Australian Government
Anti-Dumping Review Panel

ADRP Conference Summary

Review Nos. 146-150 – Copper Tube exported from the People's Republic of China and the Republic of Korea

Panel Member	Leora Blumberg
Review type	Review of termination decisions of the Commissioner
Date	27 May 2022
Participants	John O'Connor, Representative for MM Kembla Tony Bova, Executive General Manager MM Kembla
Time opened	1:00pm AEST
Time closed	3:25pm AEST

Background:

Under s.269ZZRB(1) of the *Customs Act 1901* ("the Act"), the Review Panel on 30 March 2022 sought further information from the Anti-Dumping Commission ("ADC") in respect of the various applications in Review Nos. 146-150 – Copper Tube exported from the People's Republic of China ("China") and the Republic of Korea ("Korea"), in relation to information that was before the Commissioner of the ADC ("the Commissioner") when the Reviewable Decisions were made ("the Notice"). The Notice was published on the Review Panel's website.

On 13 April 2022 the ADC responded to Sections B – G of the Notice ("Section B – G Notice Response") and on 21 April 2022 the ADC responded to Section A of the Notice ("Section A Notice Response"). Non-confidential versions of the Notice Responses were published on the Review Panel's website.

On 26 April 2022 a conference was held with the ADC to obtain further information and clarification in relation to information provided by the ADC in response to the Notice and to obtain further related information and clarifications, in relation to Review Nos. 146-150 ("the April 2022 Conference"). A conference summary of the April 2022 Conference was published on the Review Panel's website on 20 May 2022 ("the April 2022 Conference Summary").

Purpose:

The purpose of this conference was to obtain further information in relation to the Review Nos. 146 to 150, in particular to provide an opportunity for the applicant, Metal Manufactures Pty Ltd trading as "MM Kembla" ("MM Kembla"), to comment on the ADC's responses to the Notice and on the April 2022 Conference Summary.

General:

The conference was held pursuant to s.269ZZRA of the Act. During the conference, I was able to ask MM Kembla to clarify arguments, reasons, and specific details relating to the reviews. The conference was not a formal hearing of the review and was not an opportunity for parties to argue their case before me. I have only had regard to information provided at this conference to the extent that it relates to information that was before the Commissioner when the Commissioner made the reviewable decisions. Any conclusions reached at this conference are based on that information that was before the Commissioner when the Commissioner made the reviewable decision. Information that relates to some new argument not previously in Termination Report No. 557 ("TER 557") or related documents is not something that the Review Panel has regard to, and is therefore not reflected in this conference summary.

At the time of the conference, I advised the participants:

- It had been noted from MM Kembla's written comments, submitted prior to the conference that MM Kembla was also submitting what it stated to be "new and relevant information".
- The Review Panel had not yet formed a view as to whether:
  - ❖ This further information "relates to the information" that was before the Commissioner when the Commissioner made the reviewable decision" within the meaning of s.269ZZRA(2)(a) of the Act, and if so;
  - ❖ Whether the Review Panel should exercise its discretion, within the statutory framework of its functions and powers, and "have regard to" that further information under s.269ZZRA(2)(a) of the Act, in making its decision on the review pursuant to s.269ZZT(4);
- The holding of this conference is necessary, *inter alia,* to facilitate the Review Panel's consideration of the above issues and should in no way be construed as any indication of the Review Panel's view in this regard.

At the time of the conference, I also advised the participants:

- That the conference was being recorded and transcribed by Express Virtual Meetings Pty Ltd, and that the recording would capture everything said during the conference.

- That the conference was being recorded for the Review Panel to have regard to when preparing a conference summary. The conference summary would then be published on the Review Panel's website.

- Any confidential information discussed during the conference would be redacted from the conference summary prior to publication.

