

27 August 2018

Mr Bora Akdeniz  
Case Manager  
Investigations 1  
Anti-Dumping Commission  
GPO Box 2013  
CANBERRA ACT 2601

Email: [investigations1@adcommission.gov.au](mailto:investigations1@adcommission.gov.au)

**Public File**

Dear Mr Akdeniz

**Investigation No. 469 – PVC flat electric cables exported from the People’s Republic of China – Profit in subsection 269TAC(2)(c) normal values**

I. Introduction

Prysmian Australia Pty Ltd (“Prysmian”) takes this opportunity to provide the Anti-Dumping Commission (“the Commission”) with its views as to the determination of an appropriate level of profit to be applied to constructed normal values for the Chinese exporters in Investigation No. 469 involving PVC cable exported to Australia from the People’s Republic of China (“China”).

In Investigation No. 271 the Anti-Dumping Commission (“the Commission”) found that there were no sales of like goods on the domestic market in China by the Guilin Group<sup>1</sup>. The exported goods are manufactured to AS/NZ Standard 5000.2 (the Australian Standard) and the Commission’s finding that there are no domestic sales of like goods is also likely to be concluded in this investigation.

Normal values for PVC flat electric cables produced in China were therefore determined in accordance with subsection 269TAC(2)(c) using:

- The cost to make to exported goods;
- The selling, general and administrative costs that would be incurred if the goods were sold on the domestic market in China; and
- An amount of profit on the assumption that the goods were sold in China.

Certain adjustments to the constructed normal value are also required to permit a fair comparison with the export price namely for domestic inland freight costs and inventory carrying costs).

II. Absence of domestic sales

It is understood by Prysmian there are no domestic sales of the exported goods (i.e. PVC flat electric cable manufactured in accordance with AS/NZ Standard 5000.2). The Chinese manufacturers produce similar grades of PVC electric cable, but not identical goods to the goods exported to Australia.

Normal values for the PVC flat electric cables cannot be determined under subsection 269TAC(1).

---

<sup>1</sup> In Investigation 271 the Guilin Group included Guilin International Wire & Cable Group Co., Ltd, Guilin Feilong Wire & cable Co., Ltd, Guilin Xianglong Wire & Cable Co., Ltd, Ao Ning Electric Cables Co., Ltd.

### III. Constructed normal values

In the absence of domestic sales, normal values for the Chinese exporters of PVC flat electric cable must be determined under subsection 269TAC(2)(c) using the exporter's production costs, plus amounts for selling, general and administrative costs and profit.

The Dumping and Subsidy Manual states the Commission's policy is to base the cost to make and the selling, general and administrative expenses on the information in the exporter's records "where they are kept in accordance with the generally accepted accounting principles in the country of *export*; *reasonably reflect the competitive market costs of production*; and *reasonably reflect the selling, general and administrative expenses associated with the sale of the like goods*<sup>2</sup>".

The Commission identified in the Exporter Questionnaire ("EQ") that Prysmian's application alleged that copper was sold in China at less than adequate remuneration during the investigation period. Where it is established by the Commission that copper is sold in China at artificially low prices, it may be appropriate to substitute a benchmark copper price into the Chinese exporter's production costs to reflect "competitive" costs. Prysmian anticipates that the Commission will examine the exporter's production costs in order to be satisfied that the claimed costs are consistent with generally accepted accounting principles in the country of export and accurately reflect competitive market costs (*Customs (International Obligations) Regulation 43(2) 2015*) ("Regulation 43(2)").

