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Public File

Review 684 – PVC Flat Electrical Cables exported from the People's Republic of China

I. Introduction

Prysmian Australia Pty Ltd (**Prysmian**) is a manufacturer of PVC flat electrical cables (**the goods**) in Australia. Prysmian submits this response to *Statement of Essential Facts* No. 684 (**SEF 684**), published by the Anti-Dumping Commission (**the Commission**) on 7 April 2026, in relation to the review of anti-dumping measures applying to the goods exported to Australia from China by Dongguan Minxing Cables Co., Ltd (**Dongguan Minxing**).

This submission raises three concerns with the preliminary findings set out in SEF 684:

- a. that the adjustments to the normal value made under section 269TAC(8) of the *Customs Act 1901* (the **Act**) appear to be incomplete, on the basis that adjustments for packaging costs and inventory carrying costs, both of which applied in the original investigation (**INV 469**), have not been identified in SEF 684;
- b. that in constructing the unsuppressed selling price (**USP**) for the purposes of determining the non-injurious price (**NIP**), the Commission does not appear to have adjusted the selling, general and administrative (**SG&A**) and related cost data carried over from Anti-Dumping Commission Report No. 626 (**REP 626**) for movements in those costs between the REP 626 inquiry period and the current review period; and
- c. that the Commissioner's preliminary recommendation to apply the lesser duty rule — and to specify a floor price method is not appropriate in circumstances where the imposition of a lesser amount of duty is not adequate to remove the injury caused by the established dumping margin.

Prysmian requests that the Commissioner have regard to this submission in preparing the final report and recommendations to the Minister.

II. Normal value adjustments – packing and inventory carrying

Section 269TAC(8) of the Act requires the Commissioner to make such adjustments to the normal value as the Commissioner considers appropriate to ensure that the normal value is properly comparable with the export price.

SEF 684 identifies the following adjustments made to Dongguan Minxing's normal value under section 269TAC(8) (Table 10):¹

- domestic e-commerce service fees (deduction);
- domestic inland transport (deduction);
- other expenses (service fees to certain customers) (deduction);
- export inland transport (addition);
- export port handling (addition); and
- export credit terms (addition).

Packaging cost and inventory carrying cost adjustments are not included.

In INV 469, the Commission made adjustments to the normal values of *Guilian International Wire & Cable Group Co., Ltd (Guilian)* and *Nanyang Cable (Tianjin) Co., Ltd (Nanyang)* to account for differences in packaging costs between their domestic and export sales. An upward adjustment for inventory carrying costs was also applied to Guilian's normal value.² These adjustments were made on the basis that packaging and inventory-related cost differences between domestic and export channels affected the comparability of normal value to export price, consistent with section 269TAC(8).

Dongguan Minxing disclosed in its exporter questionnaire response that *...wooden plate...* is the packaging used for both domestic and export sales, and that *...There was no distinct difference...* between packing used in the two sales channels.³

However, Prysmian submits that adjustments for packaging costs (and inventory carrying costs) are well-established in Australian anti-dumping practice. Packaging requirements for domestic distribution differ from export packaging requirements; similarly, inventory holding periods may differ between domestic channel sales and the export channel, particularly where domestic customers include both end-users and wholesalers.

The absence of any reference to packaging or inventory carrying cost adjustments in SEF 684 is notable given their treatment in INV 469 for other cooperating exporters in the same goods category. If Dongguan Minxing's domestic sales involve different packaging requirements or inventory holding periods compared to its Australian export sales, an adjustment under section 269TAC(8) is warranted to ensure comparability.

The potential impact of omitting such adjustments is material. An upward adjustment to normal value for packaging costs would increase the normal value for Dongguan Minxing, potentially resulting in a dumping margin higher than the preliminary 2.5 percent finding. Similarly, an inventory carrying cost adjustment, if warranted, would affect the dumping margin calculation in the same direction.

Prysmian therefore requests that the Commissioner:

¹ SEF 684, Table 10.

² REP 469, p. 29, 38.

³ Dongguan Minxing exporter questionnaire response, EPR folio no. 5, section E-2, p. 22.