Prior to the conference, participants were provided with a copy of the Review Panel's Privacy Statement. The Privacy Statement outlines who the conference recording and transcript may be disclosed to. The Privacy Statement is available on the Review Panel's website here. The participants indicated that they understood the Privacy Statement and consented to:

- The recording of the conference; and
- The recording being dealt with as set out in the Privacy Statement.

Discussion

The further information sought in this conference from MM Kembla in relation to the Review Nos. 146 to 150 and the information and clarifications provided in response by MM Kembla's representatives ("MR") is as follows:

1. MM Kembla's comments on the ADC's responses to the Notice and on the April 2022 Conference Summary

   Prior to the conference, MM Kembla provided a written version of its comments on the ADC's responses to the Notice and on the April 2022 Conference Summary ("Written Comments"), which formed the basis of MM Kembla's verbal comments during the conference. A copy of the Written Comments is attached as Appendix A.

2. Clarifications of the Written Version of MM Kembla's Comments during the Conference

   i. **MCC Structure**

      - I requested clarification of the reference to, "high and low-cost product" in the second paragraph of the Written Comments under Section (i).

        MM Kembla's representatives ("MR") confirmed that it was a comment on Paragraph 15 of the Section B – G Notice Response which MM Kembla considered indicated confirmation that the ADC included both high-cost and low-cost products in the same MCC.

        I stated that I had requested clarification from the ADC on Paragraph 15 during the April 2022 Conference and that the ADC confirmed that it did not group high-cost and low-cost products in the same MCC, but that it grouped high-cost exported products with similarly high-cost domestic products. Paragraph 15 articulated that the cost analysis of individual models within any particular MCC indicated that the lowest cost models and the highest cost models within a particular MCC were not necessarily always the domestic or exported models, respectively, as might be expected if low-cost domestic models were grouped in the same MCC as high-cost exported models. The ADC had indicated that there was a spread of both domestic and exported models having both the lowest and highest cost within any particular MCC. The ADC had also stated that its analysis showed that the cost of each specific exported model closely aligned with the weighted average cost of the relevant MCC. [Emphasis for explanation purposes]

- *MR clarified its discussion in the Written Comments on the relationship between outside diameter ("OD") and wall thickness on the one hand and "fabrication cost" on the other hand, as opposed to the "cost of copper", which MM Kembla contends is misunderstood by the ADC. MR clarified that the thinner the wall, the lower the weight (and cost of copper), but the higher the manufacturing (or fabrication) cost.*

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  I noted from this clarification that there was an inverse relationship between the wall thickness and fabrication costs, while there was a direct relationship between wall thickness and cost of copper, and requested clarification as to the extent that the increase in fabrication costs (in respect of thinner-walled products) neutralises the decrease in copper costs. I referred to Page 2 of the Written Comments that indicated that the thinner the wall thickness the lower the total weight, providing a specific dollar amount per tonne reduction in the variable conversion cost for every percentage increase of weight (thickness). I requested clarification as to whether there was a percentage or formula that took into account both the reduction / increase of copper costs and the increase / reduction of fabrication costs.

  MR confirmed that the increase in fabrication costs (for thinner-walled products) definitely did not neutralise the full extent of the decrease in copper costs since copper was over 90 per cent of the cost of the product. MR stated that in any MCC there was mix of products with different OD sizes and wall thicknesses owing to different standards, making it difficult for comparative purposes. MR stated that there was no percentage or *formula that took into account both the reduction / increase of copper costs and the respective increase / reduction of fabrication costs. MR stated that it would be very difficult to have such a formula since the copper cost (based on the LME) was constantly changing.*

MR provided an explanation of the formula on page 3 of the Written Comments to calculate the price based on 'nominal weight', which was stated to be consistent world-wide. MR also stated that each standard has a 'tolerance' of wall thickness and OD and every manufacturer in the world tries to get as close as possible to the lower end of the tolerance range (and still be compliant with the standard), known as "drawing thin". MR stated that China and Korea have greater tolerances in their standards than Australia, and therefore those products contain much less copper than products exported to Australia that are required to meet a higher standard. MR stated that when comparing products with different ODs and wall thickness, even though they may have similar costs per tonne, it is like comparing apples and oranges, since they also have differing pressure standards and levels of cleanliness that affect costs.

