



Customs Act 1901 – Part XVB

ANTI-DUMPING NOTICE NO. 2019/05

**PVC Flat Electrical Cables
exported from the People's Republic of China**

**Preliminary Affirmative Determination
and imposition of securities**

Public Notice under section 269TD of the Customs Act 1901¹

¹ This is a public notice under subsection 269TD(4)(a) of the *Customs Act 1901* of the Commissioner's preliminary affirmative determination and a public notice under subsection 269TD(5) of the *Customs Act 1901* of the Commonwealth's decision to require and take securities.

1 INTRODUCTION

The purpose of this notice is to set out the reasons why I, Dale Seymour, Commissioner of the Anti-Dumping Commission (the Commissioner) have made a preliminary affirmative determination (PAD) under subsection 269TD(1) of the *Customs Act 1901* (the Act)² on 4 January 2019, being not earlier than 60 days after the initiation of the investigation into the alleged dumping and subsidisation of certain polyvinyl chloride (PVC) flat electrical cables (the goods) exported to Australia from the People's Republic of China (China).

My preliminary determination is that there appears to be sufficient grounds for the publication of a dumping duty notice and a countervailing duty notice in respect of the goods exported to Australia from China, and that it is necessary to require and take securities in relation to exports from China to prevent material injury to the Australian industry occurring while the investigation continues.

This notice and the preliminary findings contained within reflect the current status of the investigation. My findings may change as a result of further information, submissions, analysis or verification.

1.1 Reasons for making a PAD and for taking of securities

The Commission's preliminary assessment has shown that:

- exports of PVC flat electrical cables to Australia from China during the investigation period (1 January 2017 to 31 December 2017) were at dumped and subsidised prices, and the dumping and subsidy margins are not negligible;
- the volume of dumped goods exported from China is not negligible (greater than three per cent of the total Australian import volume);
- the volume of subsidised goods exported from China is not negligible (greater than four per cent of the total Australian import volume);
- the Australian industry producing like goods has experienced injury and that injury is material; and
- the material injury to Australian industry has been or is being caused by dumped and subsidised exports of the goods from China.

I am satisfied that, based on the analysis to date and the size of the dumping and countervailing margins, there currently appears to be sufficient grounds to support a finding that material injury has been caused by goods exported from China at dumped and subsidised prices. Having regard to the application, submissions received and other information I considered relevant,³ and pursuant to subsection 269TD(1)(a), I am satisfied there appears to be sufficient grounds for the publication of dumping and countervailing duty notices in respect of the goods exported to Australia from China. As a result, I have made a PAD to that effect, pursuant to section 269TD.

Under subsection 269TD(4)(b), I am satisfied that it is necessary to require and take securities in relation to exports from China to prevent material injury to the Australian industry occurring while the investigation continues. The Commonwealth will require and take securities under section 42 of the Act in respect of interim dumping and countervailing duties that may become payable on the goods imported from those three countries and entered for home consumption in Australia on or after **7 January 2019**.

² All legislative references are to the *Customs Act 1901*, unless otherwise stated.

³ Refer to section 3 of this notice.

The security has been determined using the *ad valorem* duty method (refer Chapter 7 of this notice). The dumping and subsidy rates are specified in section 3.4 of this notice (refer Table 1).

1.2 Background

On 4 June 2018, I initiated an investigation into the alleged dumping and subsidisation of PVC flat electrical cables exported from China following an application lodged by Prysmian Australia Pty Ltd (Prysmian) (the applicant). The application was supported by Olex Australia Pty Ltd (Olex). Both Prysmian and Olex are manufacturers of like goods in Australia.⁴ Further details in relation to the initiation of this investigation can be found in Anti-Dumping Notice (ADN) No. 2018/86.⁵

Under subsection 269TD(1), I may make a PAD at any time, not earlier than 60 days after I initiate an investigation for the publication of a dumping or countervailing duty notice, if I am satisfied that:

- there appears to be sufficient grounds for the publication of such a notice; or
- it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods.

In accordance with the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction), 60 days after the initiation of such an investigation I must either make a PAD or publish a status report outlining the reasons why I have not made a PAD.

Day 60 of this investigation was 3 August 2018. On that day a status report was published, advising that the Commission at that time had not completed its preliminary assessment of whether the goods exported to Australia from China were at dumped or subsidised prices. The Commission was unable to establish if there were sufficient grounds to be satisfied that the goods exported to Australia had been dumped or subsidised (at above negligible levels in accordance with section 269TDA) and that the dumped or subsidised goods were causing material injury to the Australian industry producing like goods.⁶

Interested parties were notified in the status report that, prior to the publication of the statement of essential facts (SEF) or in the SEF, I will advise whether I have made a PAD and the reasons for my decision.

1.3 Evidence relied upon

In deciding to make a PAD in relation to this investigation, I have, in accordance with subsection 269TD(2), had regard to:

- the Australian industry's application;
- importer questionnaire responses received from cooperating importers;
- exporter questionnaire responses received from cooperating exporters;
- submissions received concerning publication of the dumping duty notice, including those received after 11 July 2018 that, in my opinion, would have not prevented the timely consideration of whether or not to make a PAD;⁷

⁴ Refer item no 001 on the electronic public record (EPR) for this investigation, number 469.

⁵ Refer item no 003 on EPR 469.

⁶ Refer item on 008 on EPR 469.

⁷ Under subsection 269TD(3), I am not obliged to have regard to any submission received after 11 July 2018 if to do so would, in my opinion, prevent the timely consideration of the question whether or not to make a PAD.

- information obtained during verification visits to Prysmian and Olex;
- information obtained during verification visits to cooperating importers and exporters; and
- data from the Australian Border Force (ABF) import database.

1.4 The goods the subject of the investigation

The goods the subject of the application (the goods) are:

Flat, electric cables, comprising two copper conductor cores and an 'earth' (copper) core with a nominal conductor cross sectional area of between, and including, 2.5 mm² and 3 mm², insulated and sheathed with polyvinyl chloride (PVC) materials, and suitable for connection to mains electricity power installations at voltages exceeding 80 volts (V) but not exceeding 1,000 V, and complying with Australian/New Zealand Standard (AS/NZS) AS/NZS 5000.2 (the Australian Standard), and whether or not fitted with connectors.

Further information regarding the goods the subject of the investigation can be found in *Consideration Report No. 469*⁸ and ADN No. 2018/186.

