



**Australian Government**  
**Department of Industry,  
Innovation and Science**

**Anti-Dumping  
Commission**

**PUBLIC FILE**

Application for the publication of  
dumping and/or  
countervailing duty notices  
Certain Copper Tube  
exported from  
the Socialist Republic of Vietnam

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APPLICATION UNDER SECTION 269TB OF THE *CUSTOMS ACT 1901* FOR THE PUBLICATION OF DUMPING AND/OR COUNTERVAILING DUTY NOTICES

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**DECLARATION**

I request, in accordance with section 269TB of the *Customs Act 1901* (the Act), that the Minister publish in respect of goods the subject of this application:

- a dumping duty notice, or
- a countervailing duty notice, or
- a dumping and a countervailing duty notice.

This application is made on behalf of the Australian industry producing like goods to the imported goods the subject of this application. The application is supported by Australian producers whose collective output comprises:

- 25% or more of the total Australian production of the like goods; and
- more than 50% of the total production of like goods by those Australian producers that have expressed either support for, or opposition to, this application.

I believe that the information contained in this application:

- provides reasonable grounds for the publication of the notice(s) requested; and
- is complete and correct.

*Please note that giving false or misleading information is a serious offence.*

Signature:



Name:

Tony Bova

Position:

Executive General Manager

Company:

MM Kembla

ABN:

13 003 762 641

Date:

10 February 2021

## IMPORTANT INFORMATION

### Signature requirements

Where the application is made:

*By a company* - the application must be signed by a director, servant or agent acting with the authority of the body corporate.

*By a joint venture* - a director, employee, agent of each joint venturer must sign the application. Where a joint venturer is not a company, the principal of that joint venturer must sign the application form.

*On behalf of a trust* - a trustee of the trust must sign the application.

*By a sole trader* - the sole trader must sign the application.

*In any other case* - contact the Commission's Client support section for advice.

### Assistance with the application

The Anti-Dumping Commission has published guidelines to assist applicants with the completion of this application. Please refer to the following guidelines for additional information on completing this application:

- *Instructions and Guidelines for applicants on the application for the publication of dumping and/or countervailing duty notices*
- *Instructions and Guidelines for applicants on the examination of a formally lodged application*

The Commission's client support section can provide information about dumping and countervailing procedures and the information required by the application form. Contact the team on:

**Phone:** 13 28 46

**Email:** [clientsupport@adcommission.gov.au](mailto:clientsupport@adcommission.gov.au)

Information is available from the Commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

Small and medium enterprises (i.e., those with less than 200 full-time staff, which are independently operated and which are not a related body corporate for the purposes of the *Corporations Act 2001*), may obtain assistance, at no charge, from the International Trade Remedies Advisory (ITRA) Service. For more information on the ITRA Service, visit [www.business.gov.au](http://www.business.gov.au) or telephone the ITRA Service Hotline on +61 2 6213 7267.

### Important information

To initiate an investigation into dumping and/or subsidisation, the Commission must comply with Australia's international obligations and statutory standards. This form provides an applicant industry with a framework to present its case and will be used by the Commission to establish whether there appear to be reasonable grounds for the publication of a dumping duty or countervailing duty notice and initiate an investigation. To assist consideration of the application it is therefore important that:

- all relevant questions are answered; and

- information that is reasonably available be supplied.

The Commission does not require conclusive evidence to initiate an investigation, but any claims made should be reasonably based. An application will be improved by including supporting evidence and where the sources of evidence are identified. Simple assertion is inadequate to substantiate an application.

To facilitate compilation and analysis, the application form is structured in 3 parts:

1. **Part A** seeks information about the Australian industry. This data is used to evaluate industry trends and assess claims of material injury due to dumping/subsidisation. Where an Australian industry comprises more than one company, each should separately prepare a response to Part A to protect commercial confidentiality.
2. **Part B** relates to evidence of dumping.
3. **Part C** is for supplementary information that may not be appropriate to all applications. However some questions in Part C may be essential for an application, for example, if action is sought against subsidisation.

All questions in Parts A and B must be answered, even if the answer is 'Not applicable' or 'None'. Where appropriate, applicants should provide a short explanation about why the requested data is not applicable. This will avoid the need for follow up questions by the Commission.

The application form does not specifically address all the information required when making a claim that the establishment of an Australian industry producing like goods has been or may be materially hindered. If you are considering making such a claim, please contact the Commission to discuss information requirements.

The application form requests data over several periods ( $P^1, P^2, \dots, P^n$ ) to evaluate industry trends and to correlate injury with dumped or subsidised imports. The labels  $P^1 \dots P^n$  are used for convenience in this application form. Lodged applications should identify the period relevant to the data. This form does not specify a minimum period for data provision. However, sufficient data must be provided to substantiate the claims made. If yearly data is provided, this would typically comprise a period of at least four years (for example the current financial year in addition to three prior years). Where information is supplied for a shorter period, applicants may consider the use of quarterly data. Data must also be sufficiently recent to demonstrate that the claims made are current.

When an investigation is initiated, the Commission will verify the claims made in the application. A verification visit to the Australian industry usually takes several days.

Applicants should be prepared to substantiate all Australian industry financial and commercial information submitted in the application. Any worksheets used in preparing the application should therefore be retained to facilitate verification.

During verification, the Commission will examine company records and obtain copies of documents relating to the manufacture and sale of the goods.

<b>Appendices</b>	Some questions require attachments to be provided. The attachment numbering sequence should refer to the question answered. For example, question A2.2 requests a copy of an organisation chart. To facilitate reference, the chart should be labelled <u>Attachment A2.2</u> . If a second organisation chart is provided in response to the same question, it should be labelled <u>Attachment A2.2.2</u> (the first would be labelled <u>Attachment A2.2.1</u> ).
<b>Provision of data</b>	Industry financial data must, wherever possible, be submitted in an electronic format. <ul style="list-style-type: none"><li>• The data should be submitted on a media format compatible with Microsoft Windows.</li><li>• Microsoft Excel, or an Excel compatible format, is required.</li><li>• If the data cannot be presented electronically please contact the Commission’s client support section for advice.</li></ul>
<b>Lodgement of the application</b>	This application, together with the supporting evidence, must be lodged in the manner approved by the Commissioner under subsection 269SMS(2) of the Act. The Commissioner has approved lodgement of this application by either: <ul style="list-style-type: none"><li>• preferably, email, using the email address <a href="mailto:clientsupport@adcommission.gov.au">clientsupport@adcommission.gov.au</a>, or</li><li>• post to: The Commissioner of the Anti-Dumping Commission GPO Box 2013 Canberra ACT 2601, or</li><li>• facsimile, using the number (03) 8539 2499.</li></ul>
<b>Public Record</b>	During an investigation all interested parties are given the opportunity to defend their interests by making a submission. The Commission maintains a public record of these submissions. The public record is available on the Commission’s website at <a href="http://www.adcommission.gov.au">www.adcommission.gov.au</a> .  At the time of making the application both a confidential version (for official use only) and non-confidential version (public record) of the application <u>must</u> be submitted. Please ensure each page of the application is clearly marked “FOR OFFICIAL USE ONLY” or “PUBLIC RECORD”. The non-confidential application should enable a reasonable understanding of the substance of the information submitted in confidence, clearly showing the reasons for seeking the publication of a dumping duty or countervailing duty notice, or, if those reasons cannot be summarised, a statement of reasons why a summary is not possible.

# **PART A**

## **INJURY**

### **TO AN AUSTRALIAN INDUSTRY**

**IMPORTANT**

All questions in Part A should be answered even if the answer is 'Not applicable' or 'None'. If an Australian industry comprises more than one company/entity, each should separately complete Part A.

**A-1 Identity and communication**

Please nominate a person in your company for contact about the application:

Contact Name:	Mr Tony Bova
Company and position:	Executive General Manager, MM Kembla
Address:	30 Gloucester Boulevard, Port Kembla NSW 2505
Telephone:	(02) 4223 5120
Facsimile:	
E-mail address:	tony.bova@kembla.com.au
ABN:	13 003 762 641

**Alternative contact**

Name:	
Position in company:	
Address:	
Telephone:	
Facsimile:	
E-mail address:	

If you have appointed a representative to assist with your application, provide the following details and complete Appendix A8 (Representation).

Name:	John O'Connor
Business name:	John O'Connor & Associates
Address:	P.O. Box 329, COORPAROO, QLD, 4151
Telephone:	+61 7 3342 1921
Facsimile:	+61 7 3342 1931
E-mail address:	jmoconnor@optusnet.com.au
ABN:	39 098 650 241

## A-2 Company information

1. **State the legal name of your business and its type (e.g. company, partnership, sole trader, joint venture). Please provide details of any other business names you use to manufacture/produce/sell the goods that are the subject of your application.**

The legal entity of the applicant company is METAL MANUFACTURES PTY LIMITED ABN 13 003 762 641. It is a proprietary limited liability company. The trading name of the division manufacturing the goods the subject of the application is "MM Kembla".

(Please note that Metal Manufactures Limited changed its name to Metal Manufactures Pty Limited on the 29<sup>th</sup> November 2019.)

2. **Provide your company's internal organisation chart. Describe the functions performed by each group within the organisation.**

MM Kembla has included an organisation chart at Confidential Attachment A-2.2.

3. **List the major shareholders of your company. Provide the shareholding percentages for joint owners and/or major shareholders.**

MM Kembla is a division of Metal Manufactures Pty Limited which is 100 per cent owned by MML Holdings Limited.

(Please note that MML Holdings Pty Limited changed its name to MML Holdings Limited on 14<sup>th</sup> May 2020.)

4. **If your company is a subsidiary of another company list the major shareholders of that company.**

MML Holdings Limited is owned 100 per cent by Marshire Holdings Corporation.

5. **If your parent company is a subsidiary of another company, list the major shareholders of that company.**

Marshire Holdings Corporation owns MML Holdings Limited 100 per cent.

6. **Provide an outline diagram showing major associated or affiliated companies and your company's place within that structure (include the ABNs of each company).**

A diagram of affiliated companies to MM Kembla is included at Confidential Attachment A-2.6.

7. **Are any management fees/corporate allocations charged to your company by your parent or related company?**

MM Kembla does receive allocations from its parent company annually. It does receive internal allocations as a Division of MMPL.

8. **Identify and provide details of any relationship you have with an exporter to Australia or Australian importer of the goods.**

MM Kembla does not have any related party relationships with any of the exporters and/or importers of the goods which are the subject of this application and are exported from Vietnam.

MM Kembla has suppliers in a number of countries from whom it purchases products that MM Kembla does not manufacture and in some cases these exporters also compete on other products that MM Kembla does manufacture for the Australian market.



9. **Provide a copy of all annual reports applicable to the data supplied in appendix A3 (Sales Turnover). Any relevant brochures or pamphlets on your business activities should also be supplied.**

MM Kembla financial statements are included in Metal Manufactures Pty Limited Consolidated Statements at Confidential Attachment A-2.9.

10. **Provide details of any relevant industry association.**

MM Kembla is a member of:

- International Copper Association Australia.
- Australian Industry Group (AIG)
- Australian Hydraulic Services Association (AHSCA)
- Hydraulic Consultants Association Australia (HCAA)
- Master Plumbers of Australia (MPA)

### **A-3 The imported and locally produced goods**

1. **Fully describe the imported product(s) the subject of your application:**
- **Include physical, technical or other properties.**
  - **Where the application covers a range of products, list this information for each make and model in the range.**
  - **Supply technical documentation where appropriate.**

The goods the subject of this application are:

*Round seamless copper tube complying with Australian Standard AS 1432, Australian and New Zealand Standard AS/NZ 1571, or Australian Standard AS 1572 with an outside nominal diameter between 9.52 mm and 53.98 mm, and a nominal wall thickness between 0.71 mm and 1.83 mm, including coated tube.*

*Goods specifically excluded from the goods description are:*

- *thermally insulated copper tube, such as Pair Coil;*
- *Annealed coils;*
- *Layer Wound Packs/Level Wound Coils; and*
- *Copper alloy tube.*

#### Further explanation concerning applicable Standards

The physical and technical characteristics of the goods subject to this application are in accordance with the requirement of one of the following Australia or Australian/New Zealand product standards:

- **AS1432 - Copper Tubes for Plumbing, Gasfitting and Drainage Applications**  
Physically, AS1432 round seamless copper tubes are typically bare or coated copper tube containing ink marking and incising in accordance with and referencing the product standard and are packaged with open ends (uncapped).
- **AS/NZ1571 - Copper - Seamless Tubes for Air Conditioning and Refrigeration**  
Physically, AS/NZS 1571 round seamless copper tubes are bare (uncoated) and contain ink marking in accordance with and referencing the standard, are internally cleaned and tube ends are plastic/rubber capped to protect from internal contamination (green, pink, yellow or black caps).

