

13 September 2017

Mr Bora Akdeniz  
Case Manager  
Operations 3  
Anti-Dumping Commission  
Level 35, 55 Collins Street  
Melbourne Victoria 3000

**Received on 14 September 2017**

**Public File**

Dear Mr Akdeniz

**Investigation No. 401 - BBRG Australia comments re submission by Scaw South Africa and Haggie Reid**

I. Introduction

I refer to the submission dated 6 September 2017 on behalf of Scaw South Africa ("Scaw S.A.") and Haggie Reid Pty Ltd ("Haggie Reid") ("the submission") concerning Statement of Essential Facts ("SEF") and Preliminary Affirmative Determination ("PAD") No. 401.

BBRG Australia Pty Ltd ("BBRG Australia") provides the following comments concerning the submission.

II. Normal value

The submission challenges the Anti-Dumping Commission's (the "Commission") model-to-model matching methodology, for the purposes of comparing domestic sales of wire rope with export sales to Australia. The Commission's model matching methodology at Section 5.4 considered the five characteristics of the goods, namely:

- End use (i.e. dragline or shovel);
- Whether the rope is plasticated;
- Whether the rope is compacted;
- Diameter ranges between:
  - 58mm to 74mm;
  - 75mm to 99mm;
  - 100mm to 200mm; and
- number of strands (i.e. six or eight).

The identified methodology, according to the submission, fails to take account of alleged "importance of design, use and marketing" considerations. It is further claimed that the Commission's methodology has led to an apparent "mismatch" of domestic models and the exported goods.

BBRG Australia notes that the Commission has determined normal values for Scaw S.A. based upon domestic selling prices made in the ordinary course of trade (i.e. in accordance with subsection 269TAC(1)). The submission seeks to demonstrate 'cost' differences between the domestic sales and the exports to Australia that, it is argued, relate to differences in selling prices between the goods sold in the respective markets.

As normal values have been determined under subsection 269TAC(1) any alleged cost differences that exist between the goods sold domestically and those exported to Australia, may be considered for subsection 269TAC(8) adjustments on the basis that the domestic selling price has been affected. The Commission adjusted Scaw S.A.'s normal values for certain models to account for differences in physical attributes. It does not appear that Scaw S.A. sought adjustments for cost differences that it attributes to 'design use and marketing'. In the absence of quantification of the alleged cost differences, the Commission cannot adjust Scaw S.A.'s normal value for costs that have not been substantiated.

The submission requests the Commission to reconsider adjustments sought by Scaw S.A. to its normal values for bad debt, foreign exchange gain, and steel price rebate. The Commission's explanation in SEF & PAD 401 confirms that the bad debt must relate to credit risk differences between the two markets and not merely the writing-off of a loss at a particular domestic customer. The Commission further confirmed with Scaw S.A. that it does not adjust prices to reflect exchange rate movements, hence no adjustment is required. Further, the claimed adjustment for raw material steel rebates, as explained by the Commission, is not made where a subsidy for exports is received as "there is no requirement for the domestic sales price to be adjusted downwards".

The Commission's determination of normal values for Scaw S.A. were correctly determined with only eligible adjustments made based upon verified information provided by the exporter.

### III. Export price

In seeking to challenge the Commission's basis for the determination of export prices for the goods, the submission contends that the Commission has adopted an "aggressive attitude" towards Scaw S.A. and Haggie Reid. This is not the case. The submission does not seek to disagree with the Commission's findings, but seeks to disagree with the approach adopted by the Commission. What is relevant is the Commission's finding, including that:

- The goods have been exported to Australia otherwise than by the importer and have been purchased by the importer from the exporter;
- The purchase of the goods by the importer **were not arms length transactions because those goods were subsequently sold at substantial losses by Haggie Reid in Australia and that those losses were not recoverable within a reasonable period of time;** and
- Some of the goods sold by the importer were not sold in the condition in which they were imported, to a person who is not an associate of the importer. This was because Haggie Reid further worked some of the goods (e.g. added end attachments) prior to selling those goods to customers in Australia (emphasis added).