1.5 Australian industry

An application can only be made if there exists an Australian industry producing 'like goods' to the goods the subject of the application. Like goods are defined under subsection 269T(1). Subsections 269T(2), 269T(3), 269T(4), 269T(4A), 269T(4B) and 269T(4C) are relevant to determining whether the like goods are produced in Australia and whether there is an Australian industry.

Since the initiation of the investigation, the Commission has undertaken verification visits to Prysmian and Olex to verify information provided. The Commission undertook an inspection of Prysmian and Olex's manufacturing facilities and is satisfied that at least one substantial process of manufacture of PVC flat electrical cables is carried out in Australia.

The Commission has also preliminarily assessed that the locally produced goods closely resemble the goods the subject of the application and are like goods given that:

- the primary physical characteristics of the imported and locally produced goods are almost identical;
- the imported and locally produced goods are commercially alike as they are sold to common customers and compete in the same market;
- the imported and locally produced goods are functionally alike as they have the same end-uses; and
- the imported and locally produced goods are manufactured in a similar manner.

1.5.1 Australian industry producing like goods – preliminary assessment

As a result of the information verified during the verification visits to Prysmian and Olex, I am satisfied that there is an Australian industry producing like goods to the goods the subject of the application, comprised of Prysmian, Olex, Australia Pacific Electric Cables Pty Ltd and Advance Cables Pty Ltd, and that the like goods are produced in Australia.

⁸ Refer item no. 002 on EPR 469.

2 THE AUSTRALIAN PVC FLAT ELECTRICAL CABLES MARKET

In Australia, PVC flat electrical cable is primarily used in residential and commercial building and construction, such as new home construction, renovations, units/apartments, commercial refurbishments, shopping centres etc. The goods are also used in light industrial construction projects, such as providing wiring for the general power and lighting supply circuits of factories and warehouses.

The Commission found that key supply channels for PVC flat electrical cables in Australia are traders/wholesalers and installers/major contractors. These key supply channels sell the goods to the following categories of end-users:

- traders/wholesalers sell to electricians for commercial, residential and industrial installations; and
- installers/major contractors are where the goods are sold directly to a company for a major project.

The Commission understands that traders/wholesalers make up approximately 90 per cent of the PVC flat electrical market, with installers/major contractors making up the remaining 10 per cent. There are several main wholesale chains, comprising of individual companies and collective-buyer groups, and smaller independent wholesalers.

As PVC electrical cable can only be installed by a licensed electrician, end-users are not direct customers. The electrician purchases the goods from an electrical wholesaler or hardware retailer. Electrical installers/major contractors have goods supplied through their principal, which generally purchase from Australian manufacturers or importers.

The Commission also found that rebates and discounts are a common feature of the market. Differing amounts of rebates and discounts are usually given to customers off the gross invoice price by all suppliers in the market.

2.1 Demand

The demand for PVC flat electrical cable is driven by new residential housing construction, commercial development and refurbishment of existing properties. Factors affecting construction demand, such as interest rates, consumer confidence index, population growth and housing prices, also impact on demand for the goods.

2.2 Market size

Figure 1 depicts the Commission's estimate of the size of the Australian market for PVC flat electrical cables from the period 1 January 2014 to 31 December 2017. The data for 2014 and 2017 is based on the verified sales data from Olex, Prysmian and cooperating importers of the goods in a previous investigation⁹ and in this investigation. The data for 2015 and 2016 is based on the declared sales volumes of Australian industry members and data from the ABF import database.

⁹ *Anti-Dumping Commission Report No. 271* refers.

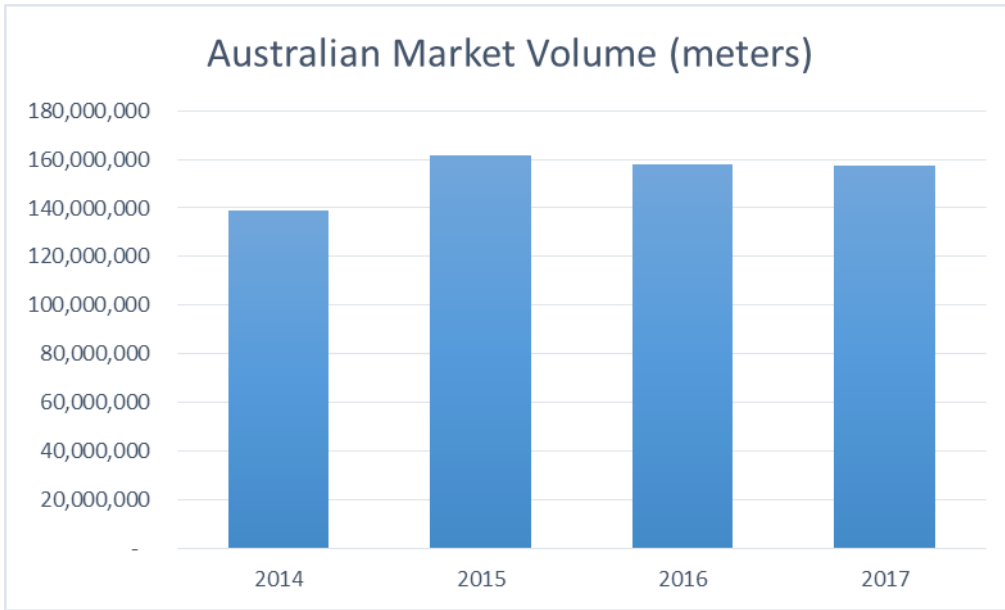


Figure 1: Size of the Australian market for PVC flat electrical cables (metres sold)

The Commission observes that the Australian market for PVC flat electrical cables grew in 2015, and has been steady from 2016 onwards.

2.3 Market share

Figure 2 shows movements in market share over the period from 1 January 2014. It supports the Australian industry members' claim that they have lost market share to imports from China.