- **AS1572 - Copper and Copper Alloys - Seamless Tubes for Engineering Purposes**  
Physically, AS 1572 tubes can be round, square or rectangular. For the goods the subject of this application, physically the goods are round seamless copper tubes typically bare, and containing inkmarking in accordance with and referencing the standard.

**2. List the tariff classification(s) and statistical code(s) of the imported goods.**

The tariff classification of the goods the subject of this application is 7411.10.00 statistical code 11 for “Copper tube and pipes of refined copper”.

The general rate of duty is 5 per cent. Imports of the goods from Vietnam attract a “Free” rate of duty.

**3. Fully describe your product(s) that are ‘like’ to the imported product:**

- **Include physical, technical or other properties.**
- **Where the application covers a range of products, list this information for each make and model in the range.**
- **Supply technical documentation where appropriate.**
- **Indicate which of your product types or models are comparable to each of the imported product types or models. If appropriate, the comparison can be done in a table.**

Seamless copper tube manufactured by MM Kembla are “like” goods to imported seamless copper tube imported from Vietnam. MM Kembla’s product range manufactured to AS 1432 and AS/NZ 1571 are detailed in Non-Confidential Attachments A-3.3.1 to A-3.3.2.

The locally produced goods and the imported goods possess similar dimensions and physical characteristics. Locally manufactured tube and imported tube of the same dimensions are directly comparable.

**4. Describe the ways in which the essential characteristics of the imported goods are like to the goods produced by the Australian industry.**

MM Kembla submits that seamless copper tube manufactured in Australia has the same essential characteristics as imported seamless copper tube and are considered “alike” in all respects. The following key factors apply:

- 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 they 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).

**5. What is the Australian and New Zealand Standard Industrial Classification Code (ANZSIC) applicable to your product.**

Seamless copper tube is covered by the ANZSIC Class 2149 for Other Non-Ferrous Metal Manufacturing category which is classified as follows:

Division C	Manufacturing
Subdivision 21	Primary Metal and Metal Product Manufacturing
Group 214	Basic Non-Ferrous Metal Manufacturing
Class 2149	Other Basic Non-Ferrous Metal Product Manufacturing

**6. Provide a summary and a diagram of your production process.**

(i) Manufacturing process

Copper tube is manufactured from raw material copper which is predominately newly refined copper, cathode copper and copper scrap. The raw material copper is melted in a furnace, impurities removed, ready for casting.

Molten metal is transferred from the furnace where it is cast into large “logs” by a continuous casting method. The diameter of the logs is approximately 250mm. As the cast log emerges from the casting machine, a moving saw cuts the log into set lengths. These lengths, each weighing approximately 530kg, are then sent to the next process for Extrusion.

The next step is to cut these logs into shorter lengths called billets. The billets are then reheated and placed in a chamber of an extrusion press. The horizontally mounted chamber contains a die at one end and a hydraulically driven ram at the other end. As the ram moves forward the copper is forced over the mandrel and through the hole in the die, creating a long hollow tube.

Copper tube is sold in either hard i.e. as hard drawn, half hard or in a soft, annealed state. Annealing involves passing the tube through a continuous annealing process at (700 degrees Celsius). Annealed tube can be visually distinguished from hard-drawn tube by its matte surface finish.

In each of the finishing drawing processes, the tube passes through a straightening process, marking line, eddy current testing to test for surface defects, and undergoes a final cut to the required length. The finished tubes are then bundled into pre-determined bundle quantities, strapped, and wrapped.

The next steps in the tube-making process depend on the type of product to be produced and the intended end application. The tube can be put through a cleaning process, plastic coating (lagging) operation, or have end caps applied. They can then undergo final testing as required.

(ii) Manufacturing diagram

MM Kembla has included a schematic of its manufacturing process at Confidential Attachment A-3.6.

**7. If your product is manufactured from both Australian and imported inputs:**

- **describe the use of the imported inputs; and**
- **identify that at least one substantial process of manufacture occurs in Australia (for example by reference to the value added, complexity of process, or investment in capital).**

Copper tube is manufactured from locally sourced refined copper. The manufacture of copper tube from refined copper involves a capital-intensive process of manufacture where refined copper is melted at temperature and poured from the furnace to produce billets. The billets are again heated and pass through an extrusion where the copper is elaborately transformed into tube.

The manufacture of the copper billet and the extrusion process involve two substantial processes of manufacture that are both capital-intensive in nature.

**8. If your product is a processed agricultural good, you may need to complete Part C-3 (close processed agricultural goods).**

Seamless copper tube is not a processed agricultural good. Part C-3 of this application does not require completion.

**9. Supply a list of the names and contact details of all other Australian producers of the product.**

MM Kembla is the sole Australian manufacturer of seamless copper tube the subject of this application.

**10. If different models can be established for the goods subject to the application:**

- **What are the differences in physical characteristics that give rise to distinguishable and material differences in price?**

There exist no noticeable differences between the locally produced goods and the imported goods.

- **Provide supporting documentation or analysis supporting the differences in physical characteristics that affects price comparability. Unit costs may also be used to demonstrate differences in physical characteristics where it affects price comparability.**

Please refer to Confidential Attachment A-3.3.3 which details the dimensions of the imported seamless copper tube. The locally produced and imported copper tube are of the same dimensions by nominal size (i.e. outside diameter and wall thickness).

- **In providing the list of physical differences, identify the characteristics in order of significance.**

Not applicable.

- **Identify key characteristics where the physical differences are significantly different and it is not meaningful to compare models with different physical characteristics.**

Not applicable.

- **Identify the physical characteristics that can be reported in relation to sales and cost data respectively. This should be reflected in the sales data provided in appendices A4 and A6.**

Size of outside diameter, wall thickness and length.

- **Complete the table below having regard to the information provided above. The Commission will consider this information in establishing a model control code structure for the investigation.**

The following Table A-3.10 details the Model Control Codes for seamless copper tube.

**Table A-3.10 – Proposed Model Control Codes**

Legend:

<b>MCC</b>	<b>Description</b>
SL	Small Lagged (OD => 9.52mm & <=22.22mm)
SP	Small Plumbing (OD => 9.52mm & <=22.22mm)
SR	Small Refrigeration (OD => 9.52mm & <=22.22mm)
ML	Mid-size Lagged (OD => 25.40mm & <=54.00mm)
MP	Mid-size Plumbing (OD => 25.40mm & <=54.00mm)
MR	Mid-size Refrigeration (OD => 25.40mm & <=54.00mm)

Product	Code	Category	Outside Diameter (mm)		Wall Thickness (mm)		AS/NZ Standard	Sales Data	Cost Data	Characteristics
			Min	Max.	Min	Max				
Seamless Copper Tube	SL	Lagged	9.52	22.22	0.71	1.69	AS1432	Mandatory	Mandatory	Straight length round seamless copper tube typically coated with Polyvinyl Chloride (PVC) or Low Density Polyethylene (LDPE) in white, green, lilac or brown in colour depending on application and open ended (uncapped). Outside diameters => 9.52mm and =< 22.22mm.
	SP	Plumbing	9.52	22.22	0.71	1.69	AS1432/ AS1572	Mandatory	Mandatory	Straight length round seamless copper tube bare/uncoated and open ended (uncapped). Outside diameters => 9.52mm and =< 22.22mm.
	SR	Refrigeration	9.52	22.22	0.71	1.69	ASNZ1571	Mandatory	Mandatory	Straight length round seamless copper tube bare/uncoated and ends sealed (capped) to protect internal cleanliness. Outside diameters => 9.52mm and =< 22.22mm.
	ML	Lagged	25.40	54.00	1.20	1.83	AS1432	Mandatory	Mandatory	Straight length round seamless copper tube typically coated with Polyvinyl Chloride (PVC) or Low Density Polyethylene (LDPE) in white, green, lilac or brown in colour depending on application and open ended (uncapped). Outside Diameters => 25.40mm and =< 54mm.
	MP	Plumbing	25.40	54.00	1.20	1.83	AS1432	Mandatory	Mandatory	Straight length round seamless copper tube bare/uncoated and open ended (uncapped). Outside diameters => 25.40mm and =< 54mm.
	MR	Refrigeration	25.40	54.00	1.20	1.83	ASNZ1571	Mandatory	Mandatory	Straight length round seamless copper tube bare/uncoated and ends sealed (capped) to protect internal cleanliness. Outside diameters => 25.40mm and =< 54mm.

MM Kembla manufactures seamless copper tube of varying nominal diameters (between 9.52 mm and 53.98 mm) and of nominal thicknesses between 0.71 mm and 1.83 mm. Imported seamless tube is of similar dimensions to that manufactured by MM Kembla.

## A-4 The Australian market

### 1. Describe the end uses of both your product and the imported goods.

The Australian market for seamless copper tube involves end-use applications involved in the movement of water, gas or refrigerant in HVAC piping systems. End use applications include the following:

- Plumbing;
- Refrigeration piping;
- HVAC (heating, ventilation and air conditioning) piping;
- Mechanical gas tubing;
- Medical gas tubing;
- Water and gas infrastructure.

### 2. Describe the Australian market for the Australian and imported product and the conditions of competition within the overall market. Your description could include information about:

- sources of product demand;
- marketing and distribution arrangements;
- typical customers/users/consumers of the product;
- the presence of market segmentation, such as geographic or product segmentation;
- causes of demand variability, such as seasonal fluctuations, factors contributing to overall market growth or decline, government regulation, and developments in technology affecting either demand or production;
- the way in which the imported and Australian product compete; and
- any other factors influencing the market.

Seamless copper tube manufactured by MM Kembla regardless of the market or end application competes based on the following, with price ultimately being a key driver in an increasingly commoditised category:

- Price
- Quality
- Conformance with Australian standards outlined in the goods description and market segmentation
- Service and technical support
- Product

Typically, the channel to market (end user) for importers is the same as that for Australian manufactured tube, i.e. via plumbing, HVAC-R and hardware merchants in Australia. For plumbing tube, sales are predominantly through specialist plumbing distributors and to a lesser extent through hardware stores. For refrigeration and medical gas tube, sales are predominantly through heating, ventilation, air conditioning and refrigeration distributors.

Physically there is no distinct visual difference between local and imported products. Ultimately the main physical or visual difference is in the ink mark applied to the tube, where manufacturer or brand is the only real distinction. Typically, products can be physically identified by the following:

- Plumbing tube – bare uncoated seamless round copper tube; open ended (uncapped); permanently incised with standard and watermark licence; and ink marked in accordance with AS 1432 standard.
- Lagged tube – typically PVC or LDPE coated seamless round copper tube; open ended (uncapped); ink marked in accordance with AS 1432 standard; coated typically with green, lilac, brown or white coating.

- Refrigeration & medical gas tube - bare uncoated seamless round copper tube; sealed ends (capped) to maintain internal cleanliness; ink marked in accordance with AS/NZS 1571 standard; capped typically with pink or red (high pressure), green or black (low pressure) and yellow (specific use or medical gas) rubber or plastic caps.

(i) Sources of product demand

The copper tube market in Australia is broadly driven by new construction and renovations cycle in the residential, commercial and infrastructure markets. Copper tube is generally used for the movement of water, gas or refrigerant in HVAC piping systems.

