PUBLIC RECORD

Australian Government
Department of Industry, Science and Resources

Anti-Dumping Commission

CUSTOMS ACT 1901 - PART XVB

STATEMENT OF ESSENTIAL FACTS NO. 595

INQUIRY INTO THE CONTINUATION OF ANTI-DUMPING MEASURES ON CERTAIN WIRE ROPE EXPORTED TO AUSTRALIA FROM THE REPUBLIC OF SOUTH AFRICA

14 September 2022

CONTENTS

ABBREVIATIONS

ABF	Australian Border Force
the Act	*Customs Act 1901*
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
BWR	Bekaert Wire Ropes Pty Ltd
the combination method	the combination of fixed and variable duty method
CC/P	compacted and/or plasticated
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
DTIC	Department of Trade, Industry and Competition
Dumping Duty Act	*Customs Tariff (Anti-Dumping) Act 1975*
EPR	electronic public record
EXW	Ex-Works
FOB	Free On Board
the goods	certain wire rope, the goods the subject of the application (also referred to as the goods under consideration)
GSA	Government of South Africa
Haggie Reid	Haggie Reid Pty Ltd
IDC	Industrial Development Corporation
IDD	interim dumping duty
the inquiry period	1 January 2021 to 31 December 2021
ISRI	Institute of Scrap Recycling Industries
ITAC	International Trade Administration Commission
IWRC	independent wire rope core
the Manual	*Dumping and Subsidy Manual*, December 2021
the Master Plan	*South African Steel and Metal Fabrication Master Plan 1.0*
MCC	model control code
the measures	the anti-dumping measures applying to exports of the goods to Australia from South Africa
the Minister	the Minister for Industry and Science
MT	metric tonnes

NC-NP	non-compacted and non-plasticated
NIP	non-injurious price
the notice	the dumping duty notice to which the goods are subject
OCOT	ordinary course of trade
OEM	original equipment manufacturers
Platts	S&P Global Commodity Insights Platts Market Center
PMS	particular market situation
PPS	Price Preference System
the RE Quarterly	*Resources and Energy Quarterly, June 2022*
REP 401	*Anti-Dumping Commission Report No. 401*
REP 483	*Anti-Dumping Commission Report No. 483*
REQ	response to the exporter questionnaire
RIQ	response to the importer questionnaire
ROI	return on investment
Scaw	Scaw South Africa (Pty) Ltd
SEF	statement of essential facts
SG&A	selling, general and administration
South Africa	Republic of South Africa
USP	unsuppressed selling price
WTO	World Trade Organization
ZAR	South African Rand

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This statement of essential facts (SEF) concerns an inquiry into whether to continue the anti-dumping measures (the measures) on certain wire rope (the goods) exported to Australia from the Republic of South Africa (South Africa). The measures are in the form of a dumping duty notice (the notice).[1] Unless continued, under section 269TM of the *Customs Act 1901* (the Act)[2] the measures are due to expire on 18 December 2022.[3]

This SEF sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base their recommendations to the Minister for Industry and Science (the Minister).

The Commissioner's final recommendation to the Minister will be contained in a report due by 1 November 2022. The Commissioner's final recommendations to the Minister will consider submissions received in response to this SEF.

1.2 Proposed recommendation

The Commissioner proposes to recommend that:

- the Minister take steps to secure the continuation of the measures
- those measures have effect on exporters generally as if different variable factors had been ascertained and
- the rate of interim dumping duties (IDD) in Table 1 apply from 19 December 2022.

Country	Exporter	Fixed rate of IDD	Duty method
South Africa	Scaw South Africa (Pty) Ltd	24.1%	combination of fixed and variable duty method
	All exporters	24.1%	combination of fixed and variable duty method

Table 1: Proposed measures resulting from this inquiry

These recommendations are based on the Commissioner's preliminary view that the expiration of the measures on the goods exported to Australia from South Africa would be likely to lead to a continuation of, or a recurrence of, dumping and the material injury that the measures are intended to prevent.

1.2.1 Background to inquiry (Chapter 2)

The Commissioner initiated this inquiry on 17 January 2022 and established an inquiry period of 1 January to 31 December 2021 (the inquiry period).[4]

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[1] Anti-Dumping Notice (ADN) No. 2017/172 imposed the measures. ADN No. 2019/84 amended the goods description after a circumvention inquiry (see Chapter 2).

[2] All legislative references in this report are to the *Customs Act 1901* unless otherwise specified.

[3] Dumping duty notices and countervailing duty notices expire five years after the date on which they were published, unless they are revoked earlier.

[4] ADN No. 2022/007 on the electronic public record (EPR) for case 595, document no. 02.

Bekaert Wire Rope Pty Ltd (BWR) is the applicant seeking to continue the measures.[5] BWR was the applicant in the original investigation that resulted in the measures in 2017.

1.3 Summary of key findings

The Commissioner's conclusions and preliminary findings in this SEF rely on the available information at this stage of the inquiry. The paragraphs below provide a summary of these findings, which are set out in further detail throughout the report.

1.3.1 The goods, like goods and the Australian industry (Chapter 3)

The Commissioner finds locally produced wire rope is 'like' to the goods the subject of the application and is satisfied that there is an Australian industry, comprised solely of BWR, producing those like goods.

1.3.2 Australian market (Chapter 4)

BWR and a small number of exporting countries, mainly South Africa, supplied the market for the goods in Australia during the inquiry period. The overall size of the market has declined over time.

1.3.3 Economic condition of the Australian industry (Chapter 5)

BWR's economic performance has been mixed since measures were imposed. The market has declined overall, as has BWR's sales volumes, but BWR has maintained a consistent market share and improved its profit and profitability (although not to the levels which existed prior to the measures).

1.3.4 Assessment of variable factors (Chapter 6)

The Commissioner has found that the variable factors for all exporters have changed. The Anti-Dumping Commission (the commission) has calculated a preliminary dumping margin for Scaw South Africa (Pty) Ltd (Scaw) of 36.5%. There were no other exporters of the goods active during the inquiry period. The Commissioner therefore proposes to recommend that the same margin apply to all other South African exporters should any others emerge.

BWR claimed in its application that the cost of steel scrap is affected by Government of South Africa (GSA) interventions in the South African market.[6] The commission's assessment of this claim (detailed in **Appendix A**) is relevant to establishing whether a particular market situation (PMS) exists which affects the price comparability of wire rope sales for the purposes of establishing a normal value.[7]

The commission considers the evidence does not establish that the GSA's interventions in the South African steel market distorted the wire rope market in the inquiry period. Therefore, the commission considers there is no PMS for wire rope during the inquiry period that would prevent a proper comparison of domestic prices with export prices. While it appears GSA interventions in the steel scrap market have influenced outcomes in

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[5] EPR 595, document no. 01.

[6] Ibid.

[7] Under section 269TAC(2)(a), a normal value cannot be determined under section 269TAC(1) where the Minister is satisfied that the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a normal value under section 269TAC(1).

the South African steel industry, the evidence before the commission suggests that movements in steel scrap costs do not significantly affect Scaw's wire rope prices. In the commission's opinion, this indicates that the GSA interventions in the steel scrap market have an insignificant effect on the wire rope market.

On this basis, the commission has calculated normal values under section 269TAC(1).

The commission found that transactions between Scaw and its related party importer, Haggie Reid Pty Ltd (Haggie Reid), were not at arms length during the inquiry period. This is consistent with the finding in the original investigation. As a result, the commission calculated export prices under section 269TAB(1)(b) for consignments that Haggie Reid on-sold in the condition in which they were imported, and under section 269TAB(1)(c) for consignments that Haggie Reid altered before on-selling them.

1.3.5 Likelihood that dumping and material injury will continue or recur (Chapter 7)

The Commissioner is satisfied that, as a result of ongoing relationships with its related party importer and contractual supply arrangements in the market, Scaw will continue to export wire rope to Australia if the measures expire. Further, the Commissioner is satisfied that, if the measures expire, Scaw's exports are likely to be at dumped prices, owing to its high domestic market prices and its inability to compete on price in Australia if the goods are not dumped.

The price of imported goods influences BWR's selling prices due to its customers' reference to Haggie Reid's pricing in the market used in negotiation processes. The expiry of the measures will therefore provide Haggie Reid with a higher degree of flexibility to reduce its prices further to gain increased market share, or maintain its current pricing and continue to place pressure on BWR's prices. In either scenario, the impact on BWR is likely to be material.

Having regard to the above, the Commissioner is satisfied that the expiry of the measures would be likely to lead to a continuation or recurrence of the dumping and material injury that the measures are intended to prevent.

The Commissioner is satisfied that, as Scaw is the only active exporter of the goods from South Africa, its circumstances are a relevant proxy on which to base the same findings in relation to all other exporters from South Africa.

1.3.6 Non-injurious price and form of measures (Chapter 8)

The commission has calculated a non-injurious price (NIP) for exports of the goods that is considered the minimum price necessary to prevent the injury, or a recurrence of the injury, caused by Scaw's dumped exports of the goods. The NIP is less than the normal value established for Scaw during the inquiry period. The Minister is therefore required to consider whether the lesser duty rule applies.[8]

If the measures are continued, the Commissioner proposes to recommend that the duty payable on imports of wire rope be determined using the combination of fixed and variable duty method (the combination method). This is the form of measures currently applying to imports of the goods, and remains appropriate.

The fixed duty component would be an *ad valorem* rate equal to 24.1%, as a result of the application of the lesser duty rule.

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[8] Section 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975*, discussed in Chapter 8.

1.4 Responding to this SEF

This SEF sets out the essential facts on which the Commissioner proposes to base their final recommendations to the Minister. This SEF represents an important stage in the inquiry. 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 are invited to make written submissions to the Commissioner in response to the SEF within 20 days of the SEF being placed on the public record. The due date to lodge written submissions in response to this SEF is **4 October 2022**.

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.[9] Submissions may be provided by email to investigations1@adcommission.gov.au. Alternatively, interested parties may post submissions to:

Director, Investigations Unit 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. Information in relation to making submissions is available on the commission's website, www.adcommission.gov.au.

1.5 Final report

The Commissioner's final report and recommendations must be provided to the Minister within 155 days after the publication of a notice under section 269ZHD(4) or such longer period as is allowed.[10] The final report will include recommendations, including whether the notice ought to:

- remain unaltered
- cease to apply to a particular exporter or to a particular kind of goods
- have effect in relation to a particular exporter or to exporters generally as if different variable factors had been ascertained or
- expire on the specified expiry day.[11]

An extension of time for the provision of the Commissioner's final report and recommendations to the Minister were previously granted under section 269ZHI(3).[12] The Commissioner is due to provide a final report to the Minister by no later than **1 November 2022**.

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[9] Section 269ZHF(4).

[10] Section 269ZHF(1). On 14 January 2017 the powers and functions of the Minister under section 269ZHI were delegated to the Commissioner, see ADN No. 2017/010.

[11] Section 269ZHF(1)(a).

[12] EPR 595, document no. 04.

2 BACKGROUND

2.1 Legislative framework

The commission is assisting the Commissioner conduct this inquiry, pursuant to the commission's function specified in section 269SMD.

The Act sets out, among other things, the procedures the Commissioner must follow when considering an application for the continuation of anti-dumping measures.[13]

2.1.1 Legislative test

Under section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of the measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measure is intended to prevent.

2.1.2 SEF

Section 269ZHE(1) requires the Commissioner to publish a SEF on which they propose to base their recommendations to the Minister about the continuation of the measures. Section 269ZHE(2) specifies that the Commissioner:

- must have regard to the application and any submissions received within 37 days of the initiation of the inquiry and
- may have regard to any other matters that he considers relevant.

Under section 269ZHE(3), the Commissioner is not obliged to have regard to any submissions relating generally to the inquiry that are received by the Commissioner after the 37 days if to do so would, in the Commissioner's opinion, prevent the timely placement of this SEF on the public record.

2.1.3 Final report

Section 269ZHF(1)(a) requires the Commissioner, after conducting an inquiry, to give the Minister a report which recommends:

- that the notice remain unaltered or
- that the notice cease to apply to a particular exporter or to a particular kind of goods or
- that the notice have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained or
- that the notice expire on the specified expiry day.

2.2 Application and initiation

The Commissioner published a notice[14] on 5 October 2021, inviting the following persons to apply for the continuation of the measures:

[13] Division 6A of Part XVB.

[14] In accordance with section 269ZHB(1); ADN No. 2021/128.

- the person whose application under section 269TB resulted in the measures (section 269ZHB(1)(b)(i)) and
- persons representing the whole or a portion of the Australian industry producing like goods to the goods covered by the measures (section 269ZHB(1)(b)(ii)).

On 3 December 2021, the commission received an application for the continuation of the measures from BWR. A non-confidential version of the application is available on the EPR.[15]

The Commissioner was satisfied that BWR's application:

- complied with the content and lodgement requirements of section 269ZHC and
- described, in accordance with section 269ZHD(2)(b), that there appeared to be reasonable grounds for asserting that the expiration of the measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

The Commissioner decided not to reject the application and initiated the present inquiry on 17 January 2022.[16]

2.3 Current measures

The then Minister imposed the measures on 18 December 2017 following *Anti-Dumping Commission Report No. 401* (REP 401).[17, 18] After a review of the decision by the Anti-Dumping Review Panel (ADRP), the then Minister altered the dumping margin applicable to Scaw.[19, 20]

After the anti-circumvention inquiry outlined in *Anti-Dumping Commission Report No. 483* (REP 483)[21], the then Minister declared that the dumping duty notice be altered by amending the description of the goods subject to the notice. The alteration included wire ropes with no more than 9 strands.[22]

The measures apply to all exporters of the goods from South Africa.[23] Further information about all cases relating to wire rope exported to Australia from South Africa can be found on the EPR.

Table 2 sets out the measures applying to exports of the goods to Australia.

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[15] EPR 595, document no. 01.

[16] ADN No. 2022/007.

[17] EPR 401, document no. 24.

[18] ADN No. 2017/172.

[19] ADRP Report No. 71 and ADC Reinvestigation Report, published 5 October 2018.

[20] Public Notice - Minister's Decision, published 5 October 2018.

[21] EPR 483, document no. 31.

[22] ADN No. 2019/84, published on 9 July 2019.

[23] Refer to the Dumping Commodity Register as it relates to wire rope: https://www.industry.gov.au/sites/default/files/adc/measures/dcr_-_wire_rope_7.pdf

Exporter	Fixed rate of IDD	Duty method
Scaw	27.2%	combination of fixed and variable duty method
All other exporters	28.9%	combination of fixed and variable duty method

Table 2: Measures applying to exports of the goods

2.4 Conduct of the inquiry

The inquiry period for this continuation is 1 January 2021 to 31 December 2021.

To analyse the performance of the Australian industry in the years prior to and following the imposition of the measures on 18 December 2017, the commission has examined the period from 1 January 2013 to 31 December 2021.

2.4.1 Questionnaires and verification

Australian industry

BWR lodged the original application under section 269TB that resulted in the measures. BWR is the Australian industry member who applied for the continuation of the measures, and is the sole Australian industry member known to the commission.

The commission sent BWR an Australian Market supplementary questionnaire to gather detailed additional information about its sales and costs during the inquiry period and previous years, as well as inviting comment about the operation of the market. The non-confidential questionnaire response from BWR is on the EPR.[24]

The commission conducted an on-site verification of the data provided by BWR. The verification report is available on the EPR.[25]

Importers

The commission identified Haggie Reid in the Australian Border Force (ABF) import database as the only importer that imported the goods from South Africa during the inquiry period. Haggie Reid provided a response to the importer questionnaire (RIQ), which the commission verified remotely. The verification report is available on the EPR.[26]

Exporters

The commission identified Scaw in the ABF import database as the only exporter of the goods to Australia from South Africa in the inquiry period. The commission sent Scaw an exporter questionnaire. Scaw cooperated with the inquiry and provided the commission with a response to the exporter questionnaire (REQ),[27] which the commission verified remotely. The verification report is available on the EPR.[28]

[24] EPR 595, document no. 09.
[25] EPR 595, document no. 13.
[26] EPR 595, document no. 16.
[27] EPR 595, document no. 05.
[28] EPR 595, document no. 17.

Government of the Republic of South Africa

On 8 March 2022, the commission sent a government questionnaire to the GSA seeking information about its interventions and the impact of its interventions on the steel scrap, wire rod and / or wire rope markets in South Africa. A copy of the file note explaining the commission's decision to send the government questionnaire is on the EPR.[29]

The commission did not receive a response to this questionnaire from the GSA.

2.4.2 Submissions received from interested parties

The commission received the submissions listed in Table 3 before publishing this SEF.

Non-confidential versions of these submissions are available on the EPR for this case, number 595. The EPR contains the non-confidential versions of the submissions received from interested parties, the non-confidential versions of the commission's verification reports and other publicly available documents. It is available at www.adcommission.gov.au.

Interested parties should read this SEF in conjunction with documents on the public record.

EPR document no.	Interested party and topic of submission	Date published
6	BWR - Exporter briefing	30 May 2022
7	Scaw - Confidentiality of Model Control Codes	30 May 2022
10	BWR - Confidentiality of Model Control Codes	16 June 2022
11	BWR - Market Situation	13 July 2022
14	BWR - Draft Verification Report	24 August 2022
18	BWR - Exporter and Importer Verification Reports	2 September 2022

Table 3: Submissions received

The Commissioner did not have regard to the last submission received from BWR, published on 2 September 2022, as to do so, in the Commissioner's opinion, would have prevented the timely placement of this SEF on the public record.[30]

All other submissions listed in Table 3 have been considered by the Commissioner in making their preliminary findings outlined in this SEF.

[29] EPR 595, document no. 03.

[30] Section 269ZHE(3).

3 THE GOODS, LIKE GOODS AND THE AUSTRALIAN INDUSTRY

3.1 Preliminary finding

The Commissioner finds that:

- locally manufactured wire rope is 'like' to the goods subject to the measures
- there is an Australian industry, of which BWR is the sole member, producing like goods and
- the like goods are wholly produced in Australia.

3.2 Legislative framework

To be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation or recurrence of dumping and the material injury that the measure is intended to prevent, the Commissioner firstly determines whether the goods produced by the Australian industry are 'like' to the imported goods. Section 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.

The definition of like goods is relevant in the context of this inquiry in determining the Australian industry and whether the expiration of the measures would lead to a continuation of, or a recurrence of, the dumping and material injury that the measures are intended to prevent. The commission's framework for assessing like goods is outlined in Chapter 2 of the *Dumping and Subsidy Manual* (the Manual).[31]

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether the respective goods have characteristics closely resembling each other. The following is considered:

- physical likeness
- commercial likeness
- functional likeness
- production likeness.

The Commissioner must also consider whether the Australian industry manufactures 'like' goods in Australia. Section 269T(2) specifies that for goods to be regarded as being produced in Australia, they must be either wholly or partly manufactured in Australia. Under section 269T(3), 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. The following analysis therefore establishes the scope of the commission's inquiry.

[31] Available on the commission's website.

3.3 The goods subject to the measures

The goods under consideration and the subject of the application[32] are:

> Stranded wire rope, alloy or non-alloy steel, whether or not coated or impregnated, having the following:
>
> - not greater than 9 strands
> - diameter not less than 58 mm and not greater than 200 mm,
>
> with or without attachments.
>
> Further information regarding the goods:
>
> i. Stranded steel wire rope is rope and strand made of high carbon wire (whether or not containing alloys).
> ii. The strand or rope can also be sheathed or impregnated and sheathed respectively in plastic or composites.
> iii. The wires can be layered-up in various configurations in order to give the strand or rope the desired physical properties.
> iv. Variances can include:
> - strand diameter
> - number of wires
> - wire finish (e.g. typically black but may be galvanised)
> - wire tensile grade
> - type of lubricant
> - strand or rope length and
> - whether or not an attachment is included (but not limited to ferrules and/or beckets).
> v. Cores may be made of:
> - natural or synthetic fibre or
> - Independent Wire Rope Cores ('IWRC'), which may or may not be sheathed or impregnated in plastic.
>
> Typical uses include applications such as dragline hoist, drag and dump ropes, and shovel hoist, crowd and retract ropes.
>
> Goods excluded from the measures are:
>
> - stranded wire rope that is stainless steel as defined under Note(e) 'stainless steel' to the tariff
> - stranded wire rope with more than 9 strands, regardless of diameter and
> - stranded wire rope less than 58 mm or greater than 200 mm in diameter, regardless of number of strands.

