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Public File

Dear Mr Akdeniz

Investigation No. 469 – PVC flat electric cables exported from the People’s Republic of China – Prysmian Australia Pty Ltd response to Statement of Essential Facts

I. Summary

Prysmian Australia Pty Ltd (“Prysmian”) welcomes the publication of Statement of Essential Facts No. 469 (“SEF 469”) and the proposed recommendation of the Commissioner to recommend to the Minister that dumping and countervailing duty notices be published in respect of PVC flat electric cables exported to Australia from the People’s Republic of China (“China”).

• The Commissioner’s findings as detailed in SEF 469 have established that:

- Exports of PVC flat electric cables to Australia from China during the investigation period were at dumped and subsidized prices, and the dumping and subsidy margins are not negligible;
- The volume of dumped exports from China is not negligible – with the Commissioner confirming all exports of PVC flat electric cables exported from China during the investigation period were at dumped prices;
- The volume of subsidized 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 the Australian industry has been or is being caused by dumped and subsidized exports of the goods from China.

Prysmian agrees with the Commissioner’s findings on dumping, subsidization, material injury and causal link.

Prysmian supports the Commissioner’s proposed recommendation to the Minister to publish dumping and countervailing notices imposing measures on exports of PVC flat electric cable exported from China.

II. The Goods under investigation

The goods the subject of Prysmian’s application for measures 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.’

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The locally produced like goods are often referred to as 'building wire' due to its use by the building and construction industry in domestic, commercial and mains power supply low-voltage wiring installations.

The two cooperative exporters Guilin International Wire and Cables Co., Ltd (Guilin") and Nanyang Cable (Tianjin) Co., Ltd ("Nanyang") do not dispute the goods under investigation.

III. The Australian market for the goods

The Anti-Dumping Commission ("the Commission") confirmed that the Australian industry comprises Prysmian, Olex Australia Pty Ltd ("Olex"), Australian Pacific Cables Pty Ltd and Advance Cables Pty Ltd.

The Commission estimated that the size of the Australian market for PVC flat electrical cables was approximately 160 million metres in 2017.

It is noted that during the investigation, Advance Cables Pty Ltd announced its intention to close production of PVC electric cables in Australia.

IV. Dumping investigation

The Commission determined that Guilin (and its affiliated producers/exporters) exported PVC flat electrical cable during the 2017 investigation period at dumped prices. The weighted-average dumping margin determined for Guilin was 7.2 per cent.

Electra Cables (Aust) Pty Limited ("Electra") has disputed the Commission's findings on dumping asserting that:

- The export sales between Guilin and the Australian importer were at 'arms length';
- Electra's foreign losses and gains have been excluded from its profitability calculations;
- The Commission has incorrectly assessed "profitability recoverability" on the Australian importer Electra's sales in the Australian market;
- The Commission's determination of sales at a loss by Electra is incorrect, and it is further asserted that price negotiations between the exporter and Electra were on a commercial basis;
- The Commission has incorrectly determined deductive export prices for Electra (and that the Commission's export price calculations 'adopts the wrong universe' in relation to sales to Australia; and
- Challenges the determination of level of profit on Electra sales used in deductive export price calculations.

The claimed "errors" highlighted by Electra appear to have been discussed with Electra at the time of the importer verification. The Commission was satisfied with its determination following the importer visits and, given the significant period for consideration by the Commission post the verification visit to fully examine information provided by the importer, a post-SEF change to the conclusions would only arise on the basis of Electra demonstrating new information not previously considered by the Commission or where an error by the Commission in its calculations has occurred. This does not appear to have occurred.

Prysmian also notes key factors relevant to the Commission's determination that sales between the Guilin companies and its affiliated Australian importer Electra were not at arms length include:

- Goods under consideration sold by Electra during the investigation period were at a loss;
- There was an absence of formal records concerning negotiations of price between Guilin and Electra;
- Electra can secure a "price delay as to when prices increases can take effect, or can influence the percentage of the price increase that will be achieved by Guilin" demonstrating that prices are negotiated in advance of sales of the goods being exported to Australia;
- The extent of 'comprehensive evidence' confirming "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".

The Commission's determination that export prices between Guilin and Electra are not arms-length are therefore well-founded.

Nanyang has also challenged the Commission's determination (EPR document No. 024) that it was uncooperative in respect of validating its copper purchases during the investigation period and challenging the non-arms length nature of the Commissioner's finding in relation to exports by Nanyang to its affiliated Australian importer. Nanyang does not appear to be disputing that it did not provide the relevant information around copper purchases (which impacts the non-arms length finding) however, it then seeks to contest the injury and causation finding of the Commission.

The Nanyang submission acknowledges that sales of the goods at a loss were made during the investigation period – further validating the Commission's determination that the export sales to Australia by Nanyang were not arms' length and also supporting Prysmian's claims that it suffered material injury at this time due to price undercutting experienced from Chinese imports. Nanyang's representations therefore support the Commission's finds on material injury and causal link across the investigation period.

