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Australian Government
Department of Industry, Science,
Energy and Resources

**Anti-Dumping
Commission**



中华人民共和国商务部
Ministry of Commerce of the People's Republic of China

**GOVERNMENT SUPPLEMENTARY
QUESTIONNAIRE**

The People's Republic of China

Case number: 557

Product: Certain Copper Tube

From: The People's Republic of China

Investigation period: 1 July 2019 to 30 June 2020

Response due by: Extended to 2 November 2020

Return completed questionnaire to: investigations2@adcommission.gov.au

Anti-Dumping Commission website: www.adcommission.gov.au

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SECTION A BACKGROUND AND GENERAL INSTRUCTIONS

A1. Background

On 13 July 2020, following an application by Metal Manufactures Pty Ltd trading as MM Kembla (MM Kembla), the Commissioner of the Anti-Dumping Commission (the Commissioner) initiated a dumping and countervailing investigation in respect of certain copper tube exported to Australia from the People's Republic of China (China). On the same day, the Commissioner also initiated a dumping investigation in respect of certain copper tube exported to Australia from the Republic of Korea (Korea).

MM Kembla alleges that the Australian industry has suffered material injury caused by certain copper tube exported to Australia from China and Korea (collectively, the subject countries) at dumped and subsidised prices.

Anti-Dumping Notice (ADN) No. 2020/071 outlining the details of the investigation and the procedures to be followed during the investigation was published on 13 July 2020 on the Anti-Dumping Commission's (the Commission) website at www.adcommission.gov.au.

A2. Goods under consideration

The goods under consideration (the goods) i.e. the goods exported to Australia, allegedly at dumped prices and/or in receipt of countervailable subsidies, 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.*

Additional information

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

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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

Tariff Classification

The goods may be classified in Schedule 3 to the *Customs Tariff Act 1995* as follows:

Tariff Subheading	Statistical Code	Description
7411.10.00	11	Copper tubes and pipes of refined copper

A3. Investigation period

The existence and amount of any dumping and subsidisation in relation to the goods exported to Australia from the subject countries will be determined on the basis of an investigation period of **1 July 2019 to 30 June 2020** (the investigation period).

The Commission will examine details of the Australian market from 1 July 2016 for injury analysis purposes.

A4. Purpose of this questionnaire

The purpose of this supplementary questionnaire is to assist the Commission to obtain further information from the Government of China (GOC) it considers necessary for the investigation of the allegations made by the applicant that a “particular market situation” exists in the domestic market in China and that selling prices for copper tube in China are not suitable for determining normal values under subsection 269TAC(1) of the Customs Act.

Any additional questions, if necessary, will be put to the GOC using further supplementary questionnaires.

A5. Response to this questionnaire

The GOC does not have to complete this supplementary questionnaire. However, if the GOC does not respond, the Commission may be required to rely on information supplied by other parties, including information supplied by the Australian industry (the applicant for the countervailing measures).

Therefore, it may be in the GOC’s interests and the interest of Chinese exporters of the goods to provide a complete response.

If the GOC chooses to respond to this questionnaire, the response is due by **Monday, 19 October 2020**.

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The due date for the Government of China (“the GOC”) to respond to this questionnaire was extended by the Commission to 2 November 2020.

A6. If you decide to respond

Should the GOC choose to provide a response to this supplementary questionnaire, please note the following:

Confidential and non-confidential versions

If the GOC chooses to respond to this questionnaire, you are required to lodge a “for official use only” and a “public record” version of your submission by the due date.

In submitting these versions, please ensure that each page of the information you provide is clearly marked either “**FOR OFFICIAL USE ONLY**” (for the confidential version) or “**PUBLIC RECORD**” (for the non-confidential version) in the header and footer.

All information provided to the Commission “for official use only” will be treated confidentially. The public record version of your submission will be placed on the public record, which all interested parties can access.

Your public record submission must contain sufficient detail to allow a reasonable understanding of the substance of the “for official use only” version. If, for some reason, you cannot produce a public record summary, contact the investigation case manager (see contact details on Page 1 of this questionnaire).

Declaration

You are required to make a declaration that the information contained in the GOC’s response is complete and correct. You must return the signed declaration of an authorised GOC official at Section C of this questionnaire with the GOC’s response.

Coordination of responses

In completing the supplementary questionnaire, if a question requires information from other authorities (e.g. provincial or local governments, state owned entities, etc.) please forward the questions to the relevant source.

However, it is the responsibility of the GOC to ensure that a full and complete response to all sections of the questionnaire is submitted, and that responses from all levels of governments, agencies and/or other applicable entities are collated and coordinated in the one response.

Consultants/parties acting on your behalf

If you intend to have another party acting on your behalf please advise the Commission of the relevant details.

The Commission will require a written authorisation from the GOC for any party acting on its behalf.

The TRIB confirms that Moulis Legal (Australian legal counsel) and Allbright Law Offices (Chinese legal counsel) have been appointed to act on behalf of the GOC in this matter.

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Provision of documents

Documents are requested from the GOC in this questionnaire. In many cases, the titles or description of these documents within the questionnaire may not correlate to the official title that the GOC has granted each document, but is rather a descriptor of the document to the best of the Commission's knowledge.