3.3.1 Tariff classification

The goods are generally classified according to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

[32] EPR 595, document no. 1.

Tariff subheading	Statistical code	Description
7312	**STRANDED WIRE, ROPES, CABLES, PLAITED BANDS, SLINGS AND THE LIKE, OF IRON OR STEEL NOT ELECTRICALLY INSULATED**	
7312.10.00	Stranded wire, ropes and cables	
	91	Ropes and cables containing not more than eight strands, of alloy or non-alloy steel *Of a diameter exceeding 50 mm but not exceeding 100 mm*
	92	Ropes and cables containing not more than eight strands, of alloy or non-alloy steel *Of a diameter exceeding 100 mm*
	93	Ropes and cables containing more than eight strands, of alloy or non-alloy steel

Table 4: Tariff classification of the goods

3.3.2 Model control codes

The proposed model control code (MCC) structure described in ADN No. 2022/007[33] (and in Table 5) describes the key characteristics of the goods.

Item	Category	Identifier	Sub-category	Sales data	Cost data
1	Form	C	Coil	Mandatory	Mandatory
		R	Reel		
		D	Drum		
2	Number of strands	#	*Specify number*	Mandatory	Mandatory
3	Nominal diameter (mm)	#	*Specify number*	Mandatory	Mandatory
4	Compacted	CC	Compacted	Mandatory	Mandatory
		NC	Not Compacted		
5	Impregnated	NP	Not Plasticated	Mandatory	Mandatory
		P	Plasticated		

Table 5: Proposed MCC structure

3.3.3 Treatment of the MCCs applying to Scaw and Haggie Reid

Scaw's claims

In its REQ, Scaw proposed an additional MCC category for 'mining type' (surface, shaft and offshore) to identify wire rope used in different mining applications. Scaw also claimed that the proposed MCC could disclose certain commercially sensitive information relevant to Scaw.

In Scaw's opinion, publishing details of the number of strands and the rope diameter in the list of MCCs, in combination with other MCC categories, would:

- lead to the disclosure of detailed product information that identifies the specific kind of product sold by Scaw and Haggie Reid and

[33] EPR 595, document no. 02.

- allow Scaw / Haggie Reid's competitors as well as current and potential customers to identify the specific solution that is offered, as well as the technical information of current customers.

Accordingly, Scaw redacted the list of MCCs relevant for exports of like goods to Australia, and the like goods sold in South Africa, from the public record version of the REQ. The commission received a submission from Scaw on 9 May 2022 supporting these points and additionally making the same claim on behalf of Haggie Reid.[34]

Commission's assessment - MCC categories

During the inquiry period, Scaw exported surface wire rope only. It sold surface wire rope, in addition to shaft and offshore wire rope on its domestic market. Scaw claimed that the different wire rope applications have distinct physical characteristics that necessitate the addition of mining type to the MCC structure. Scaw explained that:

- surface wire rope is not galvanised whereas offshore wire rope is galvanised and
- surface wire rope has an IWRC whereas shaft wire rope generally has a fibre core.

After considering the proposal, the commission concluded that the MCC in this inquiry period already captured the distinction for mining application. That is, MCCs for surface mining wire rope were distinct from the MCCs for shaft and offshore wire rope. The commission has therefore not added 'mining type' as a category to the MCC in this inquiry. However, the commission does not exclude the possibility that Scaw's proposal may be relevant in future matters.

Commission's assessment - confidentiality of MCCs

Each MCC (regardless of goods description) is a summary of individual models that form a sensible commercial grouping (based on physical characteristics that materially affect price). Among other things, the MCC facilitates the comparison of like models for the calculation of a dumping margin. Further information on the rationale for an MCC structure, and the approach to establishing and applying it, is in Chapter 14 of the Manual.

The commission's position is that the list of MCCs sold is not, of itself, likely to be confidential information. Attachment B to ADN No. 2018/128 states:

> A number of submissions provided comments on the disclosure of MCCs by exporters. The Commission agrees that the MCC structure in and of itself is not likely to be commercially sensitive information. As such, any submissions from interested parties on the MCC structure and any proposed modifications to that structure (either for specific exporters or exporters generally) will require full disclosure on the public record, unless the interested party can demonstrate to the Commission that disclosing the information is confidential or would adversely affect its business or commercial interests.

Publishing the list of MCCs sold in domestic and export markets is a long-standing practice that gives all interested parties visibility of how model matching has been undertaken for the purposes of calculating a dumping margin. For example, explaining which MCC has been used as a surrogate for another MCC in the dumping margin calculation (e.g. for timing adjustments, or in the absence of sales in the ordinary course

[34] EPR 595, document no. 07.

of trade (OCOT) has the advantage of demonstrating the commission's approach to interested parties. The list of MCCs also aids the commission's assessment of injury and causation in a market (e.g. by comparing prices for like MCCs from importers and the Australian industry).

The commission does not consider that Scaw or Haggie Reid have *demonstrated* how the publication of the specific diameters of wire ropes they sell in the South African and Australian markets would reveal their confidential information, nor how it would adversely affect their business or commercial interests. The commission considers that the process of tendering for wire rope supply, where the mine operators request wire rope diameters to fit the draglines and shovels used, makes the wire rope nominal diameter in use at that site common knowledge within the industry. This is supported by the submission from BWR, which indicates:

> The wire rope market for the Australian mining industry is completely transparent. Tenders are often called for within the mining industry for the supply of wire ropes (including dragline, hoist and bucket ropes) where technical requirements are specified and the supplier's ability to supply and meet requirements are demonstrated. The claimed sensitivity of wire rope specifications is a nonsense as participants in the industry are well informed of each competitors' specifications as contrasted with the incumbent supplier.[35]

Notwithstanding this, the commission notes that Scaw and Haggie Reid do not consent to the publication of the claimed confidential information. The commission also considers that the confidential information provided by Scaw and Haggie Reid, on which the commission relies to identify the MCCs sold, is demonstrated to be correct.[36] Further, although this SEF does not record all facts (in terms of rope diameters), the commission considers it nevertheless contains all of the essential facts relevant to the inquiry.

Therefore, in the interests of progressing this inquiry, the commission has elected to publish the list of MCCs sold by Scaw in its domestic and export markets without revealing the nominal diameter of the wire rope in each MCC. The list of MCCs is at Chapter 6.3.1.

3.3.4 The commission's MCC amendments

The commission's verification activities have resulted in the following amendments to the proposed MCC structure:

- remove the category 'Form' from the MCC structure as all domestic and export sales of wire rope are in 'reel' form. Removing this category will simplify the MCC structure.
- add a category for the 'Number of ferrules' as the goods and like goods can be sold with varying numbers of ferrules, and the number of ferrules attached to the wire rope has a material impact on the price.

The MCC structure detailed in Table 6 applied to all interested parties.

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[35] EPR 595, document no. 10.

[36] Section 269ZJ(5).

Item	Category	Identifier	Sub-category
1	Number of strands	#	*Specify number*
2	Nominal diameter (mm)	#	*Specify number*
3	Compacted	CC	Compacted
		NC	Not Compacted
4	Impregnated	NP	Not Plasticated
		P	Plasticated
5	Number of ferrules	0	No ferrules attached
		1	One ferrule attached
		2	Two ferrules attached

Table 6: Amended MCC structure applying to all interested parties

3.4 Like goods

The Commissioner is satisfied that the domestically produced goods are like to the goods under consideration[37] because the following characteristics of each closely resemble each other:

- physical likeness
- commercial likeness
- functional likeness
- production likeness.

In so finding, the commission has relied on information obtained from verification of BWR's manufacturing facilities and information provided by Scaw and Haggie Reid.

Physical likeness

The wire rope BWR produces is physically like to the goods. The commission verified that BWR manufactures wire rope from steel wire, with nominal diameters described in the goods description at Chapter 3.3. BWR's wire rope also has 9 or fewer strands and has physical characteristics which closely resemble the goods, such as whether the wire ropes are compacted and / or plasticated.

Commercial likeness

The wire rope BWR produces is commercially like to the goods. The commission verified that BWR sells to the same market segments, i.e. wire rope used in the mining industry. The wire rope from BWR and from South Africa compete at the same levels of trade and for the same customers. The ropes are substitutable with each other, as demonstrated by the ability for end-users to switch between wire rope supplied by one party with the wire rope supplied by another. The like goods produced by BWR are also sold on similar commercial terms, as suppliers, including Haggie Reid consider their competitors' prices when negotiating commercial terms and pricing with their customers.

[37] As defined in section 269T(1).

Functional likeness

The wire rope BWR produces is functionally like to the goods. BWR's wire ropes have similar or identical use on electric draglines and shovels operating in open-cut mines. There is variation with wire rope specifications used on electric draglines and shovels. For example, plasticated wire rope might be preferred to non-plasticated rope to achieve a longer performance life, but otherwise the function that both ropes perform is identical.

Production likeness

The manufacturing process used by BWR to produce wire rope is the same or similar to the processes used to produce the goods, as verified by the commission (in this inquiry and the original investigation).[38]

More information about the production process is included below.

3.5 Australian industry

BWR is the sole Australian manufacturer of wire rope. BWR manufactures wire rope at its facilities at Mayfield East (New South Wales).

3.5.1 Production process

Broadly, there are 3 structural elements to wire rope: core, strands and steel wires (illustrated in Figure 1):

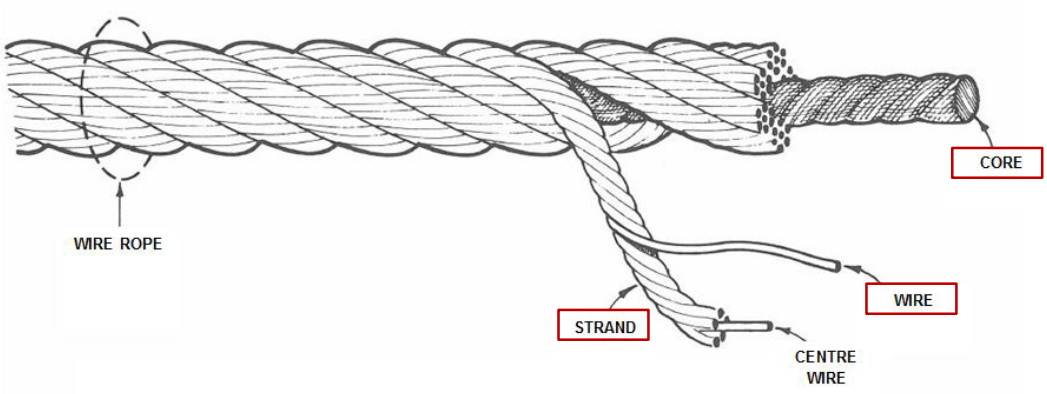


Figure 1: Wire rope components[39]

The **core** forms the centre of the rope and is made of either fibre, polymer or steel (also referred to as the Independent Wire Rope Core (IWRC)). The **strand** consists of multiple **steel wires** wound in one or more layers around a centre wire. The winding of two or more strands helically around the core forms a **wire rope**. The steel wires are drawn from wire rod, which is made from high carbon steel and is known as 'drawing quality wire rod'. Wire rod for making wires for wire rope differs from other grades of wire rod, for example, wire rod used to make wire for wire mesh products.

[38] EPR 401, document no. 08 and EPR 595, document no. 13.

[39] EPR 595, document no 09, page 5.

The manufacture of wire rope by BWR involves 3 key stages, shown in Figure 2. These are:

1. the manufacture of a rope core
2. the making of strands from multiple steel wires, and
3. multiple strands laid helically around the core to 'close' the rope.

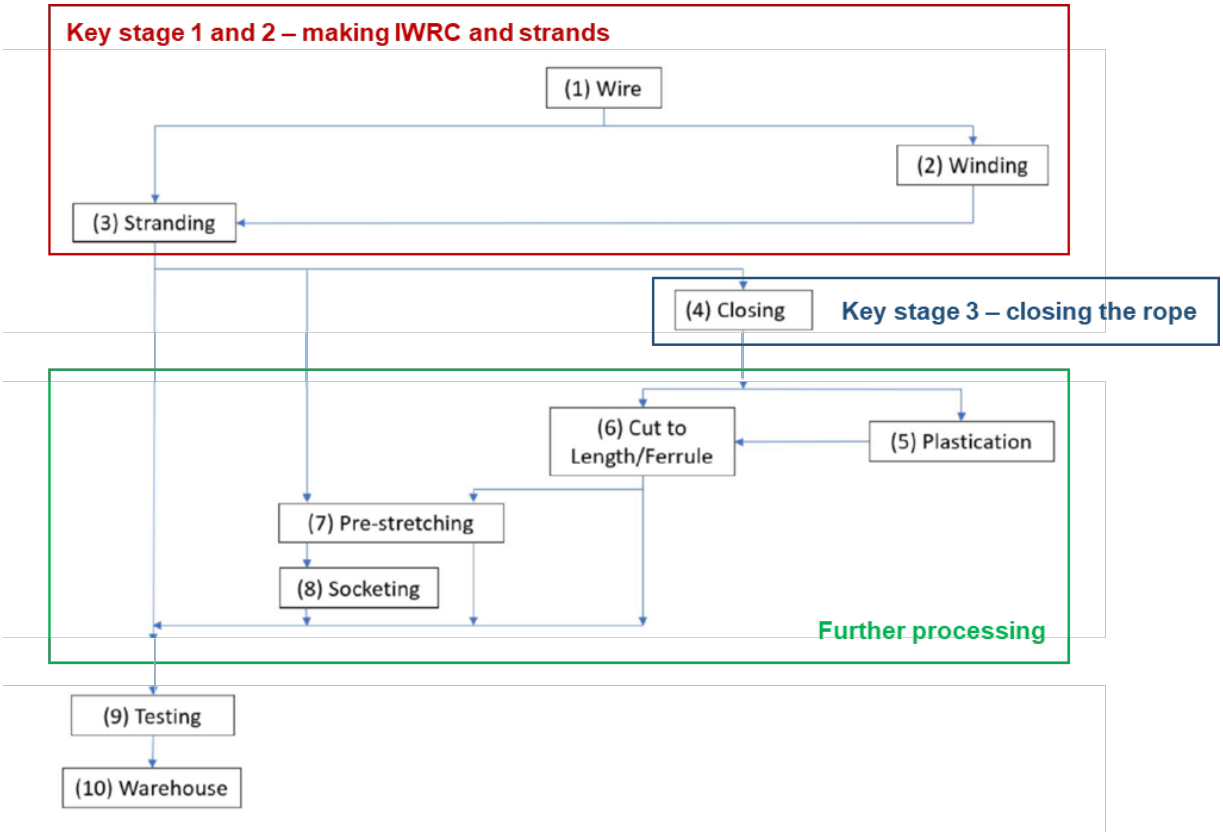


Figure 2: BWR's wire rope production process[40]

Key stage 1 and 2 of the production process involves the stranding of steel wires to make the IWRC and strands. BWR purchase bobbins of steel wire (step 1). The bobbins are loaded directly onto the stranding machine (steps 2 and 3). The stranding machine wraps the wires around a centre wire to make the IWRC and strand (step 3).[41]

Key stage 3 of the production process is the closing of the rope (step 4). The core is loaded onto the closing machine. The strands are subsequently loaded and the closing machine winds the strands around the core.

After closing, the wire rope can undergo further processing. The rope can be:

- cut to length, with ferrules, links and sockets attached (step 6 and 8)
- compacted (not included in Figure 2), where wires and strands are pushed closer together
- plasticated (step 5) or impregnated with a polymer to improve durability. This process involves extruding polymer between the core and strands or through the entire rope to reduce interlayer wear.

[40] EPR 595, document no. 09, page 6.

[41] EPR 595, document no. 09, page 5.

3.5.2 Conclusion – Australian industry

Based on the information obtained from verification of data and information provided by BWR and Haggie Reid, the Commissioner is satisfied that:

- the goods produced by BWR are like goods to the goods subject to the measures[42] and
- the like goods are wholly manufactured in Australia.[43]

Therefore, the Commissioner considers that there is an Australian industry that produces like goods in Australia.[44]

[42] Section 269T(1).

[43] Section 269T(2).

[44] Section 269T(4).

4 AUSTRALIAN MARKET

4.1 Preliminary findings

The Commissioner preliminarily finds that BWR and suppliers from exporting countries supplied the market for the goods in Australia during the inquiry period.

In assessing the characteristics of the Australian market, the commission preliminarily found that in the inquiry period:

- South Africa is the biggest exporter of the goods to Australia. Collectively, BWR and exports from South Africa comprise the majority of the goods in Australia.
- The goods are used on electric draglines and shovels operating in open-cut coal mines. These coal mines produce thermal and metallurgical coal in Australia.
- The state of the Australian coal mining industry and the lifecycles of specific mining operations has an impact on the demand for wire rope.
- Wire rope suppliers compete primarily on price and durability.
- The size of the Australian market for the goods (measured in tonnes) has generally declined over time.

4.2 Market structure

The commission analysed market characteristics by using verified information submitted by BWR and Haggie Reid in this inquiry as well as in REP 401 and REP 483. The commission also used sales data submitted by Haggie Reid for duty assessments DA0195 and DA0220. Data from the ABF import database was also used.

The ABF import database captures imports of wire strand and rope described by the tariff classification at Table 4. The ABF import database therefore includes products that are not the goods. When analysing the market, the commission has examined imports that were clearly the goods and consignments that, based on the circumstances of the exportation and the customs declaration, were likely to fall within the goods description.

The commission's analysis for this chapter is contained in **Confidential Attachment 1**.

The commission finds that BWR and Haggie Reid are the two main suppliers of wire rope in Australia. BWR manufactures locally, while Haggie Reid imports exclusively from South Africa.

BWR and importers supply wire rope for use on electric draglines and shovels used in open-cut coal mining operations.

4.2.1 Market participants and the supply chain

The goods description describes wire ropes used on mining machines employed in different mining methods - (1) open-cut or surface mining, (2) underwater or offshore mining and (3) underground or shaft mining.

BWR manufacture and predominately sell the goods directly to open-cut coal mines in Australia. BWR also manufacture and sell the goods to metals mines. Haggie Reid only sell the goods to open-cut coal mines in Australia.

Figure 3 shows a high-level representation of the market participants and supply chain for the goods, with the main market and supply chain examined in this inquiry, highlighted.

The commission is aware of some wire rope sales from suppliers to original equipment manufacturers (OEMs) of electric dragline and shovel machinery.

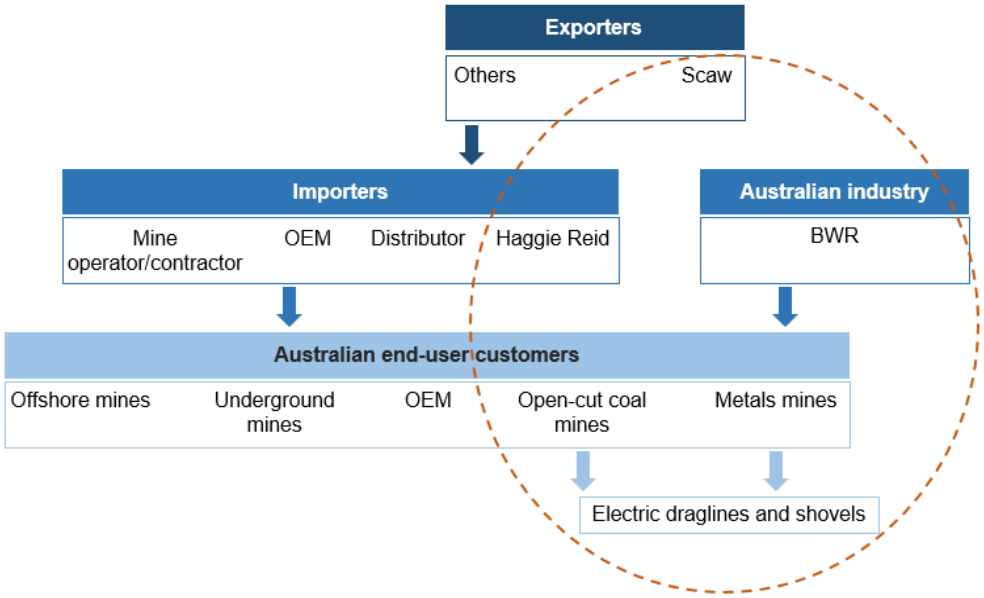


Figure 3: High-level representation of the wire rope supply chain in Australia

4.2.2 Supply arrangements

On examination of BWR's and Haggie Reid's information, it appears that most supply agreements arise from mine operator tenders. These tenders can involve the company reaching out directly to a supplier to invite them to participate. For larger mining companies, the tender process is managed through an online contract management system.

