



CUSTOMS ACT 1901 - PART XVB

REPORT NO 626

**INQUIRY CONCERNING THE CONTINUATION
OF ANTI-DUMPING MEASURES APPLYING TO
PVC FLAT ELECTRIC CABLES
EXPORTED TO AUSTRALIA FROM
THE PEOPLE'S REPUBLIC OF CHINA**

28 March 2024

CONTENTS

CONTENTS	2
ABBREVIATIONS	4
1 SUMMARY AND RECOMMENDATIONS	6
1.1 INTRODUCTION	6
1.2 SUMMARY OF FINDINGS AND RECOMMENDATIONS	7
1.3 RECOMMENDATIONS TO THE MINISTER	12
2 BACKGROUND	14
2.1 LEGISLATIVE FRAMEWORK.....	14
2.2 APPLICATION AND INITIATION	15
2.3 CURRENT MEASURES	15
2.4 CONDUCT OF THE INQUIRY	17
3 THE GOODS, LIKE GOODS AND THE AUSTRALIAN INDUSTRY	21
3.1 FINDING	21
3.2 LEGISLATIVE FRAMEWORK.....	21
3.3 THE GOODS SUBJECT TO THE MEASURES	22
3.4 MODEL CONTROL CODES.....	23
3.5 LIKE GOODS	23
3.6 AUSTRALIAN INDUSTRY – DOMESTIC PRODUCTION	24
4 AUSTRALIAN MARKET	26
4.1 FINDING	26
4.2 APPROACH TO ANALYSIS	26
4.3 MARKET STRUCTURE	26
4.4 KEY DRIVERS OF DEMAND	27
4.5 MARKET SIZE.....	27
4.6 MARKET PRICING	28
4.7 MARKET COMPETITION	29
5 ECONOMIC CONDITION OF THE INDUSTRY	31
5.1 FINDING	31
5.2 APPROACH TO ANALYSIS	31
5.3 FINDINGS IN THE ORIGINAL INVESTIGATION	31
5.4 PRICE EFFECTS	32
5.5 VOLUME EFFECTS	33
5.6 PROFITS AND PROFITABILITY	35
5.7 OTHER ECONOMIC FACTORS.....	37
6 DUMPING DURING THE INQUIRY PERIOD	39
6.1 FINDING	39
6.2 LEGISLATIVE FRAMEWORK.....	39
6.3 JIANGSU ETERN.....	40
6.4 NANYANG.....	44
6.5 UNCOOPERATIVE AND ALL OTHER EXPORTERS	46
7 SUBSIDISATION DURING THE INQUIRY PERIOD	48
7.1 FINDING	48
7.2 LEGISLATIVE FRAMEWORK.....	48
7.3 SUBSIDY PROGRAMS.....	49
7.4 CALCULATION OF SUBSIDY MARGINS	51
8 LIKELIHOOD THAT DUMPING, SUBSIDISATION AND MATERIAL INJURY WILL CONTINUE OR RECUR	55
8.1 FINDING	55

PUBLIC RECORD

8.2	LEGISLATIVE FRAMEWORK.....	56
8.3	THE COMMISSION'S APPROACH.....	57
8.4	AUSTRALIAN INDUSTRY CLAIMS.....	57
8.5	ARE EXPORTS LIKELY TO CONTINUE OR RECUR?	57
8.6	WILL DUMPING AND SUBSIDISATION CONTINUE OR RECUR?	61
8.7	WILL MATERIAL INJURY CONTINUE OR RECUR?	64
9	NON-INJURIOUS PRICE.....	71
9.1	FINDING	71
9.2	FRAMEWORK.....	71
9.3	COMMISSION'S APPROACH AND FINDINGS.....	72
10	FORM OF MEASURES.....	74
10.1	FINDINGS AND RECOMMENDATIONS.....	74
10.2	LEGISLATIVE FRAMEWORK.....	74
10.3	FORM OF MEASURES AND EFFECTIVE RATES OF DUTY	74
11	RECOMMENDATIONS	77
12	APPENDICES AND ATTACHMENTS.....	79
	APPENDIX A: ASSESSMENT OF ALLEGED SUBSIDY PROGRAMS – CHINA	80

PUBLIC RECORD

ABBREVIATIONS

ABF	Australian Border Force
ACBPS	Australian Customs and Border Protection Service
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
the analysis period	from 1 April 2018 to 31 March 2022
Anti-Dumping Agreement	<i>Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994</i>
APEC	Australia Pacific Electric Cables Pty Ltd
the applicant	Prysmian Australia Pty Ltd
AUD	Australian dollars
the Australian Standard	Australian/New Zealand Standard AS/NZS 5000.2
China	the People's Republic of China
combination duty method	combination of fixed and variable duty method
the commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTMS	cost to make and sell
the department	The Department of Industry, Science and Resources, or its predecessor the Department of Industry, Science, Energy and Resources
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
Electra	Electra Cables (Aust) Pty Ltd
EPR	the electronic public record
FOB	Free on Board
GOC	Government of China
the goods	PVC flat electric cables exported from China as defined in section 3.3
Guilin	Guilin International Wire & Cable Co., Ltd
ICD	interim countervailing duty
IDD	interim dumping duty
the inquiry period	1 April 2022 to 31 March 2023
Jiangsu Etern	Jiangsu Etern Electric Co Ltd
LME	London Metal Exchange
the Manual	Dumping and Subsidy Manual

PUBLIC RECORD

MCC	model control code
the measures	the anti-dumping measures / dumping duty notice and countervailing duty notice
the Minister	the Minister for Industry and Science
mm	millimetres
NAN	NAN Electrical Cable Australia Pty Ltd
Nanyang	Nanyang Cable (Tianjin) Co Ltd
Nexans	Nexans Olex Australia Pty Ltd
NIP	non-injurious price
OCOT	ordinary course of trade
Prysmian	Prysmian Australia Pty Ltd
PVC	polyvinyl chloride
PVC flat electric cables	the goods subject to the measures of this inquiry, as defined in ADN 2023/031
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
REP 469	<i>Anti-Dumping Report No 469</i>
REQ	response to the exporter questionnaire
RIQ	response to the importer questionnaire
ROI	return on investment
SEF	statement of essential facts
SG&A	selling, general and administrative
SMM	Shanghai Metals Market
TE	Twin and Earth
Tycab	Tycab Australia Pty Ltd
USP	unsuppressed selling price
V	volts
WTO	World Trade Organization
WWC	World Wire Cables (Aust) Pty Ltd

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

The Anti-Dumping Commission (the commission) has prepared this report concerning an inquiry into whether to continue the anti-dumping measures (the measures) applying to PVC flat electric cables (the goods) exported to Australia from the People's Republic of China (China), except goods exported by Guilin International Wire & Cable Co., Ltd and its related party entities (Guilin).¹

The measures were initially imposed on 14 May 2019 following the original investigation (investigation 469).² The findings of that investigation are detailed in *Anti-Dumping Report No 469* (REP 469).

The measures are in the form of a dumping duty and countervailing duty notice, and are due to expire on **14 May 2024**.³

The measures initially covered all PVC flat electric cables exported from China, including those exported by Guilin, however following a judicial review process, goods exported by Guilin are the subject of a separate dumping duty notice. This inquiry therefore does not extend to goods exported from China by Guilin.⁴

This final report sets out the findings and conclusions on which the Commissioner of the Anti-Dumping Commission (the Commissioner) has based their recommendations to the Minister for Industry and Science (the Minister).

This report concludes that in accordance with subsection 269ZHF(2), the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and subsidisation and the material injury the measures are intended to prevent.

The Commissioner initiated this inquiry on 9 June 2023 following an application from Prysmian Australia Pty Ltd seeking the continuation of the measures.⁵

The Commissioner established an inquiry period of 1 April 2022 to 31 March 2023. To analyse the performance of the Australian industry in the years before and after measures were imposed, the Commissioner has examined the period from 1 April 2018 to 31 March 2023 (analysis period).

¹ Including Guilin Feilong Wire and Cable Ltd, Guilin Xianglong Wire and Cable Ltd, Guilin Fortune Import and Export Trading Co. Ltd, Guilin Yuanhai Import and Export Trading Co. Ltd, Interest Link Co. Ltd and Guangxi Machinery Import and Export Co. Ltd.

² Anti-Dumping Notice (ADN) [2019/47](#) refers.

³ Section 269TM of the *Customs Act 1901* (the Act). All legislative references are to the *Customs Act 1901*, unless otherwise specified.

⁴ [Electronic Public Record \(EPR\) 626](#), document no [4](#).

⁵ EPR 626, document no 1.

PUBLIC RECORD

The commission is assisting the Commissioner to conduct the inquiry, pursuant to the commission's function specified in section 269SMD. In preparing this report, the Commissioner had regard to:

- the application seeking a continuation of the anti-dumping measures
- submissions relating generally to the continuation of the anti-dumping measures to which the commission has had regard for the purpose of formulating *Statement of Essential Facts No 626* (SEF 626)
- SEF 626, published on 1 February 2024, which sets out the preliminary findings of the Commissioner and the proposed recommendations to the Minister based on the available information at that time
- submissions made in response to SEF 626.

1.2 Summary of findings and recommendations

Based on the evidence available, the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and subsidisation and the material injury that the measures are intended to prevent.

The Commissioner recommends that the Minister take steps to secure the continuation of the dumping duty and countervailing duty notice applying to the goods exported to Australia from China, with the notice to have effect as if different variable factors had been ascertained.⁶

The Commissioner's recommendation to the Minister concerning the specification of different variable factors will result in a change to the current effective rates of duty relevant to the collection of interim duties payable on imports of the goods. Table 1 shows the current measures in place, and the new measures that this inquiry has recommended.

Exporter	Current combined effective rate of dumping and countervailing duty	Recommended combined effective rate of dumping and countervailing duty
Jiangsu Etern Electric Co Ltd	22.0%	11.9%
Nanyang Cable (Tianjin) Co Ltd	22.0%	31.8%
Uncooperative and all other exporters	22.0%	32.4%

Table 1: Current and recommended measures

1.2.1 Conduct of inquiry (chapter 2)

The commission invited interested parties, exporters and importers of the goods to participate and provide information relevant to the inquiry. The commission received questionnaire responses and submissions from interested parties and conducted verification visits to selected parties to ensure the veracity of the evidence received.

⁶ The variable factors relevant to the dumping duty notice are the normal value, the export price and the non-injurious price (NIP) of the goods (section 269T(4D)(a) refers). The variable factors relevant to the countervailing duty notice are the export price, the amount of countervailable subsidy received and the NIP of the goods (section 269T(4D)(b) refers). If the measures are continued, the commission considers that it is appropriate to establish a contemporary basis for calculating the payment of interim duties.

PUBLIC RECORD

The following participants submitted questionnaire responses to the inquiry:

- Australian industry members:
 - Nexans Olex Australia Pty Ltd (Nexans)
 - Prysmian
- Exporters:
 - Jiangsu Etern Electric Co Ltd (Jiangsu Etern)
 - Nanyang Cable (Tianjin) Co Ltd (Nanyang)
- Importers:
 - NAN Electrical Cable Australia Pty Ltd (NAN)
 - World Wire Cables (Aust) Pty Ltd (WWC).

The commission conducted verification of the following parties' questionnaire responses:

- Jiangsu Etern (virtual)
- Nexans (onsite)
- Prysmian (onsite)
- WWC (onsite)

The commission assessed the questionnaire response from the exporter Nanyang and notes it did not export the goods in the inquiry period. Given Nanyang did not have sales or cost information to verify, the commission did not perform any verification of its data. The commission found Nanyang to be a cooperative exporter for the purpose of this inquiry. The commission also held a virtual meeting with Nanyang's related-party importer, NAN.

1.2.2 The goods, like goods and the Australian industry (chapter 3)

The Commissioner finds that there is an Australian industry producing like goods. The Australian industry is comprised of Australia Pacific Electric Cables Pty Ltd (APEC), Nexans, Prysmian and Tycab Australia Pty Ltd (Tycab).

1.2.3 Australian market (chapter 4)

The Australian PVC flat electric cable market is supplied by the Australian industry and by imports from China.

1.2.4 Economic condition of the Australian industry (chapter 5)

The Commissioner assessed the economic condition of the Australian industry over the analysis period to analyse trends in the market for PVC flat electric cables and assess potential injury factors. The Commissioner found that the Australian industry has:

- experienced price suppression for a substantial part of the analysis period
- seen a declining trend in sales volume over the analysis period, with its overall sales volume at levels slightly less than at the beginning of the period in 2018
- had fluctuating market share, which increased in 2019/20 and 2020/21 at the expense of Chinese imports (aligning with the COVID-19 pandemic) followed by a decrease resulting in a slightly lower share than that found in 2018/19 (as Chinese imports resumed after the COVID-19 pandemic)

PUBLIC RECORD

- experienced low or negative profit levels and unit profitability for most of the analysis period.

1.2.5 Dumping during the inquiry period (chapter 6)

For the purposes of this continuation inquiry, the commission has assessed variable factors to determine whether exports in the inquiry period were dumped, and whether dumping is likely to continue or recur if the measures are not continued.

The commission found the goods exported to Australia by Jiangsu Etern during the inquiry period were dumped.

While the other cooperative exporter, Nanyang, did not export the goods to Australia during the inquiry period, the commission has updated Nanyang's export price and normal value, and determined a dumping margin relevant to the inquiry period.

The commission has determined the following dumping margins as set out in Table 2:

Exporter	Dumping margin
Jiangsu Etern	23.1%
Nanyang	31.8%
Uncooperative and all other exporters	31.8%

Table 2: Dumping margins

1.2.6 Subsidisation during the inquiry period (chapter 7)

For the purposes of this continuation inquiry, the commission has assessed variable factors to determine whether exports in the inquiry period were subsidised. This has informed whether subsidisation is likely to continue or recur if the measures are not continued.

Except for Nanyang, the commission has found all other exporters of the goods received countervailable subsidies in respect of the goods exported to Australia from China during the inquiry period, as set out in Table 3:

Exporter	Subsidy margin
Jiangsu Etern	0.1%
Nanyang Cable	0.0%
Non-cooperative entities	3.3%

Table 3: Subsidy margins

In relation to Nanyang, the commission determined it did not receive any countervailable subsidies during the inquiry period. The commission found Nanyang was eligible to receive a preferential rate of tax under Program 5, but as it did not generate a taxable income in the inquiry period, there was no countervailable benefit conferred. The commission considered the merit of removing Nanyang from the subsidy notice on account of the subsidy margin finding and concluded this was not appropriate for the following reasons:

- Program 5 has no identifiable end date.

PUBLIC RECORD

- Nanyang will likely be eligible to continue accessing the program.
- should Nanyang return to reporting a taxable profit they would receive the preferential tax rate for parties eligible to access Program 5.

1.2.7 Likelihood of dumping, subsidisation, and material injury continuing or recurring (chapter 8)

The Commissioner's view is that the expiry of the measures would lead, or would be likely to lead, to a recurrence of the dumping, subsidisation, and material injury that the measures are intended to prevent.

Based on the analysis and findings outlined in section 8.5, the commission considers that exports of the goods from China to Australia will likely continue.

- Total exports of PVC flat electric cables from China, including those covered by these measures and the measures applying to Guilin, continue to comprise a significant proportion of the Australian market.
- Suppliers of similar cable types could utilise their existing distribution links to supply the Australian market for PVC flat electric cables should conditions make such a move feasible.
- Chinese producers have excess production capacity and production lines currently producing other types of cables could be reconfigured to supply the Australian market for the goods.

Based on the analysis and findings in section 8.6, the commission considers that dumping and subsidisation of the goods exported to Australia from China will likely continue.

- Exporters from China who have recently entered the Australian market, i.e. Jiangsu Etern, were found to be dumping the goods and the margin of dumping is not negligible.
- The dumping margins determined for exports of the goods from China generally during the inquiry period are comparable to the dumping margins established in the original investigation.
- Guilin, which is subject to a lower rate of dumping duty under a separate notice, continues to supply a significant proportion of the Australian market. The commission views that it is likely that other exporters may seek to increase market share should the measures expire at the expense of the Australian industry, considering the competitive and price-sensitive nature of the market.
- Other Chinese exporters identified in this inquiry appear to be exporting the goods at what are likely to be dumped prices.
- On the basis that exports of the goods examined for the inquiry period were dumped, and the margin of dumping was comparable to the levels found in the original investigation, the commission considers a continuation of dumping is likely.
- Subsidy programs that were countervailed in the original investigation were available to exporters who exported the goods during the inquiry period and none of these programs have an identifiable end date.
- In addition to existing subsidy programs, the commission found new subsidy programs, not previously countervailed, were received by Jiangsu Etern and some of these programs had no identifiable end date.

PUBLIC RECORD

- On the basis that there are new subsidy programs additional to those found in the original investigation, and the finding that existing subsidies continue to be available, with no clear end date, the commission considers subsidisation of the goods will likely continue.

The commission considers for the following reasons that expiry of the measures would be likely to lead to a recurrence of the material injury that the measures are intended to prevent.

- PVC flat electric cables are a price-sensitive, highly standardised and substitutable product, making Australian industry susceptible to material injury from competition from dumped imports.
- As found in sections 8.5 and 8.6, exports of the goods to Australia will likely continue and these goods will likely continue to be dumped and subsidised.
- The Australian market continues to be desirable for producers from China, as evidenced by the entry of a new Chinese exporter.
- If the measures are allowed to expire, the Australian industry will likely come under increased price pressure due to the availability of dumped and subsidised PVC flat electric cable goods in the Australian market.
- Absent of any measures, the likely lower prices of dumped and subsidised imports on the Australian market would be likely to lead to the Australian industry experiencing a loss of sales volume, market share, revenue, and profitability.
- The Australian industry may also experience price depression by accepting lower prices to compete with available cheaper dumped and subsidised imports. This would in turn likely lead to a reduction in the industry's sales revenue and profit.

For the reasons outlined above, the commission considers changes in the Australian market brought about by the presence of dumped and subsidised imports of the goods would be likely to lead to material injury to the Australian industry if the measures are allowed to expire.

1.2.8 Non-injurious price (chapter 9)

In imposing the original measures, the then Minister had regard to the 'lesser duty rule'⁷ and ascertained a non-injurious price (NIP) for the goods exported to Australia, being the minimum price necessary to prevent the injury, or a recurrence of the injury, to the Australian industry caused by the dumping of the goods exported from China.

The commission found that the NIP has changed since it was last ascertained.

To determine the NIP, the commission has had regard to the approach used to calculate the NIP in REP 469. The commission has calculated the NIP as:

- an unsuppressed selling price (USP) for the Australian industry, based on the Australian industry's monthly weighted average cost to make and sell (CTMS) plus a reasonable amount of profit over the inquiry period,

⁷ The *Customs Tariff (Anti-Dumping) Act 1975* requires the Minister to have regard to the desirability of specifying a lesser amount of duty than the full dumping or subsidy margin where the imposition of that lesser amount is adequate to remove injury. This is commonly known as the 'lesser duty rule'.

PUBLIC RECORD

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- amounts for importer selling, general and administrative expenses, and the expenses incurred in bringing the goods to Australia from the Free on Board (FOB) export point.

The normal value of the goods exported by Jiangsu Etern exceeds the NIP. Therefore, under the lesser duty rule, the NIP will be the operative measure for Jiangsu Etern's exports and the effective rate of interim duty payable will be less than its dumping margin.

For Nanyang and all other exporters, the sum of the export price and total interim duty payable for the goods exported by Nanyang and all other exporters no longer exceeds the NIP. Therefore, under the lesser duty rule, the NIP will no longer be the operative measure for Nanyang and all other exporters.

1.2.9 Form of measures (chapter 10)

The Commissioner recommends no change to the form of measures. Specifically, the Commissioner recommends that:

- the combination method continue to be used to calculate the interim dumping duty (IDD) payable by all exporters covered by the measures
- the ad valorem method continue to be used to calculate the interim countervailing duty (ICD) payable by all exporters covered by the measures.

This is the same as the calculation method determined in the original investigation.⁸

1.3 Recommendations to the Minister

In accordance with subsection 269ZHF(2), the Commissioner is satisfied that the expiration of the anti-dumping measures applicable to PVC flat electric cables exported to Australia from China would lead, or would be likely to lead, to a recurrence of the dumping and subsidisation and the material injury the anti-dumping measures are intended to prevent.

The Commissioner recommends that the Minister **declare**:

- in accordance with subsection 269ZHG(1)(b), that he has decided to secure the continuation of the anti-dumping measures concerned.

The Commissioner recommends that the Minister **determine**:

- in accordance with subsection 269ZHG(4)(a)(iii), that the dumping duty and countervailing duty notice continues in force after 14 May 2024 but that, after 14 May 2024, the notice has effect as if different variable factors, as set out in Confidential Attachments 3, 4, 7, 8, 9, 10 and 13, had been fixed relevant to the determination of duty.

⁸ EPR 469, document no [31](#).

PUBLIC RECORD

The Commissioner recommends that the Minister change the variable factors, which will result in updated rates of IDD and ICD payable, as set out in Table 4.

Exporter	Effective IDD rate	IDD duty method	Effective ICD rate	ICD duty method	Total effective rate of duties
Jiangsu Etern	11.8%	Combination	0.1%	Ad valorem	11.9%
Nanyang Cable	31.8%	Combination	0.0%	Ad valorem	31.8%
Uncooperative and all other exporters	29.1%	Combination	3.3%	Ad valorem	32.4%

Table 4: Recommended measures resulting from this inquiry

The total effective rate of duties takes into account the NIP (discussed in chapter 9), and avoids a double-count of anti-dumping measures in respect of subsidised raw material inputs (discussed in section 10.3.3).

The Commissioner has set out their recommendations in chapter 11 of this report.

2 BACKGROUND

2.1 Legislative framework

Division 6A of Part XVB sets out, among other things, the procedures the Commissioner is required to follow when considering an application for the continuation of measures.