MR stated that most of the copper tube sold in China was for the refridgeration market (over 90 per cent), while in Australia it was a predominantly plumbing copper tube market (about 80 per cent). MR stated further that refridgeration products were more expensive because of the need for cleaning and capping to Australian standards. MR pointed out that the domestic standards in China for refridgeration products were much lower (and not mandatory), so it was not surprising that, in the very competitive Chinese market of refrigeration tube, the cost was often lower than for plumbing tube.

- I requested comment on the ADC's statement that even though wall thickness and diameter were not characteristics of the MCC, the weight of the product, was relevant, since the thicker the wall the greater the amount of copper and the greater the weight.

  MR stated that if weight was a consideration then it was likely to have been 'nominal weight', which is significantly less than the actual weight because of the tolerances and the practice of drawing thin. MR stated *further that the ADC did not take into account the fabrication costs and the significantly differing pressures, cleanliness and other standard requirements across different markets. MR stated that based on all the public information from the exporter questionnaires, the exporters did not appear to do a detailed per unit cost calculation for each model. MR stated that if the verification work was examined it was likely that the costs of all the differing models would be similar (other than for copper), no matter what the diameter, length and wall thickness. MR stated that in comparison, the MM Kembla verification would have shown varying fabrications costs for different outside diameter and wall thickness products and plumbing and refrigeration tube.*

- I requested clarification as to why the nominal weight would be problematic if it was similarly applicable to the exported product.

  MR stated that the domestic market in China is unregulated and while there may be a Chinese standard, it is not mandatory and ultimately it is the responsibility of the customer ordering the product to determine the wall thickness. It was stated that in contrast, the Australian market was highly regulated with mandatory standards.

ii. Draw Thin

- It was agreed that this subject had been covered in the above discussion of MCC's.

  MR added that the process of drawing thin was not unique to copper tube, and that it is a regular occurrence in the steel and copper industries.

iii. Capping and Cleaning Costs

- It was agreed that this subject had been covered in the above discussion of MCC's.

  MR added that MM Kembla's cost of production of a tonne of refrigeration tube (requiring capping and cleaning) is on average about A[redacted]/tonne higher than plumbing tube, with prices consequently about A[redacted]/per tonne higher than plumbing tube, yet plumbing and refrigeration products sold in and exported from China, are similarly priced, with refrigeration *tube in many cases, cheaper, which was ignored by the ADC. MR stated that this is only possible through drawing refrigeration tube thinner (actual wall thickness vs nominal wall thickness) in the China market and making a substantial saving in the copper cost.*

- I requested clarification as to whether MM Kembla's comments were only in respect of China or also in respect of Korea.

  MR confirmed the comments were also applicable to Korea, in respect of standards, drawing thin and capping and cleaning. It was also pointed out that the prices out of Korea have been very low, with normal values substantially reduced because of competition from China.[1] *MR stated that Korean exporters also price plumbing tube and refrigeration tube on a similar basis, despite the standards being quite different.*

iv. **Non-arms length dealing with Hong Kong Hailiang Metal Trading Limited ("Hailiang HK")**

[redacted] requested clarification as to whether [redacted]

MR confirmed that [redacted] *It was pointed out that Hailiang Australia buys from Hailiang HK and* [redacted] *Hailiang Australia* [redacted] *was likely* [redacted] *getting rebates from Hailiang HK. MR stated that Australian customers will either, (1) purchase directly from Hailiang HK if, for example, a full container is required and the customer is stocking product in Australia (potentially three or four or five months' worth of stock), or will (2) purchase from Hailiang Australia, because requirements are for smaller quantities, so they may choose to buy weekly or monthly. MR stated that it was MM Kembla's understanding from the documents on the public file that there was a mix of customers purchasing directly from Hailiang HK and customers purchasing from Hailiang Australia. MR stated that the ADC only verified Hailiang Australia (not Hailiang*

[1] It was stated that Chinese imports had been proven to be at dumped prices, which was related to the issue raised in Section (vii) of the Written Comments.