A mine operator may also request a quote from one or more suppliers of the goods that they have previously dealt with outside of a tender or contracted process.

Typical contracts have fixed prices (per wire rope type and specification) with no guaranteed or minimum sales volume or exclusivity arrangements. Contracts will typically include a price review mechanism indexed to costs associated with the production and transport of wire rope.

The commission examined a sample of different supply contracts provided by BWR and Haggie Reid. The contracts generally have a limited duration, and suppliers have obligations for performance standards (longevity, durability) as well field service.

Typically, the price of wire rope includes field service for the duration of the supply agreement. Wire rope Field Service Managers (FSMs) regularly attend the site of the electric dragline and shovel to inspect the condition of the wire rope in use and provide advice on wire rope use and maintenance. The field service provided may vary depending on the nature of the contract, and can include:

- wire rope inspection and maintenance and use advice
- assessment of the wire rope's longevity and guidance on when the wire rope will need to be changed
- performance and efficiency analysis and
- stock management.

Outside of contracts and supply agreements, BWR and Haggie Reid supply trial rope to mine sites. A trial of the wire rope can be useful for the mine site to assess the quality and performance of the wire rope before committing to a supply agreement. The trial can occur as part of a new supplier-customer relationship or by trialling a different wire rope specification with an existing customer.

Either way, BWR considers the success of the trial is critical to securing a supply contract with the mine.[45]

4.3 Key drivers of demand

4.3.1 The Australian coal industry

The Australian coal industry is a key driver of demand for wire rope. Australia is one of the world's largest coal producers, with significant reserves of both metallurgical coal (also known as 'coking' coal) and thermal coal (mainly used for energy generation). Open-cut (surface) mining is an extraction method for both forms of coal.

Wire rope is an engineered component of electric draglines and shovels primarily used in open-cut coal mines in Australia.

Therefore, the state of the Australian coal mining industry and the lifecycle of mining operations has a large impact on the demand for wire rope. Demand for thermal and metallurgical coal domestically and internationally is one such influence.

In REP 401, the commission concluded that export prices for Australian coal influence demand for wire rope to some extent, as higher commodity prices generally stimulate resource extraction.[46] Chapter 7.7.1 contains analysis of the relationship between coal prices and wire rope supply.

Open-cut coal mines must also rationalise assets. As described by Figure 3, the key sub-market is the number of electric draglines and shovel machinery in operation. Open-cut mines must decide to repair or refurbish existing electric draglines and/or introduce new machinery (e.g. hydraulic excavators) to remove the overburden and permit coal extraction.

Current and future operations of open-cut mining sites drive demand for wire rope.

Figure 4 shows the location of existing mines and coal deposits in Australia, which are mostly concentrated in Queensland and NSW.

[45] EPR 595, document no. 9, page 9.

[46] EPR 401, document no. 24, page 54. There is not a perfect correlation, and the commission acknowledges that other factors will affect Australian coal production.

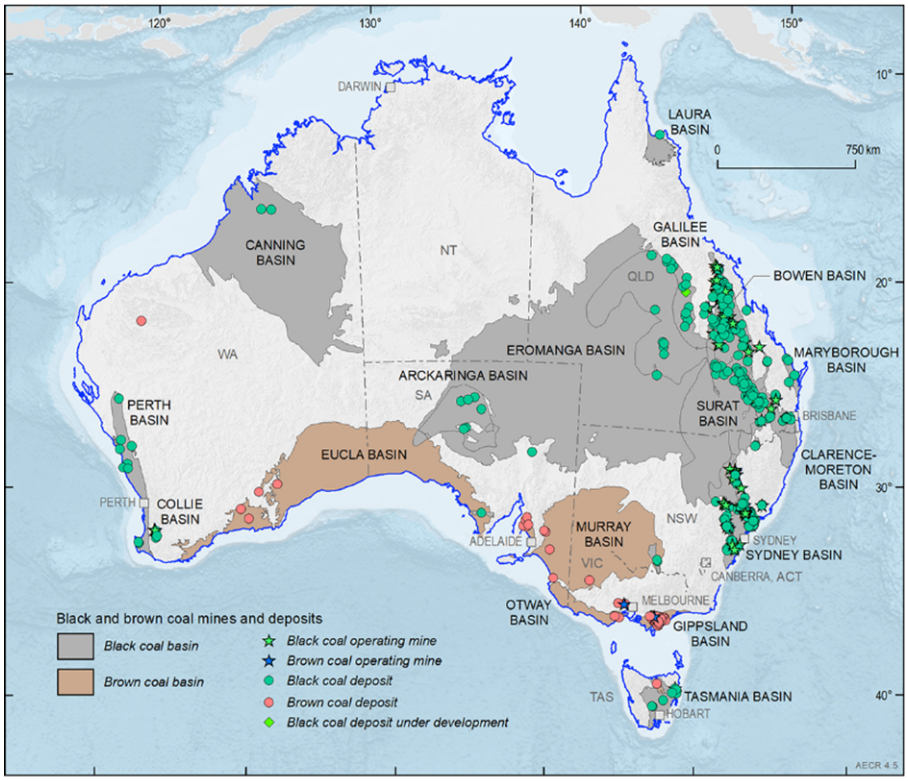


Figure 4: Coal deposits and mines in Australia (as at 31 December 2019)[47]

This concentration of coal mines also correlates with demand for wire rope in Australia, which is sold predominately to open-cut coal mines in Queensland and NSW.

4.3.2 Use of hydraulic excavators

The commission understands that existing and/or new open-cut mine operators may choose to use hydraulic excavators to complement or replace traditional electric draglines and shovels.

Hydraulic excavators do not use wire rope and the purchase of these machines requires a lower upfront capital investment. Hydraulic excavators are also more manoeuvrable (within an existing site or to a new site) than electric draglines and shovels. Therefore, using hydraulic excavators instead of, or as a supplement to electric draglines and shovels will form part of the asset rationalisation strategy of open-cut mine operators.

The relative degree to which open-cut mine operators utilise hydraulic excavators can have an impact on demand for wire rope. In the commission's view, the current use of hydraulic excavators does not necessarily cause a decline in demand for wire rope. In a scenario where there is high export prices for coal and increased coal production, there may be a need for increased use of both electric and hydraulic machines and therefore an increase in demand for wire rope.

The commission received information from BWR and Haggie Reid regarding the number of electric draglines and shovels in operation in 2021, as well as mines that utilised hydraulic excavators. This information is summarised in Table 7.

[47] Geoscience Australia (2021), *Coal | Australia's Energy Commodity Resources 2021*.

Number of mines supplied by BWR and Haggie Reid in 2021	
Using electric draglines and shovels	28
Using hydraulic excavators	20

Table 7: Machine mix at Australian mines in 2021

The commission does not possess information about the purchase date of hydraulic excavators and the degree to which these are used. However, the commission considers this information is relevant for understanding changes in the size of the Australian market at Chapter 4.5.

4.4 Basis of competition in the market

The physical properties of wire rope vary. Strand design, the number of strands, rope lay rope diameter and plastication, are (among other characteristics) important considerations for end-users. The specification required by the end-user will vary depending on the application and the equipment at the relevant mine. Even though there are varying specifications, wire ropes types are functionally the same. For example, drag and hoist ropes for electric draglines function in the exact same manner, regardless of specification, machine model and mine operator.

Within these bounds, the commission considers that suppliers compete primarily on price and durability.

4.4.1 Price

Pricing is an important consideration for mine operators when purchasing wire rope from suppliers in Australia. Both BWR and Haggie Reid have attributed price competition as the reason for winning or losing contracts.

In addition, BWR and Haggie Reid have indicated that mine operators consider competitor prices when revising prices under contract variation.

There is evidence of mining operators using price offers from alternative suppliers in their negotiation process.[48] The commission reviewed information that showed instances where mine operators used alternative supplier prices to negotiate lower prices with their preferred supplier.

The commission also notes that large mine operators can agree contracts with multiple suppliers at the group level. An additional layer of price competition occurs at the individual mine level where purchasing decisions are made independently.

4.4.2 Durability

BWR and Haggie Reid advised that durability of wire rope is an important consideration for end-users. Machine downtime while wire ropes are changed is a cost incurred to mine operators. Therefore, demand for durable wire rope that lasts its intended working life minimises unscheduled wire rope changes and machine downtime. The commission observed contracts between suppliers and mining companies that imposed penalties where wire ropes failed before their projected useful life.

[48] The commission has collated examples in Confidential Attachment 1. Discussion of the degree of price competition is at Chapter 7.7.2 of this SEF.

Impregnated (i.e. plasticated) wire rope costs more to produce, but are more durable than non-plasticated because the extruded polymer filling reduces wear on the steel wires in the strand and/or core of the wire rope. In its response to the Australian market supplementary questionnaire, BWR explained that because durability is important to end-users, this was driving increased demand for plasticated rope.

The commission analysed BWR and Haggie Reid's sales data and found that some Australian mines appear to have adopted more compacted and/or plasticated (CC/P), wire rope as part of their product mix. Figure 5 shows that wire rope with these characteristics have become more prevalent in the Australian market in 2021, when compared with 2017 and 2018. Sales of CC/P wire rope have increasingly replaced sales of non-compacted and non-plasticated (NC-NP) wire ropes since 2018.[49]

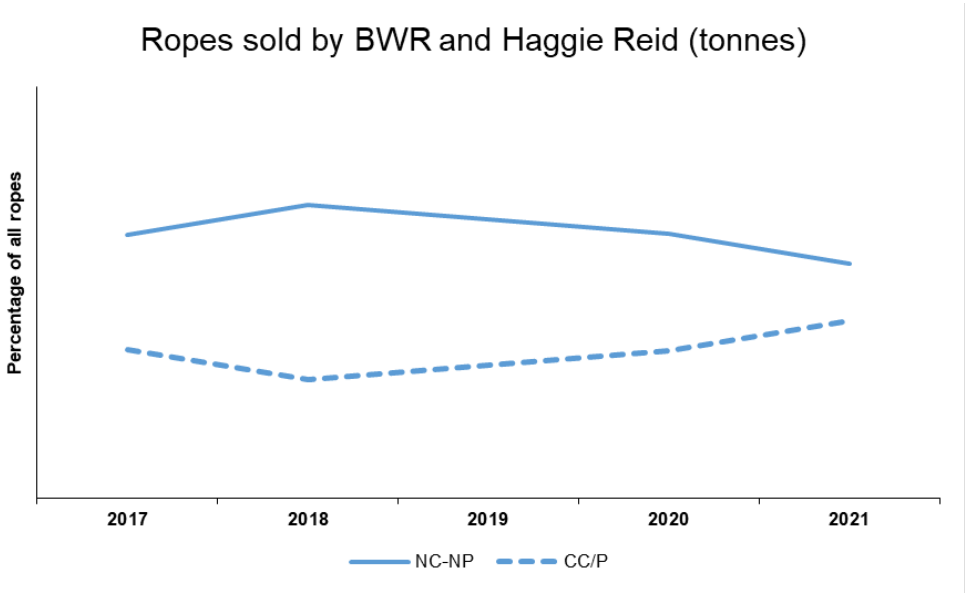


Figure 5: Portion of compacted and plasticated ropes in the Australian market

Therefore, the commission considers that wire rope durability is an important consideration for coal mine operators, with some Australian coal mines preferring the durability of CC/P wire rope in the inquiry period.

The commission also understands that plasticated rope also has advantages for electric dragline maintenance and therefore reducing maintenance costs. Plastication can reduce 'rifling' or wear of the drum, where the plastication provides a protective layer between the steel wires of the rope that can gouge the surface of the drum. In addition, the plastication encapsulates the lubrication in the wire rope and therefore keeps machines clean.

4.4.3 Electric dragline and shovel model and wire rope size

The commission has also examined the influence of the size of the electric dragline and shovel on competition for wire rope.

[49] For analytical reasons, the commission has favoured a broader grouping of MCCs. 'NC-NP' describes wire ropes that are not compacted and not plasticated. 'CC/P' describes wire ropes that have at least one element of compaction and/or plastication and will include NC-P, CC-NP, CC-P. Refer Table 6 in this SEF for a description of MCC categories and identifiers.

The commission received information from BWR regarding the number of electric draglines and shovels at each open-cut coal and metals mine supplied by BWR and Haggie Reid in 2021, as well as the machine model and the wire rope nominal diameter that fit each machine.

Using this information, the commission grouped the electric draglines, shovels and wire rope nominal diameter into the following broad categories:

- **Dump rope** - all electric dragline models in Australia require a wire rope with nominal diameter of 83 mm.
- **Group 1 draglines** (drag and hoist rope) - these machines require drag & hoist rope of nominal diameters 80 - 85 mm.
- **Group 2 draglines** (drag and hoist rope) - these machines require drag & hoist rope of nominal diameters 92 - 95 mm.
- **Group 3 draglines** (drag and hoist rope) - these machines require drag & hoist rope of nominal diameters ≥ 100 mm.
- **Shovels** - the commission did not categorise shovels based on model and wire rope diameter. Shovels require wire rope of nominal diameter 60 - 73 mm.

The commission analysed the influence of machine size on competition at Figure 6 by analysing the total tonnes sold by BWR and Haggie Reid in 2021. The commission also included the number of transactions in 2021 per group. This is because

- larger diameter ropes in Group 3 will weigh more per transaction and can give the appearance of having a greater influence in the market and
- the number of transactions gives an indication of the number of selling opportunities available to BWR and Haggie Reid and therefore competition.

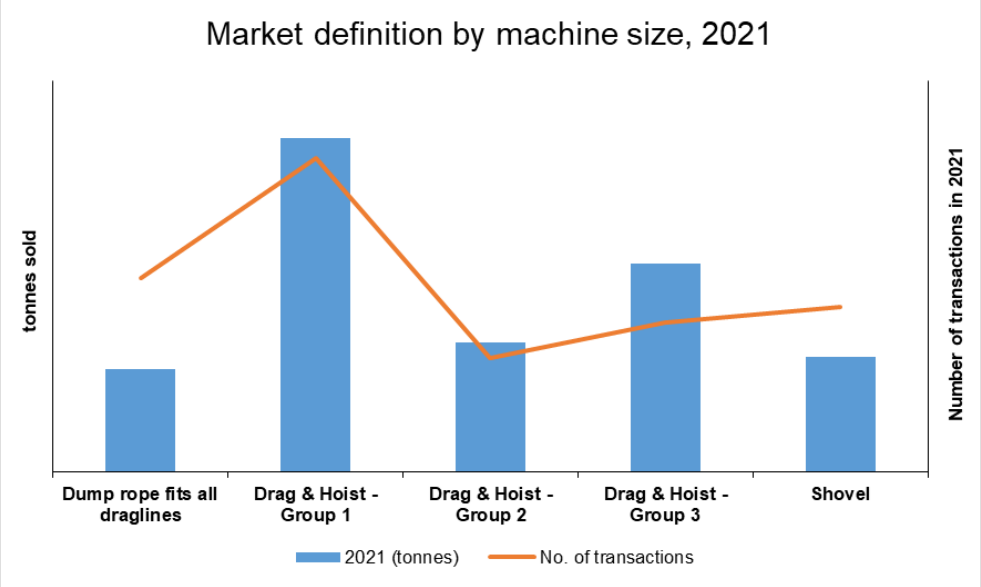


Figure 6: Market definition by electric dragline and shovel size

In 2021, Group 1 machines comprised the majority of sales in the Australian market, representing approximately:

- 40% of all wire rope sales by weight
- over half of the number of transactions for all drag and hoist rope.

The commission considers that regardless of the particular wire rope specification that all drag and hoist ropes on Group 1 machines (as well as the other groups) are substitutable.

In 2021, dump ropes comprised a much smaller portion of sales than other wire rope types; however, the dump ropes sold are used on any size electric dragline. It is also evident from Figure 6 that whilst sales by weight appear smaller, the number of transactions in 2021 exceeds Groups 2 and 3 electric draglines and shovels. The commission also considers that all dump ropes in the Australian market are substitutable, regardless of machine size and wire rope specification.

The commission concludes that competition between BWR and Haggie Reid will be concentrated at:

- drag and hoist rope supply at open-cut coal mines that have Group 1 electric draglines and
- dump rope supply for all electric draglines.

Differences in price and durability will have the greatest influence on competition.

4.5 Market size

The commission's analysis indicates the Australian market for the goods (measured in tonnes) has generally declined over time. Figure 7 shows the commission's estimate of the annual volume of the goods sold in the Australian market since 1 January 2013.

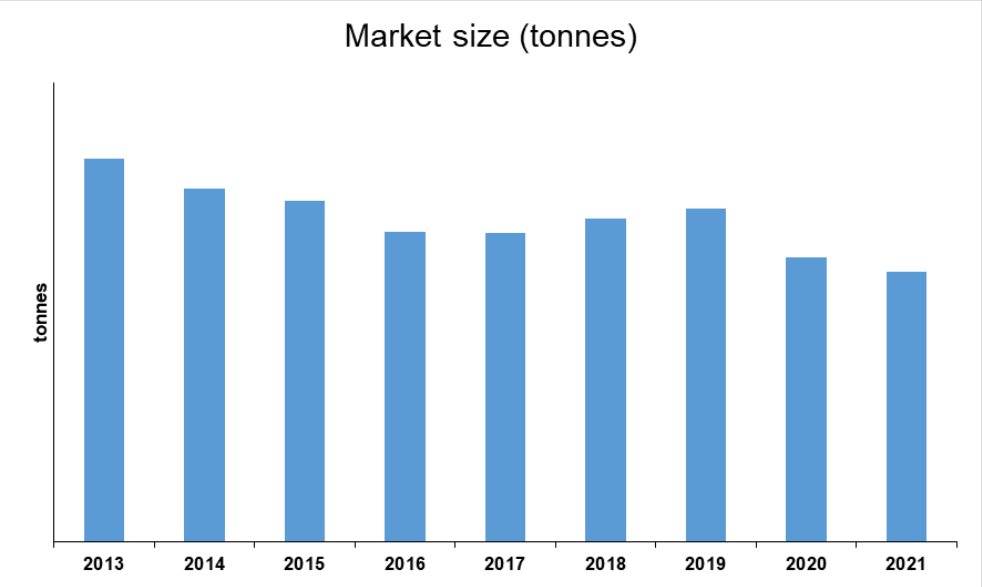


Figure 7: Australian market size for wire rope

The commission considers this change in preference for CC/P wire rope, is in part, an explanation for the decline in overall wire rope market size demonstrated in Figure 7. This is because demand for more durable wire ropes, results in less wire ropes sold.

5 ECONOMIC CONDITION OF THE AUSTRALIAN INDUSTRY

5.1 Preliminary findings

The Commissioner finds that the economic condition of BWR improved in some respects in the period after the measures were imposed. Since 1 January 2018, BWR has:

- maintained or increased its share of the market, despite an overall decline in sales volume and
- remained profitable, although not at levels previously achieved.

