



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	26 April 2022
Participants	Roman Maevsky, Anti-Dumping Commission Isolde Lueckenhausen, Anti-Dumping Commission Jessica Casben, Anti-Dumping Commission James Munro, Anti-Dumping Commission
Time opened	2:00pm AEST
Time closed	4:26pm AEST

Purpose

The purpose of this conference was to obtain further information and clarification in relation to information provided by Anti-Dumping Commission (“ADC”) in response to a notice under s.269ZZRB of the *Customs Act 1901* (“the Act”) dated 30 March 2022 (“the Notice”) and to obtain further related information and clarifications, in relation to Review Nos. 146-150 – Copper Tube exported from the People’s Republic of China (“China”) and the Republic of Korea (“Korea”).

General

The conference was held pursuant to s.269ZZRA of the *Customs Act 1901* (the Act). During the conference, I was able to ask the ADC 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 of the ADC (“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:

- 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.



Australian Government
Anti-Dumping Review Panel

- 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.

Background

Under s.269ZZRB(1) of the Act, the Review Panel on 30 March 2022 sought further information from the ADC in respect of a number of grounds (or sub-grounds) of review of the various applications and in relation to information that was before 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 ("Part I Notice Response") and on 21 April 2022 the ADC responded to Section A of the Notice ("Part II Notice Response"). Non-confidential versions of Part I Notice Response and Part II Notice Response will be published on the Review Panel's website simultaneously with this conference summary.

The Review Panel provided the ADC with a document setting out the proposed discussion items for the conference ("the Discussion Items Document") prior to the conference, attached to this document as Appendix A. The ADC provided a written response to the Discussion Items Document ("the Written Response") prior to the conference, which formed the basis for the oral responses of the ADC to the specific discussion items referred to therein, during the conference. The Written Response is attached to this document as Appendix B.

Discussion

The specific information and clarifications that the Review Panel sought in this conference as well as the information and clarifications provided in response by the ADC representatives ("AR") is as follows:



CLARIFICATIONS RELATING TO THE PART I NOTICE RESPONSE

1. Section C of the Part I Notice Response: Adjustment Claim for Scrap Copper

a. Paragraph 4

I requested clarification as to whether the copper, imported for use in copper tube for export, included scrap.

AR confirmed this.

b. Paragraphs 6, 7 and 8

I requested clarification as to whether the statement that each MCC category contains both domestic and exported models indicated that the exact export models were sold on the domestic market. If so, I sought clarification as to why direct comparisons were not made with those models, rather than including additional domestic models in the MCC.

AR stated there was no indication that any export models were sold on the domestic market.

I then requested further clarification as to why export models were included in the MCC and whether they were included in the normal value calculations.

AR stated that domestic and export models are contained within each MCC, with similar key characteristics and similar costs and prices. AR stated that while all models within each MCC were used for the calculations of the OCOT test, the normal value calculations were only based on the models sold in the domestic market. AR confirmed that the export models were not included in the normal value calculations. AR also confirmed that it was standard practice to consider models sold domestically as well as models exported in the MCCs, if they had similar key characteristics and similar unit costs and price structures.

With regard to scrap copper, I requested clarification as to whether the domestic models included in a MCC had similar percentages of scrap copper as the exported models in that MCC.

AR stated that although the amount of scrap was not a consideration for the MCCs, domestic and exported models in the same MCCs had similar scrap content.

I requested that the ADC provide an example of one MCC and its calculations comparing the cost of the models in the MCC with the weighted average cost, and showing the percentage deviation from the weighted average cost for each specific model in that MCC.

AR undertook to provide the Review Panel with an example of such a calculation for one MCC, comparing the different models within that MCC.¹

c. Paragraphs 9

I requested further clarification of the statement that the ADC does not consider adjustments for differences in cost necessary, where the same MCCs are used to

¹ The conference was held open for this purpose and the ADC provided the relevant information.



Australian Government

Anti-Dumping Review Panel

compare the domestic sales to export sales, as it does not affect price comparability.

AR stated that since domestic and export models have similar costs and characteristics within the same MCC categories and since the differences were taken into account in the establishment of the MCCs, the ADC did not consider that there was any need for adjustments, as there were no differences that affected price comparability within each MCC.