2.1.1 Legislative test

Under section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures unless the Commissioner is satisfied that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent.

2.1.2 Statement of essential facts

Section 269ZHE(1) requires the Commissioner to publish a statement of essential facts (SEF) on which they propose to base their recommendations to the Minister about the continuation of the measures.

Section 269ZHE(2) requires the Commissioner, in formulating the SEF, to have regard to the application and any submissions received within 37 days of the initiation of the inquiry. Under section 269ZHE(3), the Commissioner is not obliged to have regard to any submissions relating generally to the inquiry that are received by the Commissioner after the 37 days if to do so would, in the Commissioner's opinion, prevent the timely placement of this SEF on the electronic public record (EPR).

The Commissioner may also have regard to any other matters they consider relevant.

The commission placed SEF 626 on the public record on 1 February 2024⁹.

2.1.3 Final report

Section 269ZHF(1) requires the Commissioner, after conducting an inquiry, to give the Minister a report which recommends that the relevant notice:

- remain unaltered
- cease to apply to a particular exporter or to a particular kind of goods
- have effect in relation to a particular exporter or to exporters generally as if different variable factors had been ascertained, or
- expire on the specified expiry day.

The initiation notice advised that the Commissioner would provide a report to the Minister on, or before, 11 November 2023. The Commissioner approved an extension of time to provide the Minister a report on or before 28 March 2024.¹⁰

⁹ EPR 626, document no [15](#).

¹⁰ EPR 626, [ADN 2023/062](#).

2.2 Application and initiation

On 14 March 2023, the Commissioner published Anti-Dumping Notice (ADN) 2023/13¹¹ on the commission's website inviting the following persons to apply for the continuation of the measures:

- the person whose application under section 269TB resulted in the measures,¹² or
- persons representing the whole or a portion of the Australian industry producing like goods to the goods covered by the measures.¹³

On 9 June 2023, Prysmian lodged an application for the continuation of the measures on the goods exported to Australia from China.¹⁴

The Commissioner was satisfied that:

- the application complied with section 269ZHC (content and lodgement requirements),¹⁵ and
- there appeared to be reasonable grounds for asserting that the expiry of the measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.¹⁶

The Commissioner therefore decided not to reject the application and published ADN 2023/031 initiating the present inquiry on 9 June 2023.¹⁷

2.3 Current measures

The anti-dumping measures were initially imposed by ADN 2019/47 on 14 May 2019 by the relevant Minister following investigation 469. The findings of that original investigation are detailed in REP 469.¹⁸

2.3.1 Exporter not subject to the measures of this inquiry

In REP 469, Guilin was deemed to be a cooperative exporter and was originally subject to the measures under ADN 2019/47. Following judicial review of this decision, the measures were set aside insofar as they applied to Guilin. The then Department of Industry, Science and Resources (the department) conducted a review of the measures insofar as they applied to Guilin. On 1 September 2022, the then Minister for Industry and Science applied separate measures for Guilin under ADN 2022/019, which are due to

¹¹ In accordance with section 269ZHB(1).

¹² Section 269ZHB(1)(b)(i).

¹³ Section 269ZHB(1)(b)(ii).

¹⁴ Under section 269ZHC. A non-confidential version of the application is available on EPR 626, document no [1](#).

¹⁵ Section 269ZHD(2)(a).

¹⁶ Section 269ZHD(2)(b).

¹⁷ EPR 626, [ADN 2023/031](#).

¹⁸ EPR 469, document no [31](#).

expire on 1 September 2027. The findings of the department’s investigation are detailed in a submission to the Minister.¹⁹

Where appropriate, for the purposes of this inquiry the commission has considered the PVC flat electric cables market inclusive of all suppliers, including Guilin, to assess the current economic conditions of the market. Additionally, as noted above, the commission has also considered the impact of Guilin’s continuing supply of a significant proportion of the Australian market. This is in respect of informing findings of fact about the likely behaviour of *other exporters* (who are the subject of this inquiry), should the measures expire and whether dumping, subsidisation, and material injury will continue or recur with respect to those other exporters. To reiterate, the scope of the recommendations of this inquiry only covers the measures currently in effect under ADN 2019/47 and does not extend to goods exported from China by Guilin.²⁰

2.3.2 Current measures

The Dumping Commodity Register on the commission’s website summarises the measures currently applying to exports of PVC flat electric cables to Australia from China.²¹

Table 5 summarises the current measures applying to exports of the goods to Australia from the subject country.

Exporter	Notice	Measure	Form of measures	Effective rate of duty
Guilin	ADN 2022/19	IDD	Ad valorem method	2.8%
Nanyang	ADN 2019/47	IDD & ICD	Combination method	22.0%
Uncooperative and all other exporters	ADN 2019/47	IDD & ICD	Combination method	22.0%

Table 5: Current measures applying to exports of the goods

Further detail about these measures can be found in the dumping commodity register on the commission’s website.²²

2.3.3 Other cases

The commission has conducted several cases relating to electric cables and PVC flat electric cables. A list of selected cases is set out in Table 6, all of which relate to goods exported from China. Further details can be found on the commission’s website.

¹⁹ EPR 469, document no [43](#).

²⁰ EPR 626, document no [4](#).

²¹ EPR 469, document no [31](#).

²² The DCR is available [here](#).

PUBLIC RECORD

Case type and number	Notice	Date	Findings
Australian Customs and Border Protection Service (ACBPS) Investigation No 178	Australian Customs Dumping Notice No 2012/04	6/02/2012	No dumping found, investigation terminated by Chief Executive Officer of ACBPS.
Investigation No 271	ADN 2014/118	6/11/2014	No dumping found, investigation terminated
Investigation No 469	ADN 2018/86	4/06/2018	IDD & ICD imposed on China
Accelerated Review 536	ADN 2020/26	8/04/2020	Measures remain unaltered for Hebei Huatong Cables Group Co Ltd
Department Investigation	ADN 2022/19	9/09/2022	IDD imposed on Guilin and related entities following judicial review by the Federal Court of Australia.

Table 6: Background to key cases relating to electric cables exported from China

2.4 Conduct of the inquiry

The Commissioner established an inquiry period of 1 April 2022 to 31 March 2023 for this inquiry and examined information relating to the economic conditions of the Australian industry from 1 April 2018 to 31 March 2023 for the purpose of assessing:

- whether expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and subsidisation and the material injury that the measures are intended to prevent, and
- whether the notice should remain unaltered or apply to a particular exporter or exporters as if different variable factors had been ascertained.

2.4.1 Questionnaires and verification

Australian industry

The commission received two questionnaire responses from the Australian industry, Prysmian, the applicant, and Nexans.

The Commissioner is satisfied that Prysmian is a member of the Australian industry producing like goods to the goods the subject of this inquiry.²³ The commission conducted a verification visit to Prysmian's premises in August 2023, with the resulting verification report available on the EPR.²⁴

The Commissioner is satisfied that Nexans is also a member of the Australian industry producing like goods to the goods the subject of this inquiry,²⁵ and is the second industry participant for this inquiry. The commission conducted a verification visit to Nexans' premises in September 2023, with the resulting verification report available on the EPR.²⁶

²³ See chapter 3.

²⁴ EPR 626, document no [9](#).

²⁵ See chapter 3.

²⁶ EPR 626, document no [10](#).

PUBLIC RECORD

The commission identified two smaller Australian industry members producing like goods: APEC and Tycab. The commission invited these parties to contribute information to the inquiry, however it did not receive a response from either party.

Importers

The commission identified importers from the ABF import database that imported the goods from China during the inquiry period. The commission also placed a copy of the importer questionnaire on its website for completion by other importers who were not contacted directly.

The commission received responses to the importer questionnaire (RIQ) from the following importers:

- NAN, which did not import the goods in the inquiry period, and
- WWC.

The commission conducted a verification visit with WWC and held a virtual meeting with NAN. Non-confidential versions of the respective verification report and meeting file note are available on the EPR.²⁷

Cooperative exporters and interested parties²⁸

The commission identified the exporters cooperating in REP 469, as well as the largest suppliers of PVC flat electric cables from China during the inquiry period as reported in the ABF import database. The commission sent questionnaires to the following identified exporters:

- Guilin²⁹
- Hebei Huatong Wires and Cables Group Co Ltd
- Jiangsu Etern
- Nanyang.

The commission also placed a copy of the exporter questionnaire on its website for completion by other exporters who were not contacted directly.

The commission received two responses to the exporter questionnaire (REQ) listed in Table 7.

EPR no	Interested party	Date received
11	Jiangsu Etern	21 August 2023
12	Nanyang	7 July 2023

Table 7: Exporter questionnaires received from interested parties

²⁷ EPR 626, document nos [7](#) and [14](#).

²⁸ 'Cooperative exporter' is defined in section 269T(1).

²⁹ Refer to section 2.3.

PUBLIC RECORD

The commission verified Jiangsu Etern's REQ. The non-confidential versions of the REQ and the verification report for Jiangsu Etern are available on the EPR.³⁰

Nanyang was an active exporter for REP 469, but did not export the goods in the inquiry period. Nanyang provided a limited REQ based on the information and data it had available. The non-confidential version of the REQ is available on the EPR.³¹

Submission from Nanyang on no longer exporting the goods

Nanyang provided a joint submission with its related-party importer NAN to the commission on 7 July 2023, advising that they had ceased exporting the goods into Australia since the commencement of the measures³². They also advised that they were willing to cooperate fully with the inquiry but did not have any financial data relating to sales or costs as requested by the commission's exporter and importer questionnaires.

The commission acknowledges Nanyang and NAN's cooperation with the inquiry, noting that representatives of the companies participated in a meeting at the commission's request during the investigation.

Uncooperative exporters

The Commissioner considers all other exporters from China, apart from those listed in Table 7 and Guilin, to be uncooperative exporters in this inquiry.

Section 269T(1) states that an exporter is an 'uncooperative exporter' where the Commissioner is satisfied that an exporter of goods the subject of the inquiry did not give the Commissioner information the Commissioner considered to be relevant to the continuation inquiry within a period the Commissioner considered to be reasonable, or where the Commissioner is satisfied that an exporter significantly impeded the inquiry.

The *Customs (Extensions of Time and Non-cooperation) Direction 2015* states at section 8 that the Commissioner must determine an exporter to be an uncooperative exporter, on the basis that no relevant information was provided in a reasonable period, if that exporter fails to provide a response or fails to request a longer period to do so within a specified timeframe, or provides a response that the Commissioner considers did not provide information relevant to the case.

Government of China

On 9 June 2023, the commission wrote to the Government of China (GOC) advising of the initiation of this inquiry, invited the GOC to complete a government questionnaire, and made a copy of the questionnaire available on the commission's EPR. The commission did not receive a response from the GOC.

³⁰ EPR 626, document nos [11](#) and [13](#).

³¹ EPR 626, document no. [12](#).

³² EPR 626, document no [5](#).

PUBLIC RECORD

2.4.2 Submissions received from interested parties

The commission received the submissions listed in Table 8 before publishing SEF 626. The Commissioner has had regard to all of these submissions in making their preliminary findings outlined in SEF 626, and are also referenced in this report.

Non-confidential versions of these submissions are available on the EPR.³³

EPR no	Interested party	Date received	Issues raised	Chapter reference
3	Nanyang and NAN	7/07/2023	Response to case questionnaires	2.4.2
8	Prysmian	20/10/2023	Evidence of price undercutting	8.4.1

Table 8: Submissions received prior to publication of SEF 626

Table 9 details the submissions received since the publication of SEF 626, which have been referenced in this report.

EPR no	Interested party	Date received	Issues raised	Chapter reference
16/17	Nanyang and NAN	9/02/2024	Calculation of dumping margin and effective rates of duties	6.4.3 and 10.3.4
18/19	Prysmian and Nexans	21/02/2024	Calculation of Jiangsu Etern's normal value, likelihood of recurrence of dumping, price undercutting, and form of measures	6.3.6, 8.4.1, 8.7.4, and 10.3.2
20	Jiangsu Etern	21/02/2024	Calculation of Jiangsu Etern's normal value	6.3.5

Table 9: Submissions after the publication of the SEF

³³ EPR 626, document nos [3](#) and [8](#).

3 THE GOODS, LIKE GOODS AND THE AUSTRALIAN INDUSTRY

3.1 Finding

The Commissioner finds that:

- locally manufactured PVC flat electric cables are 'like' to the goods subject to the measures
- there is an Australian industry comprised of Prysmian, Nexans, APEC and Tycab, and
- the like goods are wholly manufactured in Australia.

3.2 Legislative framework

To be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation or recurrence of dumping, subsidisation, and the material injury that the measure is intended to prevent, the Commissioner firstly determines whether the goods produced by the Australian industry are 'like' to the imported goods.

Section 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.

The definition of like goods is relevant in the context of this inquiry in determining the Australian industry and whether the expiry of the measures would lead to a continuation of, or a recurrence of, the dumping, subsidisation, and material injury that the measures are intended to prevent. The commission's framework for assessing like goods is outlined in chapter 2 of the Dumping and Subsidy Manual (the Manual).³⁴

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether the respective goods have characteristics closely resembling each other. The Commissioner considers:

- physical likeness
- commercial likeness
- functional likeness, and
- production likeness.

The Commissioner must also consider whether the Australian industry manufactures 'like' goods in Australia. Section 269T(2) specifies that for goods to be regarded as being produced in Australia, they must be either wholly or partly manufactured in Australia. Under section 269T(3), to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

³⁴ Available [here](#) on the commission's website.

PUBLIC RECORD

The following analysis therefore establishes the scope of the commission's inquiry.

3.3 The goods subject to the measures

ADN 2023/031 defined the goods subject to the anti-dumping measures as follows:

Flat, electric cables, comprising two copper conductor cores and an 'earth' (copper) core with a nominal conductor cross sectional area of between, and including, 2.5 mm² and 3 mm², insulated and sheathed with polyvinyl chloride (PVC) materials, and suitable for connection to mains electricity power installations at voltages exceeding 80 volts (V) but not exceeding 1,000 V, and complying with Australian/New Zealand Standard (AS/NZS) AS/NZS 5000.2 (the Australian Standard), and whether or not fitted with connectors.

Further information

The locally produced goods are 2.5mm Twin and Earth (TE) PVC flat cable (2.5 TE cable) and are commonly referred to as 'building wire' throughout the building and construction industry, because they are typically used in domestic, commercial, and industrial mains power supplying low voltage wiring installations.

Additionally, the term 'flat cables' describes cables where the conductor and earth cores are laid parallel in the same plane as defined by the Australian Standard. The reference to "two copper conductor cores" refers to the 'phase core' and the 'neutral core', noting that the earth core (also comprising copper) is additional to these 2 active cores.

The report refers to the goods and like goods in this report as 'PVC flat electric cables'.

3.3.1 Tariff classification

The goods are generally classified according to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:³⁵

Tariff subheading	Statistical code	Description
8544		INSULATED (INCLUDING ENAMELLED OR ANODISED) WIRE, CABLE (INCLUDING CO-AXIAL CABLE) AND OTHER INSULATED ELECTRIC CONDUCTORS, WHETHER OR NOT FITTED WITH CONNECTORS; OPTICAL FIBRE CABLES, MADE UP OF INDIVIDUALLY SHEATHED FIBRES, WHETHER OR NOT ASSEMBLED WITH ELECTRIC CONDUCTORS OR FITTED WITH CONNECTORS.
8544.4		- Other electric conductors, for a voltage not exceeding 1 000 V:
8544.49.20		- For a voltage exceeding 80 V but not exceeding 1 000 V
8544.49.20	41	m Insulated with P.V.C. materials

Table 10: Tariff classification of the goods

³⁵ These tariff classifications and statistical codes may include goods that are both subject and not subject to the anti-dumping measures. The listing of these tariff classifications and statistical codes is for convenience of reference only and does not form part of the goods description. Please refer to the goods description for authoritative detail about goods subject to the anti-dumping measures.

3.4 Model control codes

Like investigation 469, there is no model control code (MCC) structure for this inquiry given the specific scope and highly standardised nature of the goods.

3.5 Like goods

The Commissioner is satisfied that the domestically produced goods are like to the goods³⁶ because the following characteristics of each closely resemble the other:

- physical likeness
- commercial likeness
- functional likeness, and
- production likeness.

In so finding, the commission has relied upon information provided by both Prysmian (including its application) and Nexans, comprising questionnaire responses and verification visits to their manufacturing facilities.

3.5.1 Physical likeness

As a result of the physical requirements of the Australian Standard and the narrow tolerances allowed, the imported goods and the goods produced by the Australian industry are essentially identical in most physical respects, though the commission has previously observed very minor differences in the colour of the outer PVC sheath and the “feel” of the product from different suppliers. The commission considers that both the imported goods and the goods produced by the Australian industry are physically alike.

3.5.2 Commercial likeness

The commission considers that the imported goods and the goods produced by the Australian industry are commercially alike, as they compete directly in the market for the same customers at wholesale and retail levels, on similar commercial terms or conditions, and the product is ultimately purchased by common end users.

Based on this, the commission considers the locally produced goods to be commercially like to the goods the subject of the measures.

3.5.3 Functional likeness

The PVC flat electric cables that Prysmian and Nexans produce are highly interchangeable with the goods the subject of measures, given that both goods are sold to the same customers for identical or comparable end uses and both the imported and locally manufactured products must comply with the Australian Standard.

Based on this, the commission considers that the locally produced goods and the goods perform the same function and are used in the same end-use applications.

³⁶ As defined in section 269T(1).

3.5.4 Production likeness

The specifications required by the Australian Standard for PVC flat electric cables provide limited basis for the locally produced goods and the imported goods to diverge in terms of their physical, commercial, and functional likenesses.

The commission considers that the locally produced goods and the goods the subject of the measures are both produced using similar production processes and similar raw material inputs to the goods the subject of the measures. This finding is based on the production processes the commission observed during verification activities, together with the commission's understanding of the production process from previous investigations.

3.6 Australian industry – domestic production

3.6.1 Production process

The commission inspected Prysmian's and Nexans' production facilities and viewed the production processes undertaken.

Prysmian's and Nexans' processes are quite similar and include the following steps:

- copper rod is fed into wire drawing machines to produce smaller diameter wires, which may be drawn further to produce strands with the desired diameter
- the strands are fed into a bunching machine, which bunches the strands together to form a conductor
- the conductor then passes through an extruder, and the appropriate PVC insulation covers the conductor to produce a cable
- the cable passes through a series of water baths to cure the PVC and reduce the temperature before it is wound onto a drum
- drums carrying the various component cables are subsequently fed into a second extrusion process which combines the two active cores (red, black) and the earth core (green / yellow) in the appropriate configuration and adds the PVC sheathing
- the printing required to comply with the Australian Standard (bearing the identity of the manufacturer, the year of manufacture, the designation of the insulation and the term "ELECTRIC CABLE" followed by the voltage rating) is added immediately afterwards, before the finished cable is again passed through a series of water baths and wound onto a drum
- the cable is wound onto a spool of the appropriate length and then packed onto pallets for dispatch
- the product is measured and tested (during and after the production process), to ensure its dimensions and electrical performance will satisfy the requirements of the Australian Standard.

3.6.2 Conclusion – Australian industry

Based on the commission's observations of the manufacturing steps during its Australian industry visits and its understanding of the production process of PVC flat electric cables from previous investigations, the Commissioner is satisfied that:

- like goods are wholly manufactured in Australia
- there is an Australian industry producing like goods in Australia

PUBLIC RECORD

- the Australian industry includes APEC, Nexans, Prysmian and Tycab.

The commission notes that the applicant identified APEC and Tycab as Australian producers of like goods. The commission subsequently sought, and did not receive, responses to industry questionnaires that were provided to APEC and Tycab.

The commission reviewed publicly available information in conjunction with ABF import data to conclude that APEC and Tycab manufactured like goods during the inquiry period (albeit in small volumes). As such, the commission considers APEC and Tycab to be members of the Australian industry.

4 AUSTRALIAN MARKET

4.1 Finding

The Commissioner finds that the Australian industry, and exporters from China, supplied the market for the goods in Australia during the inquiry period.

In assessing the characteristics of the Australian market, the commission has found that:

- the Australian market is supplied by both Australian industry and imports
- China is the predominant source for imports of the goods
- the Australian market is highly competitive, with Australian industry members and importers all in competition with each other
- PVC flat electric cables are highly substitutable between different manufacturers
- PVC flat electric cables are a price-sensitive product.

The observations outlined above in relation to the inquiry were also found to be consistent with the Commissioner's observations about the Australian market for 2018 in REP 469.

4.2 Approach to analysis

The analysis in this chapter is based on the verified financial information submitted for this continuation inquiry by Prysmian and Nexans, data captured in the ABF import database, and verified importer information. The commission used this information to draw conclusions about the overall size of the Australian PVC flat electric cables market, the value and volume of sales by Australian industry, and the value and volume of imports.

The commission's assessment of the Australian market follows.

4.3 Market structure

Suppliers

The Australian PVC flat electric cables market is supplied by Australian industry and imports from China. There were manufacturers of the like goods in Australia during the investigation period. All other PVC flat electric cables covered by the goods description supplied to the market are imported from China.

Customers

Given the heavy involvement of electricians in the installation of the goods, the primary route to market is via wholesalers of electrical products. The sales listings provided by the Australian industry members (Prysmian and Nexans) and the cooperating importer (WWC) indicate that there are several major wholesaling chains (comprising single companies or a collective buying group) and a number of smaller, independent wholesalers.

Other routes to market are via hardware retailers (such as Bunnings, Mitre 10 and similar stores) or by selling directly to larger electrical contractors principally for specific projects.

4.4 Key drivers of demand

The commission has found that demand for PVC flat electric cable is driven by new residential housing construction, commercial development, and refurbishment of existing properties. Therefore, factors affecting construction demand, such as interest rates, consumer confidence, population growth and housing prices, also impact demand for the goods.

