not making a claim for adjustment in this case but simply makes the point to highlight the absurdity of the position presented by MMK.

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

MMK queries the Commission's finding that sales of selected shipments by Hailiang Australia were profitable when compared to the fully absorbed cost to import and sell. The entire basis for dismissing the Commission's finding appears to stem from MMK's own estimate of deductive export prices. Importantly, MMK's deductive export price is unquestionably flawed as it deducts items which have no relationship to Hailiang Australia's actual expenses incurred, and instead references MMK's own costs. These include:

- delivery to buyer (based upon MM Kembla's costs for imported copper products;
- warehousing (based upon MM Kembla's costs;
- freight from wharf to store (based upon MM Kembla costs);
- import clearance and handling (MM Kembla costs for clearance of copper product;
- overseas freight and insurance (MM Kembla freight costs ex China).

First, whilst MMK's attempt to reference its own costs in calculating a deductive export price may be sufficient for meeting the '*appear to be reasonable grounds*'² threshold test for initiation, it falls well short of the required 'satisfaction' test required for determining whether transactions are at arms-length pursuant to section 269TAA of the Act, and determining the export prices pursuant to section 269TAB of the Act.

Second, it is clear from MMK's overall submission that costs which have been verified by the Commission as being immaterial for cooperating exporters, are significant costs for MMK. Examples include capping and cleaning costs where appear to be very inflated. Therefore, it is reasonable to assume that other costs incurred MMK are likely to also be inflated.

Third, the degree of undercutting of MMK's prices by imports sourced from all Chinese, Korean and Vietnamese exporters further confirms that it is not cost competitive, which immediately renders its deductive export price to be unreliable.

Fourth, the analysis submitted appears to only confirm that MMK would have incurred a loss had it purchased and sold the goods at the same price points as Hailiang Australia. In effect, it confirms that MMK's costs associated with importation, storage and selling of the goods are over inflated relative to other local suppliers such as Hailiang Australia.

Fifth, it is noted that MMK's analysis is based on access to Hailiang Australia's weekly list prices. Hailiang Australia has also provided the Commission with a sample of its weekly list prices during the investigation periods. The Commission is aware that unit prices vary by as much as ■% depending on the order quantity, and MMK provides no explanation about the prices used in its analysis.

Finally, MMK again erroneously contends that the Commission's profitability assessment does not take account of the '*hedged cost of copper*'. As explained in the previous responses, there is no factual basis for supporting MMK assertion.

The hedging gains and losses are recorded as cost of goods sold in Hailiang HK's accounts, and for 2019, the amount was a negligible ■%. Importantly though, Hailiang HK does not take a position by speculating on future price fluctuations on its hedging contracts with a view to achieving extra profit. This is not the purpose of the copper hedges. The copper hedging contracts are designed solely to avoid the risk to profits from copper price fluctuations, by locking in a purchase price at future sales prices.

In summary, MMK's entire analysis must be rejected as it does not reflect Hailiang Australia's actual costs and prices across the investigation periods. Instead, information that has been submitted and verified by the Commission is reliable and accurate.

7. Rebates

MMK raises the issue of rebates relevant to Australian sales in its submission. It states that it '*... understands that rebates are provided via the affiliated Hailiang HK trading company for sales made in Australia by Hailiang Australia.*' Beyond merely understanding that rebates may exist, MMK provides no evidence or information which would support their understanding of rebates being paid to Hailiang Australia. This is a clear example of mere conjecture and must be dismissed. In any case, Hailiang HK has checked its records and confirms that no such rebates have been paid on its export sales to Hailiang Australia.

² Subsection 269TC(1) of the Customs Act 1901.

MMK also refers to off-invoice rebates paid to merchants that it considers is 'standard practice'. It seeks the Commission to have regard to such rebates in assessing the profitability of Hailiang Australia.

Hailiang Australia confirms that it reported rebates paid to customers in its Part C sales listing under the heading "Off-invoice rebates". It is also confirmed that the net sales value used for assessing profitability took account of the reported off-invoice rebates. Therefore, it is confirmed that the Hailiang Australia has accurately reported all rebates, and its information is reliable for the purposes of assessing arms-length.

8. Undercutting

In its submission, MMK refers to price undercutting determined by the Commission in SEF 557³, to exist during the nominated investigation period and relevant to exports from Korean and China. MMK argues that *'... 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.*

Zhejiang Hailiang makes the following observations which it considers undermines view presented by MMK.

