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# ANTI-DUMPING NOTICE NO. 2021/066

*Customs Act 1901*

*Customs (Preliminary Affirmative Determinations) Direction 2015*

## **Certain copper tube exported from the Socialist Republic of Vietnam**

### **Investigation No. 580 into alleged dumping**

### **Day 60 Status Report**

#### **Introduction**

The purpose of this Status Report is to set out the reasons why I, Dr Bradley Armstrong PSM, Commissioner of the Anti-Dumping Commission (Commissioner), have not made a preliminary affirmative determination (PAD) under section 269TD(1) of the *Customs Act 1901*<sup>1</sup> on 21 May 2021, being 60 days after the initiation of the investigation into the alleged dumping of certain copper tube (the goods) exported to Australia from the Socialist Republic of Vietnam (Vietnam).

This report and the findings contained herein reflect the status of the investigation at day 60. My findings may change as a result of further information, submissions, analysis or verification. Accordingly, I, at any time from day 60 onwards during the investigation, may make a PAD if I am satisfied of the requirements set out in section 269TD(1).

#### **Background**

On 22 March 2021, I initiated an investigation into the alleged dumping of copper tube following an application by Metal Manufacturers Pty Ltd trading as MM Kembla under section 269TB. Further details can be found in the public notice published on 22 March 2021 (refer to Anti-Dumping Notice No. 2021/41 at [www.adcommission.gov.au](http://www.adcommission.gov.au)).

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

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

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<sup>1</sup> All legislative references in this report are to the *Customs Act 1901* unless otherwise specified.

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

## **Reasons**

### *Information considered*

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

- MM Kembla's application;
- submissions received by 28 April 2021 concerning publication of the dumping duty notice in response to the initiation of the investigation;<sup>2</sup> and
- any other matters that I considered relevant.

The Commission has granted a 28 day extension to Hailiang (Vietnam) Copper Manufacturing Company Limited to provide a response to the exporter questionnaire. The response is due 26 May 2021.

### *Reasons for not making a PAD*

The Commission is currently examining various issues in the investigation, including assessing the applicant's claim that injury from the allegedly dumped goods exported from Vietnam should be cumulated with injury from exporters subject to Investigation 557 (certain copper tube exported from the People's Republic of China and the Republic of Korea).<sup>3</sup>

Presently, information available to the Commission at Day 60 of the investigation, including information in connection with normal values and export prices of the goods, is not yet sufficient to ascertain:

- if the goods exported to Australia have been dumped (above negligible levels in accordance with section 269TDA); or
- whether those goods, if dumped at above negligible levels, has caused or is causing material injury to the Australian Industry.

All of the above issues and information are critical to determining whether a PAD is warranted at this stage.

As a result, at the time of making this report, I am unable to establish that there appear to be sufficient grounds for the publication of a PAD or that it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods. Accordingly, I have not made a PAD.

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<sup>2</sup> No submissions were received by 28 April 2021.

<sup>3</sup> Section 5.3.2 of *Consideration Report No. 580* is available on the Electronic Public Record at [www.adcommission.gov.au](http://www.adcommission.gov.au).

## **Other considerations**

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

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

I have decided relief is not warranted at this particular time, because I am not satisfied that there appears to be sufficient grounds to establish that the goods are dumped or to establish a causal link between the dumped goods and material injury, for the reasons outlined above. However, I will continue to assess the need for a PAD and make one as soon as there appears to be sufficient grounds to do so based on the evidence available to me.

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

After publishing this report, I must reconsider whether to make a PAD at least once prior to the publication of the Statement of Essential Facts (SEF) required under section 269TDAA. The SEF is due to be published by 10 July 2021.<sup>4</sup> Prior to the publication or in the SEF, I will advise whether I made a PAD subsequent to this report and the reasons for my decision.

## **Anti-Dumping Commission Contact**

Enquiries about this report may be directed to [investigations4@adcommission.gov.au](mailto:investigations4@adcommission.gov.au).

Dr Bradley Armstrong PSM  
Commissioner  
Anti-Dumping Commission

21 May 2021

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<sup>4</sup> As this date falls on a Saturday, the SEF is due on Monday, 12 July 2021.