5.2 Findings in the original investigation

The commission found in REP 401 that from 1 January 2016 to 31 December 2016, the Australian industry producing wire rope had suffered injury in the form of:

- loss of sales volume
- loss of market share
- price suppression[50]
- loss of profits
- reduced profitability
- reduced sales revenue
- reduced ROI
- reduced capacity utilisation
- reduced employment and
- reduced productivity.

5.3 Approach to analysis

The commission has assessed the economic condition of BWR from 1 January 2013, using the verified information provided by BWR in this inquiry and the original investigation, and data from the ABF import database. In this chapter, and throughout this report, references to a year are to a calendar year (i.e. the 12 months ending 31 December).

The commission's analysis in this chapter does not intend to demonstrate whether BWR experienced injury from dumping in the inquiry period. Rather, the analysis provides context for assessing the likelihood of injury continuing or recurring if the measures were to expire (refer Chapter 7).

The commission's analysis for this chapter is at **Confidential Attachment 2**.

[50] Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs.

5.4 Volume effects

5.4.1 Sales volume

The commission examined BWR's sales volumes of like goods in the period from 1 January 2013 to 31 December 2021. BWR's sales volumes decreased in 2020 and 2021, however the entire market (Figure 7) contracted in the same period.

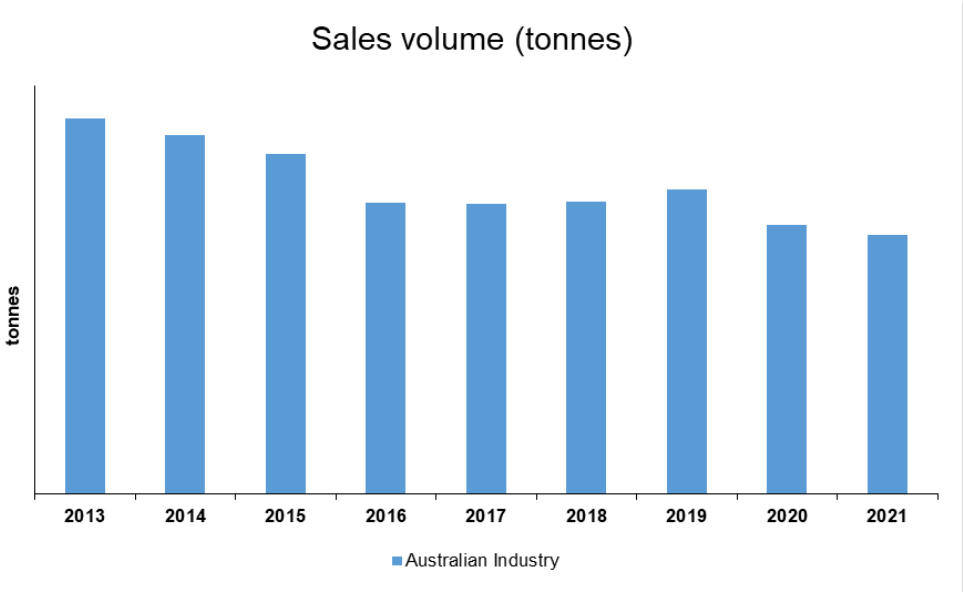


Figure 8: Sales volume of like goods (tonnes)

The commission's analysis at Figure 5 shows that this decline in sales volume in 2020 and 2021 is in part, due to BWR increasing sales of CC/P wire rope.

5.4.2 Market share

The commission's analysis of market share is shown in Figure 9.

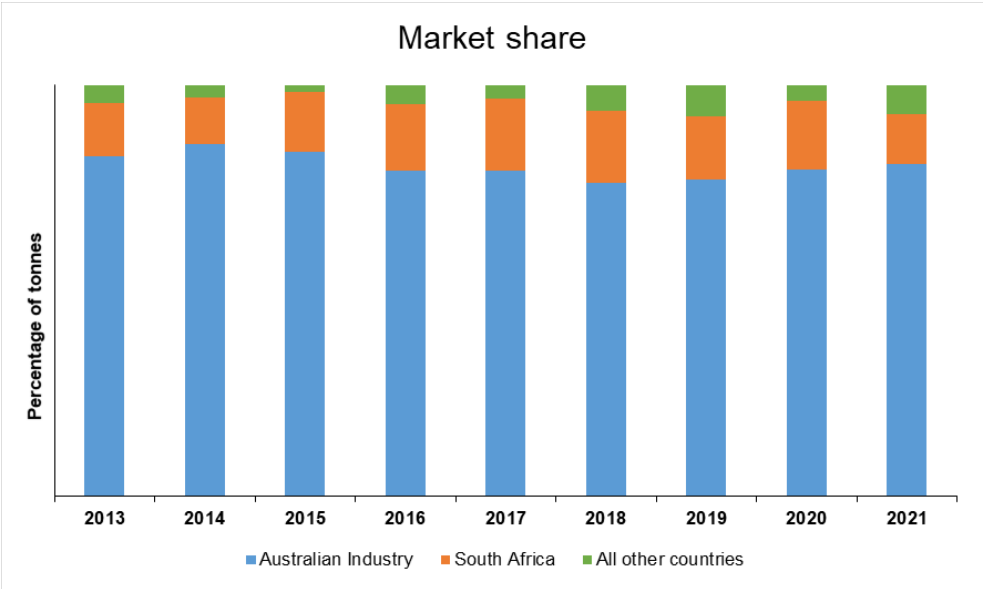


Figure 9: Australian market share

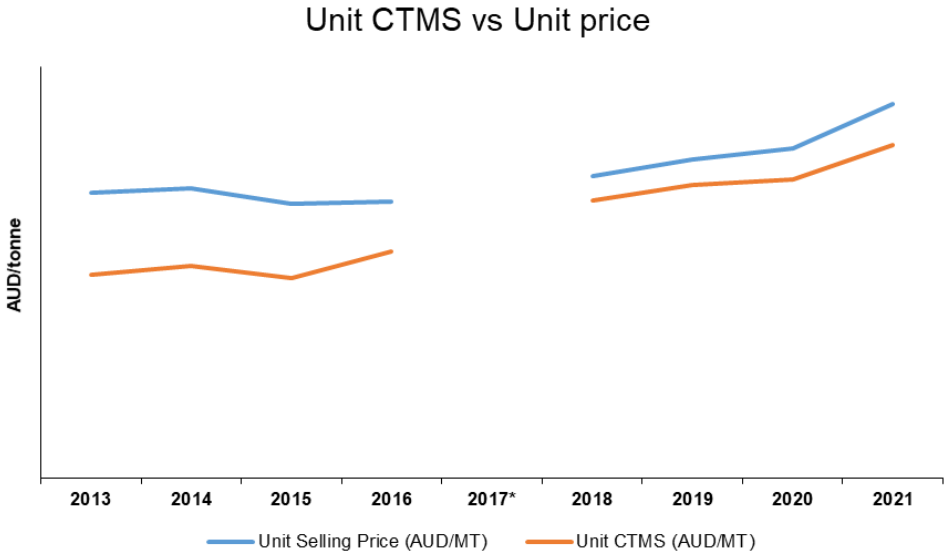
BWR lost market share in 2016 and again in 2018. These two periods coincide with the original investigation (REP 401) and the anti-circumvention inquiry (REP 483). BWR increased its market share in the following 3 years to 2021, but not to the same shares held in the years 2013 to 2015.

Exports from South Africa have maintained a relatively consistent share of the Australian market in the years 2015 to 2020, with the sharpest decline occurring in 2021. The degree of the market share decline for exports from South Africa in 2021 is similar to the degree of market share increase in 2015.

Exports from all other countries appear to have a smaller share of the Australian market. Figure 8 shows that exports from all other countries had a greater portion of the Australian market in the years 2018, 2019 and 2021.

5.5 Price effects

Figure 10 shows BWR's weighted average unit selling prices and unit cost to make and sell (CTMS) from 1 January 2013 to 31 December 2021. These prices and costs are the aggregate of all MCCs made and sold by BWR.



* Due to a change in BWR's accounting system, BWR has been unable to reconcile the actual CTMS for the period 1 January to 30 June 2017. Rather than rely on 6 months of cost data for a potentially misleading comparison to a weighted average price over 12 months, the commission has instead excluded the data for 2017 from this figure.

Figure 10: Weighted average unit selling price and unit CTMS (AUD/tonne)

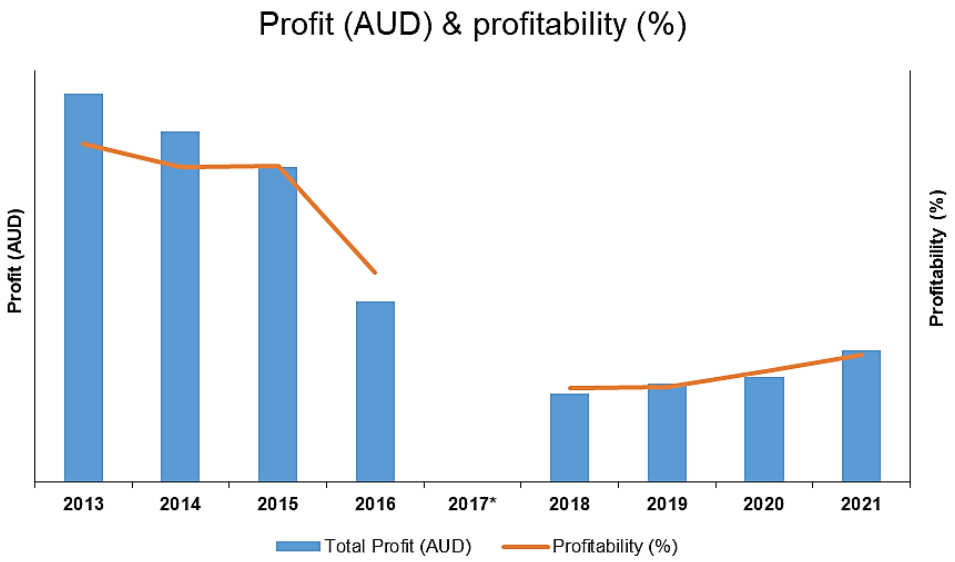
The commission observes that after experiencing price suppression in 2016 (the original investigation period) BWR's prices increased in line with its costs. In 2020 and 2021, the rate of increase in price was marginally greater than the increase in costs.

The commission also examined BWR's quarterly price and cost for MCCs that comprised approximately 80% of total volume of drag and hoist rope and approximately 90% by volume of dump rope in the inquiry period. The commission found that some drag and hoist rope prices appeared suppressed at the start of the inquiry period. As for BWR's dump ropes, the commission found that price depression periodically occurred in the inquiry period.

The commission notes that BWR increased its prices to some customers at the end of the inquiry period. This price increase was a result of raw material and transport cost increases.

5.6 Profit and profitability

Figure 11 charts BWR's profit and profitability (expressed as a percentage of revenue) relating to its sales of like goods from 1 January 2013 to 31 December 2021.



* Due to a change in BWR's accounting system, BWR has been unable to reconcile the actual CTMS for the period 1 January to 30 June 2017. Rather than rely on 6 months of cost data to establish profit and profitability results over 12 months, the commission has instead excluded the data for 2017 from this figure.

Figure 11: **Total profit/loss (AUD) and profitability (profit as percentage of revenue)**

Figure 11 shows that BWR's profitability was stable in 2014 and 2015, despite a decline in total profit. BWR's largest decline in both total profit and profitability occurred in 2016. This coincides with REP 401. BWR's total profit has improved in each year since the imposition of measures, with the most significant improvement in total profit and profitability occurring in 2021. This improvement in profit and profitability for BWR was largely the result of demand for CC/P rope and its ability to increase prices later in the inquiry period.

Notwithstanding these improvements in BWR's 2021 performance, total profit and profitability remain below the levels achieved prior to 2017. In part, this is due to the effect of the price suppression and depression observed in the inquiry period for some of the most commonly sold wire rope MCCs by BWR.

BWR raised concerns via submission[51], that the then draft verification report (which was ultimately published on the EPR[52]) did not address the ongoing impact of Scaw's circumvention activity (REP 483) on BWR's profitability.

BWR requested the commission to examine BWR's comparative economic performance:

- in the period 2013 to 2016, when there was no dumping from South Africa with

[51] EPR 595, document no. 14.

[52] EPR 595, document no. 13.

- the extended price injury in 2019 and 2020 resulting from Haggie Reid continuing to sell 9 strand wire rope which continued to impact BWR's contract negotiations in that period.

BWR also asked the commission to consider the cost implications of its short-term inter-company export sales.

The commission notes that the analysis in the BWR verification report and this chapter does not seek to assess the instances of dumping or circumvention affecting the economic condition of the Australian industry. Rather, this chapter provides a historical context for assessing (in Chapter 7) the likely effect on the Australian industry after the inquiry period, should the measures expire.

The commission has therefore not assessed the impact on BWR of Haggie Reid's historical sales of 9 strand rope.

In relation to BWR's inter-company export sales during the inquiry period, the commission acknowledges that a cost benefit exists, and that the benefit may not exist in the future.

5.7 Other economic factors

BWR provided data for other economic factors the period 1 January 2017 to 31 December 2021. The verification report published by the commission indicates that since the imposition of the measures:

- the value of assets, capital investment, revenue, ROI and average wages have all increased
- production volume has declined
- employment numbers have been generally stable and
- cashflow performance has been mixed.

6 VARIABLE FACTORS

6.1 Preliminary finding

The Commissioner has found that the variable factors in relation to all exporters have changed. The resulting dumping margins are summarised in Table 8.

Exporter	Dumping margin
Scaw	36.5%
All other exporters	36.5%

Table 8: Summary of dumping margins

As Scaw was the only known exporter of the goods from South Africa, the Commissioner proposes to recommend that all other exporters from South Africa be subject to the same variable factors.

6.2 Legislative framework

Under section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of dumping. The existence of dumping during the inquiry period may be an indicator of whether dumping may occur in the future.

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

The commission applied the methodology in section 269TACB(2)(a) to determine whether dumping has occurred and the levels of dumping. This involves comparing the weighted average export price over the whole of the inquiry period with the weighted average of corresponding normal value over the whole of the inquiry period.

6.3 Verification approach

As discussed in Chapter 2, Scaw is the only known exporter from South Africa. Scaw provided a REQ that included data relating to Australian sales, domestic sales, and details of the CTMS.[53] The commission performed a virtual verification of the data provided by Scaw.

The commission is satisfied that Scaw is the producer of the goods and like goods. The commission is satisfied that the information provided by Scaw is accurate and reliable for ascertaining variable factors applicable to its exports of the goods. The verification report is available on the public record.[54]

[53] EPR 595, document no. 5.

[54] EPR 595, document no. 17.

6.3.1 MCCs for Scaw

The MCCs for wire rope sold by Scaw to domestic and export markets (with diameter information redacted, (as noted in Chapter 3.3.3) is listed and arranged by use in Table 9.

Rope use	Australian sales	Domestic sales
Drag and hoist ropes	6-X-CC-NP-0	6-X-NC-NP-0
	6-X-NC-NP-0	6-X-NC-NP-0
	6-X-NC-P-0	6-X-NC-P-0
	8-X-NC-NP-0	6-X-NC-NP-0
	8-X-NC-NP-0	8-X-NC-NP-0
	9-X-NC-NP-0	8-X-NC-NP-0
		8-X-NC-NP-0
		8-X-CC-NP-0
		8-X-NC-NP-0
		8-X-NC-P-0
Dump ropes	8-X-CC-NP-1	
	8-X-CC-NP-2	
	8-X-NC-NP-2	
Shovel ropes	8-X-CC-P-1	8-X-CC-P-2
	8-X-CC-P-2	8-X-CC-P-2
		8-X-CC-P-2
Shaft mining ropes		6-X-NC-NP-0
		6-X-NC-NP-0
		6-X-NC-NP-0
		6-X-NC-NP-0
		8-X-NC-NP-0
Offshore ropes		6-X-NC-NP-0
		6-X-NC-NP-0
		6-X-NC-NP-0
Other ropes		8-X-NC-NP-0

Table 9: Summary of MCCs sold by Scaw, by market

Scaw sold wire ropes ranging in diameter from 70 to 95 mm in exports to Australia, and from 58 to 111 mm in its domestic market.

6.4 Export price

6.4.1 The exporter

The commission is satisfied that, for all Australian export sales during the inquiry period, Scaw is the exporter of the goods.[55] This is because the commission has verified that Scaw:

- is the manufacturer of the goods
- is named on the commercial invoice as the supplier
- is named as consignor on the bill of lading
- arranges and pays for the inland transport to the port of export
- arranges and pays for the port handling charges at the port of export and
- arranges and pays for the ocean freight and marine insurance.

6.4.2 The importer

The commission considers Haggie Reid to be the beneficial owner of the goods at the time of importation and therefore the importer, as Haggie Reid:

- is named on the commercial invoice as the customer
- is named as the consignee on the bill of lading
- is declared as the importer on the importation declaration to ABF
- pays for all the importation charges and
- arranges delivery from the port.

6.4.3 Arms length assessment

The commission considers that export sales to Australia by Scaw to Haggie Reid during the period were not arms length transactions under section 269TAA(1)(b).

Having reviewed Scaw's sales of the goods to Haggie Reid during the inquiry period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.[56]

However, the commission found evidence that a commercial or other relationship between the buyer and the seller appeared to influence the price because:

- Haggie Reid is wholly owned by Scaw
- Scaw was the exclusive supplier of the goods to Haggie Reid, and
- prices between Scaw and Haggie Reid are determined according to an internal pricing mechanism which factors for both parties' profit.

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[55] 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.

[56] Section 269TAA(1)(c).

Further detail of these arrangements is contained in **Confidential Attachment 3**.

6.4.4 Export price calculation methodology

The commission's export price calculations are at **Confidential Attachment 4**.

As Scaw's sales to the importer were not arms length transactions, the commission concluded that the export price could not be determined under section 269TAB(1)(a). The commission considered the following methods were appropriate for calculating the export price:

- For the goods that are sold by the importer in the condition in which they were imported, to a person who is not an associate of the importer, the export price is established under section 269TAB(1)(b), being the price at which the goods were sold by the importer less the prescribed deductions.
- For the goods that are modified by the importer (cutting and welding attachments) after importation and sold to a person who is not an associate of the importer, the export price is established under section 269TAB(1)(c), being the price that the Minister determines having regard to all the circumstances of the exportation.

Specifically, the commission accounted for the following cost factors when determining the export price:

- domestic selling expenses including transport, cutting and other costs
- importation expenses including transport, port and handling charges, ocean freight, insurances and duties, and
- reel retrieval.

The commission calculated an export price at Free on Board (FOB) terms.

BWR claimed that GSA interventions in the South African steel market affected the cost of steel scrap used by Scaw to produce the goods.[57] The commission performed preliminary research on this claim and identified other possible GSA interventions in the steel market more broadly and the steel scrap, wire rod and wire rope markets specifically. The commission therefore indicated its intention to examine this issue further.[58] The assessment is relevant to establishing whether a PMS exists which affects the price comparability of wire rope sales for the purposes of establishing normal value.[59]

BWR subsequently lodged a submission that referred to domestic policies and initiatives in South Africa affecting the price and supply of steel.[60] As noted in Chapter 2, the commission invited the GSA to complete a government questionnaire, but did not receive a response.

6.4.5 Particular market situation – summary of findings

The commission's detailed assessment of the scope and effect of GSA interventions in the relevant South African steel markets is in **Appendix A**.

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[57] BRW's original application, EPR 595, document no. 01.

[58] File note, EPR 595, document no. 03.

[59] Under section 269TAC(2)(a), a normal value cannot be determined under section 269TAC(1) where the Minister is satisfied that the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a normal value under section 269TAC(1).

[60] BRW's 12 July 2022 submission, EPR 595, document no. 11.

The commission has found that interventions in the steel scrap market by the GSA have influenced outcomes in the South African steel industry. However, the commission does not consider there is a direct relationship between movements in steel scrap and wire rod costs and the prices that Scaw achieves for its sales of wire rope. In the commission's opinion, the absence of this relationship indicates that in the inquiry period, the GSA interventions in the steel scrap market (and any subsequent effect on wire rod price and cost) have a small effect on the wire rope market.