(ii) Marketing and distribution arrangements

The locally produced goods and imported goods are typically sold to merchants/distributors that on-sell to customers (i.e. plumbers, gas fitters, etc).

(iii) Typical customers/users/consumers of the goods

The end users of copper tube typically purchase copper tube from Plumbing Merchants (e.g. Reece Plumbing, Tradelink), Refrigeration, Air Conditioning, HVAC merchants and hardware stores. The end-user includes:

- Plumbers;
- Refrigeration Mechanics;
- HVAC (heating, ventilation and air conditioning) Services;
- Mechanical services;
- Medical gas industries;
- Water and gas infrastructure.

(iv) Market segmentation

Copper tube can be broadly segmented into the following product categories:

- Plumbing tube – For the reticulation of water & gas;
- Refrigeration tube – For HVAC and Refrigeration systems;
- Medical Gas tube – For the supply of medical gases;
- Lagged tube – PVC coated tube used for inground and corrosive environments;
- Insulated tube – Mostly pair coil used in air conditioning installations.

Plumbing tube must be manufactured and compliant with Australian Standard AS 1432 and must be independently Watermark certified as part of the Watermark Certification Scheme administered by the Australian Building Codes Board (ABCB).

Refrigeration tube must be manufactured and compliant with Australia / New Zealand Standard AS/NZS 1571.

Medical Gas Copper Tube manufactured to AS/NZS1571 conforms with the requirements of the Medical Gas Systems installation standard AS2896 and have been designed to be suitable for the transmission of medical gases such as oxygen and vacuum or suction line applications.

Demand drivers and subsequent demand variability of the copper tube market in Australia can be attributed to the following factors:

- Global copper price volatility/fluctuations. Copper as a raw material contributes to a proportionately large percentage of the price of copper tube;
- Level of investment/activity in multi-residential and non-residential construction sectors such as accommodation, offices, education, health and aged care;

- System designation and operating parameters prescribed by designers or hydraulic and mechanical consultants;
- Seasonal fluctuations predominantly across extended holiday periods where construction activity is lower and warmer seasons for domestic air conditioning copper tube;
- Developments in alternative piping technologies, particularly in gas and hot water distribution and HVAC applications (PPR technology, Gas PEX systems) and large bore alternatives (Stainless Steel, PPR);
- Advancements in Retail/Supermarket sector refrigeration systems requiring copper alloy piping;
- Improved connection technology and methods (Press Fittings, Push-Fittings) supporting growth in demand for copper tube.

(v) The way in which the local and imported goods compete

Australian manufactured tube competes based on quality and conformance with Australian Standards, delivering lower end user and asset owner risk of failure. Local service and technical support create a point of differentiation but ultimately price is a key driver in a category that is becoming increasingly commoditised by cheap imports of inferior quality.

**3. Identify if there are any commercially significant market substitutes for the Australian and imported product.**

There are no commercially significant market substitutes for the subject goods.

**4. Complete appendix A1 (Australian production). This data is used to support your declaration at the beginning of this application.**

MM Kembla has completed Confidential Appendix A1 for the 12 month period to 31 December 2020.

**5. Complete appendix A2 (Australian market).**

MM Kembla has completed Confidential Appendix A2 – Australian market for seamless copper tube.

**6. Use the data from appendix A2 (Australian market) to complete this table:**

MM Kembla has examined the imports under subheading 7411.10.00 statistical code 11. This classification includes copper tube and some certain products that are not the goods under consideration. For example, pair coil, which is specifically excluded from the goods coverage, has been excluded from the Appendix A2 – Australian market analysis.

It is MM Kembla's view that the only sources for the competitive goods to locally produced seamless copper tube originate from China, Korea and Vietnam. Historically, the import volumes from Vietnam were understood to be pair coil, however, this changed in June 2020 when exports from of copper tube from Vitenam commenced.



*Indexed table of sales quantities\**

Period	(a) Your Sales	(b) Other Aust <sup>n</sup> Sales	(c) Total Aust <sup>n</sup> Sales (a+b)	(d) Dumped Imports	(e) Other Imports	(f) Total Imports (d+e)	Total Market (c+f)
2017	100	100	100	100	100	100	100
2018	101.4	95.7	101.2	103.4	100	103.4	102.1
2019	99.0	98.5	98.9	108.2	100	108.2	102.7
2020	98.3	75.4	97.6	136.8	100	136.8	113.4

Notes:

1. Data from Confidential Appendix A2 – Australian Market;
2. Years ending September.
3. Vietnam imports included with China and Korea as “dumped imports”.
4. In 12 months to 31 December 2020, Vietnam accounts for 17.0 per cent of total imports of copper tube.

The Australian market for seamless copper tube is supplied from local production by MM Kembla and imports – from China, Korea and now Vietnam. MM Kembla has imported small volumes of seamless copper tube – these volumes have been shown separately under MM Kembla’s own sales and recorded in the above Table as “Other Australian Sales”.

In MM Kembla’s application for anti-dumping measures on copper tube from China and Korea (i.e. Investigation 569), it was demonstrated that imports of seamless copper tube have increased year-on-year (to March 2020) from China, with a significant surge of 22 per cent in 2019/20. Coinciding with this increase in imports from China, MM Kembla’s sales volumes have contracted (in an expanding market), and imports from Korea have declined just under five per cent. Following the formal commencement of Investigation 569, imports of copper tube from Vietnam by the Hailiang Group have emerged on the Australian market. In the short period from July to December 2020, imports of copper tube from Vietnam have increased to levels above negligible volumes in 2020.

## **A-5 Applicant’s sales**

### **1. Complete appendix A3 (sales turnover).**

MM Kembla has completed Confidential Appendix A3 for the goods the subject of this application.

### **2. Use the data from appendix A3 (sales turnover) to complete these tables.**

MM Kembla has not completed quantities for “All Products” as the quantities for like goods and all other products sold (including manufactured) by MM Kembla are not comparable on a quantity basis.

*Indexed table of Applicant's sales quantities\**

Quantity	2017	2018	2019	2020
<b>All Products</b>				
Aust. Market	100			
Export Market	100			
Total	100			
<b>Like Goods</b>				
Aust. Market	100	101.4	92.9	98.3
Export Market	100	75.6	66.2	60.6
Total	100	93.7	89.2	87.0

\*Index of data. For years ending December.

MM Kembla's domestic revenues for seamless copper tube have declined since 2017 as imports from dumped sources (including Vietnam) have increased.

*Indexed table of Applicant's sales values\**

Revenues	2017	2018	2019	2020
<b>All Products</b>				
Aust. Market	100	107.0	104.6	101.3
Export Market	100	94.4	78.4	69.0
Total	100	104.2	98.6	93.9
<b>Like Goods</b>				
Aust. Market	100	109.5	106.9	105.7
Export Market	100	84.8	72.1	65.9
Total	100	102.7	97.4	94.8

\*Index of data. P<sup>n</sup> For years ending December.

MM Kembla's domestic revenues for seamless copper tube have declined since 2017 as imports from dumped sources (including Vietnam) have increased.

3. **Complete appendix A5 (sales of other production) if you have made any:**
- **internal transfers; or**
  - **domestic sales of like goods that you have not produced, for example if you have imported the product or on-sold purchases from another Australian manufacturer.**

The applicant has completed Confidential Appendix A5 for sales of goods not manufactured by MM Kembla.

4. **Complete appendix A4 (domestic sales).**

MM Kembla has completed Confidential Appendix A4 for the period 1 January 2020 to 31 December 2020.

5. **If any of the customers listed at appendix A4 (domestic sales) are associated with your business, provide details of the association. Describe the price effect of the association.**

MM Kembla does not have sales of like goods to associated parties.

**6. Attach a copy of distributor or agency agreements/contracts.**

MM Kembla does not sell through distributors/agencies and therefore no agreements/contracts are applicable.

**7. Provide copies of any price lists.**

MM Kembla has included price lists (effective September 2020) for select customers at Confidential Attachment A-5.7.

**8. If any price reductions (for example commissions, discounts, rebates, allowances and credit notes) have been made on your Australian sales of like goods provide a description and explain the terms and conditions that must be met by the customer to qualify.**

Price reductions applied to MM Kembla's Australian sales of like goods can be summarised into the following categories. Levels of price reductions and types of price reduction can vary from customer to customer.

- **Trading Rebates** – A rebate based on a % amount off a customer's invoice price for all transactions. These rebates are processed as a credit note at month end to the customer's account of customer consolidated account.
- **Head Office Rebates** – Administrative or head office rebates based on a % amount off a customer's invoice price for all transactions. These rebates generally apply to larger accounts or buying groups and can include rebates for administration and marketing of our products. Generally processed as via EFT on a bi-monthly or quarterly basis.
- **Settlement Discounts** – Discounts applied to account customers for payment of their statement/invoices within the payment term/period as agreed at time of their application for credit. The discount is processed at time of payment as a credit note on the customer's account/consolidated account.
- **Long Term Incentives / Volume Rebates** – Rebates related to customers reaching specified volume/purchase targets or incentives for purchasing/trading at a specified level over a period of time. Processed as an EFT payment or credit note, generally on an annual basis.
- **Other Rebates** – Rebates that aren't clearly categorised but can include the following:
  - *Individual item rebates* – agreed % or unit price rebate for a specified list of products purchased whereby. Payment can be either EFT or credit note and processed usually to head office or buying group.
  - *Opening Order Rebates* – Rebates associated with pipefill orders for new customers or stores. Generally, a specified % rebate off the opening purchased order value.
  - *Target Rebates* – Rebates provided to customers for use with to obtain business of agreed specific customer targets.
- **Where the reduction is not identified on the sales invoice, explain how you calculated the amounts shown in appendix A4 (domestic sales).**
- Trading rebates – calculated on the transaction line based on the rebate agreements with customer uploaded in MM Kembla's ERP system.
- Head Office Rebates - calculated on the transaction line based on the rebate agreements with customer uploaded in MM Kembla's ERP system.

- Settlement Discounts – calculated based on the payment terms associated with the relevant customer account.
- Long Term Incentives / Volume Rebates – calculated based on payments/accruals over the 12 month period and weighted across the customers associated transactions.
- Other Rebates - calculated based on payments/accruals over the 12 month period or related rebate period and weighted across the customers associated transactions.
- 
- **If you have issued credit notes (directly or indirectly) provide details if the credited amount has not been reported appendix A4 (domestic sales) as a discount or rebate.**

All credit notes and credited rebate amounts are shown in Appendix A4 (domestic sales). Credit notes relate to product returns, price discrepancies, damaged product and can be determined by the Invoice type “AR2” on the individual transaction lines. All other credit amounts are shown in “Rebates”.

- 9. Select two domestic sales in each quarter of the data supplied in appendix A4 (domestic sales). Provide a complete set of commercial documentation for these sales. Include, for example, purchase order, order acceptance, commercial invoice, discounts or rebates applicable, credit/debit notes, long or short term contract of sale, inland freight contract, and bank documentation showing proof of payment.**

MM Kembla has included two complete sets of commercial documentation for each quarter within the twelve month period to 31 December 2020. Please refer to Confidential Attachment A-5.9.

- 10. Provide a list of model control codes from appendix A4.**

The following details the Model Control Codes for the goods the subject of this application. Each category will be further categorised according to the outside diameter and thickness of the copper tube.

Product	Code	Category	Outside Diameter (mm)		Wall Thickness (mm)		AS/NZ Standard	Sales Data	Cost Data
			Min	Max.	Min	Max			
Seamless Copper Tube	SL	Lagged	9.52	22.22	0.71	1.69	AS1432	Mandatory	Mandatory
	SP	Plumbing	9.52	22.22	0.71	1.69	AS1432/AS1572	Mandatory	Mandatory
	SR	Refrigeration	9.52	22.22	0.71	1.69	ASNZ1571	Mandatory	Mandatory
	ML	Lagged	25.40	54.00	1.20	1.83	AS1432	Mandatory	Mandatory
	MP	Plumbing	25.40	54.00	1.20	1.83	AS1432	Mandatory	Mandatory
	MR	Refrigeration	25.40	54.00	1.20	1.83	ASNZ1571	Mandatory	Mandatory

**A-6 General accounting/administration information.**

**1. Specify your accounting period.**

MM Kembla's full financial year is 1 January to 31 December.

