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7 October 2022

Ms Kathryn Marnell
Case Manager
Investigations 1
Anti-Dumping Commission
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Canberra ACT 2601

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Public File

Dear Ms Marnell

Re: Investigation No. 595 – Continuation of measures – wire ropes exported from South Africa – Submission by Scaw/Haggie Reid

As you know Bekaert Wire Ropes Pty Ltd (BWR) is the sole Australian manufacturer of wire ropes and is the Australian industry for the purposes of Investigation No. 595.

BWR has reviewed the submission dated 4 October 2022 (EPR Document No. 021) on behalf of the South African exporter Scaw S.A. (Scaw) and its wholly owned Australian importer Haggie Reid Pty Ltd (Haggie Reid) in response to the recently published Statement of Essential Facts No. 595 (SEF 595).

The Scaw/Haggie Reid submission (“the submission”) contains claims and assertions that are incorrect and/or unsupported by relevant information. BWR seeks to address these matters.

(a) Claims of cooperation and support to ADC during investigations

In the introduction, Scaw/Haggie Reid state that they have *always* afforded full support to the Anti-Dumping Commission (“the Commission”) in its inquiries and that it has worked *diligently* to ensure the goods under consideration are *fairly priced*. The statements and claims by Scaw/Haggie Reid can only be considered disingenuous when the exporter continues to export at dumped prices as evidenced in SEF 595.

(b) Corporate transition

A change in the structure of the exporter does not indemnify the exporter from its practice of exporting at dumped prices.

(c) Calculation of dumping margin

It is suggested by Scaw/Haggie Reid that the Commission has erred in deducting the interim dumping duty (“IDD”) in the deductive export price calculation. BWR recalls that the Commission has determined in both Investigation No. 401 (“Invest 401”) and the current investigation that the export price between Scaw and its Australian importer were not at arms-length (subsection 269TAA(1)(b)) and that it was therefore necessary to

assess export prices on a deductive basis. It is therefore correct and consistent with the legislative requirements of Section 269TAB(1)(b) less the “prescribed deductions” that includes IDD.

The Commission has correctly determined export price for Scaw and made the right deductions. The dumping margin as determined by the Commission of 36.5 per cent is therefore also correct.

(d) Duty assessments

The pending duty assessments referred to by Scaw/Haggie Reid do not alter the determination of the dumping margin that existed during the 2021 investigation period.

(e) Effectiveness of the IDD

The representations on behalf of Scaw/Haggie Reid fail to address the relevant consideration that the IDD have had the desired impact of ensuring the export prices from South Africa are non-injurious to the Australian industry, despite the non-injurious price having been determined on costs applicable in 2016 that were substantially lower than contemporary costs to make and sell the GUC during the 2021 investigation period.

In the absence of the measures there can be no surety that Scaw would not export to Australia at prices that are lower than its selling prices on the South African domestic market (i.e. Scaw would be exporting at dumped prices).

(f) Export prices not correctly matched

Scaw/Haggie Reid claim that due to the lag between the date of export and eventual sale on the Australian market an adjustment for timing difference is warranted. The export sale is based upon a customer’s agreed purchase price and hence no adjustment is warranted.

It must also be recalled that Scaw engaged in circumvention activities following the imposition of measures on 18 December 2017. Investigation No. 483 confirmed that the circumvention goods had been exported to avoid the original measures. These goods were imported in large volumes and it took Haggie Reid until mid to late 2020 to sell this inventory down thereby continuing the material injury to the Australian industry. The then Minister did not apply the measures on the circumvention goods retrospectively to the commencement of the investigation – rather, the measures were only applied from 11 February 2019 – some 14 months following the original decision imposing measures.

In a rising market that has occurred during 2020 and 2021 (steel, plastics and freight costs increased substantially), Scaw has traded the GUC profitably aided by dumping (with measures not reflecting contemporary costs to manufacture and sell).