As a result, the commission considers that the GSA interventions have not distorted the wire rope market and therefore that there is no PMS for wire rope during the inquiry period that would prevent a proper comparison of domestic prices with export prices.

6.4.6 Normal value calculation methodology

The commission has calculated a normal value under section 269TAC(1). The commission's calculations are at **Confidential Attachment 5**.

The commission considers that all domestic sales made by Scaw to its domestic customers during the period were arms length transactions. This is because, for Scaw's domestic sales of like goods to its customers during the inquiry period, the Commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price
- the price appeared 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
- the buyer, or an associate of the buyer, was not directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

Section 269TAAD states that domestic sales of like goods are not in the OCOT if arms length transactions are both:

- unprofitable in substantial quantities over an extended period and
- unlikely to be recoverable within a reasonable period.[61]

The commission tested:

- profitability, by comparing the invoice price against the relevant cost for each domestic sales transaction
- whether the unprofitable sales were in substantial quantities (not less than 20%), by comparing the volume of unprofitable sales to the total sales volume, for each MCC over the period, and
- recoverability, by comparing the invoice price against the relevant weighted average cost over the period for each domestic sales transaction.

The commission assessed the total volume of relevant sales of like goods as a percentage of the goods exported to Australia and found that the volume of domestic sales was 5% or greater and therefore was not a low volume.

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[61] In general, the commission will consider 'extended period' and 'reasonable period' to be the investigation, review or inquiry period.

When calculating a normal value under section 269TAC(1), to ensure a proper comparison between the goods exported to Australia and the goods sold on the domestic market, the commission considers the volume of sales of each exported MCC on the domestic market. Where the volume of domestic sales of an exported model is less than 5% of the volume exported, the commission will consider whether it can make a proper comparison at the MCC level. In these situations, the commission may consider whether it should use a surrogate domestic model to calculate normal value for the exported model.

Table 10 details the commission's analysis of each model's sales volumes and treatment for normal value calculation purposes.

Export MCC	Domestic sales volume of same MCC ≥ 5% as a proportion of export volume?	Treatment of normal value	Domestic surrogate model diameter size, compared to export MCC
6-X-CC-NP-0	N	No domestic sales of 6-X-CC-NP-0. Normal value based on domestic sales of 6-X-NC-NP-0 with specification adjustment under section 269TAC(8).	larger
6-X-NC-NP-0	N	There were domestic sales of 6-X-NC-NP-0, however at small volumes and only occurring in one quarter. Normal value based on domestic sales of 6-X-NC-NP-0 with specification adjustment under section 269TAC(8).	larger
6-X-NC-P-0	N	No domestic sales of 6-X-NC-P-0. Normal value based on domestic sales of 6-X-NC-NP-0 with specification adjustment under section 269TAC(8).	larger
8-X-CC-P-1	N	No domestic sales of 8-X-CC-P-1. Normal value based on domestic sales of 8-X-CC-P-2 with specification adjustment under section 269TAC(8). The commission considered using domestic sales of 8-X-CC-P-2, however there were no sales in certain required quarters.	smaller
8-X-CC-P-2	Y	Based on the domestic sales of the same MCC	same
8-X-CC-NP-1	N	No domestic sales of 8-X-CC-NP-1. Normal value based on domestic sales of 8-X-CC-NP-0 with specification adjustment under section 269TAC(8). The commission considered using 8-X-NC-NP-0, however there were no sales in certain required quarters.	larger
8-X-CC-NP-2	N	No domestic sales of 8-X-CC-NP-2. Normal value based on domestic sales of 8-X-CC-NP-0 with specification adjustment under section 269TAC(8). The commission considered using 8-X-NC-NP-0, however there were no sales in certain required quarters.	larger

Export MCC	Domestic sales volume of same MCC ≥ 5% as a proportion of export volume?	Treatment of normal value	Domestic surrogate model diameter size, compared to export MCC
8-X-NC-NP-2	N	No domestic sales of 8-X-NC-NP-2. Normal value based on domestic sales of 8-X-CC-NP-0 with specification adjustment under section 269TAC(8). The commission considered using 8-X-NC-NP-0 and 8-X-NC-NP-0, however there were no sales in certain required quarters.	larger
8-X-NC-NP-0	Y	Based on the domestic sales of the same MCC	same
8-X-NC-NP-0	Y	Based on the domestic sales of the same MCC	same
9-X-NC-NP-0	N	No domestic sales of 9-X-NC-NP-0. Normal value based on domestic sales of 8-X-NC-NP-0 with specification adjustment under section 269TAC(8).	same

Table 10: Domestic volume treatment by MCC

Adjustments

When calculating normal values under section 269TAC(1), the Commission considers that certain adjustments in accordance with section 269TAC(8) are necessary to ensure fair comparison of normal value with export prices. The commission determined that all of the adjustments as summarised in Table 11 were required with respect to Scaw's export price.

Adjustment Type	Deduction/addition
Domestic credit terms	**Deduct** an amount for domestic credit
Domestic inland transport	**Deduct** an amount for domestic inland transport
Domestic technical support	**Deduct** an amount for domestic technical support
Domestic reel retrieval	**Deduct** an amount for domestic reel retrieval
Export packaging	**Add** an amount for export packaging
Export inland transport	**Add** an amount for export inland transport
Export port charges	**Add** an amount for port charges
Export reel retrieval	**Add** an amount for export reel retrieval
Export credit terms	**Add** an amount for export credit terms
Specification	**Add or deduct** an amount for specification (Table 10)

Table 11: Summary of adjustments

The commission calculated a normal value at FOB terms.

6.4.7 Dumping margin

The dumping margin in respect of the goods exported to Australia by Scaw for the inquiry period is **36.5%**.

The Commission's calculations are included at **Confidential Attachment 6.**

6.5 All other exporters

Section 269T(1) provides that an exporter is an 'uncooperative exporter', where the Commissioner is satisfied an exporter:

- did not give the Commissioner information that the Commissioner considered to be relevant to the inquiry, within a period the Commissioner considered to be reasonable or
- significantly impeded the inquiry.

As Scaw was the only known exporter from South Africa, the Commissioner does not consider there were any uncooperative exporters within the definition of section 269T(1).

Consistent with the original investigation, the Commissioner recommends that the variable factors relevant to all other exporters should be the same as that established for Scaw, and therefore the dumping margin is **36.5%**.

7 LIKELIHOOD THAT DUMPING AND MATERIAL INJURY WILL CONTINUE OR RECUR

7.1 Preliminary findings

Based on the evidence available, the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and material injury that the measures are intended to prevent.

After considering the commission's analysis and findings, the Commissioner is satisfied that the following is likely to occur if the measures expire.

Scaw will continue exporting the goods to Australia because:

- exports of wire rope from South Africa have continued since measures were imposed
- these exports will likely continue in the future to supply ongoing and potentially new customers in the Australian market and
- Scaw has maintained its distribution link to the Australian market, via its related party importer Haggie Reid for supplying the Australian market.

Scaw's exports will be dumped because:

- Scaw has a history of exporting at dumped prices, including while measures were in place and
- Scaw's exports are not competitive with prices in Australia unless they are dumped.

The dumping will cause material injury to BWR in the form of price suppression and reduced profitability, because:

- Scaw and Haggie Reid will likely adjust their price settings to achieve mutually beneficial commercial outcomes and
- Haggie Reid's prices have a direct effect on BWR's prices.

7.2 Legislative framework

Under section 269ZHF the Commissioner must not recommend that the Minister take steps to secure the continuation of measures unless they are satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measure is intended to prevent.

The commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation. The commission must consider what will happen in the future should a certain event, being the expiry of the measures, occur. However, the Commissioner must nevertheless base their conclusions and recommendations on facts and not merely conjecture.[62]

[62] ADRP Report No. 44 (Clear Float Glass).

The *Ministerial Direction on Material Injury 2012* provides guidance on assessing the materiality of injury caused by dumping. It states that the materiality of injury caused by a given degree of dumping can be judged differently, depending on the economic condition of the Australian industry suffering the injury. In considering the circumstances of each case, the commission must consider whether an industry that at one point in time is healthy and could shrug off the effects of the presence of dumped products in the market, could at another time, weakened by other events, suffer material injury from the same amount and degree of dumping.[63]

7.3 The commission's approach

The commission considered a number of relevant factors to assess the likelihood of whether dumping and material injury will continue or recur.[64] The commission's view is that the relevance of each factor varies depending on the nature of the goods and the market into which the goods are sold. In this instance, no one factor can provide decisive guidance. The following analysis therefore examines a range of factors that the commission considers relevant to this inquiry.

The commission's analysis for this chapter is at **Confidential Attachment 7**.

7.4 BWR's claims

In its application, BWR claimed that:

- Exports of wire rope from South Africa have continued after measures the imposition of measures on 18 December 2017.
- Scaw then took steps to circumvent the measures, resulting in extended dumping and material injury to BWR.
- Scaw has maintained distribution links into the Australian mining sector via its sole distributor, Haggie Reid.
- Exports of wire rope from South Africa to Australia have escalated in 2020 and 2021 to levels above those of the original 2016 investigation period.
- BWR has assessed the exports by Scaw from South Africa in 2021 as prima facie at dumped prices, with significant dumping margins evident for the large monthly shipments in February and May 2021.
- Scaw has access to low priced steel scrap due to the South African ban on steel scrap exports, which provides Scaw with a cost advantage over other wire rope exporters.
- BWR has endured continued injury in the form of price suppression and reduced profits and profitability from Scaw's circumvention activities in 2018 following some industry contracts agreed at suppressed prices until 2021.
- The Australian market for wire rope is a key market for Scaw due to Australia's large coal and mineral resources industry.
- It is likely that Scaw will continue to export at dumped prices and cause material injury should the measures be allowed to expire.

The commission has considered BWR's claims in its analysis below.

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[63] Australian Customs Dumping Notice No. 2012/24.

[64] The Manual, pages 137-138, provides a non-exhaustive list of these factors.

7.5 Are exports likely to continue or recur?

The commission considers that, should the measures expire, exports from South Africa are likely to continue on the basis that:

- import volumes from South Africa have continued since measures were imposed
- they will likely continue in the future to supply ongoing and potentially new customers, and
- Scaw has maintained specific distribution links to the Australian market for that purpose.

7.5.1 Import volumes

Figure 12 shows the total import volume of wire rope into Australia from South Africa from 2013. The commission has assessed this import volume from South Africa relative to other imports and the size of the Australian market.

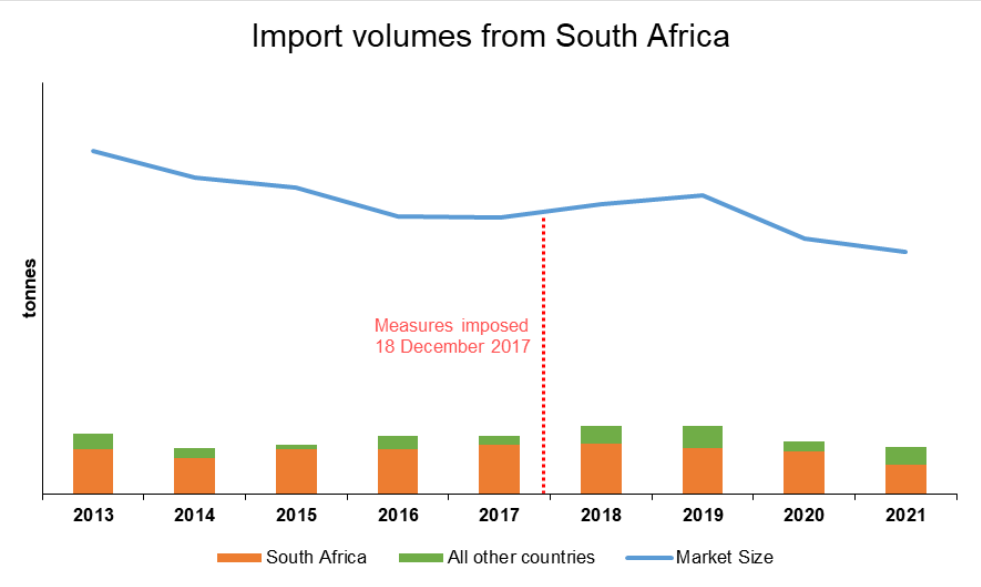

Figure 12: Import volumes from South Africa (MT) since 1 January 2013

Figure 12 indicates that imports from South Africa increased immediately following the imposition of the measures. The volume of imports has been broadly consistent over a long period. The reduction in volume after 2019 is consistent with overall reductions in the size of the Australian market for wire rope.

Notwithstanding the reduction in the size of the Australian market, demand for wire rope exists. As noted in Chapter 4, Australia is one of the world's largest coal producers and will continue to extract coal in open-cut coal mines for the near future. Therefore as a key market for Scaw's wire rope, imports from Scaw are likely to continue.

7.5.2 Maintenance of distribution links

Scaw exports the goods to Australia exclusively to its related party importer, Haggie Reid. This relationship is not at arms length (per Chapter 6.4.3), and the commission is unaware of other exporters from South Africa to Australia.

The commission considers Scaw has maintained its distribution links to the Australian market, via its related-party importer Haggie Reid. This relationship is important as Scaw

consider Australia *vis a vis* Haggie Reid, as one of its key operations.[65] Haggie Reid continues to supply existing customers and submit tenders for new contracts, so will likely continue to require the goods from Scaw to supply continuing demand for wire rope from current and future customers in Australia.

Scaw advised that it is undergoing a corporate restructure that will result in existing manufacturing divisions becoming standalone legal entities (subsidiaries) within a Scaw group of companies. The current parent ownership remains unchanged.

The commission understands that there may be future changes to the internal commercial and trading arrangements between the new legal entities. Noting these structural changes, there is no information before the commission indicating the importance of Haggie Reid as a key Australian operation and importer / distributor is likely to change in the near future. This is regardless of whether the measures continue or expire.

7.5.3 Production capacity

The commission analysed Scaw's reported production capacity for the goods. Scaw's REQ noted that, during the inquiry period, it had available production capacity to produce the goods. Using the information provided by Scaw, the commission calculated Scaw's unused capacity to be more than 15% of the Australian market size for the goods in 2021.[66]

Noting this available production capacity in 2021 and Australia's standing as a key operation to Scaw, the commission considers that should Haggie Reid require more wire rope to sell in Australia, Scaw is in a position to manufacture and supply it.

7.6 Is dumping likely to continue or recur?

The commission considers there is sufficient evidence to conclude that the expiration of the measures would be likely to lead to a continuation of dumping of wire rope from South Africa.

This finding is based on the following significant factors:

- Scaw's history of exporting at dumped prices and increased dumping in the inquiry period
- the pricing and market strategy employed by Haggie Reid benefits from access to the goods from Scaw at dumped prices, with no incentive to purchase from any other supplier or at higher prices, and
- Scaw being the sole active exporter known to the commission.

7.6.1 Analysis of dumping margins in the inquiry period and prior periods

As noted in Chapter 6, Scaw exported the goods at dumped prices during the inquiry period. The margin of dumping was 36.5%.

Scaw exported the goods at dumped prices during the original investigation period. At that time, the margin of dumping was 27.2%. There have been no reviews of measures occurring between the imposition of the measures and the present inquiry.

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[65] http://www.scaw.co.za/Pages/At-a-glance_New.html.

[66] Scaw advised that its reported total production capacity was 25% lower in the inquiry period than it reported in the original investigation. It is not clear if this resulted from changes to Scaw's production processes/facilities, or because it used a different calculation method.

The commission completed 3 duty assessment applications from Haggie Reid where Scaw was the exporter. These duty assessments were relevant to the 3 importation periods from 18 June 2019 to 17 December 2020. In each of these duty assessments, the importer, Haggie Reid, received a full refund. The commission observes that during these relevant importation periods, the NIP as last ascertained, was less than the normal value reported by Scaw. Accordingly, as the NIP was the operative measure, the receipt of a full refund by the importer does not necessarily indicate that wire rope imported from Scaw was at undumped prices. A further 2 duty assessments remain ongoing.[67]

Given the pattern of normal values and export prices over the periods examined by the commission, the commission considers this is typical commercial pricing behaviour by Scaw. On this basis, the commission considers it likely that dumping would continue if the measures expire.

7.6.2 Estimate of competitiveness of undumped prices in Australia

The commission has compared the prices achieved by BWR and Haggie Reid in the inquiry period with an estimated undumped price in the Australian market. The commission calculated this undumped price per MCC using the following method:

- Scaw's undumped FOB export price was assessed as being equal to the quarterly normal value per MCC calculated at **Confidential Attachment 5**.
- Scaw's actual costs for ocean freight and marine insurance were added to the FOB price to calculate an undumped CIF export price.
- A delivered duty paid (DDP) cost to Haggie Reid was calculated, by adding actual importation expenses including general customs, port and handling and inland transport from the Australian port to Haggie Reid's warehouse. IDD was excluded from this calculation as the export price is undumped and in this scenario, does not attract IDD.
- Haggie Reid's undumped price to the Australian market was then calculated by adding Haggie Reid's selling, general and administration (SG&A) expenses, other costs and surcharges and inland transport costs from Haggie Reid's warehouse to its customers in Australia. In this scenario, an amount of profit was added.

The commission's calculations are at **Confidential Attachment 8**.

The commission's estimate of an undumped price was then compared to the unsuppressed selling price (USP) calculated for Chapter 8. The commission considers that this comparison demonstrates that dumping by Scaw in the inquiry period permitted Haggie Reid to sell in the Australian market at the expense of profit on its sales.

Dumping also allowed Haggie Reid to sell at lower prices in Australia than it otherwise would. As Australia is a key operation for Scaw, via Haggie Reid, the commission considers that access to the Australian market at the prices Haggie Reid sells at can only occur because of dumping by Scaw.

[67] The commission publishes information about current cases in a Monthly Status Report (June 2022, published on 12 July 2022). These assessments relate to the 2 importation periods from 18 December 2020 to 17 December 2021.

7.7 Will material injury continue or recur?

The commission considers there is sufficient evidence to conclude that the expiration of the measures would likely lead to a continuation of or a recurrence of material injury that the anti-dumping measure is intended to prevent.

Demand for wire rope is likely to continue due to ongoing open-cut coal mining. Close price competition between BWR and Haggie Reid is impacted by the dumping of wire rope by Scaw, which gives Haggie Reid a price advantage in the market. In turn, this affects BWR's prices, profit and profitability, and this would be likely to continue and/or recur if the measures expire.

7.7.1 Outlook for coal mining in Australia

Both BWR and Haggie Reid stated that coal mines would typically increase the quantity of coal mined to take advantage of high coal export prices. This requires increasing dragline and shovel operations (for example, increasing the frequency of shifts and their total duration). Increasing dragline usage causes more frequent rope changes, increasing the quantity consumed. Therefore, in BWR's and Haggie Reid's opinion, there is a correlation between the demand for wire rope and coal export prices and production.

The commission has considered Australia's coal industry and its impact on the wire rope industry. The *Resources and Energy Quarterly, June 2022* (the RE Quarterly) examined short-term (2 year) bulk commodity pricing and projections.[68] The RE Quarterly projects that prices for Australian metallurgical and thermal coal will decline after a mid-2022 peak, as shown in Figure 13.