**2. Provide details of the address(es) where your financial records are held.**

MM Kembla financial records are held at 30 Gloucester Boulevard, Port Kembla, NSW 2506. Metal Manufactures Pty Limited consolidate accounts/records are held at 19-21 Loyalty Road, North Rocks, NSW, 2151.

**3. To the extent relevant to the application, please provide the following financial documents for the two most recently completed financial years plus any subsequent statements:**

- **chart of accounts;**

Metal Manufactures Pty Limited does not have a chart accounts, it is a consolidation of multiple charts. Please refer to Confidential Attachment A-3.3.1.

- **audited consolidated and unconsolidated financial statements (including all footnotes and the auditor's opinion);**

Audited statements for Metal Manufactures Limited are included at Confidential Attachment A-2.9 for 2018 and 2019.

As noted above, Metal Manufactures Limited changed its name on 29<sup>th</sup> November 2019 to Metal Manufactures Pty Limited. Metal Manufactures Pty Limited did not prepare financial statements for the 2019 financial year. Under ASIC Corporations Instrument 2016/785, MML Holdings Pty Limited as the parent of Metal Manufactures Pty Limited is the only company in the group that is required by ASIC to prepared audited consolidated financial statemdenst.

On 14<sup>th</sup> May 2020, MML Holdings Pty Limited changed its name to MML Holdings Limited. Unaudited financial statements for the year end 31 December 2019 for MML Holdings Limited are attached for your reference. Audited financial statements will be available in mid-June 2020.

- **internal financial statements, income statements (profit and loss reports), or management accounts, that are prepared and maintained in the normal course of business for the goods.**

*These documents should relate to:*

1. **the division or section/s of your business responsible for the production and sale of the goods covered by the application, and**
2. **the company overall.**

A copy of the MM Kembla January to December 2020 Profit and Loss are included at Confidential Attachment A-6.3.2.

**4. If your accounts are not audited, provide the unaudited financial statements for the two most recently completed financial years, together with your taxation returns. Any subsequent monthly, quarterly or half yearly statements should also be provided.**

Refer comments in section 3 above regarding financial statements.

**5. If your accounting practices, or aspects of your practices, differ from Australian generally accepted accounting principles, provide details.**

Metal Manufactures Limited accounts comply with Australian accounting standards as certified by independent auditors in the 2018 and 2019 Annual Report at Confidential Attachment A-2.9. The financial statements for MML Holdings Limited aslo comply with Australian accounting standards.

**6. Describe your accounting methodology, where applicable, for:**

- **The recognition/timing of income, and the impact of discounts, rebates, sales returns warranty claims and intercompany transfers;**

All recognised at despatch of goods, i.e. posted or accrued at date of despatch.

- **provisions for bad or doubtful debts;**

Three per cent general provision plus 100% specific provision for accounts more than 90 days.

- **the accounting treatment of general expenses and/or interest and the extent to which these are allocated to the cost of goods;**

General expenses are only allocated to the cost of goods where they are incurred in manufacturing overhead costs. Interest is not allocated to the cost of goods. Both general expenses and interest are recognised in the profit or loss on an accruals basis according to Australian Accounting Standards.

- **costing methods (eg by tonnes, units, revenue, activity, direct costs etc) and allocation of costs shared with other goods or processes;**

Manufacturing costs are determined using standard cost systems within the Baan ERP platform. Copper costs, including copper inventory hedge gains and losses, are directly costed on the basis of the actual weights for raw materials and work-in-process and nominal weights for finished goods items. Costs are allocated on an activity basis where possible, or generally allocated on the basis of tonnes or net-added-value.

- **the method of valuation for inventories of raw material, work-in-process, and finished goods (e.g. FIFO, weighted average cost);**

Inventory valuation is split between copper and fabrication cost. Copper is valued on a FIFO basis, with inventory hedge adjustments for copper and currency hedges being absorbed as required. Fabrication costs are based on the Baan ERP standard costs system. Inputs other than copper (such as plastic tube caps and tube insulation) are based on average purchase price.

- **valuation methods for scrap, by-products, or joint products;**

Copper production scrap is valued at the FIFO copper price, with no fabrication value. Scrap copper tube is remelted in the Billet Caster, then used normally in downstream production processes. There are no by-products or joint products.

- **valuation methods for damaged or sub-standard goods generated at the various stages of production;**

Damaged copper tube and sub-standard is valued at the FIFO copper price, with no fabrication value. Damaged copper tube is remelted in the Billet Caster, then used normally in downstream production processes.

- **valuation and revaluation of fixed assets;**

Fixed assets are carried at cost less depreciation, using prime cost method to depreciate. Fixed asset impairment (if any) is calculated at year end. Last building revaluation for the MM Kembla operations was in 1992.

- **average useful life for each class of production equipment, the depreciation method and depreciation rate used for each;**

Production equipment is classified in Fixed Asset Register (FAR) as “Plant”. Plant items are depreciated over 10 years, 10% depreciation rate using prime cost method.

- **treatment of foreign exchange gains and losses arising from transactions and from the translation of balance sheet items; and**

Foreign exchange gains and losses accounted for a hedge accounting basis.

- **restructuring costs, costs of plant closure, expenses for idle equipment and/or plant shut-downs.**

Not applicable during the injury periods.

7. **If the accounting methods used by your company have changed over the period covered by your application please provide an explanation of the changes, the date of change, and the reasons.**

MM Kembla’s accounting methods have not altered over the four-year period reflected in the financial data completed for this application.

**A-7 Cost information**

1. **Complete appendices A6.1 and A6.2 (cost to make and sell) for domestic and export sales.**

MM Kembla has completed Appendices A6.1 and A6.2 for the goods the subject of this application.

2. **Provide a list of model control codes from appendix A6.1 and A6.2.**

Each category will be further categorised according to the outside diameter and thickness of the copper tube.

Product	Code	Category	Outside Diameter (mm)		Wall Thickness (mm)		AS/NZ Standard	Sales Data	Cost Data
			Min	Max.	Min	Max			
Seamless Copper Tube	SL	Lagged	9.52	22.22	0.71	1.69	AS1432	Mandatory	Mandatory
	SP	Plumbing	9.52	22.22	0.71	1.69	AS1432/AS1572	Mandatory	Mandatory
	SR	Refrigeration	9.52	22.22	0.71	1.69	ASNZ1571	Mandatory	Mandatory
	ML	Lagged	25.40	54.00	1.20	1.83	AS1432	Mandatory	Mandatory
	MP	Plumbing	25.40	54.00	1.20	1.83	AS1432	Mandatory	Mandatory
	MR	Refrigeration	25.40	54.00	1.20	1.83	ASNZ1571	Mandatory	Mandatory

## A-8 Injury

The principal indicators of injury are price, volume and profit effects – although not all of these must be evident. For this application, profit refers to amounts earned. Profitability is the ratio of profit to sales revenue. Where the application includes a claim of threat of material injury you must also complete question C.2.

**1. Estimate the date when the material injury from dumped and/or subsidised imports commenced.**

MM Kembla considers that material injury from the dumping and subsidisation of the exports from China, and the dumping of copper tube from Korea to Australia, commenced in 2018. MM Kembla made an application for anti-dumping measures in June 2020 in respect of exports from China and Korea and, soon thereafter, imports of copper tube from Vietnam emerged in the Australian market for the first time. The material injury sustained from the dumped exports from China and Korea has continued in the latter half of 2020 (and into 2021) with the addition of the imports from Vietnam.

**2. Using the data from appendix A6 (cost to make and sell), complete the following tables for each model control code of your production. P<sup>n</sup> is the most recent period.**

*Index of production variations*

Period	2017	2018	2019	2020
Index	100	93.7	89.2	87.0

\*Use data from label A of appendix A6.1

Notes: 1. Production is the sum of domestic and export volumes.

MM Kembla has experienced a reduction in production tonnes of seamless copper tube in 2020 as imports from China, Korea and Vietnam have increased and displaced MM Kembla's sales.

*Index of cost variations*

Period	2017	2018	2019	2020
Index	100	112.2	110.3	110.4

\*use data from label J of appendix A6.1

MM Kembla's Cost to make and sell (CTMS) seamless copper tube increased by 12 per cent in 2018 and has remained relatively stable.

*Index of price variations*

Period	2017	2018	2019	2010
Index	100	108.0	108.0	107.5

\*Use data from label L of appendix A6.1



MM Kembla's weighted-average selling price has increased by 8 per cent since 2017, however, costs have increased at a much greater rate than selling prices, resulting in profit suppression.

*Index of profit variations*

Period	2017	2018	2019	2020
Index	100	61.2	42.1	20.6

\*use data from label N of Appendix 6.1

MM Kembla has experienced an erosion of its margin as raising selling prices has lagged cost increases – as MM Kembla competes with increasing volumes of imported copper tube.

*Index of profitability variations*

Period	2017	2018	2019	2010
Index	100	56.7	38.9	19.2

\*use data from label O of appendix A6.1

The applicant's profitability has reflected the deterioration in unit profit over the period to 2020.

3. **Complete appendix A7 (other injury factors).**

**Where applicable to injury claims, prepare an indexed table for other injury factor(s) in the format above.**

MM Kembla has completed Confidential Appendix A7 for "Other" economic indicators. The indices have been completed on a financial year (i.e. Jan to Dec) basis for four full years.

*Index of Revenue*

Period	2017	2018	2019	2020
Index	100	102.7	97.4	94.8

\*use data from appendix A7

MM Kembla's revenues from the goods has declined in 2019, and declined further in 2020.

*Index of Return on Investment*

Period	2017	2018	2019	2020
Index	100	-389.4	-801.5	-1036.6

\*use data from appendix A7

MM Kembla's return on investment for seamless copper tube the subject of this application has deteriorated since 2017, consistent with reductions in profit and profitability.

*Index of Capacity Utilisation*

Period	2017	2018	2019	2020
Index	100	99.3	84.3	70.3

\*use data from appendix A7

MM Kembla's production utilisation has declined significantly since 2018, as imports of the subject goods have increased.

*Index of employment*

Period	2017	2018	2019	2020 ytd
Index	100	100.2	92.0	86.3

\*use data from appendix A7

The Applicant has reduced its manufacturing personnel in 2019 as it has sought to reduce costs and overheads to remain competitive with imports.

*Index of Inventory*

Period	2017	2018	2019	2020 ytd
Index	100	140.4	154.7	59.8

\*use data from appendix A7

MM Kembla has experienced an increase in closing stocks at the end of 2018 and 2019 well above stock levels from earlier periods as it competes with increasing import volumes. A reduction in closing stock in 2020 has been due to the lower production rates of MM Kembla and the intended reduction of stock to reduce holding costs.

## A-9 Link between injury and dumped or subsidised imports

To establish grounds to initiate an investigation there must be evidence of a causal relationship between the injury and the alleged dumping or subsidisation. This section provides for an applicant to analyse the data provided in the application to establish this link. It is not necessary that injury be shown for each economic indicator.

### 1. Identify from the data at appendix A2 (Australian market) the influence of the volume of dumped and/or subsidised imports on your quarterly sales volume and market share.

In June 2020 MM Kembla made an application for anti-dumping measures on imports of seamless copper tube into Australia from Korea and China. The Anti-Dumping Commission (“the Commission”) initiated Investigation No. 557 (“Invest 557”) to examine the dumping and injury caused by imports from China and Korea.