If the listed title is unknown to the GOC but a document that appears to be similar to the requested document, relates to a similar topic area, or otherwise would be considered to contain useful information is identified by the GOC, please provide this document.

Further, when providing requested documents, please indicate whether the documents:

- are currently in force;
- were in force during the investigation period; or
- have been repealed, revised or superseded.

Where the documents have been repealed, revised or superseded:

- indicate when this revision occurred;
- provide any notice of repeal;
- provide the revised version;
- provide the document that supersedes the requested document; and
- indicate whether the revised version was in force during the investigation period.

Responses to questions should:

- be as accurate and complete as possible, and attach all relevant supporting documents,¹ even where not specifically requested in this questionnaire;
- be in English (with fully translated versions of all requested and other applicable documents submitted);
- list your source(s) of information for each question;
- identify all units of measurement used in any tables, lists and calculations;
- show any amounts in the currency in which they were originally denominated.

Please note that references throughout this supplementary questionnaire to companies benefiting from a particular program should be read as including any parent and associated

¹ This includes, but is not limited to, any laws, decrees, regulations, statements of policy, or other administrative guidelines. In each case, include any legislative history as well as other descriptive materials and explanations of the criteria underlying the decisions relating to each of the programmes mentioned in this questionnaire. If applicable, a sample of each of the applications that a company must complete to participate in each of the programs should also be included.

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companies, and, if the company has been subject to merger or acquisition, any former associated companies or former parent companies.

Also note that answers such as "Not Applicable", or an answer that only refers to an exhibit or an attachment without any explanation, may be considered to be inadequate by the Commission. We therefore suggest that in answering the questions you outline the key elements of your response in the primary submission document, and not merely refer to supporting documents, the relevance and reliability of which has not been explained in your answer.

Lodgement

Lodgement by email is preferred. The email address for lodgement is shown on the front cover of this questionnaire. If you lodge by email, you are still required to provide a "for official use only" and "public record" version of your submission by the due date.

In completing any lists of names and addresses requested throughout this questionnaire, electronic responses in a Microsoft Excel spreadsheet would be preferred.

A7. Clarification

If you have any difficulties in completing the supplementary questionnaire, or require clarification on any questions asked, contact the Commission as soon as possible.

A8. Future questions and verification

Please note that after receiving the GOC response to this supplementary questionnaire, the Commission may seek additional information from the GOC.

The Commission may also seek to examine relevant records and to verify the information provided. The Commission has temporarily suspended onsite verification due to the COVID-19 pandemic (refer to Anti-Dumping Notice No. 2020/29). However, the response to the questionnaire may still be subject to onsite verification should the suspension of onsite verifications be lifted. Alternatively, we may seek to verify information remotely through correspondence and teleconferences. The GOC will be contacted in advance to make any necessary arrangements.

A complete response, including all of the documentation requested, must be submitted to the Commission before a verification meeting will be considered.

If a verification visit or meetings are undertaken, the key Government officials involved in preparing the response and those who have knowledge of the source documentation and the information contained therein should be available to meet with Commission officers and to provide additional clarification and explanation, as required.

If verification meetings are unreasonably delayed, cancelled, or otherwise hindered by the GOC, the assessment of a particular market situation (and subsidies) may be based on the facts available to the Commission.

The purpose of the verification meeting will be to verify the information provided in your questionnaire response. It is not intended to be a second opportunity for the GOC to provide new or additional information. Accordingly, it is important that your response be as complete and accurate as possible.

SECTION B

PROPER COMPARISON

CHINESE MARKET FOR COPPER TUBES (LIKE GOODS)

- B1.** Describe the Chinese market for copper tube, including like goods, and the prevailing conditions of competition within the market, including:

- (a) an overall description of the market in China, which explains its main characteristics and trends over the past five years;

The Chinese copper tube market is featured by its high level of competition, high level of internationalisation and interaction with the global copper market, and low level of concentration.

TRIB understands that copper tube is a common commodity with wide ranging applications in several industries and market sectors, including HVAC (heating, ventilation and air conditioning) and refrigeration piping, plumbing, shipping, automobile, power infrastructure supplies, etc. TRIB has learnt that, in the Chinese domestic market, copper tubes are mainly supplied as HVAC and refrigeration piping. Such sectors are closely linked to overall economic growth and consumer spending, both in China and worldwide.

The Chinese copper tube producers are highly reliant on imported raw materials, in one way or another. This is because China is the largest consumer of upstream copper materials, from copper concentrate to copper cathode, which are the direct raw materials used for copper tube production. This can be distinguished from other metal industries such as aluminium or steel, for which the semi-finished materials such as hot rolled coil, steel billet, or aluminium ingots are mostly produced domestically.

TRIB has also learnt, from the selected cooperative Chinese exporters of the GUC that copper tube prices, both domestically and in the international market, are highly sensitive to price changes in the raw materials, particularly copper cathode. Copper tube prices are commonly negotiated on the basis of a copper cathode price plus a conversion premium.

We note the overview of the Chinese copper tube industry and the broader copper industry as provided at B2 of the GQ. In particular:

The copper tube industry is a downstream sector of the broader copper industry. The copper industry, and resultantly the copper tube industry, are highly interactive with global copper market.