(g) Injury to the Australian industry

Scaw/Haggie Reid claims that the Commission should examine BWR’s financial statements as provided to ASIC as “the preferred source of evidence for judging its business performances” for the purposes of the current investigation.

The financial statements supplied by BWR to ASIC reflect BWR’s total sales of which the GUC account for approximately [*per cent*] per cent of business. The financial information provided by BWR to the Commission for the GUC and verified to audited accounts provide a reliable basis for the Commission to assess injury claims.

(h) No evidence as to continued material injury from dumping

Interestingly the Scaw/Haggie Reid submission does not state that Scaw will not export at dumped prices in the future. Rather, the submission seeks to argue that Scaw’s exports will not cause material injury to the Australian industry.

Scaw/Haggie Reid's assertions that it will not cause injury that is material should the measures expire are hollow and cannot be relied upon. SEF 595 concluded that the GUC are primarily sold on the basis of competitive price. In a contracting market where measures are allowed to expire it is more likely than not that Scaw will export at dumped prices to maintain or increase sales volumes and market share. The Commission was satisfied that based on the dumping margins assessed during the investigation period (and those determined in Invest 401) it was likely that exports to Australia by Scaw would continue and that those exports would likely be at dumped prices should the measures be allowed to expire.

The Commission was also satisfied that "*Haggie Reid's dumped prices directly influence BWR to lower its prices in the tender process*". Further the Commission was satisfied that "*Haggie Reid's dumped prices influence competition for tenders in the Australian market and also affect BWR's profit and profitability*". The price impact of Haggie Reid's supply of dumped wire ropes from South Africa along with the likelihood that dumped exports would continue enabled the Commissioner to be satisfied that "*these effects are likely to continue if the measures expire*". Contrary to the assertions of Scaw/Haggie Reid that the Commission's view is not supported by evidence, it is BWR's view that the Commission has correctly examined and assessed the impact of dumping on BWR's prices and profit and profitability and Scaw/Haggie Reid's representations are not supported.

BWR notes that Scaw/Haggie Reid contend that "*High domestic prices in South Africa provide an effective disincentive for [Haggie Reid] to seek to dump and cause injury to the Australian industry*". This statement is not supported by the evidence as the Commission has conducted two investigations into Scaw's exports to Australia and on both occasions found the exports to be at dumped prices with significant margins of dumping evident.

The Commission's conclusions in SEF 595 that should the measures be allowed to expire it is likely that dumping and material injury from Scaw's exports to Australia will continue is supported by the evidence and is the correct conclusion.

(i) *Form of measures*

BWR rejects Scaw/Haggie Reid's preference for the form of measure to be applied to future exports be based upon the floor-price methodology. In circumstances where the sales between exporter and the importer are related party transactions and considered not to be arms-length the combination method of anti-dumping duties offers the best mechanism to remedy the injurious effects of dumping.

BWR concurs with the Commission's continued stance to apply measures on exports by Scaw based upon the combination form of duty.

(j) Conclusion

BWR considers that the Scaw/Haggie Reid submission has not demonstrated that future exports of wire rope by Scaw to Australia will not be at dumped prices. Similarly, the submission has not evidenced that the dumped exports would not cause or, threaten to cause, a recurrence of material injury that the measures are intended to prevent.

Further, it is BWR's firm view that the form of measures that apply to Scaw's exports to Australia continue to be based upon the combination form of measure.

The findings and proposed recommendations in SEF 595 are supported by the available evidence and confirm the need for the measures to continue post 18 December 2022. BWR therefore requests that the Commissioner recommend to the Minister that he take steps to continue the measures on exports of wire rope to Australia from South Africa so that they do not expire on 18 December 2022.

If you have any questions concerning this submission, please do not hesitate to contact me on (02) 4968 6539 or BWR's representative Mr John O'Connor on (07) 3342 1921.

Yours sincerely



Brad Reed
Sales & Marketing Manager