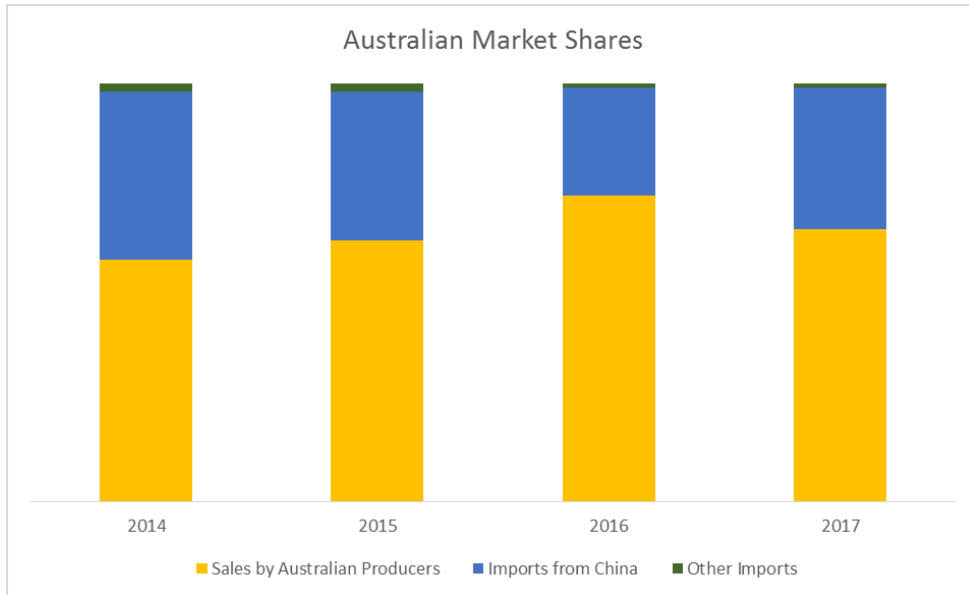


Figure 2: Estimated market shares for PVC flat electrical cables.

The Commission's analysis of market size and market share is in **Confidential Appendix 1 – Market Size and Share**.

3 DUMPING AND SUBSIDIES INVESTIGATION

3.1 Exporter questionnaires received

The Commission received exporter questionnaire responses from the following entities:

- Guilin International Wire & Cable Co. Ltd (Guilin);¹⁰ and
- Nanyang Cable (Tianjin) Co. Ltd. (Nanyang);¹¹

3.1.1 Nanyang Cable (Tianjin) Co. Ltd.

Despite providing a questionnaire response, at the verification visit it was established that Nanyang's copper rod purchases list did not include all purchases of copper rod by Nanyang during the investigation period. Nanyang claimed that it was commercially sensitive information and did not provide any further information to the Commission.

Pursuant to the *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Customs Direction), I consider that Nanyang has provided a response within the legislated period, however, the response is insufficient in respect of Nanyang's purchases of copper rods. As a result, I find Nanyang to be a non-cooperative entity under subsection 269TAACA of the Act as it did not provide me with information that I consider to be relevant to the subsidy investigation (as per subsection 269TAACA(1)(b)) and I will therefore establish a subsidy margin in respect of Nanyang by having regard to all of the facts available and the assumptions I consider reasonable (as per subsections 269TAACA(1)(c) and (d)).

3.1.2 All other exporters that did not provide an exporter questionnaire response

Having regard to the Customs Direction, in relation to this investigation, the legislated period for providing an exporter questionnaire response has expired. Therefore, under subsection 8(b) of the Customs Direction, I must determine all exporters who did not provide a response or request a longer period to provide a response within the legislated period to be uncooperative exporters pursuant to subsection 269T(1).

3.2 Export price

The Commission determined that in respect of Australian sales of the goods by Guilin to the importer, Electra Cables (Aust) Pty Limited (Electra), export price cannot be determined under subsection 269TAB(1)(a). The Commission considers that the purchase of the goods by the importer was not an arms length transaction. As the goods were subsequently sold by the importer in the condition that they were imported, the Commission determined the export price for goods exported to Australia by Guilin under subsection 269TAB(1)(b), being the price at which the goods were so sold by the importer less the prescribed deductions.

Similarly, the Commission determined that in respect of Australian sales of the goods by Nanyang to the importer, Nan Electrical Cable Australia Pty Ltd (Nan), the purchase of the goods by the importer was not an arms length transaction. Therefore, the Commission determined the export price for goods exported to Australia by Nanyang under subsection 269TAB(1)(b), being the price at which the goods were so sold by the importer less the prescribed deductions.

¹⁰ Refer item no.006 on EPR 469.

¹¹ Refer item no.005 on EPR 469.

In accordance with subsection 269TACAB(1), export prices for uncooperative and all other exporters from China were determined under subsection 269TAB(3), having regard to all relevant information.

3.3 Normal value

The Commission found that there were no sales of like goods in Chinese domestic market. Therefore, normal values cannot be ascertained under subsection 269TAC(1).

The normal values of goods exported to Australia from China by Guilin and Nanyang are assessed under subsection 269TAC(2)(c), using the cost of production or manufacture of the goods in the country of export; and, on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export, the selling, general and administration (SG&A) costs associated with such a sale and the profit on that sale.

As required by subsections 269TAC(5A) and 269TAC(5B), the costs of production or manufacture, the SG&A costs and profit must be established in accordance with sections 43, 44 and 45 of the *Customs (International Obligations) Regulation 2015* (the Regulation), respectively.

In respect of Nanyang, in the absence of a complete listing of its copper purchases I am unable to determine whether its costs are accurately recorded, nor assess whether these costs represent competitive market costs (per subsection 43(2) of the Regulation). As a result, I consider Nanyang's copper purchase information to be unreliable, and therefore I have disregarded its recorded copper costs (as per subsection 43(8) of the Regulation). In constructing Nanyang's normal value, I have instead had regard to the competitive market cost of copper rod in China, calculated as being the total of average the Value Added Tax exclusive copper cathode price on the Shanghai Futures Exchange (SHFE) for the quarter, a conversion premium for copper rod payable in China during the investigation period, plus an amount for delivery costs. I consider this to be the most reliable information available. In constructing Nanyang's normal value, I had regard to Nanyang's verified data for all other cost components.

Where appropriate, certain adjustments were made to ensure fair comparison of normal values with export prices in accordance with subsection 269TAC(9).

For uncooperative and all other exporters from China, the normal value has been determined in accordance with subsection 269TAC(6), by having regard to all relevant information. Specifically, the Commission has had regard to Nanyang's normal value calculations. As no favourable adjustments were made to the normal value in respect of Nanyang, the normal value for uncooperative and all other exporters is equal to Nanyang's normal value.

3.4 Dumping and subsidy margins

Dumping margins were calculated for all exporters by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period, in accordance with subsection 269TACB(2)(a).

The subsidy margin for Guilin was calculated by establishing the amount of countervailable subsidy received, which resulted from financial contributions to the exporter that conferred a benefit (per sections 269TACC and 269TACD), expressed as a proportion of the export price.

As explained in Chapter 3.1.1, I am satisfied that Nanyang did not give information I

considered to be relevant to the investigation, within a period the I considered to be reasonable, and I declared Nanyang uncooperative for the purposes of the subsidy investigation. Consequently, Nanyang’s subsidy margin was calculated by having regard to all of the facts available and the assumptions I consider reasonable (as per subsections 269TAACA(1)(c) and (d)). In particular, I had regard to the highest amount of benefit conferred in Nanyang’s known purchases of copper rod during the investigation period (per sections 269TACC and 269TACD), expressed as a proportion of the export price.

