

FOR PUBLIC RECORD

Nexans Olex

17th June 2015

Mr Geoff Gleeson  
Director, Operations 1  
Anti-Dumping Commission  
5 Constitution Avenue  
Canberra ACT 2600

Dear Mr Gleeson

**Matter:** Dumping Investigation No. 271 - Certain Polyvinyl Chloride (PVC) Flat Electric Cable Exported from The People's Republic of China  
**Re.** Submission of the Australian industry's response to the *Importer Visit Report* for Electra Cables (Aust) Pty Ltd

I confirm that I act for the Australian industry applicant, Olex Australia Pty Ltd ("Nexans Olex"), in this matter and refer to the Anti-dumping Commission's ("the Commission") *Visit Report* for the importer, Electra Cables (Aust) Pty Ltd ("Electra"), placed on the public record on 15 May 2015.

The submission in response to the Visit Report documents a number of concerns the Australian industry applicant has with the evidence and summations contained within the Visit Report. In summary, these issues and concerns relate to:

- the completeness and accuracy of the importer's alleged shipping and domestic freight costs;
- the completeness and accuracy of the net price paid by the importer's first arms-length Australian customer in light of rebates paid by the importer;
- the relevance and accuracy of the alleged competition law issues raised by Electra; and
- the relevance and accuracy of the other issues and unsubstantiated claims raised by Electra in the report.

1. *The completeness and accuracy of the importer's alleged shipping and domestic freight costs*

- 1.1 By reference to *section 4.4.1* of the report, Nexans Olex is concerned with the methodology used by the Commission to calculate the full shipping costs for individual transactions. By using a weighted average ocean freight cost, the costs may be distorted downwards by lower cost items. Nexans Olex understands that the importer is expected to maintain an accurate record of its overseas freight costs, and not to do so would put the importer in breach of its *Customs' Import Declaration* obligations. We propose in order to calculate accurate shipping costs the actual weight and dimensions of specific shipments should be used, along with all relevant port and handling charges. For example, with respect the Commission should verify these costs by applying industry benchmark shipping costs during the injury period to one full container of the product.
- 1.2 In terms of the importer's domestic freight costs, Nexans Olex proposes the Commission should use the actual weight of and dimensions of individual order lines, and apply current benchmark standard domestic freight cost rates for the region for each customer transaction.

2. *The completeness and accuracy of the net price paid by the importer's first arms-length Australian customer in light of rebates paid by the importer*

- 2.1 In *section 4.2.3.1* Electra has redacted details as to how rebates and discounts are handled during its trading arrangements with Guilin Group. *Section 5.3.2* of the *Visit Report*, states:

*"Electra confirmed that rebates and discounts are a common feature of the market for PVC flat electric cable."*

At *section 5.4* (p. 20) Electra accounted for the impact of rebates by calculating a weighted average rebate for the Australian State in relation to selected shipment transactions, and applied the rebate value as a "post importation cost." The Commission properly rejected this methodology due to the likely distortive effects on actual (net) prices paid, and correctly determined an objective to "compare net rather than gross prices" (p. 20). However as outlined at *section 5.5.1*, the Commission went about determining net prices in the tested transactions by using an Electra report which provided the total value of each customer's purchases of "all cable products", and from this information identified an appropriate rebate and discount to sales to each customer group and expressed this as a "net price". Nexans Olex is concerned that this approach poses a high risk of artificially distorting rebates and discounts to be applied to each customer transaction, and in order to achieve a net price the Commission needs to fully verify the specific rebates used by Electra for PVC flat electric cable purchases by individual customer. We firmly believe the Commission needs to verify net prices paid by customer which completely incorporates all specific rebates and discounts by customer, and clearly identifies the volume of purchases by customer.

It is important that the Commission understands the industries norms, such as customers often get paid all eligible rebates identified in supply contracts; and therefore the Commission should ensure it verifies all rebates paid to individual customers and not just rely on contract terms and conditions.

3. *The relevance and accuracy of the other issues and unsubstantiated claims raised by Electra in the report*
- 4.1 Nexans Olex totally rejects the claim made by Electra, at *section 5.1* (p. 17) that Olex tends to be the price setter in the Australian market. Nexans Olex refers to confidential evidence already provided to the Commission on this issue which clearly supports the contrary conclusion to this false assertion. <<Visit Report Olex Australia Pty Ltd, Confidential Attachment 9, February 2015, p37; Olex Australia Pty Ltd Anti-dumping Application, August 2014, p57>>
- 4.2 Nexans Olex unreservedly rejects a number of unsubstantiated claims made by Electra at *section 5.1* (p. 17), including that... “Olex will often offer the customer a cheaper price, but will be unable to deliver the goods because it will be out of stock.” This is a spurious and unsubstantiated claim. Nexans Olex notes that the processes of the Commission are not intended to be used by disaffected parties to publish unsubstantiated injurious falsehoods, such as these, and Nexans Olex seeks the Commission strike these comments from the Visit Report and undertake to have no regard to them in its final consideration of the matter, in the absence of their verification.

We note the Commission’s recommendation that,

*“we are not satisfied that the purchases of the goods by the importer were at arms length”*

Nexans Olex concurs with this finding of the Visit Report, and accepts that the export price for PVC flat electric cables imported by Electra from the Guilin Group must necessarily be established under subsection 269TAB(1)(b) of the *Customs Act 1901*.

Yours Sincerely

Michael Dawson

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