

AUSTRALIAN CUSTOMS SERVICE
Customs Act 1901 - Part XVB

TRADE MEASURES BRANCH

REPORT Nos. 101 and 102

**Continuation inquiry and review of anti-dumping
measures**

Copper tube exported from the Republic of Korea

February 2006



Australian Government
Australian Customs Service

Copper tube
From the Republic of Korea

Finding in relation a review of anti-dumping measures

Public notice under s. 269ZDB(1) of the *Customs Act 1901*

A review of anti-dumping measures applying to exports of certain copper tube exported to Australia from the Republic of Korea (referred to in this notice as "the goods"), which was commenced on 10 August 2005 has been completed. The delegate of the CEO of the Australian Customs Service has completed a report and made recommendations resulting from that review. The reasons for the recommendations and material findings of fact and law in relation to the review are contained in Trade Measures Report No. 102 (referred to in this notice as "the Report").

Non-confidential versions of the Report will be sent to all interested parties that participated in the review. Additional copies may be obtained by contacting Trade Measures Office Management, Canberra, on telephone number (02) 6275 6547 or facsimile (02) 6275 6990. Trade Measures reports are also available on the Customs internet home page at www.customs.gov.au.

I, CHRISTOPHER MARTIN ELLISON, Minister for Justice and Customs, have considered the Report and accepted the recommendations and reasons for the recommendations, including all material findings of fact or law set out in the Report. Under s. 269ZDB(1) of the *Customs Act 1901*, I DECLARE, for the purposes of the *Customs Act 1901* and the *Customs Tariff (Anti-Dumping) Act 1975*, to the extent that the anti-dumping measures concerning the goods involved the publication of a dumping duty notice, that, with effect from the date of publication of this declaration, the dumping duty notice is to be taken to be revoked in relation to the goods.

Dated this **13TH** day of **MARCH** 2006



CHRISTOPHER MARTIN ELLISON
Minister for Justice and Customs

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1 SUMMARY

This report presents the facts and recommendations to the Minister for Justice and Customs (Minister) in respect of:

- an inquiry into whether anti-dumping measures applying to certain copper tube (copper tube) exported to Australia from the Republic of Korea (Korea) should be continued – Trade Measures Report No. (TM)101; and
- a review of anti-dumping measures applying to copper tube exported to Australia from Korea – TM102.

In April 2001, the Minister imposed measures on certain copper tube exported to Australia from Korea. In the case of Nungwon Metal Industries Co Ltd (Nungwon) an undertaking was accepted. For other exporters, interim-dumping duties were applied. TM35 refers.

Two previous reviews of the measures on certain copper tube have been undertaken. TM71 and TM82 refer. The first review resulted in the undertaking in respect of Nungwon being replaced with interim dumping duties. Fineston Metal Co Ltd (Fineston) was not exporting to Australia at the time of the original investigation. The second review put individual measures in place for Fineston.

The continuation inquiry was initiated on 13 July 2005 following an application from an Australian manufacturer of copper tube, Kembla Tube & Fittings (Kembla). The current review was initiated on 10 August 2005 following a request by the Minister to the Chief Executive Officer of Customs (CEO).

Exports of copper tube from Korea other than by Nungwon are the subject of the continuation inquiry. All exports of copper tube from Korea, including by Nungwon, are the subject of the review.

The major Korean copper tube exporters to Australia are Nungwon and Fineston. Exports from other companies have been sporadic and the quantity has not been constant or significant enough to influence the Australian market.

In relation to Nungwon, Customs is satisfied that it is not likely that the conditions that gave rise to the imposition of the measure for Nungwon will recur if the measure is revoked.

Measures for exporters other than Nungwon eventuated from the conditions that prevailed when Nungwon was the sole identified exporter of copper tube from any source. Nungwon exports are still in significant quantities, are not dumped and its selling prices at the same level of trade are the lowest in the Australian market. As a result of this it is not likely that the conditions that gave rise to the imposition of the measure for exporters other than Nungwon, i.e., injury to the Australian industry being causally linked to these exports will recur if the measure is revoked.

As a result of the review, Customs recommends the Minister declare that existing measures applying to copper tube exported to Australia from Korea be revoked. The revocation of the measures obviates the need for any decision to be taken with regard to the continuation inquiry.

2 INTRODUCTION

2.1 Australia's anti-dumping continuation and review provisions

The conditions for applications and requests for continuation and review of anti-dumping measures are set out under s. 269ZHB and s. 269ZA of the *Customs Act 1901* (Act) respectively.

2.2 The continuation inquiry

Under s. 269TM of the Act, dumping and countervailing duty notices expire five years after the date on which they were published, unless they are revoked earlier.

If an application for continuation of an anti-dumping or countervailing measure is lodged and it complies with the legislative requirements, the CEO must initiate an inquiry.

Where Customs undertakes a 155-day continuation inquiry of anti-dumping measures, the Act requires that a statement of essential facts (SEF) be published by day 110 although the Minister may allow a later SEF publication date.

The CEO must provide a report to the Minister recommending whether the Minister take steps to secure the continuation of the anti-dumping measures. The CEO must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures unless the CEO is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measures are intended to prevent.

Where the Minister decides to continue anti-dumping or countervailing measures, the notice will remain in force after the specified date for a period of five years unless the relevant notice is revoked before the end of that period.

2.3 The current review

An affected party may apply for a review of anti-dumping measures, providing a review has not been undertaken in the preceding twelve months. However, the Minister may, at any time, by notice in writing, request that the CEO initiate a review.

The current review of anti-dumping measures follows a request by the Minister that the CEO conduct a review under Division 5 of Part XVB of the Act. The Minister requested that the review cover the measures applying to Nungwon and the measures applying to other exporters.

Where Customs undertakes a 155-day review of anti-dumping measures, the Act requires that an SEF must be published by day 110. The Minister may allow a later

SEF publication date in accordance with s. 269ZHI of the Act. ACDN 2005/42 advised that the SEF would be placed on the public record by 28 November 2005.

2.4 The SEF

Due to the commonality of goods and interested parties, the continuation inquiry was conducted in conjunction with the review. The Minister extended the deadline for the publication and reporting timetable for both the continuation inquiry and the review to 19 December 2005. The extension was advised in ACDN 2005/54.

The SEF covering both the continuation inquiry and review was issued on 19 December 2005 and interested parties were invited to make submissions in response to the SEF within 20 days of its publication.

Customs considered responses to the SEF when formulating recommendations to the Minister.

2.5 Goods subject to existing measures

The goods subject to measures are round seamless copper tubes complying with Australian standard AS 1432, Type B with an outer diameter of between 6.35 mm and 203.2 mm and wall thickness between 0.61 mm and 2.03 mm, continuously marked in accordance with clause 14.3 of AS 1432, other than in coils.

Australian standard AS 1432 applies to certain copper tube used for plumbing, gas fitting and drainage applications. Type B tube accounts for about 90 per cent of total copper tube sales. Other types of copper tube described in AS 1432 are also used in similar applications. Type A copper tube has greater wall thickness and is used in high pressure applications. It is not used as a substitute for type B because of cost. Types C and D have narrower wall thickness and are used in lower pressure applications. Type A, C and D copper tube are not goods under consideration.

TM35 also concluded that type B lagged tubing is not like goods to the goods subject to measures.

The goods are classified under subheading 7411.10.00 statistical code 11 in Schedule 3 to the *Customs Tariff Act 1995*. The duty rate applicable to copper tube from Korea is 5 per cent.

3 BACKGROUND TO CURRENT MEASURES

Anti-dumping measures were imposed on copper tube exported from Korea on 19 April 2001 following TM35. One exporter, Nungwon, entered into a price undertaking. All other exporters were subject to interim dumping duties.

There have been two reviews of anti-dumping measures for copper tube: TM71 and TM82.

TM71 reviewed normal value and export price. Nungwon did not seek to alter the undertaking to the level of the variable factors established during the review. As a consequence, the undertaking entered into by Nungwon was no longer acceptable and it ceased to apply from 22 May 2003. From that date, interim dumping duty applied to exports by Nungwon.

