



**Australian Government**  
**Department of Industry,  
Innovation and Science**

**Anti-Dumping  
Commission**

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***CUSTOMS ACT 1901 - PART XVB***

# **REPORT NO. 401**

## **ALLEGED DUMPING OF WIRE ROPE EXPORTED TO AUSTRALIA FROM THE REPUBLIC OF SOUTH AFRICA**

**November 2017**

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## ABBREVIATIONS

|                                 |                                                                                                                                          |
|---------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|
| ABF                             | Australian Border Force                                                                                                                  |
| the Act                         | the <i>Customs Act 1901</i>                                                                                                              |
| ADN                             | Anti-Dumping Notice                                                                                                                      |
| the applicant or BBRG Australia | Bekaert Wire Ropes Pty Ltd                                                                                                               |
| combination method              | combination of fixed and variable duty method                                                                                            |
| the Commission                  | the Anti-Dumping Commission                                                                                                              |
| the Commissioner                | the Commissioner of the Anti-Dumping Commission                                                                                          |
| CON 401                         | <i>Anti-Dumping Commission Consideration Report No. 401</i>                                                                              |
| CTMS                            | cost to make and sell                                                                                                                    |
| Dumping Duty Act                | <i>Customs Tariff (Anti-Dumping Act) 1975</i>                                                                                            |
| FOB                             | free on board                                                                                                                            |
| the goods                       | the goods the subject of the application (also referred to as the goods under consideration)                                             |
| IDD                             | interim dumping duty                                                                                                                     |
| the Manual                      | <i>Anti-Dumping Commission Dumping and Subsidy Manual</i>                                                                                |
| Material Injury Direction       | <i>Ministerial Direction on Material Injury 2012</i>                                                                                     |
| NIP                             | non-injurious price                                                                                                                      |
| OCOT                            | ordinary course of trade                                                                                                                 |
| PAD                             | preliminary affirmative determination                                                                                                    |
| PAD Direction                   | <i>Preliminary Affirmative Determinations Direction 2015</i>                                                                             |
| the Parliamentary Secretary     | Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science |
| ROI                             | return on investment                                                                                                                     |
| SEF                             | statement of essential facts                                                                                                             |
| South Africa                    | Republic of South Africa                                                                                                                 |
| USP                             | unsuppressed selling price                                                                                                               |

## **1 SUMMARY AND RECOMMENDATIONS**

### **1.1 Introduction**

This Report No. 401 (REP 401) relates to the investigation by the Commissioner of the Anti-Dumping Commission (the Commissioner) of the allegations made by Bekaert Wire Ropes Pty Ltd (BBRG Australia) that certain wire rope (wire rope or the goods) exported to Australia from the Republic of South Africa (South Africa) at dumped prices has caused material injury to the Australian industry producing like goods.

This Report makes recommendations to the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary)<sup>1</sup> and sets out the findings on which the Commissioner bases those recommendations.

### **1.2 Recommendation to the Parliamentary Secretary**

Based on the findings in this Report, the Commissioner recommends to the Parliamentary Secretary that a dumping duty notice be published in respect of wire rope exported to Australia from South Africa.

### **1.3 Authority to make decision**

#### **1.3.1 General**

Division 2 of Part XVB of the *Customs Act 1901* (the Act)<sup>2</sup> describes, among other things, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to goods covered by an application under subsection 269TB(1) for the purpose of making a report to the Parliamentary Secretary.

#### **1.3.2 Day 60 status report and preliminary affirmative determination**

In accordance with subsection 269TD(1), the Commissioner may make a preliminary affirmative determination (PAD) if satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice or it appears that there will be sufficient grounds for the publication of a dumping duty notice subsequent to the importation of the goods into Australia.

A PAD may be made no earlier than day 60 of the investigation and the Commonwealth may require and take securities at the time a PAD is made or at any time during the investigation after a PAD has been made if the Commissioner is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

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<sup>1</sup> On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of this investigation, the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

<sup>2</sup> All legislative references in this Report are to the *Customs Act 1901*, unless otherwise specified.

In accordance with section 6 of the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction), the Commissioner published a Day 60 Status Report on 26 June 2017, being 60 days after the initiation of the investigation, providing reasons why a PAD was not made.

Section 9 of the PAD Direction requires the Commissioner to reconsider making a PAD after the publication of a Day 60 Status Report at least once prior to the publication of the statement of essential facts (SEF). On 14 August 2017, the Commissioner was satisfied that there appeared to be sufficient grounds for the publication of dumping duty notice in relation to exports of the goods from South Africa and made a PAD to that effect. Following the making of the PAD, and to prevent material injury to the Australian industry occurring while the investigation continued, securities were taken in respect of any interim dumping duty that may become payable in respect of the goods exported from South Africa and entered for home consumption in Australia on or after 16 August 2017. Anti-Dumping Notice (ADN) No. 2017/116 contains more information on the Commissioner's reasons for making a PAD.

### **1.3.3 Statement of essential facts**

The Commissioner must, within 110 days after the initiation of an investigation arising from an application under section 269TB, or such longer period as allowed under subsection 269ZHI(3),<sup>3</sup> place on the public record, a SEF on which the Commissioner proposes to base a recommendation to the Parliamentary Secretary in relation to the application.<sup>4</sup>

The Commissioner placed *Statement Essential Facts No. 401* (SEF 401) on the public record on 14 August 2017.

### **1.3.4 Final report**

The final report and recommendations in relation to this investigation were originally required to be provided to the Parliamentary Secretary on or before 28 September 2017.<sup>5</sup> However, the Commissioner extended this due date in accordance with subsection 269ZHI(3) to 27 November 2017, as outlined in ADN No. 2017/131.

In making the recommendations in this Report, the Commissioner had regard to:<sup>6</sup>

- the application;
- all submissions concerning and subsequent to the publication of ADN No. 2017/58 to which the Commissioner had regard for the purpose of formulating SEF 401;
- SEF 401; and
- all submissions made in response to SEF 401, as summarised at section 2.4.

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<sup>3</sup> On 14 January 2017, the Parliamentary Secretary delegated the powers and functions of the Minister under section 269ZHI to the Commissioner. Refer to ADN No. 2017/10 for further information.

<sup>4</sup> Subsection 269TDAA(1).

<sup>5</sup> Section 269TEA.

<sup>6</sup> In accordance with subsection 269TEA(3).

This Report includes a statement of the Commissioner's reasons for the recommendations in this Report.<sup>7</sup> The statement of the Commissioner's reasons:

- sets out the material findings of fact on which the recommendations are based; and
- provides particulars of the evidence relied on to support those findings.

## **1.4 Findings and conclusions**

A summary of the Commissioner's findings and conclusions is provided below and there is greater detail in the remainder of this report.

### **1.4.1 The goods and like goods (Chapter 3)**

The Commissioner considers that wire rope produced in Australia (i.e. locally produced wire rope) are like goods to the goods the subject of the application.

The Commissioner is satisfied that there is an Australian industry producing like goods, which is BBRG Australia, and that BBRG Australia carried out in Australia, at least one substantial process in the manufacture of like goods.

### **1.4.2 Australian market (Chapter 4)**

The Australian market for wire rope is supplied by BBRG Australia and imported goods, predominantly from South Africa.

### **1.4.3 Dumping (Chapter 5)**

The Anti-Dumping Commission (the Commission) considers that:

- all wire rope exported to Australia from South Africa was dumped during the investigation period; and
- the volume of dumped goods from South Africa, and the dumping margins for all exporters from South Africa was not negligible.

The Commission's assessment of the dumping margin for wire rope exported to Australia from South Africa is at Table 1 below:

| Country      | Exporter/Manufacturer | Dumping margin |
|--------------|-----------------------|----------------|
| South Africa | All exporters         | 39.7%          |

**Table 1: Dumping margin summary**

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<sup>7</sup> In accordance with subsection 269TEA(5).

#### **1.4.4 Economic condition of the Australian industry (Chapter 6)**

The Commissioner considers that the Australian industry has experienced material injury in the forms of:

- loss of sales volume;
- loss of market share;
- price suppression;
- loss of profits;
- reduced profitability;
- reduced sales revenue;
- reduced return on investment (ROI);
- reduced capacity utilisation;
- reduced employment; and
- reduced productivity.

#### **1.4.5 Causation assessment (Chapter 7)**

The Commissioner considers that the Australian industry has experienced material injury as a result of wire rope imported at dumped prices from South Africa.

#### **1.4.6 Will dumping and material injury continue? (Chapter 8)**

The Commissioner considers that imports of wire rope may continue in the future at dumped prices from South Africa, and that continued dumping from South Africa may continue to cause material injury to the Australian industry.

#### **1.4.7 Non-injurious price (Chapter 9)**

The Commission considers that the non-injurious price (NIP) can be calculated for all exporters from South Africa by reference to an unsuppressed selling price (USP) equal to the Australian industry's weighted average selling prices in the 2015 calendar year, less any costs incurred in getting the goods to the free-on-board (FOB) point of export.

For all exports from South Africa, the NIP is below the normal value. As such the Commission has applied the lesser duty rule in subsection 8(5B) of the *Customs Tariff (Anti-Dumping Act) 1975* (Dumping Duty Act) and calculated the percentage difference between the weighted average NIP and the weighted average export price. This percentage difference is below the dumping margin as shown in Table 2 below:

| Country      | Exporter / Manufacturer | Dumping Margin | Difference between weighted average export price and weighted average NIP (lesser duty) |
|--------------|-------------------------|----------------|-----------------------------------------------------------------------------------------|
| South Africa | All exporters           | 39.7%          | 28.9%                                                                                   |

**Table 2: Dumping margin and application of the lesser duty rule**



**1.4.8 Proposed anti-dumping measures (Chapter 10)**

The Commissioner recommends to the Parliamentary Secretary that anti-dumping measures (in the form of a dumping duty notice) for all exports of the goods to Australia from South Africa be imposed using the combination of fixed and variable duty method (combination method).

**1.4.9 Recommendations to the Parliamentary Secretary (Chapter 11)**

The Commissioner makes the recommendations contained in chapter 11 of this report to the Parliamentary Secretary.

## 2 BACKGROUND AND PURPOSE

### 2.1 Initiation

On 26 April 2017, the Commissioner initiated an investigation into the alleged dumping of wire rope exported to Australia from South Africa. The investigation followed an application by BBRG Australia dated 10 March 2017.

In its application, BBRG Australia alleged that the Australian industry has suffered material injury caused by wire rope exported to Australia from South Africa at dumped prices in the form of:

- loss of sales volume;
- loss of market share;
- price depression;
- price suppression;
- loss of profits;
- reduced profitability;
- reduced sales revenue;
- reduced capital investment;
- reduced return on investment;
- reduced capacity utilisation;
- reduced employment; and
- reduced productivity.

Subsequent to receiving further information and data from BBRG Australia on 24 March 2017 and 30 March 2017, and having considered the application, the Commissioner decided not to reject the application. Further background to the initiation of this investigation is contained in *Anti-Dumping Commission Consideration Report No. 401* (CON 401). Public notification of the initiation of the investigation was made on 26 April 2017 in ADN No. 2017/58.

A public record is available for this investigation on the Commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au). A non-confidential version of the application, CON 401, ADN No. 2017/58 and all subsequent submissions by interested parties are available on the public record.

### 2.2 Investigation timeframe

In respect of this investigation:

- the investigation period<sup>8</sup> for the purposes of assessing dumping is 1 January 2016 to 31 December 2016; and

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<sup>8</sup> Subsection 269T(1).

- the injury analysis period<sup>9</sup> for the purpose of determining whether material injury to the Australian industry has been caused by exports of dumped goods from South Africa is from 1 January 2013.

## **2.3 Previous cases**

There have been no previous Australian anti-dumping investigations involving wire rope.

## **2.4 Submissions received from interested parties**

The Commission received 12 submissions from interested parties during the course of the investigation.<sup>10</sup>

The Commissioner considered all 12 submissions in making this report and recommendations to the Parliamentary Secretary.

## **2.5 Public record**

The public record contains non-confidential submissions by interested parties, the Commission's verification visit reports and other publicly available documents. The public record is available for inspection in hard copy by request in the Commission's Melbourne office or online at [www.adcommission.gov.au](http://www.adcommission.gov.au). Documents on the public record should be read in conjunction with this report.

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<sup>9</sup> The purpose of the injury analysis period is to allow the Commission to identify and examine trends in the Australian market which in turn assists the Commission in its examination of whether material injury has occurred or is threatened.

<sup>10</sup> Nos. 4, 7, 9, 10, 11, 16, 17, 18, 19, 20, 21 and 23 on the public record refer.

### 3 THE GOODS AND LIKE GOODS

#### 3.1 Finding

The Commissioner has found that there is an Australian industry consisting of BBRG Australia<sup>11</sup> that produces like goods and carries at least one substantial process in the manufacture of those like goods in Australia.

#### 3.2 Legislative framework

In his report to the Parliamentary Secretary under subsection 269TEA(1), the Commissioner must recommend whether the Parliamentary Secretary ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG.

Under section 269TG, one of the matters the Parliamentary Secretary must be satisfied of is that there is an Australian industry producing like goods to the goods the subject of the application.

In making this assessment, the Commissioner must firstly determine that the goods produced by the Australian industry are “like” to the imported goods. Subsection 269T(1) defines like goods as:

*“...goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration”.*

An Australian industry can apply for relief from injury caused by dumped imports even if the goods it produces are not identical to those imported. The Australian industry must however, produce goods that are “like” to the imported goods.

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- i. physical likeness;
- ii. commercial likeness;
- iii. functional likeness; and
- iv. production likeness.

The Commissioner must be satisfied that the like goods are produced in Australia. Subsection 269T(2) specifies that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. Subsection 269T(3) provides that in order for the goods to be considered as partly manufactured in Australia,

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<sup>11</sup> The Commission has identified that BBRG Australia is the sole Australian producer of ‘like goods’, and is therefore referred to in this report on occasion as the Australian industry.

at least one substantial process in the manufacture of the goods must be carried out in Australia.

### **3.3 The goods**

The goods the subject of this investigation are stranded wire rope, alloy or non-alloy steel, whether or not coated or impregnated, having both of the following:

- Not greater than 8 strands;
- Diameter not less than 58mm and not greater than 200mm,

with or without attachments.

Further information regarding the goods is outlined below:

- (i) *Stranded steel wire rope is rope and strand made of high carbon wire (whether or not containing alloys);*
- (ii) *The strand or rope can also be sheathed or impregnated and sheathed respectively in plastic or composites;*
- (iii) *The wires can be layered-up in various configurations in order to give the strand or rope the desired physical properties;*
- (iv) *Variances can include:*
  - *strand diameter;*
  - *number of wires;*
  - *wire finish (e.g. typically black but may be galvanised);*
  - *wire tensile grade;*
  - *type of lubricant;*
  - *strand or rope length; and*
  - *whether or not an attachment is included (but not limited to ferrules and/or beackets).*
- (v) *Cores may be made of:*
  - *natural or synthetic fibre; or*
  - *Independent Wire Rope Cores ("IWRC"), which may or may not be sheathed or impregnated in plastic.*

*Typical uses include applications such as dragline hoist, drag and dump ropes, and shovel hoist, crowd and retract ropes.*

*Goods excluded from this application are:*

- *stranded wire rope that is stainless steel as defined under Note (e) "Stainless steel" to the Tariff;*
- *stranded wire rope with more than 8 strands, regardless of diameter; and*

- *stranded wire rope less than 58mm or greater than 200mm in diameter, regardless of the number of strands.*

### 3.4 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 |                  |                |                                                                                                                                                                                                                           |
|-----------------------|------------------|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Tariff code           | Statistical code | Unit           | Description                                                                                                                                                                                                               |
| 7312.10.00            | 91 and 92        | Kilograms (kg) | Stranded wire, ropes, cables, plaited bands, slings and the like, of iron or steel, not electrically insulated:<br>91: ...Of a diameter exceeding 50 mm but not exceeding 100 mm<br>92: ...Of a diameter exceeding 100 mm |

**Table 3: Tariff classification summary**

### 3.5 The Australian industry

#### 3.5.1 BBRG Australia

BBRG Australia specialises in the design, manufacture and sale of wire rope, steel cables and strands for various industries.

BBRG Australia produces wire rope at two manufacturing sites in Newcastle, NSW. Its main plant covers 39,000 m<sup>2</sup> and most of the strand and wire rope (like goods) manufacturing takes place in this facility. There is also a smaller facility that covers 2,208 m<sup>2</sup> which is dedicated to producing like goods under the brand of RAPTEK™.

BBRG Australia's production process is automated, involves utilisation of specialised machinery and is capital intensive.