As noted in REP 469, there are several variations of PVC flat electric cable which are not the goods. Smaller versions (such as those with a 1 mm² or 1.5 mm² conductor cross-section) are used in applications requiring a lower current (such as halogen or LED lights); larger versions (such as those with a 4 mm² conductor cross-section) are used to provide power to ovens, air-conditioners, and other fixed appliances requiring a higher electrical current feed.

These smaller and larger cross-section cables have differing costs and performance outcomes. Smaller cross-section cables do not carry as high electrical power as a larger cross-section cable without suffering an increase in resistance, which in turn generates heat and increases the risk of fire. Larger cross-section cables can carry more electrical power, but because of the substantial increase in copper content, are also more expensive. Electricians have strong financial and regulatory incentives to use the most cost-effective cable for the wiring task at hand, which means that there is little – if any – substitution of the goods with other products.

4.5 Market size

The commission estimated the size of the Australian market using verified sales data from cooperating parties, as well as cleansed import data extracted from the ABF import database.³⁷

Figure 1 depicts the commission's estimate of the size of the Australian market for the analysis period. The size of the Australian market decreased over the two years following the introduction of measures, and then recovered those losses in 2021/22 and 2022/23 to finish the period with sales similar to their 2018/19 levels.

³⁷ Due to the relevant tariff classification including many other types of cables, the commission cleansed the ABF import database in order to base its analysis on the volume of imports where the imported goods are defined within the import declarations properly, and the definition indicates that the imported goods are the goods the subject of this inquiry.

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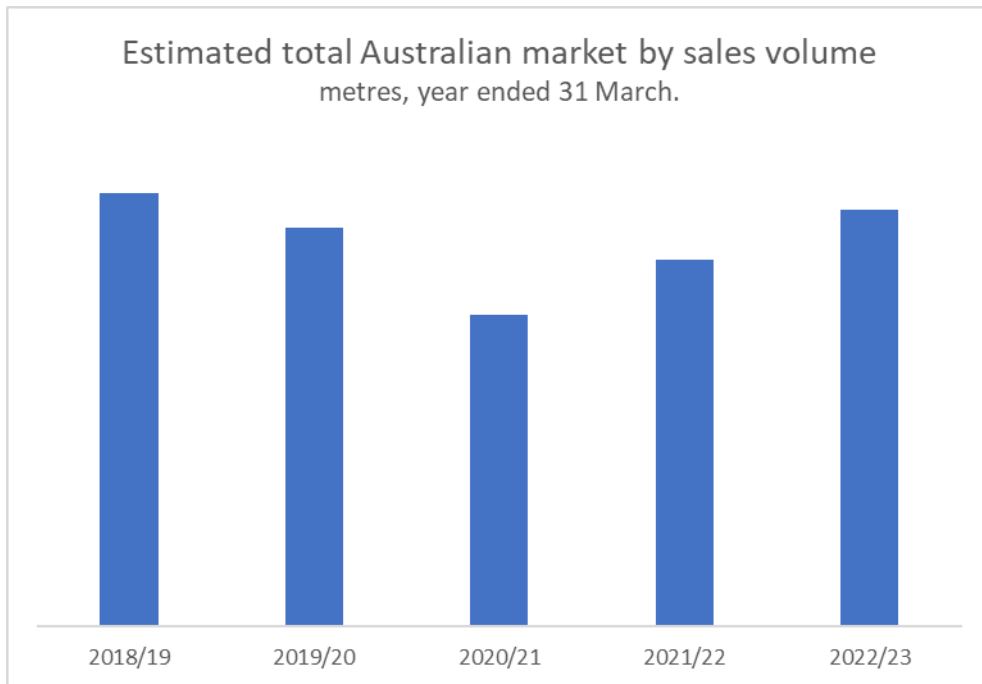


Figure 1: Total Australian sales (metres), year ended 31 March.

The commission's market analysis is at **Confidential Attachment 1 – Market size and share.**

4.6 Market pricing

The commission finds that the market pricing of PVC flat electric cables is influenced by a number of factors:

- Raw materials

The most significant input cost for PVC flat electric cables is the market price for copper, (based on the London Metal Exchange (LME) rates for Australian industry), followed by PVC (a more price-stable raw material input). Other significant costs include distribution, packaging, direct labour, and variable overheads.

- Price-setting and rebates

Prysmian and Nexans advised the commission that they set their pricing on a regular basis. Movements in the market price for copper, coupled with competitors' prices (particularly imports from China, which are the primary price leadership source), are significant factors in their pricing decisions.

The commission found that rebates and discounts are a common feature of the market. Differing amounts of rebates and discounts are usually given to customers off the gross invoice price by all suppliers in the market.

- Price sensitivity

REP 469 found that a number of market factors contributed to the price sensitivity of the goods. As a low margin product for wholesalers (the largest customer type for the

goods), they will seek to purchase at the lowest possible prices, with small differences in price having been shown to change buying decisions.³⁸

- Product bundling

REP 469 also noted that the goods are sold together with other cable products, as wholesale customers prefer to bundle their orders to avoid receiving multiple deliveries from various suppliers. Therefore, the price of PVC flat electrical cable is a significant factor of a purchaser's decision when they seek to purchase a range of cable products, and the competitive pricing of PVC flat electric cables will also impact the level of sales of other products as well. This dynamic influences the Australian industry members to match or at least get close to dumped and subsidised prices of PVC flat electrical cable imported from China.³⁹

The commission considered the information received in this inquiry and in verification activities conducted with the Australian industry participants, and found that the market dynamics impacting market pricing identified in REP 469 continue to be present in the Australian market.

4.7 Market competition

The commission found there to be a high level of competition among Australian manufacturers and importers in the PVC flat electric cable market. This is mainly due to:

- the highly standardised nature of the goods, which must be produced to meet the Australian Standard (as noted in section 3.3)
- limited physical differentiation between PVC flat electric cables produced among manufacturers supplying the Australian market, making the goods highly substitutable.

In its application, Prysman noted the highly price-sensitive and substitutable nature of the domestic like goods and the goods imported from China. The commission notes that the main customers for PVC flat electric cables are electrical wholesalers, distributors and retailers, who on-sell the goods for installation in residential and construction projects. The commission notes that these dynamics limit the demand for product differentiation, as demonstrated by the only differentiated product lines being black cables (instead of white) and a very small amount of non-migratory⁴⁰ PVC cable for use in polystyrene panels.

The commission reviewed the websites of PVC electric cable wholesalers and noted that several sellers listed PVC flat electric cables without a specified brand, or otherwise listed several brands with a single product description and price listing. This indicates that wholesalers will often set the same price for all brands of PVC electric cables, and

³⁸ REP 469, section 8.6 refers.

³⁹ REP 469, section 9.8 refers.

⁴⁰ This refers to the type of plasticiser that is added to PVC to make it flexible (as PVC is a rigid material) – a non-migratory plasticiser ensures it does not transfer from the PVC when in contact with polystyrene or polyurethane insulating materials.

PUBLIC RECORD

importers who can obtain lower-priced goods will enjoy a competitive advantage over higher-priced competitors.⁴¹

These factors indicate that price is the predominant consideration for consumers, which further drives the highly competitive nature of the Australian market for PVC flat electric cables.

⁴¹ See the following web sites for examples: <https://www.sparkydirect.com.au>,
<https://www.powermac.net.au>.

5 ECONOMIC CONDITION OF THE INDUSTRY

5.1 Finding

The commission notes that the economic condition of the Australian industry, represented by Prysmian and Nexans, has had varied levels of sales revenue results during the analysis period.

From the beginning of the analysis period through to 2020, the Australian industry experienced a decrease in sales volumes and revenue, followed by a time of relative stability in these metrics. For large parts of the inquiry period, the Australian industry experienced negative profit and profitability, returning to positive results in 2022.

The Australian industry experienced a significant increase in market share in 2019/20 and 2020/21, aligning with the COVID-19 pandemic and the resulting interruption to international supply chains. The commission also observed that the Australian industry lost market share over the period 2021/22 to 2022/23, ending the analysis period with a lower market share than it had at the beginning.

Australian industry provided information on other economic factors at the request of the commission. Prysmian did not claim any other injury factors in its application.

5.2 Approach to analysis

This chapter considers the economic condition of the Australian industry during the analysis period, which includes the imposition of the measures on 14 May 2019. This examination provides the basis for the commission's analysis in chapter 8 of whether material injury is likely to continue or to recur.

The commission has assessed the economic condition of the Australian industry over the inquiry period using the following sources of information:

- verified information provided by Prysmian and Nexans
- verified exporter and importer information provided by Jiangsu Etern and WWC
- additional exporter and importer information provided by Nanyang and NAN
- import data from the ABF import database, and
- findings from the original investigation detailed in REP 469.

5.3 Findings in the original investigation

REP 469 found that the Australian industry had experienced injury in the forms of:

- lost sales volume
- loss of market share
- price suppression
- reductions in profit and profitability
- reduced return on investment (ROI)
- reduced capacity utilisation, and
- reduced employment hours.

REP 469 also found that some Australian industry prices were undercut by the dumped and subsidised goods.

5.4 Price effects

As demonstrated below, the commission has found that the Australian industry has experienced price suppression for a substantial part of the analysis period.

Price depression occurs when a company lowers its prices. Price suppression occurs when price increases, which otherwise might have occurred, have been prevented from happening. An indicator of price suppression may be the margin between prices and costs.

Figure 2 shows that Prysmian’s unit sales revenue remained below unit CTMS until Q1 2022, at which point Prysmian maintained unit sales revenue greater than its unit CTMS.

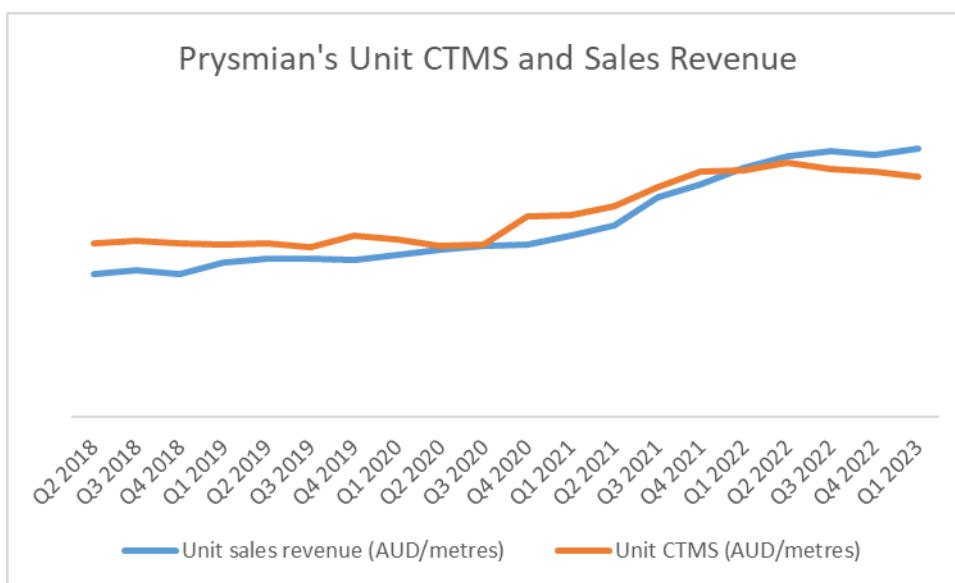


Figure 2: Prysmian’s unit CTMS and sales revenue

Similarly, Figure 3 shows that Nexans’ net unit sales revenue remained below unit CTMS until Q2 2020, from which both sales revenue and costs grew in close correlation until Q1 2022. Thereafter Nexans’ unit sales revenue exceeded its unit CTMS for the remainder of the period.

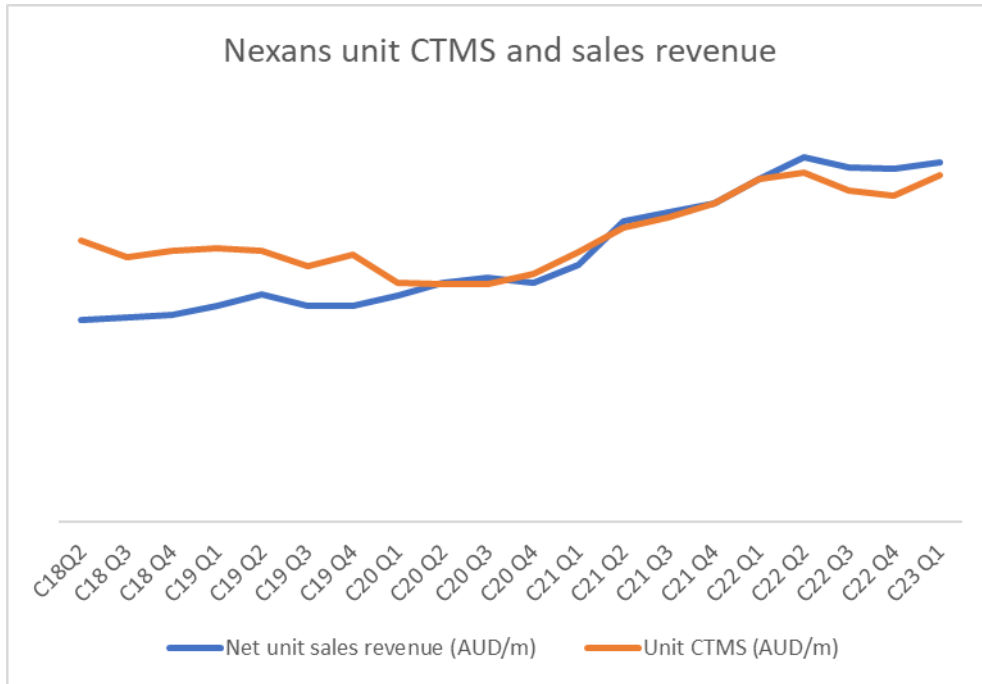


Figure 3: Nexans' unit CTMS and sale revenue

5.5 Volume effects

The commission has found that the Australian industry has seen a declining trend in sales volume over the analysis period, with its overall sales volume at slightly lower levels than the beginning of the analysis period in 2018.

5.5.1 Sales volume

Figure 4 shows Prysmian's sales volume of PVC flat electric cables from Q2 2018 to Q1 2023, demonstrating some fluctuation in sales volume. The decline in sales in 2020/21 aligns with the COVID-19 pandemic period and its resulting disruptions to international supply chains. These broadly impacted overall exports from China to supply the Australian market during the analysis period.

Prysmian's overall sales volume has remained relatively flat from its 2018/19 level over the analysis period.

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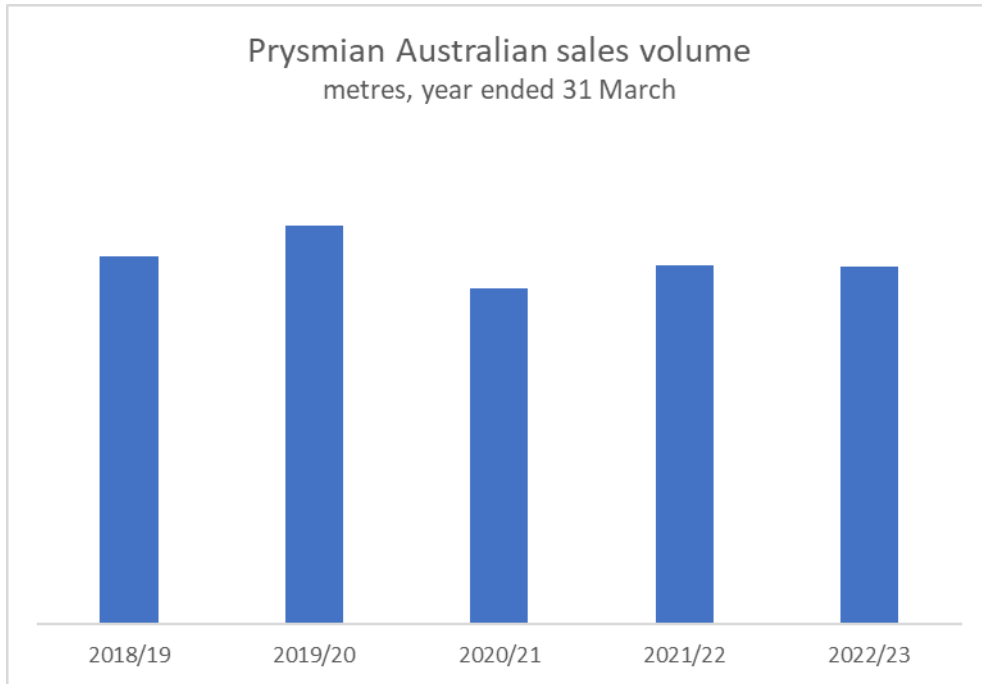


Figure 4: Prysmian’s sales volume

Figure 5 shows Nexans’ sales of PVC flat electric cables have declined since 2019/20 and ended the analysis period with lower sales volume than in 2018/19.

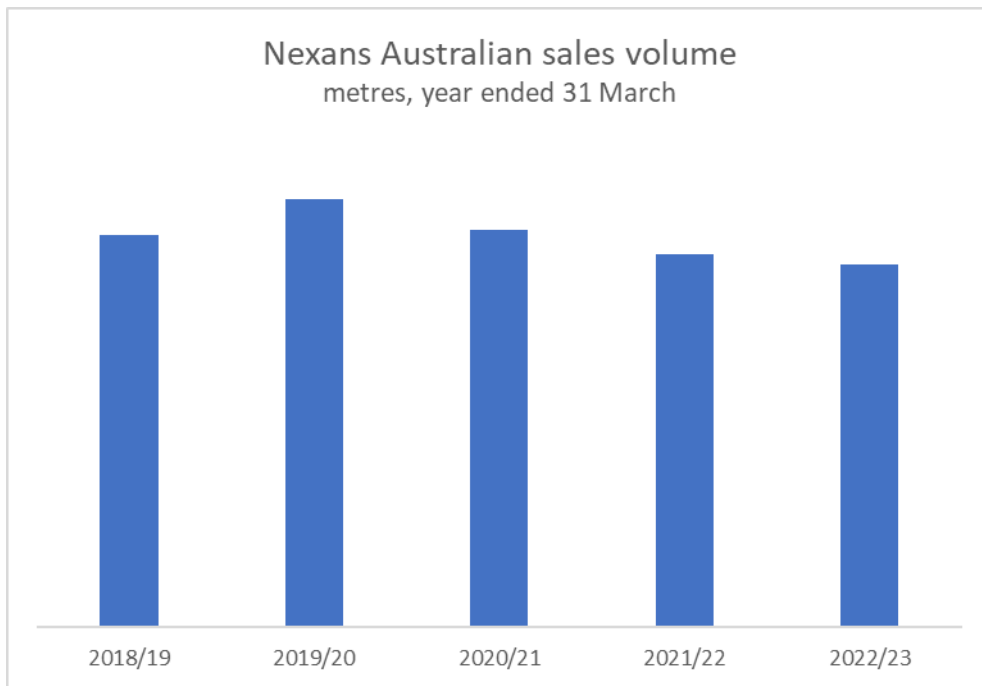


Figure 5: Nexans’ sales volume

5.5.2 Market share

Figure 6 shows the movements in market share of the total market during the analysis period, using the verified sales of cooperating parties and cleansed ABF import data. China was the only country to export the goods to Australia, and the commission has separated these exports into imports which were covered by the measures subject of this inquiry, and imports which were not subject to these measures.

REP 626 – PVC flat electric cables – China

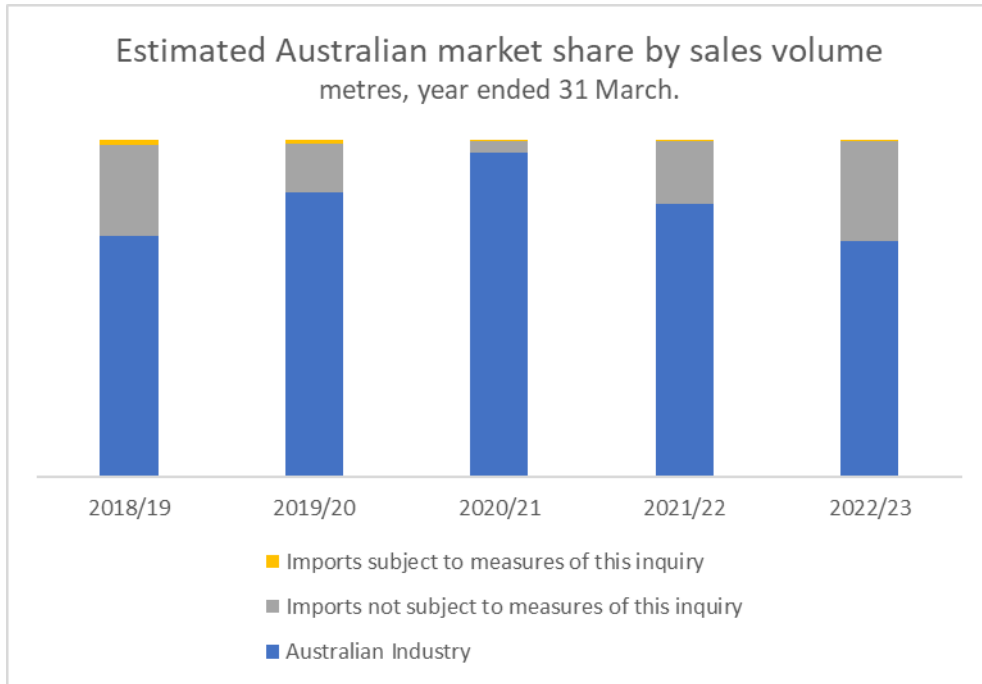


Figure 6: Estimated Australian market share by measures

Over the analysis period the Australian industry’s share of the market increased in 2019/20 and 2020/21 at the expense of Chinese imports (aligning with the COVID-19 pandemic) and then reduced to a slightly lower share than in 2018/19 as Chinese imports resumed.