First, SEF 557 identified that exports by the only dumped Korean exporter, Daejin Copper Pipe & Tube Manufacturing Co., Ltd ("Daejin"), undercut MMK's equivalent prices by a range of 14-23%, and that undercutting by non-dumped exporters ranged from 7-55%. The primary conclusion being that all investigated exporters, regardless of their calculated dumping margins, significantly undercut MMK's prices. The consistent nature of the undercutting by overseas sources of supply confirms that MMK's costs and/or prices are greatly overstated, which further undermines its view that exporter costs are understated.

To highlight by simple example, MMK continues to refer to capping costs being a significant portion of the cost of conversion. This is simply not the case as purchasing evidence submitted by cooperating exporters refutes this claim. The commission itself confirms in SEF 557 that it *'... examined the capping costs for each cooperating exporter throughout verification and has observed that capping costs are not a material component of costs. The commission was also unable to identify a material difference in selling price between capped and uncapped copper tube for the verified exporters.'* It is apparent then that MMK's capping costs are greatly inflated, which would explain the magnitude of the undercutting if similar costs differences exist between MMK and exporters.

Third, MMK's reasoning for dismissing the degree of undercutting found by the Commission in SEF 557, assumes that *'... the copper price is the same for the exporters and the Australian industry and based upon the same benchmark.'* This again is a flawed assumption as the copper price component of Zhejiang Hailiang's selling prices is determined by the customer's preference. That is, the customer will request a particular copper benchmark price. For example, Zhejiang Hailiang confirms that its prices were set most commonly by reference to the following copper price benchmarks:

1. [REDACTED] [copper benchmark]
2. [REDACTED] [copper benchmark]
3. [REDACTED] [copper benchmark].

³ SEF 557, pages 57-58.

9. Domestic Products Made to a Different Standard Are Not Like Goods

It is argued by MMK that the Commission has incorrectly understood and applied its own like goods framework, in assessing whether domestic sales of copper tube were like to the copper tube goods exported to Australia. As the Commission has noted, the domestic goods have characteristics closely resembling the exported goods in the following ways:

- manufactured from identical raw material inputs and drawn into similar physical dimensions as per the requirements of the respective standards;
- identical production process utilised for both domestic and exported goods, with products manufactured on the same production lines;
- all domestic and export goods are manufactured to international standards and destined for use in the same commercial applications, being the movement of water, gas or refrigerant in piping systems.
- produced and sold for the same end use and therefore functionally the same.

MMK appears to now consider that additional characteristics beyond those captured in the Commission's MCC, assist in determining whether certain products have characteristics closely resembling each other. These characteristics include:

- manufacturing standards
- safe working pressures
- cleaning requirements
- acceptable temper of product
- manufacturing wall thickness tolerance;

It is worth noting that MMK makes no references to these additional characteristics in applying the like goods framework to its own manufactured product range. In its application, MMK determines that the imported and its locally produced goods had characteristics closely resembling after applying the following key factors:

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

Each of the grounds relied upon by MMK is relevant to the determination of like goods with respect to Zhejiang Hailiang's export and domestic goods.

This demonstrates that MMK's dispute with the Commission's consideration and approach to the assessment of like goods, is baseless and simply an attempt to cast doubt on the accurate dumping margin finding.

10. Capping Costs & Removal of the Capping Model Characteristics from MCC's

MMK continues to argue that costs associated with capping are materially significant and warrants further verification by the Commission. This claim alone provides insight into the illogical nature of the overall statements made by MMK in its submission, and demonstrates that MMK is simply presenting self-serving statements that it hopes will cause the Commission to doubt or question the accuracy of the information that has already been verified.

The claim is without foundation given that the Commission has verified Zhejiang Hailiang's cap purchases for the whole of the investigation period. During the verification, Zhejiang Hailiang submitted evidence which confirmed that cap costs were immaterial.

If the costs associated with capping are considered material as a proportion of MMK's production costs, this would explain why its estimates of normal values and export prices are so inaccurate. It would further highlight that MMK may be an inefficient manufacturer, and explain the margin of undercutting claimed to exist in the Australian market.

11. Made to different working pressures

MMK appears to suggest that domestic and export products manufactured to slightly different standards, cannot be compared with each other or considered like to each other, due its view that the standards result in different working pressures.

As we note in our response to MMK's raised issue relating to cleaning requirements, the essential characteristics of the domestic and exported goods are near identical, and undoubtedly possess characteristics closely resembling each other. The goods are manufactured and sold as per the relevant standards, and therefore suitable for use in exactly the same applications. MMK has mistakenly focused on non-physical and trivial characteristics that have little influence on the costs or the price of the finished goods.

12. Cleaning requirements

MMK argues that different cleaning requirements of the finished export and domestic copper tube products, prevents them from being like goods.

Zhejiang Hailiang confirms that cleaning is also requested in other products standards relating to refrigeration and air conditioning applications. Zhejiang Hailiang further confirms that the cleaning process is carried out during the production process, and the associated labour, energy and supplemental material costs are properly recorded and included in the submitted production cost.