The findings confirm that Haggie Reid sold the imported wire ropes at a loss during the investigation period. The submission on behalf of Scaw S.A. and Haggie Reid appears to conveniently ignore this critical point. The Commission has correctly confirmed that the Parliamentary Secretary can treat "*Haggie Reid's losses as indicating that the importer or an associate of the importer will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or a part of the price for the purposes of subsection 269TAA(1)(c).*" This discretion permits export prices to be determined on a deductive basis.

The Commission has, therefore, correctly determined export prices for goods sold by Haggie Reid in accordance with subsection 269TAB(1)(c) using the deductive export price methodology. The submission, rather, seeks to entertain matters that fail to take account of the loss-making sales by Haggie Reid and instead argue that the Commission's findings are based upon assessments of a 'wider class' of goods than the goods under consideration.

### IV. Material injury

The submission also contends that the injury suffered by the Australian industry (i.e. BBRG Australia) throughout the investigation period cannot be attributed to Scaw S.A.'s exports of wire rope to Australia. The submission is aimed at dissecting the Commission's findings in SEF & PAD 401 and argues that any injury experienced is due to the declining market.

This viewpoint is flawed. The Commission's findings confirmed that exports of wire rope from the largest alternative source to local supply (i.e. South Africa) undercut the Australian industry's selling prices by 16 per cent for dragline ropes and 13 per cent for shovel ropes. It would be naïve to suggest that the price undercutting had no effect on the local industry's selling prices during the investigation period. The Commission quantified the impact of the exports from South Africa on the Australian industry's sales concluding:

- The Australian industry lost 6 per cent market share since 2014;
- Over the same period, Haggie Reid's share increased 7 per cent (despite a slowing market);

- The exported goods were at dumped prices of 39.7 per cent;
- The Australian industry experienced significant price undercutting during the investigation period (that was made possible by the large dumping margins);
- BBRG Australia reduced its prices (in NSW and Queensland) to compete with Haggie Reid (and most notably at accounts co-shared with Haggie Reid);
- The reduction in sales volumes and reduced prices caused BBRG Australia to experience reduced profit and profitability during the investigation period.

The Commission further noted that the interaction between BBRG Australia and Haggie Reid was not limited to those mines where the companies shared sales tonnes but also included “*evidence before the Commission that a customer with a number of mines has used Haggie Reid prices at one mine in an attempt to force down BBRG Australia’s prices across all of the customer’s mines*”<sup>1</sup>.

The Scaw S.A. and Haggie Reid submission continues with its disagreement with the Commission’s findings on material injury stating that the justifications for the findings “are variously dubious, unsupported or speculative”<sup>2</sup>. The joint submission suggests that the low coal prices were a cause of the injury to BBRG Australia and that the Commission’s statements that coal prices improved in the second half of the investigation period were a cause of injury is not supported by the available data on coal exports. According to the Department of Industry, Innovation and Science, metallurgical and thermal coal exports from 2006/07 to 2015/16 continued to experience growth, with thermal coal exports experiencing a very minor reduction in 2015/16 (refer to DIIS Fact Sheet at Non-Confidential Attachment 1, Figures 2 and 4). Scaw S.A. and Haggie Reid’s claims concerning the alleged contraction of the coal industry is misplaced – volumes remained steady whereas there was a price fluctuation in 2015/16, which was short-lived.

The relevant issue concerning material injury caused by the dumped exports from South Africa as stated in SEF & PAD 401 was:

*“The Commission is satisfied that the Australian industry was forced to compete head to head with dumped prices at mines supplied by Haggie Reid and suffered material injury as a result. In addition, the Commission found that the Australian industry had to match dumped prices affecting non-Haggie Reid supplied mines. The Commission considers that the difference between the Australian industry’s prices and volumes at Haggie Reid supplied mines and non Haggie Reid mines demonstrates a causal link between dumped imports and injury”*<sup>3</sup>.

It is evident that the Australian industry suffered material injury from the dumped exports from South Africa due to BBRG Australia having to reduce selling prices from the second largest supplier on the Australian market. The injury was not due to a downturn in the coal industry as evidenced by the stable export volumes in 2015/16.