For uncooperative and all other exporters, the subsidy margin was calculated by having regard to all of the facts available and the assumptions I consider reasonable (as per subsections 269TAACA(1)(c) and (d)).

Having regard to the exporter questionnaire responses, verification visit outcomes and submissions received to date, the Commission has preliminarily determined the following exporter specific dumping and subsidy margins in relation to PVC flat electrical cables exported to Australia from China during the investigation period.

Exporter	Dumping margin	Subsidy margin
Guilin	7.18%	0.72%
Nanyang	33.19%	3.12%
Uncooperative and all other exporters	33.19%	3.12%

Table 1: Preliminary dumping and subsidy margins

3.4.1 Dumping – preliminary assessment

Noting the dumping margins presented in Table 1, I am satisfied that PVC flat electrical cables exported to Australia from China during the investigation period were at dumped prices because:

- the margins of dumping were not negligible;¹²
- the volume of dumped goods from China was not negligible.¹³

3.4.2 Countervailable subsidisation – preliminary assessment

Noting the subsidy margins presented in Table 1, I am satisfied that PVC flat electrical cables exported to Australia from China by Nanyang and uncooperative and all other exporters during the investigation period were at subsidised prices because:

- the countervailing margins for goods exported by Nanyang and uncooperative and all other exporters were not negligible;¹⁴ and
- the volume of countervailable goods exported from China by Nanyang and uncooperative and all other exporters was not negligible.¹⁵

¹² Subsection 269TDA(1).

¹³ Subsections 269TDA(3) and (4).

¹⁴ Subsections 269TDA(2), (16)(c).

¹⁵ Subsections 269TDA(7) and (8)(b).

4 INJURY TO THE AUSTRALIAN INDUSTRY

In the application, Prysmian claimed that the Australian industry has experienced injury in the form of:

- lost sales volume;
- loss of market share;
- price suppression;
- price undercutting;
- reductions in profit and profitability;
- reduced return on investment;
- reduced capacity utilisation; and
- reduction in employment hours for the goods.

Prysmian alleged that injury from the dumped and subsidised goods exported from China commenced at the beginning of 2017. Olex concurs with Prysmian's claims in relation to the commencement of injury.

The Commission utilised the verified data submitted by Prysmian, Olex, Electra and Nan during this investigation, data obtained from the ABF import database and the data from Commission's previous investigation¹⁶ to perform volume, price, profitability and other injury factors analysis for the injury analysis period and investigation period.

4.1 Volume Injury

4.1.1 Sales volume

In its application, Prysmian claims that it lost sales volume in 2017 due to imports of PVC flat electric cables from China. Figure 3 illustrates the volume of Prysmian's sales of PVC flat electrical cables in the domestic market from 2014 to the end of 2017.

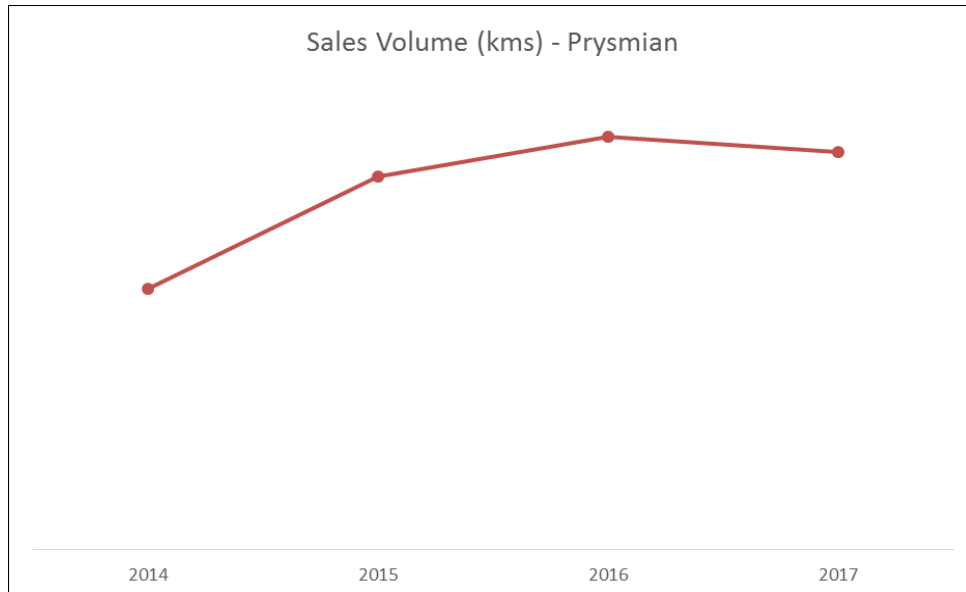


Figure 3 – Prysmian's domestic sales volume of PVC flat electric cable

¹⁶ Anti-Dumping Commission Report No. 271 refers.

Olex supported Prysmian’s application. The Commission conducted a verification visit to Olex to verify the data Olex provided and to discuss injury and causation claims raised by Prysmian in its application. At the verification visit, Olex also claimed that it lost sales volume in 2017 due to imports of PVC flat electric cables from China.

Figure 4 illustrates the volume of Olex’s sales of PVC flat electrical cables in the domestic market from 2014 to the end of 2017.