With reference to the cost of scrap copper, AR stated that scrap copper was used in exported models, and was not used in domestic models at a higher level, as claimed by the applicant. Therefore, the ADC did not consider any adjustment for scrap was necessary. AR confirmed that the need to make adjustments was eliminated because the MCCs were formulated based on having similar costs, qualities or physical characteristics.

2. Section D of the Part I Notice Response: Adjustment Claim for Standards

a. Paragraphs 11 – 13

I had a similar clarification request to that requested in respect of 1b above relating to Paragraphs 6, 7 and 8 (adjustment for scrap metal), which was clarified by AR's response thereto. No further clarification was required.

b. Paragraph 14

I requested clarification as to whether the ADC's statement that the, "MCC categories used ensure that exported models, which may contain higher costs due to Australian standards, are not compared with lower priced models made to domestic standards in Korea", means that there are similar higher priced models made to higher Australian-like standards that are also sold on the domestic markets in China and Korea, respectively.

AR confirmed that this was correct and that while Australian and Korean (or Chinese) standards were different, for the purpose of the comparison, models sold on the domestic market with similar costs and prices would be compared with export models with similar cost and pricing structures. Therefore, a higher priced model sold on the domestic market would be compared to a higher priced model exported to Australia, because of the MCC structure.

c. Paragraph 15

I requested further clarification of the ADC's statement that on each occasion, it found that there are both domestic and exported models that have the lowest and highest cost within particular MCCs.

AR clarified that this meant that, within any particular MCC, the lowest cost models and the highest cost models were not necessarily always the domestic or exported models, as might be expected, but that there was a spread of both domestic and exported models having both the lowest and highest cost.

d. Paragraph 16

I requested clarification of the ADC's statement that it does not consider adjustments for differences in costs to be necessary where the same MCCs are used to compare the domestic sales to the export sales, as it does not affect price



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Anti-Dumping Review Panel

comparability. I pointed out that this was similar to the clarification requested with regard to Paragraph 9 (in 1c above).

AR confirmed that the response was the same as that relating to Paragraph 9 above, that is, because domestic models and export models have similar characteristics and costs within the same MCC categories, the ADC did not believe that there was any need for adjustments as there were no differences with respect to domestic and export sales within the MCC, that affected price comparability. AR confirmed that the need to make adjustments was eliminated because the MCCs were based on having similar costs, qualities or physical characteristics.

3. Section E of the Part I Notice Response: Adjustment Claim for Drawing Thin

a. Paragraphs 18 - 21

I requested confirmation of my understanding of the ADC's response in these paragraphs, that even though 'drawing thin' (relating to wall thickness) was not a criterion for the MCCs, it was directly related to weight, which was a criterion.

AR confirmed that my understanding was correct, and that this meant that the thinner the wall, the lower the weight, so 'drawing thin' would, be taken into consideration in the weight criteria of the dumping margin calculation.

4. Section F of the Part I Notice Response: Adjustment Claim for Cleaning and Capping

a. Paragraph 24

I referred to the ADC statements in Paragraph 24 that: (i) the capping costs amounted to between [REDACTED] and [REDACTED] % of the cost of the product for the three exporters, and (ii) in certain instances the capped product was cheaper by between less than [REDACTED] %. I requested clarification as to why the capped products would be "cheaper" than the uncapped products and why by a [REDACTED]

AR clarified that, as explained by the verification team, the difference resulted from other characteristics of those models that may have driven the selling price in that direction. AR stated that the cleaning and capping costs appeared to be immaterial, firstly because they made up less than [REDACTED] % of the total CTM, and secondly, when considering the price comparability for 1 exporter, price moved in the opposite direction to what would be expected, indicating that other issues or characteristics were driving price, rather than capping costs.

5. Section G of the Part I Notice Response: Arm's length sales between Hong Kong Hailiang Metal Trading Limited ("HK Hailiang") and Hailiang Copper Australia Pty Ltd's ("Hailiang Australia")

a. Paragraph 25

I requested clarification as to whether Confidential Attachment 3 to Hailiang Australia's importer verification report, had been provided to the Review Panel, since I was unable to locate it in the files provided

AR advised that this document had been omitted from the documents provided to the Review Panel but that it had been reproduced in Confidential Attachment 1 to the Part I Notice Response, as Worksheet G-1 "Hailiang Australia Profit" and G-2 "WA Hailiang Au Sales Prices". The ADC agreed to provide the Review Panel with all the confidential



Australian Government

Anti-Dumping Review Panel

attachments to the Importer Verification Report, as well as the Importer Work Program, for Hailiang Australia.²

b. Paragraph 26 and 27

I requested clarification of Paragraphs 26 and 27 with reference to the relevant worksheets of Confidential Attachment 1.