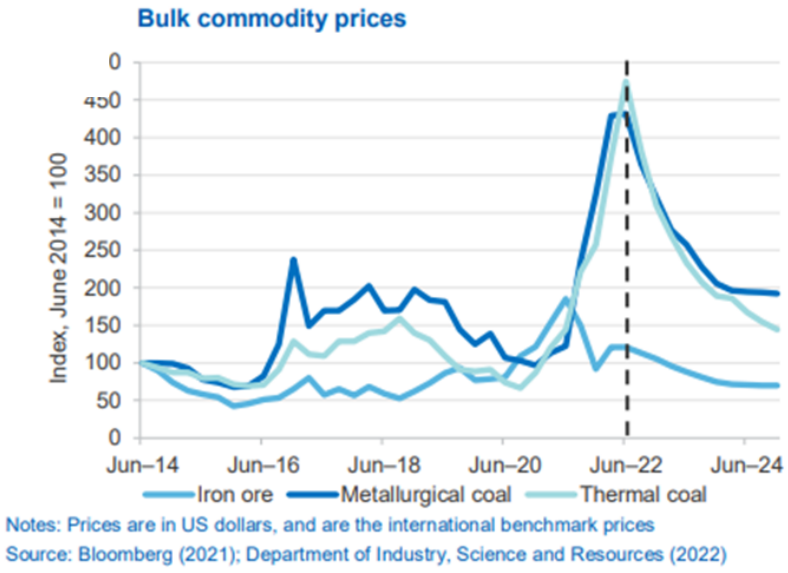

Figure 13: Coal price index - 2014-2024[69]

[68] The RE Quarterly is published by the Department of Industry, Science and Resources, https://publications.industry.gov.au/publications/resourcesandenergyquarterlyjune2022/documents/Resources-and-Energy-Quarterly-June-2022.pdf.

[69] RE Quarterly, page 9.

The RE Quarterly also analysed the influence of coal production volumes and noted that '[p]rice, rather than volume changes' would drive the forecast export values (AUD) for energy and resources.[70]

The commission used this analysis, the supporting data to the RE Quarterly, ABF import data and BWR's sales data for wire rope to assess the impact of open-cut coal production, in addition to price, on demand for wire rope.

Figure 14 shows that from 2016, there was some correlation between open-cut coal production and demand for wire rope. The commission observes that between 2018 and 2020, coal production increased at a time when export prices for metallurgical and thermal coal were declining (as shown in Figure 13). In this period, the size of the Australian wire rope market also increased.

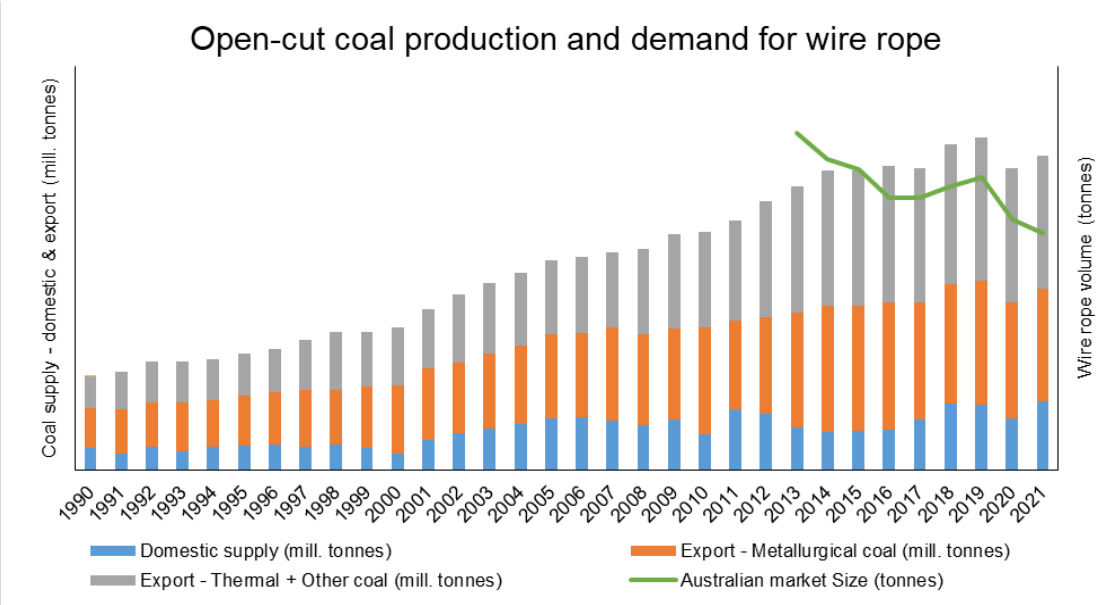

Figure 14: Comparison of open-cut coal production with wire rope sales

Efficient mining of coal can be influenced by the geology and topography of the site, i.e. how the natural environment affects access to coal seams. Natural weather events can also disrupt production as well as key transport routes from the mine to port. For example, the 2021 rain events in NSW caused open-cut coal mines in the Hunter Valley to pause mining due to the flooding of rail lines between the mine and the Port of Newcastle. Therefore, price and production do not perfectly correlate and therefore coal production and demand for wire rope also do not perfectly correlate.

Use of hydraulic excavators to complement or substitute electric draglines in Australia may also account for the imperfect correlation between wire rope demand and open-cut coal production. The commission's analysis of the information provided by BWR and Haggie Reid indicates that, for example, approximately half of the coal mines in Queensland are using both hydraulic excavators and electric draglines. All coal mines using electric draglines will require wire rope. On this basis, the commission anticipates ongoing competition for the supply of wire rope, including small volumes from third countries.

[70] Ibid. page 7.

The commission also observes in a comparison between 2020 and 2021 the wire rope market declined in 2021 while export prices for coal increased as well as production. This apparent decline in demand for wire rope at an opportune time to extract and sell coal is a function of hydraulic excavators, natural disasters and the environment, but is also driven by the coal industry's change in preference to purchase more durable rope.

7.7.2 Competition for tenders

The commission considers that exporting at dumped prices gives Scaw and Haggie Reid a price advantage in the Australian market (refer Chapter 7.6.2). As noted in Chapter 4, suppliers win opportunities to supply the Australian market mostly through tender processes.

Both Haggie Reid and BWR cite price competition as a deciding factor in winning a contract. BWR claimed that competition for tenders with Haggie Reid for "…critical customers to BWR [that] continue to materially influence contract negotiations and outcomes."[71]

The commission therefore examined sample tender processes and the resulting price competition that occurred between BWR and Haggie Reid in 2020 and 2021. The samples included tender offers from both BWR and Haggie Reid to common large mine operators in Australia, with multiple mine sites. These mines operators were significant as they represented over 60% of the Australian market (by volume) in the inquiry period.

The commission's examination in this chapter is at **Confidential Attachment 1**.

The examination showed that customers referenced Haggie Reid's lower prices when negotiating with BWR through the tender process and therefore sought from BWR a lower price offer, despite increases to BWR in its raw material costs.

The commission concludes that Haggie Reid's dumped prices directly influence BWR to lower its prices in the tender process. Haggie Reid's dumped prices influence competition for tenders in the Australian market and also affect BWR's profit and profitability.

The commissions consider these effects are likely to continue if the measures expire.

7.7.3 Analysis of sales by MCC, by customer

The commission considers that a typical price undercutting analysis (by MCC) would not reveal any specific trends due to the substantial variation between MCCs, which indicates the level of product differentiation in the Australian market and preferences from individual mine sites.

Instead, the commission has compared the drag and hoist rope sales from BWR and Haggie Reid to Queensland open-cut coal mines that operate Group 1 electric draglines. This analysis occurs from 1 January 2017 to identify patterns of trade for substitutable wire rope and the degree to which the goods from each supplier are in direct competition.

The commission has analysed weighted average delivered prices for Group 1 drag and hoist ropes, focusing on price trends for NC-NP and CC/P wire rope. Sales to mines in Queensland have the largest number of mines and Group 1 electric draglines in the Australian market.

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[71] EPR 595, document no. 14.

The commission finds the following in relation to NC-NP rope in the period 2019 to 2021:

- There is close price competition between Haggie Reid and BWR in this product segment.
- Where Haggie Reid is the preferred supplier and there is little competition from BWR, Haggie Reid's price for wire rope is higher than BWR's price. This is because Haggie Reid sells to a number of mines at a significantly higher price than it does for other mines in Queensland. Haggie Reid is able to do this as it is the preferred supplier and BWR has either never supplied or not supplied these mines in a number of years.
- Where there is direct competition, i.e. both BWR and Haggie Reid have equal opportunity to sell wire rope, Haggie Reid's price substantially undercuts BWR's price.
- Where BWR is the preferred supplier, it does not appear to have a price advantage (as is the case for Haggie Reid). Rather, BWR's prices are influenced by Haggie Reid's prices in direct competition. This trend can be observed in 2019 and 2020, until BWR was able to negotiate a price increase with some mines in 2021.

The commission's analysis is at Figure 15.

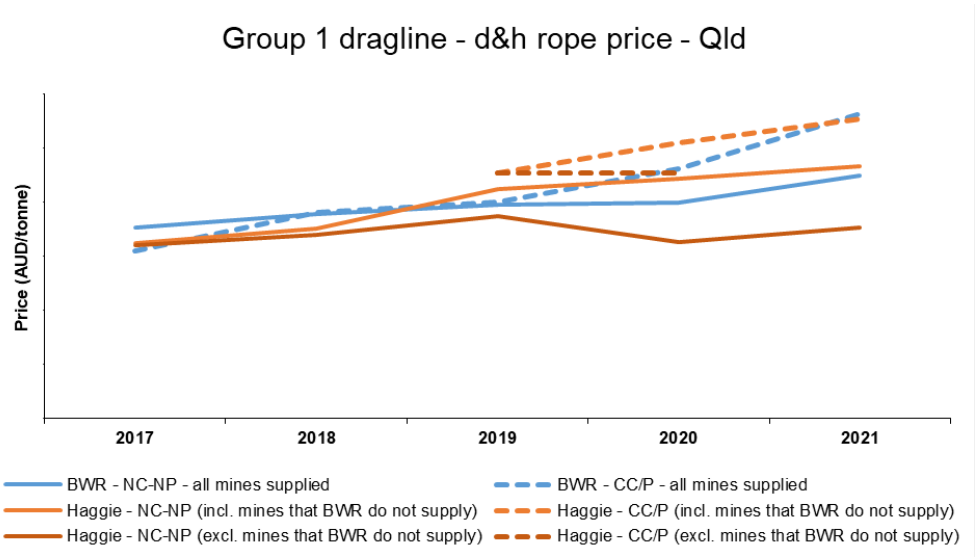

Figure 15: Drag and hoist rope price for Group 1 draglines

The commission observed at Chapter 4.4.2 that some mines appear to have adopted more CC/P wire rope as part of their purchasing mix, and this wire rope specification has become more prevalent in the Australian market between 2017 and 2021. Both Haggie Reid and BWR have increased their sales of CC/P wire rope.

The commission finds the following in relation to CC/P rope:

- Whilst CC/P rope is more expensive to produce than NC-NP rope, BWR was unable to obtain a higher price, commensurate with cost in 2017 to 2019.
- From 2019, when Haggie Reid was the preferred supplier, its price for CC/P rope was higher than its other mine customers in Queensland.
- BWR was able to respond to Haggie Reid and increase its CC/P wire rope prices in 2020, but only to the level of Haggie Reid's lower prices.
- In 2021, BWR was able to negotiate a price increase with some mines.

The commission concludes that the dumped export from Scaw allow Haggie Reid to sell at prices that are lower than what they otherwise would have been. This has resulted in price undercutting to mines where both BWR and Haggie Reid have opportunities to sell. In response to Haggie Reid's low prices, BWR has experienced price suppression.

The commission considers that should the measures expire, Haggie Reid is likely to continue to undercut BWR and suppress the market price for wire rope.

7.7.4 Likely effect of expiry of measures on pricing by Haggie Reid

The number of coal mines supplied by Haggie Reid increased slightly between 2017 and 2021. Roughly, half of these coal mines had consistent purchases at consistent volumes. Haggie Reid also sells predominantly Group 1 wire ropes.

The commission observes that Haggie Reid has passed on the full cost of the IDD to its customers, and achieved no profit on the selected consignments examined by the commission in the verification process. If the measures expire, the commission considers that Haggie Reid will have the option to either lower its pricing offers, or maintain its prices at their current levels and achieve substantial profits. The commission considers that this gives Haggie Reid (acting in concert with Scaw) the opportunity to use the cost advantage conferred by the dumped goods to pursue increased volumes (e.g. by lowering prices in competitive tenders and/or for uncontracted supply at mines supplied by BWR), or to maintain prices that continue to place price pressure on BWR.

As outlined in Chapter 7.7.3, the commission found that Haggie Reid generally offers lower prices at mines where it is competing for supply with BWR. The commission observed that during the inquiry period, BWR had been unable to fully recoup its rising cost to make (CTM) wire rope in tender negotiations due to the significantly lower prices offered by Haggie Reid.

Additionally, the commission observed the suppression of the market price for wire rope over time. The commission's analysis in this chapter and Chapter 7.6.2 indicates that because of dumping, Haggie Reid is able sell at the prices it does. Therefore, in order to continue selling wire rope to the suppressed Australian market, Haggie Reid must continue to sell dumped wire rope.

If the measures expire, it is likely Haggie Reid would continue to undercut BWR's prices whilst remaining profitable or at least breaking even. This would further limit BWR's ability to recover higher input costs in its pricing, leading to continuing price suppression and reduced profitability.

7.7.5 Other injury factors

BWR have claimed that no new electric draglines have been commissioned in Australia since 2011, while the last time a new shovel rope was commissioned was in 2017. BWR claims that new mines prefer hydraulic shovels, resulting in a reduction in demand for wire rope. Better rope longevity has also contributed to the overall contraction of the Australian market - changes in rope design appears to have resulted in more durable, longer lasting wire rope being supplied, which means less sales volume overall.

Noting the ongoing demand for coal and the use of wire rope for that purpose, the commission does not consider these other factors have as significant an effect on BWR as differences in price and competition between itself and the goods exported from South Africa.

7.7.6 Conclusion on material injury if measures expire

Ongoing dumping in the inquiry period provides exports from South Africa with a significant commercial advantage in the Australian market. The expiry of the measures would be likely to provide greater flexibility to Scaw and Haggie Reid to adjust their price setting behaviours to achieve mutually beneficial commercial outcomes, leading to further price pressure being placed on BWR.

7.8 Conclusion

If the measures expire, the commission's analysis suggests that there is no incentive for Scaw to increase its export prices to the point that it would not be dumping. Scaw's exports are not competitive in the Australian market unless exported at dumped prices. Its related party customer, Haggie Reid, achieved a break-even position to manage the effect that IDD had on its costs during the inquiry period.

The price of imported goods influences BWR's selling prices due to its customer's reference to Haggie Reid's pricing in the market used in negotiation processes. The expiry of the measures will provide Haggie Reid with a higher degree of flexibility to reduce its prices to gain increased market share, or maintain its current pricing and continue to place pressure on BWR's prices. In either scenario, this flexibility is created by the availability of the goods at dumped prices, and their impact on BWR is likely to be material.

Based on the facts and findings outlined in this chapter of the report, the Commissioner is satisfied that, if the measures on wire rope exported from South Africa were to expire:

- exports from South Africa would likely continue
- dumping by exporters from South Africa would likely continue, and
- material injury to the Australian industry would likely continue or recur.

Accordingly, the Commissioner is satisfied that the expiration of the measures would be likely to lead to a continuation of, or a recurrence of, the dumping and material injury that the measures are intended to prevent.

8 NON-INJURIOUS PRICE AND FORM OF MEASURES

8.1 Proposed recommendations

The Commissioner proposes to recommend that:

- the combination method continue as the duty method applying to the goods, and
- the NIP is the operative measure for all exports of wire rope from South Africa, and the lesser duty rule apply when calculating any IDD payable.

Based on the above, the commission has calculated a fixed rate of IDD of 24.1%.

8.2 Non-injurious price

Section 269TACA defines the NIP as 'the minimum price necessary to prevent the injury, or a recurrence of the injury' caused by the dumped goods, the subject of a dumping duty notice. The commission will generally derive the NIP from a USP.

The commission has calculated that the NIP is less than the normal value established for Scaw.

The Commission's calculation of the NIP is contained in **Confidential Attachment 9**.

8.2.1 Approach to calculating the USP and NIP

The USP is a selling price that the Australian industry could reasonably achieve in the market in the absence of dumped or subsidised imports.[72] The commission's preferred approach to establishing the USP for the goods is one of the following methods, as set out in the Manual:

- use industry selling prices at a time unaffected by dumping
- construct an Australian industry price based on the industry's CTMS, plus an amount for profit (the construction approach), or
- use relevant and comparable selling prices of undumped imports.[73]

Having calculated the USP, the commission then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into store costs and amounts for importer expenses and profit.

As Scaw's exports to Australia were dumped, (refer Chapter 6) the commission considers that BWR was affected by dumping during the inquiry period. The commission has therefore established a USP through the construction approach by using BWR's weighted average CTMS during the inquiry period, plus an amount for profit. The commission used an amount for profit from a period unaffected by dumping, which, based on the approach taken to calculating a USP in REP 401, was the 2015 calendar year.[74] BWR's weighted average profit in 2015 was higher than the profit it achieved during the inquiry period.

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[72] The Manual, page 137.

[73] The Manual, Chapter 24.

[74] EPR 401, document number 24, page 60.

From this USP, the commission has deducted into store costs incurred by Haggie Reid (the only importer of wire rope from South Africa). These deductions included Haggie Reid's costs:

- for importation, including port and handling, customs duties, and inland transport from port to its warehouse
- for selling, including additional manufacturing, SG&A and transport to its customer

The deductions also included the ocean freight and marine insurance costs incurred by Scaw to calculate a NIP at FOB terms.

8.3 Lesser duty rule

Where the Minister is required to determine the IDD payable, section 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act) applies.

Section 8(5B) requires the Minister, in determining the IDD payable, to have regard to the 'lesser duty rule'. For a dumping duty notice, the lesser duty rule requires consideration of whether the NIP is less than the normal value of the goods. However, under section 8(5BAA) of the Dumping Duty Act, the Minister is not required to have regard to the lesser duty rule where one or more of the following circumstances apply:[75]

a) the normal value of the goods was not ascertained under section 269TAC(1) because of the operation of section 269TAC(2)(a)(ii) or
b) there is an Australian industry in respect of like goods that consists of at least two small-medium enterprises, whether or not that industry consists of other enterprises.

As neither of these circumstances apply in the case of this inquiry, the Minister must consider the desirability of applying a lesser amount of duty.

8.3.1 Application of the NIP

The commission has calculated that the NIP is less than the normal value established for Scaw. The Commissioner therefore recommends that the NIP be the operative measure for all exports of wire rope from South Africa and that any IDD payable be calculated by reference to the lesser duty rule.

8.3.2 Form of measures

The forms of dumping duty available to the Minister for anti-dumping measures are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013*. In relation to IDD, the forms of duty are:

- fixed duty method ($X per tonne);
- floor price duty method;
- combination duty method; or
- *ad valorem* duty method (i.e. a percentage of the export price).[76]

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[75] Sections 8(5BAAA)(a) to (c) of the Dumping Duty Act concern the calculation of dumping duty and sections 10(3DA)(a) to (c) of the Dumping Duty Act concern the calculation of countervailing duty.

[76] Section 5 of the *Customs Tariff (Anti- Dumping) Regulation 2013*.

The various forms of dumping duty all have the purpose of removing the injurious effects of dumping. However, in achieving this purpose, certain forms of duty will better suit particular circumstances more so than others. More detail on the nature and operation of the various forms of duty are contained in the *Guidelines on the Application of Forms of Dumping Duty November 2013*.[77]

8.4 Conclusion

For wire rope exported from South Africa, IDD has been determined as an amount worked out in accordance with the combination method. This duty method has applied since the measures were imposed. REP 401 gave the following reasons for taking this approach:

> In proposing such a recommendation, the Commissioner notes that there are complex company structures involving related parties in this investigation (Scaw and its related party importer Haggie Reid). In addition, as outlined in chapter 5, the Commissioner considers that the exporter and importer did not deal at arms length during the investigation period. As outlined in the Guidelines, the combination method is suitable in such situations. The Commissioner considers that the advantages of the combination method outweigh its disadvantages for this particular investigation.[78]

The commission considers that the same considerations are relevant to the inquiry period. Subject to submissions received in response to this SEF, the Commissioner proposes to recommend that, if the measures are continued, the duty method should remain unchanged.

On this basis, and noting the operation of the lesser duty rule and the NIP calculated by the commission, the fixed rate of IDD would be 24.1%.

[77] Available at Guidelines on the Application of Forms of Dumping Duty November 2013 on the commission website.

