



Customs Act 1901 – Part XVB

STATEMENT OF ESSENTIAL FACTS 469

PVC FLAT ELECTRICAL CABLES EXPORTED FROM THE PEOPLE’S REPUBLIC OF CHINA

22 February 2019

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ABBREVIATIONS

\$	Australian dollars
ABF	Australian Border Force
ACBPS	Australian Customs and Border Protection Service
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
Anti-Dumping Agreement	<i>Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994</i>
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
CTM	cost to make
CTMS	cost to make and sell
the Customs Direction	<i>Customs (Extensions of Time and Non-cooperation) Direction 2015</i>
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
Electra	Electra Cables (Aust) Pty Ltd
EPR 469	the electronic public record for this investigation
FIS	Free Into Store
FOB	Free on Board
GOC	Government of China
Guilin	Guilin International Wire & Cable Co. Ltd
the goods	the goods the subject of the application (also referred to as the goods under consideration or the imported goods)
the Guidelines	<i>Guidelines on the Application of the Form of Dumping Duty 2013</i>
ICD	interim countervailing duty
IDD	interim dumping duties
the injury analysis period	from 1 January 2014
the Injury Direction	<i>Ministerial Direction on Material Injury 2012</i>
the investigation period	1 January 2017 to 31 December 2017
LME	London Metal Exchange
LTAR	less than adequate remuneration

PUBLIC RECORD

the Manual	<i>Dumping and Subsidy Manual</i>
the Minister	the Minister for Industry, Science and Technology
mm	millimetres
Nan	Nan Electrical Cable Australia Pty Ltd
Nanyang	Nanyang Cable (Tianjin) Co. Ltd.
NHTE	New High Tech Enterprise
NIP	non-injurious price
OCOT	ordinary course of trade
Olex	Olex Australia Pty Ltd
PAD	preliminary affirmative determination
PAD Direction	<i>Customs (Preliminary Affirmative Determinations) Direction 2015</i>
Prysmian	Prysmian Australia Pty Ltd
PVC	polyvinyl chloride
R&D	research and development
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
RMB	Renminbi
REP 271	<i>Anti-Dumping Commission Report No. 271</i>
REQ	response to the exporter questionnaire
ROI	return on investment
SEF	statement of essential facts
SG&A	selling, general and administrative
SHFE	Shanghai Futures Exchange
SIE	state invested enterprise
SOE	state owned enterprise
TE	Twin and Earth
TPS	Tough Plastic Shield
USD	United States Dollar
USP	unsuppressed selling price
VAT	Value Added Tax
V	volts
WTO	World Trade Organization

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This statement of essential facts (SEF) relates to the investigation by the Anti-Dumping Commission (the Commission) of the allegations made by Prysmian Australia Pty Ltd (Prysmian) that certain polyvinyl chloride (PVC) flat electrical cables (also referred to as the goods) exported to Australia from the People's Republic of China (China) at dumped and subsidised prices have caused material injury to the Australian industry producing like goods.

This report sets out the findings on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base his recommendations to the Minister for Industry, Science and Technology (the Minister) regarding this investigation.

1.2 Summary

The Commission has examined the period 1 January 2017 to 31 December 2017 (the investigation period) with respect to PVC flat electrical cables exported to Australia from China and found that:

- exports of PVC flat electrical cables to Australia from China during the investigation period were at dumped and subsidised prices, and the dumping and subsidy margins are not negligible;
- the volume of dumped goods exported from China is not negligible (greater than three per cent of the total Australian import volume);
- the volume of subsidised goods exported from China is not negligible (greater than four per cent of the total Australian import volume);
- the Australian industry producing like goods has experienced injury and that injury is material; and
- the material injury to Australian industry has been or is being caused by dumped and subsidised exports of the goods from China.

1.3 Proposed recommendation to the Minister

Based on the findings in this SEF, and subject to any submissions received in response to this SEF, the Commissioner proposes to recommend to the Minister that dumping and countervailing duty notices be published in respect of PVC flat electrical cables exported to Australia from China.

1.4 Application of law to facts

1.4.1 Authority to make decision

Division 2 of Part XVB of the *Customs Act 1901* (the Act)¹ sets out, among other matters, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to the goods covered by an application.

¹ Unless otherwise specified all legislative references are to the *Customs Act 1901*.

1.4.2 Application

On 23 March 2018, Prysmian lodged an application requesting that the Minister publish dumping and countervailing duty notices in respect of certain PVC flat electrical cables exported to Australia from China.

The Commissioner was satisfied that the application was made in the prescribed manner by a person entitled to make the application.²

1.4.3 Initiation of investigation

After examining the application, the Commissioner was satisfied that:

- there is an Australian industry in respect of like goods; and
- there appears to be reasonable grounds for the publication of dumping and countervailing duty notices in respect of the goods the subject of the application.³

The Commissioner decided not to reject the application, and notice of the initiation of this investigation was published on 4 June 2018.⁴

1.4.4 Preliminary Affirmative Determination

Under subsection 269TD(1), the Commissioner may make a preliminary affirmative determination (PAD) at any time, not earlier than 60 days after initiation of an investigation for the publication of a dumping or countervailing duty notice, if the Commissioner is satisfied that:

- there appears to be sufficient grounds for the publication of such a notice; or
- it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods.

In accordance with the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction), 60 days after the initiation of such an investigation, the Commissioner must either make a PAD or publish a status report outlining the reasons why he has not made a PAD.

Day 60 of this investigation was 3 August 2018. On that day a status report was published, advising that the Commission at that time had not completed its preliminary assessment of whether the goods exported to Australia from China were at dumped or subsidised prices. The Commission was unable to establish if there were sufficient grounds to be satisfied that the goods exported to Australia had been dumped or subsidised (at above negligible levels in accordance with section 269TDA) and that the dumped or subsidised goods were causing material injury to the Australian industry producing like goods.⁵

Subsequently, on 4 January 2019, the Commissioner was satisfied that there appeared to be sufficient grounds for the publication of dumping and countervailing duty notices in relation to exports of the goods from China and made a PAD to that effect.

Following the making of the PAD, and to prevent material injury to the Australian industry occurring while the investigation continued, securities were taken in respect of any interim

² Subsection 269TB(1).

³ Subsection 269TC(1).

⁴ Anti-Dumping Notice No. 2018/86 refers.

⁵ Refer item no. 008 on the electronic public record (EPR) for this investigation, EPR 469.

dumping and countervailing duties that may become payable in respect of the goods exported from China and entered for home consumption in Australia on or after 7 January 2019.

Anti-Dumping Notice (ADN) No. 2019/05 contains more information on the Commissioner's reasons for making a PAD.⁶

1.4.5 Statement of essential facts

The Commissioner must, within 110 days after the initiation of an investigation, or such longer period as allowed under subsection 269ZHI(3),⁷ place on the public record a statement of the essential facts on which the Commissioner proposes to base his recommendation.

On 24 September 2018 and again on 30 November 2018, the Commissioner, under subsection 269ZHI(3), extended the deadline to publish the SEF, and provide his final report and recommendations.⁸ As a result of these extensions, the Commissioner is required to place the SEF on the public record on or before 22 February 2019.

1.4.6 Final report

The Commissioner's final report and recommendations in relation to this investigation must be provided to the Minister on or before 8 April 2019, unless the investigation is terminated earlier or a further extension of time to provide the final report is granted.⁹

1.5 Findings and conclusions

The Commissioner has made the following findings based on the information available at this stage of the investigation. The Commissioner has reached a number of conclusions on the basis of that information.

1.5.1 The goods and like goods (Chapter 3)

Locally produced PVC flat electrical cables are like to the goods the subject of the application.

1.5.2 Australian industry (Chapter 4)

There is an Australian industry producing like goods.

1.5.3 Australian market (Chapter 5)

The Australian market for PVC flat electrical cable is supplied by the Australian industry and by imports, predominantly from China.

1.5.4 Dumping investigation (Chapter 6) and Subsidy Investigation (Chapter 7)

The Commission has calculated the following dumping and subsidy margins:

⁶ Refer item no. 021 on EPR 469.

⁷ On 14 January 2017, the Parliamentary Secretary delegated the powers and functions of the Minister under section 269ZHI of the Act to the Commissioner of the Anti-Dumping Commission. Refer to ADN No. 2017/10 for further information.

⁸ Refer item nos. 011 (ADN No. 2018/147) and 017 (ADN No. 2018/184) on EPR 469.

⁹ Under section 269TEA.

Exporter	Dumping Margin	Countervailing Margin
Guilin International Wire & Cable Co. Ltd	7.2%	0.7%
Nanyang Cable (Tianjin) Co. Ltd.	30.2%	3.1%
Uncooperative and all other exporters	30.2%	3.7%

Table 1: Summary of dumping and countervailing margins

1.5.5 Injury to the Australian industry (Chapter 8)

During the investigation period the Australian industry producing like goods has experienced injury in the form of:

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

The Commission has found that some Australian industry prices were undercut by the dumped and subsidised goods.

1.5.6 Cause of injury (Chapter 9)

The injury suffered by the Australian industry producing like goods that was caused by the dumped and subsidised goods is not negligible.

1.5.7 Will dumping and material injury continue? (Chapter 10)

The Commissioner is of the view that, in the future, exports of PVC flat electrical cables from China may be at dumped and subsidised prices and that continued dumping and subsidisation of the goods from China may continue to cause material injury to the Australian industry.

1.5.8 Unsuppressed selling price and non-injurious price (Chapter 11)

The Commission has calculated a non-injurious price (NIP) for exports of PVC flat electrical cables from China that is considered to be the minimum price necessary to prevent the injury, or a recurrence of the injury, caused by the dumped and subsidised goods.

The Commission constructed the NIP having regard to the Australian industry members' cost to make and sell (CTMS), plus a reasonable amount of profit.

1.5.9 Form of duty (Chapter 12)

The Commissioner proposes to recommend to the Minister that measures be imposed using the combination of fixed and variable duty method (combination duty method).

2 BACKGROUND

2.1 Initiation

On 4 June 2018, the Commissioner initiated an investigation into the alleged dumping and subsidisation of PVC flat electrical cables exported from China following an application lodged by Prysmian. The application was supported by Olex Australia Pty Ltd (Olex). Both Prysmian and Olex are manufacturers of like goods in Australia.¹⁰

Prysmian alleged that the Australian industry had suffered injury caused by exports of the goods to Australia from China at dumped and subsidised prices. Prysmian alleged that the Australian industry had been injured through:

- loss of sales volumes;
- loss of market share;
- price suppression;
- reduction of profit and profitability;
- reduced return on investment;
- reduced capacity utilisation; and
- reduction in employment hours for the goods under consideration.

Subsequent to receiving further information, the last of which was received on 10 May 2018, and having considered the application, the Commissioner decided not to reject the application. On 4 June 2018, the Commissioner initiated an investigation into the alleged dumping and subsidisation. Public notification of initiation of the investigation was also made on 4 June 2018.¹¹

In respect of the investigation:

- the investigation period¹² for the purpose of assessing dumping and subsidisation is 1 January to 31 December 2017 (investigation period); and
- the injury analysis period for the purpose of determining whether material injury to the Australian industry has been caused by exports of dumped and/or subsidised goods is from 1 January 2014 (injury analysis period).

2.2 Previous Cases

This is the third investigation into the alleged dumping of PVC flat electrical cables exported from China and the first investigation into the alleged subsidisation of PVC flat electrical cables exported from China.

The first investigation into the alleged dumping of certain electric cables exported to Australia from China was initiated on 9 September 2011. The investigation was conducted by the Australian Customs and Border Protection Service (ACBPS) as the then investigating authority.

¹⁰ Refer item no. 001 on EPR 469.

¹¹ ADN No. 2018/86 refers (item no. 003 on EPR 469).

¹² Subsection 269T(1).

The goods that were the subject of this previous investigation included several different types of electric cables falling under tariff subheading 8544.49.20 (statistical codes 40 and 41). The goods under consideration in the present case (PVC flat electrical cable with the characteristics described in chapter 3.3 of this report) are a specific subset of the goods that were previously examined.

The ACBPS found that there had been no dumping of electric cables during the relevant investigation period (1 July 2010 to 30 June 2011). The investigation was therefore terminated by the Chief Executive Officer of the ACBPS on 6 February 2012.¹³ After accepting a request by certain parties to review the decision, the then Trade Measures Review Officer ultimately affirmed the decision to terminate.

The second investigation into the alleged dumping of certain PVC flat electrical cables (*Anti-Dumping Commission Report No. 271* (REP 271) refers) was initiated by the Commission on 6 November 2014. The investigation period was from 1 July 2013 to 30 June 2014, and the Commission assessed injury from 1 July 2010. The Commission found that the cooperating exporters of PVC flat electrical cables were either not dumping or the dumping margins were negligible. The Commission also found that the injury, if any, caused to the Australian industry by the dumped goods was negligible. As a result, the Commissioner terminated the investigation on 9 July 2015.¹⁴

2.3 Conduct of investigation

2.3.1 Australian industry

The Commission undertook verification visits to both Prysmian and Olex. Verification reports for both Australian industry members are available on the Commission website.¹⁵

2.3.2 Exporters

At the beginning of the investigation, the Commission identified the ten largest exporters of the goods in the Australian Border Force (ABF) import database and from Prysmian's application and invited them to complete an exporter questionnaire. The exporter questionnaire and associated spreadsheets were also placed on the case page for this investigation on the Commission website.

The Commission noted that the ABF data includes a number of consignments under the relevant tariff classification which were not the goods, and a number of consignments which may be the goods but for which the goods description in the import declaration is inconclusive and the circumstances of the importation provide no further guidance. In order to refine the ABF data, the Commission has had regard to the importer and exporter of the consignments, products which have been specifically excluded from the goods description and known product codes and descriptions of the goods (obtained from the previous investigations). After this process, the identified exporters accounted for 69 per cent of the total shipments (by volume) from China that appear to be the goods.

¹³ [International Trade Remedies Branch Report No. 178](#) refers.

¹⁴ [Anti-Dumping Commission Report No. 271](#) and [ADN No. 2015/85](#) refer.

¹⁵ Item nos. 013 (Olex) and 014 (Prysmian) on EPR 469 refer.

The exporter questionnaire sought information regarding the exporters' commercial operations, the goods exported to Australia, like goods sold on the domestic market and to third countries, economic and financial details, and relevant costing information. The Commission received a response to the exporter questionnaire (REQ) from the following entities:

- Guilin International Wire & Cable Co. Ltd (Guilin);¹⁶ and
- Nanyang Cable (Tianjin) Co. Ltd. (Nanyang).¹⁷

Non-confidential versions of the REQ and the verification reports for Nanyang and Guilin are available on the Commission website.¹⁸

2.3.3 Importers

Similar to the exporters, the Commission also identified the six largest importers of the goods that collectively account for 79 per cent of the importations of the goods from China during the investigation period. These importers were contacted and invited to participate in the investigation. Two of those importers, Electra Cables (Aust) Pty Ltd (Electra) and Nan Electrical Cable Australia Pty Ltd (Nan) responded and provided the Commission with importer questionnaire responses. Subsequently, verification visits are conducted at both importers' premises. Verification reports for both importers are available on the Commission website.¹⁹

2.4 Submissions received from interested parties

The Commission has received submissions from interested parties during the course of the investigation as set out in the table below. Non-confidential versions of all submissions received are published on the EPR.

Submission from	Date published on EPR	Document No.
Nan Electrical Cable Australia Pty Ltd and Nanyang Cable (Tianjin) Co. Ltd	19 July 2018	004
Prysmian Australia Pty Ltd	2 August 2018	007
Prysmian Australia Pty Ltd	14 August 2018	009
Prysmian Australia Pty Ltd	30 August 2018	010
Prysmian Australia Pty Ltd	26 November 2018	016
Prysmian Australia Pty Ltd	20 December 2018	020
Prysmian Australia Pty Ltd	21 January 2019	022
Electra Cables (Aust) Pty Ltd	8 February 2019	023
Nan Electrical Cable Australia Pty Ltd and Nanyang Cable (Tianjin) Co. Ltd	13 February 2019	024

Table 2: Submissions received

¹⁶ Refer item no. 006 on EPR 469. It is evident from Guilin's REQ that a number of the selected exporters are subsidiaries of Guilin.

¹⁷ Refer item no. 005 on EPR 469.

¹⁸ Item nos. 015 (Nanyang) and 019 (Guilin) on EPR 469 refer.

¹⁹ Item nos. 012 (Nan) and 018 (Electra) on EPR 469 refer.

