

21 February 2024

Director – Investigations 2
Anti-Dumping Commission
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Public File

Continuation 626 – PVC Flat Electrical Cables exported from the People's Republic of China

I. Introduction

Prysmian Australia Pty Ltd (**Prysmian**) is a manufacturer of PVC flat electrical cables (**the goods**) in Australia. Prysmian was the applicant company that requested the Anti-Dumping continuation inquiry applicable to exports of the goods from China – refer ADN No. 2023/021.

Prysmian makes the following submission in relation to the recently published Statement of Essential Facts (**SEF 626**).

II. SEF 626 key findings and recommendations

The Commissioner's preliminary view in SEF 626 is that the expiry of the measures would lead, or would be likely to lead, to a continuation or recurrence of dumping, subsidisation, and material injury that the measures are intended to prevent.¹ The Commissioner is therefore proposing to recommend that the Minister take steps to secure the continuation of the anti-dumping measures applying to the goods exported from China, under the following parameters:²

- that the dumping and countervailing duty notice have effect in relation to the new exporter Jiangsu Etern Electric Co Ltd (**Jiangsu Etern**) under new variable factors and with application of the lesser duty rule (**LDR**); and
- that the dumping and countervailing duty notice be updated for Nanyang Cable (Tianjin) Co Ltd (**Nanyang**) and all uncooperative and other exporters to reflect a change in fixed rates of interim dumping duty due to uplifted variable factors, and that the LDR no longer applies to these exporters.

The Commissioner's preliminary finding that the measures not be allowed to lapse given the likelihood of recurrence of material injury in their absence is based on the following significant factors:³

- PVC flat electric cables are a highly standardised and substitutable product;
- the Australian market is price-sensitive;

¹ SEF 626, p. 6.

² Ibid, p. 56.

³ Ibid, p. 46.

- Australian industry will likely come under increased price pressure from Chinese exports;
- reduced prices from dumped exports would likely reduce the Australian industry's sales volumes, market share and profitability; and
- a new Chinese exporter has entered the market since the introduction of the measures, and has supplied the Australian market at dumped prices.

Prysmian submits that SEF 629 is evidenced-based and well-reasoned. The relevant aspects have been considered and appropriately decided on by the Commissioner in arriving at the continuation determination. Notwithstanding, Prysmian submits that the following variable-factor-related aspects of SEF 629 require reassessment and/or clarification by the Commission prior to the Ministerial recommendation.

III. Jiangsu Etern normal value

Given the absence of sales of like goods in China, the Anti-Dumping Commission (**the Commission**) has calculated the normal value for Jiangsu Etern under section 269TAC(2)(c)⁴ using the sum of:

- the cost to make the exported goods based on the company's records in accordance with section 43(2) of the Customs (International Obligations) Regulation 2015 (the Regulation);
- selling, general and administrative expenses (**SG&A**) on the assumption that the goods, instead of being exported, were sold for home consumption in the OCOT in China based on the exporter's records of its actual amounts of SG&A costs incurred in the production and sale of the same general category of goods in China, in accordance with section 44(3)(a) of the Regulation; and
- an amount for profit based on data relating to the production and sale of like goods in the domestic market in the OCOT in accordance with section 45(3)(c) of the Regulation.

On the amount for profit, the Exporter Verification Report for Jiangsu Etern states the following:⁵

As there are no sales of like goods in the domestic market, the team cannot work out the profit under section 45(2) of the Regulation.

There are domestic sales of goods by the exporter in the same general category however the team determined that these sales were not profitable overall. Therefore, the team recommends that profit cannot be determined under section 45(3)(a) of the Regulation.

As there are no other known exporters or producers of like goods in the domestic market, the profit cannot be determined under section 45(3)(b) of the Regulation.

*Therefore, profit must be determined under section 45(3)(c) of the Regulation, using any other reasonable method and having regard to all relevant information. The team specifically recommends working out an amount of profit based on the actual amounts realised **by an exporter** from the same general category of goods in the Chinese domestic market, using data obtained in case 469. [emphasis added].*

In the final report to investigation number 469 (**INV 469/REP 469**), the Commission assessed Nanyang's domestic profitability having regard to sales of the same general category of goods, being similar sized building

⁴ Legislative references are references to the *Customs Act 1901*, unless otherwise stated.

⁵ Jiangsu Etern EVR, Chapter 9, p. 14.

wires, in the Chinese domestic market.⁶ For the normal value profit adjustment relating to Guilian International Wire & Cable Co Ltd (**Guilian**), the general category of goods was taken to be the low voltage building cables that Guilian manufactured and sold in China.⁷ In SEF 626, the Commission has not disclosed which exporter's profit margin has been utilised in calculation of Jiangsu Etern's normal value. Prysmian therefore requests that the Commission clarify this, and the actual profit margin used, prior to the Ministerial recommendation.

IV. Form of measures

Prysmian welcomes the Commission's proposed Ministerial recommendation to continue to impose the 'combination method' form of measure. The combination method provides for a fixed component that ensures the effectiveness of the measure where there is a likelihood of price manipulation or circumvention.⁸ Measures based upon the combination method discourage the exporter from reducing its export price to avoid the imposition of the measures (as the variable component addressed reductions in the export price below the ascertained export price determined for the inquiry period).