AR took me through Worksheets G – 1 “Hailiang Australia Profit” and G - 2 “WA Hailiang Au Sales Prices” demonstrating how the ADC had taken into account the off-invoice rebates and the difference in profitability when the off-invoice rebates were taken into consideration in calculating the profit.

I requested clarification of Paragraph 26 in light of the statement in the Zhejiang Exporter Work Program, [REDACTED]

“ [REDACTED] ”³

AR clarified that the Exporter Work Program is in relation to the manufacture of the goods in China. AR stated that the exporter in China sells the goods to HK Hailiang, the trading entity, which then on sells the goods to the Australian entity. [REDACTED]

CLARIFICATIONS RELATING TO PART II NOTICE RESPONSE

6. Section A of the Part II Notice Response: Date of Sale / Adjustments Claims for Copper Volatility and Hedging Costs

a. Paragraph 1

I requested clarification as to whether the statement that, “volume and amount may change between 5% and 20% between order or contract date and invoice date” [emphasis added], meant that the total amount changes because of the volume change or that the per unit amount changes.

AR confirmed that the amount changed was based on the quantity change, except for one exporter, where there was a unit price variation of 1.5% between sales order and invoice.

I requested further clarification of the statement that the ADC considers volume variations are relevant, “because they affect the weighted average normal value and export price used in calculating the dumping margin”.

AR stated although the unit price was the same, the change in quantity affected the normal value calculation as it impacted the weighted average price.

I requested certain clarifications of Confidential Attachment 2, Worksheet A - 1:

² The conference was held open for this purpose and the ADC provided the relevant information.

³ See Zhejiang Exporter Work Program, page 24.



Australian Government
Anti-Dumping Review Panel

- AR confirmed that the average difference between invoice and confirmation date was longer for the domestic sales than the export sales.
- AR confirmed that the 'plus minus' percentage in the statements next to table of export samples indicated the permissible percentage change in quantity.
- AR stated that the reference to "[REDACTED]" indicated in those transactions that there was a unit price per tonne stated on the pro forma invoice together with the wording, "[REDACTED]", which indicated that the per unit price was probably [REDACTED]. AR further stated that there was no information indicating the date on which the price was determined [REDACTED]. AR referred to the sample pro forma invoice on the right hand side of the Worksheet A - 1, pointing out that it was not the full document. AR agreed to provide the Review Panel with the full pro forma invoice sample.⁴
- AR stated that the ADC would look into the issue as to why there was no explanation next to the table of domestic samples as to when the price was determined or the percentage difference in quantity permitted. It was agreed that the ADC would provide an updated Worksheet A- 1 with explanations.⁵

I requested certain clarifications of Confidential Attachment 2, Worksheet A-2:

- AR clarified the statement in the last sentence of Paragraph 1, referring to Worksheet A - 2 of Confidential Attachment 2, which states that price [REDACTED] and further that the price [REDACTED].
- In response to my clarification request as to the relevant date of the [REDACTED] if there was a changes in volume, that is, whether it would be from the date of the original order or the date of the order of the additional volume, AR stated that there were currently no comments on Worksheet A – 2 in this regard and that the ADC would look into this and revert to the Review Panel.⁶
- In response to my clarification request relating to the comment next to the table of domestic samples that there was, [REDACTED] AR clarified that the only time that there was a reference to price for the domestic sales was on the tax invoice, and also confirmed that [REDACTED].

b. Paragraph 2

I requested clarification as to what was meant by "tentative LME" and how the price is finally set (with reference to which LME date).

⁴ The conference was held open for this purpose and the ADC provided the relevant document.

⁵ The conference was held open for this purpose and the ADC provided the updated Worksheet A - 1.

⁶ The conference was held open for this purpose and the ADC provided the updated Worksheet A – 2.



Australian Government

Anti-Dumping Review Panel

AR referred to Worksheet A – 3 of Confidential Attachment 2, and the sample sales contract on the right-hand side of the Worksheet which contained the reference to a price followed by the term, “[with Tentative LME]”, and stated that the reference to a tentative LME price indicated that it would change. AR referred to the Commercial Invoice (Invoice 9) (also on the right-hand side of the Worksheet) which indicated a “provisional price” and a different, “final price”. AR stated that the invoice was calculated in relation to the final price.