The Commission has determined the following margins of dumping on the goods exported to Australia from China:

- for exports by Guilin International Wire and Co., Ltd – 7.2 per cent margin;
- For exports by Nanyang Cable (Tianjin) Co., Ltd – 33.2 per cent margin; and
- Uncooperative and all other exporters – a 33.2 per cent margin.

The margins determined are not negligible with all exports from China during 2017 above negligible levels of dumping.

V. Subsidies

The Commission's investigation confirmed that Chinese exporters of PVC flat electrical cables benefited from countervailable subsidies received from the Government of China ("GOC"). These programs included:

- Copper provided by the GOC at less than adequate remuneration;
- Preferential Tax Policies for High and New Technology Enterprises;
- Grant for Technology Project Assistance;
- Environmental protection grant;
- Grant for Reducing pollution discharging and environment improvement assessment award;
- Grant from Technology Bureau;
- Independent Innovation and Hi-Tech Industrialisation Program;
- Export credit insurance subsidy;
- Subsidy for production equipment digitalization and information updates for exports of electric wires and cables;
- Subsidy for current fund loans.

Nanyang received a benefit for copper at less than adequate remuneration throughout the investigation period, along with benefits received under the preferential taxation programs that, when quantified, represented 3.1 per cent of Nanyang's export price to Australia.

Guilin identified that it received a benefit under Program 5 as a high and new technological enterprise. Benefits received by Guilin in respect of subsidy programs received were quantified at 0.7 per cent of export price. Prysmian queries how the Commission determines the benefit that applies to Guilin and whether it is for all of the Guilin entities or specifically for one of the exporting entities (hence the revenue over which the benefit is allocated is less). Guilin's calculated benefit is considered negligible (at less than 3 per cent of the export price).

VI. Material injury and causation

The Commission has confirmed that the Australian industry manufacturing PVC flat electrical cable has 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 utilization; and
- Reduced employment hours.

The injury indicators confirmed by the Commission confirm those detailed in Prysmian's application.

In its assessment of causation, the Commission concluded that PVC flat electrical cable is a 'price sensitive' good and that "purchasing decisions of PVC flat electrical buyers are predominantly based on the price of the product". The Commission notes that 'discounts and rebates' are provided to customers by the Australian industry members and importers. The levels of the discounts and rebates are substantial. Importantly, the Commission noted:

"The Commission observed that the Australian industry members increased the list prices of the goods consistent with the increase in 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 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 prices 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 subsidized imports of PVC flat electrical cable caused injury to the Australian industry in the form of price suppression."

The Commission's observations are compelling. The findings reflect Prysmian's understanding of events that occurred during 2017 (i.e. increasing raw material copper prices) and downward movements in selling prices for PVC flat electrical cable as importers sought to hold (and increase) market share at the expense of the Australian industry. Prysmian is, however, concerned that the relative margins of dumping for the two key exporters Guilin and Nanyang appear to be extremely diverse and do not fully reflect the price impact (i.e. whether all discounts applied by the importer of the dumped goods) of the largest Chinese exporter of the goods to Australia. It is Prysmian's view that the dumped prices for the two largest Chinese exporters would have naturally aligned – this is not reflected in the margins of dumping determined.

Prysmian also welcomes the Commission's assessment of the impact of the dumped and subsidized prices on Australian industry selling prices. The Commission found that *"the lowest undamped and subsidized prices would be on average 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 undamped prices in the market"*. In particular, Prysmian would have been able to increase prices to recover the rising cost of copper during the 2017 investigation period.

The Commission's conclusion that in the absence of dumping and subsidization, the Australian industry members "would have been significantly better off financially" is supported by the evidence that the Australian industry should have been able to compete at selling prices at, or close to, the undamped selling price of the goods imported from China.

The Commission's findings on causation, therefore, are well-founded. Prysmian agrees that the dumping and subsidization was the cause of price suppression experienced in 2017. Prysmian therefore concurs with the Commission's causation analysis and contends that it is conclusive and valid.

VII. Will dumping and material injury continue?

During the conduct of its inquiries, the Commission concluded 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 subsidized imports, imported PVC flat electrical cables will continue to be an attractive source of supply."* This statement points to the very real imminent and foreseeable threat of future dumping and subsidization in the absence of any measures.

Prysmian highlights with the Commission that during 2017, importers of the dumped and subsidized exports of PVC flat electrical cables from China did not raise selling prices to recover increases in raw material copper prices. Indeed, the Commission concluded that in the case of one importer and exporter, no price negotiations appear to have occurred during the investigation period – that is, a time where selling prices should have increased to address rising raw material costs. It may therefore be reasonably concluded that, in the absence of anti-dumping measures designed to address the effects of injurious dumping and subsidization, it is likely that the dumped selling prices for goods exported to Australia would continue to injure the Australian industry.