The market share of Chinese suppliers not subject to the measures under this inquiry accounted for the majority of Chinese imports in 2022/23, increasing significantly from 2020/21 levels. Imports under the measures of this inquiry occurred in each year of the analysis period, albeit it at comparatively very low levels.

5.6 Profits and profitability

The commission has found Prysmian and Nexans experienced low or negative performance in terms profit and unit profitability for most of the analysis period, but achieved profitable levels in 2022 and Q1 2023.

Figure 7 shows that Prysmian experienced strong losses in the years leading up to 2022, excluding 2020 where unit profits and net profits came close to break-even. From Q1 2022 Prysmian has achieved positive unit profitability and net profits.

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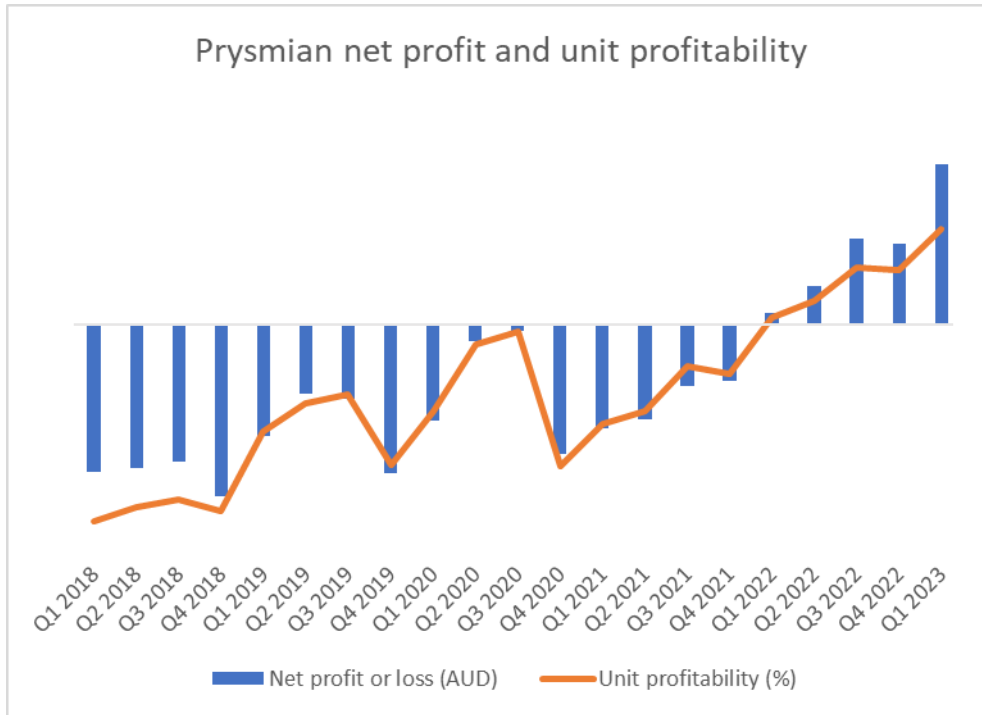


Figure 7: Prysmian’s quarterly net profit and unit profitability

Figure 8 shows that Nexans experienced low or negative profit and profitability for much of the period; it achieved break-even profitability in Q1 2021 to Q1 2022, realising positive unit net profit and profitability in the final four quarters of the analysis period.

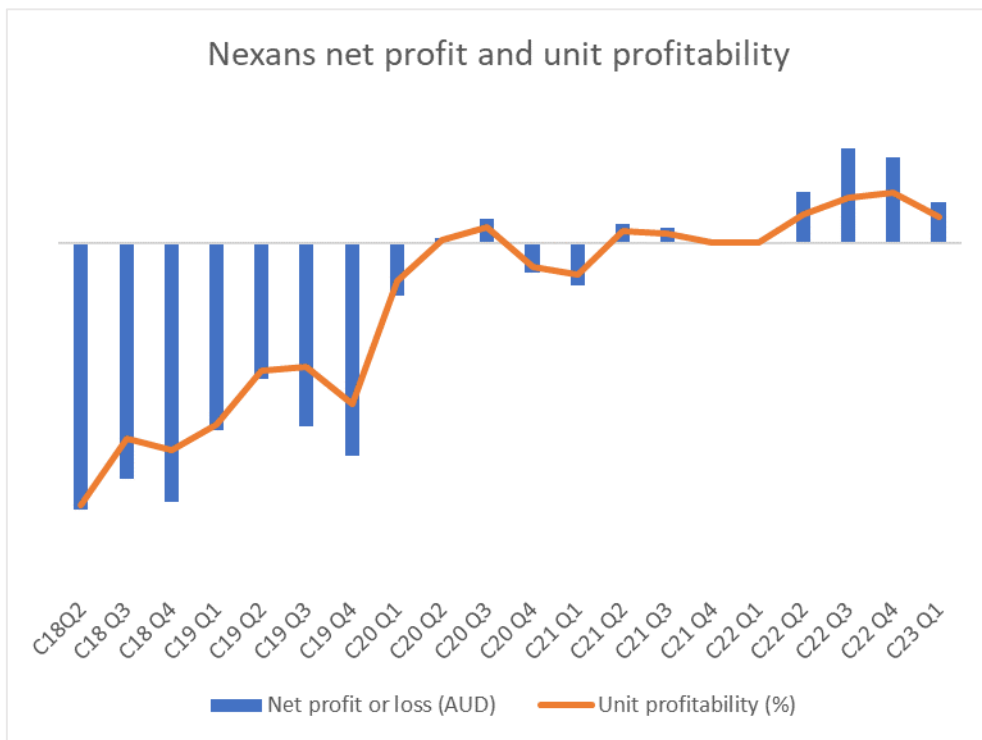


Figure 8: Nexans quarterly net profit and unit profitability

Based on this analysis, the commission infers that the implementation of measures at the end of 2019 had a positive effect on the profitability of Prysmian and Nexans. Noting that 2020 and 2021 was a period of significant market and supply chain disruption during the

REP 626 – PVC flat electric cables – China

PUBLIC RECORD

COVID-19 pandemic – particularly for Chinese suppliers – Australian industry has achieved net profits and positive unit profitability in the last four quarters of the inquiry period.

The commission considers this as evidence of the positive impact of the current measures with respect to Australian manufacturers' profits which, other things being equal, may have otherwise been lower. The commission also notes that the presence of Australian industry profits, particularly for short periods of time, does not necessarily indicate an absence of dumping or material injury. As noted in section 5.5.2, Australian industry also saw a decline in market share during the analysis period including the final four periods, which may reduce profitability, as discussed further in section 8.7.3.

5.7 Other economic factors

Prysmian did not claim any other injury factors in its application. However, at the request of the commission, both Prysmian and Nexans provided data in relation to a range of other economic factors that may also be indicative of injury to the Australian industry. This data covers the 5-year period 2018 to 2022 and included:

- total fixed asset values
- capital investment
- research and development expenses
- ROI
- revenue
- capacity
- capacity utilisation
- employment (persons/hour)
- productivity
- stocks
- cash flow measures (accounts receivable)
- wages.

The findings from investigation 469 concluded that the Australian industry suffered injury in the form of reduced ROI, reduced capacity utilisation, and reduced employment hours. The commission analysed these factors as part of the current inquiry and observed the following regarding the production of like goods for each.

Prysmian:

- ROI remained negative for like goods over the period
- capacity utilisation for like goods dipped in 2021 but otherwise remained relatively stable
- employment numbers grew higher in 2019 and then returned to close to their 2018 levels in 2021.

Nexans:

- ROI for like goods remained negative throughout the period, but showed an increasing trend

PUBLIC RECORD

- capacity utilisation for like goods dipped in 2020, remaining stable either side of that year
- capacity utilisation witnessed an overall decrease for both like and other goods over the period.

Analysis of Prysmian and Nexans' other economic factors is at **Confidential Attachment 2 – Prysmian and Nexans economic condition and other injury factors.**

6 DUMPING DURING THE INQUIRY PERIOD

6.1 Finding

To assess whether dumping is likely to continue or recur, the commission has examined whether exports during the inquiry period were dumped and/or subsidised. The Commissioner is satisfied that the expiration of the measures applying to PVC flat electric cables exported to Australia from China would lead, or would be likely to lead, to a recurrence of dumping and subsidisation.

The commission found the goods exported to Australia by Jiangsu Etern during the inquiry period were dumped.

While the other cooperative exporter, Nanyang, did not export the goods to Australia during the inquiry period, the commission has updated Nanyang's export price and normal value, and determined a dumping margin relevant to the inquiry period.

The commission has determined dumping margins for Jiangsu Etern, Nanyang, and uncooperative and all other exporters, which are summarised in Table 11 below.

Exporter	Dumping margin
Jiangsu Etern Electric Co Ltd	23.1%
Nanyang Cable (Tianjin) Co Ltd	31.8%
Uncooperative and all other exporters	31.8%

Table 11: Summary of dumping margins

6.2 Legislative framework

Under section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping. The existence of dumping during the inquiry period may be an indicator of whether dumping may occur in the future.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of the goods are determined under sections 269TAB and 269TAC respectively. The commission applied the method in section 269TACB(2)(a) to determine whether dumping has occurred and the levels of dumping by comparing the weighted average export price over the whole of the inquiry period with the weighted average of corresponding normal values over the whole of the inquiry period.

Further details of the export price and normal value calculations for each exporter are set out in the following chapters.

6.2.1 Export price

Export price is determined in accordance with section 269TAB, taking into account whether the purchase or sale of goods are 'arms length' transactions under section 269TAA.

PUBLIC RECORD

Section 269TAB(1)(a) provides that the export price of any goods exported to Australia is the price paid (or payable) for the goods by the importer where the goods have been exported to Australia otherwise than by the importer, and have been purchased by the importer from the exporter in 'arms length' transactions.

Section 269TAB(1)(b) provides that the export price of goods is the price that the importer sold the goods, less the prescribed deductions, where:

- goods have been exported to Australia otherwise than by the importer, and
- were purchased by the importer from the exporter, but not at 'arms length', and
- the importer subsequently sells the goods in the condition they were imported to a party not associated with the importer.

Section 269TAB(1)(c) provides that in all other cases, the export price is a price determined by the Minister having regard to all the circumstances of the exportation.

6.2.2 Normal value

The normal value is determined in accordance with section 269TAC.

Cooperative exporters

Section 269TAC(1) provides 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 [(OCOT)] for home consumption in the country of export in sales that are arms length transactions by the exporter or, if like goods are not so sold by the exporter, by other sellers of like goods.

Uncooperative exporters

Section 269TACAB(1)(e) sets out that, if the normal value of goods for an uncooperative exporter is to be worked out in relation to an inquiry, the normal value is to be worked out under section 269TAC(6), which provides that the normal value is determined by having regard to all relevant information.

6.3 Jiangsu Etern

6.3.1 Verification

The commission conducted a virtual verification of Jiangsu Etern's REQ. The commission is satisfied that Jiangsu Etern is the producer of the goods. The commission is further satisfied that the information provided by Jiangsu Etern is accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods. A report covering the verification findings is available on the public record.⁴²

⁴² EPR 626, document no [11](#).

6.3.2 Export price

The commission considers Jiangsu Etern to be the exporter of the goods to Australia⁴³ because it:

- produced the goods exported to Australia
- is named as the supplier on the commercial invoice
- is named as consignor on the bill of lading
- is named as the supplier on the packing list
- arranged and paid for inland transport to the port of export.

In respect of the Australian sales of the goods during the inquiry period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price, or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller, or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

The commission therefore considers that all export sales to Australia made by Jiangsu Etern during the period were arms length transactions.

The commission recommends that the export price be determined under section 269TAB(1)(a), being the price paid by the importer to the exporter less transport and other costs arising after exportation.

To ensure that the ascertained export price was calculated using a consistent delivery term, the commission added an amount for inland transport and/or port charges where required to ensure all export transactions were FOB.

The commission's export price calculations are at **Confidential Attachment 3 – Jiangsu Etern export price**.

6.3.3 Normal value

The commission is satisfied that because of the absence of sales of like goods in the market of the country of export that would be relevant for the purpose of determining a price under section 269TAC(1), the normal value of the Australian export goods cannot be ascertained under section 269TAC(1).

⁴³ The commission generally identifies the exporter as a principal in transacting the exported goods, located in the country of export and either:

- gave up responsibility by knowingly placing the goods in the hands of another company, or its own vehicle, for delivery to Australia
- owned the goods, either at the time the goods were shipped or previously.

PUBLIC RECORD

The team has therefore calculated a normal value under section 269TAC(2)(c) using the sum of all 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 (SG&A) expenses on the assumption that the goods, instead of being exported, were sold for home consumption in the OCOT in the country of export based on the company'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
- an amount for profit having regard to all relevant information in accordance with section 45(3)(c) of the Regulation.

In constructing normal value under 269TAC(2)(c), the commission considers that certain adjustments are necessary to ensure that the normal values are properly comparable with export prices, in accordance with section 269TAC(9) and as specified in the Jiangsu Etern Verification Report.⁴⁴

The commission's normal value calculations are at **Confidential Attachment 4 – Jiangsu Etern normal value.**

6.3.4 Dumping margin

The dumping margin for the goods exported to Australia by Jiangsu Etern for the inquiry period is **23.1%**.

The Commission's dumping margin calculations are at **Confidential Attachment 5 – Jiangsu Etern dumping margin.**

6.3.5 Submission regarding calculation of Jiangsu Etern's normal value

On 21 February 2023, Jiangsu Etern provided a submission⁴⁵ regarding their cost to make and SG&A expenses which would impact the calculation of their normal value.

1. **Cost to make:** Jiangsu Etern advised that due to lack of experience, their production costs in the inquiry period were elevated due to high raw material losses, which they have since reduced.

Commission's response:

The commission conducted a full virtual verification of Jiangsu Etern's cost to make and sell data for the inquiry period based on the information in its REQ and during the virtual verification and subsequent clarifying discussions. On the basis of the verification performed by the commission, the costs Jiangsu Etern incurred during the inquiry period are considered to reasonably reflect its costs associated with the production or manufacture of like goods. The changes in the exporter's costs due

⁴⁴ EPR 626, document no [13](#).

⁴⁵ EPR 626, document no [20](#).

PUBLIC RECORD

to improvements or otherwise appeared to occur in the period after the inquiry period and are therefore not relevant to the determination of its normal value.

2. **SG&A expenses:** Jiangsu Etern disputed the value of SG&A costs used to determine its normal value. Jiangsu Etern contended that a number of SG&A costs relating to its domestic market sales activities were not relevant and should be excluded.

Commission's response:

Following the submission on 21 February 2024, the commission contacted Jiangsu Etern to gather further information about the domestic SG&A costs which Jiangsu Etern argued should not be included in their normal value. The commission reviewed this information and remains satisfied that the original assessment of SG&A costs made during the verification was appropriate.

In determining a normal value for an exporter, the commission is seeking to determine, or estimate as closely as possible, what the price of the exported goods would have been had they been sold in the ordinary course of trade in the exporter's domestic market. Given Jiangsu Etern had no domestic sales of like goods in the Chinese domestic market, the commission has constructed a normal value in accordance with section 269TAC(2)(c) of the Act.

On the basis that Jiangsu Etern did not have any domestic sales of like goods and other cooperating exporters did not report sales of like goods, the commission has relied on Jiangsu Etern's SG&A costs incurred in the production and sale of the same general category of goods in the Chinese domestic market.⁴⁶

Upon reviewing the additional information provided by Jiangsu Etern, the commission found that the costs the subject of its submission were general to the company as a whole.

The commission maintains the view that the expenses the subject of Jiangsu Etern's submission are relevant to the SG&A component of Jiangsu Etern's normal value. This approach reflects the commission's practices in the Manual, specifically outlined in section 9.2 (for constructing a normal value), and section 15.2 (for making due allowance for adjustments to ensure a proper comparison between an export price and constructed normal value).

6.3.6 Submission regarding profit margin used to determine normal value

In their joint submission received 21 February 2024, Prysmian and Nexans requested that the commission clarify which exporter's profit margin had been used in the calculation of Jiangsu Etern's normal value, as well as the actual profit margin amount.

Commission's response

The commission calculated an amount for profit in accordance with section 45(3)(c) of the Regulation. The profit rate used as part of Jiangsu Etern's normal value calculation is

⁴⁶ Regulation 44(3)(a) refers.

PUBLIC RECORD

contained in **Confidential Attachment 4**. The commission regarded Jiangsu Etern's audited financial reports but could not identify a profit margin relevant to the domestic sales of goods in the same general category. The commission also considered whether Nanyang's profit margin could be used, however Nanyang did not report any domestic sales of like goods. Therefore, the commission has relied on the method "having regard to all relevant information" to determine a reasonable amount of profit, which was the profit margin of an exporter in REP 469.

The commission is unable to disclose which specific exporter was used in the calculation, as this would reveal commercial-in-confidence information.

6.4 Nanyang

As noted in section 2.4.1, Nanyang was an active exporter for REP 469 but did not export the goods in the inquiry period. Having regard to Nanyang's REQ submitted for this inquiry, the commission has established Nanyang did not export the goods during the inquiry period. This was further confirmed through an examination of ABF import declarations and in Nanyang's and NAN's joint submission.⁴⁷ Nanyang's REQ did not report sales of the goods to third country markets, nor did it make any domestic sales of PVC flat electric cable that were like to the goods under consideration the subject of this inquiry. Accordingly, Nanyang has also not reported cost of production figures.

With regard to assessing variable factors for Nanyang, the commission does not consider sufficient information is available to enable the export price to be ascertained under section 269TAB(1). The commission therefore considers it appropriate that the export price for Nanyang be established under section 269TAB(3) having regard to all relevant information.

The commission further considers the available information in relation to Nanyang is not sufficient to enable the normal value for Nanyang to be ascertained under section 269TAC(1) or section 269TAC(2). The commission therefore considers it appropriate that the normal value for Nanyang be established under section 269TAC(6) having regard to all relevant information.

The discussion outlined in section 6.4.1 details the commission's consideration of the relevant information to determine the export price and normal value for Nanyang.

6.4.1 Export price and normal value for Nanyang

Given Nanyang did not export the goods in the inquiry period, the commission sought additional information relevant to the export price and normal value for Nanyang.

The commission initially considered whether ABF import data relevant to all exporters covered by the measures, but found the available data for imports during the inquiry period related to a low number of consignments and a low volume of these consignments. As a result, the commission does not consider it appropriate to rely on this information for

⁴⁷ EPR 626, document no [12](#).

PUBLIC RECORD

the determination of export prices under section 269TAB(3) or the determination of normal value under section 269TAC(6).

In the alternative, the commission has turned to other available and relevant information in order to determine export price and normal value. This includes the variable factors determined in REP 469 and other information relevant to the change in prices in the PVC flat electric cables market between the current inquiry period and the investigation period selected for REP 469.

The commission has found that prices for PVC flat electric cables in the inquiry period have increased since the original investigation. This finding is based, amongst other factors, on the change in price for copper on the domestic market in China and in markets outside of China.⁴⁸ Based on the findings in the original investigation and the verified cost of production data provided by Australian industry members and exporters for this inquiry, the commission found that copper is the largest production cost for PVC flat electric cables. Therefore, changes in copper prices have a significant impact on prices for PVC flat electric cables.

The commission has therefore determined Nanyang's export prices and normal values for the inquiry period by having regard to the prices and values determined in REP 469 and altering these values to account for changes in the cost of production.

The resulting export price and normal value determined for the inquiry period takes account of the following factors and information:

- in relation to export price, the increase in spot price of copper on the LME for the export price (given the LME provides the best reflection of Australian market conditions), based on the average daily spot price for the REP 469 investigation period and the average daily spot price for this report's inquiry period
- in relation to normal value, the increase in spot price of copper on the Shanghai Metals Market (SMM) for the normal value (given the SMM provides the best reflection of costs for Chinese production), based on the average daily spot price for the REP 469 investigation period and the average daily spot price for this report's inquiry period
- consumer price index inflation in China from Q4 2017 (the end of REP 469's inquiry period) to Q1 2023 (the end of the current inquiry period)
- Jiangsu Etern's cost to make and sell data, to determine the proportion of total costs accounted for by copper purchases.

To determine Nanyang's export price relevant to the inquiry period, the commission indexed the export price determined in REP 469 using the change in LME prices for the proportion of copper cost, and changes in the Chinese CPI for the remaining cost items. To determine Nanyang's normal value for the inquiry period, the commission indexed the normal value determined in REP 469 using the change in SMM prices for the proportion of copper cost, and Chinese CPI for the remaining cost items.

⁴⁸ Bloomberg: LME Copper 3 month USD (LMCADS03) and Shanghai Copper Spot Index (CCSMCUG1).

6.4.2 Dumping margin for Nanyang

The dumping margin for the goods exported to Australia by Nanyang for the inquiry period is **31.8%**.

The commission's export price, normal value and dumping margin calculations are at **Confidential Attachment 7**.

6.4.3 Submission regarding calculation of Nanyang's dumping margin

In their joint submission,⁴⁹ Nanyang and NAN disputed the commission's reliance on historical data from REP 469 to determine the revised rate of duties for this inquiry. They also contended that it is not appropriate to link the increase in sales data from the REP 469 investigation period to recommend an increase in dumping duty rates for this inquiry.

Commission's response

As noted in section 6.3.2, due to the absence of sales data for Nanyang and all other exporters, the commission has used the export price and normal values determined in REP 469 and applied an adjustment based on the increase in copper prices and Chinese CPI since 2017. The non-injurious price was also updated based on available Australian industry sales and verified importer cost information. Section 9.3.3 outlines the commission's approach to calculating the effective rate of duty under the lesser duty rule.

6.5 Uncooperative and all other exporters

At section 2.4.1, the commission identifies the presence of exports of the goods by entities other than Jiangsu and Nanyang. The commission analysed ABF import data to assess whether the imports supplied by entities other than Jiangsu and Nanyang during the inquiry period were the goods subject to measures. Having regard to the information in the import declarations, the commission considers they were the goods subject to measures.