HK), without verifying whether rebates were paid by Hailiang HK to its direct Australian customers.[2]

v. **Hedging Costs and Gains and Losses**

- I pointed out the apparent confusion between 'hedging costs' (the costs of entering and purchasing hedging contracts) and 'hedging gains and losses', and also the issue of hedging as it related to 'date of sale' and as it related to adjustments.

  MR explained how hedging worked in the copper tube industry, that is, buying forward contracts to reduce the risk associated with the volatility in the copper price. MR stated that hedging contracts were based on the LME copper price and were usually [redacted]*, with a series of rolling hedge contracts covering the amount of inventory.*

- I requested clarification of MM Kembla's submission that hedging costs and hedging gains and losses borne by Hailiang HK have not been considered in export price determination.

  MR stated that it was made clear that there was no evidence of any hedging by Hailiang Australia, which MM Kembla submits is correct, since all hedging is actually done by Hailiang HK. MR stated that this was confirmed in one of the exporter responses indicating that Hailiang HK does all the hedging for all businesses across Hailiang, in all countries. MR stated that it was likely that Hailiang's hedging would be managed in a complicated hedge book by Hailiang HK, considering all raw materials held and sold globally. MR stated that MM Kembla's argument is that Hailiang HK is keeping one side of the hedging gain or loss equation and then on the other side Hailiang Australia is selling at the hedged price[3] *without the financial impact of the other side of the hedged contract. In other words, MM Kembla contends that Hailiang Australia's profitability (as determined by the ADC) is*

[2] [redacted].

[3] MR stated that Hailiang Australia issues a weekly pricelist based on the LME closing price from the previous week.

incorrect because it only includes one side of the hedging transaction. MR stated that if a simple calculation was done of actual selling price less the LME price, it would demonstrate that Hailiang Australia was in fact selling at a loss, because Hailiang HK is doing the hedging of Hailiang Australia's sales, with Hailiang Australia being immune from any variation in the copper price.

- I requested clarification on the submission that sales to customers by Hailiang Australia were taken out of rolling stock in Australia, and whether that meant that delivery time was shorter, detracting from other MM Kembla submissions that the delivery time for export sales is much longer than for domestic sales.

  MR stated that Hailiang Australia would still have to put the orders in through Hailiang HK and that it would take about three months for that order to arrive in Australia, and for Hailiang to be in the same stock position. MR stated that whichever supply chain is used, there is generally about three months' delay from placement of the order to invoice date.

- I requested clarification with regard to hedging and date of sale

  MR stated that while MM Kembla does not have the transaction details of the exporters, it is very familiar with the Asian market, with about [redacted] *per cent of its production exported to Asia. MR stated that when a fixed price is provided it needs to be hedged, with copper being over 90 per cent of the cost, and an approximate 3 month time lag for delivery. MR stated that even a month's time lag would still require hedging because of the copper price volatility, and the necessity to eliminate that risk, for all manufacturers. MR stated that even though the ADC repeatedly claimed that there was no indication of any hedging by manufacturers, MM Kembla is aware of hedging by at least two of the exporters, which is usual practice in the industry worldwide.*
- I requested clarification as to whether MM Kembla was saying that hedging was always at order date.