In respect of comments contained in the submission concerning the alleged shift to hydraulic diggers by some mines, BBRG Australia highlights that hydraulic diggers have 40% capacity of a rope shovel and are typically used to complete the “pre-strip” at the mine. It is recognized that rope shovels can also complete the “pre-strip”. The “pre-strip” occurs prior to a dragline or rope shovel entering the area to complete the majority of the over burden removal to expose the coal seam. Draglines and rope shovels remain the lowest cost machines to remove over burden due to the amount of over burden excavated compared to a hydraulic digger. In some situations hydraulic diggers may have been used to increase the mine’s ability to increase the effective use of draglines and shovels by doing more “pre stripping” but they have not replaced the use of draglines or rope shovels.

The only dragline parked-up at [company] mine in [period and machine identity] This occurred due to required structural maintenance of the dragline. The situation whereby a dragline or shovel is parked-up for an extensive maintenance period is relatively common. The claim of hydraulic diggers taking the place of draglines or Shovels at [company] is incorrect.

<sup>1</sup> Statement of Essential Facts and Preliminary Affirmative Determination No 401, P. 46.

<sup>2</sup> Scaw S.A. and Haggie Reid submission, 6 September 2017, P. 8.

<sup>3</sup> SEF & PAD 401, P. 47.

No dragline or shovel at [company] was parked-up except for planned maintenance. To BBRG Australia's knowledge, the same situation applied at the [company] mines. It is BBRG Australia's understanding that during 2016 no draglines or shovels were parked-up as a result of an increase in hydraulic digger activity.

BBRG Australia also rejects the suggestion contained in the submission that "Nothing is to be gained from a price undercutting analysis in the circumstances of this case<sup>4</sup>". On the contrary, the price undercutting analysis conducted by the Commission involved a comparison of wire rope models that demonstrated Haggie Reid's selling prices undercut, and were injurious, to the Australian industry. The claims of Scaw S.A. and Haggie Reid that the injury sustained by the Australian industry cannot be attributed to the dumping is incorrect and not supported by the available evidence (as demonstrated through loss of sales, head-to-head price competition (see BBRG Australia submission dated 28 July 2017), and verified examples of price undercutting.

V. Form of measures

Scaw S.A. and Haggie Reid have requested the Commission to recommend a measure that is not based upon the combination method and does not include a 'fixed' component of duty. The Commission detailed the basis for proposing the form of measures be based upon the combination method, noting that the exporter and its related importer did not deal at arms-length during the investigation period. A further, relevant consideration, involves transactions between related parties where the Commission's policy is to recommend the combination method to ensure duty absorption practices do not arise.

BBRG Australia supports the Commission's proposed recommended form of measures be based upon the combination method, due to the non arms-length nature of transactions that occurred during the investigation period. BBRG Australia requests that the Commission not alter its stance for the purposes of the final report and recommendations to the Parliamentary Secretary.

VI. Conclusions

Scaw S.A. and Haggie Reid do not agree with the preliminary findings contained in SEF & PAD 401. Whilst the exporter and importer do not agree with the findings, this is not a basis for altering the proposed recommendations contained in SEF & PAD 401.

BBRG Australia requests that the Commission hold firm with its findings as detailed in SEF & PAD 401 and recommend to the Parliamentary Secretary that anti-dumping measures based upon the combination method be applied to exports of wire rope from South Africa to prevent further material injury to the Australian industry manufacturing like goods.

If you have any questions concerning this submission, please do not hesitate to contact me on (02) 4968 6500 or BBRG Australia's representative Mr John O'Connor on (07) 3342 1921.

Yours sincerely



**Stuart Callender**  
Vice President Oceania

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<sup>4</sup> Scaw S.A. and Haggie Reid submission, 6 September 2017, P. 12.



# Resources



## AUSTRALIA'S MAJOR EXPORT COMMODITIES COAL

Coal has been providing reliable energy to Australians since the late 1700s when it was originally used as a fuel for heating and cooking. Today the coal industry provides the Australian community with jobs, regional economic activity, and makes large tax and royalty contributions. Coal also provides the region with an affordable energy resource and is a key component in the manufacture of steel.