#### 3.5.2 BBRG Australia's products

With respect to the end use application, wire rope can be used as:

- Drag Ropes;
- Hoist Ropes;
- Dump Ropes; and
- Shovel Ropes.<sup>12</sup>

As per the goods description, wire rope consists of either six strands or eight strands. Wire rope can also be classified according to:

- whether it has a steel core or fibre core;

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<sup>12</sup> Further details of these end use applications can be found in the application, at no. 1 on the public record.

- whether it is plasticated or non-plasticated;
- whether it is compacted or un-compacted;
- the design of strands and the geometry of the winding of the strands around the core; and
- whether or not the wire rope has rovings between the strands.

Wire rope can also be sold with or without end attachments such as links, ferrules or beackets.

At an Australian industry verification visit to BBRG Australia, the Commission observed that BBRG Australia has the capability to manufacture all of the goods that are subject to this investigation.

### 3.6 Production processes

The manufacture of wire rope by BBRG Australia involves two major transformation stages. These include:

- conversion of steel wire to strand; and
- conversion of strand to rope.

The Commission examined BBRG Australia's manufacturing facilities and observed the processes undertaken by it in manufacturing like goods.

Figure 1 below depicts BBRG Australia's production process of wire rope:

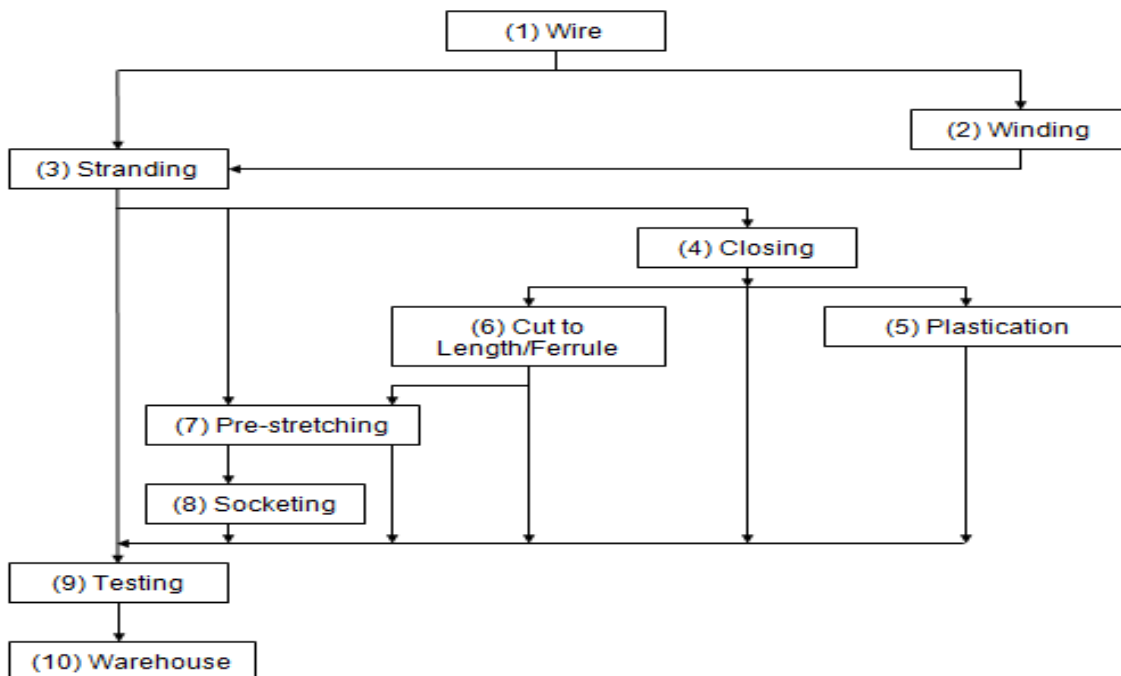


Figure 1: BBRG Australia's wire rope production process

The Commission observed that BBRG Australia purchases the steel wire used in the production process and undertakes a substantial process in the manufacture of like goods. In coming to this conclusion, the Commission has considered:

- BBRG Australia's role in the design of the wire rope; and
- the processes involved in the conversion of wire to strand and conversion of strand to rope as well as other additional processes such as compacting and plastication undertaken by BBRG Australia.

### **3.7 The Commissioner's assessment**

The Commissioner considers that the Australian industry produces goods that are 'like' to the goods the subject to the application for the following reasons:

- the primary physical characteristics of the goods and locally produced like goods are similar;
- the goods and locally produced like goods are commercially alike as they are sold to common users, and directly compete in the same market;
- the goods and locally produced like goods are functionally alike as they have a similar range of end-uses; and
- having regard to the findings of verification visits to the Australian industry and an exporter of the goods from South Africa, the goods and locally produced like goods are manufactured in a similar manner.

Furthermore, by conducting an Australian industry verification visit, the Commission found that the processes undertaken by BBRG Australia comprise substantial processes in the production of like goods.

Based on the Commission's observations, the Commissioner considers that the goods can be taken to have been wholly manufactured in Australia and that they are, therefore, produced in Australia.

The Commissioner is satisfied that:

- the wire rope produced by BBRG Australia are like to the imported goods;<sup>13</sup>
- at least one substantial process of manufacture of like goods is carried out in Australia;<sup>14</sup>
- the like goods were wholly manufactured in Australia by BBRG Australia;<sup>15</sup>
- there is an Australian industry, consisting solely of BBRG Australia, in respect of like goods in Australia, in accordance with subsection 269TC(1)(b).<sup>16</sup>

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<sup>13</sup> In terms of 'like goods' as defined in subsubsection 269T(1).

<sup>14</sup> For the purposes of subsection 269T(3).

<sup>15</sup> For the purposes of subsection 269T(2).

<sup>16</sup> As defined in subsection 269T(4).



## **4 AUSTRALIAN MARKET**

### **4.1 Findings**

The Commissioner finds that the Australian market for wire rope is supplied by the Australian industry and imports predominantly from South Africa and to a lesser extent from the Republic of India (India), the United States of America (USA) and the United Kingdom (UK).

### **4.2 Market distribution**

The Australian wire rope market is supplied by BBRG Australia and a small number of importers that sell to end-user mining companies.

Wire rope (the goods) subject to this investigation are typically used in open cut mining.

### **4.3 BBRG Australia**

BBRG Australia competes with importers of wire rope in selling the goods to open cut mining companies that operates electric draglines and shovels in NSW and QLD.

The Commission also found that there was a small market in WA which accounts for approximately 2.3 per cent of BBRG Australia's sales. The Commission understands that wire rope imported from South Africa is not sold in WA.

The Commission has found that the wire rope sold by BBRG Australia is its own product range. BBRG Australia sells an insignificant volume of imported products that are not within the goods under consideration for this investigation.

The Commissioner has had regard to the information verified at the visit to BBRG Australia, as well as the matters discussed in the visit report, in preparing this Report. The visit report for BBRG Australia includes further information on its market practices.<sup>17</sup>

### **4.4 Importers**

The Commission has found that the vast majority of imports of the goods to Australia are from South Africa. A small volume of goods were imported from India, the USA and the UK.

Following initiation of this investigation, the Commission identified Haggie Reid Pty Ltd (Haggie Reid) as the only importer of wire rope from South Africa and sent Haggie Reid an importer questionnaire to complete. Haggie Reid participated in the investigation and provided a response to the importer questionnaire. The data submitted by Haggie Reid was subsequently verified by the Commission and was found to be relevant, accurate and complete. The visit report for Haggie Reid is available on the electronic public record.<sup>18</sup>

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<sup>17</sup> No. 8 on the public record.

<sup>18</sup> No. 15 on the public record.

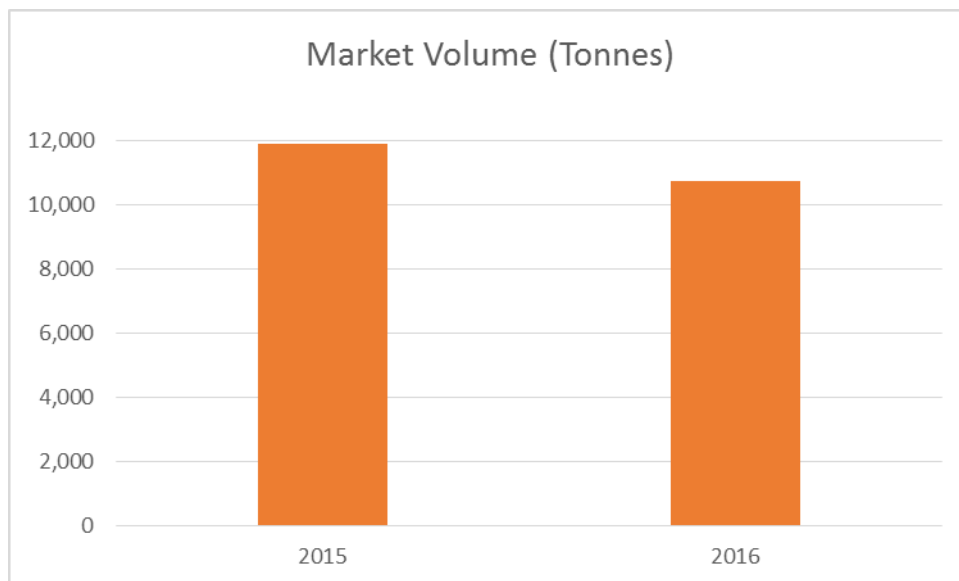
## 4.5 Demand variability

The Commission has found that demand for wire rope is mainly driven by the demand for coal and other mining commodities. Wire rope is a consumable for electric draglines and shovels in open cut mines and demand in the open cut mining market segment is driven by introduction of new machinery in new mines or rationalising and upgrading of existing equipment in existing mines.

## 4.6 Market size

As outlined in CON 401, since 2013, eight statistical codes for tariff subheading 7312.10.00 have been identified as relevant to the goods. However, as noted at section 3.3 of this report, statistical codes 91 and 92, which were added effective from 1 January 2015 are currently the most relevant to the goods. These two statistical codes provide an accurate basis for the Commission to estimate import volumes. However, given that these statistical codes only came into effect recently, the Commission is only able to filter the data from the Australian Border Force (ABF) import database with a high degree of certainty for the two most recently completed calendar years, 2015 and 2016.

The Commission's analysis and the data collected from BBRG Australia and Haggie Reid shows that the Australian wire rope market size was between 10,000 and 12,000 metric tonnes for 2015 to 2016, and that in the investigation period, the market size reduced from 2015 levels. Figure 2 below depicts the Commission's estimation for the wire rope market size in 2015 and 2016.



**Figure 2: Australian wire rope market size**

## **5 DUMPING INVESTIGATION**

### **5.1 Findings**

The Commissioner has found that all of the goods exported to Australia from South Africa, by the only exporter to Australia, Scaw South Africa (Proprietary) Limited (Scaw), were at dumped prices during the investigation period. The Commissioner has also found that the volume of dumped goods from South Africa was not negligible during the investigation period.

### **5.2 Introduction and legislative framework**

In order to determine whether the goods have been dumped, the export price and normal value of the goods must be compared.<sup>19</sup> Dumping occurs when goods from one country are exported to another country at an export price less than the normal value of such goods. The export price and normal value are determined under sections 269TAB and 269TAC respectively. Further details of the export price and normal value determinations for this investigation are set out below.

### **5.3 Exporter**

At the commencement of the investigation, the Commission identified Scaw as the only exporter of the goods to Australia from South Africa.

The Commission contacted Scaw and invited it to complete an exporter questionnaire, which requested information necessary to determine whether goods were exported at dumped prices.

Scaw cooperated with the investigation and provided the Commission with a substantially complete questionnaire response.

The Commission conducted a verification visit to Scaw in South Africa and verified the data submitted by Scaw in its exporter questionnaire response.

Following the verification visit, the Commission calculated a dumping margin in relation to Scaw's exports based on the verified information. Scaw's verification visit report is available on the electronic public record.<sup>20</sup>

### **5.4 Model matching**

#### **5.4.1 Model matching methodology adopted in SEF 401**

As part of SEF 401, in comparing the goods exported to Australia to like goods Scaw sold in its domestic market over the investigation period, the Commission considered that it was appropriate to have regard to the five characteristics of the goods:

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<sup>19</sup> Subsection 269TACB(1).

<sup>20</sup> No. 14 on the public record.

- 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).

#### **5.4.2 Submissions following SEF 401 in relation to model matching**

##### Scaw and Haggie Reid Pty Ltd (Haggie Reid)

###### *Approach to model matching*

In their joint submission dated 7 September 2017, Scaw and Haggie Reid questioned the Commission's approach to model matching, which is relevant to the calculation of Scaw's normal value.

Scaw and Haggie Reid claim that the Commission's approach to model matching ignores evidence about the importance of design, use and marketing of wire rope. The submission states that wire rope exhibits different pricing depending on specific attributes, and that the Commission's model matching methodology has created a mismatch in the comparison between domestic and exported models. To support its view, Scaw and Haggie Reid highlight that there are cost variations between the domestic and exported models.

###### *Normal values for certain models*

Scaw and Haggie Reid's submission expresses a view that:

- there were some models that were identical on both the domestic and export markets and it was possible to calculate the normal values for those models under subsection 269TAC(1);
- some exported models have closely similar domestic models, meaning that a subsection 269TAC(1) normal value with specification adjustments could be considered for those models; and
- for all other models, there are no comparable domestic models, and therefore a normal value under subsection 269TAC(2)(c) would be appropriate.<sup>21</sup>

##### BBRG Australia

In its submission dated 4 September 2017, BBRG Australia supported the Commission's approach to model matching and stated that the Commission correctly identified five key criteria for contrasting domestic and export sales of the goods for model matching purposes.<sup>22</sup> BBRG Australia considers the identification of the key characteristics integral

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<sup>21</sup> File no. 19 in the public record

<sup>22</sup> File no. 18 in the public record

to the model matching process and ensuring normal values are fairly compared with export prices.

### **5.4.3 The Commissioner's consideration**

#### *Approach to model matching*

In circumstances where the goods comprise more than one model, the Commission endeavours to ensure that the model of like goods used to determine the normal value is comparable to the relevant export model.

Interested parties may propose different ways to define models. The Commission takes these views into consideration but ultimately will determine the models for a particular investigation on a case by case basis having regard to the circumstances. For certain goods, there may be many individual characteristics that, to some degree, influence price comparisons. In these circumstances, the Commission must strike a balance between capturing the key price drivers (to neutralise or minimise problems relating to comparability) and the practical implications (including that the number of models increase exponentially with every additional characteristic considered and that exporters may not keep their CTMS information to such a detailed level). Where there are too many models identified, it is difficult to identify direct model comparisons.

In determining the models for this investigation, the Commission had regard to the five key criteria which were demonstrated to materially influence selling prices. The Commission relied on product specifications collected from the exporter and the Australian industry at verification visits in formulating the model matching criteria. The five criteria selected were identified by both Scaw and BBRG Australia as attributes affecting the cost and price of the goods.

The Commission is of the view that by grouping the domestically sold wire ropes and wire ropes exported to Australia with respect to the five criteria selected, the Commission is ensuring that the main physical attributes (e.g. diameter, plastication type, compacting type and number of strands), methods of production and end-use applications are captured. As a result, the Commission disagrees with Scaw and Haggie Reid's claim that the model matching methodology doesn't take into account the importance of design, end use or marketing. On the contrary, the Commission is of the view that its model matching methodology effectively takes into account all major cost and price drivers pertaining to the goods.

The Commission analysed Scaw's domestic and export CTMS values during the course of the investigation. The Commission noted that, for models that are identified to be identical by Scaw in its exporter questionnaire response, there were significant cost differences between the domestic CTMS and export CTMS. The Commission found that Scaw incorporated export rebates it received from its domestic steel rod producer in relation to export sales in the calculation of its export CTMS. In contrast, no such rebate is given to Scaw in relation to its domestic sales, therefore Scaw's domestic CTMS did not include such rebates. As a result, the cost differential between the domestic CTMS and export CTMS that Scaw highlight in its submission is explainable in the most part due to these rebates.

Consequently, these cost differences do not detract from the Commission's approach to model matching. The cost differences identified are a relevant consideration as to whether or not the export steel incentive received by Scaw is a basis for an allowable adjustment to normal value. This issue is discussed in detail in section 5.5.6 of this report.

#### *Normal values for certain models*

Subsection 269TAC(1) states that:

*"[t]he normal value of any goods exported to Australia is the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arms length transactions by the exporter..."*

The Commission made a finding in section 2.2 of Scaw's exporter visit report that the domestically sold wire ropes by Scaw are like goods to the wire ropes exported to Australia.<sup>23</sup> In particular, the verification team found that the goods manufactured for domestic consumption are identical to, or have characteristics closely resembling, the goods exported to Australia, as they:

- are not distinguished from the exported goods during production;
- are produced at the same facilities and with the same raw material inputs and manufacturing processes; and
- can be considered functionally and commercially alike.

