Australian Government
Department of Industry and Science

# Anti-Dumping Commission

Anti-Dumping Commission
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Ms Leora Blumberg
Anti-Dumping Review Panel
c/- ADRP Secretariat, Legal Services Branch
Department of Industry and Science
10 Binara Street
CANBERRA CITY ACT 2601

Leora

Dear Ms ~~Blumberg~~

**ADRP review – polyvinyl chloride (PVC) flat electric cables exported from the People's Republic of China (China)**

Thank you for your letter of 26 August 2015, inviting the Anti-Dumping Commission (the Commission) to comment on an application by Olex Australia Pty Ltd for a review of my decision to terminate the investigation in relation to certain PVC flat electric cables exported from China.

The Commission has prepared its responses to the issues raised by the applicant in a non-confidential form (see Attachment A). The Commission considers that this letter and non-confidential Attachment A are suitable for publication.

The Commission has responded to the four specific matters referred to in your letter. The Commission notes that the application only contains information that is *relevant information* as defined in section 269ZZK(6) of the *Customs Act 1901*.

In relation to the remaining three matters (factual claims disputed, commentary and background), the Commission has provided its responses collectively given the high degree of overlap in content.

Given the nature and extent of the claims I would also like to offer assistance in the form of a meeting or teleconference as soon as practicable to provide further clarification or relevant material should you so require.

Yours sincerely

Dale Seymour
Commissioner
Anti-Dumping Commission

11 September 2015

**Attachment A**

# Anti-Dumping Commission Response

**Invitation to Comment: Application for Review of Decision relating to certain polyvinyl chloride flat electric cable exported from the People's Republic of China**

**(Investigation 271)**

**Applicant: Olex Australia Pty Ltd**

## Abbreviations

| | |
|---|---|
| the Act | *Customs Act 1901* |
| the Applicant | Olex Australia Pty Ltd, also referred to as Olex |
| Australian Standard | Australian / New Zealand Standard AS/NZS 5000.2 |
| China | People's Republic of China |
| the Commission | the Anti-Dumping Commission |
| the Commissioner | the Commissioner of the Anti-Dumping Commission |
| the Guilin Group | Collectively,<br>• Guilin International Wire & Cable Group Co. Ltd;<br>• Guilin Xianglong Wire & Cable Co. Ltd;<br>• Guilin Feilong Wire & Cable Co. Ltd; and<br>• Ao Ning Electric Cables Co. Ltd |
| Guilin International | Guilin International Wire & Cable Group Co. Ltd |
| PVC | Polyvinyl chloride |
| the goods | the goods the subject of the application (also referred to as the goods under consideration or GUC) |

# Key points of note in reading responses to Applicant claims

In drafting responses to the issues raised by Olex Australia Pty Ltd (the Applicant) to the Anti-Dumping Review Panel, the Anti-Dumping Commission (the Commission) has had regard to all information submitted to it in accordance with legislative timeframes during the investigation up until the day the *Termination Report 271* (*TER 271*) was published.

This information included the *Statement of Essential Facts 271*, visit reports and submissions from interested parties. In drafting this response the Commission has also had regard to the analysis the Commission performed during its investigation.

The Commission confirms that, in drafting this response, no new information has been considered or further analysis undertaken.

# The Commission's responses to the Applicant's claims

The Commission is hereby responding to the Applicant's claims in the order that they have been made. The Commission has summarised the Applicant's claims for ease of reference, but these summaries should be read in conjunction with the detailed claims in the formal application.

## 1. The Commissioner has failed to identify the exporter

The Applicant claims that it is not clear from the Commissioner's reasons whether each of the four entities that comprise the Guilin Group[1] did in fact export the goods during the investigation period. If the parties did not export the goods, including them in the Guilin Group was an error of fact.