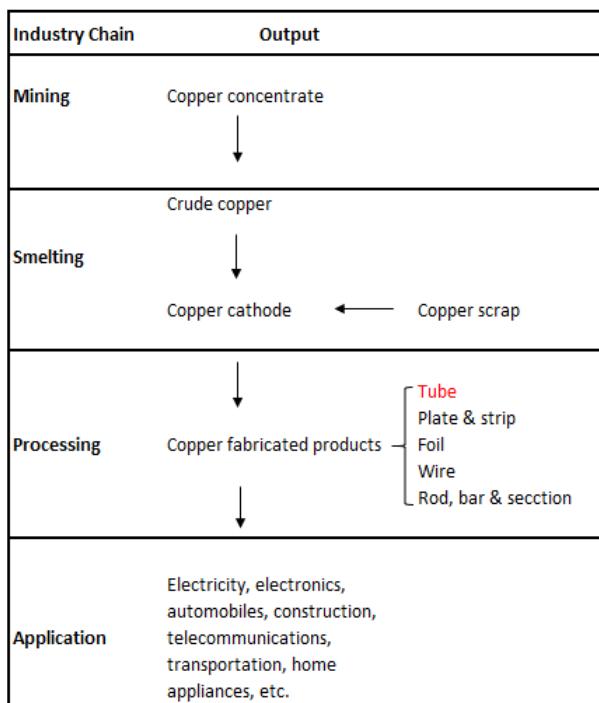
According to the Industrial Classification for National Economic Activities amended in 2017 (GB/T4757-2017) as published by the Standardization Administration of the P.R.C. (SAC), the copper tube industry falls into the sub-category of copper processing

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industry due to its use of upstream raw materials (mainly copper cathode and copper scrap) from the copper smelting industry.

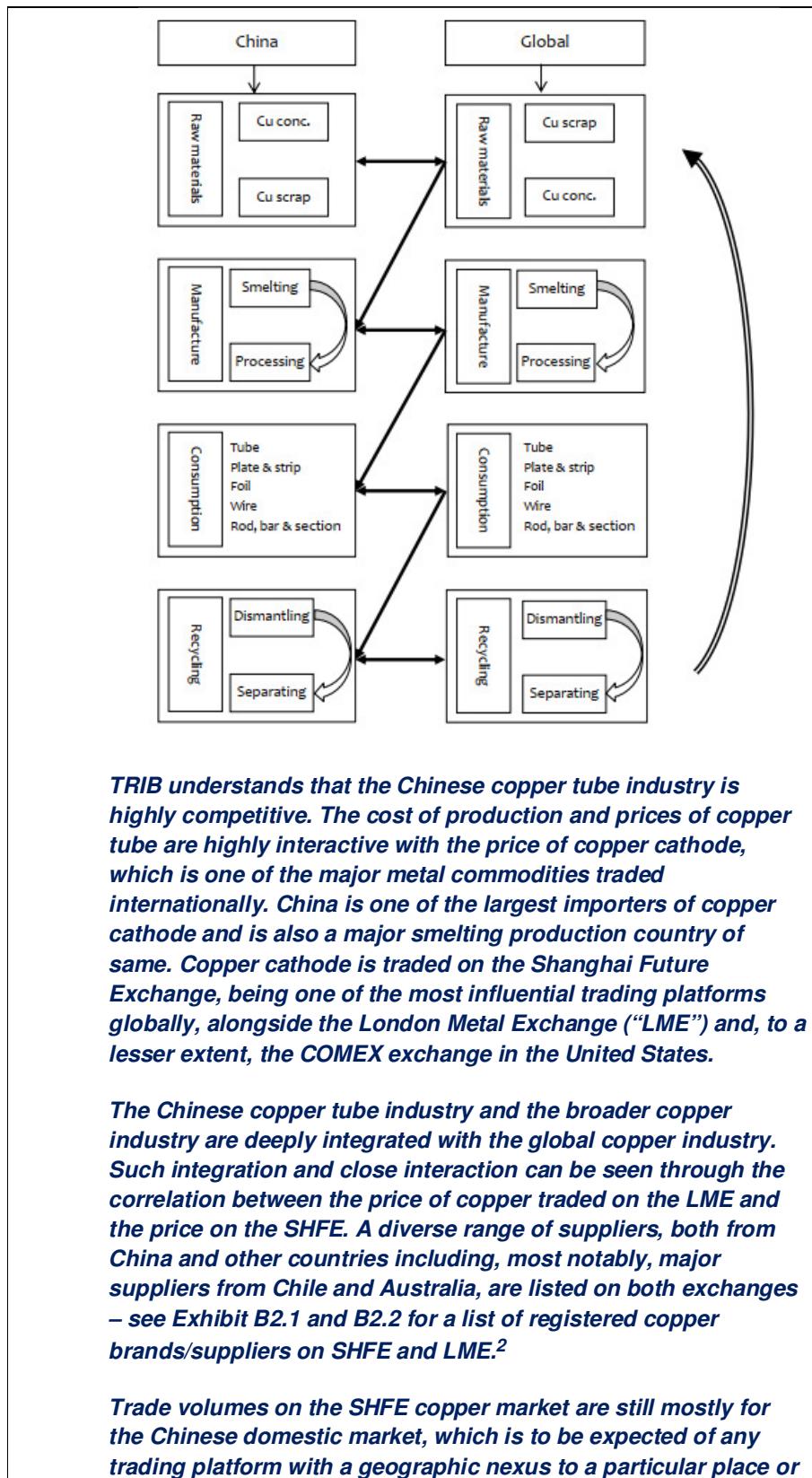
To the best of TRIB's knowledge, participants in the copper processing industry, including copper tube producers, are not integrated producers. The copper tube producers typically convert semi-finished copper raw materials (mainly copper cathode and copper scrap) purchased from suppliers in the copper smelting industry for the purpose of fabrication of copper products.