In respect of selling, general and administrative costs, subsection 269TAC(2)(c) requires that these expenses are "*those that would be incurred on sales in the ordinary course of trade on the domestic market*". As it is anticipated (as per Investigation No. 271) the Guilin International Wire and Cable Group ("the Guilin Group") and other Chinese exporters, including Nanyang Cable (Tianjin) Co., Ltd "Nanyang" do not produce the exported goods for sale on the domestic market, the Commission will have regard to Regulation 44(3) which includes:

- (a) *Identifying the amounts of administrative, selling and general costs incurred by the exporter or producer in the production and sale of the same general category of goods in the domestic market of the country of export; or*
- (b) *Identifying the weighted average of the actual amounts administrative, selling and general costs incurred by other exporters or producers in the production and sale of like goods in the domestic market of the country of export; or*
- (c) *Using any other reasonable method having regard to all relevant information.*

As like goods are not sold domestically in China, it may be appropriate to determine the selling, general and administrative costs in accordance with Regulation 44(3)(c) having regard to all relevant information and taking account of selling, general and administration costs incurred by the exporter in relation to its sales to Australia.

The determination of profit in a constructed normal value (in the absence of domestic sales of like goods) is made in accordance with Regulation 45(3). Profit may be determined by:

- (a) *Identifying the actual amounts realized by the exporter or producer from the sale of the same general category of goods in the domestic market of the country of export; or*
- (b) *Identifying the weighted average of the actual amounts realized by other exporters or producers from the sale of like goods in the domestic market of the country of export; or*
- (c) *Using any other reasonable method and having regard to all relevant information.*

---

<sup>2</sup> Section 9.2, Dumping and Subsidy Manual, April 2017.

The determination of profit can therefore be based upon profit achieved by the exporter in the same general category of goods, by reference to weighted average of actual amounts achieved by other exporters of like goods on the domestic market, or by any other reasonable method.

IV. Requirement for inclusion of profit

Regulation 45(3) was not operative at the time of Investigation No. 271 when the Commission determined a zero level of profit to be applied to the Guilin Group normal values.

Regulation 45 was introduced to ensure that the Commissioner had available, in the absence of determining profit on domestic sales of like goods, alternate means to determine a level of profit for inclusion in a constructed normal value under subsection 269TAC(2)(c).

Prysmian anticipates that the Commission will determine a level of profit for PVC flat wire cable for Guilin Group (and other Chinese exporters) in accordance with the 2015 Regulation 45(3)(a) by identifying the actual amounts of profit realized by the Guilin Group from the same general category of goods on the Chinese market (i.e. other types of PVC wire cable sold by the Guilin Group of companies on the Chinese domestic market). This level of profit would be included in Guilin Group's constructed normal value.

The same (or similar) methodology for the determination of profit would also be followed for other Chinese exporters of PVC flat wire cable (e.g. Nanyang).

It is imperative that a level of profit be included in the constructed normal values for Chinese exporters identified in Investigation 469. Australian industry cannot be expected to compete with dumped exports that are not fairly priced and do not permit a return on sales for reinvestment for the goods the subject of investigation.

V. Recommendation

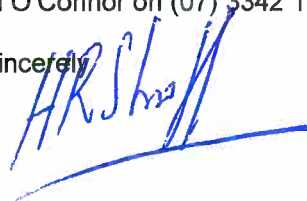
The new Customs (International Obligations) Regulations 2015 prescribe the factors the Commissioner must consider in determining the cost of production (*Regulation 43(2)*), the selling, general and administrative (*Regulation 44(3)*), and profit (*Regulation 45(3)*) for exporters where normal values are determined on a constructed basis (in accordance with subsection 269TAC(2)(c)).

The inclusion of a level of profit (Regulation 45(3)) can be made by reference to the exporters same general category of goods – i.e. similar categories of PVC wire produced and sold locally by the exporter in China.

In the absence of any information for each of the cooperative exporters the Guilin Group and Nanyang, Prysmian can assist the Commission with profit information on the same general category of goods for its operation in China, as required.

If you have any questions please do not hesitate to contact me on (02) 9600 0306 or Prysmian's representative Mr John O'Connor on (07) 3342 1921.

Yours sincerely



Hamavand Shroff  
Chief Executive Officer – Australia & New Zealand