The commission further confirms entities other than Jiangsu and Nanyang did not provide the commission a response to the exporter questionnaire (which was available on the commission's website). The commission therefore considers exports by entities other than Jiangsu and Nanyang satisfy the definition of an uncooperative exporter.⁵⁰ The variable factors relevant to uncooperative exporters are therefore determined under section 269TACAB(1). Export price and normal value for uncooperative exporters have been determined having regard to all relevant information under sections 269TAB(3) and 269TAC(6).

The discussion outlined below in section 6.5.1 details the commission's consideration of the relevant information to determine the export price and normal value for uncooperative and all other exporters.

⁴⁹ EPR 626, document no [16/17](#).

⁵⁰ Section 269T(1) refers.

PUBLIC RECORD

6.5.1 Export price and normal value for uncooperative and all other exporters

As noted in section 6.4.1, the commission found the volume and value of consignments during the inquiry period from all other exporters to be low. As a result, the commission does not consider it appropriate to rely on this information for the determination of export prices under section 269TAB(3) or the determination of normal value under section 269TAC(6).

The commission considers the method and reasoning relied on to determine Nanyang's variable factors is also relevant to the category of uncooperative and all other exporters. Using the same information and methodology that was relied on to determine Nanyang's export price and normal value in section 6.4.1, the commission has determined an export price and normal value for uncooperative and all other exporters by having regard to all relevant information.

6.5.2 Dumping margin for uncooperative and all other exporters

The dumping margin for the goods exported to Australia by uncooperative and all other exporters for the inquiry period is **31.8%**.

The commission's export price, normal value and dumping margin calculations are at **Confidential Attachment 8**.

7 SUBSIDISATION DURING THE INQUIRY PERIOD

7.1 Finding

To assess whether subsidisation is likely to continue or recur, the commission has examined whether exports in the inquiry period were subsidised.

Except for Nanyang, the commission has found all other exporters of the goods received countervailable subsidies in respect of the goods exported to Australia from China during the inquiry period, at the rates set out in the Table 12.

Exporter	Subsidy margin
Jiangsu Etern	0.1%
Nanyang	0.0%
Non-cooperative entities	3.3%

Table 12: Summary of subsidy margins

In relation to Nanyang, the commission determined it did not receive any countervailable subsidies during the inquiry period. The commission found Nanyang was eligible to receive a preferential rate of tax under Program 5, but as it did not generate a taxable income in the inquiry period, there was no countervailable benefit conferred. The commission considered the merit of removing Nanyang from the subsidy notice on account of the subsidy margin finding and concluded this was not appropriate for the following reasons:

- Program 5 has no identifiable end date.
- Nanyang will likely be eligible to continue accessing the program.
- should Nanyang return to reporting a taxable profit they would receive the preferential tax rate for parties eligible to access Program 5.

7.2 Legislative framework

Section 269ZHF(2) provides that the Commissioner must not recommend that the Minister take steps to secure the continuation of anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, subsidisation. The existence of subsidisation during the inquiry period may be an indicator of whether subsidisation may occur in the future.

Subsidisation occurs when a financial contribution or income or price support confers a benefit (whether directly or indirectly) in relation to goods exported to Australia. The amount of a countervailable subsidy is determined in accordance with section 269TACD.

Further details of the amount of countervailable subsidisation for each entity are set out in the following chapters.

7.3 Subsidy programs

7.3.1 Information considered by the Commissioner

Section 269TAACA(1) provides, relevantly, that in determining whether a countervailable subsidy has been received in respect of particular goods, or the amount of a countervailable subsidy in respect of particular goods, the Commissioner may act on the basis of all the facts available and may make such assumptions as the Commissioner considers reasonable when an applicable entity:

- has not given the Commissioner information the Commissioner considers to be relevant to the inquiry within a period the Commissioner considers to be reasonable, or
- has significantly impeded the inquiry.

The following entities, relevantly, apply to section 269TAACA(1) by virtue of section 269TAACA(2):

- any person who is or is likely to be directly concerned with the import or export into Australia of the goods to which the inquiry relates
- the government of the country of export of goods to which the inquiry relates.

The commission sent the Government of China (GOC) a questionnaire requesting information necessary for the review into the previously identified countervailable subsidies. The commission did not receive a response to this questionnaire. Accordingly, because the GOC has not given the commission information considered to be relevant to the review, the commission has determined whether a countervailable subsidy has been received in respect of the goods, and the amount of the countervailable subsidy, in accordance with section 269TAACA(1).

The Commissioner has identified those exporters determined as uncooperative in Chapter 2 as non-cooperative entities.

The commission has relied upon the previous findings in REP 469, being the most recent relevant inquiry in respect of the goods exported from China, and any relevant information provided by cooperating exporters in assessing the alleged subsidy programs. REP 469 identified a total of 11 countervailable subsidy programs that are applicable to exports of the goods from China.

7.3.2 Assessment of existing subsidy programs

In REP 469, the commission investigated and found 42 subsidy programs applicable to the PVC flat electric cables exported from China, of which 10 were deemed to be countervailable in relation to the goods.⁵¹

For this inquiry, the commission has reviewed the information submitted by the cooperating exporters of this inquiry and conducted further research with respect to these countervailable programs. The commission also invited the GOC to complete a

⁵¹ REP 469 at section 7.4.4 refers.

PUBLIC RECORD

questionnaire regarding subsidies. The commission did not receive a response from the GOC.

Based on the available information, the commission did not find any evidence that programs countervailed in the original investigation period have ceased. As such, the commission considers that no new information has been provided that would warrant a reconsideration of the determinations made in the original investigation. The commission has therefore maintained its position that these programs are countervailable. The relevant programs are listed below. A full list of all programs investigated by the original investigation is provided in non-confidential **Appendix A at section A3**.

Program Number	Program Name	Countervailable subsidy received (Yes/No)
1	Copper provided by Government at less than adequate remuneration	Yes
5	Preferential Tax Policies for High and New Technology Enterprises	Yes
27	Technology Project Assistance	Yes
32	Environmental protection grant	Yes
36	Reducing pollution discharging and environment improvement assessment award	Yes
38	Grant from Technology Bureau	Yes
40	Independent Innovation and High-Tech Industrialization Program	Yes
43	Export credit insurance subsidy	Yes
44	Subsidy for production equipment digitization and information updates for exports of electric wires & cables	Yes
45	Subsidy for current fund loans	Yes

Table 13: Current subsidy programs considered in this inquiry

7.3.3 Additional programs identified in this inquiry

During the verification of Jiangsu Etern, the commission identified an additional eight programs under which it received a subsidy in relation to its exports of the goods to Australia during the inquiry period shown in Table 14. These programs were not assessed during the original investigation and are therefore considered new.

The commission’s assessment of each new subsidy program concluded the exporter received a countervailable subsidy in relation to the export of the goods to Australia. The commission’s detailed assessment of each new program is provided in **Appendix A at section A4**.

PUBLIC RECORD

Program name	Exporter	New Program number	Countervailable subsidy (yes/no)
Public Announcement of the List of Enterprises in Wujiang District, Suzhou City, for Stable Employment and Return in 2022 (I)	Jiangsu Etern	46	Yes
2021 Wujiang District Industrial High-Quality Development Fund (1st Batch) Suzhou Municipal Enterprise Technology Centre	Jiangsu Etern	47	Yes
Survey on Enterprises' Retention and Return to Work During The 2022 Spring Festival	Jiangsu Etern	48	Yes
Employment Subsidy Fund	Jiangsu Etern	49	Yes
Subsidy for Science and Technology Insurance Premiums 2022, 23rd Batch of Science and Technology Development Plan (Science and Technology Finance Special) Project Funds in Suzhou City	Jiangsu Etern	50	Yes
Subsidy for High-Technology Enterprises	Jiangsu Etern	51	Yes
Suzhou Government Subsidy for High-Quality Policy Industries	Jiangsu Etern	52	Yes
One-Time Job Retention Subsidy 2022	Jiangsu Etern	53	Yes

Table 14: Additional subsidies identified during the inquiry

7.4 Calculation of subsidy margins

7.4.1 Jiangsu Etern

The commission found that Jiangsu Etern received a benefit from the countervailable programs listed in Table 14.

Based on the information available, the commission has calculated a subsidy margin (to one decimal place) for Jiangsu Etern of **0.1%**.

The commission's countervailable subsidy margin calculations are at **Confidential Attachment 6 – Jiangsu Etern subsidy margin**.

7.4.2 Nanyang

Having regard to the information contained in Nanyang's exporter questionnaire response, the commission has reconsidered the preliminary findings with respect to the subsidy margin determined for Nanyang in SEF 626.⁵²

⁵² The subsidy margin for Nanyang in SEF 626 was 2.8%. SEF 626, p.38 refers.

PUBLIC RECORD

In the original investigation 469, the commission assessed Nanyang's subsidies under section 269TAACA for non-cooperative entities.⁵³ The commission concluded Nanyang had received countervailable subsidies under Programs 1 and Program 5.⁵⁴

For the purpose of this inquiry Nanyang is being treated as a cooperative entity.

Outlined below is the commission's consideration of the available information concerning subsidies received by Nanyang in the inquiry period. The commission has found Nanyang did not receive a countervailable subsidy under Program 1, Program 5 and other amounts identified as government grants. As a result, the subsidy margin for Nanyang is 0.0%.

Although the commission has determined a subsidy margin of 0% for Nanyang, the commission found it was still eligible to access a preferential rate of income tax available under Program 5. Nanyang did not receive a benefit under Program 5 during the inquiry period. This is because the profit it reported in relation to the inquiry period was wholly offset by losses carried forward from prior accounting periods. In the circumstance that Nanyang exhausts prior losses and starts to generate taxable income, it will likely receive a benefit under Program 5. The commission notes that Program 5 has no identifiable end date.

On the basis of the findings concerning the operation of Program 5, the commission does not consider that Nanyang be removed from the subsidy notice.

Program 1 – Provision of copper at less than adequate remuneration

Having regard to Section H of the questionnaire Nanyang submitted for this inquiry, Nanyang did not provide a listing of raw material purchases for the purpose of allowing an assessment for subsidies received under Program 1. The commission notes the verification of Jiangsu Etern examined its purchases of raw materials with a view to assessing the presence of subsidies received under Program 1. The commission's verification team concluded Jiangsu Etern did not receive a countervailable subsidy with respect to the goods.⁵⁵

In the circumstance that Nanyang is not being treated as a non-cooperative entity for this inquiry, and having regard to the finding for Jiangsu Etern, the commission accepts Nanyang's response to questions concerning Program 1.

Program 5 – Preferential Tax Policies for High and New Technology Enterprises.

Nanyang further disclosed that it was eligible to access a preferential tax rate which the commission understands to be a subsidy program that is either the same or similar to the currently countervailed Program 5 for High and New Technology enterprises. Nanyang claims there was no benefit conferred in the inquiry period due to its losses that were carried forward from prior financial years. The commission confirmed this to be correct by having regard to audited financial reports Nanyang supplied in its questionnaire response.

⁵³ REP 469, section 7.4.2, pp.42-42.

⁵⁴ Program 1 - Provision of copper at less than adequate remuneration and Program 5 - Preferential Tax Policies for High and New Technology Enterprises.

⁵⁵ EPR 626, document no [13](#).

PUBLIC RECORD

Although Nanyang did not receive a benefit under Program 5 during the inquiry period, it remains that Nanyang will likely receive a benefit on profits generated in future periods should it exhaust its previous carried-forward losses. The commission notes Nanyang was profitable during the inquiry period.

Financial Grants

In relation to the receipt of subsidies in the form of grants, Nanyang's questionnaire advised that during the inquiry period, it did not receive any payments (or any other financial contribution) under the grant programs countervailed in the original investigation.⁵⁶

Notwithstanding Nanyang's response concerning receipt of grants, an examination of the auditor's notes to Nanyang's audited financial reports (supplied in its questionnaire response) found it had received income relating to a non-specific Government grant. The value of this grant was less than 0.01% of total revenue. However, on the available information the commission cannot conclude the grant satisfies the definition of a countervailable subsidy as set out in section 269TAAC. The commission has therefore not countervailed the grant in relation to the goods.

The commission has calculated a subsidy margin for Nanyang of **0.0%**.

The countervailing subsidy calculations can be found in **Confidential Attachment 9 – Nanyang subsidy margin**.

7.4.3 Non-cooperative entities

The subsidy margin for non-cooperative entities is determined, pursuant to section 269TAACA(1), based on all facts available and having regard to reasonable assumptions.

When determining the countervailable subsidies for non-cooperative entities, the Commissioner has made reasonable assumptions to determine whether non-cooperative entities received a countervailable subsidy in respect of the goods and the amount of the countervailable subsidy.

Having regard to the facts available to the commission, and recognising the evidence concerning subsidies during the inquiry period is limited, the commission considers it reasonable that the subsidy investigation findings outlined in REP 469 provide a suitable basis for assessing whether countervailable subsidies have been received by uncooperative and all other exporters during the inquiry.

In REP 469 at section 7.4.4, the commission investigated 42 subsidy programs and concluded a benefit had been received by Guilin and Nanyang in relation to 10 programs. The commission then concluded the countervailable subsidies received by Guilin and Nanyang were also likely to have been received by uncooperative and all other exporters from China generally. Noting that for this inquiry, the commission did not receive exporter questionnaire responses other than from Jiangsu Etern and Nanyang, the commission conducted further research for the purpose of this inquiry with respect to the 42 countervailable programs identified in REP 469.

⁵⁶ EPR 626, document no [12](#), page 30

PUBLIC RECORD

The commission did not find evidence that the 10 programs countervailed in relation to non-cooperative entities in REP 469 have ceased. On the basis of all facts available in this inquiry, the commission considers it reasonable to make an assumption under s269TAACA that the 10 countervailable subsidy programs found in the original inquiry continue to confer a benefit to non-cooperative exporters.

As such, in order to calculate the amount of countervailable subsidies received by non-cooperative entities during the inquiry period, the commission has calculated a countervailable subsidy margin using the subsidy amount determined in REP 469 and the export price determined for this inquiry period, as detailed in section 6.5.1.

The commission has calculated a subsidy margin (to one decimal place) for uncooperative and all other exporters of **3.3%**

The commission's countervailable subsidy margin calculations are at **Confidential Attachment 10 – Uncooperative and all other exporters subsidy margin.**

8 LIKELIHOOD THAT DUMPING, SUBSIDISATION AND MATERIAL INJURY WILL CONTINUE OR RECUR

8.1 Finding

On the basis of the evidence obtained in the course of this inquiry, the Commissioner is satisfied that the expiration of the measures applying to PVC flat electric cables exported to Australia from China would lead, or would be likely to lead, to a recurrence of dumping and subsidisation and the material injury that the measures are intended to prevent.

The commission's findings supporting the Commissioner's above conclusion are summarised below and further detailed throughout this chapter and the report. The commission's findings are based on the information available, and analysis conducted by the commission for this inquiry.

Having regard to the following findings and analysis, the commission considers exports of the goods from China to Australia will likely continue due to the following:

- Total exports of PVC flat electric cables from China, including those covered by these measures and Guilin, continue to comprise a significant portion of the Australian market.
- Chinese exporters maintain distribution links in the Australian market.
- Chinese producers have excess production capacity and production lines for other types of cables which could be reconfigured to supply the Australian market for PVC electric cables.

Having regard to the following findings and analysis, the commission considers dumping and subsidisation of the goods exported to Australia from China will likely continue.

- Exporters from China who have recently entered the Australian market, i.e. Jiangsu Etern, were found to be dumping the goods and the margin of dumping is not negligible.
- The dumping margins determined for exports of the goods from China generally during the inquiry period are comparable to the dumping margins established in the original investigation.
- Guilin, which is subject to a lower rate of dumping duty under a separate notice, continues to supply a significant proportion of the Australian market. The commission views that it is likely that other exporters may seek to increase market share should the measures expire at the expense of the Australian industry, considering the competitive and price-sensitive nature of the market.
- Other Chinese exporters identified in this inquiry appear to be exporting the goods at what are likely to be dumped prices.
- On the basis that exports of the goods examined for the inquiry period were dumped, and the margin of dumping was comparable to the levels found in the original investigation, the commission considers a continuation of dumping is likely.
- Subsidy programs that were countervailed in the original investigation were available to exporters who exported the goods during the inquiry period and none of these programs have an identifiable end date.

PUBLIC RECORD

- In addition to existing subsidy programs, the commission found new subsidy programs, not previously countervailed, were received by Jiangsu Etern and some of these programs had no identifiable end date.
- On the basis that there are new subsidy programs additional to those found in the original investigation, and the finding that existing subsidies continue to be available with no clear end date, the commission considers subsidisation of the goods will likely continue.

The commission considers for the following reasons that the expiry of the measures would be likely to lead to a recurrence of material injury that the anti-dumping measures are intended to prevent.

- PVC flat electric cables are a price-sensitive, highly standardised and substitutable product, making Australian industry susceptible to material injury from price competition from dumped imports.
- As found in sections 8.5 and 8.6, exports of the goods to Australia will likely continue and these goods will likely continue to be dumped and subsidised.
- The Australian market continues to be desirable for producers from China, as evidenced by the entry of a new Chinese exporter.
- If the measures are allowed to expire, Australian industry will likely come under increased price pressure due to the availability of dumped and subsidised PVC flat electric cable goods in the Australian market.
- Absent of any measures, the likely lower prices of dumped and subsidised imports on the Australian market would be likely to lead to the Australian industry experiencing a loss of sales volume, market share, revenue, and profitability.
- The Australian industry may also experience price depression by accepting lower prices in order to compete with available cheaper dumped and subsidised imports. In turn, this would likely lead to a reduction in the Australian industry sales revenue and profit.

8.2 Legislative framework

Under section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of measures unless they are satisfied that the expiration of the measures would lead, or would be likely to lead, to a recurrence of the material injury that the measure is intended to prevent.

The commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation. The commission must consider what will happen (or what would be likely to happen) in the future should a certain event, being the expiry of the measures, occur. However, the Commissioner must nevertheless base their conclusions and recommendations on facts.⁵⁷

⁵⁷ [ADRP Report No. 44](#) (Clear Float Glass)

8.3 The commission's approach

The commission considered a number of relevant factors to assess the likelihood that material injury will continue or recur, as outlined in the Manual.⁵⁸ The commission's view is that the relevance of each factor varies depending on the nature of the goods and the market into which the goods are sold. In this instance, no one factor can provide decisive guidance. The following analysis therefore examines a range of factors that the commission considers relevant to this inquiry.

8.4 Australian industry claims

In its application, Prysmian made the following claims regarding the continuation or recurrence of injury of PVC flat electric cables exported to Australia from China:

- exports from China have continued post-implementation of the measures
- Chinese exporters have maintained distribution links in Australia, demonstrated by the continued imports from China post-implementation of the measures
- exporters have retained excess capacity
- in the absence of measures, exporters from China are highly likely to increase export volumes to Australia, and
- expiration of the measures would likely lead to material injury to the Australian industry in the form of reduced sales and market share.

The commission has considered Prysmian's claims in its analysis below.

8.4.1 Submissions regarding the continuation or recurrence of dumping

Prysmian provided a submission to the commission on 20 October 2023,⁵⁹ arguing that it was experiencing undercutting by Chinese imports. Prysmian also provided a recent invoice from an importer of the goods from China, dated after the inquiry period, and used this as the basis for its claims of dumping.

The commission's consideration of price undercutting is outlined in Chapters 6 and 7 of this report.

8.5 Are exports likely to continue or recur?

The commission considers that, should the measures expire, exports from China are likely to continue.

To form this view the commission has assessed import volumes, maintenance of distribution links and excess production capacity as outlined in the sections below.

⁵⁸ [The Manual](#), pages 136-138

⁵⁹ EPR 626, document no [8](#).

8.5.1 Import volumes

Imports from China, inclusive of Guilin, have continued throughout the analysis period. As Figure 9 shows, total imports declined significantly in 2020 and 2021 following the disruption of COVID-19 but have since recovered to levels slightly above 2018/19.

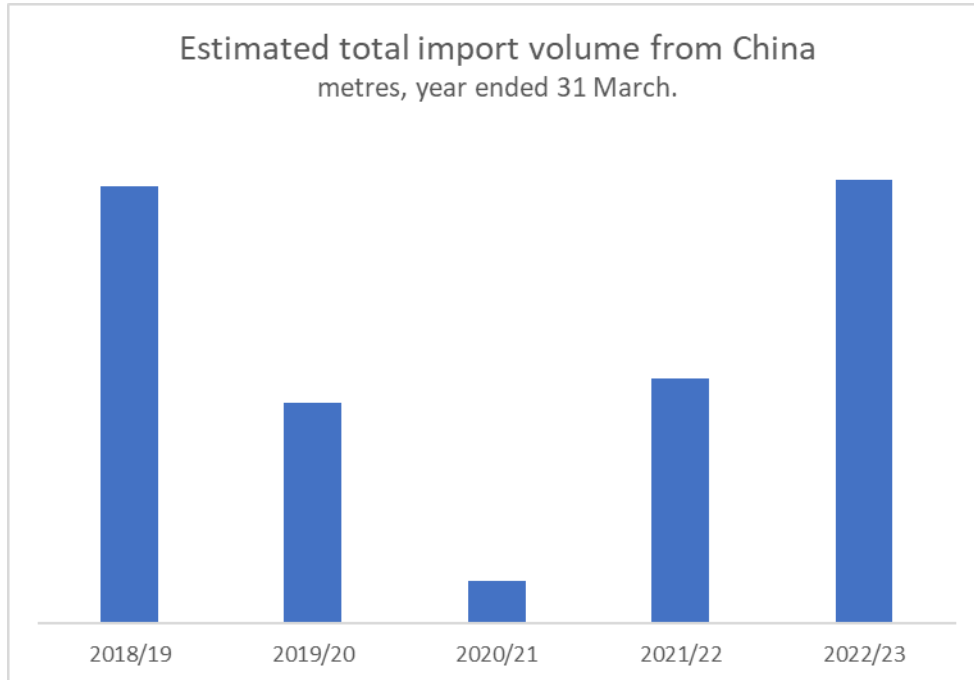


Figure 9: Total estimated imports of PVC flat electric cables from China

Figure 10 shows that most of the imports of the goods from China over the inquiry period were either exempt, or subject to a much lower rate of measures under ADN 2022/019. While imports under the current measures continue, they form a much smaller proportion of imports from China, and in turn a small proportion of the Australian market for the goods. These exporters include Jiangsu Etern, a new entrant to the Australian market, which was found to be selling the goods at dumped rates. The continuation of imports with measures in place indicates to the commission that if the measures were allowed to expire, it would be likely that import volumes would continue to increase.