I requested clarification as to whether there was any actual change in quantity for any of the export transactions since the text next to the table of export samples indicated that there was a permissible percentage change in quantity, but did not indicate if there was any actual change in quantity for any of the transactions.

AR pointed out that there were comments for two of the transactions (that were [REDACTED]) and stated that the ADC would check if there was any change in quantity for any of the [REDACTED] transactions and revert to the Review Panel in this regard.⁷

c. Paragraph 7

I pointed out that the ADC should note that my reference to “hedging costs” is a reference to the cost of contract, and not to losses or gains arising out of the hedging contract. I stated that it seemed there was some confusion in the application for review between hedging costs on the one hand and hedging gains and losses on the other hand.

AR acknowledged this point.

d. Paragraphs 8 and 9

I requested clarification with reference to the ADC’s statements in the last sentence of the first dot point of Paragraph 8 and the last sentence of the second dot point of Paragraph 8, as to whether an adjustment for hedging costs could be based on a fair comparison, that is, differences in financial costs incurred in respect of domestic and export sales.

AR clarified that the ADC did not identify any differences in hedging costs between the export and domestic sales and further clarified that at verification the ADC did not identify any hedging costs incurred by any of the manufacturers, in respect of either export or domestic sales. AR stated that in one of MM Kembla’s submission there was reference to hedging costs incurred by the trading entity, HK Hailiang.

e. Paragraph 13

I requested clarification in regard to the ADC’s disagreement with MM Kembla on the materiality of change in copper price, bearing in mind that copper constitutes over 90% of the cost of the product.

AR referred to Worksheet A – 4 of Confidential Attachment 2 where the monthly variation of the copper price was mostly between [REDACTED] with a couple of months having a higher variation [REDACTED], which the ADC did not consider

⁷ The conference was held open for this purpose and the ADC provided an updated Worksheet A – 3.



Australian Government

Anti-Dumping Review Panel

to be enough to be significant. AR confirmed that the general practice of the ADC is to consider the data on a quarterly basis, considered to be the most accurate comparison for the calculations since it averages out any of the larger fluctuations which could occur on a daily basis or a monthly basis. AR referred to the average quarterly differences set out in Worksheet A – 4 stating that additional analysis supported the use of the quarterly averages rather than monthly averages.

f. Paragraphs 20 to 22

I requested clarification as to the apparent contradiction in the ADC's statement in the last sentence of Paragraph 20 and in Paragraph 22.

AR pointed out that if there were hedging costs that were created and included under some other account, they would have been considered under the finance costs, and that if they were incurred in domestic sales, they would have been taken into account separately. However, AR stated that no hedging costs were identified in the accounting records of the verified exporters.

I requested further clarification as to whether hedging costs incurred by the trading entity, HK Hailiang, would have been taken into account in the calculations of export price.

AR stated that they were not specifically considered in the calculation, noting that if they formed part of the finance costs, then they would have been accounted for, and if they formed part of SG&A they would have been deducted from the export price. AR stated that the SG&A calculation for HK Hailiang used to calculate an export price for Hailiang would be provided to the ADRP.⁸ AR confirmed that there was no reference to hedging costs in the Importer Work Program.

I requested clarification of the ADC statement in the second dot point of Paragraph 21.

AR stated the standard practice for exporters and for manufacturers is to use standard cost accounting and then to consider any variances at the end of each month (or other accounting period), and that increases or decreases relating to the cost of raw materials would have been taken into account and reflected in the CTMS. AR stated that if, for example, there was a variance in copper costs, there would be a variance allocated to that account which would increase (or reduce) the cost by the amount of the variance. AR pointed out that on this basis any hedging gains or losses would have already been taken into account and there is no evidence to suggest that hedging gains or losses are included in price setting and therefore it is not necessary to make adjustments. AR confirmed that there was no indication of any hedging by the manufacturers, stating that if there were variances, they would be included in the CTMS, but the variances might not be related to hedging. AR pointed out that MM Kembla had indicated that it was the trading entity, HK Hailiang, that was involved in hedging.

I requested a copy of the verification report of HK Hailiang and the Work Program relating to HK Hailiang.

⁸ The conference was held open for this purpose and the ADC provided the relevant information.