MM Kembla’s application demonstrated that imports of seamless copper tube had increased over the most recent four-year period from approximately 4,900 tonnes in 2016/17, to 6,150 tonnes in 2019/20 (by approximately 25 per cent) for the twelve months to 31 March 2020. Over this same period MM Kembla’s sales of like goods declined by xxx per cent, with a particular sharp fall in 2019/20 of xxx per cent (following a small recovery in 2018/19). MM Kembla’s market share has declined by approximately xxx per cent since 2016/17, with a fall of approximately xxx per cent in 2019/20.

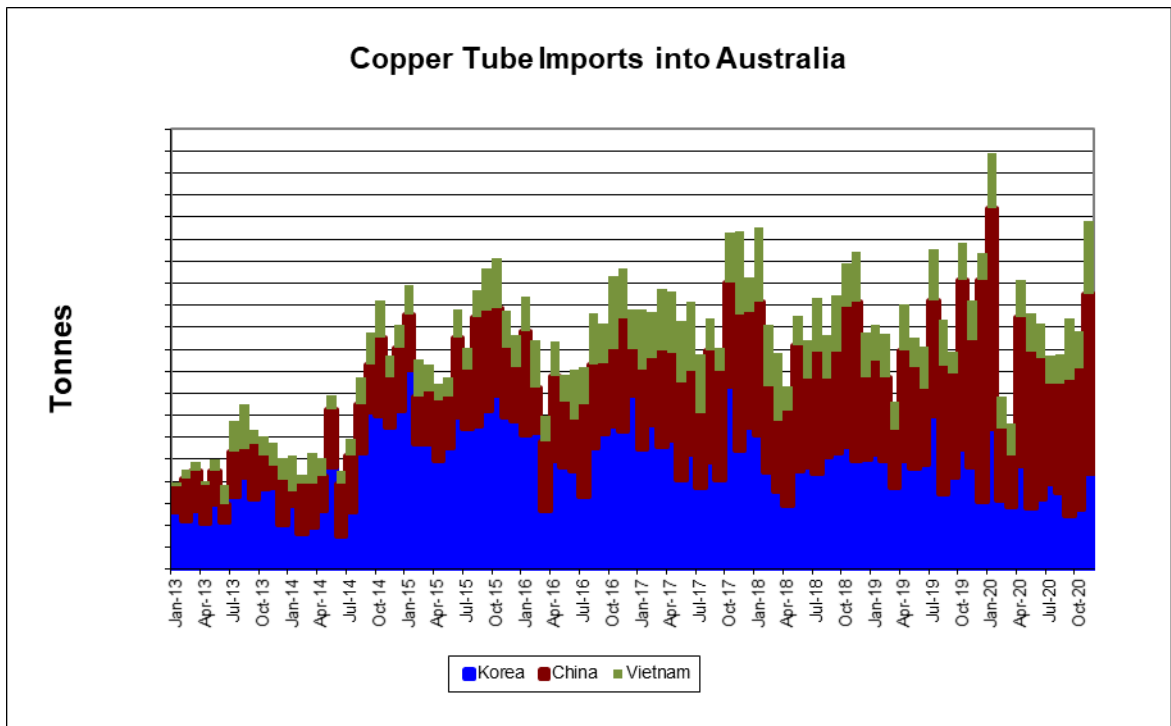
Specifically, imports from China increased approximately 62 per cent since 2016/17, with an increase of almost 30 per cent in 2019/20 (refer Confidential Appendix A2). The aggressively priced Chinese exports of seamless copper tube at prices that have undercut MM Kembla, have captured increased market share at MM Kembla’s expense (and at the expense of the exports from Korea).

Following the commencement of Invest 557 (in July 2020) imports of copper tube from Hailiang (Vietnam) Copper Manufacturing Company Limited (“Hailiang Vietnam”) commenced. Hailiang Copper Australia Pty Ltd (“Hailiang Australia”) is the importer of copper tube from its affiliated suppliers in China and now Vietnam. Prior to July 2020 there were no imports of subject goods copper tube into Australia from Vietnam. Hailiang Aust has commenced increased sourcing from Vietnam. As of the end of December 2020, approximately 1265 tonnes of copper tube was exported from Vietnam (refer Confidential Attachment B-2.4 for Vietnam export data) which account for 29 per cent of total copper tube imports in the July-December 2020 period.

Imports from Vietnam have emerged as a well-established source of seamless copper tube for the Hailiang Group to supply as an alternative to exports from China. Increasingly, it would appear that Hailiang Aust is shifting sourcing of copper tube away from China to Vietnam. The source of supply for Hailiang Aust sales into the market is not widely communicated, however, it is evident that the surging import volumes from Vietnam are capitalising on the expanded Australian market for copper tube in 2020 that has increased by approximately 12 per cent over the 2019 market size.

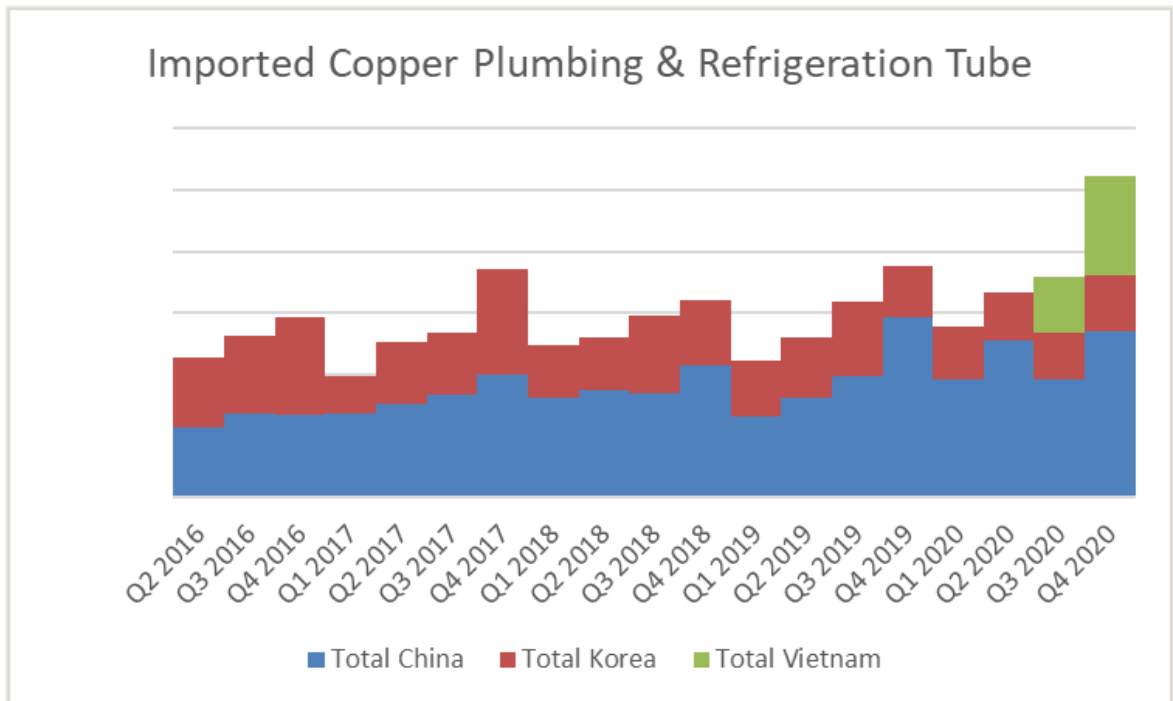
The chart reflects the volumes from China (and also now Vietnam) that have displaced MM Kembla’s locally produced sales and imports from Korea. It may be recalled that the sharp increase in imports in 2014 can be attributed to the closure of the Crane Copper Tube facility in Australia, and the closure of MM Kembla’s large bore copper tube production facility. The import volumes from China have in 2019/20 exceeded the levels apparent following the two plant closures in 2014.

Figure A-9.1.1 – Copper tube imports 2016/17 to 2019/20 ex China, Korea & Vietnam



Source: Ex ABS data at Confidential Attachment B-1.5.

Figure A-9.1.2 – Imports of Copper plumbing & refrigeration tube



Figures A-9.1.1 and A-9.1.2 confirm the emergence of imports from Vietnam and the continued increased level of cumulative imports from China and Korea.

2. Use the data at appendix A2 (Australian market) to show the influence of the price of dumped and/or subsidised imports on your quarterly prices, profits and profitability provided at appendix A6.1 (costs to make and sell). If appropriate, refer to any price undercutting and price depression evident in the market.

(i) Price suppression

MM Kembla outlined in its application for Invest 557 that Chinese exports of seamless copper tube were impacting MM Kembla's quarterly prices and volumes due to the price undercutting evident in the landed-into-store selling prices versus its selling prices. This position continues throughout 2020 and is aided by the sourcing of imports by the Hailiang Group (i.e. Hailiang Copper (Australia) Pty Ltd) dual-sourcing its product from China and Vietnam.

The increase in imports from China (and now Vietnam) is apparent as the cumulative import volume from both sources in the twelve months to September 2020 is almost 5,000 tonnes. Imports from China (and Vietnam) are now at their highest level over the recent four-year injury period.

MM Kembla indicated in its previous application that customer feedback suggests MM Kembla is 10 to 20 per cent *uncompetitive* with its pricing against imports. MM Kembla has had to hold prices in many instances (and reduce prices in others) in order to maintain sales volumes. Throughout this time, MM Kembla has incurred increasing costs of production, even though it has reduced employment numbers and improved productivity (see below).

MM Kembla has undertaken cost-saving initiatives across the last four-year period that improved productivity and were also intended to improve MM Kembla's Net Added Value ("NAV") on copper tube. With declines in FOB export prices for exports from China, Korea and Vietnam coinciding with increases in MM Kembla's CTMS, the benefits from improved efficiencies have not materialised. MM Kembla continues to experience price suppression and a reduction in profit and profitability through until December 2020, with further reductions expected in 2021. MM Kembla has indicated that the Hailiang Group has recently established warehousing facilities in Australia to sell direct to customers (now also supplemented with import volumes from Vietnam). This change in circumstances with the Chinese (and Vietnamese) exporter Hailiang establishing offices in Australia has been accompanied by aggressive pricing into 2020 which has undercut MM Kembla's pricing.

The following graph shows the decline in MM Kembla's margin over costs (i.e. price suppression) experienced through until December 2020. With increasing imports in the December 2020 quarter, further price suppression is anticipated in 2021.

**Figure A-9.2.1 – MM Kembla NAV v estimated Chinese and Vietnam NAV**

*[Commercially sensitive graph depicting margin analysis]*

As previously indicated, MM Kembla has calculated its Net Added Value (NAV) based upon the difference between its Net Selling Prices (NSV) and the prevailing London Metals Exchange (LME) market price for copper. MM Kembla has further calculated the Chinese (and Vietnam) NAV based upon its analysis of the Chinese & Vietnam CIF import prices, adjusted for LME copper prices. NAV is a critical aspect of MM Kembla's pricing strategy. The pricing of copper tube in the market can be considered as the sum of two price components, a Premium or NAV, and the LME copper price. For the determination of product prices these are usually represented as \$/tonne and converted to a final item price of \$/length. These two price components can be defined as follows with regards to Kembla's pricing strategy:

- Premium or NAV - includes cost of producing the goods (cost of fabrication), packaging and other materials excluding copper, freight and distribution costs, cathode premium and margin applied to the item; The NAV or Premium can be determined as the "Net Sell Price less LME Copper Price".
- LME Copper Price - the prevailing London Metals Exchange (LME) market price for copper. Typically MM Kembla prices are determined using the 2mth LME average converted to AUD.

Any reduction in NAV is reflective of reduced pricing in the market. In the absence of any reduction to the cost of producing the goods, the reduction in NAV results in a reduction to profit. Historically Average NAV's in the range of \$xxxx to \$xxxx per tonne are required to cover total costs and this puts a floor on MM Kembla pricing.

Of concern to MM Kembla is the decline in the Chinese (and Vietnam) NAV from the end of 2018, which has increased the price pressures on MM Kembla to compete and hold sales volumes. Over this same period, the NAV for imports from Korea has been relatively stable, although from the fourth quarter of 2019 the Chinese (and now the emerging Vietnam) NAV has reduced and has impacted the NAV for Korean imports also.