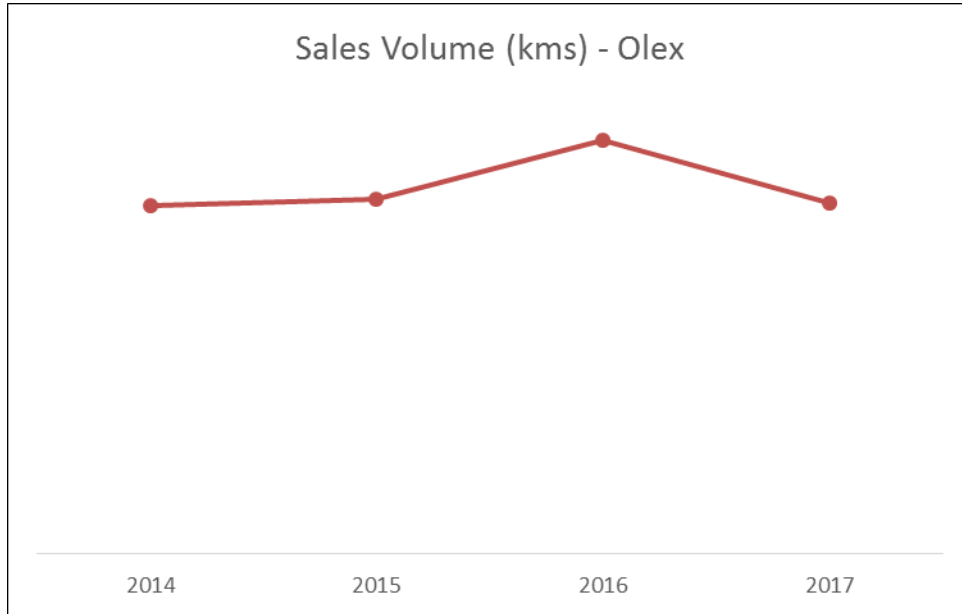


Figure 4 – Olex’s domestic sales volume of PVC flat electric

The Commission notes that both Prysmian’s and Olex’s sales volumes increased from 2014 to 2016. However, their sales volumes decreased in the investigation period. This decrease in sales volume occurred at the same time as continued growth in housing construction, renovations and building fit-outs between the years 2014 and 2017.

4.1.2 Market Share

Figure 5 depicts the change in market share Australian industry members have experienced from 2014 to 2017. The data for 2014 and 2017 is based on the verified sales data from Olex, Prysmian and cooperating importers of the goods in *Anti-Dumping Commission Report No. 271* and in this investigation. The data for 2015 and 2016 is based on the declared sales volumes of Australian industry members and data from the ABF import database. The Commission’s analysis of market size and market share is in **Confidential Appendix 1 – Market Size and Share**.

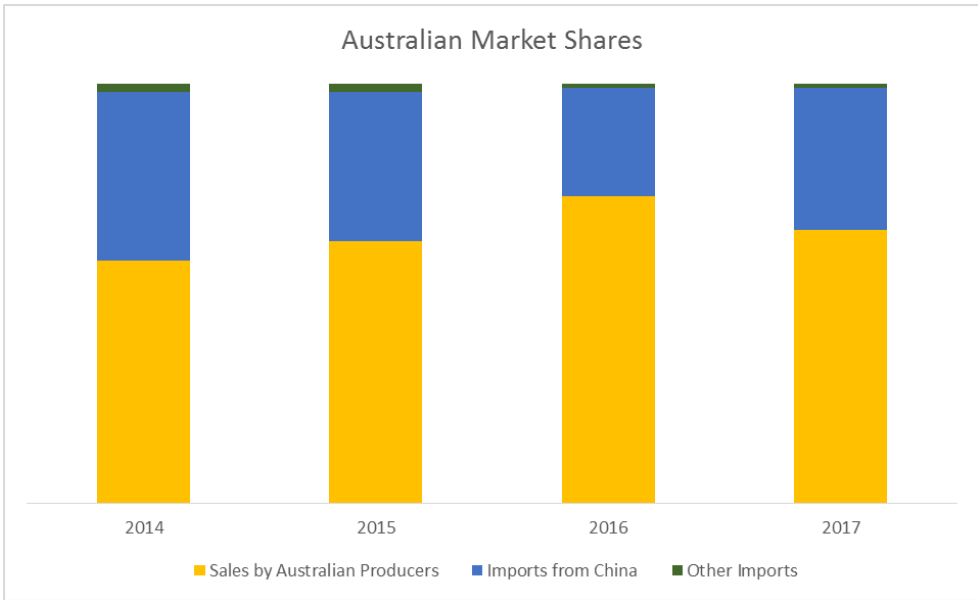


Figure 5 – Estimated market share distribution for PVC flat electrical cables

From this analysis, it is observed that Australian industry members lost market share in the 2017 calendar year to the goods imported from China. The market share of imports from other countries that are not subject to this investigation remains small (consistently less than 5 per cent) and declined in 2016 and 2017.

4.2 Price and Profitability Injury

The Commission found that, while Prysmian’s profit and profitability improved during 2015, it has been falling from 2016 onwards. In addition, it can be noted that Prysmian has experienced a loss for all quarters of the injury analysis period apart from one (2016-Q2), where a small profit was made. These trends are shown in Figure 6.

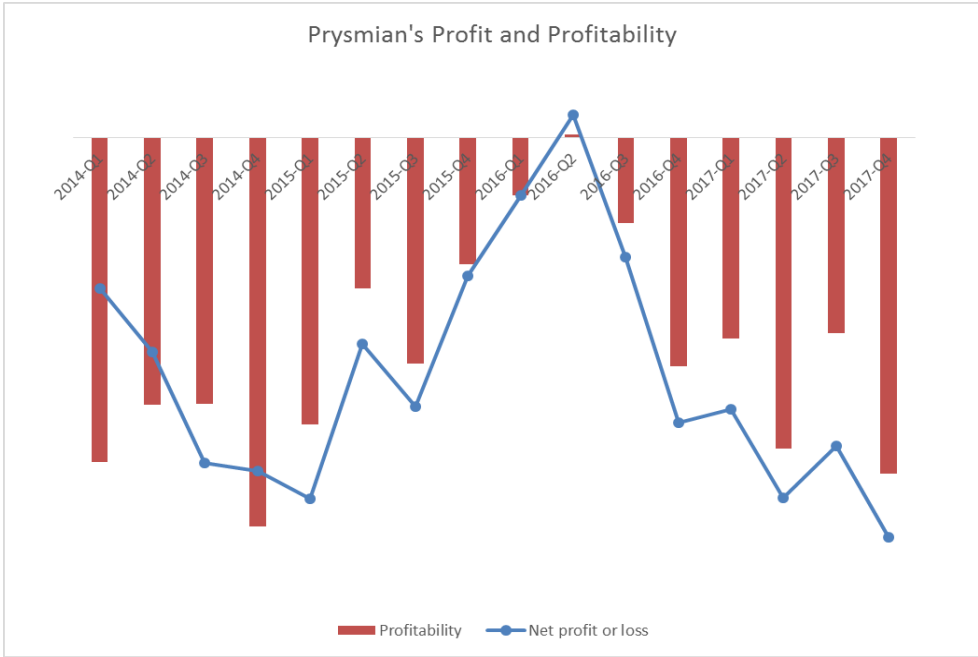


Figure 6: Prysmian’s profit and profitability (*Profitability plotted on secondary axis)

Olex made consistent losses from the sale of the goods in 2014 and 2015. In 2016, Olex's profits and profitability on the sale of the goods improved to become positive. However, Olex's profitability has been falling from the end of 2016 onwards. During the investigation period, Olex has experienced losses in all quarters. Olex's profit and profitability trends are shown in Figure 7.