The chart below provides an illustration of the copper industry chain in China, based on industrial activities:



TRIB has learnt that the Chinese copper industry is highly interactive and reliant on global copper markets, at all stages of the industry chain, from mining to smelting, and for fabricating, consumption, recycling and re-utilisation. China's copper supply chains are strongly linked with foreign markets, including Australia, which are structurally similar and compatible, as illustrated:

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² <http://www.shfe.com.cn/en/products/Copper/attach/111152894.html>; and <https://www.lme.com/en-GB/Trading/Brands/Approved-brands>

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region. However the role of the SHFE as a major international copper trading platform cannot be denied, as it becomes more mature and internationalised. See market commentary articles at Exhibit B2.3 and B2.4 for the Commission's reference.³

Indeed, the SHFE is in the process of launching a new offer of international copper contracts via its subsidiary Shanghai International Energy Exchange ("SIEE").⁴ The SIEE has received approval from the China Securities Regulatory Commission to offer international financial services for copper cathode trade.⁵ This reflects the continued internationalisation and deepening of the Chinese copper and copper related financial markets.

Because copper cathode is one of the most important internationally traded commodity products there is necessarily strong integration and close interaction between the Chinese and global copper markets. Such correlation can be demonstrated through the copper future contracts traded on the LME and on the SHFE. It is observed that copper prices on the SHFE and LME share an over 95% correlation:⁶



The strong correlation and synergy between the LME and SHFE underpin the commercial reality that the Chinese copper tube market is deeply connected with and forms part of the same international market, which also includes Australia.

Also as shown in response to GQ-B2, the Chinese copper fabrication industry is highly competitive, and features the dominant presence of non-SIE companies:

³ See <https://www.mining.com/web/copper-options-china-steps-challenge-london-new-york-rivals/3219/>; and <https://www.metalbulletin.com/Article/3906233/ACW-2019-SHFE-to-speed-up-its-pace-of-internationalization-especially-in-copper.html>.

⁴ See <https://www.nasdaq.com/articles/shanghai-exchange-to-list-international-copper-contract-next-month-2020-10-16>; and <http://www.shfe.com.cn/en/AnnouncementandNews/SHEFAnnouncement/911338169.html>

⁵ See <http://www.shfe.com.cn/news/news/911338241.html>.

⁶ See <https://www.lme.com/Education-and-events/Online-resources/LME-insight/LME-SHFE-Cross-Market-Arbitrage>.

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	Copper fabricated products	Total Number of Producers in 2019	Total Output (10,000T)	
Total Enterprises				
SIEs				[CONFIDENTIAL STATISTICAL DATA]
FIEs				
DPEs				

Source: National Bureau of Statistics

In the past five years, the Chinese copper market has become increasingly international. It is influential of, and influenced by, the global market. As mentioned above, this includes the continued development and internationalisation of copper trading on the SHFE:

the SHFE is in the process of launching a new offer of international copper contracts via its subsidiary Shanghai International Energy Exchange (“SIEE”).⁷ The SIEE has received approval from the China Securities Regulatory Commission to offer international financial services for copper cathode trade.⁸ This reflects the continued internationalisation and deepening of the Chinese copper and copper related financial markets

Further, except for copper scrap, China's net imports of copper raw materials has also continued to expand:⁹

[CONFIDENTIAL GRAPHIC]

TRIB notes that the increased copper concentrate imports are linked to the decline in domestic copper ore output during 2018 and 2019. There has also been a supply shortage of copper scrap in China, due to stricter environmental protection policies, and import restrictions of solid waste introduced in 2018. In recent times there has been a tighter copper supply situation in the domestic market with copper cathode prices quoted on the SHFE frequently trading above LME price trends.

The global nature of the Chinese copper tube market is also reflected in the global operations of the Chinese producers. One of the selected exporters, Zhejiang Hailiang, for example, is a global leader in copper tube production, with 15 copper fabrication centres around the world.¹⁰

7 See <https://www.nasdaq.com/articles/shanghai-exchange-to-list-international-copper-contract-next-month-2020-10-16>; and <http://www.shfe.com.cn/en/AnnouncementandNews/SHEFENews/911338169.html>.

8 See <http://www.shfe.com.cn/news/news/911338241.html>.

9 Source CNIA.

10 See Zhejiang Hailiang Co., Ltd 2019 Annual Report.

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The other selected cooperative exporter, Zhejiang Naile, is also a Sino-foreign joint invested company.