TM82 covered export price, normal value and non-injurious price. All these factors had changed and new levels were set for all Korean exporters. Individual interim anti-dumping duties were put in place for Fineston. Fineston was not exporting to Australia at the time of the original investigation but when it began exporting copper tube in late 2002 it was covered by the interim anti-dumping duties applicable to all other Korean exporters. The date of effect of these changes was 12 January 2005.

The expiry date for the measures is 22 May 2008 for Nungwon and 19 April 2006 for all other exporters.

Exports of copper tube from Korea other than by Nungwon are the subject of the continuation inquiry. All exports of copper tube from Korea, including by Nungwon, are the subject of the review.

4 AUSTRALIAN MARKET FOR COPPER TUBE

The copper tube relevant to the continuation inquiry and review must comply with Australian standard AS 1432. Information from Standards Australia shows that the following companies have the required certification to manufacture Australian standard AS 1432 copper tube:

Company	Certification No	Location	Certification expiry date
Boo Kwang Metals Co Ltd	SMKP20281	Korea	02/06/2009
Crane Enfield Metals Pty Limited	SMK0940	Australia	26/07/2009
Dae Jin Copper Pipe & Tube Mfg Co Ltd	SMK02737	Korea	04/03/2007
Kembla Tube & Fittings	SMK0945	Australia	01/04/2010
Nungwon Metals Ind Co Ltd	SMK02089	Korea	15/11/2008
Shanghai XinShenJiang Copper Ind Co Ltd	SMKP20059	China	14/10/2009

4.1 Market structure

4.1.1 Current inquiry

The Australian market for copper tube is supplied by product manufactured in Australia and imports from Korea. The Australian manufacturers of copper tube are Crane Copper Tube (Crane) and Kembla. The major Korean copper tube exporters to Australia are Fineston and Nungwon. Fineston exports copper tube manufactured by Dae Jin Copper Pipe & Tube Mfg Co Ltd (Dae Jin).

In Australia copper tube is marketed by plumbing merchants. Plumbing merchants sell copper tube to end-users and are supplied by the Australian industry or by

imports. Plumbing merchants purchase Korean imports either directly from the exporter or through an Australian importer.

There are five major plumbing merchants: Reece Pty Ltd (Reece), Tradelink Plumbing Supplies (Tradelink), Plumbing Plus Bathroom Kitchen Laundry Pty Ltd (Plumbing Plus), Plumbtec Bathroom Kitchen & Plumbing Supplies (Plumbtec) and Plumbers Supplies' Co-operative Limited (Plumbers Supplies). These merchants account for at least 95 percent of copper tube sales in Australia. Each of the plumbing merchants obtains a majority, if not all, of its copper plumbing tube from a single supplier. The alignment with suppliers may change over time.

The market structure has changed since the original investigation as reported in TM35. Changes that have occurred are:

- up until mid-2002, MCK Metals (MCK) in New Zealand was a significant exporter of copper tube to Australia. Metal Manufacturers Limited (MML), the parent company of Kembla, purchased MCK in mid 2002 and acquired the customers previously supplied by MCK. Kembla supplied these new customers with its Australian produced copper tube;
- exports by Fineston entered the market in late 2002; and
- in 2004/05, one of the merchant groups replaced its major supplier of Australian manufactured copper tube with Korean manufactured copper tube.

4.1.2 Changes in technology, product type, consumer preference, demand or supply

Interested parties stated that plastic tubing had emerged as a substitute for copper tubing in plumbing applications. In the past two to three years plastic tube has gained a larger share of the overall plumbing tube market. Reports are that the residential new start sector is now almost exclusively plastic tube, while residential additions and maintenance are copper. The non-residential sector still largely uses copper tube, but plastic tube may eventually replace copper in this sector. Interested parties estimated plastic tube accounts for 20 to 50 percent of the plumbing tube market.

Anecdotal evidence from interested parties suggests that the market for plumbing/gas tube has increased with building activity over the last few years. The share of that market held by copper tube has fallen.

Copper and plastic plumbing systems were said to be similarly priced. Plastic systems were generally thought to be faster and much easier to install and therefore cheaper than copper systems.

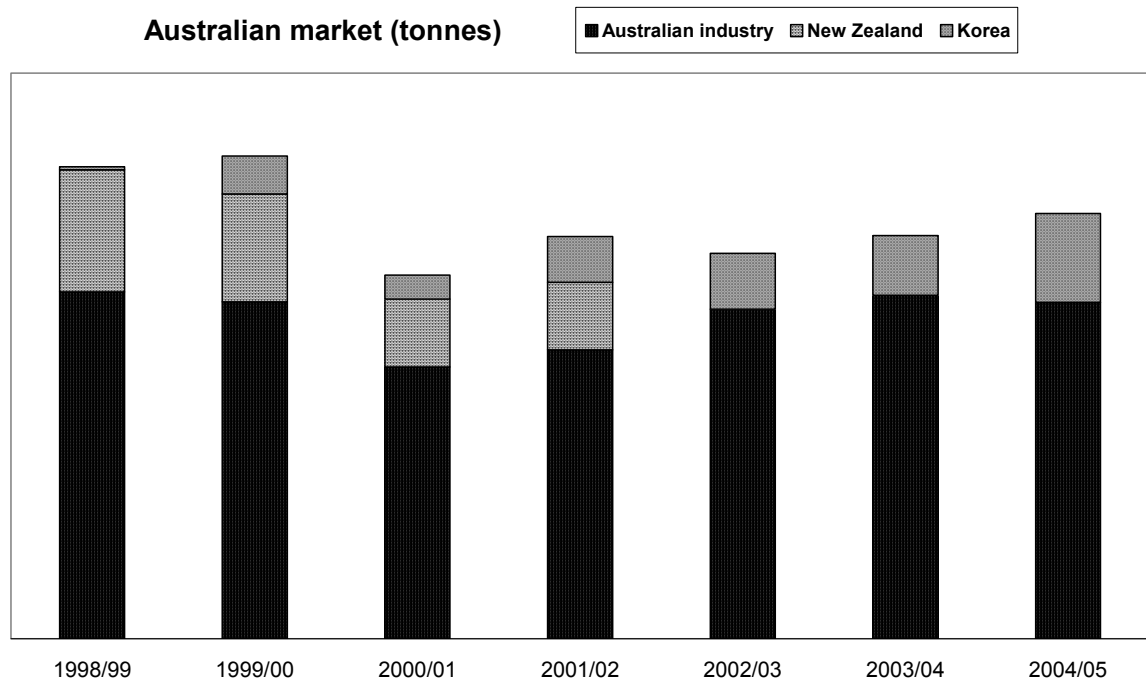
4.2 Market size

The size of the Australian market for copper tube was calculated using sales data and estimates for the Australian industry and a combination of sales and import clearance data for imported copper tube. The market has been calculated for the period 1998/99 to 2004/05.

The size of the Australian market for copper tube has decreased since the original investigation. The current size of the market (2004/05) has contracted by around 10 per cent when compared to 1999/00 (i.e. prior to the imposition of measures).