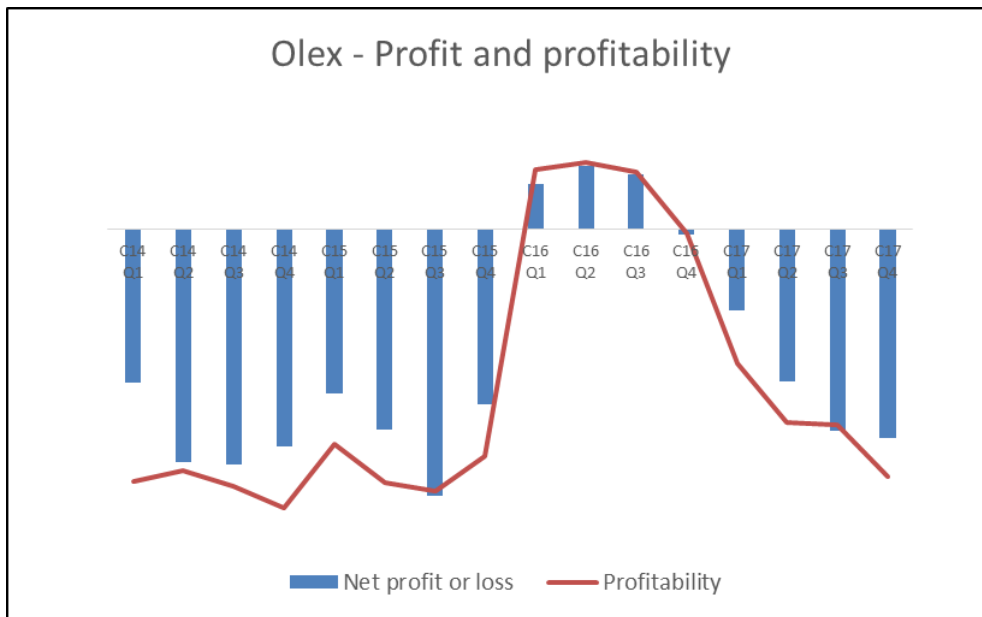


Figure 7 – Olex’s profit and profitability (*Profitability plotted on secondary axis)

The Commission concludes that, while Australian industry members improved their profitability from the sale of the goods and made a small net profit in 2016, they both have experienced losses throughout the majority of the injury analysis period. The Commission notes that Australian industry members’ profits and profitability deteriorated substantially during the investigation period.

Further analysis of the Commission’s assessment of profit and profitability factors is contained in **Confidential Appendix 2 – Economic Performance**.

4.3 Price suppression

Price suppression occurs when price increases, which otherwise might have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs.

In its application, Prysmian claimed that has experienced injury in the form of price suppression. At the verification visit, Olex also stated that it has experienced price suppression during the investigation period.

The Commission found that PVC flat electrical cables is a very price sensitive product. As the product is not very profitable for the main customers of this product (i.e. wholesalers), buyers will seek to purchase at the lowest possible prices; even small differences in price have been shown to change buying decisions.

The Commission also found that during the investigation period there has been a substantial increase in copper costs. Both of the examined Australian industry members claimed that they were unable to raise selling prices of PVC flat electrical cables in the market to account for this increase in production cost. Both Prysmian and Olex claimed that competitive market offers for imported goods from China undercut their prices and prevented them from passing on the increases in their material costs.

PUBLIC RECORD

The Commission conducted analysis of Prysmian and Olex’s unit cost to make and sell (CTMS) and unit net selling prices over the injury analysis and investigation periods. These are depicted in Figures 8 and 9 below.