All submissions received prior to 31 January 2019 have been considered by the Commissioner in reaching the findings contained within this SEF. Submissions received after this date have not been considered as to do so, in the Commissioner's opinion, would have delayed the timely placement of this SEF on the public record.²⁰ Those submissions received after 31 January 2019 that have not been considered for the purposes of this SEF will be considered in the final report.

2.5 Responding to this SEF

This SEF sets out the essential facts on which the Commissioner proposes to base his final recommendations to the Minister.

This SEF represents an important stage in the investigation. It informs interested parties of the facts established and allows them to make submissions in response to the SEF. It is important to note that the SEF may not represent the final views of the Commissioner.

Interested parties have 20 days to respond to the SEF. The Commissioner will consider these responses in making his final report to the Minister. The report will recommend whether or not a dumping duty notice and/or a countervailing duty notice should be published, and the extent of any interim duties that are, or should be, payable.

Responses to this SEF should be received by the Commissioner no later than **14 March 2019**. The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Minister.

The Commissioner must report to the Minister by **8 April 2019** unless further extended.

Submissions should preferably be emailed to investigations1@adcommission.gov.au. Alternatively, they may be sent to fax number +61 3 8539 2499, or posted to:

Director, Investigations 1
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the public record. A guide for making submissions is available at the Commission web site, www.adcommission.gov.au.

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. It is available online at www.adcommission.gov.au.

Documents on the public record should be read in conjunction with this SEF.

²⁰ Subsection 269TDAA(3) refers.

3 THE GOODS AND LIKE GOODS

3.1 Finding

The Commissioner considers that during the investigation period, Prysmian, Olex, Australia Pacific Electric Cables Pty Ltd and Advance Cables Pty Ltd²¹ were producers of PVC flat electrical cables that are like goods to the goods under consideration, and that these producers comprise the Australian industry producing like goods.

3.2 Legislative framework

Subsection 269TC(1) requires that the Commissioner must reject an application for a dumping duty notice if, inter alia, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

In making this assessment, the Commissioner must first determine that the goods produced by the Australian industry are 'like' to the imported goods. Subsection 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.

An Australian industry can apply for relief from injury caused by dumped or subsidised imports even if the goods it produces are not identical to those imported. The industry must, however, produce goods that are 'like' to the imported goods.

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- i. physical likeness;
- ii. commercial likeness;
- iii. functional likeness; and
- iv. production likeness.

3.3 The Goods

The goods the subject of the application (the goods) are:

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.

Prysmian's application notes the following additional information:

The locally produced goods are 2.5 Twin and Earth (TE) PVC flat cable (2.5 TE cable) that is commonly referred to as 'building wire', because of its use by the building and construction industry in domestic, commercial and industrial mains power supply low-voltage wiring installations.

²¹ The Commission understands that Advance Cables Pty Ltd has now ceased operation.

The term 'flat cables' mean 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'. The earth core (also comprising copper) is additional to these two active cores.

Prysmian specifically excluded the following from the application:

- single core cables, being cables with a single active core;
- aerial cables as defined by the Australian Standard;
- twin active flat cables, that is, flat cables comprising two active cores but no earth core;
- circular cables as defined by the Australian Standard;
- cables insulated and/or sheathed with non-PVC material, including but not limited to cross-linked
- polyethylene (XLPE) materials, including a combination of PVC and non-PVC material;
- cables comprising cores made of aluminium conductors; and
- flexible cables (cords) as defined by AS/NZS 3191 and/or AS/NZS 60227.

3.3.1 Tariff classification

The goods are classified to tariff subheading 8544.49.20 (statistical code 41) in Schedule 3 to the *Customs Tariff Act 1995*.

3.4 Like goods and the Australian Industry

The Commission is satisfied that there is an Australian industry producing like goods to the goods the subject of the application on the basis that:

- Prysmian and Olex produce goods that have characteristics that closely resemble the goods the subject of the application, and
- the goods produced by Prysmian and Olex are wholly produced in Australia.

3.4.1 Legislative framework

Subsection 269TC(1) requires that the Commissioner reject an application under subsection 269TB(1) if, among other things, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

Like goods are defined under subsection 269T(1). Subsections 269T(1), (2), (3), (4) and (4A) are used to determine whether the like goods are produced in Australia and whether there is an Australian industry.

3.4.2 The Commission's assessment

The Commission has examined whether the locally produced goods are identical to, or closely resemble, the goods the subject of the application and are therefore like goods in the context of the like goods framework. Further details about the Commission's consideration of this matter are in Chapters 4 and 5.

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.

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, and the product is ultimately purchased by common end users (predominantly electrical contractors).

Functional likeness

Both the imported and locally manufactured products comply with the Australian Standard and have the same end uses (domestic, commercial and light industrial electrical wiring). The imported and locally manufactured products are completely interchangeable. As a result, the Commission considers that the imported and locally produced PVC flat cable are functionally alike.

Production likeness

Based on the information collected by the Commission during both the present and previous investigations, the Commission considers that the production processes are substantially similar for all producers of PVC flat electrical cables. A description of the production process is included in the next chapter of this report.

3.5 Conclusion

The Commission's assessment is that the locally produced goods very closely resemble the goods the subject of the application and are like goods. The specifications required by the Australian Standard for PVC flat electrical cables provide little basis for the locally produced goods and the imported goods to diverge in terms of their physical, commercial and functional likenesses, and the production of the goods and the like goods occur via substantially similar processes.

4 THE AUSTRALIAN INDUSTRY

4.1 Finding

The Commissioner finds that there is an Australian industry producing like goods and that the goods are wholly manufactured in Australia. The Commissioner also finds that the Australian industry producing like goods consists of Prysmian, Olex, Australia Pacific Electric Cables Pty Ltd and Advance Cables Pty Ltd.

4.2 Legislative framework

The Commissioner must be satisfied that the like goods are produced in Australia. Subsections 269T(2) and (3) specify that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the goods 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.

4.3 Production process

The Commission inspected both Prysmian's and Olex's production facilities and viewed the production processes undertaken.

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

- Copper rod is fed into wire drawing machines to produce smaller diameter wires. These wires 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 into 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.

4.4 Conclusion

Based on the observations of manufacturing steps at the Australian industry visits and the Commission's understanding of the production process of PVC flat electrical cables from previous investigations, the Commission considers that at least one substantial process of manufacture is carried out in Australia and therefore considers the like goods to have been manufactured in Australia. Accordingly, the Commissioner is satisfied, in accordance with subsections 269T(2) and (4), that there is an Australian industry producing like goods.

5 THE AUSTRALIAN PVC FLAT ELECTRICAL CABLES MARKET

5.1 Finding

The Commissioner has found that the Australian market for PVC flat electrical cables is supplied by the Australian industry and by imports, predominantly from China.

5.2 Background

PVC flat electrical cable is used in fixed wiring applications in power and light circuits. The cables must be installed by a licenced electrician in accordance with the Australian Wiring Rules. The goods are used in residential and commercial building and construction, such as new home construction, renovations, units / apartments, commercial refurbishments, shopping centres and the like. The goods are also used in light industrial construction projects, such as providing wiring for the general power and lighting supply circuits of factories and warehouses.

PVC flat electrical cable is also known as Tough Plastic Shield (TPS). The purpose of the PVC sheath (the TPS) is to protect the conductors as the cable is pulled through (mainly) timber walls in the course of house construction / renovation in Australia. The cable is relatively unique to the Australia and New Zealand markets as houses are largely constructed using timber frames (as opposed to Europe and North America where concrete and stone construction is more prevalent); it is also a reflection of the standard electricity transmission arrangements in the Australian market (240 V at 30 amp).

5.2.1 Product substitution

There are several variations of PVC flat electrical cable which are not the goods under consideration. 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 are able to 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 particular wiring task at hand, which means that there is little - if any - substitution of the goods under consideration with other products.

5.3 Market structure

5.3.1 Suppliers

As noted in Chapter 4, there were four manufacturers of the like goods in Australia during the investigation period. All other PVC flat electrical cable supplied to the market is imported, primarily from China.

5.3.2 Wholesalers

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 Olex) and the cooperating importers (Electra Cables (Aust) Pty Ltd and Nan Electrical Cable Australia Pty Ltd) indicate that there are several major wholesaling chains (comprising single companies or a collective buying group) and a number of smaller, independent wholesalers.

The Commission understands that traders / wholesalers make up approximately 90 per cent of the PVC flat electrical market.

5.3.3 Retail

Other routes to market are via hardware retailers (such as Bunnings, Mitre 10 and similar stores) or by selling directly to larger electrical contractors mainly for specific projects. These sales represent a much smaller proportion of the market overall.

5.3.4 Export

Although some cable is exported, it is in small volumes and primarily to New Zealand and the Pacific region. The goods can also find its way into unusual markets (such as Africa) where wiring regulations are not as restrictive as in Australia and Australian electricians are working.

5.3.5 Rebates and discounts

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.

5.4 Demand

The demand for PVC flat electrical cable is driven by new residential housing construction, commercial development and refurbishment of existing properties. Factors affecting construction demand, such as interest rates, consumer confidence index, population growth and housing prices, also impact on demand for the goods.

5.5 Market size

Figure 1 depicts the Commission's estimate of the size of the Australian market for PVC flat electrical cables from the period 1 January 2014 to 31 December 2017. The data for 2014 and 2017 is based on the verified sales data from Olex, Prysmian and cooperating importers of the goods in a previous investigation²² and in this investigation. The data for 2015 and 2016 is based on the declared sales volumes of Australian industry members and data from the ABF import database.

²² REP 271 refers.

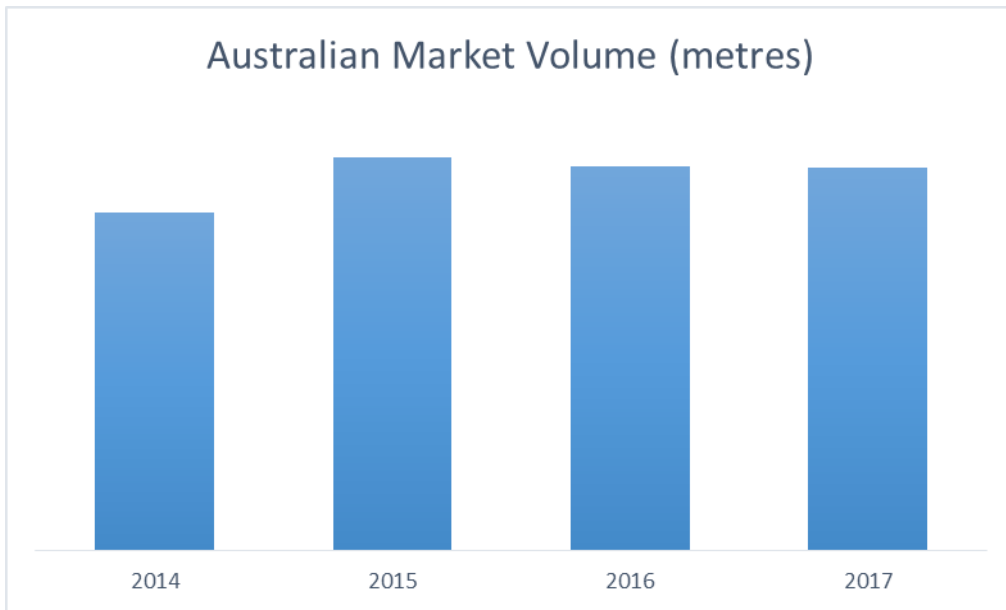


Figure 1: Size of the Australian market for PVC flat electrical cables (metres sold)

The Commission observes that the Australian market for PVC flat electrical cables grew in 2015, and has been steady from 2016 onwards. The total volume of sales in the Australian market was approximately 160 million metres in 2017.

5.6 Market share

Figure 2 shows movements in market share over the period from 1 January 2014.

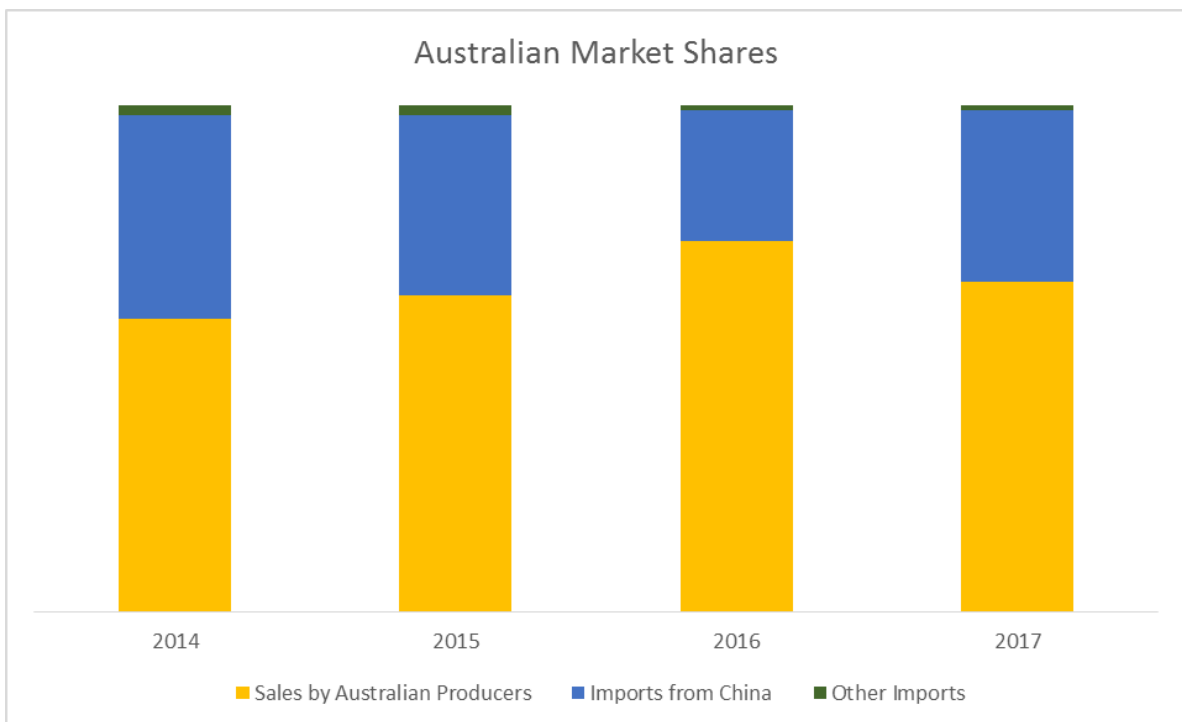


Figure 2: Estimated market shares for PVC flat electrical cables

The Commission's analysis of market size and market share is in **Confidential Appendix 1 – Market Size and Share**.

6 DUMPING INVESTIGATION

6.1 Finding

The Commissioner has found that exports of PVC flat electrical cable from China have been dumped and the volume of dumped goods is not negligible.

The Commission has calculated the following dumping margins:

Exporter	Dumping margin
Guilin International Wire & Cable Co. Ltd	7.2%
Nanyang Cable (Tianjin) Co. Ltd.	33.2%
Uncooperative and all other exporters ²³	33.2%

Table 3: Dumping margins

6.2 Introduction and legislative framework

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 goods are determined under sections 269TAB and 269TAC respectively.

Subsection 269TAB(1)(a) provides that, subject to certain conditions, the export price of any goods exported to Australia 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 the transport of the goods or any other matter arising after exportation. Where the conditions in subsection 269TAB(1)(a) are not met, such as when the export transactions are not arms length, the export price is determined under subsection 269TAB(1)(b) or subsection 269TAB(1)(c).

Section 269TAA outlines the circumstances in which the price paid or payable shall not be treated as being at arms length. These are where:

- there is any consideration payable for or in respect of the goods other than price;
- the price appears to be 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
- in the opinion of the Minister, the buyer, or an associate of the buyer, will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

Further, where an importer subsequently sells the goods at a loss, the Minister may treat those circumstances as indicating that the importer will be reimbursed, compensated or otherwise receive a benefit. If the goods are sold at a loss, the Minister must have regard to the likelihood that the importer will recover both the price paid to the exporter and the costs necessarily incurred in the importation and sale of the goods within a reasonable time.

Subsection 269TAC(1) provides that, subject to certain conditions, the normal value of the goods is the price at which like goods are sold in the domestic market of the country of export. However, subsection 269TAC(1) cannot be used to calculate the normal value of the goods if one of the circumstances in subsections 269TAC(2)(a) or (b) is present.

²³ 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 6.3 of this report.

Where one or more of these circumstances are present, the normal value of the goods may be calculated under either subsection 269TAC(2)(c) or (d).