The following graph depicts the decline in selling price for MM Kembla's refrigeration tube since 2014 as it competes with imports from both China, Korea and Vietnam. Refrigeration tube is a major segment for MM Kembla locally produced seamless copper tube.

**Figure A-9.2.2 – MM Kembla Refrigeration Tube NAV \$/MT**

*[Commercially sensitive graph depicting margin analysis]*

(ii) Price undercutting

MM Kembla included ten examples of price undercutting it had previously experienced from dumped Chinese and Korean imports. As can be expected, importer and customers are reluctant to disclose competitor information that could potentially result in anti-dumping measures being imposed.

Despite this, MM Kembla is aware that the imported Vietnam seamless copper tube is being supplied into the market by the affiliated Australian importer. MM Kembla is aware that Hailiang product manufactured in Vietnam (refer Confidential Attachment A-9.2 (a)) has been sold according to the same pricing structure as detailed in MM Kembla's application for Invest 557.

MM Kembla has assessed the price undercutting evident on Hailiang Vietnam seamless copper tube to MM Kembla's most competitive price at approximately xx-xx per cent (refer Confidential Attachment A-9.2 (a), at P.3, 4).

The recent emergence of Vietnam as a source of supply has hampered opportunities to obtain reliable market intelligence as to the availability and supply of seamless copper tube imported from Vietnam. However, MM Kembla is aware that the imported Vietnam seamless copper tube is supplementing sales of imported seamless copper tube from China. The importer Hailiang Copper (Australia) Pty Ltd – is securing imports from Vietnam in anticipation of an adverse finding by the Commission on exports from China in Invest 557.

The emergence of imports from Vietnam during the third quarter of 2020, and confirmed by further increases in exports in the fourth quarter of 2020, establishes Vietnam as a material supplier of seamless copper tube to the Australian market. The import prices for seamless copper tube from Vietnam are assisting Hailiang Copper in maintaining prices at levels that undercut MM Kembla and contribute to further erosion of profit and profitability.

3. Compare the data at appendix A2 (Australian market) to identify the influence of dumped and/or subsidised imports on your quarterly costs to make and sell at appendix A6.1 (for example refer to changes in unit fixed costs or the ability to raise prices in response to material cost increases).

In its earlier application, MM Kembla demonstrated that it had experienced an increase in its unit CTMS since 2017. Due to the increasing competition from the dumped imports, MM Kembla has been unable to raise selling prices to recover increases in its CTMS. Whilst it is recognised that a significant proportion of this increase can be accounted for in rising LME copper prices, this increase should also be reflected in the selling prices of fairly-priced imports from China, Korea and Vietnam.

The MM Kembla copper tube price is determined by the 2-month average copper price plus a premium. This premium incorporates the net added value above the material price of copper. These premiums are calculated slightly differently by customer but the basis for its calculation has not increased in the last 8 years. In fact, the only changes to the calculation has seen premiums come down. Price reductions had been introduced for different bundle quantity price breaks reducing prices further. The inability to increase pricing has been driven by lower import tube pricing and the resulting increasing volumes of imported tube.

MM Kembla's cost of manufacturing copper tube products has steadily increased over the last 5 years. Cost increases in electricity, gas, wage rates, plant utilisation costs from reduced volumes has resulted in lower contributions. Total cost per tonne of manufacturing has increased xxx% in last 4 years despite constantly investing to drive productivity. Total SG&A costs have increased xxx% during his same period. Constant restructuring has been required reduce costs to compete as a consequent over the last 10 years employee number have reduced by xxx%.

In response to reducing profitability, MM Kembla has pursued cost-saving initiatives including reduced employee numbers, and improved productivity. The following graphs confirm the recent employment and productivity trends for MM Kembla.

**Figure A-9.3.1 – MM Kembla Tube & Fittings employee numbers**

*[Commercially sensitive graph depicting margin analysis]*



**Figure A-9.3.2 – MM Kembla productivity**

*[Commercially sensitive graph depicting margin analysis]*

Across the last 10 years MM Kembla has invested in productivity improvements to remain globally competitive, improving the key measure of KG's of output per man hour significantly over this time. Automation and flexible work practices particularly in material handling end of the manufacturing process has resulted in significant gains. Closure of all manufacturing in Brisbane and consolidating all production at Port Kembla allowed for more flexible use of labour between lines. Upgrades of PLC's systems delivered higher yields less downtime and fast line speeds increases productivity and capacity.

These improvements have been essential in the face of increasing import competition over the four-year injury period identified in this application. MM Kembla has been unable to pass on price increases for copper as it is forced to suppress prices in order to maintain volumes against aggressively dumped imports from China that have been matched with comparative selling prices for Korean imported copper tube. In 2020, MM Kembla has incurred losses as dumped imports undercut MM Kembla's prices further impacting MM Kembla's ability to raise prices to recover increases in costs.

4. **The quantity and prices of dumped and/or subsidised imported goods may affect various economic factors relevant to an Australian industry. These include, amongst other things, the return on investment in an industry, cash flow, the number of persons employed and their wages, the ability to raise capital, and the level of investment in the industry. Describe, as appropriate, the effect of dumped and/or subsidised imports on these factors and where applicable use references to the data you have provided at appendix A7 (other economic factors). If factors other than those listed at appendix A7 (other economic factors) are relevant, include discussion of those in response to this question.**

MM Kembla has completed Confidential Appendix A7 and is able to demonstrate injury in each of the following "other" indicators:

(a) Utilisation rates

The increasing exports to Australia from China have impacted MM Kembla's production and sales volumes for seamless copper tube. MM Kembla has experienced a deterioration in production utilisation – most notably in the 2020 year as utilisation rates for like goods have declined xx per cent.

(b) Increased inventories

The decline in production and sales has also made it difficult to manage inventories over the last three-year period. Stock levels for the subject goods have been higher in 2018 and 2019 than earlier periods.

(c) Return on Investment

MM Kembla's ROI has deteriorated year-on-year since 2017 as imports of dumped seamless copper tube have increased and MM Kembla has surrendered market share. Accompanying a decline on ROI is the ability of the business to attract capital for reinvestment purposes.

(d) Employment

As indicated above, MM Kembla has reduced employment numbers for people directly involved in the manufacture of the subject goods. In 2020, there was an almost xx per cent reduction in manufacturing employees involved in the production of like goods.

**5. Describe how the injury factors caused by dumping and/or subsidisation and suffered by the Australian industry are considered to be 'material'.**

The injury experienced by the Australian industry from the dumped exports from China and Korea – and extended and continued with imports from Vietnam - is considered to be “material” in nature.

Subsection 269TAE(2C) of the Customs Act details the requirements for assessing cumulative effects of exports of goods to Australia from different countries. The Dumping and Subsidy manual (“the Manual”<sup>0</sup>) provides oem guidance in this regard. The Manual confirms:

*“Where exports from more than one country are simultaneously the subject of anti-dumping investigations, the Minister may cumulatively assess the effects of such imports if:*

- *the investigations of those exports resulted from applications under section 269TB lodged with the Commissioner on the same day, or they resulted from applications under section 269TB lodged with the Commissioner on different days but the investigation periods for all the investigations overlap significantly; and*
- *the margin of dumping or the amount of countervailable subsidy is not negligible; and*
- *the volume of imports from each country is not negligible; and*
- *cumulative assessment is appropriate in light of: the conditions of competition between the imported goods; and the conditions of competition between the imported goods and the like domestic goods.*

*Only then can cumulation of injury be considered. Article 3.3 of the ADA and Article 15.3 of the SCM Agreement address this matter.”*

The investigation periods of Invest 557 and the proposed Investigation period for the exports of seamless copper tube from Vietnam (this application) will overlap by six months. This overlap is considered significant. The dumping margin for the subject imports is not negligible and the volume of imports from Vietnam is significantly not negligible. With respect to the terms of competition between the imported goods – they can be actively substituted in applications by end-users; and the terms of competition between the imported goods and the locally produced goods – they can also be substituted by the end-use consumer, are satisfied in this instance.

In further support of the terms of competition between the imports (from each of the three countries, between themselves) and the imports (from each of the three countries) with the locally produced goods it is confirmed that:

- there are common or similar channels of distribution during the investigation period;
- the trends in prices for the imported goods and the locally produced goods are similar; and
- the level of price undercutting from each of Chian, Korea and Vietnam is not insignificant, not insubstantial and not immaterial during the investigation period.

On this basis it is therefore reasonable for the Commissioner and the Minister to examine the cumulative effect of injury to the Australian industry from the dumping of imports in Invest 557 (i.e. from China and Korea) with the imports from Vitenam (the subject of this application).

The availability of the dumped and subsidised seamless copper tube exports from China, and the dumped exports from Korea, have impacted the Australian market for some years. In 2014, a second local producer Crane Copper Tube, exited from local manufacture in Australia due to continued reductions in import prices and lack of industry profitability. The Crane Copper Tube factory in Penrith ceased manufacturing and domestic trading at the end of 2014. Crane Copper Tube had been unprofitable for a number of years due to a range of factors including competitiveness with cheap imports. This resulted in 108 job losses.

In 2014 MM Kembla closed its large bore (greater than 54mm tube) due to declining critical scale, increasing costs of production and inability to get an adequate return on the required investment in plant upgrades. The free trade agreement with Korea further impacted MM Kembla's competitiveness with imports.

As a result of the closure of MM Kembla's No.2 large bore mill, xx operator positions were made redundant.

MM Kembla has demonstrated with examples of the pricing pressures (refer Part A-9.2 above) where it has encountered price undercutting from the dumped and subsidised Chinese exports from early 2018, and the dumped exports from Korea. The impact of the injurious exports has led to a decline in sales volumes, loss of market share, reduced employment as MM Kembla addresses its own cost base, and price suppression. Over the last two years (i.e. 2018/19 and 2019/20, MM Kembla's profit and profitability has deteriorated as the injurious imports – led by aggressive pricing by the Chinese exporter Hailiang (aided also by the benefit of subsidies received from the Government of China) with reducing NAVs, has significantly undercut MM Kembla's selling prices. This injury continues to increase as imports from Vietnam have emerged and prevented MM Kembla from participating in an expanding market in 2020. It is apparent from Hailiang Australia's strategy that it is committed to growing sales in the Australian market – through imports from both China and Vietnam.

MM Kembla has suffered injury that it is material as its profit has diminished since 2017. MM Kembla's profit achieved on sales in 2017 of \$xxx M was \$xxx M. In 2020 on sales of \$xxx M, and a xxxxxx profit. This reduction in profit is significant to MM Kembla's ongoing viability and is injury that is not "immaterial, insignificant or insubstantial" when contrasted with the revenues generated for this category of goods.

**6. Discuss factors other than dumped and/or subsidised imports that may have caused or may threaten to cause injury to the industry. This may be relevant to the application in that an industry weakened by other events may be more susceptible to injury from dumping and subsidisation.**

The manufacture of copper tube involves the purchasing of raw material refined copper or copper scrap. Both raw material inputs are priced in accordance with LME traded copper prices. The price of copper is a significant factor in the production costs of a copper tube manufacturer. Across the four-year period from 2016/17, demand for copper tube in Australia has increased moderately, yet MM Kembla's sales volumes and market share have deteriorated.

MM Kembla has demonstrated that it has experienced injury from the dumped exports from China and Korea as reflected in its NAV (i.e. net added-value) margin that is represented by the difference between selling price and raw material copper costs (as reflected in the LME price). This is despite MM Kembla reducing costs and improving productivity, which has delivered no benefit to MM Kembla's bottom line.

MM Kembla operates on an average NAV margin of circa \$xxxx to \$xxxx per tonne which it submits has been eroded due to the injurious effects of the dumping. Where offers for dumped imports are below this NAV, MM Kembla must walk away from the business. This has the impact of continuing to drive up manufacturing cost per tonne with the inability to recover in price due to price suppression from dumped imports.