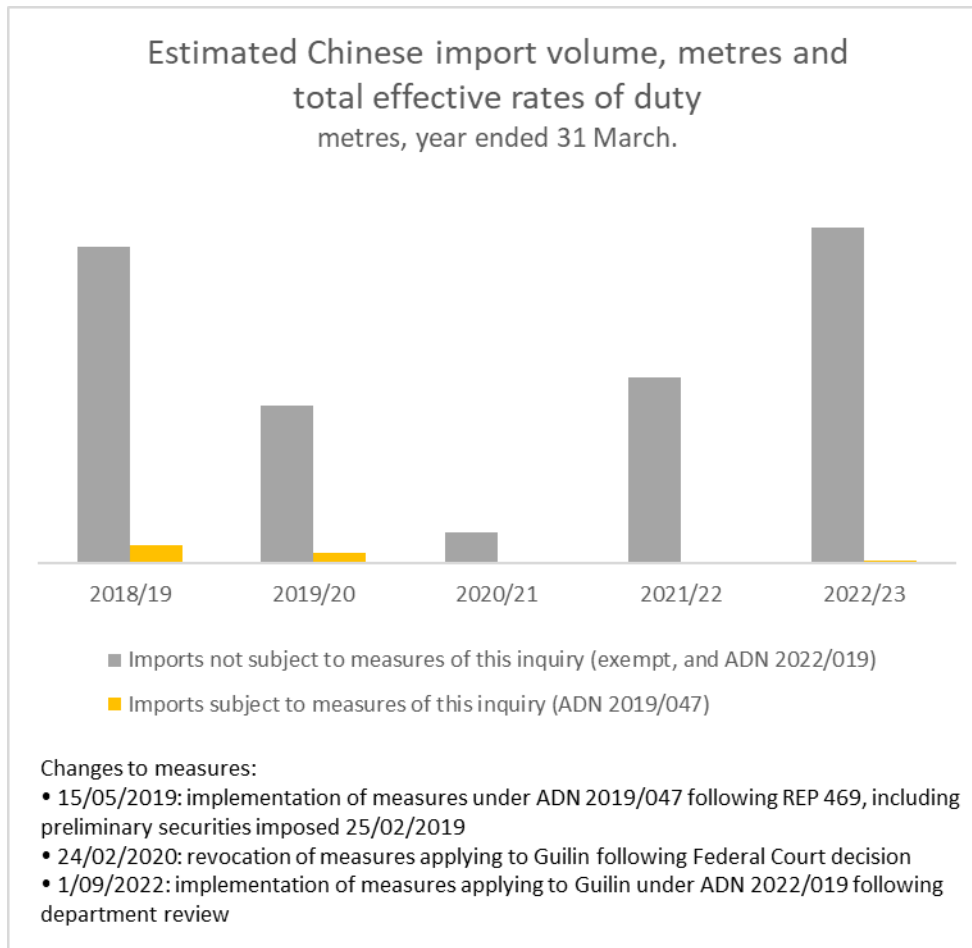


Figure 10: Estimated Chinese import volume, and timeline of key changes to anti-dumping measures for PVC flat electric cables from China

As noted in Figure 10, imports by Guilin (which make up most Chinese imports) were exempt from measures from Q1 2020 until Q3 2022, after which measures were imposed at an ad valorem duty rate of 2.8% – a much lesser rate than other exporters operating under a combination duty rate of 22.0%. Notably, most of the recovery of lost Chinese market share following 2020 can be attributed to increased exports by Guilin.

Added to the fact that overall imports from China continue (including at dumped rates), the commission considers the strong level of imports under Guilin's separate measures indicate that imports from China are likely to increase and account for a greater share of the Australian market should the current measures subject of this inquiry be allowed to expire.

8.5.2 Maintenance of distribution links

As detailed in section 8.5.1, the commission observed that the total imports from China by exporters subject to these measures have significantly reduced following the introduction of the measures. NAN, which was an importer in REP 469, has ceased supplying the goods since the imposition of measures.

The commission notes that there are other exporters supplying the Australian market under the current measures, including Jiangsu Etern, which is a new entrant to the market

for PVC flat electric cables (but has previously exported other cable products to Australia).

The commission considers it possible that established suppliers of other goods, such as Nanyang, could utilise their existing distribution links to supply the market for PVC electric cables, should market conditions make such a move favourable.

8.5.3 Excess production capacity

The commission has examined the production capacity utilisation and export focus of the cooperating exporter, Jiangsu Etern. Based on the data submitted to this inquiry, the commission considers that there is likely excess capacity in China.

Information provided in Jiangsu Etern's verified REQ data demonstrates that it had significant excess capacity during the inquiry period. The commission acknowledges the low level of participation from exporters in the inquiry, and that the market focus and excess capacity of other exporters may be different to Jiangsu Etern (particularly as it is a new exporter). However, with reference to REP 469 where the cooperating exporter Nanyang was found to have significant capacity to supply the goods in larger volumes,⁶⁰ and in the absence of other information and co-operation from other Chinese exporters, the commission infers that other Chinese producers are likely to also have significant surplus capacity.

In the absence of exporter co-operation, the commission conducted additional inquiries into the electric cable manufacturing industry more broadly. The commission found that the electric cable manufacturing industry is a global, integrated market. For example, the company website of Jiangsu Etern notes its strategy to expand into overseas markets, and the website of Electra Cables (Aust) Pty Ltd (Electra), Guilin's related Australian importing entity, promotes their supply to major projects located in numerous countries around the world (including the large Chinese domestic market).⁶¹

The commission also observed the production machinery and processes of Prysmian and Nexans, and was advised that production lines can be reconfigured in the short to medium term to respond to changes in product demand and market conditions.

The commission also reviewed Jiangsu Etern's questionnaire regarding production processes – conducting an inspection of its production facilities via video link – and observed that its production process is very similar to that of Prysmian's and Nexans'.

The commission is of the view that Chinese exporters have excess capacity, and can redirect existing production lines for other types of cables to supply the Australian market for PVC electric cables should conditions make such a move feasible.

⁶⁰ REP 469, page 61.

⁶¹ See <http://en.yongding.com.cn/intro/1.html> and <https://electracable.en.alibaba.com/>.

8.6 Will dumping and subsidisation continue or recur?

The commission considers that the expiry of the measures would be likely to lead to a continuation of dumping and subsidisation of PVC flat electric cables from China.

The commission's conclusion concerning the likely continuation of dumping and subsidisation with respect to the goods is based on the following findings.

- Exporters from China who have recently entered the Australian market, i.e. Jiangsu Etern, were found to be dumping the goods and the margin of dumping is not negligible.
- The dumping margins determined for exports of the goods from China generally during the inquiry period are comparable to the dumping margins established in the original investigation.
- Guilin, which is subject to a lower rate of dumping duty under a separate notice, continues to supply a significant proportion of the Australian market. The commission views that it is likely that other exporters may seek to increase market share should the measures expire at the expense of the Australian industry, considering the competitive and price-sensitive nature of the market.
- On the basis that exports of the goods examined for the inquiry period were dumped and the margin of dumping was comparable to the levels found in the original investigation, the commission considers a continuation of dumping is likely.
- Subsidy programs that were countervailed in the original investigation were available to exporters who exported the goods during the inquiry period, and none of these programs have an identifiable end date.
- In addition to existing subsidy programs, the commission found new subsidy programs, not previously countervailed, were received by Jiangsu Etern and some of these programs had no identifiable end date.
- On the basis that there are new subsidy programs additional to those found in the original investigation, and the finding that existing subsidies continue to be available, with no clear end date, the commission considers subsidisation of the goods will likely continue.

To form its view, the commission has assessed the dumping and subsidy margins for current exporters, considered both the previous dumping margin assessments in REP 469 and anti-dumping actions taken in other jurisdictions, and the level of subsidisation as outlined in the sections below.

8.6.1 Dumping margin analysis

Table 15 below shows the dumping margins detailed in Chapter 6 in relation to the goods exported to Australia during the inquiry period.

Exporter	Dumping margin
Jiangsu Etern Electric Co Ltd	23.1%
Nanyang Cable (Tianjin) Co Ltd	31.8%
Uncooperative and all other exporters	31.8%

Table 15: Dumping within the inquiry period

PUBLIC RECORD

The commission also reviewed the FOB export prices for other Chinese exporters of the goods to Australia (excluding Jiangsu Etern and Guilin) based on ABF import data, and compared these prices to Jiangsu Etern's verified normal value. As noted in section 6.5.1, the low volume and value of consignments meant that this data could not be relied upon for the determination of export prices or normal values, however the commission has referred to this data to inform the likelihood that dumping would continue.

This analysis showed that during the inquiry period, almost 90% of exports covered by the measures (including those by Jiangsu Etern) had a weighted average cost per metre price that was lower than Jiangsu Etern's normal value, which suggests that other Chinese exporters were also likely to be exporting goods at dumped rates during the inquiry period. A full comparison can be found in **Confidential Attachment 11 – Other exporter prices**.

The commission has examined the facts relevant to assessing the likelihood that exporters will continue to export the goods at dumped prices. Based on exporters' behaviour in exporting goods at dumped prices in the inquiry period, and in the absence of evidence suggesting a change in that behaviour, the commission considers that dumping would be likely to continue if the anti-dumping measures expired.

8.6.2 Subsidisation level

In REP 469, the commission found that Chinese exporters received countervailable subsidies in respect of the goods exported to Australia.

As outlined in section 7.4, the commission has found exporters of the goods received countervailable subsidies in respect of the goods exported to Australia during the inquiry period. This includes the programs that were countervailed for the purpose of the original investigation and subsidies received by Jiangsu Etern in relation to new programs the commission has not previously countervailed in relation to PVC flat electric cables. Table 16 shows the subsidy margins determined in Chapter 7.

Exporter	Subsidy margin
Jiangsu Etern Electric Co Ltd	0.1%
Nanyang Cable (Tianjin) Co Ltd	0.0%
Non-cooperative entities	3.3%

Table 16: Subsidy margins within the inquiry period

Based on the available information about the subsidy programs that were available to exporters during the inquiry period, the commission considers these programs will endure into the period after measures are due to expire. This includes Nanyang who was eligible to access a preferential tax rate under Program 5 but did not receive a benefit due to carrying losses forward from prior years. Absent of these losses carried forward, Nanyang was profitable. The commission expects Nanyang will likely be eligible to access a benefit under Program 5 when losses carried forward from prior years are exhausted.

During the inquiry period, exporters of the goods received subsidies under programs that did not exist in the period examined by the original investigation. The commission considers the creation of new subsidy programs relevant to the inquiry period indicates

PUBLIC RECORD

that other new subsidy programs are likely to be created in the future and it is likely that these will be countervailable.

The commission further notes that subsidy programs countervailed for the original investigation have no identifiable end date, and some of the new programs found in the inquiry period did not appear to have any identifiable end date either.

8.6.3 Previous dumping and subsidy margin assessments

In REP 469, the commission found that all exports of the goods from China to Australia in the original investigation period were dumped and subsidised. The dumping margins determined for all exporters were not negligible. With the exception of exports by Guilin, the subsidy margins determined for all exporters were also not negligible.⁶²

Following the decision of the then Minister to impose a dumping notice on exports of the goods from China, the department conducted a review of the measures as they applied to Guilin, published on 1 September 2022.⁶³ The department's review concluded that Guilin exported the goods at dumped prices, but the dumping margin was lower than the margin determined for Guilin in REP 469.

Table 17 shows current dumping and subsidy margins applicable to the goods.

Exporter	Dumping margin	Subsidy margin	Applicable notice
Guilin	2.8%	N/A	ADN 2022/019
Nanyang	33.2%	3.1%	ADN 2019/047
Uncooperative and all other exporters ⁶⁴	33.2%	3.7%	ADN 2019/047

Table 17: Dumping margins found for exports of the goods

In REP 469, the commission understood that electrical wholesalers, which account for most of the purchases of the goods from Australian industry and importers, prefer to source PVC flat electric cable from multiple suppliers, and will continue to look for lower priced alternatives to locally produced goods. Given the price sensitivity of the Australian PVC flat electric cables market and the magnitude of the price undercutting by the dumped and subsidised imports found during the original investigation period, imported PVC flat electric cables would continue to be an attractive source of supply.

The commission also observed that the goods are highly interchangeable and price-sensitive, and that importers maintained established routes to market. The commission also reviewed the ABF import database of the REP 469 investigation period, and noticed that both importers, Electra and NAN, increased their import volumes of the goods. Based on these findings, the commission formed the view that dumping would continue if

⁶² The subsidy margin for Guilin was 0.7%. The original investigation concerning the publication of a subsidy notice was therefore terminated on the basis that the subsidy margin for Guilin was negligible. [ADN 2019/046](#) dated 8 April 2019 refers.

⁶³ EPR 469, document no [43](#).

⁶⁴ The Commission is treating all other exporters of PVC flat electrical cable from China in the investigation period as 'uncooperative exporters', as explained at section 6.2 of this report.

measures were not imposed. These findings were not impacted by the department's subsequent review of Guilin's exports.

8.6.4 Submission regarding calculation of dumping margins

In their joint submission, Nanyang and NAN contend that it is not appropriate to link the increase in the level of sales observed during the investigation period in REP 469 to recommend an increase in dumping duty rates for this inquiry.

Commission's response

Nanyang's increasing sales in the REP 469 investigation period was noted as a factor in the commission reaching the conclusion that dumping would likely occur in the absence of measures. However, as outlined in section 6.3.2, the rate of increase in exports has not formed part of the commission's calculations of dumping margins for Nanyang and all other exporters, rather the weighted average of their respective export price and normal values over the REP 469 investigation period was used as the starting point, with the adjustments then applied.

8.6.5 Anti-dumping actions in other jurisdictions

In its application, Prysmian noted existing trade remedies that apply to comparable goods imposed by World Trade Organisation (WTO) member countries on a range of electrical cables of up to 1kW from China. The application further highlighted the United Kingdom's Trade Remedies Authority current anti-subsidy investigation into Single-mode Optical Fibre Cables manufactured from China.

The commission notes that whilst these examples are not identical to the goods subject to this application, it considers that the trade remedies and measures for similar electrical cable types in other jurisdictions is a factor that influences global trade by altering comparative access to markets. As such, the expiration of the measures may make Australia a comparatively more attractive and accessible market for exports from China, given the prevalence of trade measures against Chinese flat electrical cable products in other jurisdictions.

8.7 Will material injury continue or recur?

The commission considers that the expiry of the measures would be likely to lead to a recurrence of material injury that the anti-dumping measures are intended to prevent.

This finding is based on the following significant factors:

- PVC flat electric cables are a price-sensitive, highly standardised and substitutable product, making Australian industry susceptible to material injury from price competition from dumped imports.
- As found in sections 8.5 and 8.6, exports of the goods to Australia will likely continue and these goods will likely continue to be dumped and subsidised.
- The Australian market continues to be desirable for producers from China, as evidenced by the entry of a new Chinese exporter.

PUBLIC RECORD

- If the measures are allowed to expire, Australian industry will likely come under increased price pressure due to the availability of dumped and subsidised PVC flat electric cable goods in the Australian market.
- Absent of any measures, the likely lower prices of dumped and subsidised imports on the Australian market would be likely to lead to the Australian industry experiencing a loss of sales volume, market share, revenue, and profitability.
- The Australian industry may also experience price depression by accepting lower prices in order to compete with available cheaper dumped and subsidised imports. This would in turn likely lead to a reduction in the Australian industry sales revenue and profit.

To form its view, the commission has assessed the effects of volume, pricing, and profitability, as outlined in the following sections.

8.7.1 Pricing analysis

The commission understands that the PVC flat electric cable market is a price-sensitive market. PVC flat electric cables are highly standardised due to the requirement for all suppliers to meet the Australian Standard. Furthermore, as PVC flat electric cables are installed in electrical construction projects, there is only a limited level of demand for differentiated products. As a result, PVC flat electric cables are a highly substitutable product between different suppliers, and price is a crucial factor to maintain competitiveness.

In REP 469, the commission found that that lower pricing in a price-sensitive Australian market caused material injury to the Australian industry, and created downward pressure on prices which supported an exporter's market entry strategy. In its application, Prysmian argued that these factors are still present in the Australian market today.

Figure 11 shows the weighted average unit selling price of goods manufactured by the Australian industry, and goods sold by WWC (exported by Jiangsu Etern), which found that selling prices remained consistent for three of the four months that Jiangsu Etern exported the goods, and that Jiangsu Etern enjoyed a lower selling price for one of the months. This suggests that that the Australian market remains price-sensitive, and that the Australian industry has limited scope to reduce pricing in response to dumped and subsidised goods.

The commission also reviewed WWC's weighted average interim dumping and countervailing duties paid per metre of imports over the inquiry period, noting these are contained in its unit selling price. The commission observed that WWC's price absent of any anti-dumping tariff would have significantly undercut Australian industry prices. As such, in the absence of measures Australian industry would likely be forced to lower its unit prices, or risk suffering a loss of sales volume.

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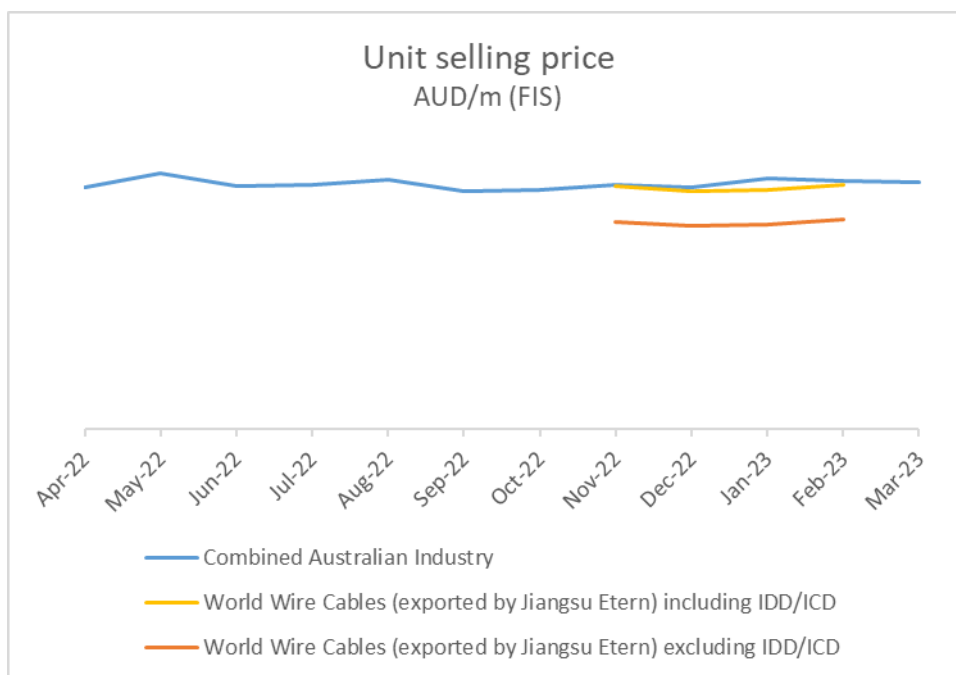


Figure 11: Unit selling price, inquiry period

To gain an insight into Jiangsu Etern’s potential export prices in a market without the measures, the commission compared the weighted average unit net import values of Jiangsu Etern to Guilin based on Electra’s ABF import data at Figure 12. The commission reviewed Jiangsu Etern and Guilin’s exports in the inquiry period, inclusive of customs duty, applicable dumping and countervailing duties and transport and insurance.

Jiangsu Etern’s duties-inclusive unit export price was higher than that of Guilin in the inquiry period. During this time, Guilin’s exports were not subject to measures until 1 September 2022, when its separate notice came into effect and imposed a much lower IDD of 2.8% (compared to a combined IDD & ICD rate of 22.0% for all other Chinese exporters under the measures of this inquiry).

The commission also reviewed Jiangsu Etern’s import prices exclusive of applicable dumping and countervailing duties for the inquiry period. Jiangsu Etern’s import prices were comparable to Guilin for three of the four months, but are substantially lower in December 2022. This suggests that the market may be price-competitive among Chinese exporters as well, which would likely continue to place downward pressure on prices.