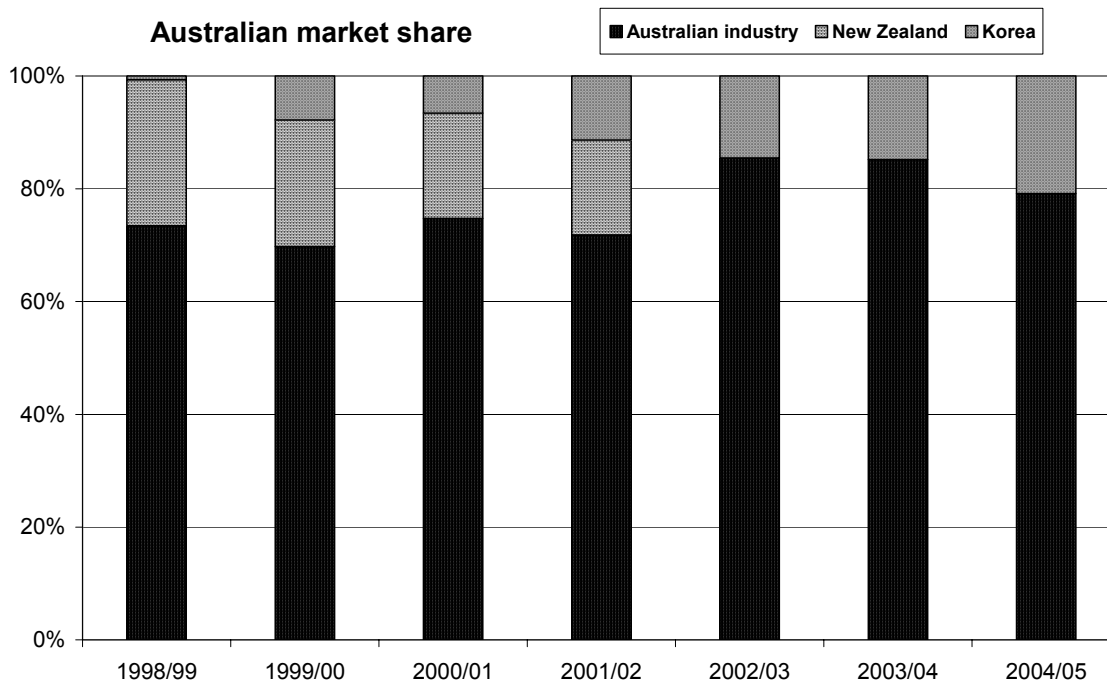
The size of the market decreased significantly in 2000/01. This may be attributable to the effect the introduction of GST had in the building industry and the point in the building cycle. Volumes have shown a gradual upward trend in the period 2001/02 to 2004/05.

Analysis of the copper tube market data shows seasonal variations in demand. Annual sales volumes are depicted in the following chart.



4.3 Market share

The market share held by the Australian industry increased in 2002/03 with Kembla's purchase of MCK. Copper tube from Korea has increased its market share over the period examined. Market shares are illustrated in the following chart:



4.4 Market price

The price of copper tube is heavily influenced by the price of the copper raw material. Section 5.3 addresses the effect of copper pricing and pricing in the Australian market.

5 ECONOMIC CONDITION OF THE INDUSTRY

5.1 The Australian industry

Copper tube is manufactured in Australia by Kembla and Crane. Customs visited both members of the Australian industry and verified volume, cost and price data.

Kembla submitted quarterly volumes, costs and prices for the period 1 January 1998 to 30 June 2005. Customs verified data for the 12-months to June 2005. Earlier data has been verified in the original investigation and in previous reviews of anti-dumping measures.

Crane provided quarterly volumes, costs and prices for the period 1 July 2004 to 30 June 2005. Customs verified this data. Customs also verified Crane volume, cost and price data for the period 1 January 1998 to 30 September 2000 in the original investigation.

Customs has therefore verified volumes, costs and prices for the Australian industry for the periods 1 January 1998 to 30 September 2000 and July 2004 to 30 June 2005. Customs has used the selling price and profit data provided by Kembla for the period 1 October 2000 to 30 June 2004 as indicative of the Australian industry's performance. Customs has estimated Crane's production and sales for 2000/01 to 2003/04 from information provided by Crane and market data.

5.1.1 Company background

Kembla

Kembla is a business unit of MML. MML was formed in 1916 to draw copper wire in Australia and began to make copper tube in 1920. MML is fully owned by Marsh Electrical Australia (Marsh), a subsidiary of a US company, Consolidated Electrical Distributors. Marsh acquired MML after a successful takeover in January 2000.

Kembla falls within the Kembla Products Division of MML. Other business units within this division are Kembla Wire and Rod, Kembla New Zealand, Kembla Plumbing Fittings and Australian Superconductors. Kembla and Kembla Wire and Rod operate at the one site in Port Kembla, New South Wales.

In 2002 MML purchased MCK. At that time MCK had the third largest share of the Australian market for the goods.

Crane

Crane Copper Tube is part of the Crane Group Limited (Crane Group). The Crane Group consists of four divisions:

- Tradelink, a network of 189 plumbing supplies outlets located across Australia;
- Crane Distribution New Zealand, a New Zealand plumbing and electrical supplier;
- Iplex, a supplier of plastic pipeline systems in Australasia; and
- Metals Group, which is made up of copper, brass and aluminium manufacturing and metals distribution businesses. Crane Copper Tube is part of the Metal Group.

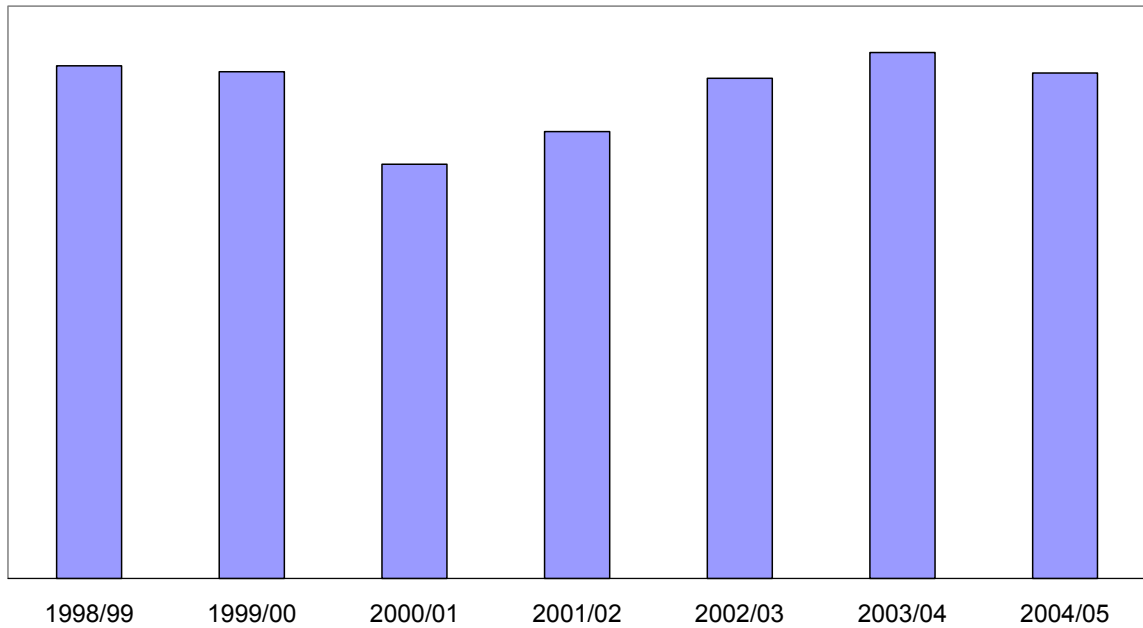
Crane produces copper tube at Penrith, NSW.

5.1.2 Australian production

Copper is the major raw material in copper tube. Copper cathode is purchased by Kembla and Crane from mining companies and melted into cylindrical moulds to form copper billets. The billets are then put through several extrusion and annealing processes to produce copper tube in desired dimensions.

Australian industry annual production is shown in the graph below. The total copper tube produced by the Australian industry in 2004/05 is around the same level as that produced at the time of the original investigation. Kembla's production has fluctuated over the period, perhaps due to demand changes in the building and construction sector, the acquisition of MCK and competition in the Australian market.

