

Our ref: **ATH:20181169**
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Direct dial: 03 9321 7851
Direct email: ahudson@rigbycooke.com.au
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14 March 2019

Mr Bora Akdeniz
Assistant Director
Investigations 1
Anti-Dumping commission
GPO Box 2013
CANBERRA ACT 2601

By Email: bora.akdeniz@adcommission.gov.au

Dear Mr Akdeniz,

**NAN Electrical Cable Australia Pty Ltd (NAN) and Nanyang Cable (Tianjin) Co. Ltd (Nanyang)
Investigation into the alleged dumping of certain PVC flat electrical cables exported to Australia from the People's Republic of China Number 469 (Investigation)
Response to Nanyang Verification Report and Preliminary Affirmative Determination
NON-CONFIDENTIAL**

We refer to the Statement of Essential Facts (**SEF**) published on 22 February 2019, ADN 2019/25 (**Amendment of Securities**) and our submission to the Investigation made on behalf of NAN and Nanyang published on the Electronic Public Record on 13 February 2019 (**February Submission**).

We are instructed to make a submission in response to the SEF on the basis set out below.

1 Previous Submission

- 1.1 We note the SEF states that submissions made after 31 January 2019 (being our February Submission and a submission made by Electra on 8 February 2019) were not considered as, in the Commissioner's opinion, this would have caused a delay in the Investigation. The SEF states that these submissions will be considered in the final report.
- 1.2 In anticipation of the final report we reiterate our comments in the February Submission and request that, in particular, the ADC have regard to the extensive alternative factors which are likely to have caused any alleged injury that the Australian industry may have suffered.
- 1.3 Further, we repeat our submission that Nanyang and NAN do not agree that Nanyang is an uncooperative exporter. Nanyang did not originally fully appreciate the consequences of not providing a full account of its copper purchases in

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circumstances where it provided other detailed information and what it considered to be reasonably detailed information in relation to the copper purchases. We also note that the information provided by Nanyang and NAN generally was able to be used by the ADC in its analysis and is referred to in the SEF.

- 1.4 We also reiterate our arguments in relation to the arm's length nature of the transactions between NAN and Nanyang.

2 Response to the SEF

- 2.1 We are instructed that our clients do not agree with the finding in the SEF that the Australian industry has suffered material injury as the result of alleged dumping. We submit that, as set out in our February Submission, there are significant other factors which have influenced the Australian market, particularly in the 2017 financial year.
- 2.2 Further, we refer to section 9.6 of the SEF on Profit and Profitability. The SEF states that:

“The Commission observes that the lowest undumped and unsubsidised prices would on average be 7.2 per cent above the Australian industry members’ prices. 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 in the market.”

- 2.3 We do not accept this reasoning. We refer to submissions made by both NAN and Nanyang in this Investigation which clearly illustrate that the Goods are sold at very low margins by all members of the Australian market. As the Goods are not subject to brand loyalty in a highly competitive market, prices between the participants in the Australian market remain relatively low with very little ability to raise or lower those prices.
- 2.4 Further, as discussed in our previous submissions, the Australian market, in particular Prysmian's own pricing practices, have driven prices down even further. This does not represent the effect of allegedly dumped Goods and instead is indicative of a highly competitive market. We do not accept as realistic, given these factors, that the Australian industry would have been able to raise its prices by more than 7 per cent absent the allegedly dumped Goods.
- 2.5 We request that the ADC re-assess this finding in light of the information provided by NAN, Nanyang and other exporters and importers in past submissions.

3 Conclusions

- 3.1 We request that the ADC take into consideration other relevant factors to any material injury that may have allegedly been suffered by the Australian industry as set out in our February Submission.

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- 3.2 We also reiterate our clients' position that Nanyang has cooperated fully with the Investigation and should not be considered uncooperative and that the transactions between NAN and Nanyang should be considered arm's length.
- 3.3 Further, we do not accept the ADC's position that, absent allegedly dumped Goods, the Australian industry would have been able to raise its prices by more than 7 per cent and so increase its profitability in circumstances where the Goods are supplied in a highly competitive market which is not subject to brand loyalty.
- 3.4 Finally, we are instructed that our clients do not agree with the ADC's findings that dumping is occurring and that the Australian industry has suffered material injury as a result.

We would be pleased to provide the ADC with any further information it may require.

Yours faithfully



Andrew Hudson
Partner