MR stated that hedging had to be done at order confirmation because that is when the price is agreed, with a clear LME benchmark usually written on the order confirmation. MR added that on some occasions (usually the exception rather than the rule), the LME benchmark might be the prior month average and so the price to be applied to that order may not be determined until a later date. MR stated that while MM Kembla agreed that the quantity can change by a permitted percentage, it contends that any change in quantity is not material and does not have a material impact on the weighted average calculation. MR stated that confirmation of price at order-taking, based on an agreed LME-linked copper benchmark was wide-spread in the industry, and that the ADC ignored this because it is complicated and tends to make the determination of dumping margins more difficult.

vi. Copper Costs in China

- *MR stated that the reference to the cost of copper being 6 per cent higher on SHFE was concerning because, (1) it did not seem possible given the fundamental economics of producing copper tube; (2) it possibly did not account correctly for port premiums or cathode premiums; (3) it possibly did not account for a 13 per cent VAT in China on copper for domestic sales; (4) if correct, Chinese exporters would be uncompetitive on the global market because of additional fabrication costs to be added to the copper price, and would appear to be selling at a loss to stay competitive.*

vii. New and Relevant Information.

- I pointed out that this section was subject to my comments at the beginning of the conference.

(i) MCC structure does not allow for a proper comparison without adjustment to normal values

The repeated referencing by the ADC that the MCC structure allows for a proper comparison between domestic and exported goods is flawed. The first MCC category Item 1 (i.e. plumbing tube) is “Standard” specifically identifying the applicable Australian Standard 1432[1] and yet all different plumbing tube that are in accordance with various domestic standards in China and Korea have been included without adjustment when comparing to the exported Australian Standard AS1432 product.

The reference to "high and low-cost product" in the same MCC can be considered alike is an incorrect conclusion - this confirms the inclusion of goods in normal value applicable to varying standards, with a range of outside diameter of tube and wall thicknesses, cleanliness etc. Adjustments to normal values for these differences is required.

The goods the subject of the application (the goods) 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*.

MM Kembla is on record in ADC File note (EPR Document 009) Conference where it outlined that the Australian standard should be in the description, outside diameter and wall thickness included in MCC structure. This was dismissed. The following is an extract of the File Note:

> *The Commission also discussed the proposed MCC categories in MM Kembla’s application and other potential MCC categories the Commission was considering after receiving responses to the preliminary information requests (PIRs). This discussion included MCC categories relating to:*
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> - *End uses of copper tube and the Australian Standards specified in the goods description;*
> - *Outside Diameter;*
> - *Wall Thickness;*
> - *Temper grades;*
> - *Capping;*
> - *Lagging; and*
> - *Form.*
>
> *MM Kembla advised that it considered that outside diameter and wall thickness should be included as MCC categories and that, given that the goods under consideration were straight tube, the form category was not required. The Commission advised that it was not satisfied that the proposed MM subcategories proposed by the MM Kembla for wall thickness and outside diameter in its application would necessarily be relevant to the exporters’ domestic and export sales.*

MM Kembla confirmed in its submissions[2] why the different outside diameter and wall thickness has an impact on the manufacturing costs of copper tube. This is relevant because different international standards have different outside diameter and wall thickness combinations and therefore fabrication costs.

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[1] Refer EPR Document 002) - Consideration Report P 6-7.

[2] EPR Document No. 024 – Comments re “Due Allowance”, EPR Document 034 re “Like Goods”, EPR Document 035 MM Kembla response to SEF, Section EPR Document 045 re “Like Goods”.

The section in MM Kembla's submission (EPR Document 034) Investigation No. 557 – Copper tube exported to Australia from China and Korea – in respect of the Nungwon Metal Ind. Co Ltd Verification Report refers to the cost impact of the wall thickness alone (In Section II of submission). Incidentally this section below was quoted by the ADC in its response ADRP Review Nos. 146-150 paragraph 18, 19 and 20 as an explanation of draw thin, wall thickness and actual weights which is completely incorrect as this refers to ***fabrication cost*** not the ***cost of copper*** in the finished product which demonstrates the ADC's lack of understanding of these concepts and the economics of manufacturing copper tube.

