



ANTI-DUMPING NOTICE NO. 2021/41

Public notice under section 269TC(4) of the *Customs Act 1901*

Certain copper tube

Exported from the Socialist Republic of Vietnam

Initiation of Investigation No 580 into alleged dumping

*Customs Act 1901 – Part XVB*¹

I, Dr Bradley Armstrong PSM, the Commissioner of the Anti-Dumping Commission, have initiated an investigation following an application lodged by Metal Manufacturers Pty Ltd trading as MM Kembla, a manufacturer of certain copper tube (the goods) in Australia. The application seeks the publication of a dumping duty notice in respect of certain copper tube exported to Australia from the Socialist Republic of Vietnam (Vietnam).

The application alleges that the goods have been exported to Australia at prices less than their normal value and that the dumping has caused material injury to the Australian industry producing like goods through:

- reduced sales volume
- reduced production volume,
- reduced market share,
- price suppression
- loss of profits
- reduced profitability
- reduced employment
- reduced capacity utilisation
- reduced return on investment
- increased inventories.

The application also alleges that dumping threatens to cause material injury to Australian industry through increases in export volumes of the goods from Vietnam.

¹ Unless stated otherwise, all legislative references in this notice are to the Customs Act 1901.

The non-confidential version of the application, which contains the basis of the alleged dumping and injury, is available on the public record.

Particulars of the reasons for the decision to initiate this investigation are in *Anti-Dumping Commission Consideration Report No. 580*, which is available on the public record.

The date of initiation of this investigation is the date of publication of this notice.

The Goods

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.

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.

Tariff Classification

The goods are generally, but not exclusively, classified to the following tariff classification in Schedule 3 to the *Customs Tariff Act 1995*:

Tariff classification				
<i>Tariff code</i>	<i>Statistical code</i>	<i>Unit</i>	<i>Description</i>	<i>Duty rate</i>
7411.10.00	11	T	Copper tube and pipes of refined copper	The goods ex-Vietnam are subject to a zero per cent duty rate under ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA) and Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

This tariff classification and statistical code may include goods that are both subject and not subject to this investigation. The listing of these tariff classifications and statistical codes are for convenience or reference only and do not form part of the

goods described above. Please refer to the goods description for authoritative detail regarding goods, the subject of this investigation.

Investigation Process

The investigation period is 1 January 2020 to 31 December 2020. I will examine exports to Australia of the goods during this period to determine whether dumping has occurred. I will examine details of the Australian market from 1 January 2017 for the purposes of injury analysis.

Where the Minister for Industry, Science and Technology (the Minister) is satisfied, as to goods of any kind, that: ²

- (a) the amount of the export price of the goods that have already been exported to Australia is less than the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and
- (b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered;

the Minister may, by public notice, impose interim dumping duties.

Where there are grounds for the Minister to publish a dumping duty notice in respect of the goods, I will examine whether the trade in the dumped goods give rise to retrospective notices being published pursuant to section 269TN, and make recommendations to the Minister accordingly.³

Proposed model control code structure

The Commission undertakes model matching using a Model Control Code (MCC) structure to identify key characteristics that will be used to compare the goods exported to Australia and the like goods sold domestically in the country of export.⁴

The table below outlines the Commission's proposed MCC structure for this investigation.

² In accordance with section 269TG.

³ In accordance with sections 269TG(1) and TJ(1).

⁴ Guidance on the Commission's approach to model matching is in the Dumping and Subsidy Manual, available at www.adcommission.gov.au.

Item	Category	Sub category	Identifier	Sales Data	Cost data
1	Standard	Copper tubes used for plumbing, gas fitting, drainage and/or medical gas applications (e.g. copper tube manufactured to AS1432)	P	Mandatory	Mandatory
		Copper tubes used for refrigeration and air conditioning applications (e.g. copper tube manufactured to AS/NZ1571)	R		
		Copper tubes used for engineering purposes (e.g. copper tube manufactured to AS1572)	E		
2	Temper	'Hard' <i>Hardness (HV/5): 100 minimum</i>	H	Mandatory	Mandatory
		'Bendable' or 'Half Hard' <i>Hardness (HV/5): ~71-99</i>	B		
		'Soft' or 'annealed' <i>Hardness (HV/5): 70 maximum</i>	S		
3	Lagging	Lagged	L	Mandatory	Mandatory
		Unlagged	U		
4	Capping	Capped	C	Mandatory	Mandatory
		Uncapped	U		
5	Form	Straight	S	Mandatory	Mandatory
		Coiled	C		
6	Finned or internally grooved	Finned	F	Mandatory	Mandatory
		Internally grooved	G		
		Plain (not finned or grooved)	P		

At this stage, the Commission has not included categories relating to outside diameter, wall thickness or length. Exporters have been requested to provide information relating to the outside diameter, wall thickness and length of the goods exported to Australia and sold on their domestic market.

Consequently, the Commission invites submissions from interested parties on the appropriate subcategories, if any, that should apply to:

- outside diameter;
- wall thickness; and/or
- length of the goods.

These submissions will be considered in determining the final MCC structure, which may include these categories.