Australian industry production (tonnes)

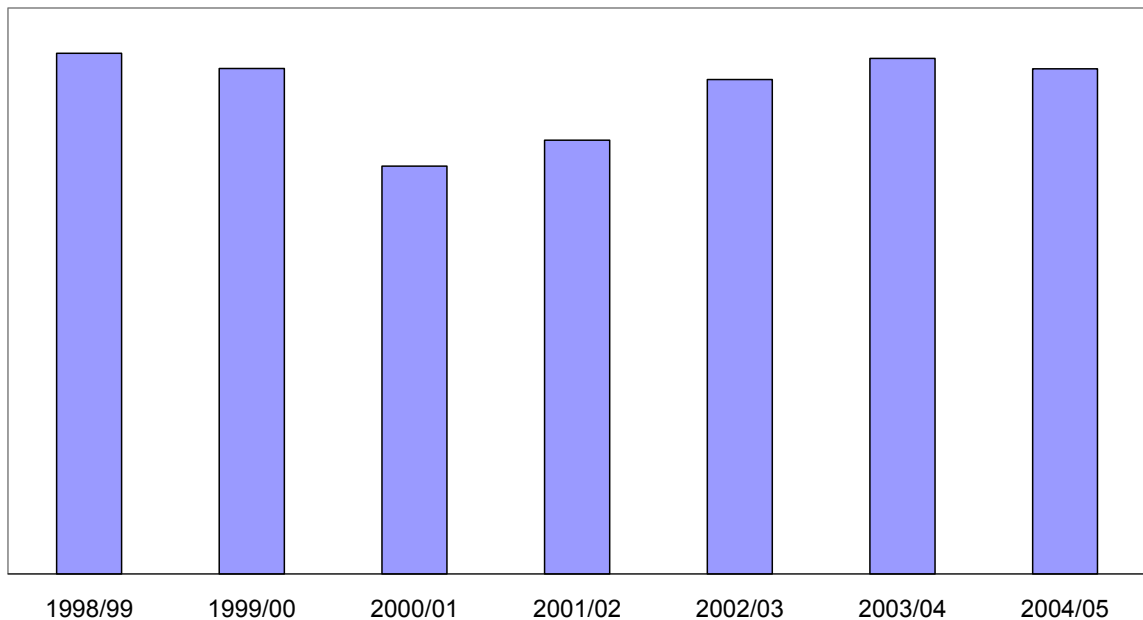


5.2 Volume effects

5.2.1 Sales volume

The Australian industry's annual sales volumes are shown in the following graph.

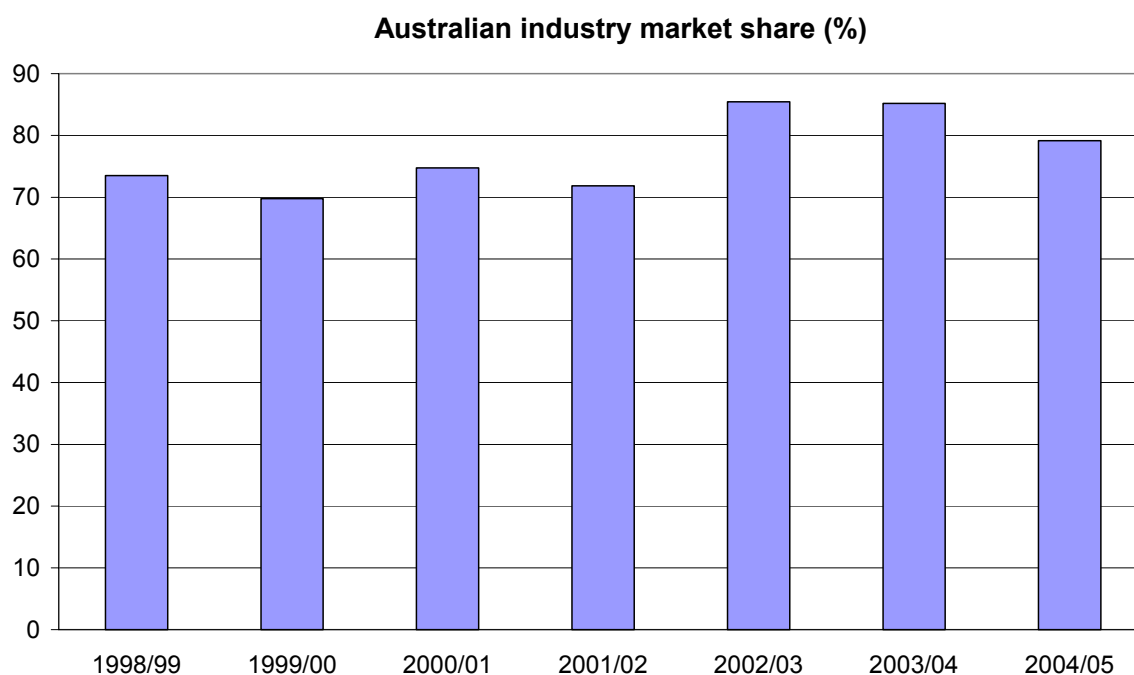
Australian industry sales (tonnes)



Total copper tube sales by the Australian industry in 2004/05 are slightly less than in the original investigation. Kembla's sales over the period were influenced by factors identified in section 5.1.2 above. Sales in 2004/05 include the effect of the change in supplier alignment by one plumbing merchant to imported copper tube.

5.2.2 Market share

Australian industry's annual market share is shown in the following graph.

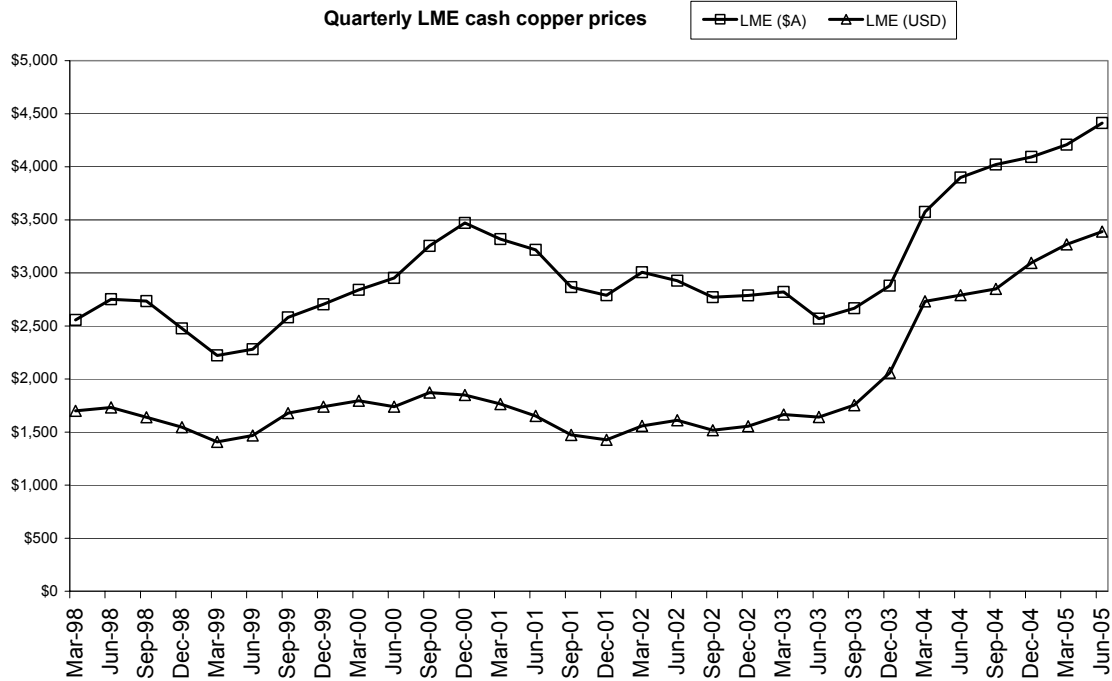


The Australian industry had a greater market share in 2004/05 than was the case in the original investigation. Australian industry market share would have increased in 2002/03 as a result of Kembla's purchase of MCK and the consequent gaining of MCK sales.

Market share in 2004/05 includes the effect of the change in supplier alignment by one plumbing merchant to imported copper tube.

5.3 Price effects

The price of copper tube is heavily influenced by the price of copper. The London Metal Exchange (LME) reports the price of copper. The LME provides reference prices, which are accepted globally and widely used in the non-ferrous metals and plastics industries for benchmarking. The price of copper has increased significantly in the past two years. The price rose steeply in late 2003/early 2004 and showed a steady increase over the 12-months to June 2005. The LME USD cash buyer price for copper and a conversion to Australian dollars are shown in the following chart.



As outlined at section 4.1, copper tube is sold to end-users by plumbing merchants. The merchants are supplied by the Australian industry or imports from Korea.

Customs has examined selling prices by the Australian industry and imports to plumbing merchants since 1998/99. In order to compare prices in the Australian market, the free-into-store price to copper merchants by the Australian industry and imports has been used.