Australian Government
Anti-Dumping Review Panel

AR pointed out that HK Hailiang's information was not verified (so there was no verification report or work program), but that the information that related to HK Hailiang would be reflected in the accounts and would form part of the Exporter Work Program for the relevant manufacturer. AR confirmed that the information would have been taken into account when verifying the exporting entity and used in calculating the export price and in calculating the SG&A for HK Hailiang.

DISCUSSION ITEMS RELATING TO SECTION A OF THE SECTION 269ZZRB NOTICE

7. As noted above, the Review Panel provided the ADC with a document prior to the conference setting out the proposed discussion items for the conference ("the Discussion Items Document"), attached as Appendix A.
8. The first item of the Discussions Item Document related to clarifications arising out the ADC's written responses to the s.269ZZRB Notice, being Part I Notice Response and Part II Notice Response. These clarifications have been addressed in detail above.
9. Items 2 (a) to (g) of the Discussion Items Document contained further clarification requests arising out of Section A of the s.269ZZRB Notice relating to 'date of sale', copper volatility and hedging costs. As also noted above, the ADC provided a written response to Items 2(a) to (g) of the Discussion Items Document ("the Written Response") prior to the conference, which formed the basis for the oral responses of the ADC to the specific discussion items referred to therein, during the conference. The Written Response also forms the basis of the summary of the ADC's responses to the relevant Discussion Items for the purposes of this Conference Summary and is attached as Appendix B.
10. I noted that most issues relating to Section A had already been clarified either in the Part II Notice Response or in the further clarifications relating thereto, discussed above.

AR confirmed that the examples referred to in Paragraph 2 of the Written Response (relating to Question 2(a) of the Discussion Items Document) were those in Worksheets A – 1, A – 2 and A – 3 of Confidential Attachment 2 to the Part II Notice Response, discussed above.

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

Conference Discussion items – 14 April 2022

1. Any clarifications arising out of the written response to the s.269ZZRB notice
2. With regard to Section A of the s.269ZZRB Notice, relating to ‘date of sale’, copper volatility and hedging costs:
 - a. Could the ADC clarify its reasons as to why it does not consider the time of order placement to better reflect the ‘date of sale’ (rather than date of invoice), if MM Kembla is correct in that it is industry accepted practice (and it has been demonstrated) to enter into copper hedging contracts at the time of order.
 - b. In the document entitled, “Zejiang Exporter Work Program” it is stated:

[REDACTED]

[REDACTED]

This seems to indicate that the price of exports from Zejiang is set [REDACTED] [REDACTED] on the date of [REDACTED] demonstrating a basis for the ‘date of sale’ for exports from China being the date of [REDACTED] Please can the ADC comment on this.

- c. Also, in the document entitled, “Zejiang Exporter Work Program” it is stated:

[REDACTED]

¹ See Section entitled, “Export sales process” of Zejiang Exporter Work Program, pages 24 – 25.

[REDACTED]

[REDACTED]²

This seems to indicate a basis for the ‘date of sale’ for domestic sales in China being the date of [REDACTED]. Please can the ADC comment on this and also advise if there is a difference between the [REDACTED] and the [REDACTED]

- d. When the ADC stated in TER 557 that it also compared the sales order dates and invoice dates for both domestic and export sales for all cooperative exporters for a sample of sales transactions used for the verification of sales, is the reference to “sales order dates” a reference to the [REDACTED] or is it a reference to [REDACTED]? Please address this question separately for export sales and domestic sales.
- e. In the document entitled, “Nungwon Exporter Work Program” it seems that there may be a basis for [REDACTED] being the ‘date of sale’, for exports from Nungwon, although it is not clear [REDACTED], as is the case with Zhejiang Hailiang (discussed above).³ Please could the ADC comment on this.

It would appear from the Nungwon Exporter Work Program that there may be a basis [REDACTED] being ‘date of sale’ for domestic sales.⁴ Please could the ADC comment on this.