> *The thinner the wall thickness and lower the total weight of the product the conversion cost increases on a $/T basis. In MM Kembla's experience every xx% increase in weight equates to $xx/T reduction in variable conversion cost. The xx% difference equates to $xxx/t difference across the range due to the difference in the KS D5301 standard and AS1432. This equates to xx% difference at the current LME copper cost. This is a material difference and should be a positive adjustment to the Nungwon normal value (so that the dumping margin truly reflects the difference in conversion cost between the domestic and export sales).*

MM Kembla's representations were ignored by the ADC and adjustments to normal values should have been made.

Likewise in MM Kembla's submission Investigation No. 557 – Copper tube exported to Australia from China and Korea – MM Kembla Response to Statement of Essential Facts (EPR Document No. 035) the following representations were made:

> *Chinese Standard G/BT 18033 requires a completely different range of outside diameter and wall thicknesses for its tube, and two types of chemical composition or grades. This range while falling into the definitions of the MCC, the majority of OD's are larger (between xx% and xx%) and wall thicknesses are lower (between xx% and xx%) than the closest AS1432 comparable size. The ratio of OD to Wall Thickness size is on average xx-xx% greater than the closest AS 1432 comparable size. Such variances in the characteristics of the copper tube between local market and export market should not lead to a conclusion that products can be considered "alike" when significant variances are evident.*
>
> *The fundamental functional purpose of copper tube is to safely facilitate the movement of various liquids and gases, generally throughout buildings and air conditioning systems. The standards for copper tube are designed to ensure that the tube is physically strong enough to safely deal with varying pressures, the types of liquid or gas and the physical environment into which the tubes will be installed. In order for Chinese copper tube standard product to meet the equivalent safe working pressure of AS 1432 copper tube, the wall thickness of the tube would be required to be increased, subsequently weight of the product to increase and cost of the total product would increase.*

However, the Commission had requested exporters to report the outside diameter, wall thickness and length of every domestic and Australian export sale that fell within the goods description (GUC). The Commission had also asked exporters and interested parties to make submissions on what MCC sub- categories should be applied to wall thickness, outside diameter and length.

In the Zhejiang Hailiang exporter questionnaire response at C-3:

1. Provide a list of the relevant subcategories that your company considers that should apply to:

- *Outside diameter;*
- *Wall thickness;*
- *Length*

RESPONSE:
Zhejiang Hailiang recommends that the comparison between domestic and Australian sales should be made between the same ***specifications, including outside diameter, wall thickness*** *and length, if required.*

This recommendation was not considered by the ADC and no changes to MCCs were made. Particularly important is "specification" which is linked to the relevant standard, in this case AS1432 and AS1571. No adjustments were made to normal values for differences in the specification, outside diameter, wall thickness fabrication or copper cost.

(ii) ADC does not understand draw thin and impact of lowering finished goods cost.

The ADC has failed to understand the practice of draw thin by exporters and have made erroneous statements in this regard in the ADC response outlined in ADRP Review Nos. 146-150 paragraph 18, 19 and 20. The failure to recognise a distinction between selling and pricing based on nominal weight, rather than actual weight (with adjustments to normal value required for the difference when drawing thin for an unregulated domestic China market). Pricing is based upon nominal weight, so drawing thin is a means of reducing cost. The "MCC system" has not taken account for the obvious cost benefit of drawing thin by the exporters for sales on their respective domestic market.

The following ADC statement confirms the apparent lack of understanding (Paragraphs 18-20):

> *The commission considered the MCC structure and whether there should have been a separate category for copper that had undergone a process to reduce wall thickness. Based on information before it, the commission did not determine that thickness (and the associated drawing thin process) was the principle distinguishable and material differences for copper tube. However, differences in thickness that result in different amounts of copper being used (which has a related price and/or cost effect) is addressed through the unit weight figure (as set out below). This also addresses different standards between countries that may result in different weights/thicknesses.*

This statement shows a lack of understanding of the concept of manufacturers who "Draw Thin" and the way copper tube is priced and sold.