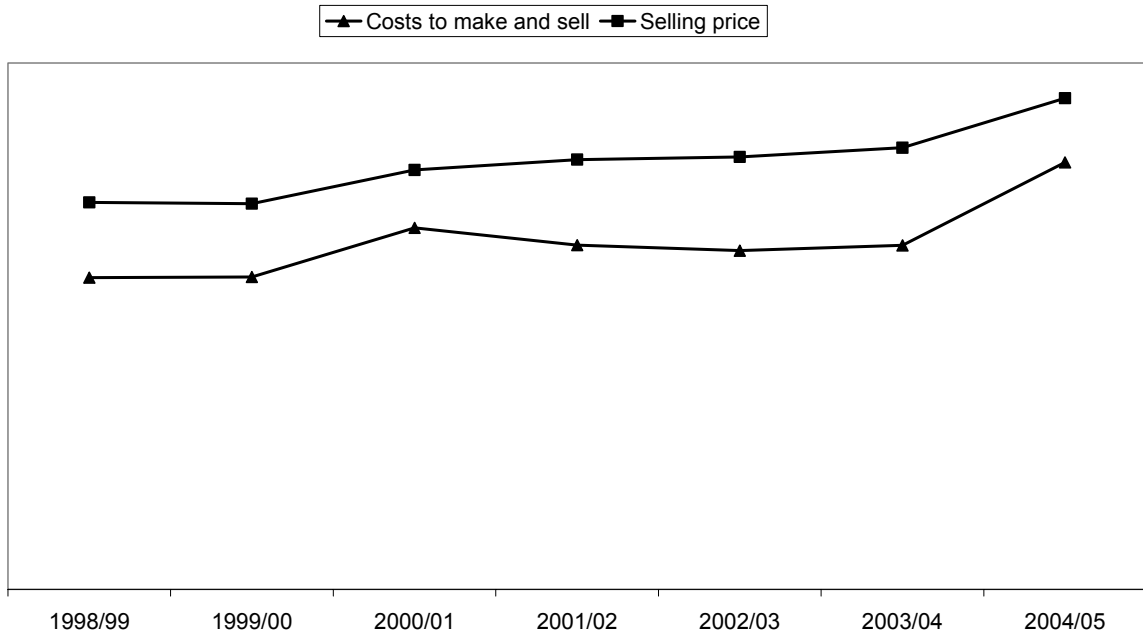
The available information has been graphed to show the relative prices achieved by the Australian industry and imports since 1998/99 (confidential attachment 1).

The prices achieved by the Australian industry have been consistently higher than those for Fineston/Daejin or Nungwon copper tube since 1998/99. The difference between the Australian industry and Nungwon copper tube prices in 2004/05 is similar to the difference that existed at the time of the original investigation.

5.4 Profit

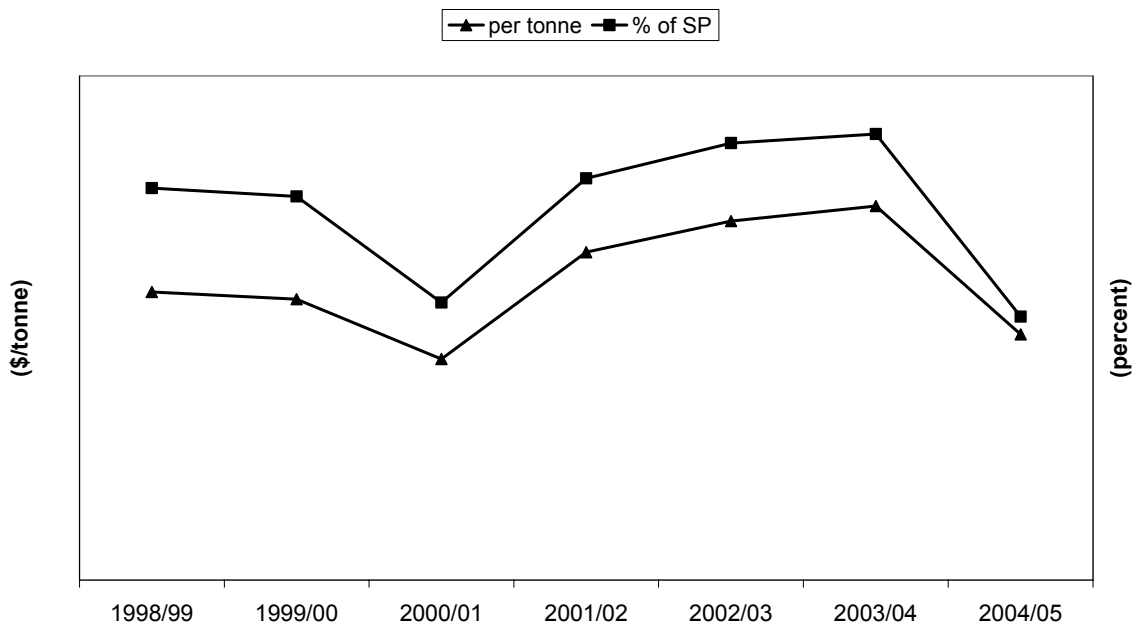
Customs has examined Australian industry profit over the 7.5 years to June 2005. The costs and prices have risen over the period.

Australian industry costs and prices (\$/tonne)



The change in profit per tonne and as a percentage of the selling price are shown below. The margin between costs and prices has narrowed in 2004/05. Profit measured either in absolute terms or as a function of the selling price has decreased to the levels experienced in 2000/01.

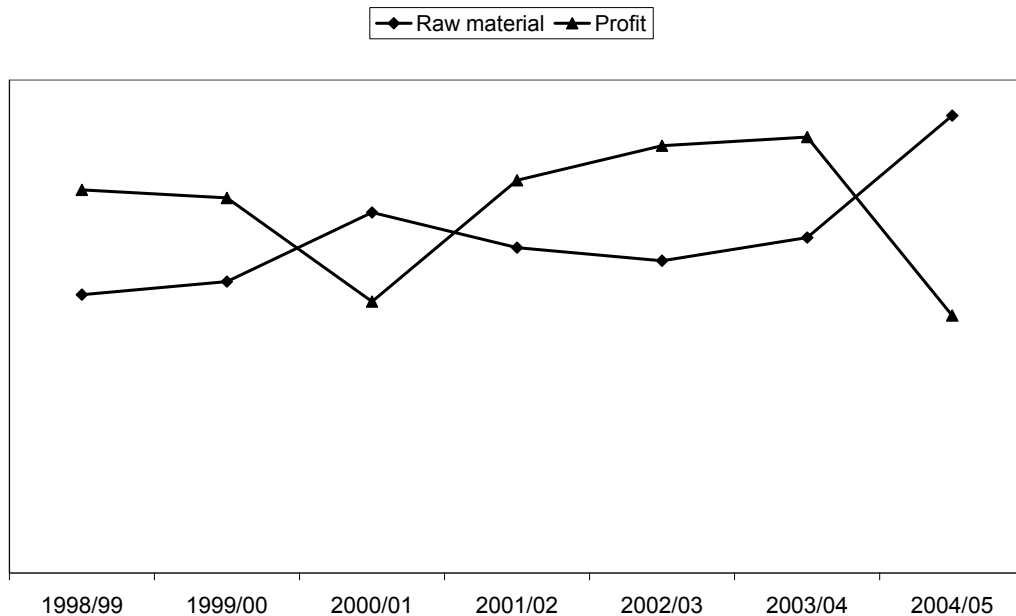
Australian industry profit



The following chart illustrates the close relationship that exists between profit and the cost of raw materials (copper). The considerable increase in copper prices in 2004/05 was not matched by price increases as profit fell in that year. The data suggest that it has been difficult to increase the selling price of copper tube when

the copper price increases, but that the selling price of copper tube is held when raw material prices fall.

Australian industry profit (%) and raw material cost (\$/tonne)



5.5 Others factors

As in the original investigation, Customs examined information presented by the Australian industry in relation to other economic factors.

Customs found there had not been a change in the number of persons employed in the production of copper tube.