On the basis of the above, the Commission does not accept Scaw's claims that for certain export models, there are not comparable domestic models suitable for determining a normal value under subsection 269TAC(1). As outlined in SEF 401, for models where there were insufficient volumes of domestic sales of wire rope for equivalent models exported to Australia sold in arms length transactions, and at prices that were within the OCOT in South Africa, the Commission was able to establish the normal value under subsection 269TAC(1) using similar (surrogate) models (which are also like goods) with specification adjustments to ensure fair comparison of normal values with export prices. In this instance, the Commission considers that the matters described in subsection 269TAC(2)(a) do not exist, therefore Commission disagrees with Scaw and Haggie Reid's claims that it is appropriate to calculate the normal value for certain models under subsection 269TAC(2)(c).

## **5.5 Dumping assessment - Scaw**

### **5.5.1 Export price determined in SEF 401**

In determining the export price of the goods exported to Australia by Scaw, as part of SEF 401, the Commission had regard to the findings of an on-site verification visits to Scaw and its related importer, Haggie Reid.

In respect of the sales from Scaw to Haggie Reid, the Commission considered that:

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<sup>23</sup> No. 14 on the public record

- 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 loss by Haggie Reid in Australia and that those losses are not recoverable within a reasonable period of time;<sup>24</sup> 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.

In SEF 401, in making a finding in relation to the nature of arms length transactions between Scaw and Haggie Reid and in assessing whether the goods were sold by Haggie Reid to customers in Australia at a loss for the purposes of subsection 269TAA(2), the Commission took the following into consideration in accordance with subsection 269TAA(3):

- the amount of the price paid or to be paid for the goods by the importer – subsection 269TAA(3)(a);
- such amounts as determined to be the costs necessarily incurred in the importation and sale of the goods – subsection 269TAA(3)(b);
- the likelihood that the amounts referred to in subsections 269TAA(3)(a) and (b) will be able to be recovered in a reasonable time - subsection 269TAA(3)(c);<sup>25</sup> and
- other matters considered relevant - subsection 269TAA(3)(d). Such matters included the nature of certain payment allowances made to Haggie Reid by Scaw and a lack of evidence to support the claim that price negotiations took place between Haggie Reid and Scaw.

The Commission found that the facts supported a finding that Haggie Reid made sales at a loss under subsection 269TAA(2). The Commission was therefore satisfied that it was appropriate in the circumstances to:

- consider that the losses incurred by Haggie Reid are not explained by commercial reasons unrelated to dumping and;
- consequently that it is appropriate for the Parliamentary Secretary to 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).

Given these findings, and considering that certain goods were not sold by Haggie Reid in the condition in which they were imported, the Commission considered the export price

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<sup>24</sup> Subsections 269TAA(1), (2) and (3).

<sup>25</sup> After having regard to the price paid by the importer, other related importation and selling costs, and the history of losses made by Haggie Reid in prior years, the Commission found that it is unlikely that losses incurred by Haggie Reid in the investigation period will be able to be recovered within a reasonable period of time, which in keeping with the Commission's established policies is generally a period of 12 months.



for all goods exported by Scaw cannot be determined under subsections 269TAB(1)(a) or 269TAB(1)(b).

Accordingly, in SEF 401, the Commission had determined the export price for all exports to Australia by Scaw during the investigation period under subsection 269TAB(1)(c) having regard to all the circumstances of the exportation. Specifically, the Commission calculated the export price using a 'deductive export price methodology', being the price at which goods were sold by Haggie Reid in the investigation period to customers in Australia less deductions of the kind prescribed by subsection 269TAB(2).<sup>26</sup> Where certain goods were not sold by Haggie Reid to customers in Australia in the condition in which they were imported, the Commission ensured that the export price did not include amounts relating to the further working those goods (e.g. the costs of end attachments were removed).

### **5.5.2 Submissions following SEF 401 in relation to export price**

#### **Scaw and Haggie Reid**

In their joint submission dated 7 September 2017, Scaw and Haggie Reid claimed that the Commission has stepped outside of its remit under the Act because the export price has been worked out with respect to a goods that are imported prior to the investigation period.

The submission states that Haggie Reid operates in an industry, and operates a business model, which meets customer requirements from inventory and on consignment and the stock can be slow moving. On this basis, Scaw and Haggie Reid claim that the Commission's findings as to Haggie Reid's profitability, and as to any effect of the goods in the Australian market, have not been confined to the goods that are the subject of this investigation.

The submission accepts that in many cases, indeed in most cases, an importer will have starting and closing inventory on hand which would impact on the export price analysis. However the submission notes that this investigation covers a 12 month period, as opposed to a longer period such as those adopted in other cases involving "capital goods".

#### **BBRG Australia**

In its submission dated 4 September 2017, BBRG Australia opined that the Commission correctly considered the requirements of subsection 269TAA(1) and (2) concerning Haggie Reid's profitability, and subsection 269TAA(3) concerning the payment allowances made by the exporter that benefitted the importer. BBRG Australia further stated that it was in full agreement with the Commission determining export prices for Scaw using the deductive export price methodology in accordance with subsection

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<sup>26</sup>It is noted that subsection 269TAB(2)(c) prescribes a deduction for profit, if any, on the sale by the importer. The Commission notes that, in calculating a deductive export price for Scaw, an amount for profit has not been deducted. The Commission considered the historical profitability of Haggie Reid in conjunction with the fact that no other importers of the goods from South Africa existed during the investigation period and determined that no amount of profit should be deducted from the deductive export price, in this instance.



269TAB(1)(c) as the declared export prices do not reflect the full cost associated with the production and sale of the goods incurred by the exporter.

### 5.5.3 The Commissioner's consideration – export price

In Scaw and Haggie Reid's joint submission dated 13 June 2017, it is stated that "Haggie Reid's prices in the Australian market have been static for at least the past three and a half years".<sup>27</sup> In the confidential version of the same submission, Haggie Reid provided the Commission with a graph showing that its prices did not change from 2014 onwards for all wire rope model groups. In addition, following SEF 401, the Commission asked Haggie Reid to provide its sales data for the period 1 January 2017 to 30 June 2017 to verify Haggie Reid's claims that its prices haven't changed post the investigation period. The Commission observed that Haggie Reid's selling prices of the same types of wire rope to corresponding individual customers have been static in the period following the six months after the end of investigation period. Haggie Reid's post investigation period sales are in **Confidential Attachment 1**. The Commission's comparison of Haggie Reid's selling prices during the investigation period with post investigation period prices are in **Confidential Attachment 2**.

Having regard to the information provided by Haggie Reid in relation to its prices in Australia being static for the last three and a half years and based on the Commission's comparison of Haggie Reid's investigation period prices and post investigation period prices, the Commission considers that the price at which the goods were sold by Haggie Reid during the investigation period reflects the export price of the goods subject to investigation notwithstanding any timing difference between the importation and selling of the goods. Accordingly, the Commission considers that the analysis of Haggie Reid's profitability is not affected and that establishing the export price under subsection 269TAC(1)(c) of the Act using a 'deductive export price methodology' is appropriate in the circumstances. This export price is the price at which goods were sold by Haggie Reid in the investigation period to customers in Australia less deductions of the kind prescribed by subsection 269TAB(2). In relation to Scaw and Haggie Reid's observations about the 12 month investigation period, the Commission considers that the 12 month period was sufficient to properly assess the causal link between dumping and claimed injury.

As a result, the Commission considers that the approach it followed in calculating the export price is the correct and preferable decision and determines the export price for all exports to Australia by Scaw during the investigation period under subsection 269TAB(1)(c) having regard to all the circumstances of the exportation. Specifically, the Commission calculates the export price using a 'deductive export price methodology', being the price at which goods were sold by Haggie Reid in the investigation period to customers in Australia less deductions of the kind prescribed by subsection 269TAB(2). Where certain goods were not sold by Haggie Reid to customers in Australia in the condition in which they were imported, the Commission ensures that the export price did not include amounts relating to the further working those goods (e.g. the costs of end attachments were removed).

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<sup>27</sup> File no. 4 in the public record pages 4 and 6.

The Commission's export price calculations are at **Confidential Appendix 1**.

#### **5.5.4 Normal value**

The Commission is satisfied that there are sufficient volumes of equivalent domestic sales of wire rope (i.e. like goods) for five models exported to Australia that were sold in arms length transactions<sup>28</sup>, and at prices that were within the ordinary course of trade (OCOT)<sup>29</sup> in South Africa. The Commission is therefore satisfied that the prices paid by Scaw's customers in respect of the domestic sales of those five models are suitable for assessing normal value under subsection 269TAC(1).

For models where there were insufficient volumes of domestic sales of wire rope for equivalent models exported to Australian sold in arms length transactions, and at prices that were within the OCOT in South Africa, the Commission also established the normal value under subsection 269TAC(1) using similar (surrogate) models (which are also like goods) with specification adjustments as outlined below at section 5.5.3 to ensure fair comparison of normal values with export prices.

Scaw's verified domestic cost to make and sell (CTMS) is available at **Confidential Appendix 2**.

Scaw's verified domestic sales listing and OCOT calculations are available at **Confidential Appendix 3**.

#### **5.5.5 Adjustments to Scaw's normal value**

In using domestic sales as a basis for normal value in accordance with subsection 269TAC(1), the Commission considers that certain adjustments as outlined below, are necessary in accordance with subsection 269TAC(8) to ensure fair comparison of normal values with export prices.

##### **Differences in specification**

As outlined above, the Commission found insufficient volumes of equivalent domestic sales of wire rope for certain models and calculated the normal value for those certain models based using a surrogate model. As the export price of the goods are not in respect of identical goods (as per subsection 269TAC(8)(b)), the Commission has applied specification adjustments to the normal values, to ensure any differences to between the model exported to Australian and the surrogate model do not affect comparison with export prices.

These adjustments make allowances for number of strands and compacting, as appropriate, based on verified differences between FOB export prices for different models.

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<sup>28</sup> Section 269TAA.

<sup>29</sup> Section 269TAAD.

### **Credit terms**

The Commission considers that a downward adjustment to the normal value for domestic credit is necessary to ensure a fair comparison to the FOB export price. The Commission has applied this adjustment based on the number of credit days and the percentage of interest earned on working capital during the investigation period.

The Commission also considers that an upward adjustment for credit extended by Haggie Reid to its customers in Australia (which is included in the deductive export price established above at subsection 5.5) is necessary to ensure a fair comparison to the FOB export price. The Commission has applied this adjustment based on the average number of credit days and the bank lending rate.<sup>30</sup>

### **Freight and handling**

The Commission considers that a downward adjustment to the normal value for domestic freight and handling expenses is necessary to ensure a fair comparison to the FOB export price. The Commission has applied this adjustment based on the inland freight and handling costs listed for each domestic transaction.

The Commission also considers that an upward adjustment for export inland freight and handling expenses is required, to ensure a fair comparison to the FOB export price. The Commission has applied this adjustment based on the weighted average cost (per tonne) for those expenses over the investigation period.

### **Technical credit costs**

The Commission considers that a downward adjustment to the normal value for domestic technical credit costs relating to damaged goods is necessary to ensure a fair comparison to the FOB export price. Scaw has allocated this cost to domestic sales using its percentage of invoice value. The Commission has applied this adjustment based on the technical credit costs listed for each domestic transaction.

The Commission also considers that an upward adjustment for export technical credit costs is required, to ensure a fair comparison to the FOB export price. The Commission has applied this adjustment based on the weighted average (per tonne) cost over the investigation period.

### **Domestic technical support**

Scaw claimed a downward adjustment to the normal value for engineering support services that it provides to end-users in the domestic market, but not to Haggie Reid in Australia. This claim was based on the salary cost (per tonne) of those sales engineers known to provide technical support to domestic customers.

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<sup>30</sup> In Australia, the bank lending rate is the average rate of interest charged on short term loans by commercial banks to companies. Further information is provided [here](#).

Given it is known that engineering support services are provided to end-users in Australia by Haggie Reid, not Scaw, the Commission considers that this adjustment is warranted in the circumstances.

### **Domestic cutting costs**

Scaw has claimed a downward adjustment to the normal value for domestic cutting costs, on the basis that wire rope sold domestically is (on average) shorter in length than goods sold to Australia, meaning that the domestic sales attract a higher cutting cost per metre. The Commission is satisfied that the evidence provided by Scaw supports its claim that lengths sold domestically are (on average) shorter than those sold to Haggie Reid. This is also consistent with the Commission's knowledge of particular value-add activities undertaken by Haggie Reid in Australia. As a result, the Commission considers there is sufficient evidence to warrant an adjustment for the differences in domestic cutting costs.

### **Reel returns**

The Commission considers that a downward adjustment to the normal value for the costs associated with the return of empty reels from domestic mine sites is necessary to ensure a fair comparison to the FOB export price. These costs comprise credit that is offered to domestic customers after used reels are returned to Scaw. The Commission has applied this adjustment based on the weighted average cost (per tonne) of the total credit expense over the investigation period.

The Commission also considers that an upward adjustment for costs associated with the return of empty reels from Australia is required, to ensure a fair comparison to the FOB export price. These costs include either reimbursement or credit offered to Haggie Reid for returned reels, as well as the cost of shipping those reels back to South Africa, which is incurred by Scaw. The Commission has applied this adjustment based on the weighted average cost (per tonne) over the investigation period.

### **Export packaging**

The Commission considers that an upward adjustment is required for packaging expenses solely relating to Australian exports (such as straps and plastic wrapping), to ensure a fair comparison to the FOB export price. The Commission has applied this adjustment based on the verified weighted average cost (per tonne) for those expenses over the investigation period.

## **5.5.6 Adjustments not made to Scaw's normal value**

### **Domestic bad-debt write-off**

Scaw claimed a downward adjustment to the normal value to account for a bad debt write-off relating to a particular customer. Scaw allocated this cost to domestic sales using its percentage of invoice value.

#### *Submission following SEF 401 in relation to domestic bad-debt write-off adjustment*

In its submission dated 7 September 2017, Scaw claims that the Commission should allow a bad debt adjustment to normal value because the failure of the customer

concerned was a high profile event, which was discussed at sales meetings. Scaw further claims that its staff were conscious of the need to recover that cost, so far as they were able to do so, in price negotiations.

BBRG Australia supported the Commission's rejection of the domestic bad-debt write-off adjustment.

*The Commission's consideration – bad debt adjustment*

The Commission disagrees that a failure of a customer to pay a debt in Scaw's domestic market constitutes a basis for an adjustment to normal value. The Commission notes that Scaw has not provided the Commission with evidence substantiating its claims that the bad debt from a particular customer affected price comparability between the normal value and export price. The Commission also considers that if Scaw pursued a policy to recover the cost of bad debts, it would be open to Scaw to adopt the same policy to its export sales, particularly given that its sales to Australia was to its related party Haggie Reid, and that it would have been less challenging to do so than trying to increase its unrelated customers' prices in order to recover the cost of bad debts.

The Commission's *Dumping and Subsidy Manual* (dated April 2017)<sup>31</sup> (the Manual) states that:

*'[b]ad debt, like general administration expenses, generally relates to the general cost of doing business and does not, for that reason, normally represent grounds for adjustment. An exception arises where evidence demonstrates that credit risks between the two markets for a particular product were in fact different and that these differences affected price comparability'.<sup>32</sup>*

Based on the information available, the Commission does not consider that Scaw has adequately demonstrated that credit risks between the Australian and South African markets for wire rope were different during the investigation period, and that these differences affected price comparability.

**Export foreign exchange gain**

Scaw claimed a downward adjustment to the normal value for an exchange rate gain made during the investigation period.

*Submissions following SEF 401 in relation to export foreign exchange gain adjustment*

In its submission dated 7 September 2017, Scaw claims that foreign exchange gain was simply the receipt of a greater amount of money in the home currency of the exporter, for sales made by the exporter that were denominated in a different currency, where the exchange rate between the two currencies has moved favourably for the exporter. Scaw argues that it sees no justification for the rejection of the foreign exchange gain that accrued on payments to Scaw in the investigation period with respect to its Australian sales.

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<sup>31</sup> Available at [www.adcommission.gov.au](http://www.adcommission.gov.au)

<sup>32</sup> The Manual, page 70 refers.

In response, BBRG Australia noted that Scaw did not alter its export prices to reflect fluctuations in exchange rates and commented that the claimed adjustment should be disallowed.

*The Commission's consideration – export foreign exchange gain adjustment*

The Manual states that consideration as to adjustments to the normal value is warranted should be based on ‘... *differences shown to affect price comparability between domestic sales and export sales to Australia*’.<sup>33</sup> The Commission confirmed with Scaw that exchange rate fluctuations did not impact the prices set with Haggie Reid in Australia.