Subsection 269TAC(2)(c) provides for the normal value to be a constructed amount, being the sum of the cost of production or manufacture of the goods in the country of export, and, on the assumption that the goods had been sold for home consumption in the ordinary course of trade in the country of export instead of being exported, the selling, general and administrative (SG&A) costs and the profit on that sale.

If the Minister directs that it applies, subsection 269TAC(2)(d) provides that the normal value is the price of like goods sold in the ordinary course of trade in arms length transactions from the country of export to an appropriate third country.

Dumping margins are determined under section 269TACB.

6.3 Uncooperative exporters

Subsection 269T(1) provides that, in relation to a dumping investigation, an exporter is an 'uncooperative exporter', where the Commissioner is satisfied that an exporter did not give the Commissioner information that the Commissioner considered to be relevant to the investigation within a period the Commissioner considered to be reasonable, or where the Commissioner is satisfied that an exporter significantly impeded the investigation.

In relation to making determinations that an exporter is an uncooperative exporter, the Commissioner has regard to both subsection 269T(1) and the *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Customs Direction).

Under subsection 8(b) of the Customs Direction, the Commissioner has determined all exporters who did not provide a REQ or request a longer period to provide a response within the legislated period to be uncooperative exporters pursuant to subsection 269T(1).

6.4 Dumping Assessment

6.4.1 Nanyang Cable (Tianjin) Co. Ltd.

The Commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

The Commission visited Nanyang's premises in China to verify the information provided in its REQ. The Commission observed that for the goods exported to Australia, Nanyang:

- is the manufacturer of the goods;
- is the owner of the goods at the time of shipment;
- has prepared the export documentation;
- is the principal in the transaction; and
- has shipped the goods from China by knowingly placing the goods in the hands of a carrier.

Therefore, the Commission is satisfied that for all its Australian export sales during the investigation period, Nanyang is the exporter of the goods.

A report covering the visit findings is available on the public record.²⁴

Export price

As detailed in the *Dumping and Subsidy Manual* (the Manual), in assessing the arms length nature of transactions the Commission will also examine relevant information to determine whether there has been genuine bargaining between buyer and seller.

In respect of exports to Australia by Nanyang to its fully owned subsidiary Nan during the investigation period, the Commission considers that the price was influenced by a commercial or other relationship between the buyer and the seller. In forming this view, the Commission has relied on the information obtained during the exporter verification process, as well as information obtained during Nan's importer verification, which indicates that there was no price negotiation or other kind of bargaining taking place between Nan and Nanyang during the investigation period. In addition, the Commission has found that the goods that are on-sold into the Australian market by Nan are sold at a loss.²⁵

The Commission therefore considers that sales between Nanyang and Nan during the investigation period were not arms length transactions under subsections 269TAA(1)(b) and 269TAA(1)(c). Accordingly, the Commission considers that the export price cannot be determined under subsection 269TAB(1)(a). The Commission notes that, as the goods were subsequently sold by the importer in the condition that they were imported, the export price should be determined under subsection 269TAB(1)(b), being the price at which the goods were so sold by the importer less the prescribed deductions.²⁶

The Commission's export price calculations are at **Confidential Appendix 2 – Nanyang's Export Price**.

Normal value

The Commission found that there were no sales of like goods by Nanyang in the China domestic market. Therefore, normal values cannot be ascertained under subsection 269TAC(1). The normal value of goods exported to Australia from China by Nanyang has therefore been assessed under subsection 269TAC(2)(c), using the cost of production or manufacture of the goods in the country of export; and, on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export, the SG&A costs associated with such a sale and the profit on that sale.

As required by subsections 269TAC(5A) and (5B), the costs of production or manufacture, the SG&A costs and profit must be established in accordance with sections 43, 44 and 45 of the *Customs (International Obligations) Regulation 2015* (the Regulation), respectively.

²⁴ Refer item no. 015 on EPR 469.

²⁵ Nan's verification report is item no. 012 on EPR 469.

²⁶ The prescribed deductions in relation to a sale of goods that have been exported to Australia shall be read as a reference to:

- (a) any duties of Customs or sales tax paid or payable on the goods; and
- (b) any costs, charges or expenses arising in relation to the goods after exportation; and
- (c) the profit, if any, on the sale by the importer or, where the Minister so directs, an amount calculated in accordance with such rate as the Minister specifies in the direction as the rate that, for the purposes of paragraph (1)(b), is to be regarded as the rate of profit on the sale by the importer.

Subsection 43(2) of the Regulation requires that, if an exporter keeps records relating to the like goods which are in accordance with generally accepted accounting principles, and those records reasonably reflect competitive market costs associated with the production or manufacture of like goods, then the cost of production must be worked out using the exporter's records.

In examining the costs of production or manufacture, the Commission observed that Nanyang did not provide a complete listing of its copper purchases (copper representing the chief raw material input to the goods). As a result, the Commission is unable to determine whether its costs are accurately recorded, nor assess whether these costs represent competitive market costs (per subsection 43(2) of the Regulation). As a result, the Commission considers Nanyang's copper purchase information to be unreliable, and therefore has disregarded its recorded copper costs (as per subsection 43(8) of the Regulation).

The Commission has instead had regard to the competitive market cost of copper rod in China, calculated as being the total of the average Value Added Tax (VAT) exclusive copper cathode price on the Shanghai Futures Exchange (SHFE) for the quarter, a conversion premium for copper rod payable in China during the investigation period, plus an amount for delivery costs. The Commission considers this to be the most reliable information available. In constructing Nanyang's normal value, the Commission had regard to Nanyang's verified data for all other cost components.

Nanyang's SG&A costs are calculated under 44(3)(c) of the Regulation, having regard to all relevant information. In particular, the Commission calculated Nanyang's domestic SG&A by having regard to selling, financial and administrative and general expenses in Nanyang's income statement and deducting the costs that are relevant to export sales only.

Nanyang's domestic profitability is calculated by having regard to Nanyang's sales of the same general category of goods, being the similar sized building wires, in its domestic market (as per Regulation 45(3)(a)).

Where appropriate, certain adjustments were made to ensure fair comparison of normal values with export prices in accordance with subsection 269TAC(9). The adjustments are summarised below:

Adjustment Type	Deduction/addition
Export inland transport and handling	Add the cost of export inland transport and handling
Export packaging cost	Add the cost of export packaging
Export credit cost	Add the cost of export credit

Table 4: Adjustments to Nanyang's normal value

The Commission's normal value calculations are at **Confidential Appendix 3 – Nanyang's Normal Value**.

Dumping Margin

Nanyang's dumping margin has been assessed by comparing the quarterly weighted average export prices which are calculated under subsection 269TAB(1)(b) to the corresponding quarterly weighted average normal values calculated under subsection 269TAC(2)(c) for the investigation period, in accordance with subsection 269TACB(2)(a).

In calculating the dumping margin the Commission has removed the effect of the substitution of copper costs in Nanyang's CTMS in order to avoid the double counting of the effects of the provision of copper at less than adequate remuneration (LTAR) in the subsidy margin calculation. The dumping margin in respect of the goods exported to Australia by Nanyang for the investigation period is therefore **30.2 per cent**.

Details of the dumping margin calculation are at **Confidential Appendix 4 – Nanyang's Dumping Margin**.

6.4.2 Guilin International Wire & Cable Co. Ltd.

The Commission undertook a verification visit to Guilin's production facilities in China to verify the information provided in its REQ.

The Commission found that, during the investigation period, besides selling the goods directly to Australia, Guilin also made export sales of the goods to Australia through its related trading companies. The Commission found that Guilin:

- manufactures the goods;
- is the owner of the goods at the time of shipment; and
- ships the goods directly to port, although the documentation is provided by a related trading company.

Therefore, the Commission is satisfied that for all its Australian export sales during the investigation period, Guilin is the exporter of the goods.

A report covering the visit findings is available on the public record.²⁷

Export price

In respect of exports to Australia by Guilin to its related entity Electra, the Commission found that the goods were subsequently sold at a loss by Electra. The Commission notes that the Minister may, for the purposes of subsection 269TAA(1)(c), treat the sale of those goods at a loss as indicating that the importer or an associate of the importer will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or a part of the price.²⁸

In addition, the Commission notes that there are no formal records of negotiations taking place between Guilin and Electra. The Commission understands that the prices of the goods are determined with regards to Australian market dynamics and copper price movements. The Commission also understands that Electra can request a time delay as to when price increases can take effect, or can influence the percentage of the price increase that will be achieved by Guilin. Considering Electra's ability to influence the export prices from Guilin by having regard to the Australian market conditions and its ability to delay cost increases to the export price, the Commission considers that the price appears to be influenced by a relationship between the buyer (Electra) and the seller (Guilin).

In addition to that, the Commission found comprehensive evidence indicating joint shareholding of individuals and other companies at both Guilin and Electra, as well as various inter-company loans between Electra, Guilin and other shareholding companies and broader financial / commercial arrangements between Electra and Guilin.

²⁷ Refer item no. 019 on EPR 469.

²⁸ Subsection 269TAA(2)(b).

Consequently, the Commission considers that export sales between Guilin and Electra are not arms length transactions under subsections 269TAA(1)(b) and (c).

In respect of Australian sales of the goods by Guilin (and its subsidiary trading companies) to Electra, the Commission considers that the export price cannot be determined under subsection 269TAB(1)(a). The Commission notes that, as the goods were subsequently sold by the importer in the condition that they were imported, the export price should be determined under subsection 269TAB(1)(b), being the price at which the goods were sold by the importer less the prescribed deductions.

The Commission's export price calculations for Guilin are at **Confidential Appendix 5 – Guilin's Export Price**.

Normal value

The Commission found that there were no sales of like goods by Guilin in the Chinese domestic market. Therefore, normal values cannot be ascertained under subsection 269TAC(1). The normal value of goods exported to Australia from China by Guilin has therefore been assessed under subsection 269TAC(2)(c), using the cost of production or manufacture of the goods in the country of export; and, on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export, the SG&A costs associated with such a sale and the profit on that sale.

As required by subsections 269TAC(5A) and (5B), the costs of production or manufacture, the SG&A costs and profit must be established in accordance with sections 43, 44 and 45 of the Regulation, respectively. Subsection 43(2) of the Regulation requires that, if an exporter keeps records relating to the like goods which are in accordance with generally accepted accounting principles, and those records reasonably reflect competitive market costs associated with the production or manufacture of like goods, then the cost of production must be worked out using the exporter's records.

In assessing whether Guilin's accounting records reasonably reflect competitive market costs in China, the Commission had regard to Guilin's verification visit findings and assessment of Guilin's copper rod purchasing costs.

For assessing whether Guilin's copper rod purchasing costs reasonably reflect competitive market costs, the Commission calculated a competitive market cost for copper in China based on the SHFE daily price for copper cathode plus a conversion premium of cathode into copper rod in China plus delivery costs. The Commission then calculated the difference between the weighted average purchase prices of the copper rod by Guilin and the competitive market costs of copper rod in China. The Commission calculated that copper prices purchased by Guilin during the investigation period reflected market competitive prices. The Commission's assessment of provision of copper is further detailed in section 7.4 of this report.

Having established that copper prices purchased by Guilin reflected competitive market prices and being satisfied that Guilin's accounting records are a reasonably accurate, relevant and complete representation of Guilin's financial situation through verification of Guilin's records at the verification visit, the Commission considers that Guilin's cost of production should be established under Regulation 43(2) by having regard to Guilin's accounting records.

Guilin's SG&A costs and domestic profitability are calculated by having regard to Guilin's sales of the same general category of goods (as per sections 44(3)(a) and 45(3)(a) of the Regulation). For the purposes of calculating the SG&A, domestic profit and the downwards adjustments to normal value, the general category of the goods are taken to be low voltage building cables that Guilin manufactures and sells in China.

Where appropriate, certain adjustments were made to ensure fair comparison of normal values with export prices in accordance with subsection 269TAC(9). The adjustments are summarised below:

Adjustment Type	Deduction/addition
Export packaging costs	Add the cost of export packaging
Export credit cost	Add the cost of export credit
Export inland transport costs	Add the cost of export inland transport
Export inventory carrying cost	Add the cost of export inventory carrying
Domestic credit cost	Deduct the cost of domestic credit
Domestic packaging costs	Deduct the cost of domestic packaging
Domestic inventory carrying cost	Deduct the cost of domestic inventory carrying

Table 5: Adjustments to Guilin's normal value

As explained above, Guilin's domestic credit, packaging and inventory carrying costs are calculated using the verified data for the same general category of goods.

The Commission's normal value calculations are at **Confidential Appendix 6 – Guilin's Normal Value**.

Dumping Margin

Guilin's dumping margin has been assessed by comparing weighted average Australian export prices which are calculated under subsection 269TAB(1)(b), to the corresponding quarterly weighted average normal value calculated under subsection 269TAC(2)(c) for the investigation period, in accordance with subsection 269TACB(2)(a).

The dumping margin in respect of the goods exported to Australia by Guilin (for all export sales to Australia period including the sales via its subsidiaries) during the investigation period is **7.2 per cent**.

Details of the dumping margin calculation are at **Confidential Appendix 7 – Guilin's Dumping Margin**.

6.4.3 Uncooperative and all other exporters

Export Price

In accordance with subsection 269TACAB(1), export prices for uncooperative and all other exporters from China were determined under subsection 269TAB(3), having regard to all relevant information. Specifically, the export price for uncooperative and all other exporters from China is taken to be the lower of the two cooperating exporters' verified export prices during the investigation period.

Normal Value

For uncooperative and all other exporters from China, the normal value has been determined in accordance with subsection 269TAC(6), by having regard to all relevant information. Specifically, the Commission has had regard to the highest normal value over the investigation period. In calculating the normal value for uncooperative and all other exporters, no favourable adjustments were made.

Dumping Margin

The dumping margin for uncooperative and all other exporters has been assessed by comparing weighted average Australian export prices which are calculated under subsection 269TAB(3), to the corresponding weighted average normal value calculated under subsection 269TAC(6) for the investigation period, in accordance with subsection 269TACB(2)(a).

The dumping margin for uncooperative and all other exporters in the investigation period is **30.2 per cent**.

Details of the dumping margin calculation are at **Confidential Appendix 8 – Uncooperative and All Other**.

6.5 Conclusion

Noting the dumping margins presented in this chapter, the Commissioner is satisfied that PVC flat electrical cables exported to Australia from China during the investigation period were at dumped prices and that:

- the margins of dumping were not negligible;²⁹ and
- the volume of dumped goods from China was not negligible.³⁰

²⁹ Subsection 269TDA(1).

³⁰ Subsections 269TDA(3) and (4).

7 SUBSIDY INVESTIGATION

7.1 Finding

The Commissioner finds that countervailable subsidies have been received in respect of PVC flat electrical cables exported to Australia from China during the investigation period. The Commissioner finds that:

- in relation to Guilin, the subsidy margin was negligible.
- in relation to Nanyang and all other exporters, the subsidy margin was not negligible.

7.2 Investigated programs

In its application, Prysmian alleged that the Chinese exporters of PVC flat electrical cables benefited from 39 countervailable subsidies. These alleged subsidies related to programs for the provision of copper at LTAR, grants, VAT exemptions, preferential taxation schemes, equity programs and preferential loan schemes.

To assess these programs further, the Commission included questions relating to each program in a questionnaire which was forwarded to the Government of China (GOC).

The GOC has not provided a response to the subsidy questionnaire. Therefore, the Commission's assessment of the identified subsidy programs are mainly based on the information provided in Guilin and Nanyang's REQ and verification visit findings.

7.3 Summary of countervailable programs

The table below summarises subsidy programs that are investigated and the Commission's findings. Further details about the subsidy programs are at **Attachment 5** of this report.

Category 1: Provision of Goods		
Program Number	Program Name	Countervailable subsidy received (Yes/No)
1	Copper provided by Government at less than adequate remuneration	Yes
Category 2: Preferential Tax Policies		
Program Number	Program Name	Countervailable subsidy received (Yes/No)
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
Category 3: Financial Grants		
Program Number	Program Name	Countervailable subsidy received (Yes/No)
10	One-time Awards to Enterprises Whose Products Qualify for "Well-Known Trademarks of China" and "Famous Brands of China"	No

PUBLIC RECORD

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
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 out dated 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
Category 4: Additional Grant Programs		
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 6: Summary of the Commission's findings for countervailable programs

7.4 Subsidy margins

7.4.1 Calculation of competitive market cost for copper rod in China

For assessing whether any benefit was conferred to exporters in China by the provision of copper at LTAR, the Commission first calculated a competitive market cost for copper rod in China based on the SHFE daily price for copper cathode, plus a premium for the conversion of cathode into copper rod in China, plus delivery costs.