**1<sup>st</sup>** LARGEST GLOBAL COAL EXPORTER BY VOLUME (2015)



**Resources:**

**4<sup>th</sup>** largest share of world's resources, accounting for **9%** (2014)  
**112** years of production at 2014 raw production rates  
**\$173 million** coal exploration expenditure (2015-16)

**\$34 billion** IN EXPORT VALUE (2015-16)

**44,000** PEOPLE DIRECTLY EMPLOYED IN THE AUSTRALIAN COAL INDUSTRY (AVERAGE 2015-16)



**Production:**

**5<sup>th</sup>** largest coal producer (2015)  
**440 million tonnes (Mt)** of saleable black coal, accounting for **7%** of global production (2015)

**\$5.7 billion** PAID IN WAGES AND SALARIES IN THE COAL MINING INDUSTRY (2014-15)



**Exports:**

**388 million tonnes (Mt)** of coal (2015-16)  
**1<sup>st</sup>** largest global metallurgical coal exporter (2015)  
**2<sup>nd</sup>** largest global thermal coal exporter (2015)  
**30%** of world coal trade (2015)



**Did you know?**

- Metallurgical coal is used as a raw material in the production of steel from iron ore.
- Every tonne of steel needs about 800 kilograms of metallurgical coal and there is more than 200 tonnes of metallurgical coal in every wind turbine.
- Coal is expected to continue to account for a large portion of the world's electricity generation for decades to come.
- High efficiency low emission (HELE) and carbon capture storage (CCS) technologies are available and can reduce emissions from coal fired power plants substantially.
- 1 tonne of coal powers the average Australian household for approximately 4 months.

**Metallurgical Coal:** sometimes known as coking coal, is used for the production of steel.

**Thermal Coal:** sometimes known as steaming coal, is mainly used in power plants for electricity generation.

Figure 1. Australia's top metallurgical coal export markets by volume (2015-16)

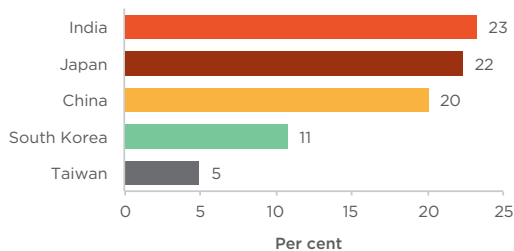


Figure 2. Australia's metallurgical coal exports

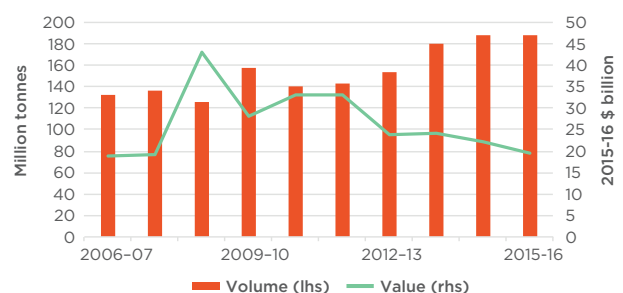


Figure 3. Australia's top thermal coal export markets by volume (2015-16)