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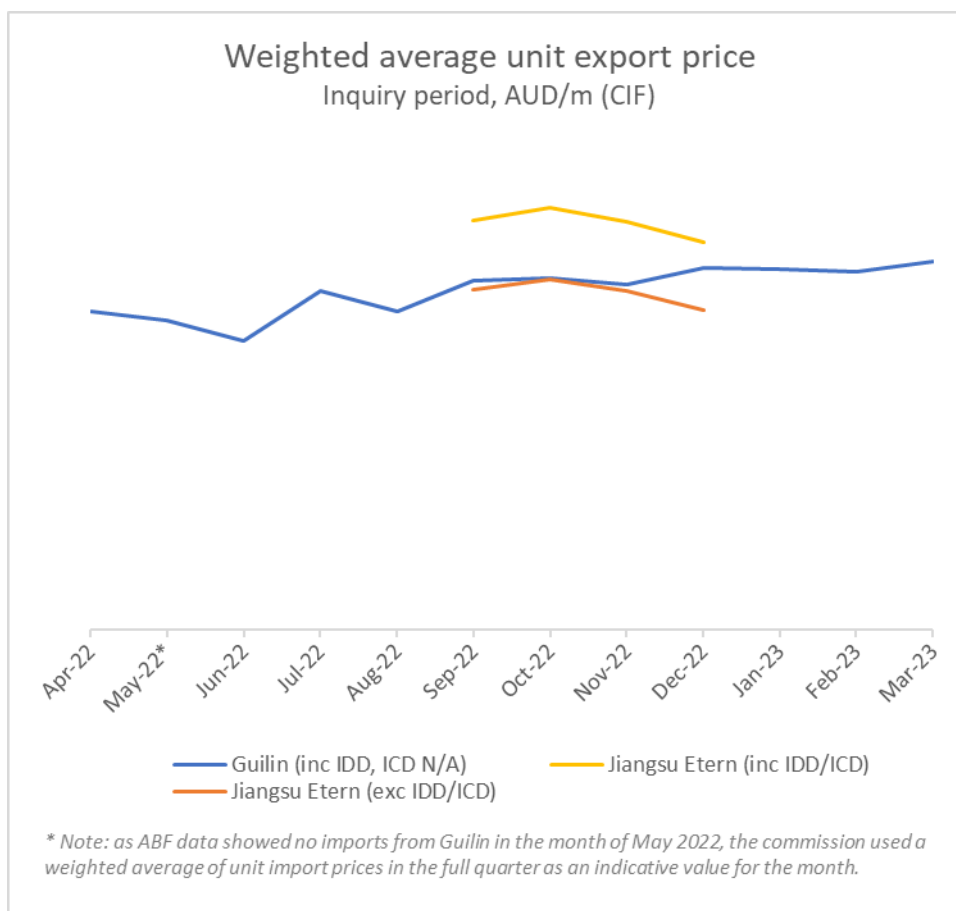


Figure 12: Weighted average unit export price, inquiry period

The commission is of the view that dumping duties contribute to a higher unit import value for exporters, and that the measures are a factor in exporters prices and their competitiveness in the price-sensitive Australian market. Without measures, Chinese exporters may use dumped pricing to become price leaders and build market share to the detriment of Australian industry.

The commission's pricing calculations are at **Confidential Attachment 12 – Price undercutting analysis.**

8.7.2 Volume analysis

Based on the evidence provided, the Commission finds that the Australian industry members are volume dependent businesses. The commission notes that when Australian industry members lose sales volumes and market share, their fixed costs are distributed across a lower sales volume which would further reduce their profitability.

As noted in Section 4.5, the total size of the Australian market decreased during the analysis period. Figure 13 shows a comparison of Australian industry sales and total Chinese imports over this time.

Total imports from China declined significantly in 2020 and 2021, aligning with the COVID-19 pandemic and its related supply chain interruptions, but have since fully recovered with current sales now higher than their 2018/19 levels. In comparison, total Australian industry sales peaked in 2019/20, and have since declined.

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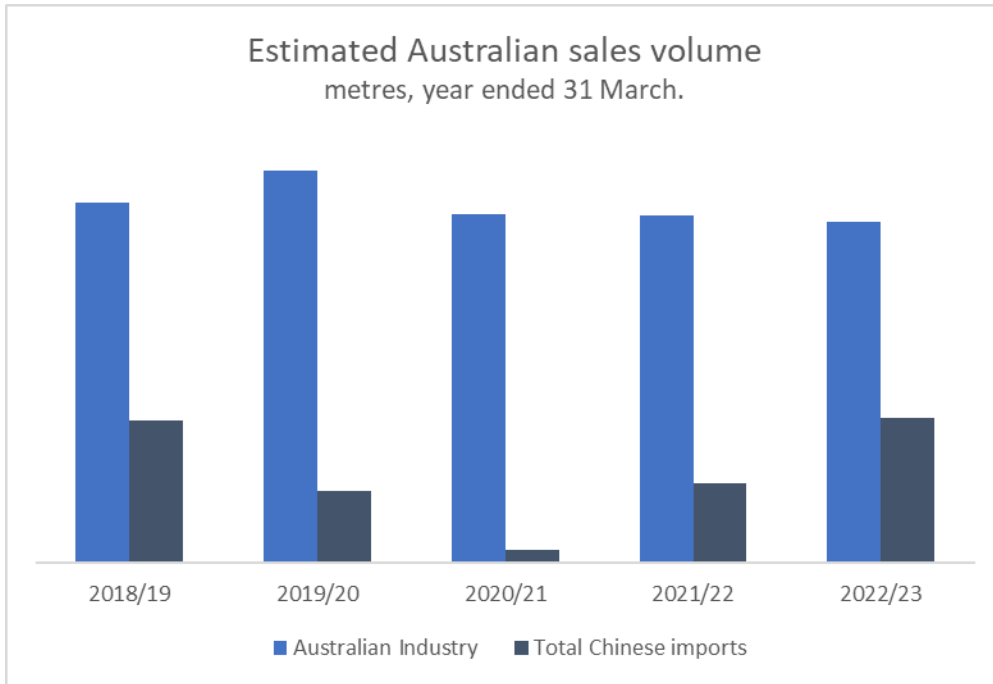


Figure 13: Total estimated Australian sales by country source

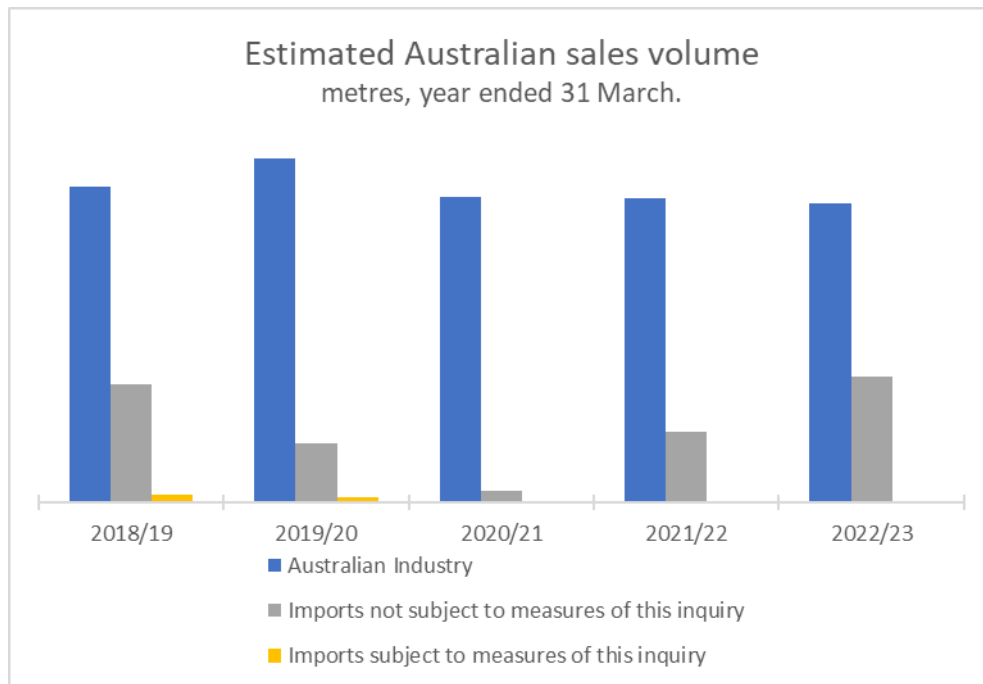


Figure 14: Total estimated Australian sales volume by dumping measures, and key dates of application of measures

As noted in section 2.3.1, while Guilin continues to export under separate measures, exports by other Chinese manufacturers have significantly reduced as shown in Figure 14. The commission expects that, should the measures expire, it is likely that Chinese exporters will endeavour to recapture this lost market share at the expense of the Australian industry.

8.7.3 Profit and profitability analysis

The commission expects that should the measures expire, it is likely that the Australian industry will come under pricing pressure from increased export volumes from Chinese suppliers, which may lead to lost market share and higher unit fixed costs. It is also likely that Australian industry will face price competition from lower priced Chinese imports in the price-sensitive Australian market.

Increased volume and price competition would compel Australian industry to take one of two actions:

- maintain price levels at the expense of market share, further compounding volume losses and increasing unit fixed costs, or
- match price levels to remain competitive with dumped imports and maintain market share at the expense of profitability.

As outlined in sections 8.7.1 and 8.7.2, the commission is of the view that should the measures expire, the Australian industry would likely experience loss of market share and price undercutting as a result of dumped and subsidised imports.

The commission therefore considers within the context that the measures are allowed to expire, the likely continuation of dumping and subsidisation with respect to exports of the goods to Australia from China would be likely to lead to a continuation of material injury to the Australian industry.

8.7.4 Submissions regarding price undercutting

Prysmian and Nexans provided submissions⁶⁵ where they contend that Figure 11 indicates Jiangsu Etern/WWC are able to compete in the Australian market and undercut Australian industry at prices inclusive of the current measures. They contend that the fixed rate of dumping duty of 11.8% proposed for Jiangsu Etern in SEF 626 would lead to duty-inclusive price undercutting and material injury.⁶⁶

Commission's response

The commission refers to the analysis in section 8.7.1 where the price of imports from Jiangsu Etern via WWC, on both a duty inclusive and exclusive basis were a factor in the price-competitive market for PVC flat electric cables. The commission found the price of imports from Jiangsu Etern during the inquiry resulted in the price of its goods undercutting the price of Australian industry's like goods absent of any anti-dumping duty. Inclusive of anti-dumping duty, the price of imports from Jiangsu Etern was comparable to the Australian industry but price undercutting was not fully eliminated. The commission considers these prices observations are relevant to the recommendation that measures should not be allowed to expire.

The commission's analysis of price undercutting reflects, among other things, the current rate of duty payable on imports supplied by Jiangsu Etern. This current combined rate of duty applicable to Jiangsu Etern is 22.0%. The commission has determined that the

⁶⁵ EPR 626, document nos [18](#) and [19](#).

⁶⁶ SEF 626, section 9.3.1, Table 13 refers.

PUBLIC RECORD

dumping and subsidy margins applicable to Jiangsu Etern's exports in the inquiry period result in a combined rate of duty of 23.2%. However, after having regard to the lesser duty rule and the value of the NIP, the effective rate of duty for Jiangsu Etern reduces to 11.9%. The commissioner's approach to the NIP is outlined in section 9.3. Considering the duty exclusive and inclusive prices depicted in Figure 11, the injurious effects of dumping and subsidisation will be addressed to the extent that the anti-dumping measures have been determined according to the Act.

9 NON-INJURIOUS PRICE

9.1 Finding

The commission, having regard to the available information, has determined that the non-injurious price (NIP) has changed for PVC flat electric cables.

The commission calculated that the NIP is less than the normal value for Jiangsu Etern. The Commissioner therefore recommends that the NIP be the operative measure for all exports of PVC flat electric cables from China by Jiangsu Etern, and that any IDD payable be calculated by reference to the lesser duty rule.

For Nanyang and uncooperative and all other exporters, the commission found that the NIP is above the sum of the export price and total interim duty payable. Therefore, the NIP is not the operative measure.

The Commission's calculation of the NIP is contained in **Confidential Attachment 13 – Non-injurious price**.

9.2 Framework

9.2.1 The NIP

The NIP is defined in subsection 269TACA as the minimum price necessary to prevent the injury or a recurrence of the injury caused by the dumping. The NIP is a variable factor relevant to determining duty payable under the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act).

The legislation does not prescribe a calculation method for the NIP. The commission generally derives the NIP by:

- establishing an unsuppressed selling price (USP), being a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping (see below), then
- deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia from the USP. The deductions normally include overseas freight, insurance, into store costs and amounts for importer expenses and profit.

The unsuppressed selling price

The Manual provides a hierarchy of options for establishing a USP:⁶⁷

- the Australian industry's price or market approach in a period unaffected by dumping
- the constructed approach, using the Australian industry's CTMS data and a reasonable amount for profit

⁶⁷ [The Manual](#), pages 106–109.

PUBLIC RECORD

- the price or market approach for imports that were found not to have been dumped.

9.2.2 The lesser duty rule

Where the Minister is required to determine the IDD, section 8(5B) of the Dumping Duty Act applies. Where the Minister is required to determine both IDD and ICD, sections 8(5BA) and 10(3D) of the Dumping Duty Act apply.

Sections 8(5B), 8(5BA) and 10(3D) require the Minister to have regard to the 'lesser duty rule' when determining the IDD and ICD payable. In relation to a dumping duty notice, the lesser duty rule requires consideration of whether the NIP is less than the normal value of the goods. In respect of concurrent dumping and countervailing duty notices, the lesser duty rule requires the Minister to consider the desirability of fixing a lesser amount of duty such that the sum of the export price (of the goods ascertained for the purposes of the notices), the IDD and the ICD, do not exceed the NIP.

However, under sections 8(5BAAA) and 10(3DA) of the Dumping Duty Act, the Minister is not required to have regard to the lesser duty rule if:

- the normal value of the goods was not ascertained under section 269TAC(1) because of the operation of section 269TAC(2)(a)(ii), or
- there is an Australian industry in respect of like goods that consists of at least 2 small-medium enterprises, whether or not that industry consists of other enterprises, or
- if a countervailable subsidy has been received from a country that has not complied with Article 25 of the WTO Agreement on Subsidies and Countervailing Measures for the compliance period.

Where any of the above exceptions apply, the Minister's consideration of the lesser duty rule is not mandatory, but the Minister may still wish to exercise their discretion to do so.

9.3 Commission's approach and findings

The commission has calculated the NIP using the same method adopted in REP 469. The commission has found that the normal value of the goods exported by Jiangsu Etern exceeds the NIP, and therefore recommends that the Minister have regard to the lesser duty rule.

9.3.1 Approach in the original investigation

In REP 469, the commission established the NIP by reference to a USP equal to the Australian industry's weighted average CTMS for the like goods, plus an amount of profit Prysmian realised from the sale of a 1.5 mm² twin core and earth PVC flat electric cable product, which the commission considers a part of the same general category of goods.

The commission, having established the USP, reviewed the importation costs of one of the main importers in the investigation and calculated the NIP by deducting that importer's costs necessarily incurred in getting the goods from the FOB point at export and selling them in the Australian market, and an amount for importer profit.

9.3.2 Commissioner's assessment of NIP and USP

For the purpose of this inquiry, the commission has calculated a revised NIP for China by having regard to:

- the approach used to calculate the NIP in REP 469
- a USP based on the Australian industry's monthly weighted average CTMS plus a reasonable amount of profit over the inquiry period
- WWC's SG&A expenses and the expenses incurred in bringing the goods from the FOB export point.

Section 24.2 of the Manual states that the commission will not depart from the approach taken in the original investigation or a previous review, unless there has been a change in circumstances that either makes the earlier USP approach unreasonable, or less preferred among other available options. Accordingly, the commission has adopted the same approach to calculate the Australian industry's weighted average CTMS for the like goods in the inquiry period, and has applied the same level of profit that was used in REP 469.

In calculating the NIP, the commission has used WWC's post-importation costs, including its SG&A, plus any applicable marine insurance, ocean freight and duties payable. WWC's sales of the goods were found to be unprofitable in the inquiry period. Therefore, the commission has applied a nil rate of profit for WWC.

9.3.3 Application of the lesser duty rule

Jiangsu Etern

For the rate of duties relating to Jiangsu Etern, the commission compared the NIP to the sum of the ascertained export price, interim dumping duty and interim countervailing duty and found that the NIP is the lower of the two. Therefore, having regard to the lesser duty rule, the commission finds that the NIP ought to be the operative measure and recommends that the level of interim duty be set so that the sum of the ascertained export price of the goods and the total interim duty payable does not exceed the NIP.

Nanyang and all other exporters (excluding Jiangsu Etern and Guilin)

For the rate of duties relating to Nanyang and uncooperative and all other exporters covered by the measures of this inquiry (excluding Jiangsu Etern and Guilin), the commission calculated export prices adjusted for the increase in copper price and Chinese inflation (as noted in 6.4.1). The commission compared the NIP to the sum of the ascertained export price, IDD and ICD for Nanyang and for uncooperative and all other exporters, and found that the NIP was higher. Therefore, under the lesser duty rule the NIP will no longer be the operative measure with respect to Nanyang and uncooperative and all other exporters (excluding Jiangsu Etern and Guilin).

10 FORM OF MEASURES

10.1 Findings and recommendations

The Commissioner recommends the IDD payable on PVC flat electric cables exported from China should be calculated using the current method applied to the measures, which is the combination duty method in respect to IDD, and calculated as a proportion of the export price in respect to ICD.

10.2 Legislative framework

The *Customs Tariff (Anti-Dumping) Regulation 2013* prescribes the methods available to the Minister for working out IDD payable. The methods are:

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

These forms of dumping duty all have the purpose of removing the injurious effects of dumping and subsidisation. However, in achieving this purpose, certain forms of duty will better suit particular circumstances than others. More detail on the nature and operation of the various forms of duty are contained in the *Guidelines on the Application of Forms of Dumping Duty November 2013*.⁶⁸

10.3 Form of measures and effective rates of duty

10.3.1 Form of measures

The commission considers the IDD payable on PVC flat electric cables exported from China should be calculated using the current method applied to the measures, which is the combination duty method in respect to IDD and calculated as a proportion of the export price in respect to ICD.

The commission notes that it has not received any submissions requesting to change the method used to calculate IDD and ICD.

10.3.2 Submission regarding the form of measures

In their submissions received 21 February 2024, Prysmian and Nexans supported the interim recommendation of SEF 626 to continue to impose the combination method form of measure. They noted that SEF 626 also recommends changes to Nanyang and uncooperative and all other exporters' variable factors, but queried whether the amended notice would also reflect any adjustment to the variable component of the measures.

⁶⁸ Available [here](#) on the Commission's website.

Commission’s response:

Where the combination method of duties is used, the total interim dumping duty (IDD) liability is calculated as follows:

- fixed component of IDD: dumping export price (DXP, being the actual export price of exported goods) or ascertained export price (AEP, being the export price determined in this inquiry), whichever is the greatest, multiplied by the applicable IDD ad valorem duty rate; *plus*
- variable component of IDD: the amount, if any, by which the DXP is lower than the AEP.

Because the commission has altered the AEP applicable to Nanyang and uncooperative and all other exporters (as per sections 6.4.1 and 6.5.1), the variable component of IDD payable on imports from these entities will be based on the difference between the AEP as varied by this inquiry and the export price declared for imports of the goods.

The commission further notes that the AEP determined for Nanyang and uncooperative and all other exporters in this inquiry represents an increase to the AEP determined for these entities in the original investigation.

10.3.3 Effective rate of duty

If the recommendations of this report are adopted, the rates of interim duties in relation to the goods exported from China are calculated at the rates specified in Table 18.

As outlined in Chapter 6, new variable factors have been determined for all exporters.

The effective rates of duty for uncooperative and all other exporters includes an adjustment to the IDD, discussed in chapter 12.5 of REP 469. The commission has applied this adjustment to this inquiry to avoid double counting the effects of the provision of copper at less than adequate remuneration in the subsidy margin calculation.

Exporter	Effective IDD rate	IDD duty method	Effective ICD rate	ICD duty method	Total effective rate of duties
Jiangsu Etern	11.8%	Combination	0.1%	Ad valorem	11.9%
Nanyang	31.8%	Combination	0.0%	Ad valorem	31.8%
Uncooperative and all other exporters	29.1%	Combination	3.3%	Ad valorem	32.4%

Table 18: Effective rates of duty

10.3.4 Submissions on effective rate of duty

Nanyang and NAN has noted in their submission⁶⁹ that Jiangsu Etern has received a lesser rate of duty even while subject to the higher effective duty rate for uncooperative and all other exporters under ADN 2019/047, and that Guilin operates under a lower duty rate.

⁶⁹ EPR 626, document no [16/17](#).

PUBLIC RECORD

Commission's response:

Section 6.4.1 outlines the approach the commission used to determine Nanyang's variable factors. On the basis that Nanyang did not export the goods to Australia, or reported any domestic sales of like goods during the inquiry period, it was necessary for the commission to rely on other relevant information. This has produced the effective rate of duty for Nanyang outlined in Table 18.

11 RECOMMENDATIONS

In accordance with subsection 269ZHF(2), the Commissioner is satisfied that the expiration of the anti-dumping measures applicable to PVC flat electric cables exported to Australia from China would lead, or would be likely to lead, to a recurrence of the dumping and subsidisation and the material injury the anti-dumping measures are intended to prevent.

The Commissioner recommends that the Minister **declare**:

- in accordance with subsection 269ZHG(1)(b), that he has decided to secure the continuation of the anti-dumping measures concerned.

The Commissioner recommends that the Minister be **satisfied**:

- in accordance with subsection 269TACD(1), that countervailable subsidies have been received in respect of PVC flat electric cables exported by Jiangsu Etern Electric Co Ltd, and non-cooperating entities.

