



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	13 June 2022
Participants	John O’Connor, Representative for MM Kembla Tony Bova, Executive General Manager MM Kembla
Time opened	11:00 am AEST
Time closed	12:30 pm AEST

Purpose:

The purpose of this conference was to obtain further information in relation to the Review No’s. 146 to 150 – Copper Tube exported from the People’s Republic of China (“China”) and the Republic of Korea (“Korea”). In particular, the purpose was to provide an opportunity for the applicant, Metal Manufactures Pty Ltd trading as “MM Kembla” (“MM Kembla”), to comment on the further information and clarifications provided by the Anti-Dumping Commission (“ADC”) during the conference of 7 June 2022, as reflected in the published conference summary of the Conference of 7 June 2022.

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 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.



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- 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 ADRP 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 7 June 2022 Conference Summary

Prior to the conference, MM Kembla provided a written version of its comments on the further information provided by the ADC during the Conference of 7 June 2022 as reflected in the Conference Summary of 7 June 2022 ("Written Comments"). The Written comments 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

(a) Non arms length sales between Hailiang HK and Hailiang Australia

- I requested confirmation of the documents that had been provided by MM Kembla to the ADC as evidence of the rebates.

MM Kembla's representatives ("MR") confirmed that it was the two documents attached to MM Kembla's submission in response to SEF 557 of 4 October 2021, as Confidential Attachment 9 and 10, as well as the



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email correspondence [redacted] set out in the body of MM Kembla’s briefing document of 4 May 2021.¹

MR confirmed that the two documents attached to MM Kembla’s submission in response to SEF 557 of 4 October 2021 (Confidential Attachment 9 and 10) [redacted]

However, MR confirmed that [redacted]
[redacted]
[redacted]

MR confirmed that the [redacted]
[redacted]
[redacted] MR stated that there were [redacted]
[redacted]
[redacted]
[redacted]

- I requested clarification of the reference to the [redacted] referred to on page 11 of MM Kembla’s submission on SEF 557 dated 4 October 2021, [redacted]
[redacted]
[redacted]
[redacted]
[redacted]

MR confirmed that [redacted] was dated 24 May 2020, which was within the period of investigation, MR referred to the Worksheet of [redacted]
[redacted]
[redacted].²

¹ MM Kembla undertook to provide the Review Panel with its submission of 4 May 2021 after the conference. The conference was held open for this purpose and MM Kembla provided the relevant document.

² See Confidential Attachment 1 “(1a – 1e) – Deductive Export Price”, to MM Kembla’s submission to the ADC dated 4 October 2021, Worksheets, “[redacted]”.



(b) Hailiang HK Hedging activities

- *MR reiterated the difficulties associated with the treatment of the hedging costs and hedging gains/losses due to fact that Hailiang HK conducted all the hedging activities relating to the export, but was not verified. MR pointed out that Heiliang HK operated at a loss as evidenced by the Zhejiang Hailiang 2020 Annual Report.³*
- *MR clarified aspects of MM Kembla’s submissions related to the deductive export price, with reference to Confidential Attachment 1 “(1a – 1e) – Deductive Export Price”, an attachment to MM Kembla’s submission to the ADC dated 4 October 2021. MR clarified the calculations of the deductive export price in Worksheet 1, including the link to the [REDACTED]*
[REDACTED]
[REDACTED]
MR stated that when the deductive export price was calculated based on [REDACTED] it was clear that Hailiang Australia was selling at a loss, and there was no correlation with the price of copper actually used in the production of the products exported. MR reiterated that none of the hedging costs or hedging gains were reflected in the accounts of Hailiang Australia, as all hedging activity was undertaken in Hailiang HK.
- *MR pointed out a discrepancy in the submissions of the ADC:*
 - ❖ *In Paragraph 2 of the Fourth Conference Summary it was stated that in the calculation of export price the ADC “deducted any hedging costs which might form part of Hailiang HK’s SG&A costs (finance costs)”, indicating that finance costs (which included hedging costs) were taken into account and deducted from the export price.*
 - ❖ *In Paragraph 22 of the Section A Notice Response it was stated that the ADC, “did not identify hedging costs in the accounting records for any of the verified exporters, these have not been*

³ MR indicated that this was available as Confidential Attachment 11 to MM Kembla’s submission to the ADC dated 4 October 2021.



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taken into consideration as financial costs as part of the CTMS.”

This seemed to indicate that financial costs were not taken into account.

MR stated that the confusion as to the treatment of hedging costs and hedging gains and losses arose from the fact that all hedging activity took place in Hailiang HK. Since Hailiang HK was not verified, it was difficult to understand how hedging costs and gains/losses were treated in the accounts of Hailiang HK.

ANNEXURE A

Public File

ADRP – Reviews Nos. 146 – 150 Certain Copper Tube from China and Korea – MM Kembla comments on ADRP Conference Summary with Anti-Dumping Commission Representatives 7 June 2022

I. Introduction

On 8 June 2022 the ADRP published a Conference Summary detailing clarification points and responses between the ADRP Panel Member and the Anti-Dumping Commission Representatives held on 7 June 2022.

MM Kembla has been afforded the opportunity to comment on the ADC Representatives' responses to the two discussion points.

II. Discussion points

(a) Non arms length sales between Hong Kong Hailiang Metal Trading Limited (“Hailiang HK”) and Hailiang Australia

MM Kembla Comments: MM Kembla notes the ADC Representatives comments that there was “no evidence” of any rebates paid by either Hailiang HK or Zhejiang Hailiang in China for direct sales between Zhejiang Hailiang in China.

MM Kembla further notes the ADC Representative reference to Section B7 of Hailiang HK's exporter questionnaire response that it did not provide “on-invoice discounts or off-invoice rebates” (Note 1, P.2, Conference Summary).

MM Kembla rejects the ADC Representatives response as to the absence of evidence of the existence of off-invoice rebates and the reference to Hailiang HK's exporter questionnaire that no discounts or rebates were received as indicative that the ADC did not sufficiently investigate MM Kembla's claims as to the existence of rebates.

MM Kembla provided (in its application for measures) [*redacted – evidence provided by MM Kembla*] (extract)¹ confirming the existence of off-invoice rebates by Zhejiang Hailiang. The ADC has confirmed it did not conduct a verification of Hailiang HK and therefore it cannot rely upon an “absence of evidence” as to the non-existence of off-invoice rebates.

(b) Hailiang HK's hedging activities

MM Kembla Comments: Hailiang HK operated at a loss as evidenced in the Zhejiang Hailiang Annual Report. The losses incurred by Hailiang HK can be attributed to the hedging costs incurred that Zhejiang Hailiang records in its HK subsidiary company.

The ADC did not conduct a verification of Hailiang HK. It is therefore incorrect for the ADC to cite “no evidence” of any hedging costs that should have been fully factored into the profitability determination for Hailiang Australia. The hedging costs associated with copper tube exports to Australia have not been adequately verified by the ADC in Investigation 557.

¹ Also included in Confidential exporter briefing for Zhejiang Hailiang provided by MM Kembla.