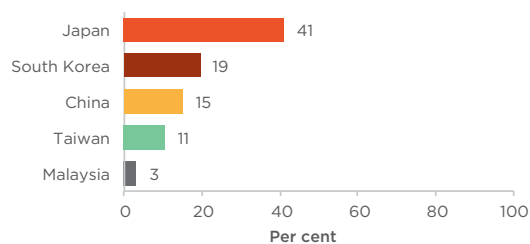


Figure 4. Australia's thermal coal exports

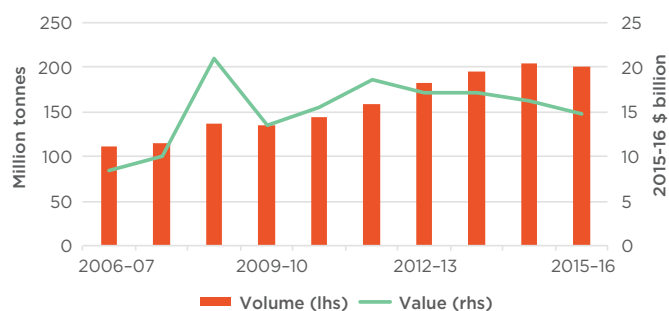


Figure 5. Australia's coal deposits, operating mines and export ports

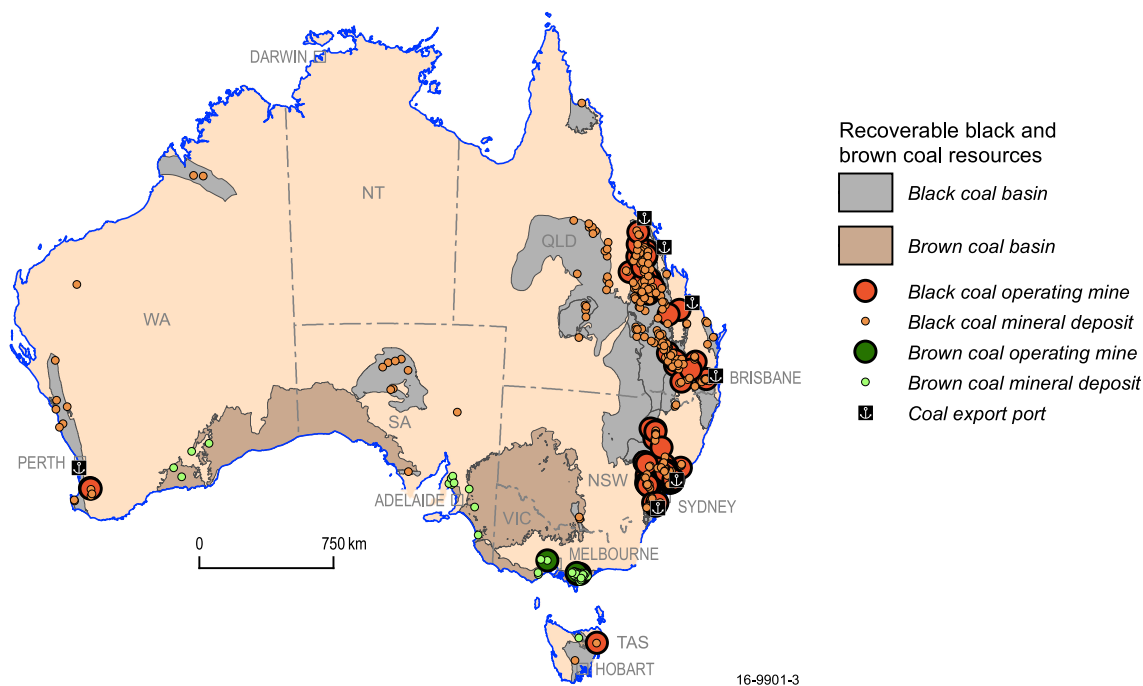


Table 1. Australia's coal production by state (2015-16)

STATE	VOLUME (MT)	SHARE (%)
Queensland	238	54
New South Wales	191	44
Western Australia	6.6	1.5
South Australia	0.8	0.2
Tasmania	0.4	0.1
<b>Total</b>	<b>437</b>	

Table 2. World's largest coal producers and consumers (2015)

PRODUCER	VOLUME (MT)	CONSUMER	VOLUME (MT)
China	3,360	China	3,753
United States	747	India	869
India	641	United States	646
Indonesia	469	Japan	192
Australia	443	South Africa	176
<b>World Total</b>	<b>6,721</b>	<b>World Total</b>	<b>6,899</b>

Sources: Australian Bureau of Statistics, Geoscience Australia, International Energy Agency, Minerals Council of Australia, Office of the Chief Economist

**For more information:**

Department of Industry, Innovation and Science: [www.industry.gov.au](http://www.industry.gov.au)  
 Office of the Chief Economist: [www.industry.gov.au/Office-of-the-Chief-Economist](http://www.industry.gov.au/Office-of-the-Chief-Economist)  
 Geoscience Australia: [www.ga.gov.au](http://www.ga.gov.au)