With respect to capping, Zhejiang Hailiang has explained in our earlier response above, that cap costs were immaterial. In addition, it is worth noting that capping is not a mandatory component to satisfy the cleaning requirements under the standards. It is only included upon the specific request from different customers, since the normal packing is sufficient to guarantee the copper tube is internally cleaned and maintained prior to installation.

13. Acceptable temper of product

MMK appears to suggest that certain domestic products manufactured to the ASTM standard, cannot be compared with the exported AS/NZ standard due to slight differences in temper requirements and additional cleaning/annealing processes.

As per the Commission's instructions in the exporter questionnaire, Zhejiang Hailiang identified temper hardness for all export and domestic sales to allow for proper MCC identification for each individual sale. It is confirmed that the Commission's comparison of export prices and normal values

included products of similar temper, or where products of similar temper were not available, a specification adjustment was made to a surrogate MCC which took account of production cost differences.

14. Made to different manufacturing wall thickness tolerance

MMK highlights that different standards allow for different wall thickness tolerances. The relevance of this is unclear as the different tolerances do not have a bearing on whether goods are considered the goods or like goods.

In any case, Zhejiang Hailiang confirms that within its financial accounting system and also in its questionnaire response, the company reported the actual quantity of domestic and export sales, and not the nominal quantity. Therefore, slight tolerance differences between the various standards have no impact on the dumping margin price comparison.

15. The national product standards applicable to the local market in China are non-mandatory

Zhejiang Hailiang is again confused by the argument being offered by MMK. They appear to be suggesting that any product not manufactured and sold to one of the identified international standards, cannot be considered a like good, even if it has all of the essential physical characteristics that ensure it falls within the parameters of the goods description, and possesses characteristics closely resembling the goods exported. This incredibly narrow interpretation of like goods, which is defined entirely by various standards, cannot be supported.

Nevertheless, Zhejiang Hailiang confirms that each of its domestic transactions are manufactured and sold to comply with various international standards meeting:

- [REDACTED]
- [REDACTED]
- [REDACTED]

This information was verified by the Commission, so the claim by MMK must be rejected as there is no evidentiary basis for considering that domestic sales fall outside the scope of the investigation.

16. Difference in fabrication cost on a \$/T basis for manufacturing to the local standard vs Australian standard.

MMK refers to different standards relevant to copper tube products and claims that due to differences in wall thickness tolerances, '*... on average AS/NZS 1571 copper tube weighs xx% more than ASTM B280 tube with weight variances ranging between -xx% and xx%.*'

Whilst it is not clear from the arguments made, it appears that MMK are seeking to introduce a new category relating to thickness within the model control code, which would be relevant for comparing domestic and export products. This attempt to alter the determined MCC structure at this late stage of the investigation, is precisely the type of behaviour that the implementation of the MCC structure was intended to avoid.

The MCC structure was introduced by the Commission to ensure that all interested parties present financial data on a consistent and transparent basis. To that end, the Commission made it clear in ADN 2018/77, that '*[p]roposals to modify the MCC structure should be raised as soon as is practicable, but no later than the time the responses to the questionnaires are due and placed on the public record prior to any verification.*'

In its notice of initiation, it specifically invited interested parties to make submissions by no later than 28 April 2021 '*on the appropriate subcategories, if any, that should apply to:*

- outside diameter;
- wall thickness; and/or
- length of the goods.

Despite the opportunity, there was no submission made by MMK by the due date. As such, it is unacceptable for MMK to propose amending the criteria for product comparison, five months after the due date and after the Commission has conducted its dumping inquiries.

For this reason, the Commission must reject this claim as it would essentially require commencing the dumping investigation all over again, as Zhejiang Hailiang would be required to prepare and present its cost and sales data having regard to nominal and actual wall thickness.

17. Laboratory testing [exporter goods]

The comments by MMK under this sub-heading are vague and confusing.

First, MMK asserts that sampled imports '*...did not meet all requirements of AS1432 for Type B copper tube*'. However, it redacts all information relating to the source of the sampled goods and all evidence which it claims supports its assertion of non-compliance. It is manifestly unfair to expect Zhejiang Hailiang to be able to properly respond to allegations without any reasonable understanding of the nature of the claim or evidence relied upon in making the claim.

This again seems a deliberate strategy by MMK to raise issues, without providing interested parties with sufficient clarity or understanding of the issue, in the hope of convincing the Commission to simply question the accuracy of the information that has already been verified.

Second, the subheading refers to Zhejiang Hailiang not producing like goods to those produced in Australia. MMK have stated the incorrect like goods test, which requires a determination as to whether the Australian industry produces like goods to the goods subject to investigation.