TRIB has learnt from the Chinese copper tube exporters that the general commercial practice in the Chinese domestic market involves the suppliers and buyers of copper products using SHFE copper price quotes as a base benchmark to negotiate both the prices of copper cathode procurement for the production of copper tube, and for the sales prices of copper tube with downstream customers. This reflects the SHFE copper trade as a China based futures exchange, with China based warehouses and inventory, that trades in the Chinese local currency. The SHFE is the most popular source of information for China based traders, suppliers and customers, and an commercial tool in the markets concerned.

For many export markets including Australia, and to a lesser extent the North American market (where COMEX is the more popular platform), Chinese copper tube producers typically negotiate prices with customers by using LME copper future prices. This reflects the status of the LME as the leading and traditional international price discovery tool for copper futures. LME-based trading prices are in the traditional USD export currency, and the LME has a significant number of warehouses and inventories outside of China.

TRIB understands that Chinese exporters may source their copper cathode either directly from an overseas supplier, or from a local supplier, using LME copper future prices as the base benchmark for negotiation, or from a local supplier using the SHFE. The choice between the prices from the two exchanges can be driven by the availability of inventory, cost of delivery, practicality, exchange rate, and the foreign currency financial resources available to the producer (resources which are not required for either purchasing copper cathode on the SHFE or from a local supplier invoicing in Chinese Yuan). As noted above, copper cathode traded on the SHFE and the LME is internationally sourced, and both exchanges are influenced by the international supply chain of copper raw materials. That is, the use of the SHFE or the LME either as a direct platform of raw material procurement, or simply as a price discovery tool, is not necessarily indicative of the source of the copper cathode or to what extent such raw material is produced from imported or locally sourced materials.

Ultimately, the use of the price information from the LME or the SHFE as a price negotiation tool simply reflects commercial practices and customs between different customers and different markets. Such variances in commercial practices and preferences reflect prevailing conditions of the relevant market, established and preferred negotiation mechanisms, and regionality. Any differences between the Chinese market and the Australian market are as expected in a comparison of any two markets that are separated by physical distances and that have their own economic conditions. This does not give rise to a “particular market situation”, nor a situation that is capable of “not permitting” a proper comparison of the domestic price and the export price.

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In so far as copper cathode is concerned, its status as an international commodity both in China (which is also highly reliant on imports) and in other markets means that the prices in China and those other markets, such as Australia, and the trading prices on the SHFE and the LME, all reflect the common underlying conditions of the global copper market through their own mechanism and the features of the respective markets and exchanges. The common underlying conditions are reflected in the high degree of correlation and similarity between SHFE copper prices and LME copper prices, and the copper industry's use of such price discovery tools as the basis of negotiation.

As advised in Section D of the GQR:

TRIB does not consider that there is anything in the Chinese market for the GUC that is distinct, individual or specific in a way that is out of ordinary. This is not to say that the Chinese copper tube market is indistinguishable from other regional or national markets. The Chinese copper tube market of course has its own market features, defined by the supply and demand conditions of the Chinese market, including the thousands of copper tube producers operating in China, and because China is the largest copper consumer and one of the largest economies in the world. These factors all make the Chinese market necessarily different to the Australian copper tube market. In our view, such differences are caused by the size and conditions of economy, which is not distinct for the Chinese copper tube industry/market. TRIB does not consider such ordinary and as-expected market and economic differences would give rise to a PMS in its proper meaning under Article 2.2 of the WTO ADA, or Section 269TAC(2)(c) of the Customs Act 1901, as may cause domestic prices to not permit a proper comparison to the export price to Australia. Otherwise, there could never be prices from two different markets, with their own features, that could be said to be "comparable" for anti-dumping purposes.

TRIB notes that both the Chinese market and the Australian market are more or less sensitive to or connected with the price movement of copper cathode. TRIB understands that the Chinese market for copper cathode typically uses the SHFE trading prices as the reference point, and that SHFE trading prices are sensitive to and correlated with the movement of copper cathode prices on the LME. TRIB understands that the LME prices are typically used by both Chinese and Australian companies as a reference and negotiation basis for copper tube prices in the Australian market. Such similar underlying commercial considerations – not only by nature (being free market negotiation, and the use of internationally traded commodity price as basis of negotiation) but also by number (due to the similarity between copper cathode prices on SHFE and LME) – strongly suggest that the Chinese copper tube market prices are more likely to permit proper comparison with the Australian market for copper tube, rather than the contrary. Any differences in the realised prices from the two different markets reflect the commercial conditions on each market and

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the balance of negotiation powers between the parties, which is not at all “particular”.

- (b) the sources of demand for copper tube, including like goods, in China (including different customers, users or consumers of the product), and the estimated proportion (%) of sales revenue that each source of demand comprises;

As noted above:

TRIB understands that copper tube is a common commodity with wide ranging applications in several industries and market sectors, including HVAC (heating, ventilation and air conditioning) and refrigeration piping, plumbing, shipping, automobile, power infrastructure supplies, etc. TRIB has learnt that, in the Chinese domestic market, copper tubes are mainly supplied as HVAC and refrigeration piping. Such sectors are closely linked to overall economic growth and consumer spending, both in China and worldwide.