### *Comments by the Commission*

The *Exporter Visit Report* indicates at various places that all four entities that comprise the Guilin Group submitted their own response to the exporter questionnaire.[2]

At section 2.2, the *Exporter Visit Report* clearly indicates that all four entities manufactured and exported the goods under consideration during the investigation period. Accordingly, the 13 export sales transactions that the Commission selected for the purpose of verification included at least one sales transaction from each entity. The Commission was therefore able to satisfy itself that all four entities exported the goods.

The Commission verified the manufacturing costs of Guilin International and was satisfied that Guilin International manufactured the goods. Further, the Commission "was able to identify intercompany sales made to Guilin International from other members of the Guilin Group as amounts entering the finished goods ledger.

[1] As per the *Exporter Visit Report* and *TER 271*, comprising:

- Guilin International Wire & Cable Group Co. Ltd ("Guilin International");
- Guilin Xianglong Wire & Cable Co. Ltd;
- Guilin Feilong Wire & Cable Co. Ltd; and
- Ao Ning Electric Cables Co. Ltd.

[2] For example, refer to section 4.2.1 (page 18).

Those amounts matched the CTMS for the manufacturing entity."[3] The Commission was therefore able to satisfy itself that the other three entities also manufactured the goods.

## 2. The Commissioner's calculation of the normal value for the Guilin Group is incorrect

The Applicant claims that the Commissioner erred in his determination of the normal value for the Guilin Group, having verified only the financial information of the export trading company (being Guilin International). The Applicant claims that the Commissioner has failed to take reasonable steps to satisfy himself as to the accuracy of the cost of production of the goods, admitting that regard was had to "an estimate for copper values" in the exporter questionnaire. Accordingly, the Applicant claims that the Commissioner has estimated the key cost of production (being copper) and has relied on the cost information submitted by a non-manufacturing entity.

Further, the Applicant claims that the Commission has used a flawed methodology, applying "an estimate of an average cost of production of the Guilin Group of companies across a range of products, which included both relevant and irrelevant costs to the production of the GUC" and relying on the "weighted average actual costing method" for raw materials such that unrelated product manufacturing costs have affected the normal value calculation.

The Applicant argues that the Commissioner was unable to demonstrate that he was satisfied that the volume (actual weight) of the key raw materials consumed in the production of the goods as recorded by the Guilin Group aligned in any way to the actual measurement data presented by the Applicant.

***Comments by the Commission***

As per the comments in response to the previous claim, the Commissioner found that Guilin International both manufactured and exported the goods under consideration during the investigation period.

As noted in the *Exporter Visit Report*, due to limitations in its costing system, Guilin International indicated that it (and, by implication, the other three entities in the Guilin Group) had estimated the proportions of copper and PVC for the purpose of completing the CTMS spreadsheet.[4] The confidential version of the report indicates these proportions.

These estimates of copper and PVC costs have not been relied upon by the Commission at any stage. Although not explicit in the *Exporter Visit Report*, Guilin International demonstrated how the total material costs in the CTMS spreadsheet in the exporter questionnaire response was derived from its cost of production worksheet (5.2.5 refers), and the Commission was able to trace how the verified costs (that is, the actual costs incurred, not budgeted or estimated costs) of copper, PVC, direct labour, manufacturing overheads and other expenses (addressed in 5.2.2, 5.2.3 and 5.2.4) were recorded in that cost of production worksheet.

[3] *Exporter Visit Report*, section 5.4.

[4] Refer to section 5.2.1.

As noted above, although the component "material costs" in the CTMS worksheet comprised an arbitrary allocation between copper and PVC for the purposes of completing the CTMS spreadsheet, the Commission confirmed that the *total* material cost was correct and therefore this amount was included in the calculation for normal values.[5] Furthermore, as a result of the verification process, the Commission was satisfied that the costs included in the CTMS worksheet were specific to the goods under consideration, and did not include any irrelevant costs (nor did it exclude any relevant costs).