The Commission need only determine whether Zhejiang Hailiang has exported goods that fall within the parameters of the goods description, and whether its domestic sales are like goods to those exported goods. The Commission has confirmed that the submitted export sales listing was a complete and accurate listing of subject goods exported during the investigation period.

Finally, as the Commission has made clear in numerous previous investigations where issues of non-compliance have been raised by interested parties, compliance with Australian standards are not relevant to matters of dumping. Compliance is typically administered by other various government bodies and agencies.

In any case, Zhejiang Hailiang confirms that all of its exported goods during the investigation period, were manufactured to, and conforms to, either AS 1571 or AS 1432. Any reliance on information by MMK to dispute this, should require that they make such evidence publicly available so that interested parties have a proper opportunity to defend their interests.

18. Normal values adjustments

a) Scrap

Zhejiang Hailiang confirms that scrap was used in the production of copper billet which was then used in the production of both domestic and exported goods.

b) Copper cost

Please refer to our responses at items 2, 3 and 4 above which addresses this duplicated point.

c) Draw Thin

Zhejiang Hailiang confirms that each of its domestic transactions are manufactured and sold to comply with relevant and common domestic and international standards. All the product sold in domestic market are in accordance with the tolerance and copper content request.

Zhejiang Hailiang confirms that within its financial accounting system and also in its questionnaire response, the company reported the actual weight of domestic and export sales, and not the nominal weight. The cost and price are not affected.

d) Capping and clean

Please refer to our responses at items 10 and 13 above which addresses this duplicated point.

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

Please refer to our response at item 17 above which addresses this duplicated point.

19. Market Situation in China – seamless copper tube

The comments by MMK are without any substantiated evidence and simply based on mere conjecture. MMK simply refers to the Zhejiang Hailiang Co., Ltd. 2020 Annual Report and concludes that ‘...the copper market in China does not operate due to market forces.’ It does not highlight any part of the Annual Report in its submission which would support its statement. It simply makes a baseless statement and points to an individual document, in the expectation that the Commission will now investigate the particular market situation claims further. There is **nothing** in the Annual Report which would support MMK’s conclusion.

Contrary to MMK’s assertion that ‘[p]rices for copper are heavily guided by the GOC’s intervention’, there is abundant evidence on the record and confirmed by the Commission’s investigation, that establishes that the copper market in China is based on market principles and properly reflects competitive market conditions.

For these reasons, the Commission must reject MMK’s groundless assertion.

20. Subsidies

MMK makes another groundless assertion that ‘[n]ote 33 of the Zhejiang Hailiang 2020 Annual Report confirms that ‘The company obtains policy based preferential loan interest’, and that ‘[t]his statement in its 2020 Annual Report is in conflict with the Commission’s stated finding.’

Zhejiang Hailiang submits that MMK has deliberately misinterpreted the context of the Annual Report in an attempt to further cause the Commission to doubt the accuracy of the information presented for verification. To ensure a correct understanding, Zhejiang Hailiang clarifies that Note 33 to the Annual Report titled “Government Subsidies” is under the Item IV of Chapter XII of the Annual Report, titled “重要会计政策及会计估计” in Chinese, which means ‘Significant accounting policies and accounting estimates’ in English. And the sentence quoted by MMK is under the subparagraph 1 of note 33, titled “政府补助的类型及会计处理”, which means “Types and accounting treatment of governmental subsidies” in English. It should be further clarified that the correct English translation of title of subparagraph 2 of Note 33 “政府补助确认时点” is “Point of recognition of government grants”, rather than the incorrect and confusing translation “Confirmation of government subsidies” proposed by MMK.

Critically then, the quoted sentences in the Annual Report merely provide a general explanation of what constitutes a "government subsidy" from an accounting perspective, and the **accounting policy for circumstances when** the Hailiang Group receives such loans. It does **not** mean and must not be interpreted as confirmation that the Hailiang Group actually received any preferential loans. Again, Zhejiang Hailiang confirms that the text from the Annual Report refers simply to the accounting principles and treatment in circumstances where such loans exist. It is the normal practice for such reports to set out the accounting principles and accounting treatment in the attached notes.

Importantly, the verified data on the record establishes that the interest rates paid by Zhejiang Hailiang are in line with the published lending and real interest rates available in China. As such, no benefit was received by Zhejiang Hailiang.

Regarding MMK's assertion that *'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'*, Zhejiang Hailiang clarifies that these 'additional subsidy programs' were received subsequent to the period of investigation. The grant programs received by Zhejiang Hailiang during the POI has already been reported in the questionnaire response and verified by the Commission.