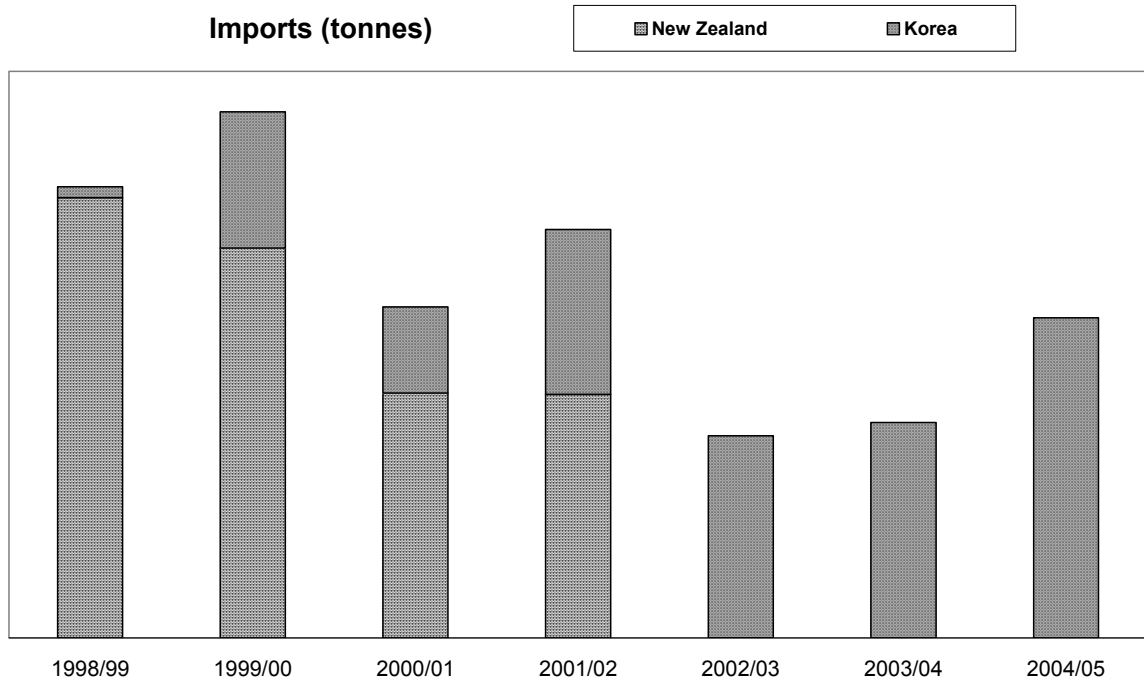
Information was not presented to enable Customs to examine utilisation of capacity, ability to raise capital, productivity or cash flow.

Customs found that data presented on return on investment closely followed the industry's profit outcome, inventories had declined slightly and the direct wage cost had increased.

6 EXPORTER ACTIVITY SINCE THE MEASURES WERE IMPOSED

6.1 Pattern of imports

The volume of imports and the market share of the imports are shown in the following graphs.



Imports from New Zealand ceased when the parent company of Kembla purchased MCK.

Imports from Korea have increased in both volume and market share since the imposition of anti-dumping measures. Nungwon is the major Korean exporter of copper tube. Imports from Fineston first entered the Australian market in the latter half of 2002.

6.2 Export price and normal value

Customs examined importations of copper tube over the period 1 July 2004 to 30 June 2005.

Customs identified a number of suppliers of copper tube exported from Korea to Australia. Two suppliers and a manufacturer provided a response to the questionnaire.

Copper tube sold in Korea is manufactured to Korean standards. Korea KSD 5301 type L copper tube is said to be most comparable to AS 1432 type B tube exported to Australia. Although not identical in all respects to the goods exported to Australia, KSD 5301 type L copper tube has characteristics closely resembling those of the B type copper tube exported to Australia and was used as the basis for normal values.

6.2.1 Fineston

In August 2005 Customs visited a company in Australia which had purchased copper tube from Fineston. In November 2005, Customs visited Fineston in Korea.

Export price

Fineston acts as a trading house for sales to Australia of copper tube manufactured by Dae Jin.

After examining the roles of Fineston and Dae Jin, Customs considers that, in all sales of copper tube exported to Australia during the examination period, Dae Jin is the manufacturer and Fineston is the exporter of the goods.

Customs is satisfied that sales by Fineston to its Australian customer were arms length transactions and that the Australian customer imported the goods.

There are reasonable grounds to believe that the goods were exported to Australia other than by the importer and were purchased by the importer from the exporter.

Customs established export price under s. 269TAB(1)(a) of the Act.

Normal value

Fineston did not make domestic sales of copper tube during the examination period. In determining normal value, Customs considered information in Dae Jin's and Fineston's submissions and information gathered at the verification visits in Korea.

Dae Jin provided details of all domestic sales of copper tube for the examination period. Customs verified consolidated sales information and individual sales to customers. Customs verified the price paid by the domestic customers and is satisfied that sales are arms length transactions.

Customs examined the cost to manufacture the goods in Korea and administration, selling and general (AS&G) costs associated with their sale. Sufficient verified cost information was available to establish a constructed normal value.

Customs established that there was a sufficient quantity of domestic sales of like goods in the ordinary course of trade for normal value purposes. No market factor was identified to render domestic sales to be unsuitable.

Customs established normal value under s. 269TAC(1) of the Act.

In order to establish normal value properly comparable to export price, Customs recommends that the normal value incorporate adjustments to account for the differences between domestic and export sales for packing, transport, handling and loading, exporter margin, duty drawback and credit terms. The adjustments are recommended in accordance with s. 269TAC(8).

Export price and normal value are at confidential attachment 2.

6.2.2 Nungwon

During September and October Customs visited a number of companies who had purchased Nungwon product. Customs also obtained relevant documentation from other companies that had purchased Nungwon product. In November 2005, Customs visited Nungwon in Korea.

Export price

After examining the roles of all parties, Customs considers that, in all sales of copper tube exported to Australia during the examination period, Nungwon is the manufacturer and exporter of the goods.

Customs is satisfied that sales by Nungwon to its Australian customers were arms length transactions and that the Australian customers imported the goods.

There are reasonable grounds to believe that the goods were exported to Australia other than by the importer and were purchased by the importer from the exporter.

Customs established export price under s. 269TAB(1)(a) of the Act.

Normal value

In determining normal value, Customs considered information in Nungwon's submission and information gathered at the verification visit in Korea.

Nungwon provided details of all domestic sales of copper tube during the examination period. Customs verified consolidated sales information and individual sales to customers. Customs verified the price paid by the domestic customers and is satisfied that sales are arms length transactions.

Customs examined the cost to manufacture the goods in Korea and the AS&G costs associated with their sale. Sufficient verified cost information was available to establish a constructed normal value.

Customs established that there was a sufficient quantity of domestic sales of like goods in the ordinary course of trade for normal value purposes. No market factor was identified to render domestic sales to be unsuitable.

Customs established normal value under s. 269TAC(1) of the Act.

In order to establish normal value properly comparable to export price, Customs recommends that the normal value incorporate adjustments to account for the differences between domestic and export sales for packing, handling and loading, domestic freight, inventory carrying cost, bad debts, duty drawback and credit terms. The adjustments are recommended in accordance with s. 269TAC(8).

Export price and normal value are at confidential attachment 2.

6.2.3 Remaining exporters

Customs notified the remaining company that had supplied Korean origin copper tube to Australia of the review and continuation inquiry. The company did not provide any information. Customs did not visit any importers who purchased Korean product from the remaining company.

Details for the remaining exporter are at confidential attachment 2.

6.3 Pattern of dumping

Dumping occurs when a product of one country is exported to another country at a price less than its normal value.

Customs has examined the pattern of dumping for Korean exporters, drawing on verified data from the original investigation, the two previous reviews, other verification undertaken and the current continuation inquiry and review. Customs has gathered a substantial amount of verified data on export price and normal value to examine the pattern of dumping.

6.3.1 Fineston

Customs has calculated dumping margins from verified data for the periods October 2003 to June 2004 and July 2004 to June 2005. The margin of dumping was very close for both periods and slightly above negligible levels.