The Commission also examined whether the Guilin Group's standard unit consumption methodology could result in a distortion of actual costs, noting that "[t]he material cost of each product in each month is calculated by multiplying the production volume, by the standard material cost, by the ratio of total actual material costs to total standard material costs."[6] Having observed both the goods and other non-subject goods in their respective, contrasting manufacturing processes and obtained evidence of the standard unit consumption of non-subject goods, the Commission was satisfied that the methodology did not result in an artificial distortion of the actual costs reported for the goods under investigation.

As noted at section 5.1 in the *Exporter Visit Report*, "when raw materials are entered to production, the weighted average cost is transferred to the cost of production ledger." The Commission considers that the use of a weighted average cost methodology for raw materials is a common accounting approach, and was being used by the members of the Guilin Group in accordance with generally accepted accounting principles. The Commission considered the Guilin Group approach was reasonable in the circumstances, noting that:

- the Guilin Group only manufactured the goods to order;
- copper, the most expensive raw material and the one most subject to movements in price, was able to be purchased at short notice in response to production scheduling requirements;
- there was a relatively short period of time between the purchase of copper and that copper entering production; and
- the Guilin Group maintained low levels of both raw material stocks and finished goods.

In any event, the small time lag between the purchase of the copper and the value recorded as entering production (being the weighted average) would simply result in fluctuations, both up and down, in line with copper prices throughout the investigation period. Accordingly, the Commission considers that the use of the weighted average costing methodology for raw materials is reasonable.

The Commission is not entirely clear as to the argument being made by the Applicant regarding the relationship between the volume of raw material actually consumed and therefore the need to make adjustments to the normal value. These matters appear to be addressed in greater detail in claims 3 and 4 and the Commission has therefore made further comments in the following pages. However, the Commission makes the following general observations.

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[5] Similarly, the cost of packaging (e.g. plastic reels) was not recorded as a separate item in the CTMS worksheet and was not explicitly addressed in the *Exporter Visit Report*, but was verified by the Commission as having been included in the cost of production worksheet.

[6] Section 5.2.5 of the *Exporter Visit Report* refers, page 32.

By virtue of having undertaken the verification process, the Commission determined that the data presented by the Guilin Group (for the purpose of examining whether dumping had occurred) was complete, accurate and relevant; it was of a sufficient quality and was considered to be reliable.

The Commission understands that there is a minimum theoretical volume of copper and PVC which must be present in the goods under consideration in order to satisfy the requirements of the Australian Standard.[7] The Commission has evidence (provided by the Applicant) which indicates that the Applicant's product has a lower volume of copper and PVC than the product manufactured by the Guilin Group.

Given the inherent variability in manufacturing processes, the Commission is satisfied that neither the Applicant nor the Guilin Group is able to consistently use exactly the same volume of copper and PVC in every metre of product, and that neither is able to reliably produce cable which contains exactly those minimum theoretical volumes.

At no stage has the Commission found or implied that the products exported by the Guilin Group do not meet the Australian Standard.

## 3. The Commissioner has erred in his calculation of the cost of production and manufacture of the GUC – copper

The Applicant claims that the Commission has failed to accurately verify the copper cathode premium, associated credit costs and freight delivery costs.

The Applicant claims that the Commission has not verified the actual quantity of copper used in the goods under consideration, and has erred by accepting the verified costs notwithstanding the apparent discrepancy between those verified costs for copper and the evidence submitted by the applicant. The Commission has relied on the "averaging" of all manufacturing cost inputs, leading to an incorrect conclusion.

### *Comments by the Commission*

The Commission previously examined the Applicant's claim that the Commission failed to correctly verify the cost of copper in *TER 271*. The Commission found at that time that there was no evidence which supported a view that the verified data was incomplete or otherwise unsuitable for the calculation of normal values.

In terms of the three cost components that the Applicant claims that the Commission failed to verify:

- the copper costs verified by the Commission were [redacted] **[delivery terms]** inclusive of the premium;
- relevant financing costs were captured in the selling, general and administrative (SG&A) costs and appropriately allocated to the goods;
- the *Exporter Visit Report* notes (at section 4.1.4) that the Guilin Group uses its own trucks to collect raw materials; the Commission reported that it was satisfied that these costs were captured in the relevant accounts and were therefore also incorporated in the normal value calculation.