TRIB understands that the HVAC and refrigeration market accounts for the majority of the domestic market for copper tube. According to some market analysis, in 2018 the Chinese domestic market of copper tube for the HVAC & refrigeration segment could make up to 75% of the total market for copper tube.¹¹

TRIB advises that it is not in possession of detailed market information relating to copper tube. The Commission is kindly requested to seek such specific commercial insights regarding the specific supply and demand dynamic on the Chinese domestic market from the selected exporters directly.

- (c) the factors that influence consumption/demand variability in China, such as seasonal fluctuations, factors contributing to overall market growth or decline, government regulation, and developments in technology affecting either demand or production;

As explained above, TRIB has learnt that the Chinese copper tube market is highly driven by the HVAC/refrigeration application demand. Accordingly, we expect that demand is affected by HVAC/refrigeration appliance production, and construction activities that bring about that demand, and the general trend of consumer spending and general economic growth. Technological upgrades in the HVAC/refrigeration sector, and the demand for products with better energy efficiency and better performance, as well as the use of more environmentally raw materials, including copper, have influenced the trend in this sector.

China's continued economic growth, urbanisation and increased usage of HVAC/refrigeration are likely to continue to drive growth and demand in this segment.

The Chinese copper tube industry is a relatively unregulated, with production

¹¹ See <https://www.chyxx.com/industry/202001/830696.html>.

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dominated by non-SIE companies, especially companies such as Zhejiang Hailiang and Zhejiang Naile, who are also global and national leading producers of copper tube.

Copper tube prices are highly sensitive to the cost of copper cathode, because fabricated copper product is made from copper cathode. As explained above, copper cathode is a globally traded commodity, and China is the largest importing country in the world of copper raw materials, including copper cathode. As noted above, the SHFE is quickly becoming an internationally influential trading platform for copper cathode, operating in parallel to the copper contracts offered by the LME. TRIB has been advised that Chinese exporters frequently consider information available from both the SHFE and the LME to make their commercial decisions, and engage in a variety of hedging, future contracts, and other commercial arrangements in order to manage risks in copper cathode price fluctuation, and to maximise the profit and performance of their copper tube businesses. The Commission can seek more in-depth comments from the selected cooperative exporters.

- (d) any market segmentations in China (such as geographic or product segmentations), and the estimated proportion of sales revenue that each segment comprises;

The key product sectors requiring copper tube are mentioned above.

TRIB is unaware of any geographic based segmentations. The Commission is kindly requested to refer to the domestic sale of like goods information as supplied by the selected cooperative exporters for further information.

Further, we respectfully seek the Commission's clarification regarding the relevance of this question. It goes without saying that every market has its own characteristics and prevailing conditions unique to that market, determined by the supply and demand relationship, market composition, market participant's commercial behaviours and preferences, geographic location, etc. Differences between the market segmentations, composition and features of two national markets should be expected.

Once again, TRIB does not consider that there is anything in the Chinese market for the GUC that is distinct, individual or specific in a way that is out of the ordinary. This is not to say that the Chinese copper tube market is indistinguishable from other regional or national markets. Of course, the Chinese copper tube market has its own market features, defined by the supply and demand conditions of the *Chinese* market, including the thousands of copper tube producers operating in China, and because China is the largest copper consumer and one of the largest economies in the world. These factors all make the Chinese market necessarily different to the Australian copper tube market. In our view, such differences are caused by the size and conditions of economy, which is not distinct for the Chinese copper tube industry/market.

TRIB does not consider such ordinary and as-expected market and economic differences can give rise to a PMS in its proper meaning under Article 2.2 of the *WTO Anti-Dumping Agreement* ("the ADA") or Section 269TAC(2)(c) of the *Customs Act 1901*, as may cause domestic prices to not permit a proper

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comparison with the export price to Australia. Otherwise, there could never be prices from two different markets, with their own features, that could be said to be “comparable” for anti-dumping purposes. Instead, Article 2.4 of the ADA provides that “due allowance” can be made to account for factors affecting price comparability between normal value and export prices caused by factors such as terms of sales or taxation, via an adjustment to the normal value.

The Commission is kindly reminded of the distinction between the ordinary and as-expected differences of markets, which can be recognised (if their price effects are proven) as factors affecting a proper comparison that should be adjusted under Article 2.4, and the circumstances under Article 2.2 of the ADA, where “proper comparison” becomes impermissible, *because of the effect of a particular market situation.*

- (e) any import restrictions on the importation of copper tube, including like goods, into China;

Copper tube is not subject to any import restrictions.

- (f) any import duty that applies to the importation of copper tube, including like goods, into China;

For information concerning import tariff for copper tube, please see GQ Response Exhibit D5. TRIB notes that copper tube exported from Australia benefits from 0% tariff under the China-Australia Free Trade Agreement.

On the other hand, copper tube imported from the U.S is subject to a special import tariff of 25%.

- (g) the way in which Chinese and (if applicable) imported copper tube, including like goods, compete in the Chinese market;

From the government’s perspective, TRIB can advise that imported copper tube competes freely with domestically produced copper tube. The supply and demand factors would determine the way of competition.

TRIB notes that the Chinese copper tube industry is of large scale and highly competitive. Therefore, any copper tube products, regardless of their country of origin, would need to compete on quality, value, reliability, and ability to differentiate.