7.4.2 Nanyang

In its questionnaire response, Nanyang declared that it was eligible for a tax benefit under Program 5. The Commission calculated the amount of tax benefit Nanyang received based on the information obtained from Nanyang's Audited Financial Report for the 2017 financial year, which is the same as the investigation period.

In terms of the grant type subsidy programs, the Commission identified the grants Nanyang received but concluded that none of the grants were received in relation to the goods under consideration.

For assessing the benefit Nanyang may have received by the provision of copper at LTAR, the Commission sought the full list of Nanyang's copper rod purchases during 2016 and 2017 calendar years in the exporter questionnaire. However, in its REQ, Nanyang only provided a small selection of its copper purchases, claiming that its copper purchases constitute commercially sensitive information.

Pursuant to the Customs Direction, the Commissioner considers that Nanyang has provided a response within the legislated period, however, the response is insufficient in respect of Nanyang's purchases of copper. Therefore, the Commissioner is satisfied that Nanyang did not give information that the Commissioner considered to be relevant to the investigation, within a period the Commissioner considered to be reasonable. As a result, the Commissioner has declared Nanyang to be non-cooperative for the purposes of the subsidy investigation under section 269TAACA.

Consequently, Nanyang's subsidy margin in respect of the provision of copper at LTAR was calculated by having regard to all of the facts available and the assumptions the Commissioner considers reasonable (as per subsections 269TAACA(1)(c) and (d)). In particular, the Commissioner had regard to the highest amount of benefit conferred in Nanyang's known purchases of copper rod during the investigation period (per sections 269TACC and 269TACD). This was calculated as the largest amount of difference between Nanyang's weighted average known purchase prices of copper rod and the competitive market costs of copper rod in China. As Nanyang is deemed to be non-cooperative for the purposes of the subsidy investigation and provided insufficient evidence to conclude otherwise, Nanyang's purchases of copper rod are taken to have been purchased from state owned or invested enterprises (SOE).

The Commission has calculated Nanyang's total countervailing margin based on the benefit conferred by provision of copper at LTAR and the benefit Nanyang received from preferential taxation programs as **3.1 per cent**.

Details of the subsidy programs assessment are at **Attachment 5**. Nanyang's countervailable subsidy rate calculation is at **Confidential Appendix 9 – Nanyang's Subsidy Calculations**.

7.4.3 Guilin

In its REQ, Guilin advised that it received a benefit under program 5 for the investigation period. Guilin advised that to be eligible to receive a reduced tax rate under program 5, a company should be recognised as a high and new technological enterprise. Guilin provided the Commission with relevant documents supporting the calculation of the benefit received in relation to this reduced tax rate.

Guilin also provided the Commission a list of grants it received in terms of government benefits under the assistance programs specified in the exporter questionnaire. The Commission verified the grants received during the investigation period by reconciling the grant amounts to Guilin's non-operating income ledger.

In its REQ, Guilin provided a spreadsheet listing all of its purchases of raw materials during the investigation period. The Commission compared the prices Guilin paid for its copper purchases from SOE and non-SOE suppliers of copper. For assessing whether any benefit was conferred to Guilin by the provision of copper at LTAR, the Commission had regard to the difference between the weighted average purchase prices of the copper rod Guilin paid in its purchases from SOE, to the competitive market costs of copper rod in China. The Commission calculated that Guilin did not receive any benefit from this program.

For the programs which the Commission found that a benefit was conferred to Guilin, the subsidy margin was calculated by establishing the amount of countervailable subsidy received, which resulted from financial contributions to the exporter that conferred a benefit (per sections 269TACC and 269TACD), expressed as a proportion of the export price.

The Commission calculated the total benefit conferred to Guilin through the identified subsidy programs which are relevant to the goods under consideration at **0.7 per cent**.

Details of the subsidy programs assessment are at **Attachment 5**. Guilin's total countervailable subsidy rate calculation is at **Confidential Appendix 10 – Guilin's Subsidy Calculations**.

7.4.4 Uncooperative and All Other Exporters

For uncooperative and all other exporters, the subsidy margin was calculated by having regard to all of the facts available and the assumptions the Commissioner considers reasonable as per subsections 269TAACA(1)(c) and (d).

Specifically, the Commissioner has established a subsidy margin for exporters other than Guilin and Nanyang by having regard to the subsidy rates calculated for Guilin and Nanyang and under the assumption that a benefit was conferred to uncooperative and all other exporters through all programs that are found to be countervailable in this investigation. Therefore, the subsidy rate for uncooperative and all other exporters is calculated as **3.7 per cent**.

The uncooperative and all other exporters' subsidy calculations are at **Confidential Appendix 11 – uncooperative and all other**.

7.5 Conclusion

Having regard to the REQ, verification visit outcomes and submissions received to date, the Commissioner has determined the following exporter specific subsidy margins in relation to PVC flat electrical cables exported to Australia from China during the investigation period:

Exporter	Subsidy margin
Guilin	0.7%
Nanyang	3.1%
Uncooperative and all other exporters	3.7%

Table 7: Subsidy margins

7.6 Countervailable subsidisation – assessment

In relation to goods exported from China (a Developing Country³¹), countervailable subsidisation is negligible if, when expressed as a percentage of the export price of the goods, that subsidisation is not more than 2 per cent.³²

Subsection 269TDA(2) requires that the Commissioner must terminate a countervailing investigation in relation to an exporter if countervailable subsidisation for that exporter is determined to be negligible.

Noting the subsidy margins presented in Table 7, the Commissioner is satisfied that PVC flat electrical cables exported to Australia from China by Guilin is negligible. Subject to responses to this SEF, the Commissioner proposes to terminate the subsidy investigation in relation to Guilin.

The Commissioner is also satisfied that PVC flat electrical cables exported to Australia from China by Nanyang and by the uncooperative and all other exporters during the investigation period were at subsidised prices, and that:

- the countervailing margins for goods exported by Nanyang and the uncooperative and all other exporters were not negligible;³³ and
- the volume of countervailable goods exported from China by Nanyang and the uncooperative and all other exporters was not negligible.³⁴

³¹ Under the *Customs Tariff Act 1995*.

³² Subsection 269TDA(16).

³³ Subsections 269TDA(2), (16)(c).

³⁴ Subsections 269TDA(7) and (8)(b).

8 INJURY TO THE AUSTRALIAN INDUSTRY

8.1 Finding

Based on an analysis of the information contained in the application and information obtained and verified during this investigation, the Commissioner considers that Prysmian and Olex have experienced injury in the form of:

- loss of sales volumes;
- loss of market shares;
- price suppression;
- reductions in profit and profitability;
- reduced return on investment;
- reduced capacity utilisation; and
- reduced employment hours.

8.2 Introduction

In its application for a dumping and subsidy investigation, Prysmian claimed that the Australian industry has experienced injury in the form of:

- lost sales volume;
- loss of market share;
- price suppression;
- price undercutting;
- reductions in profit and profitability;
- reduced return on investment;
- reduced capacity utilisation; and
- reduction in employment hours for the goods.

Prysmian alleged that injury from the dumped and subsidised goods exported from China commenced at the beginning of 2017. Olex provided a letter of support for the application and subsequently provided with its financial and production data to the Commission. Olex concurred with Prysmian's claims in relation to the forms of injury and the commencement of injury.

8.3 Approach to injury analysis

The Commission estimates that Prysmian and Olex collectively account for more than 85 per cent of the total domestic production volume of PVC flat electrical cables in Australia during the investigation period. Therefore, the Commission considers it appropriate to make injury findings in relation to the whole Australian industry producing like goods by having regard to the economic condition of Prysmian and Olex.

Hence, the Commission utilised the verified data submitted by Prysmian and Olex in performing its analysis of the economic conditions of the Australian industry from 1 January 2014, the start of the injury analysis period. The verified data includes production, cost and sales data for PVC flat electrical cables on a quarterly and annual basis.

The Commission also utilised the data collected from Electra and Nan for its analysis within the investigation period, and data obtained from the ABF import database and the data from the Commission's previous investigation³⁵ to perform volume, price, profitability and other injury factors analysis for the injury analysis period and investigation period.

8.4 Volume Injury

8.4.1 Sales volume

In its application, Prysmian claims that it lost sales volume in 2017 due to imports of PVC flat electrical cables from China. Figure 3 illustrates the volume of Prysmian's sales of PVC flat electrical cables in the domestic market from 2014 to the end of 2017.

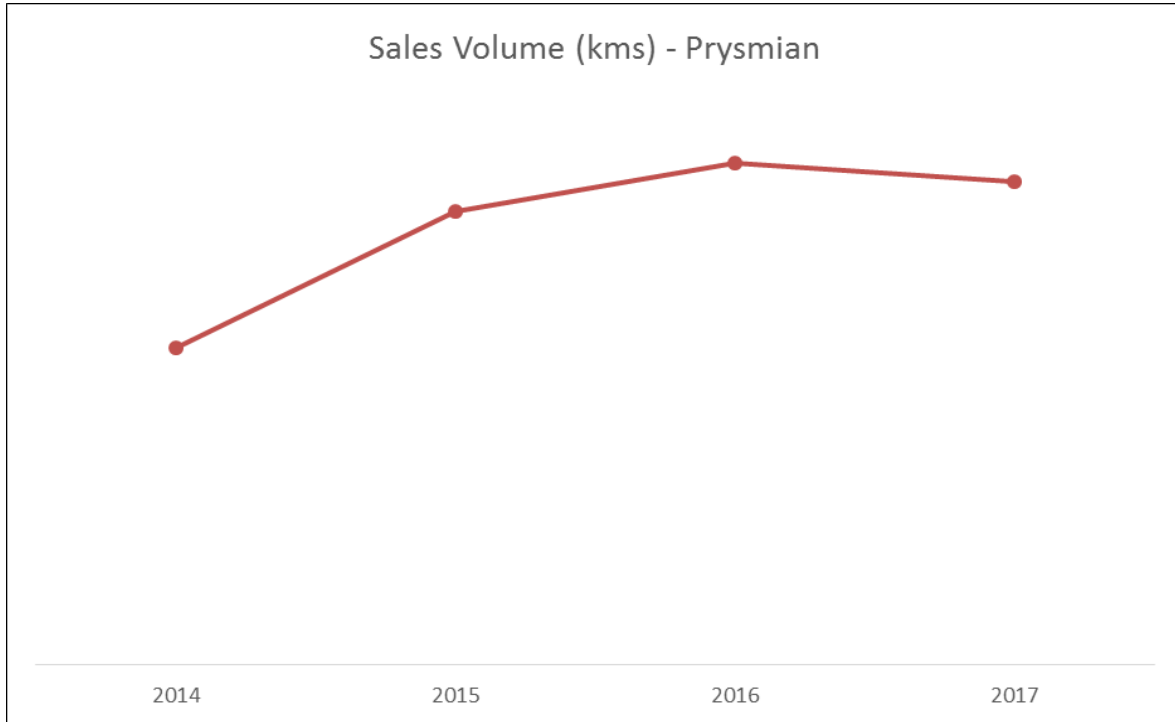


Figure 3 – Prysmian's domestic sales volume of PVC flat electrical cable

Olex also claimed that it lost sales volume in 2017 due to imports of PVC flat electrical cables from China. Figure 4 illustrates the volume of Olex's sales of PVC flat electrical cables in the domestic market.

³⁵ REP 271 refers.

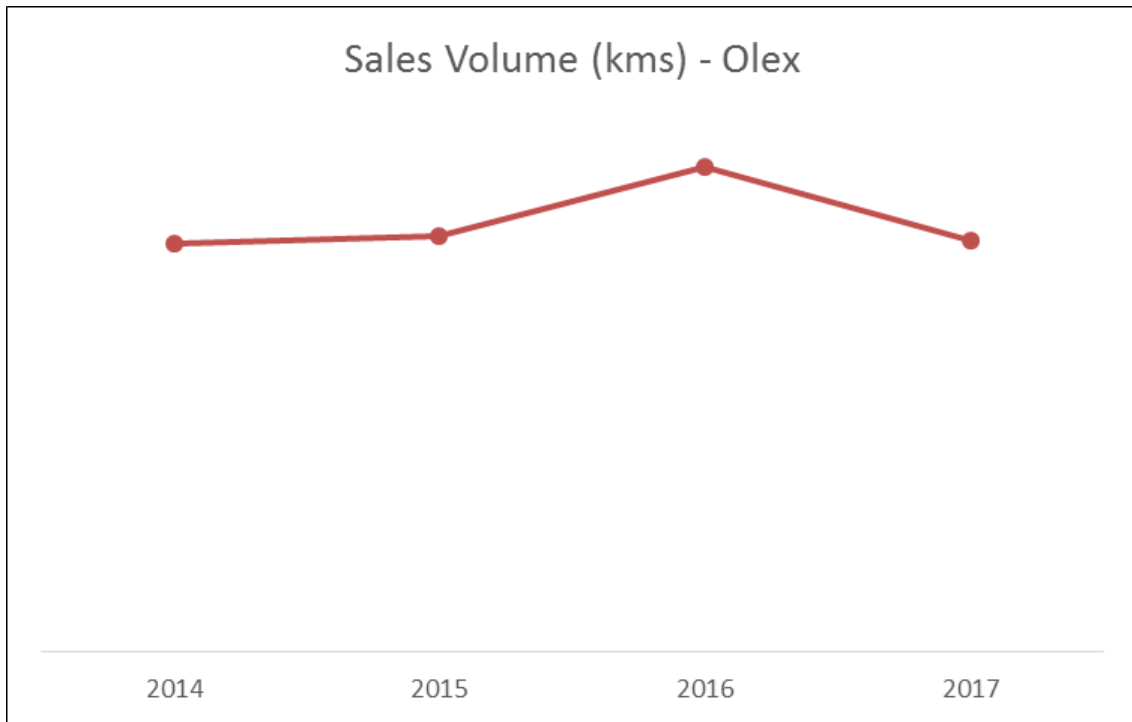


Figure 4 – Olex’s domestic sales volume of PVC flat electrical cables

The Commission notes that both Prysmian’s and Olex’s sales volumes increased from 2014 to 2016. However, their sales volumes decreased in the investigation period. Prysmian and Olex claimed that the decrease in their sales volumes occurred at the same time as continued growth in housing construction, renovations and building fit-outs between the years 2014 and 2017.

8.4.2 Market share

Figure 5 depicts the change in market share Australian industry members have experienced from 2014 to 2017. The Commission’s analysis of market size and market share is in **Confidential Appendix 1 – Market Size and Share**.

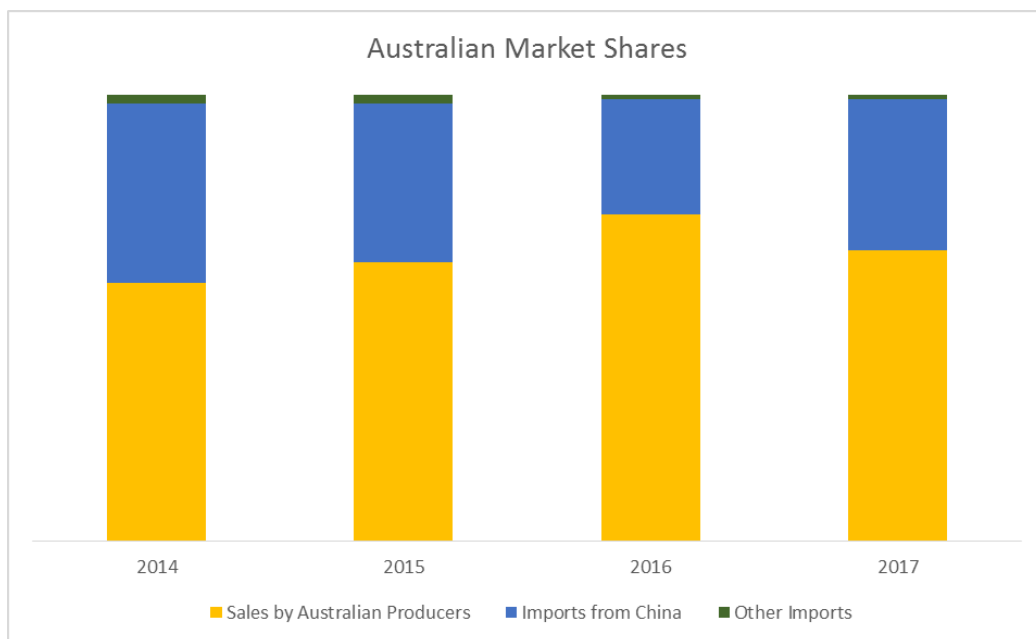


Figure 5 – Estimated market share distribution for PVC flat electrical cables

From this analysis, it is observed that Australian industry members lost market share in the 2017 calendar year to the goods imported from China. The market share of imports from other countries that are not subject to this investigation remains small (consistently less than 5 per cent) and declined in 2016 and 2017.

