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19 October 2021

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

Investigation into copper tube exported from the Republic of Korea

Dear Commission,

This submission is made on behalf of Nungwon Metal Ind Co., Ltd ("Nungwon"), in response to the submission by MM Kembla dated 4 October 2021.

LME / Hedging

MM Kembla argues that the quarterly weighted price analysis is improper due to the LME copper price fluctuating through the period of investigation. It also argues that export prices are usually hedged for the copper price risk, and so the cost of hedging should be included in the dumping calculation.

MM Kembla's arguments are totally erroneous. The export price must be the actual export price during the investigation period, so that it can be linked to the Australian market and assessed for causality with injury. In negotiating and determining the export price, the LME copper price is the most important factor as described in MM Kembla's argument. Therefore, the final export price is not determined solely by Nungwon's intention, rather it is determined by negotiation between Nungwon and Australian importers which include MM Kembla.

Further, hedging contracts cover the risk of the LME price movement in the confirmed export price. The decision to hedge is made solely by Nungwon and does not have any effect on the confirmed export price.

Moreover, Nungwon [REDACTED].

For example, Nungwon applies [REDACTED].

[REDACTED].

[export price setting factors]

Scrap / Fabrication / Capping / Cleaning

MM Kembla asks the Commission to make adjustment for the cost of scrap copper used in domestic production, and further adjustment for minor differences between domestic and export standards.

MM Kembla considers that adjustments are needed after comparing Australian and Korean product standards. However, while the industry standards are not identical, they are very similar with no real difference which impacts on production method or costs. Also, the minor differences reflect the development and status of each country's industry.

Nungwon confirms that there are no differences between the exported or domestic like goods in terms of the raw materials, production process, or application of the finished copper tube.

First, the major application for copper tube exported to Australia are for the piping system of conveyance of water or commercialized refrigerants. This is not different with that of the products sold in the domestic market. Second, copper tube exported to Australia and sold domestically are composed of 99.9% copper. Third, Nungwon manufactures the domestic and export copper tube in the same factory and using the identical production process.

It is an unconvincing and unworkable view from MM Kembla, that only identical goods produced to identical standards can be used for assessing the margins of dumping. The domestic law and international framework allow for similar or 'like' products to be used, and in this case the domestic and export goods are definitely like to each other in terms of application, production, and raw materials.

Nungwon confirms that it presented and calculated costs for individual products which reflect and include all characteristics for each product based on Korean accounting standards. Nungwon then presented the costs for each model control code (MCC) using the weighted average cost of each individual product. The Commission was able to verify the individual and MCC costs through its financial accounts, and found that the cost data was accurate.

MM Kembla was Producer as Purchaser of dumping products

As the Commission has confirmed, MM Kembla purchased the subject merchandise from Nungwon during the period of investigation, and [REDACTED] [REDACTED] [export transactions]. It confirms that MM Kembla is making contradictory claims that it is suffering injury while profiting from dumped importation.

The domestic industry in Article 4 of the WTO Anti-Dumping Agreement is clearly defined, and allows for the exclusion of producers that are themselves importers of the allegedly dumped

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product, by interpreting "domestic industry" as the rest of the producers. It is therefore improper for MM Kembla to doubt the accuracy of the fully investigated exports and the Commission's verified dumping margin, in a situation where the status of the applicant remains unclear given its imports of the subject goods.

Accordingly, Nungwon supports the Commission's decision to comply with its WTO obligations, and reject MM Kembla's vague and unsubstantiated claims.