In assessing whether Scaw's foreign exchange gains form a basis for an adjustment to normal value, as per subsection 269TAC(8) the Commission has regard to whether the foreign exchange gain affected price comparability between the normal value and the export price. At the verification visit, the Commission found that Scaw did not enter into a foreign exchange hedging contract in the form of futures, forwards or options at the time of, or prior to the goods being sold. It follows that, at the time of the export sales, Scaw did not know whether it would make a foreign exchange gain or loss. Hence, the Commission does not have evidence that Scaw accounted for any account any foreign exchange gains or losses at the time of the sale. In the Commission's opinion, foreign exchange gains realised by Scaw for the export sales during the investigation period is not a factor affecting price comparability between the normal value and export price as Scaw did not adjust its export prices knowingly for the future foreign currency fluctuations. In addition to that, as explained in section 6.9.2 of Scaw's exporter verification visit report, the verification team found that particular gains evidenced by Scaw actually related to payment of invoices issued outside the investigation period. As a result, the Commission considers that the foreign exchange gains it realised during the investigation period does not affect price comparability and does not constitute a basis for a downwards adjustment to normal value.

Given the Commission cannot be satisfied that prices to Haggie Reid are impacted by foreign exchange gains/losses, it cannot be satisfied that price comparability between the export price and normal value has been affected.

**Raw material (steel) incentives**

Scaw claimed a downward adjustment to the normal value for certain steel incentive payments that it received on raw materials used in exported goods.

*Submissions following SEF 401 – raw material incentives adjustment*

In its submission, Scaw claims that openly negotiated, private sector price rebates are valid, commercial market outcomes and that they should not be removed from the calculation of costs or rejected from consideration as a valid adjustment.

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<sup>33</sup> The Manual, page 76 refers.



BBRG Australia stated that it concurred with the Commission's rejection of this adjustment.

*The Commission's consideration – raw material incentives adjustment*

The Commission considers this arrangement to reflect 'two-tier' pricing, whereby a supplier in South Africa is selling raw materials to a manufacturer that produces for both the domestic and export markets and offers a rebate in relation to the raw materials that are used in the products that are eventually exported. As a result of the rebate, the raw material destined for domestic production of the goods is sold at a higher price than that destined for export production.

According to the Manual an '[a]djustment is not made for differences in the two-tier pricing of ... raw materials'. More specifically:

*[t]he domestic price may be adjusted downward to ensure proper comparison with the export price where for example there are local taxes that are part of that price and are not levied on the export sale. Where there are advantages, such as direct or indirect subsidies, which the exporter may have but are not present in the domestic sales prices, there is no requirement for the domestic sale price to be adjusted downwards.<sup>34</sup>*

In this case, the rebates are paid to Scaw sometime following its purchase of the materials when evidence has been provided against the criteria. As such, the Commission maintains that a downward adjustment to normal value for the steel incentive payments is not appropriate in these circumstances.

**5.5.7 Adjustments – summary**

The Commission is satisfied that there is sufficient and reliable information to justify the following adjustments, in accordance with subsection 269TAC(8), and considers these adjustments are necessary to ensure a fair comparison of normal values and export prices:

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<sup>34</sup> The Manual, page 75 refers.

| Adjustment Type                    | Deduction/addition                                         |
|------------------------------------|------------------------------------------------------------|
| Domestic credit                    | <b>Deduct</b> the cost of domestic credit.                 |
| Domestic freight                   | <b>Deduct</b> the cost of domestic freight.                |
| Domestic technical credit          | <b>Deduct</b> the cost of domestic technical credit.       |
| Domestic technical support         | <b>Deduct</b> the cost of domestic technical support.      |
| Domestic cutting costs             | <b>Deduct</b> the cost of domestic cutting costs.          |
| Domestic reel returns              | <b>Deduct</b> the cost of domestic reel returns.           |
| Export inland freight and handling | <b>Add</b> the cost of export inland freight and handling. |
| Export technical credit            | <b>Add</b> the cost of export technical credit.            |
| Export packaging                   | <b>Add</b> the cost of export packaging.                   |
| Export reel returns                | <b>Add</b> the cost of export reel returns.                |
| Export credit                      | <b>Add</b> the cost of export credit.                      |

Table 4: Adjustments to normal value

The Commission's normal value calculations are at **Confidential Appendix 4**.

#### 5.5.8 Dumping margin

##### Submissions received in relation to dumping margin

In its submission dated 7 September 2017, Scaw and Haggie Reid claim that the dumping margin was overstated and announced in SEF 401 without hearing their opinions.

##### The Commission's consideration

The Commission notes that both Scaw and Haggie Reid were visited prior to publication of SEF 401. The purpose of these visits are to verify Scaw and Haggie Reid's data that form the basis of their questionnaire responses but also to discuss all aspects of the investigation and receive both party's feedback and comments. The Commission worked closely with both the importer and the exporter in forming its view and the visit reports and the underlying calculations were provided to Scaw on 2 August 2017 and to Haggie Reid on 4 August 2017. Scaw and Haggie Reid, as well as all other interested parties, were given the opportunity to make submissions in the 20 days following publication of SEF 401, as provided for by legislation. As a result, the Commission has provided interested parties with an opportunity to comment on Scaw's dumping margin in the preparation of this Report. The Commission is satisfied that the dumping margin is accurate.

##### Calculation of dumping margin

The dumping margin has been assessed by comparing weighted average Australian export prices to the corresponding quarterly weighted average normal value for the investigation period, in accordance with subsection 269TACB(2)(a).



The dumping margin in respect of wire rope exported to Australia by Scaw for the investigation period is **39.7 per cent**.

The dumping margin calculation is at **Confidential Appendix 5**.

The Commission has established that Scaw was the only exporter of the goods to Australia from South Africa during the investigation period. It is recommended that Scaw's dumping margin apply to all exporters from South Africa.

## **5.6 Volume of dumped imports**

Pursuant to subsection 269TDA(3), the Commissioner must terminate an investigation, in so far as it relates to a country, if satisfied that the total volume of goods that are dumped is a negligible volume. Subsection 269TDA(4) defines a negligible volume as less than three per cent of the total volume of goods imported into Australia over the investigation period if subsection 269TDA(5) does not apply.

Pursuant to subsection 269TDA(6), the volume of goods at negligible dumping margins are not prevented from being taken into account for the purposes of subsection 269TDA(3).

Using the ABF import database and having regard to the information collected and verified from the importer and exporter, the Commission determined the volume of imports in the Australian market. Based on this information, the Commission is satisfied that, when expressed as a percentage of the total Australian import volume of the goods, the volume of dumped goods from South Africa was greater than three per cent of the total import volume and is therefore not negligible.

Accordingly, the Commissioner considers that there are no grounds to terminate this investigation under subsection 269TDA(3).

## 6 ECONOMIC CONDITION OF THE AUSTRALIAN INDUSTRY

### 6.1 Findings

Based on an analysis of information and evidence obtained and verified during this investigation, the Commissioner has found that, during the investigation period, the Australian industry experienced:

- loss of sales volume;
- loss of market share;
- price suppression;
- loss of profits;
- reduced profitability;
- reduced sales revenue;
- reduced ROI;
- reduced capacity utilisation;
- reduced employment; and
- reduced productivity.

The Commissioner considers that the injury experienced by the Australian industry was material.

### 6.2 Introduction and approach to injury analysis

#### 6.2.1 Legislative background

Under section 269TG, one of the matters the Parliamentary Secretary must be satisfied of in order to publish a dumping duty notice is that the Australian industry producing like goods has experienced or is experiencing material injury caused by dumping of the goods.

The matters that may be considered in determining whether an Australian industry has experienced material injury are set out in section 269TAE.

#### *The Ministerial Direction on Material Injury*

In assessing material injury, the Commission also has regard to the *Ministerial Direction on Material Injury 2012* (Material Injury Direction).<sup>35</sup> The Material Injury Direction makes it clear that material injury from dumping can occur notwithstanding that there is also injury from other sources; or that the Australian industry remains profitable. In such circumstances the relevant comparison is between the condition of the Australian industry with dumping and the condition of the Australian industry without dumping.

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<sup>35</sup> Available at [www.adcommission.gov.au](http://www.adcommission.gov.au)

### **6.2.2 Application**

BBRG Australia alleges that the Australian industry has experienced material injury caused by exports of wire rope to Australia from South Africa at dumped prices through:

- loss of sales volume;
- loss of market share;
- price depression;
- price suppression;
- loss of profits;
- reduced profitability;
- reduced sales revenue;
- reduced capital investment;
- reduced ROI;
- reduced capacity utilisation;
- reduced employment; and
- reduced productivity.

### **6.2.3 Approach to injury analysis**

BBRG Australia claims that injury from dumped exports from South Africa first commenced in 2015, and that the impact of the dumping through loss of sales volume and reduced selling prices had a material impact on its financial position in 2016 (the investigation period).<sup>36</sup>

The Commission has focused its injury analysis in this chapter predominantly on the investigation period and has used data from 1 January 2013 (referred to as the injury analysis period) for the purpose of determining whether material injury has been caused to the Australian industry.<sup>37</sup>

This chapter analyses the economic condition of the Australian industry as a whole and provides an assessment as to whether the Australian industry has experienced material injury. All figures below compare years ending 31 December, unless otherwise specified.

Where appropriate, the Commission has chosen to conduct a more detailed analysis (by focussing on certain types of wire rope or certain periods such as the investigation period) to complement its findings regarding injury to the Australian industry as a whole.

The Commission's injury analysis for the purposes of this report is based primarily on:

- BBRG Australia's verified costs, sales and other financial data;
- Verified sales data of Scaw and Haggie Reid; and
- ABF import data.

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<sup>36</sup> BBRG Australia application at page 41, no. 1 on the public record.

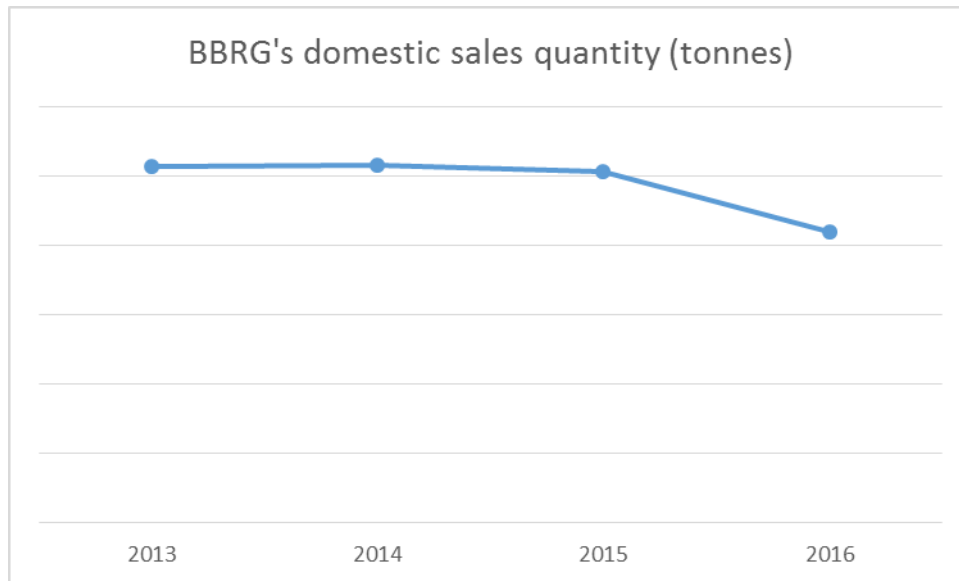
<sup>37</sup> As permitted by subsection 269T(2AD), noting that subsection 269T(2AE) does not allow any determination that dumping has occurred by reference to goods exported to Australia before the start of the investigation period.

### 6.3 Volume injury

In its application, BBRG Australia claimed that it lost sales volume and market share due to the growth in the volume of imports of wire rope from South Africa.

#### 6.3.1 Sales volume

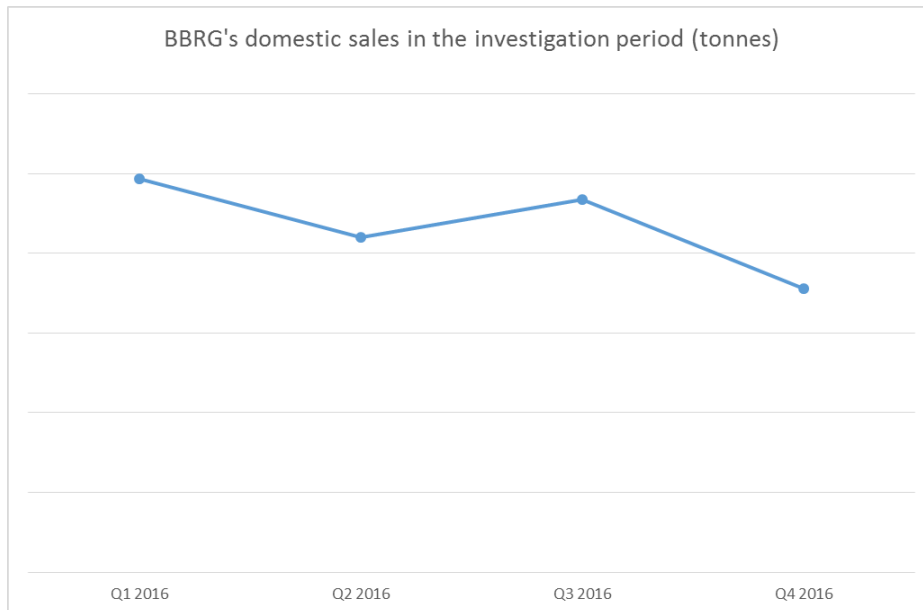
Figure 3 below illustrates BBRG Australia's sales volumes for wire rope on the Australian market between 2013 and 2016.



**Figure 3: BBRG Australia's sales volume of wire rope on the Australian market – injury analysis period**

Figure 3 shows that BBRG Australia's sales volumes of wire rope were stable between 2013 and 2015, but declined significantly in 2016. Figure 4 below shows that BBRG Australia's sales volumes declined within the investigation period.

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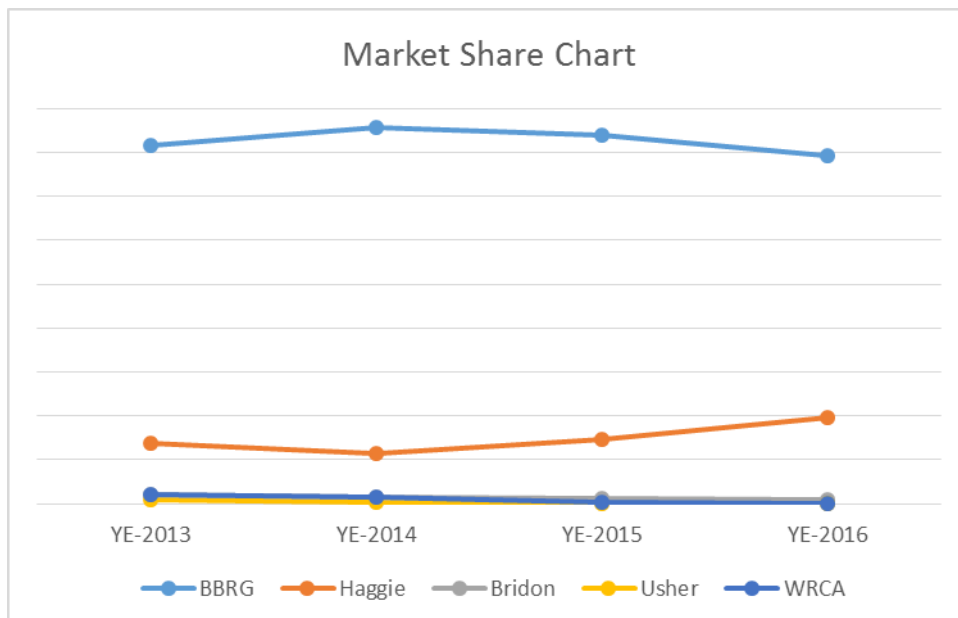


**Figure 4: BBRG Australia's sales volumes of wire rope on the Australian market - investigation period**

### 6.3.2 Market share

In their joint submission received on 14 June 2017, Haggie Reid and Scaw claimed that BBRG Australia's application fails to mention the incursion of wire rope from China and from Ushar Martin, from India.

Figure 5 below depicts the market shares for all suppliers of wire rope during the injury analysis period.



**Figure 5: Market shares of all suppliers of wire rope in Australia – injury analysis period**

Figure 5 shows that, from 2014, the Australian industry and other suppliers of wire rope such as Bridon from the UK, Usher Martin from India and WRCA from the USA lost

market share, noting that imports from China did not feature heavily during any year of the injury analysis period. The Commission's analysis shows that during the investigation period, BBRG Australia lost 4.2 per cent of market share, whereas Haggie Reid gained 4.9 cent of market share indicating that BBRG Australia's lost market share went to Haggie Reid.<sup>38</sup>

The Commission's analysis is at **Confidential Appendix 6 – Market Share**.