8.5 Price and Profitability Injury

The Commission found that, while Prysmian's profit and profitability improved during 2015, it has been falling from 2016 onwards. In addition, it can be noted that Prysmian has experienced a loss for all quarters of the injury analysis period apart from one quarter (2016-Q2), where a small profit was made. These trends are shown in Figure 6.

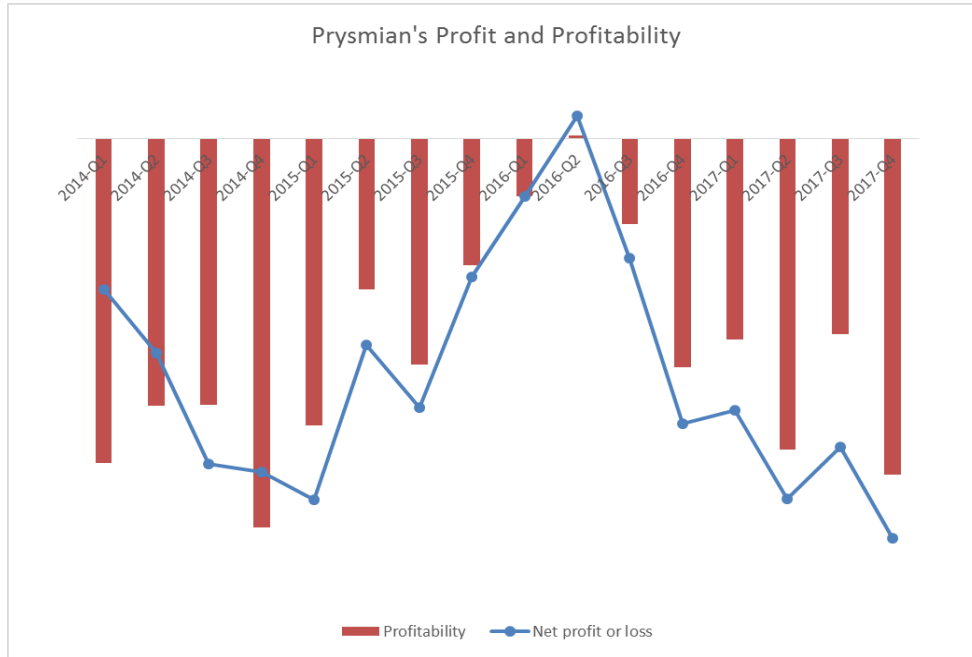


Figure 6: Prysmian's profit and profitability (*Profitability plotted on secondary axis)

Olex made consistent losses from the sale of the goods in 2014 and 2015. For three quarters in 2016, Olex generated profits from the sale of the goods. However, Olex's profitability has been declining from the end of 2016 onwards. During the investigation period, Olex has experienced losses in all quarters. Olex's profit and profitability trends are shown in Figure 7.

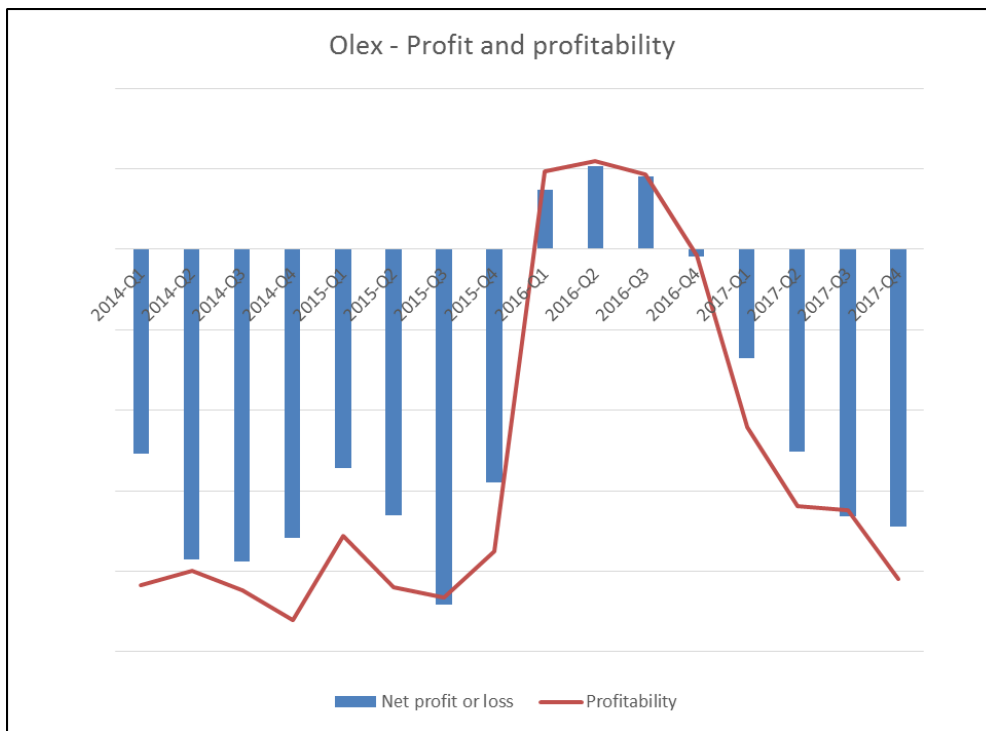


Figure 7 – Olex’s profit and profitability (*Profitability plotted on secondary axis)

The Commission concludes that, while Australian industry members improved their profitability from the sale of the goods and made a small net profit in 2016, both Prysmian and Olex have experienced losses throughout the majority of the injury analysis period. The Commission notes that Australian industry members’ profits and profitability deteriorated substantially during the investigation period.

Further analysis of the Commission’s assessment of profit and profitability factors is contained in **Confidential Appendix 12 – Economic Performance of Australian Industry**.

8.6 Price suppression

Price suppression occurs when price increases, which otherwise might have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs.

In its application, Prysmian claimed that it has experienced injury in the form of price suppression. At the verification visit, Olex also stated that it has experienced price suppression during the investigation period.

The Commission found that PVC flat electrical cables is a very price sensitive product. As the product is not very profitable for the main customers of this product (i.e. wholesalers), buyers will seek to purchase at the lowest possible prices; even small differences in price have been shown to change buying decisions.

The Commission also found that during the investigation period there has been a substantial increase in copper costs. Both of the examined Australian industry members claimed that they were unable to raise selling prices of PVC flat electrical cables in the market to account for this increase in production cost. Both Prysmian and Olex claimed that competitive market offers for imported goods from China undercut their prices and prevented them from passing on the increases in their material costs.

The Commission conducted analysis of Prysmian and Olex's unit CTMS and unit net selling prices over the injury analysis and investigation periods. These are depicted in Figures 8 and 9 below.

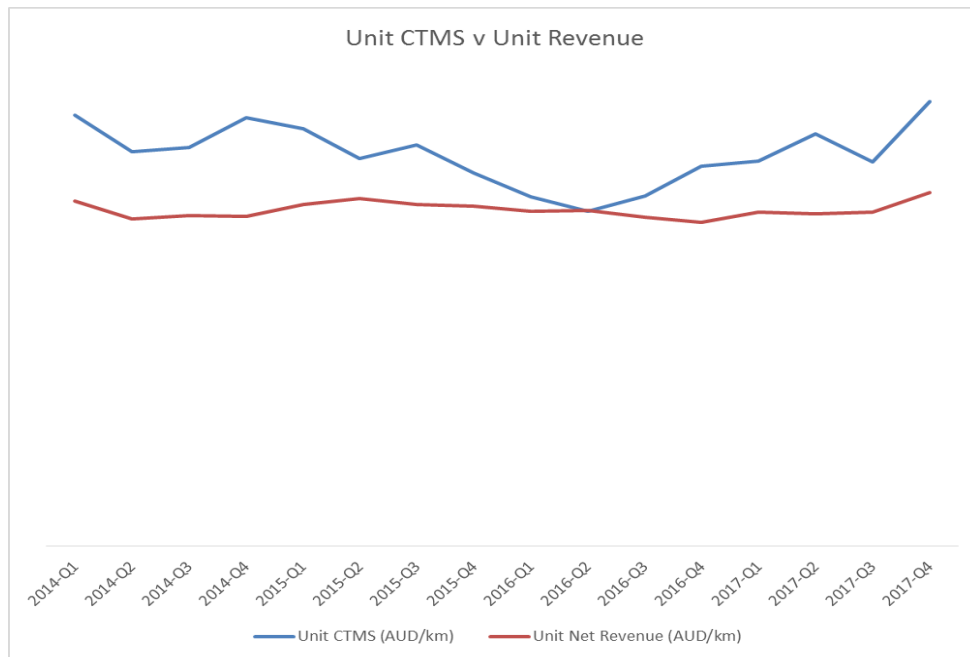


Figure 8: Comparison of Prysmian's unit CTMS and unit selling prices

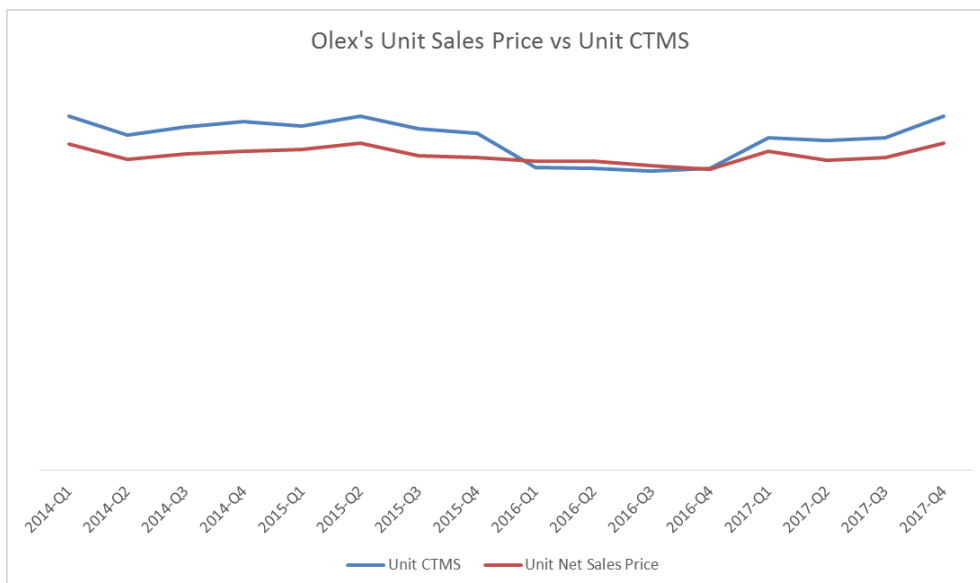


Figure 9: Comparison of Olex's unit CTMS and unit selling prices

The Commission's analysis supports the Australian industry members' claims in relation to the increase in production costs from 2017 surpassing the increase in net selling prices. This is evident from the increasing gap between Prysmian's and Olex's unit CTMS and unit net selling price during 2017. As a result, the Commission has found that the Australian industry members' prices were suppressed.

The Commission's price suppression analysis is available at **Confidential Appendix 12 – Economic Performance of Australian Industry**.

8.7 Other economic factors

Both Australian industry members claimed injury to return on investment (ROI), capacity utilisation and reduction in employment hours.

Return on Investment

Figures 10 and 11 below depict Prysmian and Olex's ROI results in relation to PVC flat electrical cables. It is evident that both Prysmian and Olex had suffered injury in the form of reduced ROI during the investigation period.

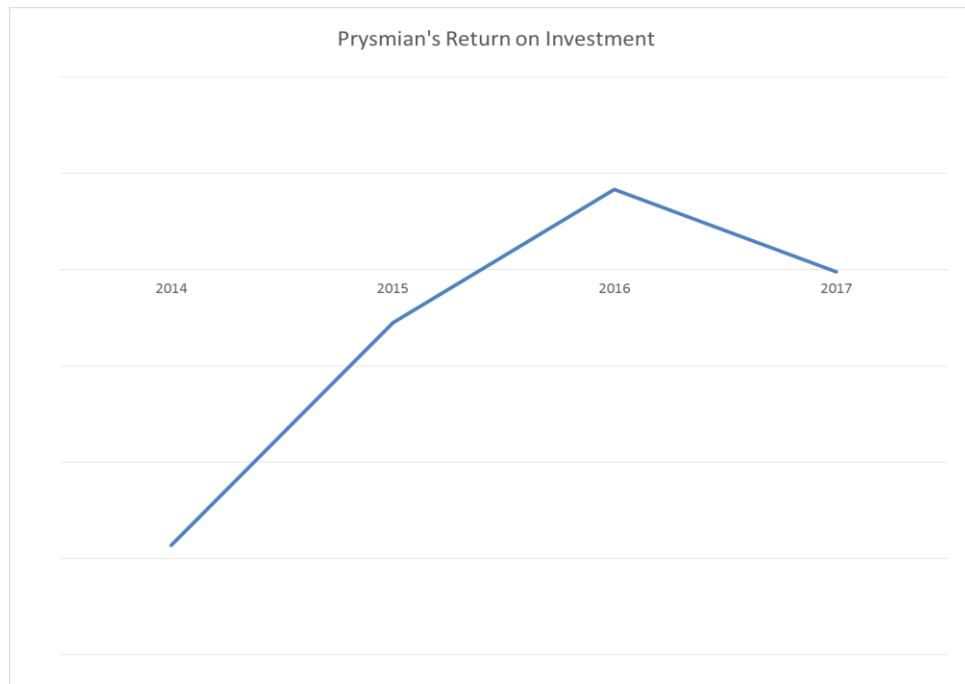


Figure 10: Prysmian's ROI for the goods

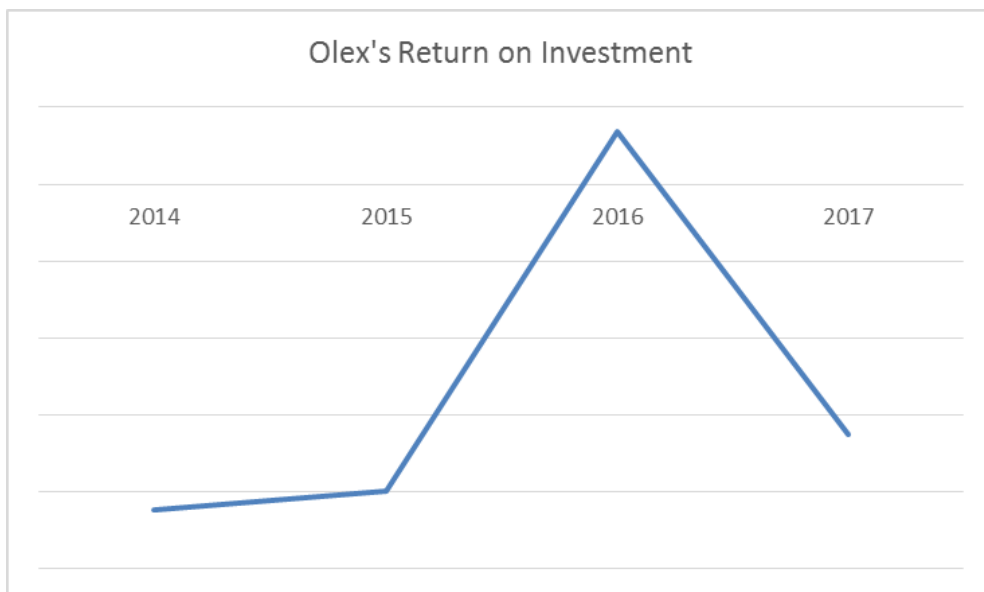


Figure 11: Olex's ROI for the goods

Capacity Utilisation

In its application, Prysmian claimed that it experienced injury in the form of reduced capacity utilisation in manufacturing of the goods. Olex has also claimed injury in the form of reduced capacity utilisation.

Figures 12 and 13 below depict Prysmian and Olex's capacity utilisation in relation to the manufacturing of PVC flat electrical cables. Figures 12 and 13 show that capacity utilisation rates of the Australian industry members reduced during the investigation period.