- (h) the ways that copper tube, including like goods, are marketed and distributed in the Chinese market; and

TRIB advises that the GOC is not in possession of information concerning specific commercial practices. As noted above, copper tube is widely used in a range of industry and market sectors, especially in HVAC and refrigeration applications. The market is serviced by a large number of suppliers and is highly competitive. The Commission is kindly requested to seek the insights of the selected cooperative exporters about their individual commercial

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experiences in the Chinese market.

- (i) any other factors that are relevant to characteristics or influences on the Chinese market for copper tube, including like goods.

TRIB refers the Commission to the responses to specific questions in the GQ and SGQ. We understand that the Commission has also sought such specific information from the selected exporters.

TRIB expects that the Commission will see that the Chinese copper tube market is a free and competitive market. It is highly interactive and synchronised with the international market for both copper tube and the raw material copper cathode. To the extent that the cost of production, and the cost of materials such as copper cathode, influences the Chinese market for copper tube, TRIB notes that China is heavily reliant on the importation of various copper raw materials at each stage of domestic production.

Copper is a globally influential commodity, and is freely traded in China. It follows that the prevailing market conditions for the Chinese copper tube market are those of a competitive market, comparable to other competitive copper tube markets in the world.

TRIB will endeavour to respond to further specific questions that the Commission may have during the course of this investigation.

- B2.** Describe the regulatory framework of the Chinese market for copper tube, including like goods, as it relates to the following:
- competition policy and regulation;
 - taxation;
 - product standards;
 - participant licensing requirements;
 - regulations or restrictions relating to the importation of copper tube, including like goods; and
 - product safety or warranty regulations.

Provide a copy of any law, regulation or requirement described with an English translation.

TRIB notes that this question effectively duplicates questions under the GQ. Specifically, please see responses:

- concerning “*government laws and regulations applying to the industry*”, including competition law, under GQ-B2;
- concerning applicable taxation under GQ-B7 and GQ-C2, GQ-D3, and GQ-D5.

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- concerning licensing requirements at GQ-B2 and GQ-D13;
- concerning importation of copper tube at SQ-B1 above.

TRIB notes that the copper tube industry is mostly governed by the same general regulatory framework concerning corporate commercial operations in China as any other industry. It is not particularly distinct.

In relation to product standards, the latest national standards applicable to copper tube are as follows, all of which are non-mandatory in nature:

- GB/T 17791-2017 for “*seamless copper and copper alloys tube for air conditioner and refrigeration equipment*”;
- GB/T 18033-2017 for “*seamless copper tubes for water and gas*”;
- GB/T 1527-2017 for “*drawn tube of copper and copper alloys*”.

The national standards applicable to copper tube mainly describe the production requirements, testing methods and inspection rules, as well as matters relating to the packing, labelling, quality instructions, storage, etc. of the copper tube products.

For product safety and warranty, like other products which are sold following processing or manufacture, copper tube is subject to the *Product Quality Law* (“the Product Quality Law”), as to which see SQ Exhibit B2.1. Product warranty issues are subject to and governed by the agreement between the purchaser and the seller, which is in turn governed by Chinese contract law.

- B3.** Describe any entry restrictions for new participants into the Chinese market for copper tube, including like goods. Your response could include information about the following:

- resource ownership;

Participants in the Chinese market for copper tube, whether new entrants or existing players, all have free market access to resources for production including raw materials such as copper cathode and copper scrap, at competitive market prices.

- patents and copyrights;

There is no distinct regulatory restrictions for new participants in the Chinese market for copper tube in terms of patents and copyrights. The patents of specific copper tube products are owned by the relevant patent owners and are governed by the *Patent Law of the People's Republic of China*.

As explain above and in the GQ, the Chinese copper tube industry is highly competitive, with a large number of participants.

- licensing requirements;

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There are no licensing requirement-related restrictions for the entry of new participants into the Chinese market for copper tube. As mentioned in the GQ, on 26 June 2017 the State Council issued the "*Decision on Adjusting the Management Catalogue of Production License for Industrial Products and Trial Simplification of Approval Procedures*", which officially cancelled the management of production licenses for "copper and copper alloy tube products" (See Exhibit D13).

As explain above and in the GQ, the Chinese copper tube industry is highly competitive, with large number of participants.

- barriers to entry;

TRIB understands that the barrier to entry is not distinctively high, as shown by the large number of participants in the Chinese copper tube industry. On the other hand the highly competitive nature of the market may pose a commercial barrier to entry itself, as new participants must differentiate themselves and compete on product quality or innovation.

- any restrictions placed on imported copper tube, including like goods; and

There are no restrictions placed on imported copper tube.

- any other government regulations (including the effect of those government regulations).

As the GOC places increasingly stronger focus on environmental protection and the reduction of industrial emissions, newer participants are likely subject to stricter industrial zoning requirements, as well as requirements concerning energy efficiency and environmental impacts of production facilities. This is not different to the situation in Australia.

We refer to the following description of the regulatory environment for the copper tube industry in Australia, according to an *IBIS World* report for the Australian copper tube and cable industry:¹²

Similar to other firms in the Manufacturing division, manufacturing facilities must meet local and state government environmental and zoning requirements before being established. Firms are also subject to regulations regarding noise, air emissions, and the use of hazardous materials and waste. Some firms use these regulations as an opportunity to cut industrial waste disposal costs by emphasising cleaner production methods and lifting recycling rates. Industry players are required to comply with federal and state government occupational health and safety regulations, acts and mandatory requirements that relate to employees, contractors and visitors.