[7] Australian / New Zealand Standard AS/NZS 5000.2

The Commission also compared the verified cost of the Guilin Group's copper purchases with the copper costs anticipated by the Applicant. This analysis was contained in *TER 271*, Confidential Appendix 3, and did not cause the Commission to doubt the accuracy of the verified costs.

With regard to copper volumes, the Commission has compared the standard and actual consumption of copper by both the Applicant and the Guilin Group and their respective accounting practices. The Commission has also had regard to the evidence presented by the Applicant regarding its measurement of copper usage in both products. These comparisons occurred throughout the investigation, but were not formally incorporated into TER 271 as they were not considered to be relevant at the time.

The Commission has verified that the copper costs were accurate, were correctly allocated to the goods and that the Guilin Group and the Applicant were not paying identical prices for copper. Accordingly, the discrepancy between the Applicant's copper usage and that of the Guilin Group has less significance than the Applicant contends.

The Commission's calculation methodology has been explained in the *Exporter Visit Report*, and any averages used have been clearly specified. Apart from using the weighted average cost of copper (as discussed above with respect to claim 2), no "averaging of all manufacturing cost inputs" has occurred.

## 4. The Commissioner has erred in his calculation of the cost of production and manufacture of the GUC – PVC

The Applicant claims that the Commissioner has erred by using PVC spot prices as a benchmark / surrogate because they would not be representative of longer term contractual prices.

The Applicant claims that the Commissioner has not accurately verified the quantity of PVC used in the manufacture of the goods, and has therefore erred in calculating the actual cost of production.

### *Comments by the Commission*

The Commission previously examined the Applicant's claim that the Commission failed to correctly verify the cost of PVC in *TER 271*. The Commission found at that time that there was no evidence which supported a view that the verified data was incomplete or otherwise unsuitable for the calculation of normal values.

The analysis of spot prices (referred to as Confidential Appendix 4 in *TER 271*) was undertaken solely for the purpose of examining whether the actual, verified costs of PVC were somehow unreliable (as was alleged by the Applicant). The information on spot prices was purchased by the Commission, and was the best available independent evidence obtained during the investigation with which to compare PVC prices in China with the actual prices paid by the Guilin Group. That analysis did not cause the Commission to doubt the reliability of the Guilin Group's data.

The Commission therefore relied on the actual, verified costs of PVC for the purpose of calculating constructed normal values.

With regard to PVC volumes, the Commission has compared the standard and actual consumption of PVC by both the Applicant and the Guilin Group and their respective accounting practices. The Commission has also had regard to the evidence presented by the Applicant regarding its measurement of PVC usage in both products. These comparisons occurred throughout the investigation, but were not formally incorporated into *TER 271* as they were not considered to be relevant at the time.

The Commission has verified that the PVC costs were accurate, were correctly allocated to the goods and that the Guilin Group and the Applicant were not paying identical prices for PVC. Accordingly, the discrepancy between the Applicant's PVC usage and that of the Guilin Group has less significance than the Applicant contends.

## 5. The Commissioner has erred in his calculation of the cost of production and manufacture of the GUC – Treatment of hedging gains or losses

The Applicant claims that the Commissioner has erred by not having regard to the treatment of hedging gains or losses earned or incurred by the Guilin Group.

### *Comments by the Commission*

The Commission has had appropriate regard to the treatment of hedging gains or losses. As noted in the *Exporter Visit Report* at section 8.3.3, no adjustments were made to the constructed normal value for any gains or losses associated with foreign exchange. Furthermore, the selling, general and administrative costs calculation (referred to at section 5.5) also included any relevant financial costs.

Furthermore, no hedging gains or losses were included in the cost of production, as the Commission obtained no evidence which indicated that the Guilin Group engaged in hedging activities relevant to material costs during the investigation period.