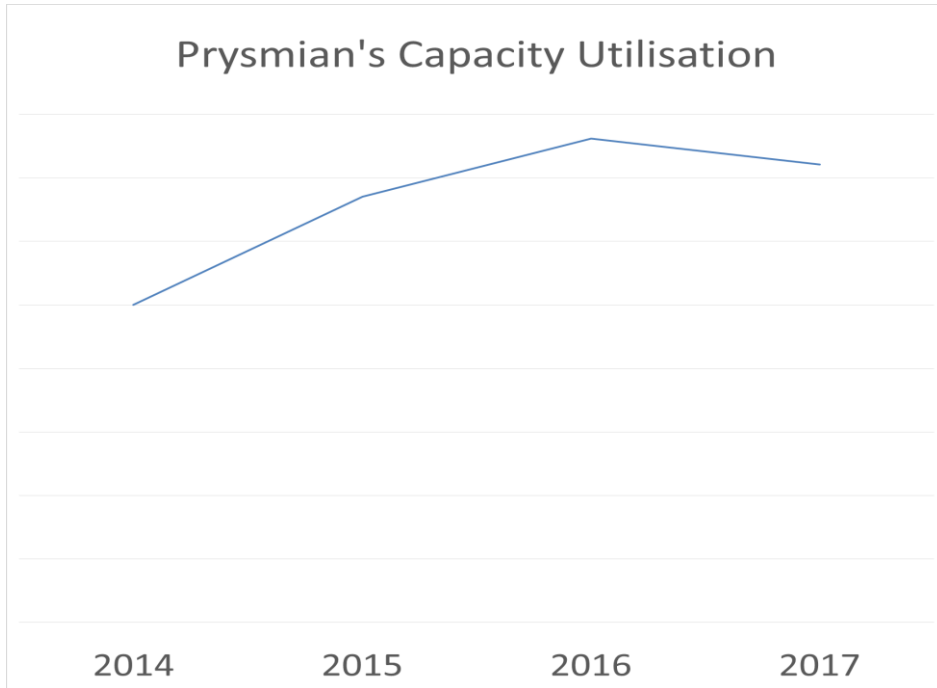


Figure 12: Prysmian's capacity utilisation in production of the goods

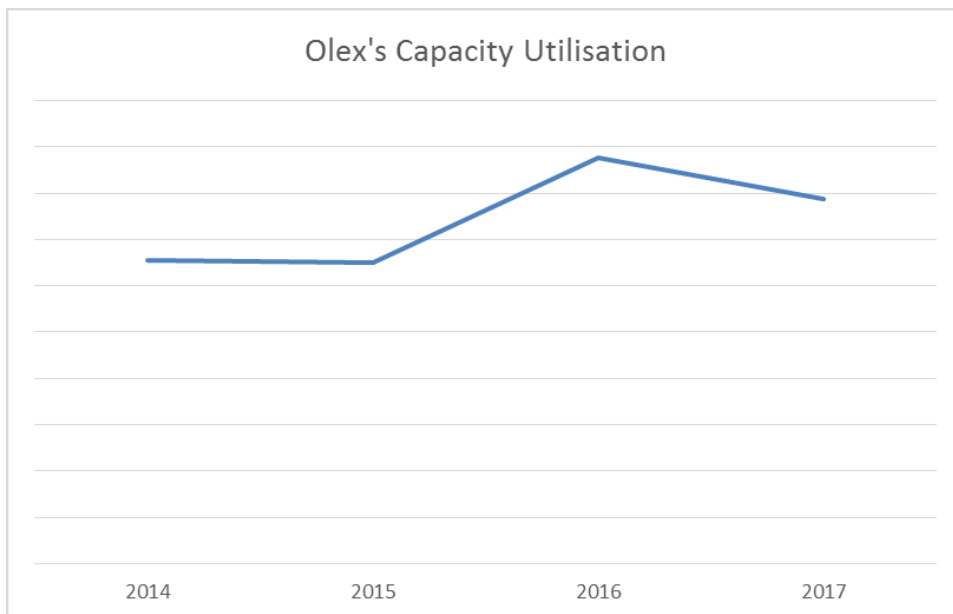


Figure 13: Olex's capacity utilisation in production of the goods

Employment Hours

Both Prysmian and Olex claimed that they experienced injury by way of reduced employment hours allocated in manufacturing of the goods. Figures 14 and 15 below shows the changes of total employment hours dedicated to production of the goods for Prysmian and Olex, respectively.

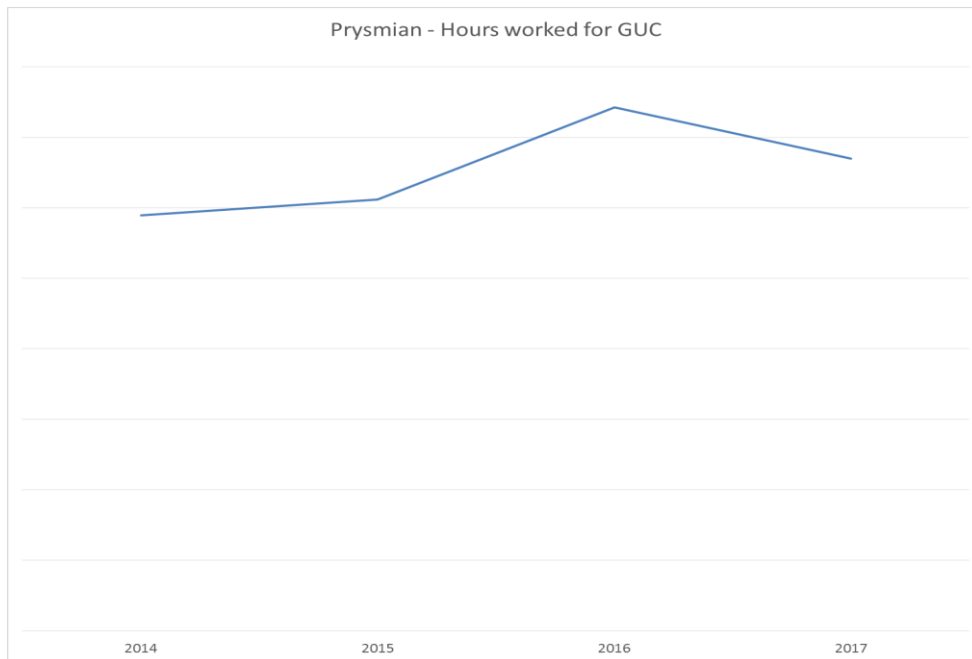


Figure 14: Prysmian's total hours worked in production of the goods

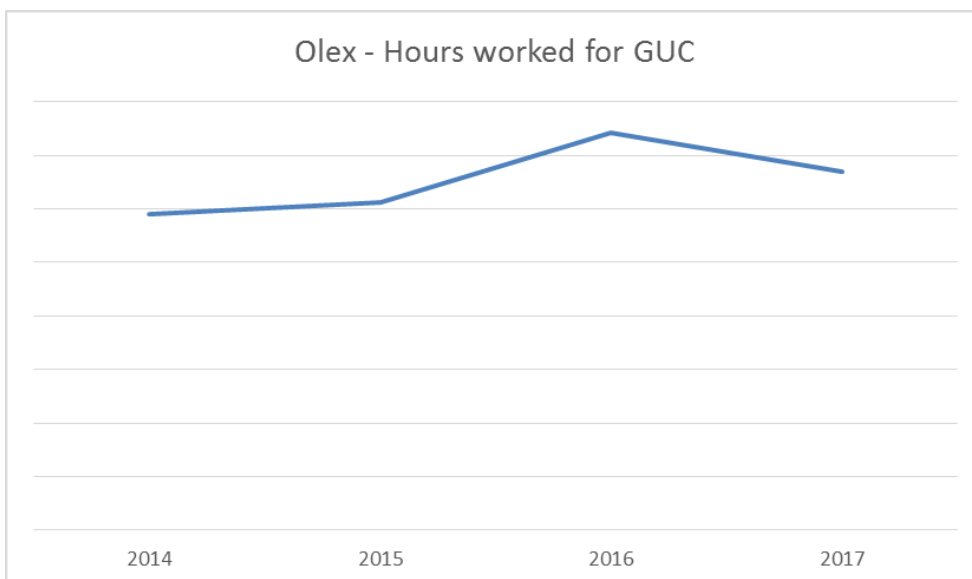


Figure 15: Olex's total hours worked in production of the goods

The Commission has concluded that the Australian industry suffered injury in the form of:

- reduced return on investment;
- reduced capacity utilisation; and
- reduced employment hours.

Further analysis of the Commission's assessment of other economic factors is contained in **Confidential Appendix 12 – Economic Performance of Australian Industry**.

9 CAUSE OF INJURY TO THE AUSTRALIAN INDUSTRY

9.1 Finding

The Commissioner has found that dumped and subsidised exports of PVC flat electrical cables from China have caused material injury to the Australian industry.

In investigating the cause of injury to the Australian industry, the Commissioner had regard to the factors that influenced the Australian customers' purchasing decisions. Following visits to Australian industry, importers and reviewing relevant evidence, the Commissioner is satisfied that PVC flat electrical cable has a high degree of price sensitivity. The Commissioner is also satisfied that, as all PVC flat electrical cable sold in Australia must be compliant with the Australian Standard, buyers are able to switch suppliers easily. Therefore, the Commissioner has found that purchasing decisions of PVC flat electrical buyers are predominantly based on the price of the product.

9.2 Legislative framework

Under section 269TG, one of the matters the Minister must be satisfied of in order to publish a dumping and / or countervailing duty notice is that, because of the dumping and / or countervailing, material injury has been, or is being caused, or is threatened to the Australian industry producing like goods.

Subsection 269TAE(1) outlines the factors that may be taken into account in determining whether material injury to an Australian industry has been, or is being, caused or threatened. The Commissioner has had regard to the provisions of subsection 269TAE(1) in forming his opinion.

Subsection 269TAE(2A) requires that regard be had to whether any injury to an industry is being caused by a factor other than the exportation of the goods and provides examples of such factors.

9.3 Size of the dumping margins

Subsections 269TAE(1)(aa) and (1)(ab) provides that regard may be given to the size of each of the dumping and countervailing margins, worked out in respect of goods of that kind that have been exported to Australia.

The dumping margins outlined in section 6.1 of this report (refer Table 3) range between 7.2 and 33.2 per cent and are above negligible levels (i.e. above two per cent) for all exporters. The countervailing margins range between 0.7 and 3.7 per cent. The countervailing rates for Nanyang and all other exporters (except Guilin) are above negligible levels.

The Commission considers that the magnitude of the dumping and countervailable subsidies received provided exporters with the ability to offer PVC flat electrical cables to importers at significantly lower prices than would otherwise have been the case.

9.4 Price effects

The Commission collected sales data and documentation regarding the discounts and rebates given to customers by the Australian industry members and importers of the goods from China. The Commission verified sales data and the discounts and rebates at verification visits to Prysmian, Olex, Electra and Nan.

Using this information, the Commission calculated net selling prices (i.e. free of discounts and rebates) of the goods at cash terms (by eliminating the effects of different payment terms) for each supplier and analysed the pricing differences. As the majority of sales are to wholesalers, the Commission focused its analysis on the net selling prices to wholesalers at Free Into Store (FIS) cash terms. This analysis is available at **Confidential Attachment 1**.

The analysis in **Confidential Attachment 1** shows that the weighted average FIS cash price of the goods sold by Nan to wholesalers were the cheapest in the market during the investigation period. The weighted average price of the goods sold by Electra mostly undercut the Australian industry prices in the second half of the investigation period. The Commission observes that this occurred during a period of rising copper costs.

At the verification visits, the Commission collected price lists that Prysmian and Olex issued each month to their wholesale customers. The Commission observed that the Australian industry members increased the list prices of the goods consistent with the increase in the copper prices. However, the Commission also observed that the Australian industry members often had to extend further discounts from the list prices (in addition to the contractual rebates and discounts the customers were eligible to) in order to meet the prices in the market. Therefore, the evidence before the Commission suggests that the Australian industry members sought to increase prices to respond to increasing copper costs, but instead reduced pricing in subsequent months in an attempt to maintain market share (which appeared to be unsuccessful). As a result, the Commission is of the view that dumped and subsidised imports of PVC flat electrical cable caused injury to the Australian industry in the form of price suppression.

9.5 Volume effects

The Commission understands that the Australian industry members are volume dependent businesses. When they compete with cheaper offers for imported goods from China, they either:

- maintain prices and lose sales volume to cheaper offers; or
- maintain volume by matching or beating other prices at the expense of profitability.

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. Consequently, there is considerable desire for the Australian industry members to increase or at least maintain their sales volumes. Despite this, during the investigation period, both Prysmian and Olex lost sales volumes and market share to imported goods from China. This has further impacted Australian industry members' profitability during the investigation period.

In **Confidential Attachment 1**, the Commission assessed the impact of the prices offered by the suppliers in a given month to their respective sales volumes in the same month.

In order to analyse this relationship, for each month of the investigation period the Commission charted Prysmian's, Olex's and Electra's:

- weighted average net FIS cash selling prices to wholesalers;
- average monthly sales volumes; and
- actual sales volumes.³⁶

³⁶ This analysis excludes Nan as it was consistently offering the cheapest prices in the market in order to gain entry, but has a comparatively much smaller market penetration and therefore share.

The analyses in Confidential Attachment 1 supports the Commission's finding in regards to price sensitivity of the goods. The analysis also shows that the supplier which offers the lowest weighted average price to wholesalers in any given month generally exceeds its average monthly sales volumes within that month. The Commission notes that the highest price offer generally leads to lower than average sales volumes with the exceptions of first and last months of the year where the sales volumes are generally lower than the other months.

Therefore, the Commission considers that dumped and subsidised imports of PVC flat electrical cable caused injury to Australian industry in the form of reduction of sales volumes and market share.

9.6 Profit and profitability

In the application, Prysmian claimed (and Olex agreed) that the Australian industry has experienced injury in the form of loss of profit and reduced profitability.

The Commission observes that the lowest undumped and unsubsidised prices would on average be 7.2 per cent above the Australian industry members' prices.³⁷ Therefore, the Australian industry members may have been able to increase prices by more than 7 per cent on average to match the lowest undumped price in the market (**Confidential Attachment 1** refers). The Commission considers this would represent a material improvement in the Australian industry's economic condition, and would be likely to enable the Australian industry to recover its CTMS. This would have substantially altered the profit and profitability outcomes for Prysmian and Olex during the investigation period that were observed in Chapter 8. The Commission's analysis about the Australian industry's profit and profitability condition in the absence of the dumping and subsidisation is at **Confidential Attachment 2**.

The Commission also notes that, as the dumping and subsidisation is found to have caused volume injury, there would potentially be consequential increases in sales volumes for the Australian industry if the goods from China were at higher (undumped and unsubsidised) prices. Higher volumes means lower per unit fixed costs, which would also help to improve the Australian industry's profitability. However, the analysis in **Confidential Attachment 2** does not take into account any possible increase in sales volumes as the Commission does not have enough information to reliably calculate the level of potential sales volume increases.

Based on the analyses above, the Commission considers that dumped and subsidised imports of PVC flat electrical cable caused injury to Australian industry in the form of loss of profit and profitability.

9.7 Injury factors other than dumping and subsidisation

Having regard to the data collected from the Australian industry and verified at the verification visits, the Commission considers that the increase in copper prices in the second half of the investigation period contributed to the financial injury experienced by the Australian industry members.

³⁷ Undumped and unsubsidised prices are calculated by adding the effective rate of dumping and subsidy margins on top of the corresponding suppliers' selling prices.

Copper rod is the major component of the CTMS for the goods. Therefore, any increase in copper prices increases the production cost of the goods. PVC flat electrical cable, being a competitive product in the market place, usually does not offer significant profit margins to provide a buffer against sustained cost increases in copper.

As depicted in Figure 16, copper prices sharply increased during the investigation period. Data in relation to global copper cathode prices and analysis of changes in copper prices is contained in **Confidential Attachment 3**.