### **6.3.3 Conclusion – volume injury**

Based on the available information, the Commission considers that there is evidence to support BBRG Australia's claim that the Australian industry has experienced injury in the form of lost sales volume and market share.

Further analysis of the Commission's assessment of volume injury is contained in **Confidential Appendix 7 – Injury effects**.

## **6.4 Price injury**

### **6.4.1 Background**

BBRG Australia claims that it experienced injury in the form of price depression and price suppression.

Price depression occurs when a company, for some reason, lowers its prices.

Price suppression occurs when price increases, which otherwise would have occurred, have been prevented.

In determining whether price suppression has occurred, the Commission has compared the Australian industry's sales prices with its costs to assess the relative movements over time.

### **6.4.2 Price depression and price suppression**

BBRG Australia claims that lost sales volumes due to dumped goods have led to production volumes declining, which in turn led to higher unit fixed and selling, general and administrative costs. BBRG Australia claims that the increase in CTMS, along with downwards pressure on its selling prices as a result of the allegedly dumped goods, have led to price depression and price suppression. BBRG Australia contends that it has experienced a reduction in unit sales revenue in an attempt to maintain sales volumes whilst competing and responding to dumped imports from South Africa.

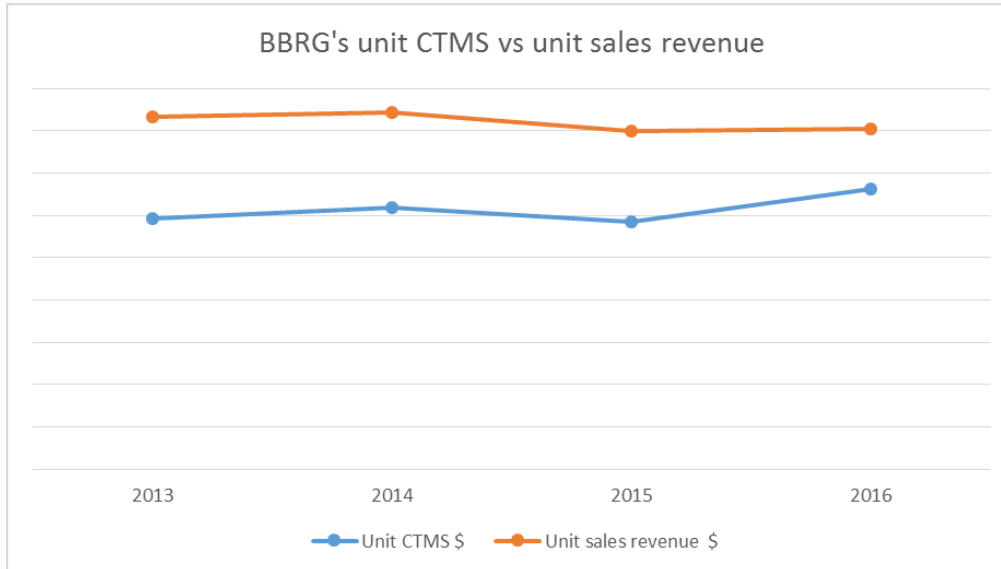
Figure 6 below shows BBRG Australia's unit sales revenue and unit CTMS for all sales of wire rope on the Australian market between 2013 and 2016. Figure 6 demonstrates that price suppression was evident because unit CTMS increased over the course of the injury

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<sup>38</sup> The Commission updated the market share analysis using actual verified sales figures following SEF 401.

analysis period without a corresponding increase in unit sales revenue. In particular, the gap between unit sales revenue and unit CTMS narrowed in the investigation period.

The Commission's assessment of price suppression is contained in **Confidential Appendix 8 – Price Effects**.



**Figure 6: Unit CTMS and unit sales revenue for BBRG Australia's wire rope - injury analysis period**

#### 6.4.3 Conclusion – price injury

Based on the available information, the Commission considers that BBRG Australia has experienced injury in the form of price suppression.

### 6.5 Profit injury

#### 6.5.1 Reduced profit and profitability

BBRG Australia claims that as a consequence of volume and price effects from dumped imports from South Africa, it experienced injury through loss of profits and reduced profitability.

The Commission found that BBRG Australia's total profits and unit profitability fell generally during the injury analysis period. Figure 7 below shows BBRG Australia's total profit and unit profitability for all sales of like goods. Figure 7 shows a significant decline in total profits and unit profitability in the investigation period compared to previous years.

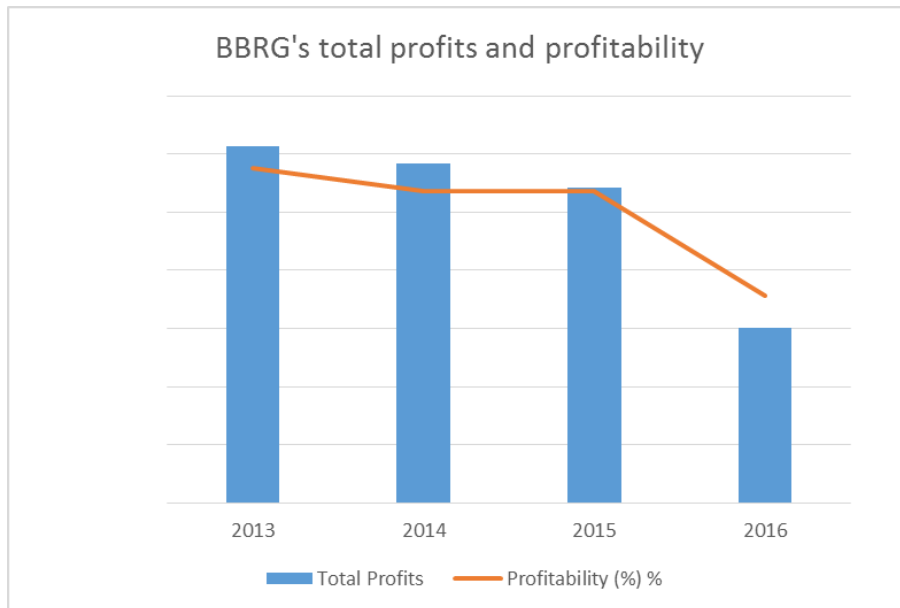


Figure 7: BBRG Australia's total profit and unit profitability - injury analysis period

### 6.5.2 Conclusion – profit and profitability injury

It is noted that, prior to SEF 401, Haggie Reid observed that BBRG Australia was profitable during the investigation period.

The Commission notes that the Australian industry may remain profitable notwithstanding that its profits have been affected by dumped goods. The Material Injury Direction states that injury may be found in circumstances where the Australian industry is prospering but less prosperous than it would be absent dumping.

The Commission considers that BBRG Australia's total profit and unit profitability relating to sales of wire rope deteriorated in the investigation period compared to previous years.

Figures 3 through to 7 show that a combination of reduced unit sales revenues, higher unit CTMS and reduced sales volumes have impacted profits. The Commission considers that the Australian industry has experienced injury in the forms of reduced profit and reduced profitability.

The Commission's assessment of profit and profitability injury is contained in **Confidential Appendix 9 – Price and Profit Effects**.

## 6.6 Other economic injury factors

In its application, BBRG Australia claimed that it had experienced injury in the form of other injury factors including:

- reduced revenue;
- reduced capital investment;
- reduced ROI;
- reduced capacity utilisation;
- reduced employment; and



- reduced productivity.

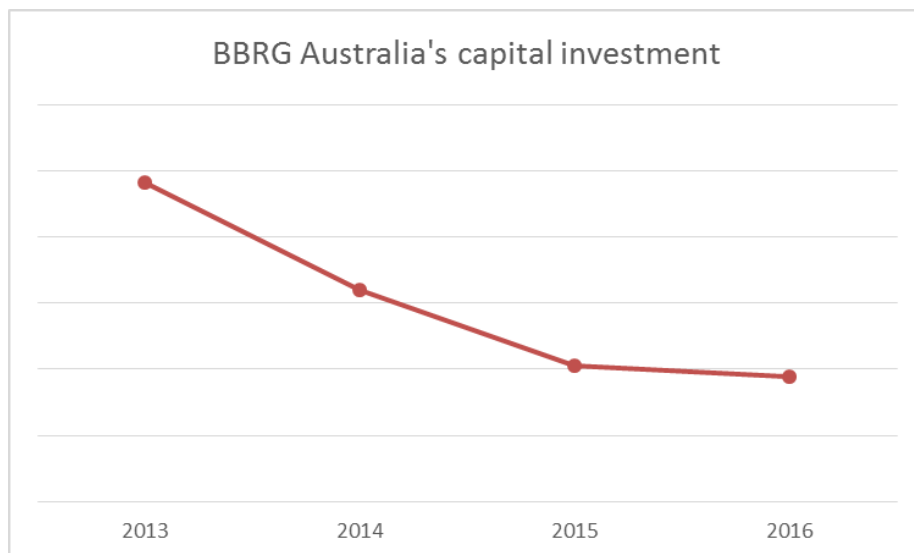
The Commission has analysed each of BBRG Australia's claims below.

#### **6.6.1 Reduced revenue**

BBRG Australia's sales revenues decreased substantially after 2014, particularly in relation to the investigation period.

#### **6.6.2 Reduced capital investment**

Figure 8 below depicts BBRG Australia's total capital investment which consists of expenditure on plant, equipment, land, buildings and intangibles associated with the production of like goods over the injury analysis period. The Commission notes that there has been a constant decline in BBRG Australia's capital investment over the injury analysis period however considering that there has been significant changes in BBRG Australia's ownership structure, the Commission considers that analysis of BBRG Australia's capital investment analysis does not provide conclusive evidence in relation to any injury BBRG Australia experienced due to dumping.



**Figure 8: BBRG Australia's capital investment – injury analysis period**

#### **6.6.3 Reduced ROI**

Figure 9 below depicts BBRG Australia's ROI for like goods over the injury analysis period. The Commission notes that there has been a constant decline in BBRG Australia's ROI over the injury analysis period. Figure 9 shows that the most substantial decline in ROI took place in relation to the investigation period.

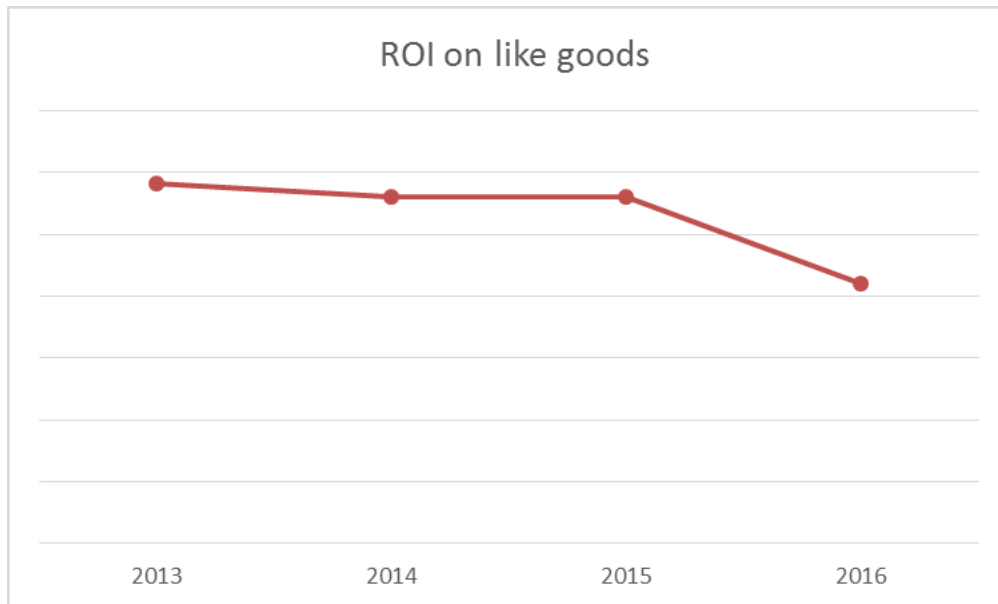


Figure 9: BBRG Australia's ROI for like goods – injury analysis period

#### 6.6.4 Reduced capacity utilisation

Figure 10 below depicts capacity utilisation for BBRG Australia's production of like goods over the injury analysis period. The Commission notes that there has been a constant decline in BBRG Australia's capacity utilisation for like goods over the injury analysis period. Figure 10 shows that the most significant decline in capacity utilisation took place in relation to the investigation period.

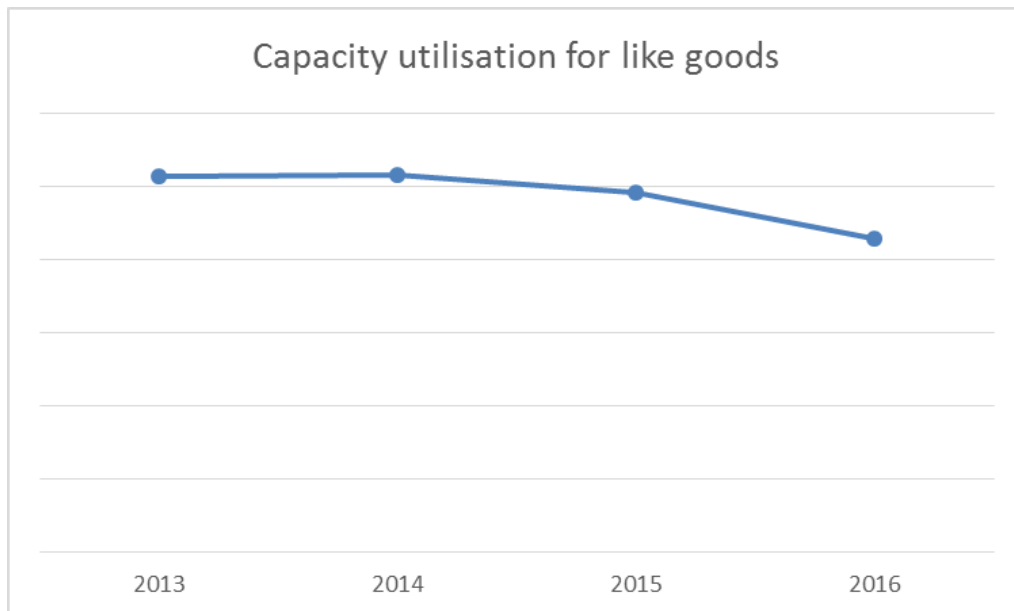
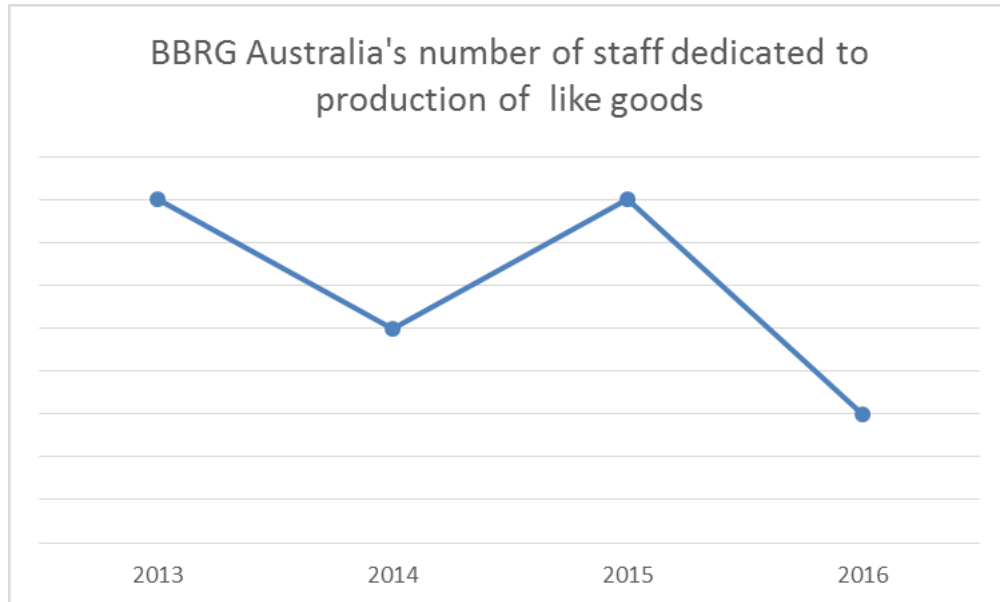


Figure 10: BBRG Australia's capacity utilisation for like goods – injury analysis period

### 6.6.5 Reduced employment

Figure 11 below depicts BBRG Australia's employment numbers dedicated to the production of like goods over the injury analysis period. The Commission observes that BBRG Australia's total employment numbers fluctuated over the injury analysis period but declined sharply in relation to the investigation period.