Proposals to modify the proposed MCC structure should be raised as soon as is practicable, but no later than **28 April 2021**.

Interested parties are encouraged to make a submission on whether any proposed modifications to the MCC structure should be accepted by the Commission. Any changes to the MCC structure will be considered by the Commission and reported in verification reports or in the statement of essential facts (SEF).

Public Record

I must maintain a public record of each investigation. Documents included in the public record are available at www.adcommission.gov.au.

The public record will contain, among other things, a copy of the application, *Anti-Dumping Commission Consideration Report No. 580* and copies of all non-confidential submissions from interested parties. Letters and electronic mail are generally regarded as submissions if they contain information relevant to the investigation.

Lodgement of Submissions

Interested parties, as defined by section 269T(1), are invited to lodge submissions concerning the publication of the dumping duty notice sought in the application, no later than the close of business on 28 April 2021, addressed to:

The Director
Investigations 4
GPO Box 2013
Canberra ACT 2601
Australia

or by email to investigations4@adcommission.gov.au.

Interested parties wishing to participate in the investigation must ensure that submissions are lodged by the due date. Interested parties should note that I am not obliged to have regard to a submission received after the date above if to do so would, in my opinion, prevent the timely placement of the SEF on the public record.

Interested parties should also note that I am directed to consider the matters set out in the *Customs (Extensions of Time and Non-cooperation) Direction 2015* in certain circumstances.⁵ This is available at www.legislation.gov.au.

Interested parties may reply to matters raised by other parties during the course of the investigation and in response to the SEF.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (i) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or

⁵ Certain powers and functions under the *Customs (Extensions of Time and Non-cooperation) Direction 2015* have been delegated to the Anti-Dumping Commission's General Managers (Anti-Dumping Notice No. 2017/10, available at www.adcommission.gov.au. refers).

- (ii) satisfy me that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "OFFICIAL: Sensitive".

Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above (clearly marked "PUBLIC RECORD").

Lodgement of Exporter Questionnaires

Exporters of the goods to Australia are invited to participate in this investigation by completing the exporter questionnaire and the associated spreadsheets by 28 April 2021.

The exporter questionnaire and the associated spreadsheets are available under the case information for ADC 580 (which can be found under 'current cases and their electronic public record' on the Commission website, www.adcommission.gov.au). Alternatively, exporters can email investigations4@adcommission.gov.au upon receipt of this letter and the Commission will forward the exporter questionnaire and spreadsheets for completion.

Provisional Measures

Pursuant to section 269TD, I will make a preliminary affirmative determination (PAD) provided I am satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice or there appears that there will be sufficient grounds for the publication of a dumping duty notice subsequent to the importation of the goods into Australia. This can occur no earlier than day 60 of an investigation.

In accordance with section 269TD, the Commonwealth may apply provisional measures, including the taking of securities under section 42, in respect of interim dumping duty that may become payable on the goods, where: a PAD has been made; and the Commissioner is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

Where a PAD is not made 60 days after initiation of the investigation, the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction) directs me to publish a status report providing reasons why a PAD was not made. The PAD Direction is available on the Federal Register of Legislation website, www.legislation.gov.au.

Statement of Essential Facts

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Minister within the legislative timeframe. In accordance with section 269TDAA of the Act, a SEF will be placed on the public record by **12**

July 2021⁶, or by such later date as allowed in accordance with section 269ZHI.⁷

The SEF will set out the essential facts on which I propose to base my recommendations to the Minister. Interested parties are invited to lodge submissions in response to the SEF within 20 days of it being placed on the public record.

Submissions received in response to the SEF within 20 days of that statement being placed on the public record will be taken into account in completing the report and recommendation to the Minister.

Report to the Minister

A recommendation to the Minister will be made in a report on or before **24 August 2021** (or such later date as allowed under section 269ZHI), on the basis of the examination of exportations of the goods to Australia during the investigation period, unless I terminate the investigation.

The Minister must make a declaration within 30 days after receiving the report, or such longer period as the Minister considers appropriate.

Anti-Dumping Review Panel

Certain persons will have the right to seek review with the Anti-Dumping Review Panel in accordance with Division 9 of Part XVB in relation to a decision by me to terminate the investigation or a decision of the Minister to publish or not to publish a dumping duty notice after considering my report.

Interested Party List

Throughout the investigation, the Commission will maintain an internal list of interested parties. Updates on the investigation will be sent to parties on this list. If you would like to be added to the interested party list, please email investigations4@adcommission.gov.au.

Anti-Dumping Commission Contact

Enquiries about this notice may be directed to the Case Manager on telephone number 03 8539 2478 or email investigations4@adcommission.gov.au.

Dr Bradley Armstrong PSM
Commissioner
Anti-Dumping Commission

22 March 2021

⁶ Note that 110 days from the date of initiation is 10 July 2021. However, as this is a weekend, the SEF will be due on the next business day, being 12 July 2021.

⁷ On 14 January 2017, certain powers and functions of the Minister under section 269ZHI were delegated to the Commissioner of the Anti-Dumping Commission. Refer to ADN No. 2017/10 for further information.