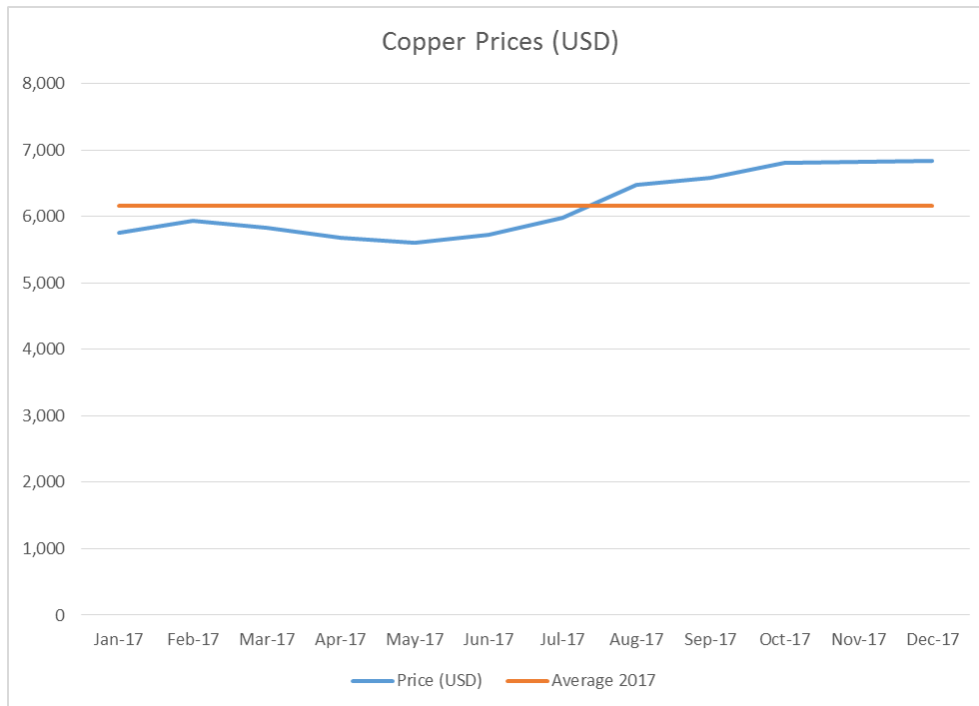


Figure 16: London Metal Exchange, A grade copper cathode prices in United States Dollars (USD)

Considering the deterioration in the Australian industry members' financial positions with respect to the goods, the Commission is of the view that the increase in copper prices has contributed to the Australian industry members' injury. However, the Commission considers that this impact has been more profound in a market where the Australian industry members faced price competition from dumped and subsidised imports from China, and were unable to pass on the cost increases to their prices at a time when importers were not also responding to those increased costs.

9.8 Materiality of injury

The Commission found that PVC flat electrical cable has significant price sensitivity. All PVC flat electrical cables sold in Australia are manufactured to comply with the Australian Standard. Because of that, there is a significant amount of interchangeability between different brands and very little customer loyalty. Typically, PVC flat electrical cable is sold together with other cable products as the wholesale customers, who account for the vast majority of the purchases, prefer to bundle their orders to avoid receiving multiple deliveries from various suppliers. Both the importers and the Australian industry members state that the price of PVC flat electrical cable is typically what the purchasers refer to when they collect offers for a bundle of products they seek to purchase. That amplifies the significance of the prices of the goods, and forces the Australian industry members to match or at least get close to dumped and subsidised prices of PVC flat electrical cable imported from China.

As discussed above, although the Commission considers that increases in copper prices have contributed to the Australian industry's injury, it doesn't detract from the fact that in the absence of dumping and subsidisation, both Prysmian and Olex would have been significantly better off financially. Given the volume-dependent nature of the business and the emphasis on the price of the product due to the very high interchangeability of the goods, the Commission is of the view that the price, volume, profit and profitability injury the Australian industry experienced was nevertheless material.

9.9 Injury to the Australian industry – findings

Based on the assessment above, the Commission considers that:

- the volume of the goods exported to Australia from China at dumped and subsidised prices has increased during the investigation period;
- the significantly lower prices of the goods imported from China has provided importers (chiefly Electra and Nan) with a competitive advantage due to their ability to purchase PVC flat electrical cables at dumped and subsidised prices, which allows them to be more competitive on price than otherwise would be the case; and
- the price and profit injury caused by the dumped and subsidised goods was material.

The Commission considers that there is sufficient evidence to establish that dumped and subsidised imports of PVC flat electrical cable from China enabled the importers to undercut the Australian industry's prices during the investigation period.

This has led to the Australian industry experiencing material injury in the form of:

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

Therefore, the Commission considers that there appears to be sufficient grounds to support Prysmian's claim that material injury has been caused or is being caused by the dumped and subsidised goods.

10 WILL DUMPING AND MATERIAL INJURY CONTINUE?

10.1 Finding

The Commissioner is satisfied that exports of PVC flat electrical cables from China in the future will likely be at dumped and subsidised prices, and that continued dumping and subsidisation will likely continue to cause material injury to the Australian industry.

10.2 Introduction

Subsection 269TG(2) provides that where the Minister is satisfied, among other things, that dumping may continue and because of that material injury to an Australian industry producing like goods has been caused or is being caused, anti-dumping measures may be imposed on future exports of like goods.

10.3 The Commission's assessment

10.3.1 Will dumping continue?

The Commission's dumping analysis shows that PVC flat electrical cable exported to Australia from China during the investigation period were at dumped prices, with dumping margins ranging from 7.2 to 33.2 per cent.

The Commission understands that the electrical wholesalers, which account for the majority of the purchases of the goods from the Australian industry and the importers, prefer to source PVC flat electrical cable from multiple suppliers and they will continue to look for lower priced alternatives to locally produced goods. Given the price sensitivity of the Australian PVC flat electrical cables market and the magnitude of the price undercutting by the dumped and subsidised imports, imported PVC flat electrical cables will continue to be an attractive source of supply.

In order to further assess if dumping would continue if measures are not imposed, the Commission accessed the ABF import database to compare the import volumes of the goods by Electra and Nan in the investigation period and in the 2018 calendar year. The Commission observed that both Electra and Nan have increased their import volumes of the goods. The ABF data that forms the basis of this comparison is at **Confidential Appendix 13**.

Considering the interchangeability and price sensitivity of the goods and the importers' established routes to market, the Commission considers that dumping will continue if anti-dumping measures are not imposed.

10.3.2 Will subsidisation continue?

The Commission found that PVC flat electrical cable exported to Australia from China during the investigation period were subsidised, with subsidy margins ranging from de-minimis to 3.1 per cent.

The Commission notes that no information has been presented to the Commission indicating that the programs found to be conferring a benefit to Chinese exporters of PVC flat electrical cable by way of countervailable subsidies (with the exception of Guilin) would cease to provide the exporters with financial contributions, or that these exporters are unlikely to continue to benefit from these programs.

The Commission therefore considers that subsidisation in China will continue in the future.

10.3.3 Will material injury continue?

The Commission has reviewed the Australian industry members' performance over the injury analysis period and has made a finding that PVC flat electrical cable exported at dumped and subsidised prices has caused material injury to the Australian industry.

The Commission considers that a continuation of price competition from dumped and subsidised imports from China is likely to have a continuing adverse impact on the Australian industry members. The Commission considers that this impact may be particularly evident in price undercutting, price suppression, reduced sales volumes, reduced market share and reduced profits and profitability.

Based on the available evidence, the Commission makes a finding that exports of PVC flat electrical cable from China in the future will likely be at dumped and / or subsidised prices and that continued dumping and / or subsidisation will likely cause further material injury to the Australian industry.

11 UNSUPPRESSED SELLING PRICE AND NON-INJURIOUS PRICE

11.1 Finding

The Commission has assessed that the non-injurious price (NIP) can be established by reference to an unsuppressed selling price (USP) equal to the Australian industry's weighted average CTMS for the goods under consideration, plus an amount of profit Prysmian realised from the sale of a 1.5 mm² three core and earth PVC flat electrical cable product, which the Commission considers a part of the same general category of goods.

The Commission found that for exports of PVC flat electrical cable by Guilin, the NIP is above the normal value and therefore the NIP is not the operative measure. For all other exports of goods from China, the Commission calculates that the normal values exceed the NIP and therefore proposes to recommend that the Minister have regard to the lesser duty rule.

11.2 Introduction

Interim dumping duties (IDD) and interim countervailing duty (ICD) may be applied where it is established that dumped and / or subsidised imports have caused or threatened to cause material injury to the Australian industry producing like goods. The level of IDD and ICD imposed by the Minister cannot exceed the margin of dumping and subsidisation.

Where the Minister is required to determine IDD and the NIP of the goods is less than the normal value of the goods, the Minister must have regard to the 'lesser duty rule' in accordance with subsection 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act), unless one of the exceptions in subsection 8(5BAA) of the Dumping Duty Act applies.

Where the Minister is required to determine ICD and IDD in respect of the same goods and at the same time as a section 269TG notice is published, a notice under section 269TJ is also published, the Minister must have regard to the 'lesser duty rule' in accordance with subsections 8(5BA) and 10(3D) of the Dumping Duty Act, unless one of the exceptions in subsections 8(5BAAA) and 10(3DA) of the Dumping Duty Act applies.

The NIP is the minimum price necessary to prevent the injury, or a recurrence of the injury, caused to the Australian industry by the dumping and subsidisation.³⁸

Anti-dumping measures are generally based on FOB prices in the country of export. Therefore a NIP is calculated in FOB terms to compare to the country of export. To arrive at a NIP, the Commission first establishes an USP, following this hierarchy:

- market approach: using the Australian industry's weighted average selling price at a time when the Australian market was unaffected by dumping;
- construction approach: using the Australian industry's CTMS, plus where applicable, a reasonable rate of profit; or
- selling prices of un-dumped and un-subsidised imports in the Australian market.³⁹

³⁸ The relevant NIP for this investigation is defined in subsection 269TACA(a).

³⁹ The Manual, at chapter 23.

Having established the USP, the Commission then calculates the NIP by deducting costs necessarily incurred in getting the goods to the FOB point at export. The deductions normally include overseas freight, duty, insurance, into store costs and amounts for importer expenses and profit.

11.3 Submissions received in relation to USP and NIP

In its submission dated 21 November 2018, Prysmian stated that it has been unprofitable in all but one quarter across the four years during the injury assessment period.⁴⁰ Prysmian claimed that it had been affected by dumping throughout the entire injury assessment period. Prysmian proposed that the USP be based upon the constructed methodology, as market prices during the injury period are influenced by dumped and injurious exports.

Prysmian further recommended the level of profit for the USP be that recorded for a sister cable manufactured by Prysmian, which is a 1.5 mm² three core and earth PVC flat cable. Prysmian claimed that this product was not affected by dumping. Prysmian also provided its cost breakdown with the profit level achieved on the 1.5 mm² PVC cable in 2017 with its submission. Prysmian's cost breakdown and profit calculation is at **Confidential Attachment 4**.

11.4 The Commission's assessment

In making its decision, the Commission notes that the cost of copper constitutes the majority of the CTMS and therefore global copper prices have a very high degree of influence over PVC flat electrical costs. Because of that, and having regard to Prysmian's submission, the Commission considers that the Australian industry's weighted average selling prices from a period not affected by dumping is not a desirable approach.

Consequently, the Commission calculated the USP using the constructed method. In doing so, the Commission calculated Prysmian and Olex's weighted average CTMS during the investigation period using the verified data from both Australian industry members.

Throughout the investigation, the Commission consistently utilised the data pertaining to the same general category of goods when the relevant data for the goods is not available. For example, the profit rates realised by the exporters in the exporters' domestic sales are calculated by having regard to the profit realised by the exporters from the same general category of goods. Similarly, the SG&A costs for the exporter are also calculated by having regard to the SG&A costs incurred by the exporters for the same general category of goods. Therefore, the Commission considers it reasonable to have regard to the profit realised by the Australian industry in sales of products that are considered part of the same general category of goods for the purposes of determining a reasonable level of profit in the USP calculations.

Hence, in calculating the USP, the Commission added the amount of profit Prysmian realised in selling 1.5 mm² three core and earth PVC flat cable in the same period to the weighted average CTMS of Australian industry members. The Commission then deducted the most efficient importer's SG&A and profit levels and the lowest of the verified importation expenses to establish the NIP.

The Commission will continue to consider this matter in the light of the submissions and by having regard to all relevant information for the final report.

⁴⁰ Item no. 016 on EPR 469.

11.4.1 Comparison of NIP with normal values

Guilin

Having calculated the NIP using the approach explained above, the Commission compared it against the normal value established for Guilin.

The Commission observed that Guilin's normal value was below the NIP. Therefore, for Guilin, the lesser duty rule does not come into effect.

Nanyang and all other exporters (excluding Guilin)

For Nanyang and all other exporters (excluding Guilin), because the Commission is recommending to publish a dumping duty notice and a countervailing duty notice at the same time, in relation to the same goods, in accordance with subsections 8(5BA) and 10(3D) of the Dumping Duty Act, the Minister must have regard to applying the lesser duty rule.

The Commission compared the NIP to the sum of the ascertained export price of the goods and the interim duty payable 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.

NIP calculations are at **Confidential Appendix 14**.

12 FORM OF DUTY

12.1 Finding

The Commissioner proposes to recommend that anti-dumping measures be applied using the combination duty method in respect of IDD, and calculated as a proportion of the export price in respect of ICD.

12.2 Forms of duties available

The forms of duty available under the *Customs Tariff (Anti-Dumping) Regulation 2013* include:

- combination duty method;
- fixed duty method;
- floor price duty method; and
- *ad valorem* duty method (i.e. a percentage of export price).

These forms of duty all have the same objective of removing the injurious effects of dumping and subsidisation; however, in achieving this objective, certain forms of duty will better suit the particular circumstances of some investigations more so than other forms of duty.

In PAD 469, the Commissioner decided to take securities using an *ad valorem* method, having regard to the price volatility observed in PVC flat electrical cables due to its high correlation with global copper prices.

12.3 Submissions received

In its submission dated 17 January 2019, Prysmian contends that the most effective measures would be based upon the combination duty method, instead of the *ad valorem* method.⁴¹ In its submission, Prysmian disagrees that prices of PVC cables have been volatile in the four years examined for injury assessment. Prysmian agreed with the Commission that PVC flat electrical cable prices were highly correlated with global copper prices but argued that the price volatility for the goods was not apparent in recent times.

Prysmian argued that if sales between an exporter and its related party importer were found to be non-arms length, then prices between those parties can be manipulated to circumvent measures that are imposed using the *ad valorem* duty method.

Prysmian further noted that the market for PVC flat electrical cable is very price sensitive and this factor further raises the possibility of price manipulation via absorption of duties if duties are based on the *ad valorem* method.

Prysmian stated that it does not consider that anti-dumping measures based on the *ad valorem* method would remove the injury from dumping and subsidisation, and therefore, in order to eliminate the risk of manipulation of export prices to absorb the effect of duties, the most appropriate form of measures is the combination duty method.

⁴¹ Item no. 022 on EPR 469.

12.4 The Commission's assessment

The Commission, in considering which form of anti-dumping measures to recommend, has had regard to the *Guidelines on the Application of the Form of Dumping Duty 2013* (the Guidelines),⁴² relevant factors in the PVC flat electrical cables market and Prysmian's submission.

The Guidelines set out issues to be considered when determining the form of IDD. It is important to note that the various forms of IDD available all have the purpose of removing the injurious effects of the dumping. However, in achieving this purpose certain forms of IDD will better suit particular circumstances more so than other forms of IDD.

The Guidelines list the key advantages and disadvantages of each form of IDD. The combination method is considered appropriate where circumvention behaviour is likely (particularly because of related party dealings), where complex company structures exist between related parties, and where there has been a proven case of price manipulation in the market. Conversely, the combination method is less suitable in situations where there are many model types of the goods under consideration which exhibit a large price differential or where a falling market exists.

On the other hand, the *ad valorem* duty method is one of the simplest and easiest forms to administer when delivering the intended protective effect, is common in other jurisdictions, is similar to other types of Customs duties, is advantageous where there are many models or types and is suitable where the market prices of goods fluctuate over time. The *ad valorem* duty method may also require fewer duty assessments and reviews than other duty methods. Conversely, the *ad valorem* duty method has a potential disadvantage in that export prices might be lowered to avoid the effects of the duty.

In order to assess the claims in Prysmian's submission, the Commission has compared the Australian industry's net average selling prices of the goods and London Metal Exchange (LME) copper cathode prices in Figure 17 below. The data for this comparison is at **Confidential Appendix 15**.