a. Copper tube is sold and priced based on its ***nominal*** weight ie the theoretical weight (kgs) is calculated by (Outside Diameter – Wall Thickness) x Wall Thickness x 0.0281 x length of the tube in metres.
b. The product is then priced based on this ***nominal*** weight x a $/tonne price.
c. The actual weight of the product determines the cost of the copper in the finished goods sold.
d. The standard has a manufacturing wall thickness tolerance and an Outside Diameter (OD) tolerance. Manufacturers will always manufacture to the lower end of this tolerance to reduce cost.

e. In the China market the standards are not regulated or mandatory, so the product is drawn thinner compared to the stringent Australian standards.
f. An additional xx-xx% saving through draw thin is significant when you consider copper represents 90% of the selling price.
g. Normal Values need to be adjusted up for draw thin so a fair comparative can be made to export prices.

(iii) Capping and cleaning costs for refrigeration copper tube

That capping and cleaning costs for refrigeration copper tube (as required by AS1571) extend beyond the cost of the plastic caps, (eg secondary cleaning cost, labour costs and additional handling). The lower cost of capped product evidenced in China is driven by drawing thin on the copper to reduce costs in a highly competitive unregulated refrigeration market in China (the largest market segment in the domestic market). MM Kembla in its submissions (EPR Documents 023 and 045) demonstrated and as was verified by the ADC in its verification process the refrigeration products sold in Australia compliant to AS1571 have a higher standard cost and the sell price is equally higher when compared to plumbing AS1432 tube (not cleaned to the same standard or capped)

The fact that both domestic and export Chinese and Korean tube didn't have an increase in cost or price (due to cleaning and capping costs) is driven by three factors:

a. By the exporter's own admission during verification, that they do not separately capture these costs in their ERP system and therefore all products have an average fabrication cost.
b. As a result, the prices are also not different to say plumbing uncapped tube.
c. Most of the tube manufactured by China and Korean producers are for the Air Conditioning and Refrigeration (ACR) markets. Very little copper tube is used for plumbing. The Australian market is the reverse. This very large and unregulated ACR market means drawing thin is a way to reduce costs. MM Kembla has experienced with [redacted] to reduce cost. This explains why in fact capped or refrigeration (ACR) products is in many cases actually cheaper in the domestic market.

(iv) Non arms length dealing with Hailiang HK

The responses concerning rebates do not account for rebates paid directly by Zhejiang Hailiang or Hailiang HK (not verified) - as demonstrated by MM Kembla in its application with email from Hailiang parent company in China.

The commission states that its "initial" the verified costs to import and sell with the 'net selling price' of the MCCs. This is an extremely high level analysis and, in light of the above failures with the commission's MCC analysis is clearly inadequate. The commission further states that it examined the weighted average net invoice prices of Hailiang Australia "also taking account of off-invoice rebates" for comparison with Hailiang Australia's costs to import and sell. Again, this is a high level and inadequate assessment.

Zhejiang Hailiang response to the Exporter Questionnaire – Chinese Exporters stated.

6. Did you provide on-invoice discounts and/or off-invoice rebates to any customer or an associate of the customer in relation to the sale of the goods exported to Australia during the period? If yes, provide a description and explain the terms and conditions that must be met by the customer to obtain the discount.
RESPONSE:
Zhejiang Hailiang did not provide on-invoice discount or off-invoice rebates to its Australian customer during the POI.

This statement is correct, but MM Kembla provided the commission with evidence[3] (included in its application) that [*commercially sensitive information concerning parties providing benefit(s)*] off-invoice rebates.

The commission's response to the ADRP Member's question G-1 is therefore incomplete and confirms that the commission did not take into account rebates paid directly by [*commercially sensitive information concerning parties providing benefit(s)*].