The margin of dumping calculated from the verified data for the earlier period is substantially lower than the 10 to 20 percent margins published in TM82 for the period July 2003 to June 2004. In that review Fineston and Dae Jin were not visited and data could not be verified at that time. Normal value was calculated using data from other sellers of like goods in the domestic market under

s. 269TAC(1) of the Act. Export price was calculated under s. 269TAB(3) of the Act, as not all circumstances of the export sale were known.

In light of the verified data the dumping margins for the period reported in TM82 have reduced significantly but are slightly above negligible levels.

6.3.2 Nungwon

Customs has calculated dumping margins from verified data for the following periods:

Period	Investigation	TM	Dumping margin
Oct 1999 to Sep 2000	Original investigation	35	6 percent
Oct 2000 to Dec 2000	Original investigation	35	Not dumped (-4.2 percent)
Oct 2001 to Sep 2002	Review	71	Not dumped
Jul 2003 to Jun 2004	Review	82	Not dumped
Jul 2004 to Jun 2005	Review	102	Not dumped

6.3.3 Other exporters

Exports from other companies have been sporadic. The quantity of copper tube involved has not been constant or significant enough to influence the Australian market.

6.4 Pricing behaviour into other export markets

The original investigation (TM35) and previous review reports (TM71 and TM82) did not examine pricing to third countries by the companies visited as the verified domestic sales data and the cost to make and sell information enabled normal value to be assessed under the primary method i.e. the use of domestic sales prices.

In the current continuation inquiry and review Customs examined sales to third countries by both the exporters visited and, as appropriate, verified the sales and examined the pricing behaviour evidenced by those sales into export markets other than Australia.

Fineston did not make any sales to third countries that replicated the sales to Australia. Therefore Fineston sales to third countries were not examined for pricing behaviour to other export markets.

Nungwon exports significant quantities to other export markets. Customs found that for exports by Nungwon to all third countries, the weighted average unit free-on-board (FOB) price was higher than both the fully absorbed cost to make and sell and the weighted average normal value. This information is suggestive of a pricing behaviour to export markets that does not seek lower profits than on the domestic market.

7 SUBMISSIONS IN RESPONSE TO THE SEF

Customs placed the SEF on the public record on 19 December 2005. Interested parties were invited to make submissions in response to the SEF by 9 January 2006. Submissions were received on behalf of Nungwon, Plumbing Plus and Kembla. The submissions are at confidential attachment 3.

Nungwon and Plumbing Plus agreed with Customs findings in the SEF as they relate to exports to Australia by Nungwon. Kembla raised a number of issues.

7.1 Summary of the facts

The Australian market is supplied by copper tube manufactured by the Australian industry and by imports from Korea. All copper tube enters the market through plumbing merchants who sell to the trade. Korean imports to plumbing merchants are supplied:

- directly by Nungwon; or
- by Fineston through an Australian importer, GMG.

Copper tube exported by Nungwon to Australia:

- is not dumped;
- has not been dumped for 5 years;
- has a significant presence in the market;
- in 2004/05 accounted for the majority of imports; and
- has been historically, and is currently, sold at prices that are significantly less than the Australian industry and GMG.

Copper tube exported by Nungwon to countries other than Australia:

- is in significant quantities; and
- is suggestive of a pricing behaviour to export markets that does not seek lower profits than on the domestic market.

Copper tube exported by Fineston:

- is dumped (at slightly above negligible levels);
- in 2004/05 accounted for a minority of imports;
- has been sold by GMG profitably in the Australian market at prices that cover all costs including IDD;
- does not reflect any advantage of a dumped export price in the selling price to plumbing merchants; and
- historically and currently enter the market at prices well above that of Nungwon and significantly below that of the Australian industry.

7.2 Consideration of issues raised by Kembla

Issues raised by Kembla covered:

- Australian market;
- price effects;

- price of copper;
- Fineston export price;
- normal value – ordinary course of trade test – determination of dumping;
- Korean export behaviour; and
- unsuppressed selling price.

All of the issues raised by Kembla have been considered by Customs and a detailed analysis is included at confidential attachment 4. Coverage of all issues in the submission is encapsulated in this report.

In relation to the period for assessing cost recovery and calculating dumping margins Customs:

- examined ordinary course of trade for Nungwon and Fineston/Dae Jin over the 12-months and 6-months to June 2005 and found that there was a sufficient quantity of domestic sales of like goods in the ordinary course of trade for normal value purposes in both periods;
- calculation of dumping margins for Nungwon and Fineston/Dae Jin over the 12-months and 6-months to June 2005 yielded similar results; and
- found profit on sales by GMG in the Australian market over the 12-months and 6-months to June 2005 were similar.

Kembla addressed unsuppressed price in its submission. As the recommendation of this report is to revoke the measures, USP is not a factor to be considered in this report.

8 LIKELIHOOD OF DUMPING AND MATERIAL INJURY CONTINUING OR RECURRING

8.1 Likelihood of dumping continuing or recurring

An important question to be asked (and answered) is “What is the likelihood of dumping continuing or recurring. Is dumping probable?”

8.1.1 Fineston

Fineston was not exporting at the time of the original investigation.

There are current imports. Imports commenced in December quarter 2002 and have increased since that time. Fineston has exported the goods to the same importer since it commenced exporting to Australia.

Customs has verified export price and normal value data for the period October 2003 to June 2005. During this period, the weighted average export price was less than weighted average normal values. The level of dumping is slightly above negligible levels.

Customs considers that exports are expected to continue and it is likely that the dumping margin of those exports would be slightly above negligible levels.

8.1.2 Nungwon

The Minister accepted an undertaking from Nungwon as a result of the original investigation. In the review culminating in TM71 the undertaking entered into by Nungwon was found to be no longer acceptable. The undertaking ceased to apply from 22 May 2003. From that date, interim dumping duty applied to exports by Nungwon.

There are current imports from Nungwon. Imports from Nungwon have been present in the Australian market for the whole period since measures were imposed. The volume of imports has increased over this period. Nungwon has exported the goods to members of the same plumbing merchant group since it commenced exporting to Australia in 1998.

Customs verified export price and normal value data for the periods October 2001 to September 2002 in TM71 and July 2003 to June 2005 in TM82 and TM102. During these periods, the weighted average export price was greater than weighted average normal values. There was no dumping.

Nungwon was found to be dumping in the initial investigation because of an existing contractual arrangement with Australian customers. Early contracts to sell to Australia had fixed the quantity and price. Nungwon had pre-purchased the raw materials to meet the contractual arrangements. At that time the price of copper increased and Nungwon raised its domestic selling prices in line with the increased copper price. Nungwon stated that once the contractual arrangements with Australian importers had expired it raised its export prices to Australia to reflect the prevailing copper cost and this had removed the dumping. Nungwon stated that it has not sold copper tube at dumped prices since the expiry of the contractual arrangements. The export price had been increased to an undumped level with effect from October 2000 which was prior to the initiation of the initial investigation.

This is supported by the statement in TM35 made at section 9 which addressed the question – Will dumping & material injury continue?

“On the information before it, Customs was satisfied that copper tube from Korea is not at present being imported at dumped prices so as to cause further injury to the Australian industry. Customs made a PAD [preliminary affirmative determination] to enable a price undertaking to be considered, if offered by the exporter; it did not take securities under s. 42 in respect of interim dumping duty that may become payable.”

Customs decision at that time to recommend that measures be imposed was based on two grounds:

- the likelihood that movements in input costs (copper); and
- trading arrangements (exchange rates)

could result in future shipments of copper tube being exported at dumped prices.

The cost of copper and the relevant exchange rate (Korean Won to Australian Dollar) have been collected for the period January 1998 to June 2005. Trends in the cost of copper and exchange rates in the periods of non-dumping were

compared to the conditions that existed at the time of the original investigation period.

The price of copper is shown at section 5.3. During the original investigation and in TM82 and 102 the copper price increased significantly. During TM71 the price was steady. Customs found that export price and normal value were aligned with copper costs. There was no evidence that the price of copper influenced the dumping outcome.

With regard to exchange rates, the following observations are made. In the original investigation the Australian dollar appreciated against the Korean Won, in TM71 remained steady, in TM82 depreciated and in review TM102 appreciated. While exchange rates come into play when the sale of goods is agreed and export prices set, Customs found no evidence of exchange rate influence on the dumping outcome.



