BRIDON · BEKAERT
THE ROPES GROUP

19 November 2018

Ms Carina Oh
Case Manager
Investigations 2
Anti-Dumping Commission
Level 35
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MELBOURNE VIC 3001

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Public File

Dear Ms Oh

Re: Anti-Circumvention Investigation No. 483 – Wire Rope Exported from South Africa – Further Submissions by Scaw South Africa and Haggie Reid of 23 October 2018 and 8 November 2018

I. Introduction

I refer to the further submissions by the exporter Scaw South Africa ("Scaw") and its Australian importer Haggie Reid Pty Ltd ("Haggie Reid") of 23 October 2018 and 8 November 2018. The intended purpose of these further submissions is to convince the Anti-Dumping Commission ("the Commission") that 9 strand wire ropes exported from South Africa are not circumvention goods.

The submissions represent further attempts by the exporter and importer of the previously-determined export of 6 and 8 strand wire ropes at dumped prices to justify the circumvention of the anti-dumping measures with the introduction into Australia of 9 strand wire ropes (the "circumvention goods"). The claims by the exporter as to the "development" and "innovation" associated with the 9 strand wire ropes represent deliberate attempts to mislead the Commission.

The facts are clear. Following the imposition of provisional measures on 16 August 2017 based upon the Commission's determined dumping margin of 39 per cent, the exporter hurriedly communicated to its Australian customers that it would introduce 9 strand wire ropes. With sufficient stocks of imported 6 and 8 strand wire ropes already imported into Australia, Haggie Reid was able to run-down inventories of its imported goods (i.e. 6 and 8 strand goods) and over some months introduce the circumvention goods to its customer base.

BBRG Australia Pty Ltd ("BBRG Australia") has continued to suffer injury from dumping that is attributed to the dumped goods and the circumvention goods. BBRG Australia has not been able to recover its position from the injurious effects of dumping due to the introduction by the exporter and its Australian importer of the circumvention goods.

II. Regulation 48(3)

In its application for a circumvention inquiry, BBRG Australia addressed each of the factors listed in Regulation 48(3) of the *Customs (International Obligations) Regulation 2015* to demonstrate that the circumvention goods were slightly modified goods. BBRG Australia reaffirms its position (despite the representations of Scaw and Haggie Reid that assert material differences) as per its application that the 9 strand wire ropes are slightly modified goods introduced to circumvent the anti-dumping measures.

The Scaw/Haggie Reid submission of 23 October 2018 attempts to challenge BBRG Australia's identification of the circumvention goods as "different" to the goods the subject of measures, claiming that the circumvention goods possess certain enhanced performance characteristics. The claimed differences in dragline rope applications are not what the end-user would consider to be improved performance characteristics that potentially result in overall cost savings for wire ropes consumed from a total cost of ownership point of view. Scaw's claims of "substantial" cost differences between 8 and 9 strand wire ropes exaggerate the true cost of producing the circumvention goods. The associated costs of an extra strand used in the manufacture of the circumvention goods is relatively minor when considered in the context of the total production cost of the circumvention goods.

BBRG Australia notes that Scaw and Haggie Reid have again detailed the indicators in Regulation 48(3). The responses in the 23 October 2018 submission cannot be relied upon. BBRG Australia highlights the following:

Regulation 48(3) Factor	Comments
Physical characteristics	It is evident that 6 and 8 strand wire rope and 9 strand wire rope are not identical. The goods and the circumvention goods are alike as they possess similar physical characteristics.
End use	The goods and the circumvention goods are used in the same end-use applications.
Interchangeability	The goods and the circumvention goods are interchangeable.
Production process	The goods and the circumvention goods are produced in similar manners.
Cost of modification	The cost of producing the circumvention goods is slightly higher than producing the 8 strand goods (i.e. less than 5 per cent) and hence is considered minor.
Pricing	The pricing of the circumvention goods are below the non-injurious price of dumped 6 and 8 strand ropes, when the pricing for 9 strand should be higher based on the claimed increased manufacturing cost. The pricing of goods and the circumvention goods are similar when taking into account raw material costs since January 2016 and the additional costs of manufacturing a 9 strand rope relative to an 8 strand rope.
Marketing	The goods and circumvention goods are marketed in the same manner.
Channels of trade and distribution	The goods and circumvention goods have the same distribution channels to market.
Patterns of trade	The exporter ceased exports of the goods and replaced them with the circumvention goods once measures were imposed.

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Changes in the export volumes	The exporter ceased export of the goods and replaced them with the circumvention goods once measures were imposed.

The foregoing confirms that the goods and the circumvention goods are alike. The extent of the modification of the circumvention goods is minor. The intended purpose of modifying the goods to produce the circumvention goods is solely to avoid the impost of the measures. Further, it is BBRG Australia's understanding that the circumvention goods overall have not reduced the end users' total cost of ownership associated with rope usage.

It is also relevant to consider that a supplier – when introducing a new product – would typically trial the goods at select customers, whilst maintaining the traditional goods at others. This has not happened in this instance. At the time the measures were introduced, Scaw ceased export of the goods to Australia and switched solely to exporting the circumvention goods. In BBRG Australia's view, the response by Scaw concerning the cessation of exports the subject of the measures is indicative of a circumvention activity.

III. Scaw & Haggie submission of 8 November

The Scaw and Haggie Reid 8 November 2018 submission is intended to simply refute BBRG Australia's genuine representations concerning the minor differences that are evident in the goods and the circumvention goods.

BBRG Australia does not seek to engage in an ongoing debate about the goods and the circumvention goods. BBRG Australia's representations are reflective of its understanding of the circumvention goods in the market as it continues to experience injury from the exports of wire rope from South Africa. BBRG Australia has not experienced any relief from the imposition of the measures – reinforcing its strongly held view that the slightly modified circumvention goods should also be the subject of the measures.

IV. Conclusions

BBRG Australia views the available evidence as supportive that the circumvention goods are slightly modified to the goods the subject of the measures. BBRG Australia encourages the Commission not to be persuaded by the misrepresentations of Scaw and Haggie Reid that conveniently set aside the relevant considerations concerning:

- The goods and the circumvention goods although not identical have similar characteristics;
- The goods and the circumvention goods can be used interchangeably in the same end-uses;
- the timing of the introduction of the circumvention goods (immediately following the imposition of the measures);
- the production process for the goods and the circumvention goods are similar;
- the cost of production of the circumvention goods is slightly higher than the cost of production for the like goods (being 8 strand wire ropes);
- the pricing of the goods and the circumvention goods are similar;

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* the marketing, and the channels of distribution for the goods and the circumvention goods are the same;
* the patterns of trade and changes in export volumes are indicative of the circumvention goods displacing the goods the subject of the measures.

BBRG Australia therefore requests the Commission to recommend to the Minister that the circumvention goods be include in the coverage of the notice applicable to 6 and 8 strand wire ropes exported from South Africa.

If you have any questions concerning this submission, please do not hesitate to contact me on (02) 4968 5000 or BBRG Australia's representative, Mr John O'Connor on (07) 3342 1921.

Yours sincerely

Stuart Callender
Vice President – Oceania