[78] REP 401, pages 63-64; EPR 401, document no. 24.

9 APPENDICES AND ATTACHMENTS

Appendix A	Particular market situation assessment
Confidential Attachment 1:	Australian market analysis
Confidential Attachment 2:	Economic condition of the Australian industry
Confidential Attachment 3:	Arms length assessment between Scaw and Haggie Reid
Confidential Attachment 4:	Export price calculation for Scaw
Confidential Attachment 5:	Normal value calculation for Scaw
Confidential Attachment 6:	Dumping margin calculation for Scaw
Confidential Attachment 7:	Recurrence/continuation of dumping and injury analysis
Confidential Attachment 8:	Estimate of an undumped price for Haggie Reid
Confidential Attachment 9:	USP and NIP calculations
Confidential Attachment 10:	Relationship between scrap, rod and rope

10 TABLES AND FIGURES

APPENDIX A PARTICULAR MARKET SITUATION ASSESSMENT

A1 Introduction

This appendix sets out the commission's assessment of whether there was a PMS in the South African wire rope market during the inquiry period. This is relevant because the existence of a PMS may render wire rope domestic sales in the South Africa unsuitable for determining a price that would permit a proper comparison with the export price.

No previous cases on wire rope have examined this question, and the GSA did not respond to the commission's government questionnaire. Accordingly, the commission has relied on its own analysis of publicly available information obtained through desktop research, including information from departmental resources and relevant third party information providers, and the REQ from Scaw.

A1.1 Summary of findings

The commission finds there was no PMS for wire rope in South Africa during the inquiry period that renders wire rope domestic sales in the South Africa unsuitable for determining a price that would permit a proper comparison with the export price.

The commission has found that:

- the GSA intervened in the South African steel market in a range of ways during the inquiry period
- these interventions reduced the price and cost of steel scrap in South Africa, which in turn gave Scaw (and other South African producers) a cost advantage when producing its own wire rod using steel scrap.

However, the commission also found that:

- the cost of wire rod used in the production of wire rope by Scaw in the inquiry period was broadly consistent with international benchmarks in most quarters
- in the last quarter of the inquiry period when Scaw's recorded wire rod costs were observably below benchmark prices, Scaw did not lower its wire rope price; and
- Scaw's prices for wire rope were significantly profitable, and there was no evidence of a connection between the lower wire rod costs and Scaw's wire rope prices.

Based on the above, the commission considers the evidence does not establish that the GSA's interventions in the steel market distorted the wire rope market in the inquiry period. Further, Scaw's price for wire rope appears to be more a function of commerce between Scaw and its customers, rather than significantly influenced by the cost of steel scrap and wire rod in the inquiry period.

A2 Legislative and policy framework

A2.1 Legislation

Section 269TAC(1) states that the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the OCOT for home consumption in the country of export in arms length transactions by the exporter or, if like goods are not sold by the exporter, by other sellers of like goods.

However, section 269TAC(2)(a)(ii) states that the normal value of the goods exported to Australia cannot be determined under section 269TAC(1) where the Minister is satisfied that '…because the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under subsection (1)'.

Where such a PMS exists, normal value cannot be established using domestic sales. Instead, the normal value may be determined using another method in section 269TAC.

A2.2 Policy framework

In relation to PMS assessments, in considering whether sales are not suitable for use in determining a normal value under section 269TAC(1) because of the situation in the market of the country of export, the commission may have regard to factors such as whether the prices are artificially low. Government influence on prices or input costs could be one cause of artificially low pricing. Such government influence could come from any level of government.

In assessing whether a PMS exists due to government influence, the commission will assess whether government involvement in the domestic market has materially distorted market conditions. If market conditions have been materially distorted then domestic prices may be artificially low or not substantially the same as they would be in a competitive market. Prices may also be artificially low or lower than they would otherwise be due to government influence on the costs of inputs. The commission looks at the effect of any such influence on domestic prices.

For section 269TAC(2)(a)(ii) to apply, the commission is required to identify where a PMS exists, and if found to exist, be satisfied that the PMS renders sales in that market not suitable for normal value purposes before rejecting actual selling prices. Although it is for the commission to establish the nature and consequence of the PMS, including an evaluation of whether there is an impact on domestic prices, the commission considers that the pricing effect does not necessarily have to be quantified.

A3 The commission's approach

BWR claimed GSA interventions in the South African market affected the cost of steel scrap used in the production of wire rod (the intermediate raw material used in the production of wire rope). The commission's preliminary research identified other GSA interventions in the South African steel market more broadly and the steel scrap, wire rod and wire rope markets specifically. In a file note published on 8 March 2022, the commission stated its intention to examine whether a PMS may exist in the South African wire rope market.[79]

In accordance with its legislative obligations, the commission's PMS assessments are undertaken at the level of the goods being investigated.

High carbon (drawing quality) wire rod is the main raw material and is drawn to make the wires used to produce wire rope. Wire rod is produced from steel billet, which in turn is produced from steel scrap (in an electric arc furnace or basic oxygen furnace) or iron ore and coking coal (in a blast furnace). Wire rod comprises approximately 60% of the CTM of wire rope.

[79] File note published 8 March 2022, EPR 595, document no. 3.

As the price and cost of wire rod comprises a substantial portion of the CTM of wire rope, the commission hypothesised that distortions in the steel scrap and/or wire rod markets could have an impact on the prices paid for the materials used to make wire rope, and therefore wire rope prices. Distortions in the price of wire rope arising from GSA interventions in the upstream steel market may be a basis for finding that a PMS existed in the inquiry period.

To test this hypothesis, the commission analysed Scaw's verified data, which included:

- Scaw's purchases of steel scrap
- Scaw's reported CTM for wire rod
- the internal transfer price of wire rod from Scaw's rolling mill to its rope making plant and to other related parties
- the price of wire rod sold by Scaw to unrelated parties in the South African domestic market
- Scaw's CTM wire rope for the Australian and South African markets, and
- Scaw's sales of wire rope to the Australian and South African markets.

The analysis also included a comparison of wire rod prices published by S&P Global Commodity Insights Platts Market Center (Platts) and wire rod import values reported by the South African Revenue Service (SARS).

The commission has also considered conditions within the broader South African steel industry. The commission performed desktop research, noting that the GSA did not respond to the commission's government questionnaire.

The commission's analysis is at **Confidential Attachment 10**.

A4 GSA interventions in its steel markets

The commission has identified several interventions by the GSA in the South African steel market. These include:

- the GSA's Industrial Development Corporation (IDC) has a minority shareholding in Scaw, by which the commission considers Scaw to be a state-invested enterprise
- implementing a Price Preference System (PPS) for different types and grades of scrap metal
- placing export controls on steel scrap
- offering a range of financial assistance to South African businesses, for which the commission anticipates that steel industry participants may be eligible, and
- tariff investigations and other International Trade Administration Commission (ITAC) interventions generally, and two in particular which are relevant to this inquiry.

The South African Steel and Metal Fabrication Master Plan 1.0 (the Master Plan) is at the heart of these interventions. The commission considers the information in the Master Plan is relevant to conditions in the South African steel industry and the steel scrap and wire rod markets in particular, during the inquiry period.

The Master Plan's purpose is 'to build consensus on a policy that can drive towards a competitive, dynamic and inclusive [steel] industry and which is able to provide a stable

platform for investment, growth and job creation.'[80] The Master Plan 'provides a coherent and coordinated framework' for these purposes.[81]

The GSA's Department of Trade, Industry and Competition (DTIC) developed the Master Plan in consultation with industry, union and other stakeholders. The Master Plan was signed on 11 June 2021, but its implementation had started in February 2021 with the appointment of a Steel Oversight Council.[82]

The Master Plan sets out 12 headings for action under 3 major categories (supply-side measures, demand-side measures and cross-cutting issues).[83] DTIC gave a presentation in December 2021 on progress against the implementation plan.[84]

The following sections examine:

- South Africa's steel industry
- the role and operation of the IDC
- the PPS
- export duties on steel scrap
- financial support for the steel industry and
- tariff investigations and other interventions in the South African market.

A4.1 South Africa's steel industry

South Africa is a relatively minor player in the global steel market. According to the World Steel Association, South Africa produced 5 million tonnes of crude steel in 2021, but this represented only approximately 0.25% of total world production.[85] South African steel production is mostly a result of basic oxygen furnaces, but a sizeable proportion (42%) is from electric arc furnaces. South Africa is a net exporter of iron ore, accounting for approximately 2.9% of global iron ore production in 2020.[86] South Africa has historically been a net exporter of ferrous scrap, though in relatively small volumes.[87]

South Africa produces a range of steel products, but its steelmaking capacity has declined over the last decade.[88] The Master Plan suggests that this is likely a result of a wide range of factors, including:

- increased steel production in China and the relative attractiveness of South Africa as a market for surplus steel (including in the context of measures on Chinese

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[80] The South African Steel and Metal Fabrication Master Plan 1.0, page 3.

[81] The Master Plan, page 6.

[82] DTIC press release, *Government and Stakeholders Sign Master Plan for the Steel and Metal Fabrication Sector*, http://www.thedtic.gov.za/government-and-stakeholders-sign-master-plan-for-the-steel-and-metal-fabrication-sector/, posted 13 June 2021.

[83] Ibid, page 20.

[84] Presentation to South Africa Parliament's Portfolio Committee on Trade & Industry, 7 December 2021: http://www.thedtic.gov.za/wp-content/uploads/Steel-and-Metal-Fabrication-Masterplan.pdf.

[85] World Steel Association, *World Steel in Figures 2022*, page 10 (https://worldsteel.org/steel-topics/statistics/world-steel-in-figures-2022).

[86] Ibid, page 20.

[87] Ibid, page 22. Figure 17 also shows this pattern.

[88] The OECD Steelmaking Capacity Database indicates a decline in nominal crude steelmaking capacity for South Africa from 12 million tonnes in 2010 to 8.1 million tonnes in 2020: https://www.oecd.org/industry/ind/latest-developments-in-steelmaking-capacity-2021.pdf, page 44.

steel exported to the United States of America and European Union)
- the rising price of electricity and the import parity pricing of raw materials such as iron ore, coking coal and chrome ore
- the administrative and cost burdens of compliance with environmental laws on emissions affecting foundries, with a need for further investment
- lack of demand from the South Africa domestic economy, which has not been growing sufficiently fast
- the reduced appetite of South African banks for lending to the steel and engineering industry and
- foreign exchange rate fluctuations affects competitiveness when bidding for international projects.[89]

The Master Plan anticipates implementing a range of measures to increase local content requirements for various industries in the steel supply chain, including, for example:

- initiating a Steel Development Fund and
- using the IDC to provide funding to the steel industry at concessional rates and address weak balance sheets.

A4.2 Role and operation of the Industrial Development Corporation

The IDC of South Africa Limited was established in 1940 and is fully owned by the GSA. IDC priorities are aligned with the national policy direction as set out in the National Development Plan, Industrial Policy Action Plan and industry Master Plans.[90] As noted on the IDC website,

> As a key implementing agency of industrial policy […] [w]e identify sector development opportunities aligned with policy objectives and develop projects in partnership with stakeholders. By developing industrial capacity, the IDC achieves specific outcomes, such as facilitating job creation through the companies we fund.

The IDC is directly invested in the South African steel market. As noted in the Master Plan:

> The IDC acquired SCAW Metal from the Anglo American Corporation in 2012. The investment was seen as both strategic and defensive, to secure the local supply of steel for infrastructure build programs whilst curbing the pace of de-industrialization. The IDC introduced three Strategic Equity Partners to turn-around the business (1) Scaw Metals involved in steel and steel product manufacturing; (2) Grinding Media SA and (3) Cast Products, producing products for mining, rail and general engineering.[91]

The commission understands that the IDC divested a portion of its shareholding in 2018, but remained a minority shareholder in the inquiry period (26%).[92] On this basis, the commission considers Scaw to be a state-invested enterprise, with a likely interest in working with the GSA to achieve a policy objective by implementing the Master Plan.

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[89] The Master Plan, from page 9.

[90] IDC home page, https://www.idc.co.za/about-us/

[91] Ibid, page 14.

[92] IDC Annual Financial Statement for 2021, https://www.idc.co.za/wp-content/uploads/2021/09/IDC-Annual-Financial-Statements-2021.pdf.

A4.3 Price Preference System

The GSA undertakes customs tariff investigations, administers its trade remedies functions and exercises import and export controls through the ITAC. The aim of the ITAC '[…] is to foster economic growth and development in order to raise incomes and promote investment and employment in South Africa and within the Common Customs Union Area by establishing an efficient and effective system for the administration of international trade.'[93]

After the completion of ITAC Report No. 441, with effect from September 2013 the ITAC implemented a PPS for different types and grades of scrap metal. The PPS is a mechanism that limits the export of ferrous and non-ferrous scrap by reducing the price of scrap domestically, and prevents the export of steel scrap unless it has been first offered to domestic customers at the discounted price.[94] Initially set as a preferential rate of 20% below the international published benchmark price, that beneficial rate was increased to 30% following ITAC Report No. 490.[95] For coastal provinces, an additional 10% discount applied until 23 May 2021. The PPS will remain in place until July 2023.[96]

The ITAC publishes the PPS on a weekly basis, and it operated throughout the inquiry period.[97] The commission understands that prices reported in the PPS are derived from a benchmark (FOB Rotterdam prices reported by Platts) for certain grades of scrap metal, from which it applies the relevant discount. The grades are based on the Institute of Scrap Recycling Industries (ISRI) Scrap Specifications Circular.[98]

The commission has compared the FOB Rotterdam benchmark with the weekly PPS prices for the inquiry period, and with Platts reported prices for ISRI grades 200 to 205. The analysis at Figure 16 demonstrates that:

- the FOB Rotterdam benchmark is typical of steel scrap benchmarks generally and
- there is a consistent relationship between the FOB Rotterdam price and the PPS during the inquiry period.

[93] ITAC website, http://www.itac.org.za/pages/about-itac/an-overview-of.

[94] ITAC website, Department of Trade, Industry and Competition, Notice 740 of 2020, http://www.itac.org.za/upload/44037_24-12_DTIComp.pdf.

[95] ITAC Report No. 490, http://www.itac.org.za/upload/document_files/20150604091450_Report-o-490.pdf.

[96] Presentation to South Africa Parliament's Portfolio Committee on Trade & Industry, 7 December 2021: http://www.thedtic.gov.za/wp-content/uploads/Steel-and-Metal-Fabrication-Masterplan.pdf.

[97] ITAC website, http://www.itac.org.za/pages/services/import--export-control/export-control/price-preference-system.

[98] ISRI website, Guidelines for Ferrous Scrap: http://www.scrap2.org/specs/20/.

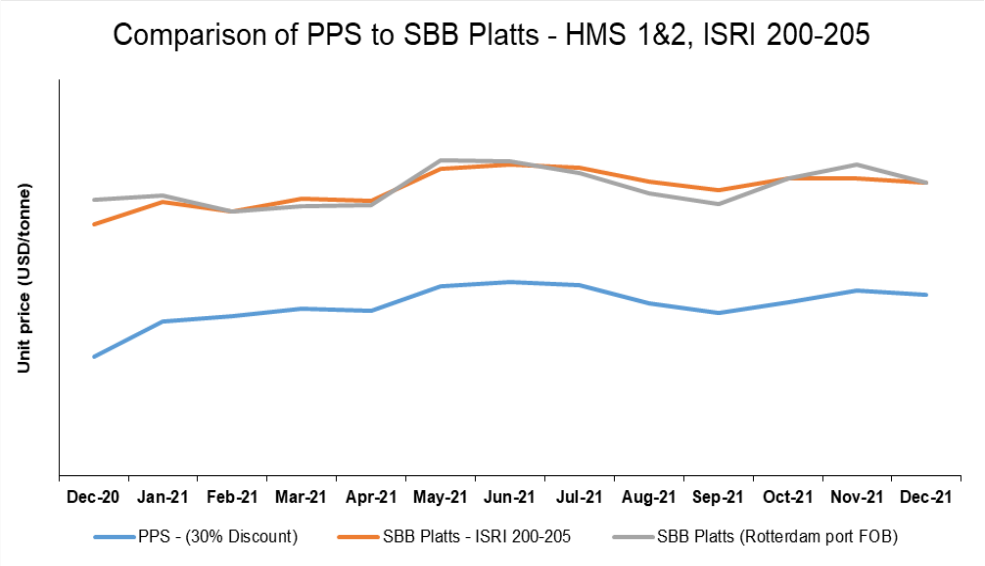

Figure 16: Comparison of FOB Rotterdam benchmark and PPS

The commission has also compared the weekly PPS prices for the inquiry period with the prices for scrap paid by Scaw, having regard to the relevant ISRI codes, and confirmed these are similar. This demonstrates that Scaw is a beneficiary of the GSA's intervention in steel scrap markets through the PPS.

The commission's comparison is in **Confidential Attachment 10**.

A4.4 Export duties for steel scrap

Export controls on steel scrap were introduced by the GSA in 2012.[99] The commission understands that the ITAC manages the issuing of licences, which are required to import or export scrap.

As is noted in the Master Plan, a Policy Directive was issued on 3 July 2020 for an interim suspension of scrap metal exports which lasted until 2 October 2020, and amendments made to the PPS to curtail illegal exports and make quality scrap available to the domestic market.[100] The Master Plan also foreshadowed the introduction of an export tax, noting that the supply of affordable ferrous scrap is a problem because of projections there could be an absolute shortage of as much as 1 million tons per year by 2021.[101]

The GSA subsequently introduced an export duty on ferrous scrap, which took effect from 1 August 2021. The export duty is administered by the SARS. SARS describes the purpose of the export tax in the following terms:

> The objective of export duty on scrap metal is to provide foundries and mills with better access to higher quality and more affordable scrap metals in the local market. In turn this will result in the mills and foundries becoming more competitive cost wise and also attracting investments,

[99] Export control on 'Ferrous waste and scrap; Remelting scrap ingots of iron or steel scrap': http://www.itac.org.za/upload/gg35007_nn92-Export-control-10-Feb-2012.pdf.

[100] Master Plan, page 13.

[101] Master Plan, page 20.

creating employment and supporting industrialisation. It will also ease the pressure brought upon by unfair trade practices within the domestic metals industry.[102]

Schedule No. 1, Part 6 of the GSA's Customs and Excise Act 1964 sets out the rates of duty payable. The rates range from 0% (e.g. for countries in the Southern African Development Community, and for European Free Trade Association countries) to 20%, depending on the nature of the steel scrap.[103]

The DTIC has reported that, based on SARS data, exports of ferrous scrap have declined substantially over the last several years (from over 1.2 million tonnes in 2015 to less than 200,000 tonnes in 2021).[104] Using the same source, the DTIC reported that imports of ferrous scrap have fluctuated between around 60,000 and 130,000 tonnes over the same period. The DTIC also reports that, as a result of steel market interventions, scrap recyclers have substantially improved their revenue and profits, steel mills have gained access to scrap at competitive prices and downstream products are now internationally competitive. As an illustration, the DTIC reports that 'Scaw is selling locally manufactured equivalent wire-rod product at a net Ex-Works (EXW) price that is approximately 5% below the Chinese FOB price.'[105]

A4.5 Direct and indirect financial support

The commission has examined the information reported by the GSA to the World Trade Organization (WTO) Committee on Subsidies and noted there is an absence of notifications relevant to the inquiry period.[106]

The commission considers that there appears to be a range of financial assistance provided to businesses in South Africa for specific purposes.[107] The commission anticipates that steel industry participants may be able to satisfy the relevant eligibility criteria for a number of programs.

The Master Plan notes that 'Government has established a South African Rand (ZAR) 1.5 billion *Downstream Steel Development Fund* through the IDC to provide funding to the industry at concessional rates and to address weak balance sheets.'[108] The IDC also administers a *Steel Competitiveness Fund*, which provides concessionary funding to the steel industry for plant upgrades, working capital funding and funding to downstream steel industries which are in distress due to the COVID-19 pandemic.[109] The commission notes that the IDC has recently contributed ZAR 500 million to a ZAR 2 billion investment

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[102] SARS, https://www.sars.gov.za/customs-and-excise/export-duties-and-levies/export-duty-on-scrap-metals/.