(v) Excluding Hedging costs and Hedge Gains and Losses

Hedging costs and hedging gains & losses relating to purchases of raw materials and sales of finished goods as borne by Hailiang HK (not verified) have <u>not</u> been considered in export price determination. Additionally, the ADC comment that the hedging costs and gains and losses not borne by the manufacturer are not relevant in the determination of the manufacturer's normal value and export price is incorrect. The exclusion of a directly related cost to the manufacturing and selling of copper tube is erroneous. Pricing can only be fixed on customer orders if hedges are put in place, so there is a direct link to price (using LME Benchmark). To ignore this with a volatile commodity like copper when it represents 90% of the sale price demonstrates the lack of understanding of the economics and risks associated with copper tube.

In Appendix B paragraph 1 the ADC states;

The commission is aware that during this investigation, exporters may have engaged in this practice, either directly or indirectly via their trading entity, however, this practice is not necessary to manufacture or sell copper tube. The example provided by MM Kembla in its submission of 4 October 2021 outlines theoretical transactions where a hedging loss may be observed, and it argues that the hedging loss should be attributed by either adjusting the export price down, or adjusting the normal value higher by the value of the hedging costs.

The worked example quoted above is shown below. This is an actual transaction for an order between [*commercially sensitive information concerning parties and transactions involved*].

It demonstrates how the hedge transaction works for a fixed price order and if in this case hedge gain and loss was not accounted for then additional gain that would be booked for [entity].

[3] MM Kembla response to SEF confidential attachments 9 & 10 and confidential Zhejiang Hailaing exporter briefing.

[*Redacted – commercially sensitive example of impact of hedging on raw material cost and selling prices*].

Clearly, this cost cannot be ignored particularly for the Hailiang Australia related entity who would be completely protected from any hedge gains and losses accounted for by Hailiang Hong Kong.

The ADC in its response to the ADRP questions relating to hedge gains and losses and hedging costs stated repeatedly that "there was no indication of any hedging by manufacturers". This is factually incorrect. MM Kembla is a customer of [*entities, countries*] for products sold that are not manufactured by MM Kembla. MM Kembla's dealings with these manufacturers over many years affords MM Kembla a very good understanding of how they operate, [*redacted – basis of MM Kembla experience and details of hedging practices*].

This is outlined in the Hailiang annual report which is publicly available, and MM Kembla made reference to this in its submissions relating to Investigation 580 – Dumping Copper tube from Vietnam. This decision is also before the ADRP.

(vi) Copper costs in China.

The ADC's comparison of the LME price and the SHFE price is flawed. If this was correct there would be a permanent arbitrage opportunity between the two markets. The former has a Major Port premium (as is the case with aluminium) that has been ignored. If Hailiang's purchase prices were "up to 6% higher" than the LME - with copper accounting for 90 per cent of production cost - Hailiang would be uncompetitive with Korean exporters - although the ADC states that export prices for all exporters are similar. The commentary does not support the facts.

(vii) New and relevant information

MM Kembla has been notified by [*entity*] that the Korean Trade Measures agency (ITC) has made preliminary affirmative determination on copper tube exported to Korea from China and Vietnam. MM Kembla was advised of this decision on 24 May 2022. The margins of dumping established were as follows:

Country	Exporter	Margin %
China	Golden Dragon	42.03
	Ningbo JT	26.65
	Hailiang	15.95
	All other exporters	28.96
Vietnam	Ningbo JT	10.0
	Hailiang	14.78
	All other exporters	11.64

The goods in the Korean ITC investigation were seamless copper tube with an outside diameter in the range 3.80 – 28.58 mm, wall thickness in the range 0.20 – 2.00 mm, LT 50 metre or above.

The dumping investigation period was 1 January to 30 June 2021, and the injury period was 1 January 2018 to 30 June 2021.

The Korean investigation confirms that the Korean copper tube industry was subject to dumping from China and Vietnam during the same periods experienced by the Australian industry. This would have had an impact of lowering normal values in the domestic market during the investigation period of this case. Additionally, the Korean industry was suffering injury when it was also exporting sales to Australia – at prices that should have been correctly determined as dumped.