- a. confirm whether Dongguan Minxing's REQ contained information about packaging costs and inventory carrying costs applicable to its domestic and export sales;
- b. if the Commission considered a packaging cost adjustment and/or inventory carrying cost adjustment and determined that no adjustment was warranted, provide an explanation of the basis for that determination in the final report; and
- c. if these adjustments have not been considered, assess whether adjustments under section 269TAC(8) are appropriate having regard to the information provided by Dongguan Minxing and the approach adopted in REP 469.

III. Unsuppressed selling price – SG&A

The Commission's approach to calculating the USP for the purposes of the NIP is described at section 6.3.2 of SEF 684. The Commission did not obtain Australian industry cost data for the review period, and has instead adjusted the USP determined in REP 626 by reference to movements in: (a) copper raw material input prices, using London Metals Exchange (LME) copper price data; (b) PVC input prices, using published prices and inflation; and (c) exchange rates between the REP 626 inquiry period and the current review period.⁴

However, SEF 684 states that *Information for the remaining costs was obtained from verified industry data relied on in REP 626. This information was used to estimate selling, distribution & administration expenses and a reasonable rate of profit.*⁵ The SEF does not indicate whether any adjustment was made to these SG&A and distribution cost figures to account for movements in those costs between the REP 626 inquiry period and the current review period.

Prysmian submits that the Commission has adopted a selective approach to updating the components of the USP. It has updated raw material costs (highly visible, commodity-priced inputs tracked through market indices⁶) but has not applied a corresponding update to SG&A and distribution costs. These operating cost components are subject to their own cost pressures over time, including wage inflation, energy costs, and general overhead increases.

The inquiry period for REP 626 precedes the review period for the current case (1 April 2024 to 31 March 2025) by a two-year interval. Australian operating costs, including wages and non-material overheads, increased across that period, as reflected in Australian CPI movements. The failure to adjust the SG&A component for SG&A cost movements results in a USP that understates what the Australian industry would actually require in the review period to cover its costs and earn a reasonable profit.

The Commission's Dumping and Subsidy Manual provides that:

*Where it is not reasonable to use the price or market approach in establishing USP, the reasons for that position will be outlined in relevant reports. A weighted average of the most recent verified industry cost to make **and sell** (CTMS) from the current application will generally be used, with a preference for a*

⁴ SEF 684, section 6.3.2.

⁵ Ibid.

⁶ SEF 684, section 6.3.2, at footnote 26: *The commission updated the USP based on movements in the copper price because copper accounts for a significant proportion of Australian industry's raw material costs.*

*one year minimum. This allows for fluctuations for seasonal or longer cyclical trends to be taken into account. [emphasis added].*⁷

The departure from that approach, necessitated by the absence of current industry data, places greater importance on ensuring that the proxy method adopted is as accurate as possible. Selective updating of only some cost components introduces a downward bias in the USP that should be corrected.

An understated USP produces an understated NIP. This has two significant consequences:

- the Commission's preliminary finding that the NIP is less than the sum of the export price plus IDD and ICD (which triggers the lesser duty rule) depends directly on the level of the NIP. If the NIP is understated, the lesser duty rule may be engaged on an incorrect factual basis; and
- the floor price is derived from the NIP. An understated NIP means an understated floor price, which reduces the level of remedy available to the Australian domestic industry.

Prysmian therefore requests that the Commission apply an appropriate adjustment to the SG&A and distribution cost components carried over from REP 626, using Australian CPI movements or another suitable measure of domestic operating cost movement, to bring those components into alignment with the review period. Prysmian also requests that the Commission recalculate the NIP and the floor price on the basis of a correctly adjusted USP.

IV. Lesser duty rule

SEF 684 has preliminarily found a dumping margin of 2.5 percent for Dongguan Minxing. Notwithstanding this, the Commissioner has preliminarily recommended that the IDD be established using the floor price duty method only, and that interim countervailing duty (ICD) be set at 0 percent ad valorem. This recommendation is made on the basis that the NIP is less than the sum of the export price plus full IDD and ICD, and that the lesser duty rule therefore applies.