**Figure 11: BBRG Australia's employment numbers  
- production of like goods - injury analysis period**

### 6.6.6 Reduced productivity

The Commission considers that a significant manifestation of injury to BBRG Australia's operations was that it had sufficient business to run only 2 shifts during the investigation period. The reduction from 3 shifts to 2 in 2015, and having insufficient business for 3 shifts during the investigation period, came with:

- reduced capacity utilisation of its wire rope making equipment and its Newcastle premises;
- reduced ROI in productive capacity and other investments such as technical know-how;
- reduced employment as staff are no longer required for the third shift; and
- reduced productivity as remaining BBRG Australia staff are less able to specialise and productive capacity is not operated at efficient scale.<sup>39</sup>

The Commission accepts that the downturn in the coal-mining industry may have contributed to BBRG Australia moving from 3 shifts to 2 shifts, however the Commission considers that dumping and BBRG Australia's consequent loss of sales volumes to

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<sup>39</sup> The Commission considers that efficient scale for BBRG Australia would involve 3 shifts as this would more fully utilise capital-intensive wire rope making machines.

dumped imports has been a material factor in BBRG Australia operating at 2 shifts rather than 3 during the investigation period.

#### **6.6.7 Conclusion – other economic injury factors**

The Commission considers that there is evidence to show that BBRG Australia has experienced injury in the form of:

- reduced revenue;
- reduced ROI;
- reduced capacity utilisation;
- reduced employment; and
- reduced productivity.

#### **6.7 Conclusion on injury**

Based on an analysis of the information contained in the application and obtained and verified during the investigation, the Commissioner considers that BBRG Australia has experienced injury in the form of:

- loss of sales volume;
- loss of market share;
- price suppression;
- loss of profits;
- reduced profitability;
- reduced sales revenue;
- reduced ROI;
- reduced capacity utilisation;
- reduced employment; and
- reduced productivity.

## **7 CAUSAL LINK**

### **7.1 Finding**

The Commission has found that dumped exports to Australia from South Africa have caused material injury to the Australian industry.

### **7.2 Causation in the Australian wire rope market**

The Australian wire rope market is predominantly supplied by two suppliers, BBRG Australia (the Australian industry) and Haggie Reid. In addition there are few customers and a high degree of transparency concerning the extent to which each supplier supplies a given customer. Accordingly, it is generally clear when sales are lost by the Australian industry to an importer of dumped goods (and what the counterfactual would be) and when those sales are lost for some other reason. The Commission notes that, in a capital intensive industry such as the wire rope industry, the success of an Australian industry is volume dependent. In addition, given that the supply of wire rope in the Australian market operates under non-exclusive contractual arrangements, evidence indicates that there is a high degree of price sensitivity in the awarding of sales.

The Commissioner has taken the above into consideration in assessing causation in the Australian wire rope market and has not attributed injury to the Australian industry from lost sales for reasons unrelated to dumping (subsection 269TAE(2A)).

### **7.3 Legislative framework**

Under section 269TG one of the matters the Parliamentary Secretary must be satisfied of in order to publish a dumping duty notice is that, because of the dumping material injury has been, or is being caused, or is threatened to the Australian industry producing like goods.

Subsection 269TAE(1) outlines the factors that may be taken into account in determining whether material injury to an Australian industry has been, or is being, caused or threatened.

### **7.4 Size of the dumping margin**

Subsection 269TAE(1)(aa) provides that regard may be had to the size of the dumping margins in determining whether material injury to an Australian industry has been caused for the purposes of section 269TG.

The dumping margin outlined in chapter 5 in respect of wire rope exported to Australia for the investigation period is **39.7** per cent. Given that the price sensitivity in the Australian market for wire rope, the Commissioner is satisfied that this significant level of dumping enabled the importer of wire rope from South Africa to have a competitive advantage in negotiating prices compared to the Australian industry.

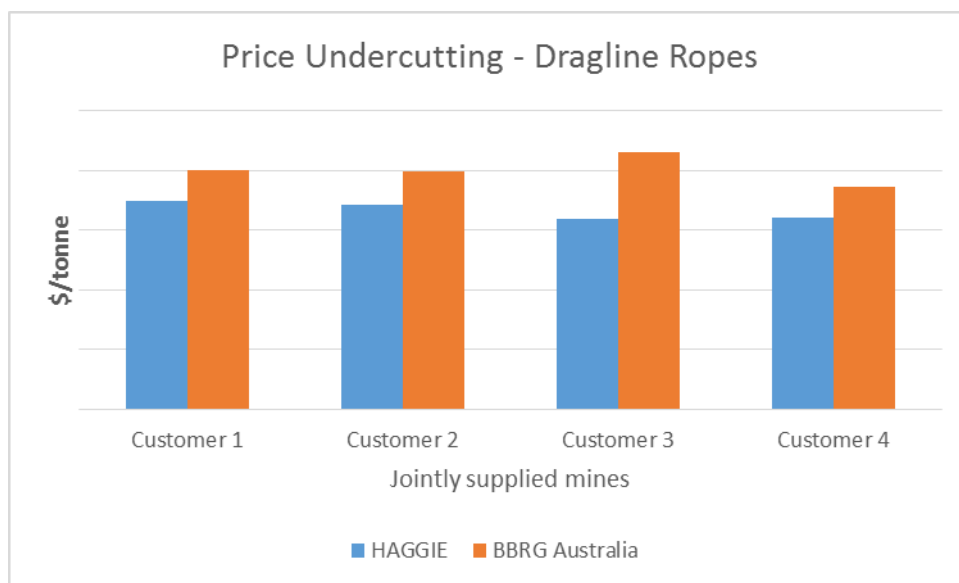
## 7.5 Price undercutting

Price undercutting occurs when imported goods are sold at a price below that of the domestically produced like goods.

The Commission undertook a comprehensive price undercutting analysis in order to determine whether BBRG Australia's prices had been undercut by wire rope imported from South Africa. The Commission's analysis compared weighted average prices for the imported goods to the Australian industry's like goods:

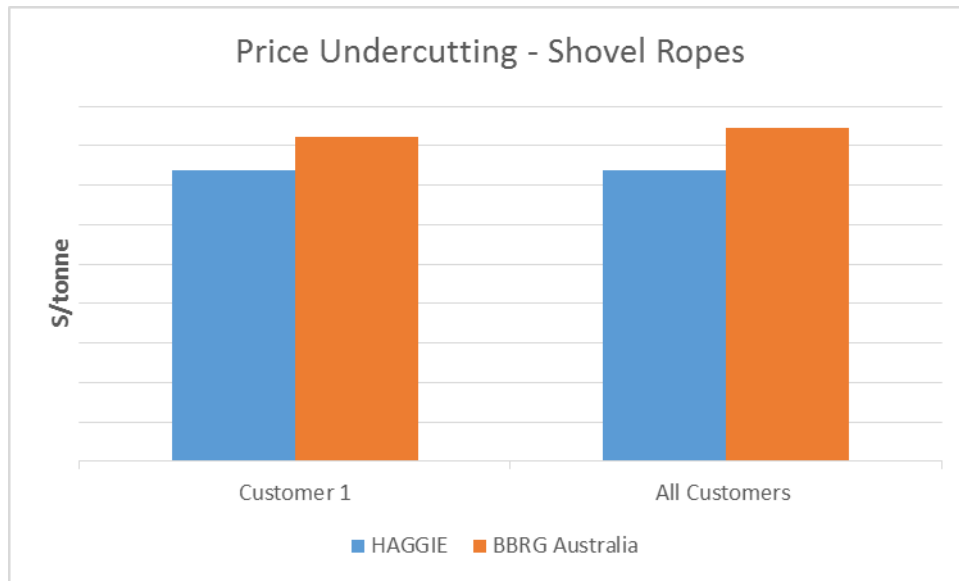
- in aggregate;
- for the same rope categories; and
- to shared customers at a mine level and for all customers in general.

The Commission's price undercutting analysis at the mine level for dragline ropes over the investigation period is shown in the Figure 12 below. Customer 1 – 4 depict the mines that are jointly supplied by Haggie Reid and BBRG Australia. The Commission also calculated the level of price undercutting by Haggie Reid in the sales of dragline (dump, drag and hoist) ropes for all customers. The Commission calculated that the overall price undercutting by Haggie Reid in sales of dragline ropes is 16 per cent for the investigation period.



**Figure 12: Price undercutting for dragline ropes**

The Commission's price undercutting analysis for shovel ropes is shown in Figure 13 below. In Figure 13, customer 1 depicts the common customer of Haggie Reid and BBRG Australia in relation to shovel ropes. The Commission calculated that the overall price undercutting by Haggie Reid in the sale of shovel ropes is 13 per cent for the investigation period.



**Figure 13: Price undercutting for shovel ropes**

The Commissioner considers that there is sufficient evidence from the price undercutting analysis to conclude that dumping created a significant competitive benefit to Haggie Reid and demonstrates that the Australian industry faced price pressure from imported goods from South Africa.

In addition, the Commission notes that, in a counterfactual scenario where Haggie Reid's selling prices of the goods imported from South Africa were to be increased to include an amount of IDD at the fixed rate of 28.9 per cent (calculated by reference to the NIP at section 11.3 below), this would be sufficient to remove the price undercutting observed.

The Commission's price undercutting analysis is at **Confidential Attachment 3**.

### **7.5.1 Submissions regarding price undercutting following SEF 401**

#### Scaw and Haggie Reid

In their joint submission dated 6 September 2017, Scaw and Haggie Reid claimed that everything that SEF 401 had to say about which supplier was the higher or lower priced supplier at any shared mine site was irrelevant in circumstances where Haggie Reid did not change its prices in the investigation period of 2016 and also lost sales for the same reasons (but on a lesser scale) as did the Australian industry. Scaw and Haggie Reid argued that sales in greater volumes or at higher prices were just not available to be had in the Australian market of 2016, for any supplier.

Scaw and Haggie Reid submitted that a price differential (between Haggie Reid's prices of like goods and the Australian industry's prices) does not mean that dumping caused material injury in the investigation period and queried the price basis used in the comparison. Scaw and Haggie Reid claim that the Australian industry's pricing does not necessarily proceed on a cost/metre basis, but instead uses a formula based on actual performance and how the Commission has reconciled two different price bases as between the Australian industry and Haggie Reid was a matter of concern to Haggie Reid. Further, Scaw and Haggie Reid questioned whether the Commission has factored in actual or prospective rebates.

## BBRG Australia

In response to Scaw and Haggie Reid's joint submission, BBRG Australia submitted on 13 September 2017 that it rejects Scaw and Haggie Reid's claims that "Nothing is to be gained from a price undercutting analysis in the circumstances of this case". BBRG Australia commented that 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. BBRG Australia stated that the claims of Scaw and Haggie Reid that the injury sustained by the Australian industry cannot be attributed to the dumping was incorrect and not supported by the available evidence and verified examples of price undercutting. BBRG Australia further commented that it would be naïve to suggest that the price undercutting had no effect on the local industry's selling prices during the investigation period.

### **7.5.2 The Commission's consideration – price undercutting**

In relation to Scaw and Haggie Reid's submission, the Commission can confirm that it conducted the price undercutting analysis on a price per metric tonne basis using verified sales prices from BBRG Australia and Haggie Reid. In calculating the unit sales prices, the Commission factored in rebates, returns or credits that would have impacted the actual sales prices of the goods. Therefore, the Commission considers that the comparison of net actual unit sales prices of the goods provide a sound and accurate comparison of Haggie Reid and BBRG Australia's selling prices in the Australian market.

Scaw and Haggie Reid also state that the price undercutting analysis was irrelevant in circumstances where Haggie Reid did not change its prices in the investigation period of 2016 and also lost sales for the same reasons as the Australian industry (but on a lesser scale). The Commission disagrees and notes that an importer can still undercut an Australian industry's prices and cause injury without lowering its prices during the investigation period. It may simply mean that the importer has been undercutting the Australian industry's prices prior to the investigation period or that cost increases are not being passed on. In any case, the Commission assessed that Haggie Reid was undercutting the Australian industry's prices during the investigation period and that the price undercutting caused the Australian industry price, volume and profitability injury. The Commission also calculated that Haggie Reid's sales of wire rope imported from South Africa would not have undercut the Australian industry's prices if the goods were not exported at dumped prices. This counterfactual analysis is available in **Confidential Attachment 3**.

### **7.6 Price effects**

The Commission understands that, in the Australian market for wire ropes, sales are often made according to contractual arrangements. The Commission has analysed examples of sales contracts and has observed that contracts between a mining company and a supplier are non-exclusive and did not guarantee continuous sales of wire rope for the duration of the contract as the mining companies often sought or accepted offers from third party suppliers during the contract periods. The Commission found that these supply contracts did not include any punitive clauses against the mining companies should they prefer to procure their wire rope requirements from third parties. The Commission also understands that the mining companies would have the discretion to end the contract or



cease placing orders at any time without providing any reasons to the supplier of wire rope. As a result, even during the life of the supply contract, mining companies receive and consider wire rope sales offers from other suppliers. The Commission understands that when the mining companies received offers that are below their current purchase prices, they often seek to re-negotiate the prices with the current supplier benchmarking the price on the newly received offer.

BBRG Australia supplied the Commission with positive evidence by way of email correspondence with its customers that showed price negotiations expressly referencing the price of wire rope imported by Haggie Reid from South Africa. It is clear from these negotiations that BBRG Australia lowered its prices in response to Haggie Reid's prices to prevent the risk of losing business. Despite this, Haggie Reid's prices were below that of BBRG Australia's price, placing ongoing price pressure on BBRG Australia's future negotiations. Examples of these negotiations are contained in **Confidential Attachment 4 – Negotiation summary**.

## 7.7 Volume effects

As explained earlier, effectively there are two main suppliers in the Australian wire rope market, BBRG Australia and Haggie Reid. Accordingly, when the effects of market contraction is isolated from the volume injury analysis (see section 7.9.2 for details on isolating the contraction of market from injury analysis), sales volumes lost by BBRG Australia are almost invariably lost to imports by Haggie Reid. The Commission notes that, in a capital intensive industry such as the wire rope industry, the success of an Australian industry is volume dependent, and with any loss of volume, there can be flow on effects in terms other injury factors, in particular profit and loss of revenue.

The Commission also notes that there is a high level of transparency in the Australian market for wire rope due to the small number of suppliers and customers and that many of the mines supplied by Haggie Reid are also supplied by BBRG Australia. This means that when a customer stops using BBRG Australia's wire rope on a given machine, BBRG Australia field staff are able to observe first hand whether the customer is switching to Haggie Reid wire rope or whether there is another reason why the customer has stopped using BBRG Australia's wire rope. An example of another reason why a customer has stopped using BBRG Australia's wire rope is that a customer has "parked" a machine that used BBRG Australia's wire rope.

**Confidential Attachment 5** lists the mines where Haggie Reid supplied wire rope during 2016. The Commission is satisfied that BBRG Australia and Haggie Reid compete across a number of mines in the Central and South Bowen Basin areas of QLD and certain mines in the Hunter Valley, NSW. The volume of wire rope supplied to these mines was substantial during the investigation period.

At a macro level, as shown at Figure 2 of section 4.6, the Australian market for wire rope declined in 2016 from 2015 levels. The Commission acknowledges that the general decline in the market has implications for all suppliers of wire rope. However, as discussed at section 6.3.2, BBRG Australia lost market share to Haggie Reid during the investigation period.

The Commission has conducted a micro level analysis of BBRG Australia's lost sales volumes to Haggie Reid at individual mine sites at section 7.9.2, which showed that BBRG Australia's lost sales volume to Haggie Reid exceeded the general decline in the Australian market.

Both the macro and micro level analysis supports a finding that BBRG Australia have experienced volume injury to Haggie Reid, who, as outlined at chapter 5 were in receipt of dumped goods during the investigation period.

## **7.8 Profit effects**

As explained above, the Commission has found that the Australian industry has experienced injury in the form of price depression and price suppression and that injury was caused by sales of the goods exported from South Africa at dumped prices.

Injury from price depression and price suppression has in turn impacted negatively on the Australian industry's profits and profitability over the investigation period.

Based on the price undercutting observed, the dumping margin calculated and the price effects experienced by the Australian industry, the Commission considers that the Australian industry has experienced injury in the form of loss of profits and reduced profitability and that injury was caused by sales of the goods from South Africa at dumped prices.

### **7.8.1 Submissions following SEF 401 in relation to price and profit effects**

In its submission dated 6 September 2017, Scaw and Haggie Reid claimed that Figure 6 in SEF 401 (which is the same graph as Figure 6 above) shows, with respect to the investigation period of 2016, that the Australian industry's prices did not decline. Scaw and Haggie Reid contends that the increase in BBRG Australia's costs was the cause of profit injury therefore injury was not caused by dumping.