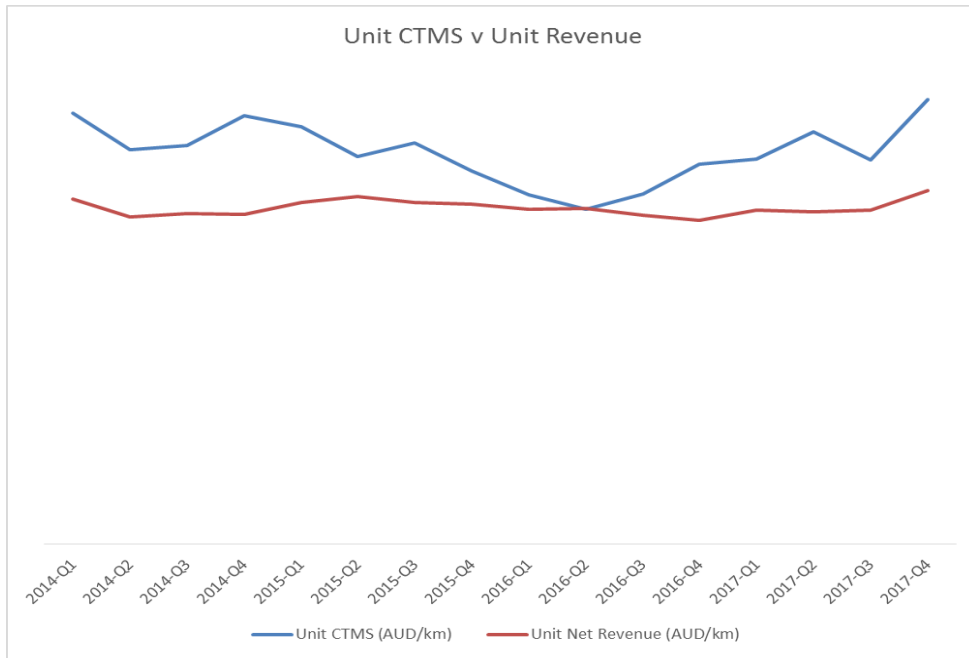


Figure 8: Comparison of Prysmian’s unit CTMS and unit selling prices

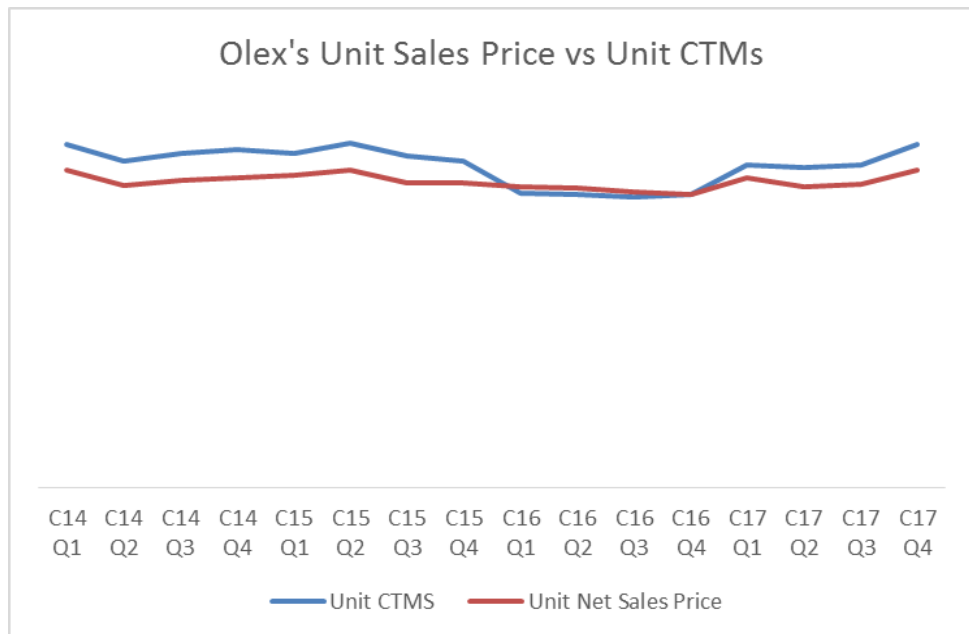


Figure 9: Comparison of Olex’s unit CTMS and unit selling prices

The Commission’s analysis supports the Australian industry members’ claims in relation to the increase in production costs from 2017 surpassing the increase in net selling prices. This is evident from the increasing gap between Prysmian’s and Olex’s unit CTMS and unit net selling price during 2017. As a result, the Commission found that the Australian industry members’ prices were suppressed. The Commission’s price suppression analysis is available at **Confidential Appendix 2 – Economic Performance**.

4.4 Other economic factors

Both Australian industry members claimed injury to return on investment, capacity utilisation and reduction in employment hours. The Commission assessed the verified data from Prysmian and Olex and concluded that Australian industry members suffered injury in the form of:

- reduced return on investment;
- reduced capacity utilisation; and
- reduced employment hours.

Further analysis of the Commission's assessment of other economic factors is contained in **Confidential Appendix 2 – Economic Performance**.

5 CAUSE OF INJURY TO THE AUSTRALIAN INDUSTRY

In determining whether material injury to an Australian industry has been caused or is being caused, because of any circumstances in relation to the exportation of the goods to Australia, the Minister may have regard to the matters set out in section 269TAE, to which I have had regard.

5.1 Size of the dumping margins

Subsection 269TAE(1)(aa) provides that regard may be given to the size of each of the dumping margins, worked out in respect of goods of that kind that have been exported to Australia.

The preliminary dumping margins outlined in section 3.3 of this report (refer Table 1) range between 7.2 and 33.2 per cent and are above negligible levels (i.e. above two per cent) for all exporters. The preliminary countervailing margins range between 0.7 and 3.1 per cent. The countervailing rates for Nanyang and all other exporters are above negligible levels.

The Commission considers that the magnitude of dumping and countervailable subsidies provided exporters with the ability to offer PVC flat electrical cables to importers at significantly lower prices than would otherwise have been the case.

5.2 Price effects

The Commission collected sales data and documentation regarding the discounts and rebates given to customers by the Australian industry members and importers of the goods from China. The Commission verified sales data and the discounts and rebates at verification visits to Prysmian, Olex, Electra and Nan. Using this information, the Commission calculated net selling prices (i.e. free of discounts and rebates) of the goods at cash terms (by eliminating the effects of different payment terms) for each supplier and analysed the pricing differences. As the majority of sales are to wholesalers, the Commission focused its analysis on the net selling prices to wholesalers at free-into-store (FIS) cash terms. This analysis is available at **Confidential Attachment 1**.

The analysis in **Confidential Attachment 1** shows that the weighted average FIS cash price of the goods sold by Nan to wholesalers were the cheapest in the market during the investigation period. The weighted average price of the goods sold by Electra mostly undercut the Australian industry prices in the second half of the investigation period. The Commission observes that this occurred during a period of rising copper costs. The evidence before the Commission suggests that the Australian industry members sought to increase prices to respond to increasing copper costs, but instead reduced pricing in subsequent months in an attempt to maintain market share (which appeared to be unsuccessful). As a result, the Commission is of the view that dumped and subsidised imports of PVC flat electrical cable caused injury to Australian industry in the form of price suppression.

5.3 Profit and profitability

In the application, Prysmian claimed (and Olex agreed) that the Australian industry has experienced injury in the form of loss of profit and reduced profitability.

The Commission observes that, at undumped and unsubsidised prices, the Australian industry members would be able to increase prices by more than 7 per cent on average to match the lowest undumped price in the market. The Commission considers this would represent a material improvement in the Australian industry's economic condition, and

would be likely to enable the Australian industry to recover its CTMS. This would have substantially altered the profit and profitability outcomes for Prysmian and Olex during the investigation period that were observed in Chapter 4. The Commission's analysis about the Australian industry's profit and profitability condition in the absence of the dumping and subsidisation is at **Confidential Attachment 2**. The Commission considers that dumped and subsidised imports of PVC flat electrical cable caused injury to Australian industry in the form of loss of profit and profitability.

5.4 Volume Effects

The Commission understands that Australian industry members are volume dependent businesses. When they compete with cheaper offers for imported goods from China, they either:

- maintain prices and lose sales volume to cheaper offers; or
- maintain volume by matching or beating other prices at the expense of profitability.

The Commission notes that when Australian industry members lose sales volumes and market share, their fixed costs would be distributed across a lower sales volume which would further reduce their profitability. Consequently, there is considerable desire for the Australian industry members to increase or at least maintain their sales volumes. Despite this, during the investigation period, both Australian industry members lost sales volumes and market share to imported goods from China. This has further impacted Australian industry members' profitability during the investigation period.

The Commission considers that dumped and subsidised imports of PVC flat electrical cable caused injury to Australian industry in the form of reduction of sales volumes and market share.

5.5 Injury factors other than dumping and subsidisation

Having regard to the data collected from the Australian industry and verified at the verification visits, the Commission considers that the increase in copper prices in the second half of the investigation period contributed to the financial injury experienced by the Australian industry members. Copper rod is the major component of the CTMS for the goods. Therefore, any increase in copper prices increases the production cost of the goods. PVC flat electrical cable, being a competitive product in the market place, usually does not offer significant profit margins to provide a buffer against sustained cost increases in copper.