[103] Schedule No. 1, Part 6, Customs and Excise Act 1964: https://www.sars.gov.za/wp-content/uploads/Legal/SCEA1964/LAPD-LPrim-Tariff-2021-02-Schedule-No-1-Part-6.pdf.

[104] Presentation to South Africa Parliament's Portfolio Committee on Trade & Industry, 7 December 2021: http://www.thedtic.gov.za/wp-content/uploads/Steel-and-Metal-Fabrication-Masterplan.pdf.

[105] Ibid.

[106] WTO website, https://docs.wto.org/. There have been no notifications by the GSA, as required under Article 25 of the *Agreement on Subsidies and Countervailing Measures*, since 11 August 2003 (https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/SCM/N95ZAF.pdf&Open=True).

[107] DTIC website, under 'Financial Assistance': http://www.thedtic.gov.za/.

[108] The Master Plan, page 24.

[109] Ibid, page 13.

(co funding with banks and Scaw) to support Scaw's diversification into flat products in the form of thin gauge hot rolled coil.[110]

A4.6 Tariff investigations and other interventions in the market

The ITAC also undertakes tariff investigations. These investigations are not trade remedy investigations within the meaning used by the WTO. A tariff investigation examines the effects of imports on the performance of the relevant domestic industry, after which the ITAC may recommend adjustments to the general import customs rate.

Two ITAC tariff investigations are relevant to the present inquiry.

ITAC Report No. 509 examined the general rate of customs duty applying to imports of wire rod.[111] It recommended an increase in the general rate from 0% to 10%, noting that the additional tariff support should enable the industry to utilise its spare production capacity, achieve economies of scale resulting in security of volumes and a reduction in the marginal cost of production.[112] The 10% rate continues to apply to imports of wire rod.[113] In the commission's opinion, this duty rate is likely to have a discouraging effect on imports of wire rod that might provide competition to a significant raw material for Scaw's use in producing the goods. The commission anticipates that imports may also be of predominantly drawing quality wire rod because suitable grades may not be available in the domestic market. In either case, this is likely leading to *higher* domestic costs for Scaw's production of the goods.

ITAC Report No. 571 examined the general rate of customs duty applying to imports of stranded wire, ropes and cables.[114] It recommended an increase to the general rate from 5% to 15% for stranded wire, ropes and cables, noting that the additional tariff support should enable the industry to utilise its spare production capacity, thereby achieving cost advantages and assist the domestic industry to create new investment and employment opportunities.[115] The 15% rate continues to apply to imports of stranded wire and rope.[116] In the commission's opinion, this duty rate is likely to have a discouraging effect on imports of wire rope that might provide competition to Scaw, likely leading to *higher* domestic prices for Scaw's sales of the goods.

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[110] Presentation to South Africa Parliament's Portfolio Committee on Trade & Industry, 7 December 2021: http://www.thedtic.gov.za/wp-content/uploads/Steel-and-Metal-Fabrication-Masterplan.pdf.

[111] ITAC Report No. 509, http://www.itac.org.za/upload/document_files/20160108084221_Report-No-509.pdf.

[112] ITAC Report No. 509, para 58.

[113] SARS Tariff Book, with the relevant tariff codes appearing under 7213.91 and 7227.90, https://www.sars.gov.za/wp-content/uploads/Legal/SCEA1964/LAPD-LPrim-Tariff-2012-04-Schedule-No-1-Part-1-Chapters-1-to-99.pdf. Imports from some sources are duty free.

[114] ITAC Report No. 571, http://www.itac.org.za/upload/document_files/20180615095845_Report-No.-571.pdf and the clarifying Ministerial minute, http://www.itac.org.za/upload/Minute%2002%20-%202018.pdf.

[115] ITAC Report No. 571, para 36.

[116] SARS Tariff Book, with the relevant tariff codes appearing under 7312.10, https://www.sars.gov.za/wp-content/uploads/Legal/SCEA1964/LAPD-LPrim-Tariff-2012-04-Schedule-No-1-Part-1-Chapters-1-to-99.pdf. Imports from some sources are duty free.

The commission notes that the ITAC imposed anti-dumping measures on wire rope exported from China, Germany and the United Kingdom on 28 August 2002. These measures were last extended on 24 December 2020.[117]

A5 Effects of GSA interventions on Scaw's price and cost

The commission investigated whether distortions in the cost of steel scrap and/or wire rod had a direct impact on wire rope prices, and therefore whether a PMS might exist.

The commission finds that the GSA interventions affecting steel scrap and wire rod cost do not appear to have resulted in artificially low or distorted wire rope prices.

The commission's assessment in the following sections is that:

- the substantial discount on steel scrap prices in South Africa through the PPS and export bans / duties has reduced steel scrap import and export volumes
- the cost of steel scrap is lower than it otherwise would be in a normal competitive market
- this low-cost steel scrap provides Scaw with a cost advantage in its own production of wire rod using steel scrap
- the price of wire rod sold in the South African market and transferred to Scaw's rope making plant is broadly comparable to international prices
- when the cost of wire rod is lower than international prices, the impact on Scaw's wire rope CTM is small in comparison to the prices and profit for Scaw's wire rope.

A5.1 The manufacturing and supply chain - from scrap to rod to rope

The commission hypothesised that any GSA interventions could have an effect on Scaw's wire rope prices because the cost of steel scrap accounts for over 45% of Scaw's CTM wire rod. In turn, the cost of wire rod accounts for approximately 60% of Scaw's CTM wire rope.

The commission verified that Scaw manufactures the steel billet for wire rod using a recipe of steel scrap as well as iron ore and coking coal. The commission understands from its desktop research that other South African producers use a similar method. Another method for producing steel billet in South Africa is to primarily use iron ore and coking coal in a blast furnace. Either of these methods yield steel billet suitable for producing the drawing quality (high carbon) wire rod used in wire rope production.

In South Africa, steel scrap can therefore comprise 0% to 100% of raw materials in the cost for raw steel making.

The commission verified that Scaw sells wire rod in the South African domestic market. The commission also verified that Scaw transferred wire rod from its rolling mill to its rope making plant at prices that were comparable to its market sales. Scaw also purchased wire rod from related and unrelated parties in South Africa as well as importing a small quantity in the inquiry period.

[117] WTO documents, https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/G/ADP/N364ZAF.pdf&Open=True.

A5.2 Effect of interventions on import and export volumes - scrap and rod

The commission considers that the GSA's interventions have curbed exports and imports of steel scrap, and focussed demand for domestically traded steel scrap.

These interventions do not completely exclude importing and exporting. However, combined with the PPS, they insulate the South African domestic steel industry from the usual steel market operations of supply and demand, privileging the domestic market.

Figure 17 shows the volume of South African scrap imports and exports over time. Export volumes substantially declined after 2019, coinciding with the GSA's ban on scrap exports in 2020 and the introduction of the export duty in 2021 (noting that the discount applied under the PPS has been at its current rate since 2015).

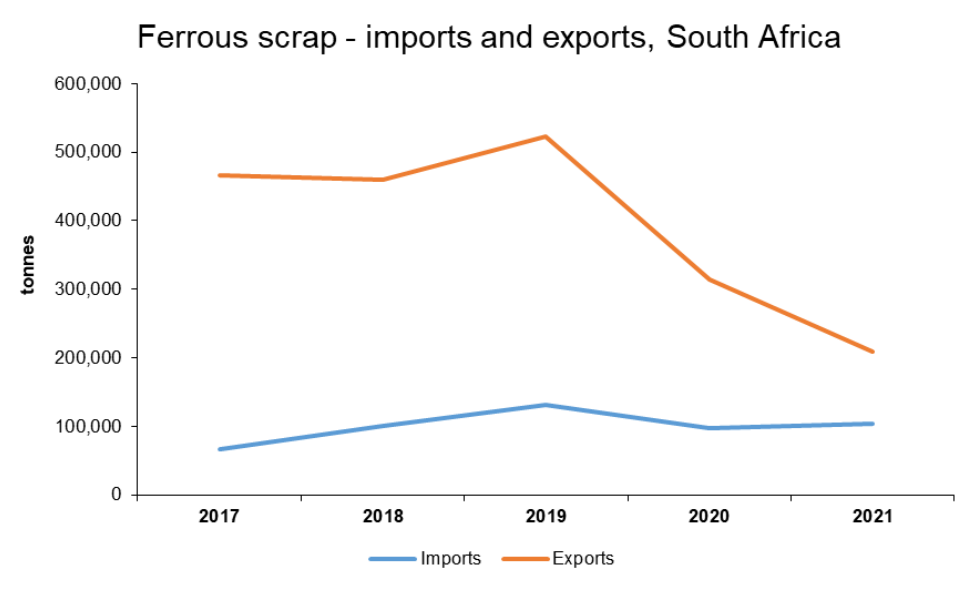

Figure 17: Import and export volume of ferrous scrap (tonnes) - South Africa[118]

Figure 18 shows the volume of South African wire rod imports and exports over time. Wire rod exports temporarily increased considerably in 2019, though the commission is unable to ascertain why that was the case.

[118] International Trade Statistics, https://www.trademap.org/Index.aspx

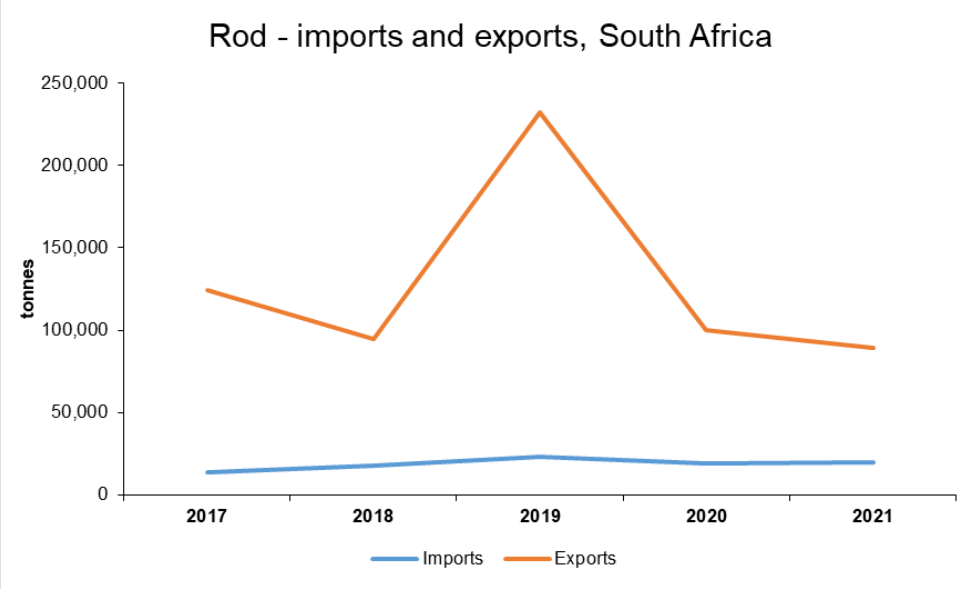

Figure 18: Import and export volume of wire rod (tonnes) - South Africa[119]

In the commission's view, there are several interventions creating barriers to importing and exporting steel scrap and wire rod. They are:

- conditional import licences which require the importer to demonstrate that South African domestic steel industries cannot meet demand (product availability or specification)
- adjustable customs import duties (via tariff investigations) payable by importers
- conditional export licences which require the exporter to demonstrate that supply exceeds demand and
- additional export duties payable by exporters.

The commission anticipates that wire rod producers that use steel scrap as a raw material input are able to take advantage of lower input costs from domestically sourced steel scrap. The commission considers that the existence of imported steel scrap and wire rod demonstrate the GSA's interventions in the South African steel industry and market are not designed to exclude imports and exports, but rather create a preference for selling and consuming domestically produced steel scrap and wire rod.

However, these interventions do not completely prevent importing and exporting.

A5.3 Effect of GSA interventions on price and cost – scrap and rod

The commission finds that low cost steel scrap created a cost benefit to Scaw when it produced wire rod. This low cost resulted in a profit benefit to Scaw when it sold wire rod to the South African market or when it transferred the wire rod to its wire rope making plant.

Scaw is an integrated manufacturer, using scrap metal in its production of wire rod that is then used to manufacture wire rope. The commission has therefore compared Scaw's actual wire rod costs and price against prices for internationally competitive markets for

[119] International Trade Statistics, https://www.trademap.org/Index.aspx.

wire rod (reported by Platts) to assess whether Scaw's costs have been distorted by GSA interventions in the market.

Low cost scrap creates a cost benefit for Scaw's wire rod cost

The commission found that the operation of the PPS allowed Scaw to access low cost steel scrap. In turn, this caused Scaw's CTM for wire rod to be lower than what it otherwise would have been in the absence of the PPS. The commission compared the cost of scrap recorded by Scaw in its wire rod CTM with international scrap prices from a variety of markets, and confirmed that Scaw benefited from a significant cost advantage when producing wire rod.

Scaw's low cost wire rod creates a profit benefit when selling wire rod in South Africa

The commission examined Scaw's wire rod sales in the South African market. The commission notes that Scaw stated that it set its wire rod prices by reference to prices from other steel producers in South Africa. The commission considers the prices for wire rod between Scaw and other South African producers indicates there is close price competition in South Africa for wire rod. This close price competition occurs regardless of the proportion of steel scrap used to produce wire rod.

The commission observed that Scaw's monthly prices for wire rod sold in South Africa discriminated between related and unrelated customers, with related customers receiving slightly lower prices. The commission also observed that wire rod purchases by Scaw's rope making plant from related party suppliers were slightly lower than wire rod prices from unrelated suppliers.

The commission also observed that Scaw's wire rod prices (as well as market prices for wire rod) were considerably higher than Scaw's wire rod cost.

Scaw achieved substantial profits on its sales of wire rod to the South African market (to both related and unrelated parties) and on its internal transfer of wire rod to its wire rope making plant. The amount of that profit correlates with the cost benefit it receives from steel scrap.

Comparing wire rod prices in South Africa against an international benchmark

The commission also compared Scaw's internal transfer price of wire rod to its rope making plant with international prices for wire rod. The commission notes that BWR did not make submissions regarding a suitable international benchmark price for wire rod in South Africa.

The commission identified a number of price series published by Platts and others, finding only one series for drawing quality wire rod (price series 1). The commission therefore considered whether import prices in South Africa may also be a relevant point of comparison (price series 2 and 3).

Price Series 1 - Brazil drawing quality (Platts): The single reported price series for Platts that is specific to drawing quality wire rod is based on a domestic delivered price in Brazil. The commission notes that the Brazil prices are consistent with other wire rod price series generally, apart from a sharper increase (relative to the other indices) in the last two quarters of the inquiry period. The commission is not aware of any specific circumstances in the Brazil market that contributed to this increase. The commission also notes that the specific grade of the price series is not reported. For these reasons, the

commission considers that comparisons between South African wire rod prices and Price Series 1 are relevant, but may not be conclusive.

Price Series 2 - the SARS price (without import duty): The commission calculated a price using imported wire rod values reported by the SARS with additional costs to calculate a delivered price.

The commission calculated the SARS price using the customs value reported by the SARS and adding Scaw's verified port, handling and inland transport costs so that it would be comparable at delivered terms. The commission excluded imports from other African nations from the dataset (noting that customs union arrangements would affect the price).

The commission was unable to establish whether the SARS import values included or excluded any customs duties and tariffs payable (noting that ITAC Report No. 509 increased the relevant rate of import duty to 10%). The commission therefore calculated a second SARS price, inclusive of import duty.

Price Series 3 - the SARS price (with import duty): The commission calculated a price using the above method for Price Series 2 with 10% import duty add to the SARS customs values.

The commission observed the following trends when comparing the 3 price series with Scaw's wire rod sales and purchases:

- There are limitations with each of the price series. Each price series does not provide the grade and size variations of wire rod available in the South African market. For example, Scaw purchased 30 different variations of wire rod (in terms of grade and size combinations suitable for producing wire rope), and their costs varied.
- For 5 months of the inquiry period, the South African wire rod price recorded by Scaw (both from related and unrelated parties) was higher than the wire rod price reported in Price Series 1.
- For the remainder of the inquiry period, the South African wire rod price recorded by Scaw (both from related and unrelated parties) was lower than the wire rod price reported in Price Series 1.
- Price Series 2 fluctuated in the inquiry period. In some instances, Price Series 2 was comparable to wire rod prices from South African suppliers. In other instances, Price Series 2 was comparable with Price Series 1, and in yet others Price Series 2 was lower than Price Series 1 but higher than wire rod prices from South African suppliers.
- Price Series 3 tended to be higher than the other price series and the wire rod prices reported by Scaw.

Conclusion

The commission considers that the GSA's interventions specifically in the steel scrap market gave Scaw and other South African producers of wire rod a significant cost advantage. Specifically for Scaw, the commission found that low cost steel scrap resulted in low cost wire rod.

The commission notes that Scaw's wire rod sales (to both related and unrelated parties) were highly profitable because of the low cost steel scrap. The commission therefore

considers that the GSA's interventions in the steel scrap market had a significant beneficial impact on Scaw's CTM and profit for wire rod.

However, the commission's analysis shows that Scaw and other sellers of wire rod in South Africa have close price competition for wire rod. Based on the limited evidence available, these prices are broadly consistent with international benchmarks.

A5.4 Degree to which interventions affected cost and price of wire rope

The commission then assessed what impact the cost and profit benefits achieved by Scaw for wire rod had on the CTM for wire rope and Scaw's price for wire rope.

The commission compared Price Series 2 and Price Series 3 with Scaw's wire rod costs in the verified CTM for wire rope (for products exported to Australia and destined for the domestic market).

The commission found in one quarter of the inquiry period, Scaw's quarterly wire rod cost was lower than the quarterly Price Series 2 and Price Series 3 prices calculated by the commission (for both analyses referred to in Chapter A5.3). For this quarter, the commission re-calculated Scaw's wire rope CTM by replacing the recorded wire rod cost with the SARS prices.

- The impact of replacing costs based on Price Series 2 on Scaw's total annual wire rope CTM would be immaterial.
- The impact of replacing costs based on Price Series 3 would result in a wire rope CTM approximately 4% higher than Scaw's actual CTM on a total weighted average basis.

The commission considers that using Price Series 3 in this way establishes a high water mark for assessing whether Scaw's costs are comparable with international prices. In this instance, the commission concludes that any cost and profit benefits achieved by Scaw for wire rod have only a small impact on its wire rope CTM.

In addition, the commission found that Scaw's domestic prices for wire rope (regardless of use) were highly profitable in the inquiry period (significantly greater than 4%).[120] Profit was highest in the last quarter when Scaw received the greatest apparent wire rod cost benefit (in comparison with Price Series 3).

The commission notes that despite the low cost steel scrap and wire rod cost and profit benefit, Scaw did not lower its wire rope price. The commission considers that this suggests that cost does not necessarily have a significant impact on price for wire rope. In some ways, this is unsurprising - wire rope is an engineered product and wire rope prices are commensurate with that engineering, design and the operational requirements of mine operators. To that end, wire rope prices and the amount of profit achieved by Scaw appears to be a function of commerce between it and its customers, more so than influence from the cost of steel scrap and wire rod in the inquiry period.

Accordingly, the commission considers that the evidence before it does not demonstrate that GSA interventions in the steel scrap market have resulted in artificially low or distorted wire rope prices in the inquiry period.

[120] Confidential Attachment 5.

A6 Conclusion

The commission has found that interventions in the steel scrap market by the GSA have influenced outcomes in the South African steel industry. However, the commission does not consider the evidence establishes that the GSA's interventions have led to artificially low or distorted wire rope prices in the South African market. This is because the evidence before the commission suggests that steel scrap and wire rod costs do not have a significant impact on the prices that Scaw achieves for its sales of wire rope.

As a result, the commission considers that there was no PMS for wire rope during the inquiry period that would prevent a proper comparison between domestic prices and export prices.