SEF 626 is, however, unclear on one point – the Commissioner proposes that the dumping and countervailing duty notice be updated for Nanyang, uncooperative, and all other exporters to reflect the change in the *fixed rate* of interim dumping duties due to uplifted variable factors and on the basis that the lesser duty rule no longer applies to these exporters. The SEF makes no mention of the variable component of the measures, and whether the notice will be updated to reflect an adjustment as applicable to the current inquiry period.

Adequate clarity on this point concerning Jiangsu Etern/World Wire Cables (**WWC**) is also of critical importance to the Australian industry. SEF 626 has found that Jiangsu Etern (via WWC) enjoyed a lower selling price in the Australian market during the inquiry period.⁹ WWC's weighted average interim dumping and countervailing duties are contained within its unit selling price, with the Commission finding that a duty *exclusive* price would have significantly undercut Australian industry prices.¹⁰ In the same analysis, SEF 626 also evidenced that WWC's duty *inclusive* price was undercutting Australian industry, as indicated by the yellow line per Figure 11:¹¹

⁶ REP 469, Chapter 6, p. 29.

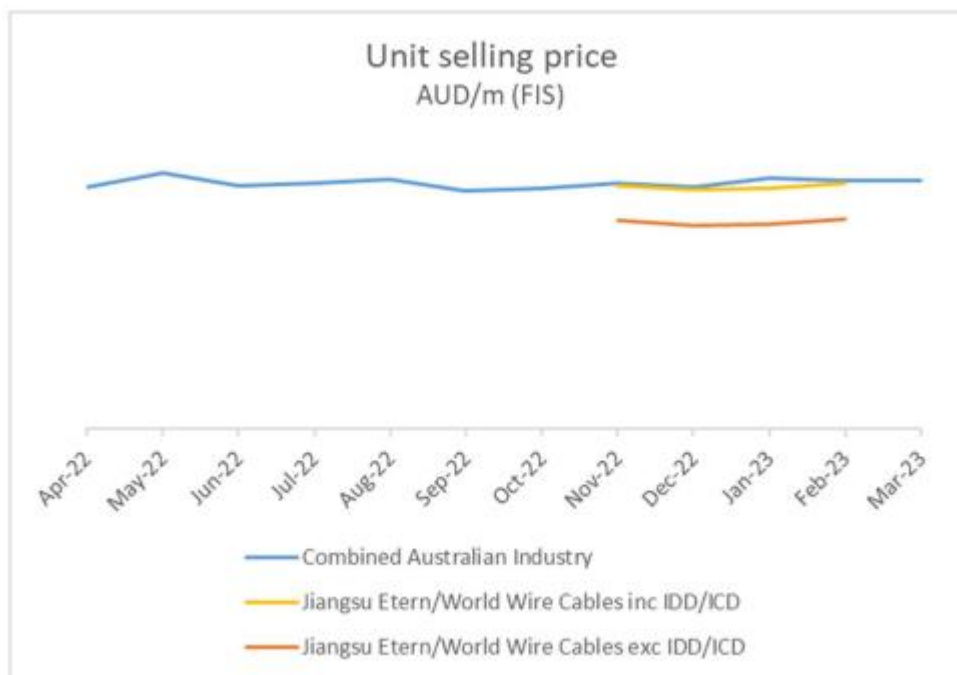
⁷ Ibid, Chapter 6, p. 37.

⁸ *Guidelines on the Application of Forms of Dumping Duty*, November 2013, p. 7.

⁹ SEF 626, p. 47.

¹⁰ Ibid.

¹¹ Ibid.



SEF 626 Figure 11 excerpt

WWC's duty inclusive prices include 29.1 percent IDD, 3.3 percent ICD and a variable/floor price component as set during the INV 469 calendar year 2017 investigation period. Jiangsu Etern/WWC are clearly able to compete in the Australian market and undercut Australian industry at prices inclusive of non-contemporaneous measures. The application of the new proposed fixed rate of 11.8 percent to Jiangsu Etern would, of itself, translate into higher margins of duty-inclusive price undercutting and material injury. As is the intent of the legislation, it is critical that the imposed revised variable factors prevent a recurrence of such injury. Prysmian therefore requests that the Commission clarify the contemporaneous nature of the variable component of the measures for all exporters prior to the Ministerial recommendation.

V. Recommendations

Prysmian welcomes the proposed recommendation in SEF 626 that the Minister take steps to secure the continuation of the measures on the basis that their expiration would likely lead to a recurrence of Chinese dumping, subsidisation, and therefore material injury. For the variable factors assessment, and the ambiguity regarding the variable component in the form of measure, Prysmian requests that the Commission confirm and take account of the above prior to the Ministerial recommendation.

Should the Commission have any questions concerning this submission, please do not hesitate to contact me on (02) 9600 0306.

Yours sincerely,



Hamavand Shroff
Chief Executive Officer – Australia and New Zealand