Copper prices sharply increased during the investigation period. Considering the deterioration in the Australian industry members' financial positions with respect to the goods, the Commission is of the view that the increase in copper prices has contributed to the Australian industry members' injury. However, the Commission considers that this impact has been more profound in a market where the Australian industry members faced price competition from dumped and subsidised imports from China, and were unable to pass on the cost increases to their prices at a time when importers were not also responding to those increased costs.

5.6 Conclusion

The Commission found that PVC flat electrical cable has significant price sensitivity. All PVC flat electrical cables sold in Australia are manufactured to comply with Australian standards. Because of that, there is significant amount of interchangeability between different brands and very little customer loyalty. Typically, PVC flat electrical cable is sold

together with other cable products as the wholesale customers, who account for the vast majority of the purchases, prefer to bundle their orders to avoid receiving multiple deliveries from various suppliers. Both the importers and the Australian industry members state that PVC flat electrical cable's price is typically what the purchasers refer to when they collect offers for a bundle of products they seek to purchase. That amplifies the significance of the prices of the goods, and forces the Australian industry members to match or at least get close to dumped and subsidised prices of PVC flat electrical cable imported from China.

As discussed above, although the Commission considers that increases in copper prices have contributed to the Australian industry's injury, it doesn't detract from the fact that in the absence of dumping and subsidisation, both Prysmian and Olex would have been significantly better off financially. Given the volume-dependent nature of the business and the emphasis on the price of the product due to the very high interchangeability of the goods, the Commission is of the view that the injury the Australian industry experienced was material.

5.7 Injury to the Australian industry – preliminary assessment

Based on the Commission's preliminary assessment, I consider that:

- the volume of the goods exported to Australia from China at dumped prices has increased during the investigation period;
- the significantly lower prices of the goods imported from China has provided importers (chiefly Electra and Nan) with a competitive advantage due to their ability to purchase PVC flat electrical cables at dumped and subsidised prices, which allows them to be more competitive on price than otherwise would be the case; and
- the price and profit injury caused by the dumped and subsidised goods was material.

The Commission considers that there is sufficient evidence at this time to establish that dumped and subsidised imports of PVC flat electrical cable from China enabled the importers to undercut the Australian industry's prices during the investigation period.

This has led to the Australian industry experiencing material injury in the form of:

- lost sales volume;
- loss of market share;
- price suppression;
- reductions in profit and profitability;
- reduced return on investment;
- reduced capacity utilisation; and
- reduced employment hours.

Therefore, I consider that there appears to be sufficient grounds to support the applicant's claim that material injury has been caused or is being caused by the dumped and subsidised goods.

5.7.1 Other matters considered relevant – subsection 269TD(2)(b)

In accordance with section 7 of the PAD Direction and for the purposes of subsection 269TD(2)(b), I have considered the desirability of providing relief to an injured Australian industry, as quickly as possible, where warranted.

6 UNSUPPRESSED PRICE AND NON-INJURIOUS PRICE

The non-injurious price (NIP) is relevant to subsection 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975*, which requires consideration of the desirability of fixing a lesser amount of duty if sufficient to remove injury to the Australian industry. The Commission also utilises the NIP as an additional test to establish whether there is a causal link between the alleged dumping and material injury.

The Commission's *Dumping and Subsidy Manual* specifies that:

The Commission will generally derive the NIP from an unsuppressed selling price (USP). The USP is a selling price that the Australian industry could reasonably achieve in the market in the absence of dumped or subsidised imports.¹⁷

The *Dumping and Subsidy Manual* further provides the following hierarchy for determining a USP:

In calculating the USP, the Australian industry's selling prices at a time unaffected by dumping or subsidisation will normally be used. If there are sound reasons for not using this approach, a price may be constructed based on the industry's cost to make and sell, plus a profit.

If either of these methods is not appropriate, the selling prices of undumped and unsubsidised imports in the Australian market will be used.¹⁸

The Commission will continue to assess data received during the course of the investigation to determine an appropriate USP.

¹⁷ [Dumping & Subsidy Manual](#), page 137.

¹⁸ Ibid.

7 PROVISIONAL MEASURES AND FORM OF DUTY

The forms of duty available under the *Customs Tariff (Anti-Dumping) Regulation 2013* include:

- combination fixed and variable duty method ('combination duty method');
- fixed duty method;
- floor price duty method; and
- *ad valorem* duty method (i.e. a percentage of export price).

These forms of duty all have the same objective of removing the injurious effects of dumping and subsidisation; however, in achieving this objective, certain forms of duty will better suit the particular circumstances of some investigations more so than other forms of duty.

For the purposes of this PAD, I have had regard to the *Guidelines on the Application of Forms of Dumping Duty – November 2013* (the Guidelines)¹⁹ and note that PVC flat electrical cables is a product that demonstrates significant price volatility due to its high correlation with global copper prices. The Guidelines specify that *ad valorem* duty method has an advantage for goods which are subject to significant price variations over time because:

- a) the *ad valorem* duty method does not show the same variability in the 'effective rate' of the duty – as export prices fluctuate – that arises under the other methods; and
- b) the *ad valorem* duty method may require less frequent reviews than these other duty methods in this situation.

Therefore, I consider *ad valorem* duty method most appropriate given the volatility of its prices over time. The Commission will continue to assess information received during the course of the investigation to determine and propose measures that will effectively remedy the injury that has been caused to the Australian industry, while at the same time not setting a form of measures above the level that is required to prevent further injury from occurring.

The above considerations may become more relevant for the purposes of publishing a dumping duty and / or countervailing duty notice, and therefore I will reassess the most appropriate form of measures should that form part of my recommendations.

7.1 Securities

I have determined that securities will be taken as an amount worked out in accordance with the *ad valorem* duty method. Securities will be imposed in relation to the goods exported to Australia from China at the rates specified in Table 2 below.

¹⁹ Available at www.adcommission.gov.au.

Exporter	Dumping security	Countervailing security
Guilin	7.2%	0.0%
Nanyang	33.2%	3.1%
Uncooperative and all other exporters	33.2%	3.1%

Table 2: Dumping and countervailing securities

7.2 Anti-Dumping Commission contact

Affected parties should contact clientsupport@adcommission.gov.au on telephone number 13 28 46 or +61 2 6213 6000 (outside Australia) for further information regarding the actual security liability calculation in their circumstance.

Enquiries about this notice may be directed to the case manager via email at investigations1@adcommission.gov.au.

Dale Seymour
Commissioner
Anti-Dumping Commission

4 January 2018