The Commissioner recommends that the Minister **determine**:

- in accordance with subsection 269ZHG(4)(a)(iii), that the dumping duty and countervailing duty notice continues in force after 14 May 2024 but that, after 14 May 2024, the notice has effect as if different variable factors, as set out in Confidential Attachments 3, 4, 7, 8, 9, 10 and 13, had been fixed relevant to the determination of duty.
- having had regard to subsections 269TAAC(2) and (3), and in accordance with subsections 269TAAC(4) and (5), that all subsidies listed in section 7.3.3 are specific.
- being satisfied that subsection 269TAB(1)(a) applies, that the export price for goods exported to Australia from China by Jiangsu Etern Electric Co Ltd made directly to the Australian customer is the price paid or payable for the goods by the importer, other than any part of that price that represents a charge in respect of any other matter arising after exportation, as set out in section 6.3.2 and Confidential Attachment 3.
- in accordance with subsection 269TAB(1)(c), having regard to all the circumstances of the exportation of PVC flat electric cables from China to Australia by Jiangsu Etern Electric Co Ltd made indirectly to the Australian customer through the customer's intermediary, that the export price is set out in section 6.3.2 and Confidential Attachment 3.
- in accordance with subsection 269TAB(3), having regard to all relevant information, that the export price for PVC electric cables exported to Australia from China by Nanyang and all other exporters, excluding Jiangsu Etern Electric Co Ltd and Guilin International Wire & Cable Co Ltd and its related party entities, are as set out in sections 6.4.1, 6.5.1 and Confidential Attachments 7 and 8.
- in accordance with subsection 269TAC(2)(c), that the normal value of PVC flat

PUBLIC RECORD

electric cables exported from China by Jiangsu Etern Electric Co Ltd is the sum of:

- the cost of production or manufacture of PVC flat electric cables in China as set out in section 6.3.3 and Confidential Attachment 4 and
- on the assumption that PVC flat electric cables, instead of being exported, had been sold for home consumption in the ordinary course of trade in China, the administrative, selling and general costs associated with the sale and the profit on that sale as set out in section 6.3.3 and Confidential Attachment 4 of REP 626

as adjusted in accordance with subsection 269TAC(9), as set out in section 6.3.3 and Confidential Attachment 4, to ensure that the normal value of the goods so ascertained is properly comparable with the export price of the goods.

- in accordance with subsection 269TAC(6), having regard to all relevant information, that the normal value of PVC flat electric cables exported from China by Nanyang and all other exporters, excluding Jiangsu Etern Electric Co Ltd and Guilin International Wire & Cable Co Ltd and its related party entities, is as set out in sections 6.4.1, 6.5.1, and Confidential Attachments 7 and 8.
- having applied subsection 269TACB(2)(a) and in accordance with subsections 269TACB(1) and (4), that the PVC flat electric cables exported to Australia from China are taken to have been dumped, and the dumping margins for Jiangsu Etern Electric Co Ltd, in respect of those goods is the difference between the weighted average export prices of the PVC electric cables over 1 April 2022 to 31 March 2023 and the weighted average of corresponding normal values over that period as set out in section 6.3.4 and Confidential Attachment 5.
- in accordance with subsection 269TACC(1) that, having regard to all relevant information and subsections 269TACC(2) and (3), the financial contributions provided under the countervailable subsidies identified in in section 7.3.3 have conferred a benefit.
- in accordance with subsection 269TACD(1), that the amount of countervailable subsidy received in respect of PVC flat electric cables by Jiangsu Etern Electric Co Ltd, expressed as a percentage of the ascertained export price, is 0.1 per cent.
- in accordance with subsection 269TACD(1), that the amount of countervailable subsidy received in respect of PVC flat electric cables by Nanyang Cable (Tianjin) Co Ltd, expressed as a percentage of the ascertained export price, is 0.0 per cent.
- in accordance with subsection 269TACD(1), that the amount of countervailable subsidy received in respect of PVC flat electric cables from China by uncooperative and all other exporters, excluding Jiangsu Etern Electric Co Ltd, Nanyang Cable (Tianjin) Co Ltd, and Guilin International Wire & Cable Co., Ltd and its related party entities, expressed as a percentage of the ascertained export price, is 3.3 per cent.

12 APPENDICES AND ATTACHMENTS

Appendix A	Assessment of alleged subsidy programs – China
Confidential Attachment 1	Market size and share
Confidential Attachment 2	Prysmian and Nexans economic condition and other injury factors
Confidential Attachment 3	Jiangsu Etern export price
Confidential Attachment 4	Jiangsu Etern normal value
Confidential Attachment 5	Jiangsu Etern dumping margin
Confidential Attachment 6	Jiangsu Etern subsidy margin
Confidential Attachment 7	Nanyang export price, normal value and dumping margin
Confidential Attachment 8	Uncooperative and all other exporters export price, normal value and dumping margin
Confidential Attachment 9	Nanyang subsidy margin
Confidential Attachment 10	Uncooperative and all other exporters subsidy margin
Confidential Attachment 11	Other exporter prices
Confidential Attachment 12	Price undercutting analysis
Confidential Attachment 13	Non-injurious price

APPENDIX A: ASSESSMENT OF ALLEGED SUBSIDY PROGRAMS – CHINA

A1 Introduction

The commission has reviewed the alleged subsidy programs applicable to PVC flat electric cables.

- Section A3 of Appendix A assesses the existing programs there were identified in REP 469.
- Section A4 assesses additional programs that were identified from information received from cooperating exporters in this inquiry.

A2 Definition of Government, public and private bodies

In its assessment of each program, the commission has had regard to the entity responsible for providing the financial contribution (if any) under the relevant program, as part of the test under section 269T(1) for determining whether a financial contribution is a subsidy. Under section 269T(1), for a contribution to be a subsidy, the contribution must have been made by:

- a government of the country of export or country of origin of the goods, or
- a public body of that country or a public body of which that government is a member, or
- a private body entrusted or directed by that government or public body to carry out a governmental function.

A2.1 Government

As described in section 16.2 of the Manual, the commission considers that the term 'government' is taken to include government at all different levels, including at a national and sub-national level.

A2.2 Public bodies

The term 'public body' is not defined in the Act. Determining whether an entity is a 'public body' requires evaluation of all available evidence of the entity's features and its relationship with government, including the following:

- The objectives and functions performed by the body and whether the entity in question is pursuing public policy objectives. In this regard relevant factors include:
 - legislation and other legal instruments
 - the degree of separation and independence of the entity from a government, including the appointment of directors and
 - the contribution that an entity makes to the pursuit of government policies or interests, such as considering national or regional economic interests and the promotion of social objectives.
- The body's ownership and management structure, such as whether the body is wholly-or part-owned by the government or whether the government has a majority

PUBLIC RECORD

of shares in the body. A finding that a body is a public body may be supported through:

- the government's ability to make appointments
- the right of government to review results and determine the body's objectives and
- the government's involvement in investment or business decisions.

The commission considers this approach is consistent with the WTO Appellate Body decision of *United States – Countervailing Measures (China)*.⁷⁰ In that case the Appellate body referred to the following 3 indicia which may assist in assessing whether an entity was a public body vested with, or exercising, government authority:

- Where a statute or other legal instrument expressly vests government authority in the entity concerned
- Where there is evidence that an entity is, in fact, exercising governmental functions
- Where there is evidence that a government exercises meaningful control over an entity and exercises governmental authority in the performance of government functions.

These principles have also previously been considered in the Federal Court of Australia.⁷¹

A2.3 Private bodies

Where an entity is neither a government nor public body, the commission will consider it a private body, in which case, a government direction to make a financial contribution in respect of the goods must be established in order for the contribution to be considered a subsidy, as defined by section 269T(1).

Pursuant to section 16.3 of the Manual, in determining the character of an entity which may have provided a financial contribution, the commission will consider whether a private body has been:

- 'entrusted' to carry out a government function, which occurs when a government gives responsibility to a private body
- 'directed' to carry out a government function, which occurs in situations where the government exercises its authority over a private body.

Accordingly, not all government acts will be considered as entrusting or directing a private body. Encouragement or mere policy announcements by government, of themselves, are not sufficient to satisfy this test. However, threats and inducements may be evidence of entrustment or inducements. It is where the private body is considered a proxy by government to give effect to financial contributions that this test will be satisfied.

⁷⁰ DS379 United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China.

⁷¹ See *Panasia Aluminium (China) Limited v Attorney-General of the Commonwealth* [2013] FCA 870, [27] - [70] *Dalian Steelforce Hi Tech Co Ltd V Minister for Home Affairs* [2015] FCA 885, [50] - [73].

A3 Assessment of existing programs

In REP 469, the commission investigated and found 42 subsidy programs applicable to the PVC flat electric cables exported from China, of which 10 were deemed to be countervailable in relation to the goods⁷².

For this inquiry, the commission has reviewed the information submitted by the co-operating exporters of this inquiry and conducted further research with respect to these countervailable programs. The commission also invited the GOC to complete a questionnaire regarding subsidies. The commission did not receive a response from the GOC.

Based on the available information, the commission did not find any evidence that these programs have ceased. As such, the commission considers that no new information has been provided that would warrant a reconsideration of the determinations made in the previous investigation, and has therefore maintained its position that these programs are countervailable.

Program Number	Program Name	Countervailable subsidy received (Yes/No)
1	Copper provided by Government at less than adequate remuneration	Yes
5	Preferential Tax Policies for High and New Technology Enterprises	Yes
6	Preferential Tax Policies in Western Regions	No
7	Land Use Deduction	No
8	Tariff and VAT Exemptions on Imported Materials and Equipment	No
9	VAT refund on comprehensive utilization of resources	No
10	One-time Awards to Enterprises Whose Products Qualify for “Well-Known Trademarks of China” and “Famous Brands of China”	No
11	Matching Funds for International Market Development for small and medium size enterprises (SMEs)	No
12	Superstar Enterprise Grant	No
13	Research and Development (R&D) Assistance Grant	No
14	Patent Award of Guangdong Province	No
15	Innovative Experimental Enterprise Grant	No
16	Special Support Fund for Non-State-Owned Enterprises	No
17	Venture Investment Fund of Hi-Tech Industry	No
18	Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment	No
19	Grant for Key Enterprises in Equipment Manufacturing Industry of Zhongshan	No
20	Water Conservancy Fund Deduction	No
21	Wuxing District Freight Assistance	No

⁷² REP 469 at section 7.4.4 refers.

PUBLIC RECORD

Program Number	Program Name	Countervailable subsidy received (Yes/No)
22	Huzhou City Public Listing Grant	No
23	Huzhou City Quality Award	No
24	Huzhou Industry Enterprise Transformation & Upgrade Development Fund	No
25	Wuxing District Public List Grant	No
26	Anti-dumping Respondent Assistance	No
27	Technology Project Assistance	Yes
28	Transformation technique grant for rolling machine	No
29	Grant for Industrial enterprise energy management - centre construction demonstration project Year 2009	No
30	Key industry revitalization infrastructure spending in 2010	No
31	Provincial emerging industry and key industry development special fund	No
32	Environmental protection grant	Yes
33	Environmental Protection Fund	No
34	Intellectual property licensing	No
35	Financial resources construction - special fund	No
36	Reducing pollution discharging and environment improvement assessment award	Yes
37	Grant for elimination of outdated capacity	No
38	Grant from Technology Bureau	Yes
39	High and New technology Enterprise Grant	No
40	Independent Innovation and High-Tech Industrialization Program	Yes
41	Environmental Prize	No
42	Jinzhou District Research and Development Assistance Program	No
43	Export credit insurance subsidy	Yes
44	Subsidy for production equipment digitization and information updates for exports of electric wires & cables	Yes
45	Subsidy for current fund loans	Yes

Table 19: Summary of the commission's findings for countervailable programs for REP 469

PUBLIC RECORD

A4 Assessment of new programs

#	Program description	Background and WTO notification	Legal basis	Eligibility criteria	Is there a subsidy?	Is the subsidy countervailable?
46	Wujiang District, Suzhou City, for Stable Employment and Return in 2022 (I)	<p>It is alleged that the exporters of the goods have benefited from Wujiang District Stable Employment and Return grant on 23/05/2022.</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>The commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOC document has been identified that provides for its establishment).</p>	<p>Granted to specific businesses and appears to be specific to a local geographic area.</p> <p>The commission became aware of this program during verification of Jiangsu Etern's audited financial statements, but did not receive any further documentation about this program. Based on the information available, the commission considers since the grant appeared in the company's financial statement, the eligibility criteria were met.</p>	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including the goods under consideration).</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of PVC flat electrical cables due to receipt of funds from the GOC.</p> <p>Where exporters of PVC flat electrical cables during the investigation period received grants under this program, this would therefore confer a benefit in relation to the goods, and these financial contributions would meet the definition of a subsidy under section 269T.</p>	<p>As provided for in subsection 269TAAC(2)(a) a subsidy is specific if access to the subsidy is explicitly limited by law to particular enterprises.</p> <p>Based on the criteria or conditions providing access to the subsidies favours particular enterprises over all other enterprises in China, the specificity of these subsidies is not excepted by reference to subsection 269TAAC(3).</p> <p>The Commission therefore considers this grant program to be specific.</p>

PUBLIC RECORD

#	Program description	Background and WTO notification	Legal basis	Eligibility criteria	Is there a subsidy?	Is the subsidy countervailable?
47	2021 Wujiang District Industrial High-Quality Development Fund (1st Batch) Suzhou Municipal Enterprise Technology Centre	It is alleged that the exporters of the goods have benefited from a Wujiang District development fund (1 st batch) on 20/09/2022. The commission is not aware of any WTO notification of this program.	The commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOC document has been identified that provides for its establishment).	Granted to certain businesses, related to an industry that broadly includes GUC and like goods. The commission became aware of this program during verification of Jiangsu Etern's audited financial statements, but did not receive any further documentation about this program. Based on the information available, the commission considers since the grant appeared in the company's financial statement, the eligibility criteria were met.	Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including the goods under consideration). This financial contribution is considered to confer a benefit to recipient manufacturers of PVC flat electrical cables due to receipt of funds from the GOC. Where exporters of PVC flat electrical cables during the investigation period received grants under this program, this would therefore confer a benefit in relation to the goods, and these financial contributions would meet the definition of a subsidy under section 269T.	As provided for in subsection 269TAAC(2)(a) a subsidy is specific if access to the subsidy is explicitly limited by law to particular enterprises. Based on the criteria or conditions providing access to the subsidies favours particular enterprises over all other enterprises in China, the specificity of these subsidies is not excepted by reference to subsection 269TAAC(3). The Commission therefore considers this grant program to be specific.

PUBLIC RECORD

#	Program description	Background and WTO notification	Legal basis	Eligibility criteria	Is there a subsidy?	Is the subsidy countervailable?
48	Survey on Enterprises' Retention and Return to Work During The 2022 Spring Festival	It is alleged that the exporters of the goods have benefited from a regional initiative to boost productivity in selected industries on 28/11/2022. The commission is not aware of any WTO notification of this program.	The commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOC document has been identified that provides for its establishment).	Initiative to encourage workers not to travel during holiday period, to boost productivity in certain industries and local areas. The commission became aware of this program during verification of Jiangsu Etern's audited financial statements, but did not receive any further documentation about this program. Based on the information available, the commission considers since the grant appeared in the company's financial statement, the eligibility criteria were met.	Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including the goods under consideration). This financial contribution is considered to confer a benefit to recipient manufacturers of PVC flat electrical cables due to receipt of funds from the GOC. Where exporters of PVC flat electrical cables during the investigation period received grants under this program, this would therefore confer a benefit in relation to the goods, and these financial contributions would meet the definition of a subsidy under section 269T.	As provided for in subsection 269TAAC(2)(a) a subsidy is specific if access to the subsidy is explicitly limited by law to particular enterprises. Based on the criteria or conditions providing access to the subsidies favours particular enterprises over all other enterprises in China, the specificity of these subsidies is not excepted by reference to subsection 269TAAC(3). The Commission therefore considers this grant program to be specific.

PUBLIC RECORD

#	Program description	Background and WTO notification	Legal basis	Eligibility criteria	Is there a subsidy?	Is the subsidy countervailable?
49	Employment Subsidy Fund	<p>It is alleged that the exporters of the goods have benefited from a targeted employment subsidy fund on 28/11/2022.</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>The commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOC document has been identified that provides for its establishment).</p>	<p>The commission became aware of this program during verification of Jiangsu Etern's audited financial statements, but did not receive any further documentation about this program. Based on the information available, the commission considers since the grant appeared in the company's financial statement, the eligibility criteria were met.</p>	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including the goods under consideration).</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of PVC flat electrical cables due to receipt of funds from the GOC.</p> <p>Where exporters of PVC flat electrical cables during the investigation period received grants under this program, this would therefore confer a benefit in relation to the goods, and these financial contributions would meet the definition of a subsidy under section 269T.</p>	<p>As provided for in subsection 269TAAC(2)(a) a subsidy is specific if access to the subsidy is explicitly limited by law to particular enterprises. Based on the criteria or conditions providing access to the subsidies favours particular enterprises over all other enterprises in China, the specificity of these subsidies is not excepted by reference to subsection 269TAAC(3). The Commission therefore considers this grant program to be specific.</p>

PUBLIC RECORD

#	Program description	Background and WTO notification	Legal basis	Eligibility criteria	Is there a subsidy?	Is the subsidy countervailable?
50	Subsidy for Science and Technology Insurance Premiums 2022, 23rd Batch of Science and Technology Development Plan (Science and Technology Finance Special) - project funds in Suzhou City	<p>It is alleged that the exporters of the goods have benefited from an insurance premium subsidy provided by a regional science and technology development plan on 26/12/2022.</p> <p>The commission is not aware of any WTO notification of this program.</p>	The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOC document has been identified that provides for its establishment).	<p>Specific to science/technology organisations and Suzhou location.</p> <p>The commission became aware of this program during verification of Jiangsu Etern's audited financial statements, but did not receive any further documentation about this program. Based on the information available, the commission considers since the grant appeared in the company's financial statement, the eligibility criteria were met.</p>	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including the goods under consideration).</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of PVC flat electrical cables due to receipt of funds from the GOC.</p> <p>Where exporters of PVC flat electrical cables during the investigation period received grants under this program, this would therefore confer a benefit in relation to the goods, and these financial contributions would meet the definition of a subsidy under section 269T.</p>	<p>As provided for in subsection 269TAAC(2)(a) a subsidy is specific if access to the subsidy is explicitly limited by law to particular enterprises. Based on the criteria or conditions providing access to the subsidies favours particular enterprises over all other enterprises in China, the specificity of these subsidies is not excepted by reference to subsection 269TAAC(3). The Commission therefore considers this grant program to be specific.</p>

PUBLIC RECORD

#	Program description	Background and WTO notification	Legal basis	Eligibility criteria	Is there a subsidy?	Is the subsidy countervailable?
51	Subsidy for High-Technology Enterprises	<p>It is alleged that the exporters of the goods have benefited from an industry targeted subsidy provided by a regional science and technology development plan on 23/02/2023.</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOC document has been identified that provides for its establishment).</p>	<p>Relates to specific industry. The commission became aware of this program during verification of Jiangsu Etern's audited financial statements, but did not receive any further documentation about this program. Based on the information available, the commission considers since the grant appeared in the company's financial statement, the eligibility criteria were met.</p>	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including the goods under consideration). This financial contribution is considered to confer a benefit to recipient manufacturers of PVC flat electrical cables due to receipt of funds from the GOC.</p> <p>Where exporters of PVC flat electrical cables during the investigation period received grants under this program, this would therefore confer a benefit in relation to the goods, and these financial contributions would meet the definition of a subsidy under section 269T.</p>	<p>As provided for in subsection 269TAAC(2)(a) a subsidy is specific if access to the subsidy is explicitly limited by law to particular enterprises. Based on the criteria or conditions providing access to the subsidies favours particular enterprises over all other enterprises in China, the specificity of these subsidies is not excepted by reference to subsection 269TAAC(3). The Commission therefore considers this grant program to be specific.</p>

PUBLIC RECORD

#	Program description	Background and WTO notification	Legal basis	Eligibility criteria	Is there a subsidy?	Is the subsidy countervailable?
52	Suzhou Government Subsidy for High-Quality Policy Industries	<p>It is alleged that the exporters of the goods have benefited from a subsidy provided by the Suzhou Government on 23/02/2023.</p> <p>The commission is not aware of any WTO notification of this program.</p>	<p>The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOC document has been identified that provides for its establishment).</p>	<p>Relates to specific industry and specific location.</p> <p>The commission became aware of this program during verification of Jiangsu Etern's audited financial statements, but did not receive any further documentation about this program. Based on the information available, the commission considers since the grant appeared in the company's financial statement, the eligibility criteria were met.</p>	<p>Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including the goods under consideration).</p> <p>This financial contribution is considered to confer a benefit to recipient manufacturers of PVC flat electrical cables due to receipt of funds from the GOC.</p> <p>Where exporters of PVC flat electrical cables during the investigation period received grants under this program, this would therefore confer a benefit in relation to the goods, and these financial contributions would meet the definition of a subsidy under section 269T.</p>	<p>As provided for in subsection 269TAAC(2)(a) a subsidy is specific if access to the subsidy is explicitly limited by law to particular enterprises. Based on the criteria or conditions providing access to the subsidies favours particular enterprises over all other enterprises in China, the specificity of these subsidies is not excepted by reference to subsection 269TAAC(3). The Commission therefore considers this grant program to be specific.</p>

PUBLIC RECORD

#	Program description	Background and WTO notification	Legal basis	Eligibility criteria	Is there a subsidy?	Is the subsidy countervailable?
53	One-Time Job Retention Subsidy 2022	It is alleged that the exporters of the goods have benefited from a targeted job retention subsidy on 2/03/2023. The commission is not aware of any WTO notification of this program.	The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOC document has been identified that provides for its establishment).	The commission became aware of this program during verification of Jiangsu Etern's audited financial statements, but did not receive any further documentation about this program. Based on the information available, the commission considers since the grant appeared in the company's financial statement, the eligibility criteria were met.	Due to the nature of this grant, and in light of the limited information available, it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including the goods under consideration). This financial contribution is considered to confer a benefit to recipient manufacturers of PVC flat electrical cables due to receipt of funds from the GOC. Where exporters of PVC flat electrical cables during the investigation period received grants under this program, this would therefore confer a benefit in relation to the goods, and these financial contributions would meet the definition of a subsidy under section 269T.	As provided for in subsection 269TAAC(2)(a) a subsidy is specific if access to the subsidy is explicitly limited by law to particular enterprises. Based on the criteria or conditions providing access to the subsidies favours particular enterprises over all other enterprises in China, the specificity of these subsidies is not excepted by reference to subsection 269TAAC(3). The Commission therefore considers this grant program to be specific.

Table 20: Assessment of additional programs