In the same submission, Scaw and Haggie Reid stated that profit and profitability are driven by throughput, costs, and sales revenue. Scaw and Haggie Reid submitted that in the investigation period of 2016, the Australian industry's volumes declined over the previous year by reason of multiple machine shutdowns at the mines it serviced and its costs increased. Scaw and Haggie Reid claimed that there was no change in Haggie Reid's prices or volumes that could constitute an effect on the Australian industry. Thus, Scaw and Haggie Reid submitted that the Australian industry's reduced profits flow from factors that were not related to dumped imports.

### **7.8.2 The Commission's consideration – price and profit effects**

The Commission acknowledges that BBRG Australia's unit CTMS had increased during the investigation period. However, the Commission also notes that a significant portion of the unit CTMS increase was due to the increase of unit fixed costs following BBRG Australia's reduced sales volumes during the investigation period. Moreover, the Commission observes that BBRG Australia has not been able to reflect the increases in its CTMS to its selling prices to maintain its profitability levels.

As explained in section 7.9.2 of this report, the Commission quantified the reduction in sales volumes caused by dumped imports versus the contraction in Australian wire rope market and isolated the injury caused by contraction in the market. The Commission does not consider that the contraction in the market is the sole cause of injury to the Australian industry. The Commission is of the view that the injury caused by contraction in the market and the corresponding increase in Australian industry's unit CTMS figures does not detract from the finding that the Australian industry experienced price injury (e.g. price suppression) from the dumped wire ropes imported from South Africa. This is supported by the Material Injury Direction which notes that although dumping must cause material injury, it need not be the sole cause of injury.

## **7.9 Injury caused by factors other than dumping**

In assessing whether there has been material injury to the Australian industry, the Commission considers whether injury is being caused by a factor other than the exportation to Australia of the allegedly dumped goods. The Commission does not attribute any such injury to the exportation of dumped goods (subsection 269TAE(2A)).

As part of SEF 401, Haggie Reid pointed out that BBRG Australia is the largest wire rope supplier in Australia and claims that injury to the Australian industry, during the investigation period, was not due to imports by Haggie Reid. The Commission addressed Haggie Reid's pre SEF 401 submissions in relation to causation at section 7.10 of SEF 401.

Further consideration of submission received following SEF 401 are outlined below.

### **7.9.1 Submission on the effect of depressed coal prices and contraction in Australian market**

#### Scaw and Haggie Reid

In their submission dated 6 September 2017, Scaw and Haggie Reid claim, as summarised below, that:

- a significant contraction during the investigation period in the Australian wire rope market was singlehandedly the cause of the material injury that the Australian industry experienced;
- it has fully documented and addressed what happened at the mine sites serviced by the Australian industry in 2016. Including that multiple machine shutdowns had a severe effect on the Australian industry's sales volumes and that injury to Australian industry was not caused by dumping;
- the resources sector and the coal sector in particular was hit by poor trading conditions in at least the first half of 2016. Scaw and Haggie state that the prices in June of 2016 were at all-time lows, before picking up in the second half of the period. Further, Scaw and Haggie Reid argue that they did not observe any evidence of a sudden change in the mood of the various mine sites in the second half of the year;
- the improvement in market conditions claimed in SEF 401 only applied to the second half of the investigation period and it was not accompanied by increased coal production or by increased demand for wire ropes. Scaw and Haggie Reid

stated that the coal price increases in the second half of the period of investigation have not had led to the consumption of more wire ropes and argued that increased (coal) prices do not automatically equate to increased production. Scaw and Haggie Reid also claimed that the industry has seen a significant number of changeovers to hydraulic excavators, which do not use wire ropes and increased coal prices or production levels therefore do not equate with nor require increased wire rope consumption.

### BBRG Australia

In response to Scaw and Haggie Reid, BBRG Australia submitted on 13 September 2017 that 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.<sup>40</sup> BBRG Australia also argued that Haggie Reid's claims concerning the alleged contraction of the coal industry was misplaced. BBRG Australia contended that the volumes remained steady and although there was a price fluctuation in 2015/16, it was short-lived. In respect of comments contained in the submission concerning the alleged shift to hydraulic diggers by some mines, BBRG Australia highlighted that hydraulic diggers had 40 per cent capacity of a rope shovel and were typically used to complete the "pre-strip" at the mine. BBRG Australia explained that 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 had not replaced the use of draglines or rope shovels. BBRG Australia added that it was BBRG Australia's understanding that during 2016 no draglines or shovels were parked-up as a result of an increase in hydraulic digger activity.

### **7.9.2 The Commission's consideration**

#### Contraction in the market

Prior to publication of SEF 401, Haggie Reid provided the Commission with a breakdown showing the mines that BBRG Australia and Haggie Reid supplied. Haggie Reid argued that its breakdown of mines showed that during the investigation period, Haggie Reid supplied only a relatively small proportion of mines and exclusively supplied an even smaller number of mines. Haggie Reid claimed that this demonstrates that Haggie Reid has only a limited effect on BBRG Australia's sales.<sup>41</sup>

Haggie Reid also claimed that it was effectively excluded from mines where it had not been pre-qualified as a wire rope supplier.

BBRG Australia responded to Haggie Reid's breakdown of mines and Haggie Reid's claims based on the breakdown.<sup>42</sup> BBRG Australia:

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<sup>40</sup> Department of Industry, Innovation and Science's coal report is in **Non-Confidential Attachment 7**.

<sup>41</sup> No.10 on the public record at section D; Haggie's initial submission heavily redacted the mine breakdown however Haggie later agreed to provide BBRG Australia with a less redacted version to enable BBRG Australia to comment on the mine breakdown.

<sup>42</sup> No. 11 on the public record at section III.

- argued that Haggie Reid had too narrowly classified sites that Haggie Reid and BBRG Australia shared. Haggie Reid had excluded sites from its list of shared sites if Haggie Reid's ropes were being trialled at a site.
- pointed out that 5 of the mines Haggie Reid claimed were supplied only by BBRG Australia were also supplied by Haggie Reid.
- pointed out that 5 other mines were supplied the goods by neither BBRG Australia nor Haggie Reid for a number of reasons including mines that were not currently operating.

As outlined in SEF 401, customers in the Australian market trial wire rope of a supplier before switching to that supplier. Haggie Reid claimed that mere trialling of its ropes by mines should not be considered evidence of injury to the Australian industry. However, the Commission considers that rope trialling is also a process by which the Australian industry can be injured by dumped wire rope. Noting that trials can take place over several months and by the time a customer is trialling a dumped wire rope, the customer is seriously demonstrating that it will or is likely to switch supplier, therefore the Australian industry is losing volume and is under significant pressure to reduce its prices in response to the possibility of losing sales volume. The Commission considers that, due to the facts explained above, trial sales should not be differentiated from sales made subsequent to a sales contract in an injury analysis context. Therefore, when conducting volume, price and profitability analysis the Commission has included all sales (including trial sales) of the goods by Haggie Reid in its consideration.

The Commission compared the claims of both Haggie Reid and BBRG Australia in relation to the quantum of the market contraction due to mine closures and parked machinery. The Commission observed a significant difference between Haggie Reid and BBRG Australia's quantification of market contraction. The Commission notes that both BBRG Australia and Haggie Reid agree on the volume of lost sales by BBRG Australia during the investigation period (with only a 1.6 per cent difference in their estimations) but disagree in relation to the cause of the lost sales volumes.

In order to support its assessment, BBRG Australia provided comprehensive evidence in the form of market intelligence, import price offers and email correspondence with its customers. The Commission considered the evidence provided by BBRG Australia in quantifying the volume of lost sales to Haggie Reid and observed that provided evidence supported BBRG Australia's claims. The Commission further observed within the evidence provided by BBRG Australia that when the customers selected to switch to using Haggie Reid's wire ropes, the price of the imported wire rope was the main motivation. The Commission then calculated that BBRG Australia's sales volume was reduced by some 1,800 metric tonnes between the 2015 and 2016 calendar years. The Commission also calculated that while the Australian wire rope market contracted by approximately 650 metric tonnes during the investigation period by means of parked machinery and mine shut-downs, BBRG Australia lost more than 1,100 metric tonnes sales volume to Haggie Reid. The Commission notes that the total Australian wire market size was between 10,000 and 11,000 metric tonnes in the investigation period. The Commission considers that BBRG Australia's lost sales volume to Haggie Reid rope equals to approximately 10 per cent of the whole Australian market size and represents a substantial loss of revenue. This lost volume is greater than a normal ebb and flow of

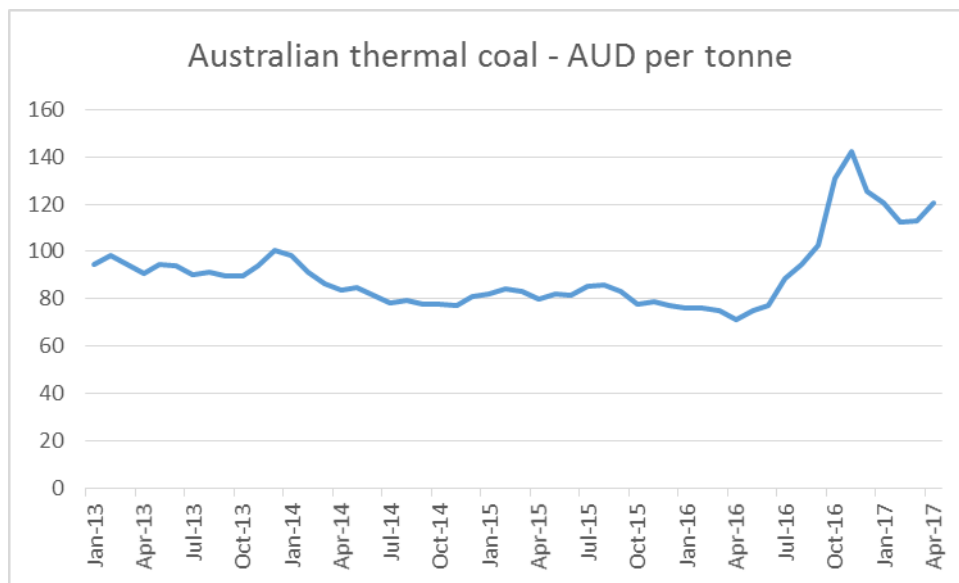
business and therefore is material given the volume dependant nature of wire rope manufacturing.<sup>43</sup>

The Commission's assessment of BBRG Australia's lost sales volumes and corresponding causes of lost sales are at **Confidential Attachment 6**.

#### Effects of coal prices

BBRG Australia stated that there had been a sustained downturn in the price of coal following the global financial crisis. This downturn had seen some coal mines close operations entirely and some others had reduced output. Mines that remain in operation have become increasingly cost sensitive in recent years as falling coal prices reduced their margins. BBRG Australia stated that there were no new mine expansions or mines opening, either currently or expected in the next 2 to 3 years. BBRG Australia considers that a recent spike in coal prices was due to flooding in QLD during 2016.

Figure 12 has been provided for context. Coal prices are a relevant factor to consider, because wire rope is used as a consumable in open pit mining, for commodities such as coal. The Commission is of the view that Australian coal prices influence demand for wire rope to some extent.



**Figure 12: Monthly Australian thermal coal prices from January 2013<sup>44</sup>**

Figure 12 shows that coal prices reached their lowest point in April 2016 for the injury analysis period but rose during the remainder of 2016 before spiking to their highest point

<sup>43</sup> The Commission notes that the 1,100 metric tonnes is the total volume of the lost sales, and is not amount of the increase in lost sales during the investigation period.

<sup>44</sup> Coal, Australian thermal coal, 12000- btu/pound, less than 1% sulphur, 14% ash, FOB Newcastle / Port Kembla, AUD per tonne; World Bank.



in November 2016. Figure 12 shows that during 2016 such that average prices for coal during 2016 was 16 per cent higher than in 2015.

Notwithstanding the change in coal prices, as detailed above, the Commission quantified the contraction in the market and isolated this contraction from its injury analysis. Therefore, the extent to which the recovery in coal prices affected demand for wire rope has been accounted for.

Accordingly the Commission considers that material injury experienced by BBRG Australia during 2016 from dumping has occurred notwithstanding the contraction in the Australian wire rope market or conditions in the coal industry.

### **7.9.3 Foreign exchange movements**

The South African rand had a period of weakness against the Australian dollar during the investigation period. However, Haggie Reid indicated during the importer verification that internal transfer pricing between Haggie Reid and Scaw was in Australian dollars and so Haggie Reid does not generally take the Australian dollar / South African rand exchange rate into consideration when setting prices. On that basis the Commission does not consider that the Australian industry was injured by the Australian dollar / South African rand exchange rate during the investigation period.

## **7.10 Conclusion on causal link**

The Commission has established that:

- the Australian industry experienced injury in a number of forms as outlined at section 6.7. In particular, the Australian industry experienced injury in respect of volume, price and profit in the context of an Australian market which is volume dependent and price sensitive;
- sales of wire rope imported from South Africa were dumped at a significant margin of 39.7 per cent and that this dumping contributed to price undercutting in the investigation period;
- sales of wire rope imported from South Africa would not have undercut the Australian industry's prices if the goods were not exported at dumped prices;
- the Australian industry competed head to head with South African imports throughout the investigation period, noting that South African imports were in volumes which are not negligible; and
- the injury from goods exported from South Africa at dumped prices can be separated from other potential causes of injury.

The Commission has applied the principles of the Material Injury Direction, noting in particular that:

- material injury can exist where an Australian industry would have been more prosperous if not for the presence of dumped imports;
- dumping or subsidisation need not be the sole cause of injury to the Australian industry;
- an Australian industry which at a particular point in time is healthy and could shrug off the effects of the presence of dumped imports, could at another time, weakened

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by other events, suffer material injury from the same amount and degree of dumping; and

- the range of factors in which the industry has experienced injury, when considered together, is material in degree and greater than that likely to occur in the normal ebb and flow of business.

The Commission considers that notwithstanding the contraction in the Australian wire ropes market, the evidence show that dumped goods from South Africa have caused material injury to Australian industry. Therefore, the Commission is satisfied that injury was caused by dumping and that the injury from dumping is material.



## **8 WILL DUMPING AND MATERIAL INJURY CONTINUE?**

### **8.1 Finding**

The Commissioner considers that exports of wire rope to Australia from South Africa in the future may be at dumped prices, and that this continued dumping may continue to cause further material injury to the Australian industry producing like goods.

### **8.2 Introduction**

Pursuant to subsection 269TG(2), where the Parliamentary Secretary is satisfied that dumping has occurred and may continue, and because of that material injury to an Australian industry producing like goods has been or is being caused or is threatened, anti-dumping measures may be imposed on future exports of like goods.

### **8.3 Will dumping continue?**

In order to assess whether dumping will continue, the Commission has had regard to a number of factors explained below.

As outlined at chapter 6, the Commission has found that Scaw's dumping margin for wire rope exported to Australia from South Africa for the investigation period is 39.7 per cent (noting that this dumping margin applies to all exports of the goods to Australia from South Africa). The Commission considers that this dumping margin is substantial in absolute terms and notes that, for each quarter of the investigation period, the dumping margin was above 30 per cent.

The Commission has established (through its verification activities) that forward orders exist in relation to the goods from South Africa and that wire rope exported to Australia from South Africa has significant market share and influence in the Australian market.

In addition, the Commission has examined import statistics from the ABF import database in detail for the investigation period and an additional seven months following the end of the investigation period that is 1 January 2017 to 31 July 2017. Based on this examination, the Commission observes that

- the import volume of the goods from South Africa for the seven months following the end of the investigation period represented 88 per cent of the total verified import volumes during the investigation period. Should import volumes continue at this rate for the remainder of the 2017 calendar year, they will exceed those of the investigation period; and
- the South African weighted average FOB export prices as recorded in the ABF import database are similar to and sometimes lower than the declared export prices reported in the ABF import database during the investigation period.

The Commission's analysis of ABF import statistics is at **Confidential Appendix 10**.

The Commission also verified Scaw's production capacity utilisation rate during the investigation period and notes that it has excess capacity, which may be an indicator that Scaw will continue to sell the goods to Australia in the future.

Based on the above observations, the Commission considers that dumping will continue if anti-dumping measures are not imposed.

#### **8.4 Will material injury continue?**

The Commission has reviewed the Australian industry's performance over the injury analysis period and has made a finding that wire rope exported to Australia from South Africa at dumped prices has caused material injury to the Australian industry during the investigation period. The Commission also requested from BBRG Australia its post investigation period price and profitability spreadsheets in the same format of Appendix A-3 and Appendix A-6.1 of BBRG Australia's application. From these appendices, the Commission observed that in the 6 months following the investigation period, BBRG Australia's prices and profitability continued to decline. BBRG Australia's post investigation period price and profitability data is at **Confidential Appendix 11**.

The Commission considers that the continuation of price competition from dumped imports from South Africa is likely to have a continuing adverse impact on the Australian industry. For example, Haggie Reid pointed to instances where negotiations took place during the investigation period for switching from Australian made wire rope to imported goods following the investigation period; this is likely to result in volume injury following the investigation period.