¹² IBIS Word Industry Report C2149, <https://www.ibisworld.com/au/industry/copper-tubes-wire-manufacturing/232/>

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As noted in B-2 of the GQR:

TRIB notes that the Australian Government has applied its own measures on the copper industry. For example, the Olympic Dam mine operates under the South Australia Roxby Downs (Indenture Ratification) Act 1982 (SA) and the proposed mine expansion is declared a “major development”¹³ under the South Australia Development Act 1993 (SA).¹⁴ Expansion of the Olympic Dam mine requires the assessment and approval of the South Australian State Government.¹⁵

We also refer to the following examples of the regulatory environment in which the Australian copper industry operates:

- *Mount Isa Mines Environmental Authority application, see Exhibit B2.12;*
- *EIS Guidelines - BHP Olympic Dam Resource Development Strategy, see Exhibit B2.13.*

13 See South Australia Government Gazette dated 14 February 2019, page 461, variation notice in Government Gazette dated 19 September 2019, page 3306 and variation notice in Government Gazette dated 27 August 2020, page 4470

14 https://energymining.sa.gov.au/minerals/mining/mines_and_quarries/olympic_dam. Also see attached at Exhibit B2.10

15 https://plan.sa.gov.au/state_snapshot/development_activity/major_projects/majors/olympic_da_m_expansion Also see attached at Exhibit B2.11

SECTION C

DECLARATION

DECLARATION

The undersigned certifies that all information supplied herein in response to the questionnaire (including any data supplied in an electronic format) is complete and correct to the best of his/her knowledge and belief.

Oct -30, 2020
Date



Signature of authorised official

Wang Jianfeng
Name of authorised official

Deputy Director
Title of authorised official

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GLOSSARY OF TERMS

Throughout this questionnaire certain words and terminology have been used and they have the following meanings:

Associated Persons and/or Companies

Persons shall be deemed to be associates of each other if:

(a) both being natural persons:

- (i) they are connected by a blood relationship or by marriage or adoption; or
- (ii) one of them is an officer or director of a body corporate controlled, directly or indirectly, by the other;

(b) both being bodies corporate:

- (i) both of them are controlled, directly or indirectly, by a third person (whether or not a body corporate); or
- (ii) both of them together control, directly or indirectly, a third body corporate; or
- (iii) the same person (whether or not a body corporate) is in a position to cast, or control the casting of, 5% or more of the maximum number of votes that might be cast at a general meeting of each of them; or

(c) one of them, being a body corporate, is, directly or indirectly, controlled by the other (whether or not a body corporate); or

(d) one of them, being a natural person, is an employee, officer or director of the other (whether or not a body corporate); or

(e) they are members of the same partnership.

Enterprise

“Enterprise” includes a group of enterprises, an industry and a group of industries.

Government of China (GOC)

For the purposes of this questionnaire, GOC refers to all levels of Government, i.e., central, provincial, regional, city, special economic zone, municipal, township, village, local, legislative, administrative or judicial, singular, collective, elected or appointed.

It also includes any person, agency, enterprise, or institution acting for, on behalf of, or under the authority of any law passed by, the Government of that country or that provincial, state or municipal or other local or regional Government.

Program(s)

The term “program”, as used throughout this questionnaire in reference to alleged subsidies, refers to broad categories of subsidies that the Commission has reason to believe may be available to exporters of the goods.

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In this regard, the term “program” as used in this questionnaire should not be taken to necessarily refer to formal programs maintained by the GOC, nor should it be taken to refer to one specific subsidy. Rather, “program” as used in this questionnaire can refer to informal subsidies provided by the GOC, and can also refer to multiple individual, albeit similar, subsidies.

State Invested Enterprises (SIE)

For the purposes of this questionnaire, SIE refers to any company or enterprise that is wholly or partially owned by the GOC (either through direct ownership or through association).

This includes (but is not limited to) any enterprises referred to as:

- ‘state owned enterprises’ (SOEs);
- ‘enterprises with state investment’ (ESIs);
- ‘state-owned assets’;
- ‘state-invested enterprises’; and
- ‘enterprises under the supervision of SASAC’.

Subsidy

Subsidy, in respect of goods exported to Australia, means:

(a) a financial contribution:

(i) by a Government of the country of export or country of origin of the goods; or

(ii) by a public body of that country or a public body of which that Government is a member; or

(iii) by a private body entrusted or directed by that Government or public body to carry out a Governmental function;

that involves:

(iv) a direct transfer of funds from that Government or body; or

(v) the acceptance of liabilities, whether actual or potential, by that Government or body; or

(vi) the forgoing, or non-collection, of revenue (other than an allowable exemption or remission) due to that Government or body; or

(vii) the provision by that Government or body of goods or services otherwise than in the course of providing normal infrastructure; or

(viii) the purchase by that Government or body of goods or services; or

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(b) any form of income or price support as referred to in Article XVI of the General Agreement on Tariffs and Trade 1994 that is received from such a Government or body;

if that financial contribution or income or price support confers a benefit (whether directly or indirectly) in relation to the goods exported to Australia