MM Kembla has experienced increases in the cost of energy over the last couple of years. This

cost increase however has been relatively insignificant when contrasted with the price undercutting and price suppression experienced from the dumping (and subsidisation).

7. **This question is not mandatory, but may support your application. Where trends are evident in your estimate of the volume and prices of dumped and/or subsidised imports, forecast their impact on your industry's economic condition. Use the data at appendix A2 (Australian market), appendix A6 (cost to make and sell), and appendix A7 (other economic factors) to support your analysis.**

MM Kembla has demonstrated that exports of seamless copper tube from Vietnam have emerged since July 2020 following the commencement of Investigation 557 involving exports of the same goods from China and Korea.

This application further demonstrates that the exports to Australia from Vietnam from a Vietnamese exporter that is affiliated with the largest exporter in China (the subject of invest 557) are increasing and continue to do so throughout the July to December six-month period of 2020. The related Australian importer – Hailiang Australia – is importing increasing volumes from Vietnam to replace imports from China (the subject of Invest 557) to enable it to expand sales in Australia and capture increased market share in an expanding market (that grew by 12 per cent in 2020).

It is evident that the imports of seamless copper tube to Australia in 2020:

- Were not in negligible volumes (i.e. above 3 per cent); and
- Were at margins of dumping that are not negligible in the July to September and October to December 2020 quarters.

MM Kembla submits that the dumped and injurious imports from Vietnam have been sourced by the Australian importer to supplement the dumped and injurious imports from China. As such, it is appropriate to cumulate the injurious effects of the dumping, along with the injurious effects of the dumped imports from Korea, when examining the materiality of injury sustained by the Australian industry in accordance with subsection 269TAE(2C)).

The aggregate import volumes from China, Korea and Vietnam to December 2020 is the highest volume of imports over the injury period (and prior years). The growing volume of injurious imports at prices that undercut the Australian industry resulting in price suppression contributing to reduced profits and profitability, seriously jeopardises the viability of the Australian manufacturing industry for seamless copper tube.

MM Kembla has observed an increase in price undercutting from the end of 2019 as the Chinese (and now Vietnam) exporters seek to increase sales of seamless copper tube on the Australian market. Based upon the growth in the last twelve months for Chinese exports to Australia, a further increase in imports (including from Vietnam) is considered likely.

MM Kembla has also demonstrated that it has experienced injury in certain “other” economic indicators, including:

- reduction in return on investment;
- reduced capacity utilisation;
- reduced employment;
- increases in inventories from levels of 2018 and 2019, with a decline in 2020.

The injury experienced by MM Kembla has occurred at a time when MM Kembla has worked to improve productivity as represented by output per employee.

MM Kembla considers that the injury from the dumping from China, Korea and Vietnam is “material”. That is, the injury cannot be considered “*immaterial, insignificant or insubstantial*” when the reductions in market share, sales volumes (8 per cent), profit and profitability (from

profit to loss) are considered.

MM Kembla requests the Commissioner to initiate an investigation into the dumping of exports of seamless copper tube to Australia from Vietnam on the seamless copper tube market in Australia. MM Kembla further requests that the Commissioner pro-actively consider the imposition of provisional measures from Day 60 of the investigation to limit further material injury to the Australian industry from the dumped and injurious exports. Mm Kembla contends that this application is a “country hopping” application that necessitates the imposition of provisional measures from Day 60 of the investigation.

MM Kembla considers that early provisional measures are justified given the emergence and rapid increase in exports from Vietnam in a relatively short six month period in 2020. MM Kembla is concerned that in the absence of provisional measures, exporters in Vietnam will seek to further grow exports to Australia to secure market share at the expense of the Australian industry.

# PART B

## DUMPING

**IMPORTANT**

All questions in Part B should be answered even if the answer is 'Not applicable' or 'None' (unless the application is for countervailing duty only: refer Part C). If an Australian industry comprises more than one company/entity, Part B need only be completed once.

## B-1 Source of exports

### 1. Identify the country(ies) of export of the dumped goods.

The country of export of the goods is the Socialist Republic of Vietnam (“Vietnam”).

### 2. Identify whether each country is also the country of origin of the imported goods. If not, provide details.

The applicant understands that the country of export is also the country of origin for the goods (i.e. where the goods were manufactured).

### 3. If the source of the exports is a non-market economy, or an ‘economy in transition’ refer to Part C.4 and Part C.5 of the application.

Vietnam is not considered a non-market economy or economy in transition country for the purposes of Australia’s Anti-Dumping provisions.

### 4. Where possible, provide the names, addresses and contact details of:

- producers of the goods exported to Australia;
- exporters to Australia; and
- importers in Australia.

The following company are understood to be exporter of the goods from Vietnam:

- Hailiang (Vietnam) Copper Manufacturing Company Limited  
Lot 67, 68, 69A, 73, 75, & 76A Long Giang Industrial Park  
Tan Lap 1 Commune  
Tan Phuoc District, Tien Giang Province  
Vietnam  
  
Tel: 84 273 358 6389  
Fax: 84 273 364 2222

The following company is understood to be the importer of the goods from Vietnam:

- Hailiang Copper Australia Pty Ltd  
Level 30  
133 Castlereagh Street  
Sydney NSW 2000

### 5. If the import volume from each nominated country at Appendix A.2 (Australian Market) does not exceed 3% of all imports of the product into Australia refer to Part C.6 of the application.

Recently, imports of copper tube into Australia were predominantly from China and Korea only. However, from Jul 2020, imports of the subject goods commenced from Vietnam. MM Kembla considers that following the formal lodgement of its application in early June 2020, the Hailiang Group of companies sought to commence exports of copper tube from Vietnam as a means of continuing supply to the Australian market should anti-dumping measures be applied to exports from China.

In its application for Investigation 557 MM Kembla indicated it had “not encountered imports of copper tube from other sources of supply that fall within the description of the subject goods during the 2019/20 injury period”. Previous imports from Vietnam were understood to be pair coil, which are not the subject goods.

The following Table B-1.5 summarizes recent import volumes of copper tube into Australia.

**Table B-1.5 – Copper tube imports into Australia 2017 to 2020 (metric tonnes)**

	2017	2018	2019	2020	% of total in 2019/20
China	3277.4	3601.2	3912.7	4552.0	61.1%
Korea	2167.5	2026.2	1976.1	1634.0	21.9%
<b>Vietnam</b>	0	0	0	1265.2	17.0%
<b>Total</b>	5444.9	5627.4	5888.8	7451.2	

Notes: Vietnam data based upon more reliable export data.

MM Kembla understands that the Hailiang Group is increasing its exports of copper tube to Australia from Vietnam. According to the Vietnam export statistics for the period September to December 2020, a further 809.7 tonnes was exported which indicates that the volume exported from Vietnam is rapidly increasing (in both actual volume terms and as a percentage of total imports) and is estimated to account for approximately 30 per cent of total imports of copper tube over the period 1 July 2020 to 31 December 2020.

The imports from Vietnam therefore exceed more than 3 per cent of total import volumes in 2020.

Refer to Confidential Attachment B-4.2 for ABS import data.

6. **In the case of an application for countervailing measures against exports from a developing country, if the import volume from each nominated country at Appendix A.2 (Australian Market) does not exceed 4% of all imports of the product into Australia refer to Part C.6 of the application.**

The imports from Vietnam exceed 4 per cent of total imports in 2020, and therefore above negligible volume levels.

## B-2 Export price

Possible sources of information on export price include export price lists; estimates from the Australian Bureau of Statistics; a deductive export price calculation from the Australian selling price of the imported goods; export sales quotations or invoices; foreign government export trade clearances.

1. **Indicate the FOB export price(s) of the imported goods. Where there are different model control codes or levels of trade involved, an export price should be supplied for each.**

MM Kembla has obtained Australian Bureau of Statistics (“ABS”) import data for seamless copper tube imported under subheading 7411.10.00 statistical code 11.

Imported copper tube classified to 7411.10.00 includes copper tube of all dimensions. MM Kembla has examined the ABS import data and, based upon its broader knowledge of the Australian copper tube market, has assessed the goods that likely fall within the range of the goods the subject of this application.

Based upon this analysis (which reflects a combination of export volumes from Vietnam, MM Kembla has identified the competitive imports to MM Kembla’s copper tube manufacture in Australia.

The FOB export values for the subject goods as published in the ABS data for subheading 7411.10.00 statistical code 11, on a quarterly basis, are as follows:



**Table B-2.1.1 – Vietnam Quarterly A\$FOB Values**

Vietnam	Qty	Value (A\$FOB)	Unit A\$FOB/MT
Jan-Mar 2020	0		
Apr-Jun 2020	0		
Jul-Sep 2020	455.488	4,998,196	\$10,973
Oct-Dec 2020	809.694	9,526,959	\$11,766

Source: Vietnam export data.,

Please refer to Confidential Attachment B-2.1 for Vietnam export data.

**2. Specify the terms and conditions of the sale, where known.**

The FOB export prices are considered to be point of export, in Vietnam. The FOB price includes export inland freight.

**3. If you consider published export prices are inadequate, or do not appropriately reflect actual prices, please calculate a deductive export price for the goods. Appendix B1 (Deductive Export Price) can be used to assist your estimation.**

MM Kembla considers that the ABS data from which the A\$FOB unit prices for seamless copper tube have been derived are reliable for the purposes of comparing with prevailing normal values.

**4. It is important that the application be supported by evidence to show how export price(s) have been calculated or estimated. The evidence should identify the source(s) of data.**

MM Kembla has included ABS import data at Confidential Attachment B-1.5.

**B-3 Selling price (normal value) in the exporter's domestic market**

Possible sources of information about domestic selling prices in the country of export include: price lists for domestic sales (with information on discounts); actual quotations or invoices relating to domestic sales; published material providing information on the domestic selling prices; or market research undertaken on behalf of the applicant.

**1. State the selling price for each model control code of like goods sold by the exporter, or other sellers, on the domestic market of the country of export.**

Domestic selling prices for copper tube in Vietnam are not published in industry newsletters or publications. MM Kembla does not have access to domestic selling prices for copper tube on the domestic market in Vietnam. MM Kembla is therefore unable to determine normal values for copper tube sold in Korea in accordance with subsection 269TAC(1) based upon domestic selling prices.

Please refer to B-4 below for *prima facie* normal values for copper tube in Vietnam.

**2. Specify the terms and conditions of the sale, where known.**

Please refer to Part B-4.1.

**3. Provide supporting documentary evidence.**

Please refer to Part B-4.1.

**4. List the names and contact details of other known sellers of like goods in the domestic market of the exporting country.**

MM Kembla has identified the exporter of copper tube from Vietnam at Part B-1.2 above.

**B-4 Estimate of normal value using another method**

This section is not mandatory. It need only be completed where there is no reliable information available about selling prices in the exporter's domestic market. Other methods of calculating a normal value include:

- the cost to make the exported goods plus the selling and administration costs (as if they were sold in the exporter's domestic market) plus an amount for profit (if applicable);
- OR
- the selling price of like goods from the country of export to a third country.

**1. Indicate the normal value of the like goods in the country of export using another method (if applicable, use appendix B2 Constructed Normal Value).**

(i) Introduction

MM Kembla does have acces to export pricing information for copper tube exported from Vietnam to third countries (for the purposes of determining normal values in accordance with subsection 269TAC(2)(d)). This information, however, cannot be assessed as reliable as it likely includes exports of pair coil, which would distort normal values for Vietnam copper tube. MM Kembla has therefore constructed selling prices in Vietnam for the purposes of determining *prima facie* normal values for seamless copper tube.

(ii) Methodology

MM Kembla has obtained LME prices for refined copper from an industry source source (LME.com<sup>1</sup>) and constructed a selling price for seamless copper tube manufactured in Vietnam using MM Kembla's 2020 manufacturing costs. Costs for labour and electricity have been adjusted to reflect labour and electricity expenses in Vietnam in 2020.