- f. In the document entitled, “Daejin Exporter Work Program” it is stated that [REDACTED]
 - It is stated further [REDACTED]
 - [REDACTED]⁵ Later in the document it is stated that [REDACTED]
 - [REDACTED]⁶ It is also stated that [REDACTED]
 - [REDACTED]⁷ It is further [REDACTED]

² See Section entitled, “Domestic sales process” of Zhejiang Exporter Work Program, pages 26 – 27.
³ See Sections entitled, “Export price negotiation” (including Figure 6) and “Export sales process” of Nungwon Exporter Work Program, pages 25 – 27.
⁴ See Section entitled, “Domestic price negotiation and sales process” (including Figure 7) of Nungwon Exporter Work Program, pages 27 – 28.
⁵ See Section entitled, “Export price negotiation process” of Daejin Exporter Work Program (unpaginated).
⁶ See Section entitled, “Export sales process”, subsection (c) entitled “Order placement process”, of Daejin Exporter Work Program, unpaginated.
⁷ See Section entitled, “Export sales process”, subsection (d) entitled “Order fulfilment process and lead-time”, of Daejin Exporter Work Program, unpaginated.

stated [REDACTED]
[REDACTED].⁸

Please could the ADC clarify the [REDACTED] statements as to whether the price [REDACTED] is determined [REDACTED]
[REDACTED]

- g. While it would appear from the document entitled, "Daejin Exporter Work Program" that for domestic sales [REDACTED]
[REDACTED]⁹
[REDACTED]¹⁰

Could the ADC clarify whether the reference to, "As discussed above" is a reference to the discussion under the export price negotiation and sales process, and if so, further clarify whether Daejin's domestic price is determined [REDACTED]
[REDACTED]

⁸ See Section entitled, "Export sales process", subsection (f) entitled "Invoicing process", of Daejin Exporter Work Program, unpaginated.

⁹ See Section entitled, "Domestic price negotiation process", of Daejin Exporter Work Program, unpaginated.

¹⁰ See Section entitled, "Domestic sales process", subsection b) entitled, "Price determination and/or negotiation process of Daejin Exporter Work Program", unpaginated.



Discussion items for 26 April 2022:

ADRP request: (Question 2a)

With regard to Section A of the section 269ZZRB Notice, relating to 'date of sale', copper volatility and hedging costs:

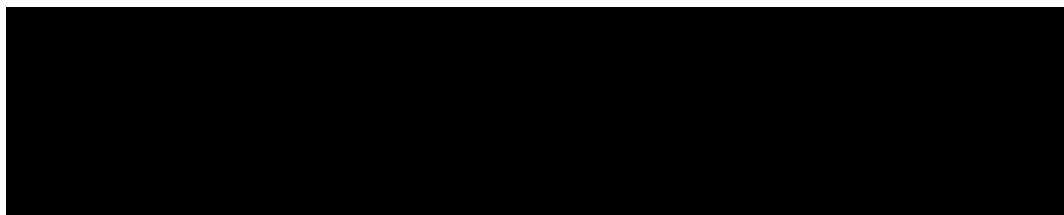
Could the ADC clarify its reasons as to why it does not consider the time of order placement to better reflect the 'date of sale' (rather than date of invoice), if MM Kembla is correct in that it is industry accepted practice (and it has been demonstrated) to enter copper hedging contracts at the time of order.

Commission's response

1. As considered in the commission's response to Section A at paragraphs 6 to 10 and paragraphs 19 to 22, the commission is aware that manufacturers, both domestically and internationally, may purchase hedging contracts at the point of making orders as a risk mitigation strategy for dealing with fluctuations in copper prices in either direction. 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.
2. The commission has provided examples at **Confidential Attachment 2** supporting the commission's response to Section A of the notice under section 269ZZRB of the *Customs Act 1901* (the Act), where the price and/or quantity changed between sales order confirmation and invoice date (see paragraphs 1 to 5 of the commission's response to Section A) for the verified exporters.

ADRP request (Question 2b)

In the document entitled, "Zhejiang Exporter Work Program" it is stated:



[REDACTED]

[REDACTED]

This seems to indicate that the price of exports from Zejiang is set [REDACTED] on the date of [REDACTED], demonstrating a basis for the 'date of sale' for exports from China being the date of [REDACTED]. Please can ADC comment on this.

Commission's response

- 3. The commission notes in its response to Section A at paragraph 1, that there have been changes to the unit price for at least one sample transaction between order confirmation date and invoice date (**Confidential Attachment 2** to response to Section A) for Hailiang. The order confirmation also allows for variations to the volume and amount by up to [REDACTED]%. The commission therefore does not consider that the terms of sale have been determined at order confirmation.