Nungwon's export behaviour in markets other than Australia is suggestive that dumping would not recur in the Australian market in the absence of measures. There are no anti-dumping measures in place in any of the countries to which Nungwon exports.

Customs considers that exports by Nungwon are expected to continue and it is likely that these exports would not be dumped.

8.1.3 Remaining exporters

Exports from other companies have been sporadic. The small quantity of exports in the examination period was not dumped.

Customs considers that exports may continue and that it is likely that these exports would not be dumped.

Customs considers that the quantity of copper tube from exporters other than Fineston and Nungwon have not been constant or significant enough to influence the Australian market.

8.2 Likelihood of material injury continuing or recurring

8.2.1 Global supply and demand for copper tube

Over recent years the copper price has increased indicating greater demand in world markets.

Global demand for copper tube is not easy to quantify. However, the demand in Australia has decreased over the 8 years investigated by Customs, probably due to substitution from plastic plumbing tube.

There is anecdotal evidence of substantial substitution of plastic plumbing tube for copper tube in European markets. Discussions with the Korean manufacturers indicate that plastic plumbing tubing is used in Korea but that it does not have much impact on the local market, thereby not requiring local manufacturers to find new markets.

8.2.2 Supply channels to Australia

The supply channels in Australia remain similar to those that existed when the original investigation was undertaken. Australian manufacturers and imports sell to plumbing merchants who supply the trade. Some plumbing merchants have changed their source of supply.

8.2.3 Competition between imported and locally manufactured copper tube

The Australian market for copper tube is generated by building activity. Copper tube is marketed by five plumbing merchants – Reece, Tradelink, Plumbing Plus, Plumbtec and Plumbers Supplies. Plumbing merchants make the decision whether to buy Australian or imported copper tube. Merchants are aligned with one of the four principal suppliers – Kembla, Crane, Nungwon or Fineston. Plumbing merchants are in competition with one another.

Merchants that had changed allegiance with their suppliers had done so to obtain a more competitive price in relation to other merchants.

8.2.4 Imports and current measures

The Australian industry selling prices have been significantly higher than the selling prices of Korean copper tube ever since Korean product entered the Australian market.

The measures are based on the normal value of copper tube in Korea. A non-injurious FOB price based on an unsuppressed selling price (USP) for the Australian industry has never been used as a basis for the measure as it has always been considerably higher than the normal value.

Fineston has had a presence in the Australian market for three years. Fineston copper tube has been exported to Australia at prices less than normal values. Fineston pay interim dumping duty (IDD) on all shipments of copper tube.

Fineston copper tube (inclusive of IDD) has been sold at a profit in the Australia market. The selling price of Fineston product has been consistently lower than the Australian industry's selling price.

For Nungwon the export price has been set at the level of the normal value since 2003. Prior to this Nungwon had entered a price undertaking that had the same effect.

Nungwon's export price has been above normal values since October 2000. The selling price of Nungwon product in the Australian market has been consistently lower than the Australian industry's selling prices and the lowest in the Australian market.

In conclusion, the Australian industry achieves a consistently higher price for its product than imported copper tube. There is no evidence that the measures have had any effect at all on the way the Australian industry has set prices.

8.2.5 Are there other causes of injury?

Customs has identified the rising price of copper and the impact of plastic plumbing tube as possible causes of injury to the Australian industry.

The price of copper has increased significantly since late 2003. Both members of the Australian industry commented that it was difficult to raise prices in a market with a sharply increasing copper price. Australian industry profit and raw material costs are shown at the third graph at section 5.4. There is a strong inverse relationship between price and profit which supports the view that price increases to cover rising copper prices were difficult to obtain.

Plastic plumbing tube appears to have had an impact on the Australian market for copper tube. Data from the Australian Bureau of Statistics shows the value of building activity has increased significantly in the period examined in this report. The data also shows a pre-GST and Olympics spike in 2000 and a trough immediately following these events. The level of current building activity is much higher than at the time of the original investigation. The Australian market size for the copper tube covered by this report has fallen by around 10 percent in the same period. The increased use of plastic tube at the expense of copper tube will have had an effect on the cost to make copper tube.

Customs considers that rising copper prices and plastic tube have had an effect on the costs and profit achieved by the Australian industry.

8.3 Conclusion

The major Korean copper tube exporters to Australia are Nungwon and Fineston. Exports from other companies have been sporadic and the quantity has not been constant or significant enough to influence the Australian market.

In relation to Nungwon, Customs is satisfied that it is not likely that the conditions that gave rise to the imposition of the measure for Nungwon i.e. injury to the Australian industry being causally linked to Nungwon product, will recur if the measure is revoked. Nungwon exports are still in significant quantities, are not dumped and its selling prices at the same level of trade are the lowest in the Australian market.

Measures for other exporters, including Fineston, eventuated from the conditions that prevailed when Nungwon was the sole identified exporter of copper tube from any source. Exports by Fineston are expected to continue and it is likely that the dumping margin of those exports would be slightly above negligible levels.

In relation to Fineston, Customs found that the price GMG achieved for the Dae Jin product in the Australian market was significantly above that of Nungwon's price whilst well below the Australian industry's price. As exports by Nungwon are not dumped and the price of Fineston exports are significantly above that of Nungwon at the same level of trade, injury to the Australian industry could not be causally linked to Fineston.

As a result of the significance and position of Nungwon imports in the Australian market, it is not likely that the conditions that gave rise to the imposition of the measure for other exporters, including Fineston, will recur if the measure is revoked.

9 SUMMARY OF RECOMMENDATIONS

Customs recommends that the Minister be satisfied, in accordance with s. 269TAB(3) of the Act, that sufficient information has not been furnished, or is not available, to enable the export price for copper tube exported to Australia from Korea by exporters other than Fineston and Nungwon to be established under any preceding sub-sections of s. 269TAB.

Customs recommends that the Minister be satisfied, in accordance with s. 269TAC(6) of the Act, that sufficient information has not been furnished, or is not available, to enable the normal value for copper tube exported to Australia by exporters other than Fineston and Nungwon to be ascertained under the preceding sub-sections of s. 269TAC of the Act.

Customs recommends that the Minister determine, in accordance with s. 269TAC(6) of the Act, that the normal value of copper tube for exporters other than Fineston and Nungwon is the amount having regard to all relevant information.

Customs recommends that the Minister be satisfied, in accordance with s. 269TAAD(4) of the Act; that the cost of the copper tube be determined by adding the cost of production of the copper tube in Korea and the AS&G costs associated with the sale of that copper tube.

Customs recommends that, in assessing normal value the Minister direct, in accordance with s. 269TAC(8) of the Act, that the price paid for like goods be adjusted for the nominated exporters as follows:

Adjustment	Exporter	
	Nungwon	Fineston
Packing	X	X
Transport	X	X
Handling & loading	X	X
Inventory carrying cost	X	X
Duty Drawback	X	X
Credit terms	X	X
Exporter margin		X

Customs recommends that the Minister consider the report and, if agreed, declare by public notice under s. 269ZDB, that the anti-dumping measures published in respect of copper tube exported from Korea be revoked.

To give effect to these recommendations, Customs recommends that the Minister sign the notice and legal instruments attached. The revocation of the measures obviates the need for any decision to be taken with regard to the continuation inquiry.

10 EVIDENCE RELIED UPON

In formulating the recommendations in this report, Customs had regard to:

Topic	Section of report detailing facts relied upon	Evidence relied upon
Export price	6	Exporter submissions; information gathered from interested parties and Customs commercial database
Normal value	6	Exporter submissions and information gathered from interested parties
Economic condition of the industry	5	Information provided by Australian industry.
Continuation or recurrence of dumping and material injury	7	Information provided by Australian industry, exporters, importers and other interested parties.

11 LIST OF ATTACHMENTS

Attachment	Title
Confidential attachment 1	Prices of the Australian industry and imports since 1998/99
Confidential attachment 2	Export price and normal value
Confidential attachment 3	Submissions to the SEF
Confidential attachment 4	Customs consideration of submission from Kembla