Sections 8(5B) and 8(5BA) of the *Customs Tariff (Anti-Dumping) Act 1975 (Dumping Duty Act)* require the Minister to have regard to the lesser duty rule (**LDR**) when determining IDD payable.⁸ That rule requires the Minister to consider the desirability of fixing a lesser amount of duty such that the sum of the export price, the IDD, and the ICD does not exceed the NIP.

However, the LDR does not mandate the imposition of an actual lesser duty. It requires the Minister to have regard to the desirability of fixing a lesser amount, however only where that lesser amount is adequate to remove injury.

The operative question therefore is not simply whether the mathematics of the export price plus full duty exceeds the NIP. Instead, it is whether a lesser duty is adequate to remove injury to the domestic industry caused by the dumping and subsidisation.

The shortcoming in the SEF's preliminary recommendation is that the floor price method does not impose a penalty on the dumping activity itself. The floor price method operates such that where Dongguan Minxing's

⁷ Dumping and Subsidy Manual, December 2021, p. 107.

⁸ Customs Tariff (Anti-Dumping) Act 1975, ss 8(5B) and 8(5BA) (IDD); s 10(3D) (ICD).

export price equals or exceeds the floor price, the IDD payable is nil. It is only where the export price falls below the floor price that duty is collected, as the shortfall. In circumstances where Dongguan Minxing exports at a price at or above the floor, zero IDD is collected and the domestic industry receives no duty-based remedy against the economic effects of the 2.5 percent dumping margin.⁹

Injury from dumping does not arise only when export prices fall below the NIP. A 2.5 percent dumping margin reflects that the goods are being exported to Australia at prices below their normal value. This price advantage is injurious to the domestic industry, regardless of whether the export price crosses the floor price threshold in any given export shipment. Hence, the floor price method (as applied without an ad valorem component) provides no mechanism by which the advantage conferred by dumping is offset by a duty payable by the importer.

The Commission's LDR analysis at section 7.3.2 of SEF 684¹⁰ states that the NIP was found to be lower than the sum of the ascertained export price plus full duty, and concludes that the lesser duty rule therefore applies. This analysis addresses whether the arithmetic conditions for the rule are met. It does not address the prior question of whether the resulting floor price recommendation is actually adequate to remove the injury caused by the established 2.5 percent dumping margin. This is the substantive test the rule requires the Minister to apply. At this stage of the measures, the Commission should look to CON 629 for affirmative material injury conclusions.

Furthermore, and as argued at III above, the NIP relied upon by the Commission in the LDR analysis is likely understated due to the omission to adjust the SG&A and distribution cost components of the USP for movements since the REP 626 inquiry period. An understated NIP reduces the derived floor price and distorts the LDR assessment by making it appear that full duties would exceed the NIP by a greater margin than is actually the case.

If the NIP were correctly calculated, with SG&A costs adjusted for movements between the REP 626 inquiry period and the current review period, it is possible that the sum of the export price plus full IDD and ICD does not exceed the corrected NIP, in which case the LDR would not be engaged at all, and the full dumping margin of 2.5 percent, plus a floor price, would be the appropriate IDD recommendation (as the 'Combination' duty method¹¹) without any lesser duty adjustment.

Prysmian therefore submits that the Commissioner recommend the imposition of the combination form of measures, and apply the full rate of 2.5 percent (plus floor price). To recommend a lesser amount, specifically a floor price only that imposes nil IDD whenever export prices are at or above the floor, leaves the domestic industry exposed to the economic consequence of the dumping margin in ordinary trading conditions.

This is particularly important in circumstances where the floor price is derived from a NIP that is itself likely understated (as argued in section III). The compounding of an understated NIP with a duty method that imposes nil IDD when the (understated) floor is met creates a material and cumulative gap in the protection to which the domestic industry is entitled.

For and on behalf of Prysmian.

⁹ As argued earlier in this submission, Prysmian submits that the 2.5 percent may be understated by virtue of omitted s269TAC(8) normal value adjustments.

¹⁰ SEF 684, section 7.3.2.

¹¹ See Table 5 of SEF 684 (p. 10) which details that all other exporters subject to these measures are subject to the combination duty method.