MM Kembla has applied fixed and other variable costs from its own manufacturing costs to arrive at a cost to manufacture. To this, an amount for selling and general administrative expenses has been added. For profit, the Applicant has obtained the profit achieved by the Hailiang Group in its 2018 financial year and included this in the normal value calculation.

**2. Provide supporting documentary evidence.**

Refer to Confidential Attachment B-4.1 for basis for *prima facie* normal values for seamless copper tube sold in Vietnam.

<sup>1</sup> [Lme.com/en-GB/Metals/Non-ferrous/Copper#tabIndex=0](https://www.lme.com/en-GB/Metals/Non-ferrous/Copper#tabIndex=0)

## B-5 Adjustments

A fair comparison must be made between the export price and the normal value. Adjustments should be made for differences in the terms and circumstances of the sales such as the level of trade, physical characteristics, taxes or other factors that affect price comparability.

- 1. Provide details of any known differences between the export price and the normal value. Include supporting information, including the basis of estimates.**

MM Kembla is aware that adjustments to normal value are required for packing for export and export inland freight (from manufacturer to port of export). MM Kembla does not have access to the costs associated with the export of the subject goods as incurred in Vietnam and therefore has not included such amounts in the calculation of dumping margins.

The inclusion of the identified adjustments will result in net upward adjustments to the exporter's normal values.

- 2. State the amount of adjustment required for each and apply the adjustments to the domestic prices to calculate normal values. Include supporting information, including the basis of estimates.**

The Applicant does not have access to cost information for packing and export inland freight in Vietnam and has not included estimates in normal value assessments.

## B-6 Dumping margin

- 1. Subtract the export price from the normal value for each model control code of the goods (after adjusting for any differences affecting price comparability).**

The Applicant has calculated weighted-average quarterly dumping margins for seamless copper tube exported from Vietnam for the two quarters July to September 2020 and October to December 2020, over which periods exports from Vietnam emerged on the Australian market.

Table 6.1 identifies dumping margin calculations for the subject goods exported to Australia during 2020.

**Table B-6.1 – Weighted average dumping margins – Vietnam**

	<b>Jan-Mar 2020</b>	<b>Apr-Jun 2020</b>	<b>Jul-Sep 2020</b>	<b>Oct-Dec 2020</b>
Margin A\$/MT	No exports	No exports	\$1510	\$1464
Margin as % of export price			13.77	12.44

The weighted average dumping margin for Vietnam for the two quarters from 1 July 2020 to 31 December 2020 (period in which imports from Vietnam emerged) was \$1481 per tonne (or 12.90 per cent).

- 2. Show dumping margins as a percentage of the export price.**

Please refer to Part B-6.1 for margins as a percentage of export price.

# PART C

## SUPPLEMENTARY SECTION

**IMPORTANT**

Replies to questions in Part C are not mandatory in all instances, but may be mandatory for certain applications.

## C-1 Subsidy

This section must be completed where countervailing duties are sought to offset foreign government assistance through subsidies to exporters or producers.

If the application is for countervailing duty alone, the domestic price information required by Part B of the application need not be supplied.

Responses to questions A-9 will need to identify the link between subsidisation and injury.

1. **Identify the subsidy paid in the country of export or origin. Provide supporting evidence including details of:**
  - (i) **the nature and title of the subsidy;**
  - (ii) **the government agency responsible for administering the subsidy;**
  - (iii) **the recipients of the subsidy; and**
  - (iv) **the amount of the subsidy.**

This application for anti-dumping measures on copper tube exported from Vietnam does not include an application for countervailing measures.

## C-2. Threat of material injury

1. **Identify the change(s) in circumstances that would make material injury foreseeable and imminent unless dumping or countervailing measures were imposed, for example by having regard to:**
  - (i) **the rate of increase of dumped/subsidised imports;**
  - (ii) **changes to the available capacity of the exporter(s);**
  - (iii) **the prices of imports that will have a significant depressing or suppressing effect on domestic prices and lead to further imports;**
  - (iv) **inventories of the product to be investigated;**
  - (v) **for applications claiming subsidisation, the nature of the subsidies in question and the trade effects likely to arise therefrom; or**
  - (vi) **any other relevant factor(s).**

### I. Emerging imports from Vietnam

In its earlier application of May 2020 (Invest 557) MM Kembla indicated that it was concerned about the likelihood of an increase in imports – initially from China and Korea. However, as has been demonstrated in the subsequent six-month period following the lodgement of MM Kembla's application against exports from China and Korea, the affiliated company of the largest Chinese exporter, Hailiang (Vietnam) Copper Manufacturing Co Ltd has emerged as an exporter of seamless copper tube to Australia.

### II. Impact of Vietnam imports

In a short six-month period, the exporter in Vietnam has exported approximately 1,265 tonnes to Australia – representing approximately 29 per cent of total imports in the July-December 2020 half-year. On this growth path, it is anticipated that Vietnam will emerge as the largest source of imported copper tube to Australia during 2021. The imports from Vietnam are anticipated to continue to grow and displace imports from China – which accounted for 60 per cent of total imports in 2020. The Australian importer – Hailiang Australia – is strategically replacing imports from China with increased volumes sourced from Vietnam. At the present accelerated rate, imports from Vietnam will displace China as Hailiang Australia's primary source of supply – and will capture the market growth apparent in 2020, further reducing MM Kembla's sales volumes and market share.

It is recalled that the exports from China have increased by more than 60 per cent since 2016/17 and appeared to be continuing to grow (and supplemented by volumes from Vietnam) in light of the price undercutting that has increased since early 2018. The price undercutting has retarded MM Kembla's ability to raise prices to recover increases in costs – particularly raw material copper costs – and has caused price suppression, and reduced profit and profitability to the Australian industry.

III. Foreseeable and imminent threat of material injury from Vietnam imports

As evidence that the imports from Vietnam (and China and Korea) pose a “foreseeable and imminent threat” of material injury, MM Kembla directs the Commission to the recent trend in declining NAVs for copper tube exported by the Hailiang Group of companies (both China and Vietnam). In 2020, Hailiang has revised its selling prices (downwards) for its main copper tube export lines on numerous occasions. This reduction in NAV for Hailiang's exported copper tube also influences the pricing behaviour for importers of Korean copper tube that also adjust prices to remain competitive. MM Kembla, meanwhile, must either match the prices or walk away from the sales. The reductions in selling prices by Hailiang demonstrate a future threat of injury that is “foreseeable and imminent” and will result in reduced selling prices and further lost sales volumes and market share for MM Kembla.

MM Kembla considers that in the absence of anti-dumping measures, the Australian industry will continue to experience material injury from the increasing exports from China and now Vietnam, and the dumped exports from Korea that have been priced to match Chinese exports to Australia. Based upon trends evident in the July to December 2020 period, imports from Vietnam will surpass volumes from China during 2021 resulting in further lost market share for the Australian industry. The material injury to the Australian industry from the dumping of exports from Vietnam is therefore appropriately cumulated with the material injury from dumped exports from China and Korea, and is considered ‘*foreseeable and imminent*’ and represents a significant future threat of injury to the Australian industry manufacturing like goods.

**2. If appropriate, include an analysis of trends (or a projection of trends) and market conditions illustrating that material injury is both foreseeable and imminent.**

Refer to comments at C-2.1 above future trends of increasing exports of seamless copper tube to Australia from Vietnam (as well as China and Korea). The continued downward spiral in NAVs for imported copper tube poses a significant threat to the viability of manufacture of copper tube in Australia. At recent levels evidenced in export FOB export prices to Australia from Vietnam, MM Kembla cannot compete with the dumping, as it is unable to operate profitably on the domestic market.

**C-3. Close processed agricultural goods**

Where it is established that the like (processed) goods are closely related to the locally produced (unprocessed) raw agricultural goods, then – for the purposes of injury assessment – the producers of the raw agricultural goods form part of the Australian industry. This section is to be completed only where processed agricultural goods are the subject of the application. **Applicants are advised to contact the Commission's client support section before completing this section.**

**1. Fully describe the locally produced raw agricultural goods.**

Seamless copper tube is not close processed agricultural goods. This question is not applicable.

**2. Provide details showing that the raw agricultural goods are devoted substantially or completely to the processed agricultural goods.**

Not applicable.

3. **Provide details showing that the processed agricultural goods are derived substantially or completely from the raw agricultural goods.**

Not applicable.

4. **Provide information to establish either:**

- **a close relationship between the price of the raw agricultural goods and the processed agricultural goods; or**
- **that the cost of the raw agricultural goods is a significant part of the production cost of the processed agricultural goods.**

Not applicable.

#### **C-4. Exports from a non-market economy**

Complete this section only if exports from a non-market economy are covered by the application. The domestic price information required by Part B of the application need not be supplied if this question is answered.

Normal values for non-market economies may be established by reference to selling prices or to costs to make and sell the goods in a comparable market economy country.

1. **Provide evidence the country of export is a non-market economy. A non-market economy exists where the government has a monopoly, or a substantial monopoly, of trade in the country of export and determines (or substantially influences) the domestic price of like goods in that country.**

Vietnam is not considered a “non-market economy” for the purposes of Australia’s Anti-Dumping provisions.

This question does not apply to this application.

2. **Nominate a comparable market economy to establish selling prices.**

This question does not apply to this application.

3. **Explain the basis for selection of the comparable market economy country.**

This question does not apply to this application.

4. **Indicate the selling price (or the cost to make and sell) for each model control code of the goods sold in the comparable market economy country. Provide supporting evidence.**

This question does not apply to this application.

#### **C-5 Exports from an ‘economy in transition’**

An ‘economy in transition’ exists where the government of the country of export had a monopoly, or substantial monopoly, on the trade of that country (such as per question C-4) and that situation no longer applies.

Complete this section only if exports from an ‘economy in transition’ are covered by the application. **Applicants are advised to contact the Commission’s client support section before completing this section**

**1. Provide information establishing that the country of export is an ‘economy in transition’.**

Vietnam is not considered an “economy in transition” country for the purposes of Australia’s Anti-Dumping provisions. This question is not applicable.

**2. A price control situation exists where the price of the goods is controlled or substantially controlled by a government in the country of export. Provide evidence that a price control situation exists in the country of export in respect of like goods.**

This question does not apply to this application.

**3. Provide information (reasonably available to you) that raw material inputs used in manufacturing/producing the exported goods are supplied by an enterprise wholly owned by a government, at any level, of the country of export.**

This question does not apply to this application.

**4. Estimate a ‘normal value’ for the goods in the country of export for comparison with export price. Provide evidence to support your estimate.**

This question does not apply to this application.

**C-6 Aggregation of Volumes of dumped goods**

Only answer this question if required by question B-1.5 of the application and action is sought against countries that individually account for less than 3% of total imports from all countries (or 4% in the case of subsidised goods from developing countries). To be included in an investigation, they must collectively account for more than 7% of the total (or 9% in the case of subsidised goods from developing countries).

	Quantity	%	Value	%
All imports into Australia		100%		100%
Country A*				
Country B*				
etc*				
<b>Total</b>				

\* Only include countries that account for less than 3% of all imports (or 4% in the case of subsidised goods from developing countries). Use the data at [Appendix A.2](#) (Australian Market) to complete the table.

The goods the subject of this application exported from Vietnam do not account for less than 3 per cent of the total import volume of goods imported into Australia during the 2020 period.



## APPENDICES

Appendix A1	Australian Production (to Dec 2020)
Appendix A2	Australian Market (to Dec 2020)
Appendix A3	Sales Turnover (A3 Turnover Sched A5 other Production to Dec 2020)
Appendix A4	Domestic Sales Data (to Dec 2020)
Appendix A5	Sales of Other Production (A3 Turnover Sched A5 other production to Dec 2020)
Appendix A6.1	A6.1 and A6.2 (to Dec 2020)
Appendix A6.2	A6.1 and A6.2 (to Dec 2020)
Appendix A7	Other Factors (to Dec 2020)
Appendix A8	Authority to Deal With Representative
Appendix B1	Deductive Export Price
Appendix B2	Constructed Normal Value