Prysmian concurs with the Commission's well-founded assessment that exports of PVC flat electrical cable from China in the future will likely be at dumped and/or subsidized prices and that continued dumping and/or subsidization will likely cause ongoing material injury to the Australian industry.

VIII. Unsuppressed selling price

The Commission has determined an unsuppressed selling price ("USP") for the Australian industry based upon the cooperative Australian industry's CTMS, verified for the investigation period. It is noted that the Commission has adopted a consistent practice when determining the level of profit to be included in the industry's CTMS – the appropriate USP methodology in the current case. In determining the level of profit to be applied, the Commission referenced the following:

*"Throughout the investigation, the Commission consistently utilized data pertaining to the same general category of goods when the relevant data for the goods is not available. For example, the **profit rates realized by the exporters in the exporters' domestic sales are calculated by having regard to the profit realized by the exporters from the same general category of goods.** Similarly, the S,G&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."* (emphasis added).

The determined level of profit sourced for the Australian industry's USP is therefore consistent with the methodology used for determining profit to be applied in constructed normal value sales for PVC flat electrical cables in China.

Prysmian notes the Commission's statement that in arriving at a Non-injurious price ("NIP") from the USP, *"the Commission then deducted the most efficient importer's S,G&A and profit levels and the lowest of the verified importation expenses to establish the NIP."* Prysmian does not consider that a level of profit should be included in the calculation of the NIP as the importers sold the PVC flat electrical cable at a loss during the investigation period. To include a level of importer profit would artificially lower the NIP to an injurious level for the Australian industry (and would not allow the industry to recover from the effects of the injurious dumping).

Prysmian acknowledges that Guilin's normal value is below the calculated NIP. Hence the lesser duty rule (utilizing the NIP) does not apply to Guilin. However, in respect of exports by Nanyang, the NIP is lower than Nanyang's calculated normal value. The Commission determined that Nanyang's importer sold all of its goods at a loss during the investigation period – for this reason no level of profit should be included in the NIP determined for Nanyang. To include a level of profit would misrepresent the nature of a "non-injurious price" given the importer NAN's propensity to sell goods at a loss and inflict injury on the Australian industry members.

IX. Form of measures

Prysmian welcomes the Commission's acknowledgment of representations made in Prysmian's submission concerning the appropriate form of measures to be applied to the dumped and subsidized exports of PVC flat electrical cable from China (refer EPR Document 022).

In its submission, Prysmian highlighted that the 'combination method' form of measures has been the preferred measure to be applied where there are limited models (or grades) of the goods the subject of investigation, and where there exists a likelihood of price manipulation because of related party associations involving the exporter

and the importer. The combination method provides for a fixed component that *“ensures the effectiveness of the measures where there is a likelihood of price manipulation or circumvention”*. Measures based upon the combination method discourage the exporter from reducing its export price to avoid the imposition of the measures (as the variable component addresses reductions in the export price below the ascertained export price determined for the investigation period).

In addition to evidencing its view that raw material copper prices (and selling prices for PVC flat electrical cable) were relatively stable across the injury analysis period, Prysmian also detailed its concerns about the high prospect of price manipulation where related parties are involved in the export transactions. Prysmian noted that the Commission determined export prices for the two cooperative Chinese exporters Guilin International Wire & Cable Co., Ltd (“Guilin”) and Nanyang Cable (Tianjin) Co., Ltd (“Nanyang”) under subsection 269TAB (1)(b) based upon *“the price at which the goods so sold by the importer less the prescribed deductions”*. This methodology was used as the sales by the related party Australian importers of the two Chinese exporters were sold at a loss and considered by the Commission as not arms-length transactions. Prysmian stated that the Commission’s findings are indicative that prices between the parties can be manipulated due to the existence of the relationship between exporter and importer.

Prysmian welcomes the Commission’s proposed recommendation to the Minister to base the form of measures to be applied on exports of PVC flat electrical cable as per the combination method. This form of measure will limit opportunities for price manipulation and will ensure the measures are effective in addressing injury caused by dumping and subsidization.

X. Recommendations

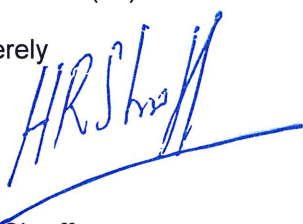
Prysmian welcomes the proposed recommendations in SEF 469 to:

- recommend to the Minister that anti-dumping and subsidization measures be applied to exports of PVC flat electrical cable exported from China;
- determine a USP for the Australian industry based upon the Australian industry members’ CTMS plus an amount for profit selected from the same general category of goods; and
- Base the form of measures to be applied on the combination method, to ensure price manipulation does not occur.

Prysmian requests that the Commissioner, in determining the NIP for the Chinese exporter Nanyang, exclude a level of importer profit as all sales by its Australian-affiliated importer, NAN, were at a loss during the investigation period.

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

Yours sincerely



Hamavand Shroff
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