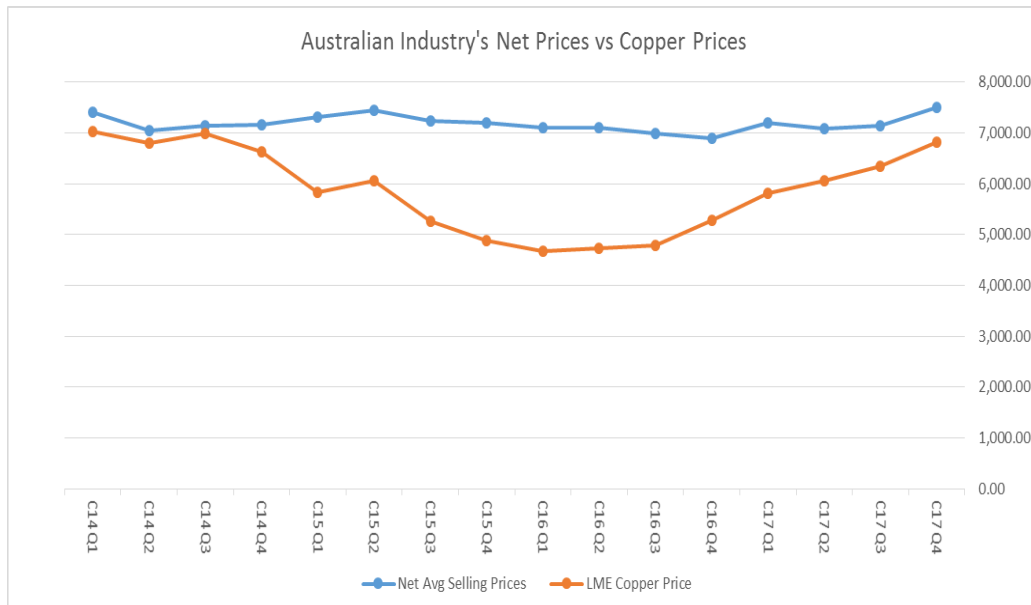


Figure 17: Australian industry's average net prices for the goods and LME copper prices⁴³

⁴² The Guidelines are available on the Commission website.

⁴³ Australian industry's net selling prices are depicted on a different scale to the copper prices, which is not displayed on the graph due to confidentiality concerns.

Figure 17 supports Prysmian's claim in relation to the lack of a high degree of price volatility in the market. The Commission also acknowledges that there are not many model types of the goods that exhibit large price differentials.

In order to assess whether a falling market exists, the Commission also had regard to global copper prices. Figure 18 depicts the change in global copper prices from the investigation period.

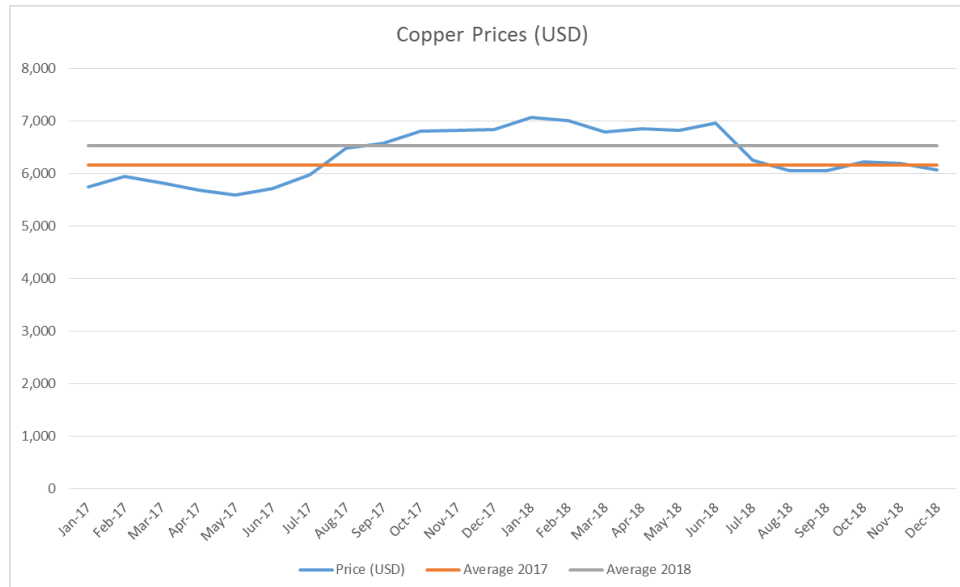


Figure 18: LME copper price and yearly averages for 2017 and 2018

The Commission observes that copper prices peaked in January 2018 and have since fallen. However, the current prices are still well above the price level at the beginning of the investigation period (1 January 2017).

Based on information available to date, the Commissioner proposes to recommend to the Minister that:

- a dumping duty notice be published in respect of PVC flat electrical cable exported to Australia in relation to all exporters from China; and
- IDD be calculated using the combination duty method.

In proposing such a recommendation, the Commission notes that there are complex company structures involving related parties in this investigation (both cooperating exporters have related party importers in Australia). In addition, as detailed in Chapter 6, the Commission considers that the exporters and importers did not deal at arms length terms during the investigation period.

As outlined in the Guidelines, the combination duty method is suitable in such situations. The Commission considers that the advantages of the combination duty method outweigh its disadvantages for this particular investigation.

12.5 Interim dumping and countervailing duties

The Commissioner proposes to recommend that:

- interim dumping duties be taken as an amount worked out in accordance with the combination duty method;
- ICD be calculated as a proportion of the export price of the goods.

The combination duty method includes a fixed *ad valorem* rate and a variable amount of duty if the actual export price is below the ascertained export price. In the case of Guilin, the fixed *ad valorem* rate will be equal to the calculated dumping margin as set out in section 6.4.

For Nanyang and all other exporters, the fixed *ad valorem* rate is equal to the lesser duty calculated by reference to the NIP.

If this recommendation is adopted, the effective rates of interim duties in relation to the goods exported to Australia from China are calculated at the rates specified below.

Exporter / Manufacturer	Duty Method	Fixed component of interim dumping duty	Variable component of interim dumping duty	Interim countervailing duty	Effective Rate of Total Duties with Lesser Duty Rule
Guilin	Combination method	7.2%	Applicable where the actual export price is below the ascertained export price	Not applicable	7.2%
Nanyang	Combination method	18.3%	Applicable where the actual export price is below the ascertained export price	3.1%	21.4%
Uncooperative and all other exporters	Combination method	17.7%	Applicable where the actual export price is below the ascertained export price	3.7%	21.4%

Table 8: Proposed measures applicable to the goods exported to Australia from China

13 APPENDICES AND ATTACHMENTS

Confidential Appendix 1	Market Size and Share
Confidential Appendix 2	Nanyang's Export Price
Confidential Appendix 3	Nanyang's Normal Value
Confidential Appendix 4	Nanyang's Dumping Margin
Confidential Appendix 5	Guilin's Export Price
Confidential Appendix 6	Guilin's Normal Value
Confidential Appendix 7	Guilin's Dumping Margin
Confidential Appendix 8	Uncooperative and All Other
Confidential Appendix 9	Nanyang's Subsidy Calculations
Confidential Appendix 10	Guilin's Subsidy Calculations
Confidential Appendix 11	Uncooperative Subsidy Calculations
Confidential Appendix 12	Economic Performance of Australian Industry
Confidential Appendix 13	Post Investigation Period CRE data
Confidential Appendix 14	USP and NIP calculation
Confidential Appendix 15	Price Volatility
Confidential Attachment 1	Price undercutting analysis
Confidential Attachment 2	Australian Industry without Dumping
Confidential Attachment 3	Copper prices
Confidential Attachment 4	Prysmian's cost breakdown and profit calculation - 1.5 mm ² PVC flat cable
Attachment 5	The Commission's assessment of subsidy programs

ATTACHMENT 5: ASSESSMENT OF SUBSIDY PROGRAMS

The Manual explains that, a subsidy exists where two distinct elements are present: there must be a financial contribution by a government, or income or price support; and this must confer a benefit. A financial contribution is a transaction through which something of economic value is transferred by the government.

The definition of a subsidy in section 269T of the Act refers to a '*government*' and to a '*public body*'. The term '*government*' is taken to include government at all different levels – national and sub-national. The definition also refers to a '*private body*' which the government or a public body entrust or directs to carry out a governmental function.

Section 269TACC directs how the Minister is to determine whether benefits have been conferred by a financial contribution or income or price support and the amount of this benefit.

Under section 269TJ, one of the matters of which the Minister must be satisfied to publish a countervailing duty notice is that a countervailable subsidy has been received in respect of the goods.

Information considered by the Commission

The Commission has relied upon information submitted by Prysmian and information provided by the co-operating exporters with respect to its investigation of the countervailable subsidy programs that were allegedly received by Chinese exporters of PVC flat electrical cables exported to Australia.

Below are the Commission's assessments of the categories of the subsidy programs investigated and are found to be countervailable.

Category 1: Provision of Goods

Program 1 – Provision of copper at less than adequate remuneration

In its application, Prysmian claims that the Chinese copper industry is dominated by SOE and that Chinese PVC cable wire producers receive copper at LTAR in China.

To assess this claim by Prysmian, the Commission included questions relating to this program in the exporter questionnaires and a separate questionnaire was forwarded to the GOC. The GOC did not respond to the Commission's questionnaire.

The Commission is not aware of any WTO notification by China in relation to this program.

In the absence of a response by the GOC and considering that the exporters did not provide sufficient details in their REQ in relation to the specificity of this program, there is not sufficient information available to the Commission to determine whether this program is specific pursuant to subsection 269TAAC(2) of the Act; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 269TAAC(3).

The Commission considers that, on the basis of the available information, this program does not appear to be generally available to all enterprises in China.

Consequently, the Commission found that this program was countervailable. In calculating the countervailing rates for Nanyang and uncooperative and all other exporters, the Commission had regard to subsection 269TAACA(1) of the Act.

Category 2: Preferential Tax Policies

Program 5 - Preferential Tax Policies for High and New Technology Enterprises

In its application, Prysmian claimed the companies that are classified as New High Tech Enterprise (NHTE) are eligible for a reduced company income tax rate of 15 per cent instead of the regular 25 per cent company tax rate in China. Prysmian claimed that to qualify for this program, a number of eligibility criteria must be met. In particular, the company must:

- be registered as an enterprise for more than 12 months;
- operate within mainland China;
- possess intellectual property as defined within the scope of high tech fields supported by the state;
- maintained ongoing research and development (R&D) advancements to core technology; and
- R&D expenditure over last three years must be:
 - In the last 12 months total income is not less than six per cent if annual sales income is less than 50 million Renminbi (RMB); not below 4 per cent if annual sales income is between RMB 50 million and RMB 200 million; not below three per cent if annual sales income is greater than RMB 200 million;
 - R&D expenditure within China is not less than 60 per cent;
 - the ratio of income from high-tech operations vs total income is not less than 60 per cent.

The Commission found that both Guilin and Nanyang have been assessed as NHTE during the investigation period and have been eligible for a reduced company tax. Noting that, the Commission considers that this program does not appear to be generally available to all enterprises in China.

Therefore, the Commission considers that the exporters received a benefit from government under this program. The Commission also considers that having regard to the eligibility criteria for this program, the program satisfies the specificity requirements of subsection 269TAAC(2).

Category 3: Financial Grants

In its application, Prysmian identified 33 grant programs that are applicable to exporters of steel products (i.e. rod in coil and reinforcing bar). Prysmian argued that as copper used in the manufacture of PVC cable wire is a non-ferrous material that is used in the manufacture of goods in an encouraged industry nominated by the GOC and located in a high-tech industrial/development zone, it is reasonable to conclude that the same countervailable benefits that have been received by producers / exporters in the Chinese steel industry would also be available to an encouraged industry such as PVC cable wire manufacturing in China.

The Commission included questions in relation to these programs in the exporter questionnaires. Based on assessment of the information provided in the REQ and the verification visit findings, the Commission found that the following programs confer a financial benefit to Chinese exporters, are specific in nature and therefore countervailable:

- Program 23 Huzhou City Quality Award
- Program 32 Environmental protection grant
- Program 36 Reducing pollution discharging and environment improvement assessment award
- Program 38 Grant from Technology Bureau
- Program 40 Independent Innovation and High-Tech Industrialization Program

Below are the Commission's findings with respect to the programs that are found to confer benefit to exporters of PVC copper manufacturers in China.

PUBLIC RECORD

Program Number	Program description	Background	WTO notification	Legal basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
23	Huzhou City Quality Award	It is alleged that the exporters of the goods have benefited from Huzhou City Quality Award	The Commission is not aware of any WTO notification of this program.	Notification of the Office of People's Government of Huzhou City (HuZhengBan Fa No.60).	<p>Enterprise located in Huzhou City of Zhejiang Province.</p> <p>The award is granted to no more than three enterprises each year that are registered in Huzhou City and have been in operation for more than three years and that have:</p> <ul style="list-style-type: none"> • 'enjoyed excellent performance'; • 'implemented quality management'; and • 'obtained a leading position in industry with significant economic benefits and social benefits'. <p>The products of an applicant must also meet the standards provided by laws and regulations regarding product safety, environmental protection, field safety as well as relevant industrial policy.</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 PVC flat electrical cables).</p> <p>The Commission noted that this program has been investigated previously during INV331, INV 322, INV 316, INV 237, INV 193 or INV 177 and found to be countervailable</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>
32	Environmental protection grant	It is alleged that the exporters of the goods have benefited from an Environmental protection grant.	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)	There are no articulated eligibility criteria for enterprises receiving environmental protection grants.	<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 PVC flat electrical cables).</p> <p>The Commission noted that this program has been investigated previously during INV331, INV 322, INV 316, INV 237, INV 193 or INV 177 and found to be countervailable</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

36	Reducing pollution discharging and environment improvement assessment award	It is alleged that exporters reviled a one-time grant for construction of automatic monitoring systems on the site of an enterprise's pollution sources - From 2008 to 2010.	The Commission is not aware of any WTO notification of this program.	<i>Environmental Protection Law of the People's Republic of China, Administrative Measure on Automatic Monitoring of Source of Pollution</i> (no. 28 order of former State Environmental Protection Administration); and <i>Administrative Measure on Automatic Monitoring of Source Pollution of Hunan Province</i> (no. 203 order of the People's Government of Hunan Province).	The grant was provided to the enterprises whose industries are on the list of key sources of pollution under national control of Hunan Province of 2008.	<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 PVC flat electrical cables).</p> <p>The Commission noted that this program has been investigated previously during INV331, INV 322, INV 316, INV 237, INV 193 or INV 177 and found to be countervailable</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>
38	Grant from Technology Bureau	It is alleged that the exporters of the goods have benefited from grants from the Technology Bureau.	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)	Enterprise located in Shandong Province.	<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 PVC flat electrical cables).</p> <p>The Commission noted that this program has been investigated previously during INV331, INV 322, INV 316, INV 237, INV 193 or INV 177 and found to be countervailable.</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>

40	Independent Innovation and High Tech Industrialization Program	It is alleged that the exporters of the goods have benefited from grants under the Independent Innovation and High Tech Industrialization Program.	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).	There are no articulated eligibility criteria for enterprises receiving grants under the independent innovation and high-tech industrialization program.	<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 PVC flat electrical cables).</p> <p>The Commission noted that this program has been investigated previously during INV331, INV 322, INV 316, INV 237, INV 193 or INV 177 and found to be countervailable.</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>
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Table A: The Commission's findings in relation to grant programs

Category 4: Additional financial grant programs identified

In addition to the subsidy programs Prysmian included in its application, the Commission also identified three additional financial grants that confer benefit to Chinese exporters of PVC flat electrical cables. These programs are:

- Program 43 Export credit insurance subsidy
- Program 44 Subsidy for production equipment digitization and information updates for exports of electric wires & cables
- Program 45 Subsidy for current fund loans

Program 43 - Export credit insurance subsidy

WTO notification: The Commission is not aware of any WTO notification of this program.

Legal basis: 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).

Eligibility criteria: The Commission understands that only exporters with large export sales revenues that are verified and assessed by the relevant GOC organisation are eligible for this subsidy.

Is there a subsidy: 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.

Is the subsidy countervailable: 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.

Program 44 - Subsidy for production equipment digitization and information updates for exports of electric wires and cables

WTO notification: The Commission is not aware of any WTO notification of this program.

Legal basis: 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).

Eligibility Criteria: To be eligible for a grant under this program, the recipient should have a large production volume which is verified and assessed by the relevant GOC organisation.

Is there a subsidy: 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.

Is the subsidy countervailable: 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.

Program 45 Subsidy for current fund loans

WTO notification: The Commission is not aware of any WTO notification of this program.

Legal basis: 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).

Eligibility Criteria: To be eligible for a grant under this program, the recipient should have a high sales revenue, large income tax payment and large outstanding loan amounts that are verified and assessed by the relevant GOC organisation.

Is there a subsidy: 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.

Is the subsidy countervailable: 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.