ADRP request (Question 2c)

Also, in the document entitled, "Zejiang Exporter Work Program" it is stated:

[REDACTED]

[REDACTED]

This seems to indicate a basis for the 'date of sale' for domestic sales in China being the date of [REDACTED]. Please can the ADC comment on this and also advise if there is a difference between the [REDACTED] and the [REDACTED].

Commission’s response

4. As above at paragraph 3 and in the commission's response to Section A at paragraph 1, the commission notes that there have been changes to the unit price for at least one sample transaction between order confirmation date and invoice date (**Confidential Attachment 2** to response to Section A). The order confirmation also allows for variations to the volume and amount by up to █%. The commission therefore does not consider that the terms of sale have been determined at order confirmation and the appropriate date of sale is the invoice date.

5. The commission considers the █ for domestic sales. For export sales, the commission considers the █

ADRP request (Question 2d)

When the ADC stated in TER 557 that it also compared the sales order dates and invoice dates for both domestic and export sales for all cooperative exporters for a sample of sales transactions used for the verification of sales, is the reference to “sales order dates” a reference to the █ or is it a reference to █? Please address this question separately for export sales and domestic sales.

Commission’s response

6. The commission’s reference to “sales order date” for both domestic and export transactions is a reference to the order confirmation date, which the commission considers to be the formal purchase order date. The documents used to determine the order confirmation date and invoice date are outlined below for each cooperative exporter.

7. Documents used for dates from export transactions:

Exporter	Order Confirmation Date	Invoice Date
Hailiang	█	█
Daejin	█	█
Nungwon	█	█

8. Documents used for dates from domestic transactions:

Exporter	Order Confirmation Date	Invoice Date
Hailiang	[REDACTED]	[REDACTED]
Daejin	[REDACTED]	[REDACTED]
Nungwon	[REDACTED]	[REDACTED]

ADRP request

In the document entitled, “Nungwon Exporter Work Program” it seems that there may be a basis for the [REDACTED] being the ‘date of sale’, for exports from Nungwon, although it is not clear [REDACTED], as is the case with Zhejiang Hailiang (discussed above). Please could the ADC comment on this.

It would appear from the Nungwon Exporter Work Program that there may be a basis [REDACTED] being ‘date of sale’ for domestic sales. Please could the ADC comment on this.

Commission’s response

9. As discussed at paragraph 2 of the response to Section A, the commission notes that in sales contracts [REDACTED] [REDACTED] The quantity is also subject to change by up to [REDACTED]%. The commission does not consider the export sales terms to be confirmed until the commercial invoice is issued.

10. The commission does not consider that the sales process for domestic sales as described in the “557 – Nungwon – Exporter Work Program” provides a basis for [REDACTED] being ‘date of sale’ for domestic sales. [REDACTED] [REDACTED] The commission does not consider the sales terms to be set until date of invoice.

ADRP request

In the document entitled, “Daejin Exporter Work Program” it is stated that [REDACTED] [REDACTED] [REDACTED] It is stated further [REDACTED]

Later in the document it is stated that [REDACTED]

[REDACTED] . It is also stated that [REDACTED]

[REDACTED] . It is further stated that [REDACTED]

Please could the ADC clarify the [REDACTED] statements as to whether the price [REDACTED] is determined [REDACTED].

Commission’s response

11. [REDACTED]

This indicates that the final sales terms are not confirmed until the date of [REDACTED]. The tax invoice is issued once the products are shipped out from the factory. The commission considers this to be [REDACTED].

ADRP request

While it would appear from the document entitled, “Daejin Exporter Work Program” that for domestic sales [REDACTED]

Could the ADC clarify whether the reference to, “As discussed above” is a reference to the discussion under the export price negotiation and sales process, and if so, further clarify whether Daejin’s domestic price is determined ([REDACTED]) [REDACTED]

Commission’s response

12. The commission provides the relevant sections of the “Daejin Exporter Work Program” for both domestic and export sales negotiations outlining what the reference of “As discussed above” relate to below:

13. The reference of “As discussed above” in the section titled “Domestic sales process” under “Price determination and/or negotiation process” relates to the discussion above that comment under “Domestic price negotiation process”. Similarly, the reference of “As discussed above” in the section titled “Domestic sales process” under “Price determination and/or negotiation process” relates to the discussion above that comment under “Export price negotiation process”.

14. The commission has verified sample sales documents for Daejin's domestic sales. [REDACTED]. The commission therefore considers the domestic selling price to be set at invoice date.