#### **8.5 The Commissioner's assessment**

Based on the available evidence, the Commissioner considers that exports of wire rope from South Africa in the future may be at dumped prices and that this continued dumping may continue to cause further material injury to the Australian industry.

## 9 NON-INJURIOUS PRICE

### 9.1 Assessment of NIP

The Commission has assessed that the NIP can be established by reference to an USP equal to the Australian industry's weighted average selling price for a period unaffected by dumping (being the year immediately preceding the investigation period - the 2015 calendar year).

The Commission has calculated that the NIP is less than the normal value of the goods and therefore, considers that the Parliamentary Secretary is required to have regard to the lesser duty rule. Accordingly, the Commissioner recommends that the NIP be the operative measure for all exports of wire rope exported to Australia from South Africa. Specifically, the Commissioner recommends that any fixed component of IDD (referred to in chapter 11) not be collected at an amount that, together with the export price of the goods, exceeds the NIP (i.e. the Commissioner recommends that the 'lesser duty rule' be applied).

### 9.2 Introduction

IDD may be applied where it is established that dumped imports have caused or threatened to cause material injury to the Australian industry producing like goods. The level of IDD imposed by the Parliamentary Secretary cannot exceed the margin of dumping. Further, the Parliamentary Secretary must have regard to the desirability of fixing a lesser amount of IDD if the NIP is less than the normal value of the goods.<sup>45</sup> This requirement is commonly referred to as the 'lesser duty rule'.<sup>46</sup>

The NIP is the minimum price necessary to prevent the injury, or a recurrence of the injury, caused to the Australian industry by the dumping.<sup>47</sup>

Anti-dumping measures are generally based on FOB prices in the country of export. Therefore a NIP is calculated in FOB terms to compare to the country of export. To arrive at a NIP, the Commission first establishes an USP, following this hierarchy:

- Market approach: using the Australian industry's weighted average selling price at a time when the Australian market was unaffected by dumping;
- Construction approach: using the Australian industry's CTMS, plus where applicable, a reasonable rate of profit; or

<sup>45</sup> Subsection 8(5B) of the Customs Tariff (Anti-Dumping) Act 1975 (the Dumping Duty Act).

<sup>46</sup> The requirement for the Parliamentary Secretary to have regard to the desirability of fixing a lesser amount of duty has changed for applications lodged with the Commission after 1 January 2014. The Parliamentary Secretary is no longer required to have mandatory consideration of the lesser duty rule where the Parliamentary Secretary is satisfied that prescribed circumstances exist. In relation to a dumping duty notice, the prescribed circumstances are outlined at subsection 8(5BAA) of the Dumping duty Act. However, none of the prescribed circumstances exist in relation to this investigation.

<sup>47</sup> The relevant NIP for this investigation is defined in subsection 269TACA(a).

- Selling prices of un-dumped imports in the Australian market.<sup>48</sup>

Having established the USP, the Commission then calculates the NIP by deducting costs necessarily incurred in getting the goods to the FOB point at export. The deductions normally include overseas freight, duty, insurance, into store costs and amounts for importer expenses and profit.

### **9.3 Submissions received in relation to USP and NIP**

In their joint submission dated 7 September 2017, Scaw and Haggie Reid state that in the SEF, the NIP did not take into account any other injury factor and claim that the NIP attempted to remove all injury to the Australian industry, from any cause.

In its submission dated 4 September 2017, BBRG Australia argued that the USP that is determined solely based on the 2015 selling prices is less than what is required to remove the injurious effects of dumping and urged the Commission to re-consider the basis for USP to reflect either 2013 and 2014 selling prices or the average of 2013, 2014 and 2015 selling prices.

### **9.4 The Commissioner's assessment**

In keeping with its preferred hierarchy, the Commission considers it appropriate to base the USP on the Australian industry's weighted average selling prices at a time unaffected by dumping.

The Commission notes BBRG Australia's claims both in its application and its submission that the dumping and injury from exports of wire rope from South Africa commenced in 2015. However, the 2015 calendar year precedes the investigation period and the Commission has not examined dumping in relation to this period.

Therefore, the Commission does not have evidence that 2015 is a time affected by dumping. On this basis, the Commissioner considers it appropriate to use the Australian industry's weighted average selling prices in the 2015 calendar year for the purpose of calculating the USP. Based on the findings of the section 7.9 of this report, the Commission notes that other possible injury factors outside of dumping, include a contraction in the Australian market and foreign exchange movements. The Commission considers that the contraction in the Australian market caused BBRG Australia some degree of volume injury but would not necessarily cause price injury. Therefore, the Commission reiterates that setting the USP to the Australian industry's selling prices follows its stated policies, and does not attempt to remove injury factors, other than dumping, as claimed by Scaw and Haggie Reid.

The Commission has calculated the NIP for all South African exporters at FOB terms to align to the respective export price calculations as discussed in chapter 5.

Based on available information, the Commission has calculated that the NIP is less than the normal value and therefore considers that the Parliamentary Secretary is required to

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<sup>48</sup> The Manual at chapter 23.

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have regard to the lesser duty rule. The Commissioner recommends that the NIP be the operative measure for all exports of wire rope from South Africa and that any IDD payable be calculated by reference to the lesser duty rule.

NIP calculations are at **Confidential Appendix 12**.

## 10 ANTI-DUMPING MEASURES

### 10.1 Finding

The Commissioner recommends to the Parliamentary Secretary that anti-dumping measures (in the form of a dumping duty notice) be imposed in respect of any IDD that may become payable by all exporters from South Africa, using the combination method.

### 10.2 Forms of duty available

The forms of duty available to the Parliamentary Secretary when implementing IDD are prescribed in section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013* and include the:

- combination method;
- floor price duty method;
- fixed duty method (\$X per tonne); or
- ad valorem duty method (i.e. a percentage of the export price).

### 10.3 Submissions received

#### BBRG Australia

The Commission received a submission from BBRG Australia on 17 July 2017 with its view that the most appropriate form of anti-dumping measure in relation to IDD for this investigation is the combination method.<sup>49</sup> BBRG Australia explained that:

- although there are a number of models of the goods exported to Australia from South Africa (and the combination method may not suit such situations), one or two models account for the majority of the goods exported to Australia by Scaw;
- the exporter (Scaw) and importer (Haggie Reid) are related parties, raising the potential for possible circumvention of anti-dumping measures between the parties, which in its view, the combination method operates best to prevent. In contrast, the ad valorem duty method allows exporters to further reduce export prices to absorb the impact of the anti-dumping measures;
- the combination method includes the determination of an ascertained export price that will ensure if the exporter reduces export prices to Australia, a variable component of IDD will apply; and
- [in the event that the combination method results in an over collection of IDD] the duty assessment mechanism provides an avenue for the Australian importer to seek a refund of excess IDD paid.

In its submissions dated 4 and 13 September 2017, BBRG Australia noted the non-arms length nature of the transactions between Scaw and Haggie Reid and concurred with the Commission's proposal to impose measures using the combination method.<sup>50</sup>

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<sup>49</sup> No. 9 on the public record

<sup>50</sup> Numbers 18 and 21 on the public record

Scaw and Haggie Reid

In their joint submission in response to SEF dated 7 September 2017, Scaw and Haggie Reid state that given the “huge” ad valorem duty percentage, they see no call for the application of the combination method and ask that no fixed duty be “superadded”.

#### 10.4 Commissioner’s assessment

The Commissioner, in considering which form of anti-dumping measures to recommend, has had regard to the Commission’s *Guidelines on the Application of the Form of Dumping Duty 2013* (the Guidelines),<sup>51</sup> relevant factors in the wire rope market and BBRG’s submission.

The Guidelines set out issues to be considered when determining the form of IDD. It is important to note that the various forms of IDD available all have the purpose of removing the injurious effects of the dumping. However, in achieving this purpose certain forms of IDD will better suit particular circumstances more so than other forms of IDD.

The Guidelines list the key advantages and disadvantages of each form of IDD. The combination method is considered appropriate where circumvention behaviour is likely (particularly because of related party dealings), where complex company structures exist between related parties, and where there has been a proven case of price manipulation in the market. Conversely, the combination method is less suitable in situations where there are many model types of the goods under consideration which exhibit a large price differential or where a falling market exists.

On the other hand, the ad valorem duty method is one of the simplest and easiest forms to administer when delivering the intended protective effect, is common in other jurisdictions, is similar to other types of Customs duties, is advantageous where there are many models or types and is suitable where the market prices of goods fluctuate over time. The ad valorem duty method may also require fewer duty assessments and reviews than other duty methods. Conversely, the ad valorem duty method has a potential disadvantage in that export prices might be lowered to avoid the effects of the duty.

Based on information available to date, the Commissioner recommends to the Parliamentary Secretary that:

- a dumping duty notice be published in respect of wire rope exported to Australia in relation to all exporters from South Africa; and
- IDD be calculated using the combination method. In proposing such a recommendation, the Commissioner notes that there are complex company structures involving related parties in this investigation (Scaw and its related party importer Haggie Reid). In addition, as outlined in chapter 5, the Commissioner considers that the exporter and importer did not deal at arms length during the investigation period. As outlined in the Guidelines, the combination method is suitable in such situations. The Commissioner considers that the advantages of

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<sup>51</sup> Refer to Guidelines on the Application of Forms of Dumping Duty available at - <http://www.adcommission.gov.au/reference-material/documents/Guidelineformsofdumpingduty-November2013.pdf>

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the combination method outweigh its disadvantages for this particular investigation.

The combination duty in relation to South Africa includes a fixed ad valorem rate equal to the lesser duty calculated by reference to the NIP (as shown in Table 5 below) and a variable amount of duty if the actual export price is below the ascertained export price.

| Country      | Exporter / Manufacturer | Duty Method        | Fixed component of measures | Variable component of measures                                                 |
|--------------|-------------------------|--------------------|-----------------------------|--------------------------------------------------------------------------------|
| South Africa | All exporters           | Combination method | 28.9%                       | Applicable where the actual export price is below the ascertained export price |

**Table 5: Measures applicable to the goods exported to Australia from South Africa**



## 11 RECOMMENDATIONS

### The Commissioner is satisfied that:

- the dumping of wire rope exported to Australia from South Africa has caused material injury to the Australian industry producing like goods.

### The Commissioner recommends the Parliamentary Secretary impose:

- dumping duties on wire ropes exported to Australia from South Africa as tabulated below:

| Country      | Exporter / Manufacturer | Duty Method        | Fixed component of measures | Variable component of measures                                                 |
|--------------|-------------------------|--------------------|-----------------------------|--------------------------------------------------------------------------------|
| South Africa | All exporters           | Combination method | 28.9%                       | Applicable where the actual export price is below the ascertained export price |

Table 6: Recommended measures

### The Commissioner recommends the Parliamentary Secretary be satisfied:

- in accordance with subsection 269TAAD(4), and for the purpose of working out the cost of goods and determining whether the price paid for like goods sold in the country of export in sales that are arms length transactions are taken to have been in the ordinary course of trade, that the amounts for the cost of production or manufacture of wire rope in South Africa are as set out in Confidential Appendix 2 of this report and the administrative, selling and general costs associated with the sale of those goods are as set out in Confidential Appendix 2 of this report.
- in accordance with subsection 269TACB(4), that the weighted average of export prices over the investigation period is less than the weighted average of corresponding normal values over that period and therefore that wire rope exported to Australia from South Africa is taken to have been dumped; and the dumping margins for those goods is the difference between the weighted average of export prices during the investigation period and the weighted average of normal values during that period, as set out in Confidential Appendix 5;
- in accordance with subsection 269TG(1) the amount of the export price of wire rope exported to Australia from South Africa is less than the amount of the normal value of those goods and because of that, material injury to the Australian industry producing like goods would have been caused if the security had not been taken;
- in accordance with subsection 269TG(2) the amount of the export price of wire rope that have already been exported to Australia from South Africa is less than the amount of the normal value of those goods and the export price of the goods that may be exported to Australia from South Africa in the future may be less than the normal value of the goods and because of that, material injury to the Australian industry producing like goods has been, or is being caused.

**The Commissioner recommends the Parliamentary Secretary determine:**

- in accordance with subsection 269TAB(1)(c), having regard to all the circumstances of the exportation of the goods from South Africa to Australia, that the export price for all exporters is set out in Confidential Appendix 1;
- in accordance with subsection 269TAC(1), being satisfied that like goods are sold in the ordinary course of trade for home consumption in South Africa in sales that are arms length transactions by all exporters, that the normal value of those goods exported to Australia from South Africa are as set out in Confidential Appendix 4 (as adjusted in accordance with subsection 269TAC(8));
- in accordance with subsection 269TAA(3)(b), costs necessarily incurred in the importation and sale of the goods are as set out in the Confidential Appendix 1;
- in accordance with subsection 269TACB(2)(a) and in accordance with subsection 269TACB(1) and (4), by comparison of the weighted average of export prices with the weighted average of corresponding normal values over the whole of the investigation period, that exports of wire rope from South Africa is taken to have been dumped; and
- in accordance with subsection 8(5) of the Dumping Duty Act, that the interim dumping duty payable in respect of the goods exported to Australia from South Africa is an amount which will be worked out in accordance with the combination of fixed and variable duty method pursuant to subsection 5(2) and subsection 5(3) of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

**The Commissioner recommends the Parliamentary Secretary direct:**

- in accordance with subsection 269TAC(8), that as the normal value of wire rope exported to Australia is the price paid or payable for like goods sold in South Africa, the normal value be adjusted as set out in Confidential Appendix 4; those adjustments being necessary to ensure that the normal value so ascertained is properly comparable with the export price of those goods.

**The Commissioner recommends the Parliamentary Secretary declare:**

- in accordance with subsection 269TG(1), by public notice, that section 8 of the Dumping Duty Act applies to (subject to section 269TN):
  - wire ropes exported by all exporters from South Africa; and
  - like goods that were exported to Australia by all exporters from South Africa after the Commissioner made a PAD under subsection 269TD on 14 August 2017 but before publication of the notice; and
- in accordance with subsection 269TG(2), by public notice, that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia by all exporters from South Africa after the date of publication of the notice.

**The Commissioner recommends the Parliamentary Secretary have regard to:**

- in accordance with subsection 8(5B) of the Dumping Duty Act, in relation to the goods exported to Australia from South Africa, the desirability of specifying a

method such that the sum of amounts outlined in subsections 8(5B)(c) and (d) of the Dumping Duty Act do not exceed the non-injurious price.

**The Commissioner recommends the Parliamentary Secretary treat:**

- In accordance with subsections 269TAA(2) and 269TAA(3), in relation to the goods exported to Australia from South Africa, having regard to the matters set out in subsection 269TAA(3) and being satisfied that the importer sells those goods at a loss, the sale of those goods at a loss 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.

**The Commissioner recommends the Parliamentary Secretary be of the opinion that:**

- in accordance with subsection 269TAA(1)(c), in relation to goods exported to Australia from South Africa, the buyer or an associate of the buyer, will, subsequent to the purchase or sale, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

## 12 APPENDICES AND ATTACHMENTS

|                                      |                                                              |
|--------------------------------------|--------------------------------------------------------------|
| <b>Confidential Attachment 1</b>     | Haggie Reid's post IP sales listing                          |
| <b>Confidential Attachment 2</b>     | Comparison of Haggie Reid's prices                           |
| <b>Confidential Attachment 3</b>     | Price undercutting analysis                                  |
| <b>Confidential Attachment 4</b>     | Summary of mine level price negotiations                     |
| <b>Confidential Attachment 5</b>     | List of mines that Haggie Reid supplied                      |
| <b>Confidential Attachment 6</b>     | BBRG Australia lost sales and reasons                        |
| <b>Non-confidential Attachment 7</b> | Department of Industry, Innovation and Science's coal report |
| <b>Confidential Appendix 1</b>       | Export price calculations                                    |
| <b>Confidential Appendix 2</b>       | Scaw's domestic CTMS                                         |
| <b>Confidential Appendix 3</b>       | Scaw's domestic sales and OCOT test                          |
| <b>Confidential Appendix 4</b>       | Normal value calculations                                    |
| <b>Confidential Appendix 5</b>       | Dumping margin calculations                                  |
| <b>Confidential Appendix 6</b>       | Market share                                                 |
| <b>Confidential Appendix 7</b>       | Injury effects                                               |
| <b>Confidential Appendix 8</b>       | Price effects                                                |
| <b>Confidential Appendix 9</b>       | Price and profit further analysis                            |
| <b>Confidential Appendix 10</b>      | Post IP volume and price analysis                            |
| <b>Confidential Appendix 11</b>      | BBRG Australia post IP price and profit                      |
| <b>Confidential Appendix 12</b>      | NIP calculations                                             |