

Required information:

- 1. Provide details of the name, street and postal address, of the applicant seeking the inquiry.**

The applicant is Bekaert Wire Ropes Pty Ltd trading as BBRG Australia. Contact details for BBRG Australia are as follows:

BBRG Australia
2 George Street
Mayfield East, NSW 2304

BBRG Australia's postal address is as follows:

P.O. Box 515
Mayfield, NSW 2304

- 2. Provide details of the name of a contact person, including their position, telephone number and facsimile number, and email address.**

The relevant contact person at BBRG Australia is:

Mr Stuart Callender
Vice President Oceania
2 George Street
Mayfield East, NSW 2304

Tel: (02) 4968 6500
Email: stuart.callender@bridon-bekaert.com

- 3. Provide known names, addresses, telephone and facsimile numbers of other parties likely to have an interest in this matter, e.g., Australian manufacturers, importers, exporters and end-users.**

Other parties that are likely to have an interest in this matter include:

The South African exporter of the subject goods:

Scaw South Africa (Proprietary) Limited (Scaw S A)
Lower Germiston Road
Heriotdale
Johannesburg 2022 Gauteng
Tel: 011 621 1555
Fax: 011 621 1590

Postal address for Scaw:

P. O. Box 61721
Marshalltown
Johannesburg 2107

The Australian importer of the subject goods:

Haggie Reid Pty Ltd
96 Forrester Road
St Marys NSW 2760
Tel: (02) 9673 8100
Fax: (02) 9673 8123

4. Provide a description of the kind of goods that are the subject of the original notice.

The goods as described in the notice are stranded wire rope, alloy or non-alloy steel, whether or not impregnated, having both of the following:

- Not greater than 8 strands;
- Diameter not less than 58mm and not greater than 200mm,

with or without attachments.

Further information concerning the goods as provided for in Report No. 401 ("Report 401"). This includes the following information about the goods the subject of the application:

- (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 ferules and/or beackets).*
- (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 as dragline hoist, drag and dump ropes, and shovel hoist, crowd and retract ropes.

Goods excluded from the goods coverage are:

- *Stranded wire rope that is stainless steel, as defined under Note (e) "Stainless steel" to the Tariff;*
- *Stranded wire rope with more than 8 strands, regardless of diameter; and*
- *Stranded wire rope less than 58mm or greater than 200mm in diameter, regardless of the number of strands.*

5. Provide a description of the original notice, including:

- Whether the notice was a dumping and/or countervailing notice;
- The tariff classification of the goods;
- The countries and/or exporters covered by the notice; and
- The date of publication of the notice.

The notice dated 16 December 2017 and signed by the then Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science, applied dumping measures only on exports of wire rope from the Republic of South Africa.

The wire rope is classified to tariff subheading 7312.10.00 statistical codes 91 and 92.

The notice covers “All exporters” of wire rope to Australia from South Africa.

Please refer to Non-Confidential Attachment 1 for a copy of Anti-Dumping Notice No. 2017/72 detailing the Public Notice under subsections 269TG(1) and (2) of *the Customs Act 1901* applicable to wire rope exported to Australia from the Republic of South Africa

6. Provide a detailed statement regarding the circumvention activities in relation to the original notice that you consider have occurred. Applicants must provide evidence to support your view that there are reasonable grounds for asserting that one or more circumvention activities in relation to the notice have occurred.

I. Background

On 10 March 2017, BBRG Australia formally lodged an application for anti-dumping measures in respect of wire ropes exported from the Republic of South Africa (“South Africa”). On 26 April 2017 the Commissioner commenced an investigation into BBRG Australia’s allegations of dumping, material injury and causal link of the wire exported to Australia from South Africa.

Following investigation, the Commissioner recommended to the Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science (“Assistant Minister”) that a dumping duty notice be published in respect of all exports from South Africa.

The Assistant Minister’s decision was made on 16 December 2017 (refer ADN 2017/72).

The anti-dumping measures applied by the Assistant Minister were imposed on stranded wire rope, alloy or non-alloy steel, whether or not impregnated, having both of the following:

- Not greater than 8 strands;
- Diameter not less than 58mm and not greater than 200mm,

with or without attachments.

The investigation by the Anti-Dumping Commission (“the Commission”) established that wire rope (i.e. the goods) exported from South Africa was with a weighted-average dumping margin of 39.7 per cent. The Commission also established a non-injurious price (“NIP”) for the goods exported from South Africa as the NIP was lower than the normal value. The difference between the weighted-average export price and weighted average NIP resulted in a ‘lesser-duty’ margin of 28.9 per cent.

II. Market developments subsequent to Assistant Minister’s decision

The Commission published Statement of Essential Facts (SEF) and Preliminary Affirmative Determination (PAD) No. 401 on 14 August 2017. In SEF & PAD 401, the Commission stated:

“The Commissioner is satisfied that securities are necessary to prevent material injury to the Australian industry occurring while the investigation continues. Accordingly, the Commissioner considers that the Commonwealth should require and take securities under section 42 in respect of IDD that may become payable in relation to wire rope exported to Australia from South Africa.

Securities will apply to all imports of wire rope entered for home consumption on or after 16 August 2017. The securities applicable to the goods exported to Australia from South Africa are tabulated below.

Country	Exporter/ Manufacturer	Duty Method	Fixed component of securities (<i>ad valorem</i>)	Variable component of securities
South Africa	All exporters	Combination method	28.9%	Applicable where the actual export price is below the ascertained export price

The provisional measures (i.e. securities) were effective from 16 August 2017.

The Australian importer, Haggie Reid, had sufficient stock, imported prior to this date to enable it to trade on imports from South Africa for some months. Some stock that was imported prior to the imposition of provisional measures remains on customer's mine site unused.

In November 2017, BBRG Australia became aware of Haggie Reid promoting a 9 strand wire rope (as evidenced by the product brochure at Confidential Attachment 2). To BBRG Australia's understanding, the Scaw 9 strand wire rope was first promoted [*company and mine name*] mine¹ in Queensland in November 2017. It subsequently became apparent to BBRG Australia that the Innov 9 brochure was being used as a promotional tool at other mines in Queensland and New South Wales.

The newly-promoted 9 strand wire rope was introduced to ensure Haggie Reid circumvented the anti-dumping measures that applied to wire ropes of 6 to 8 strand exported from South Africa.

BBRG Australia understands that Haggie Reid used the promotional literature (and promotional hats) into the Australian market to overcome the impost from the anti-dumping measures on 6 to 8 strand wire ropes. This feedback was provided to BBRG Australia via a [*company and mine name*]. It is also BBRG Australia's understanding that Scaw conducted drag rope trials at [*company name*] South African mine [*mine name*] in the fourth quarter of 2017, as well as at the [*name*] mine (owned by *company name*).

The feedback provided to BBRG Australia was that Haggie could not be price competitive with the 6 to 8 strand wire rope due to the imposition of the anti-dumping measures – hence the marketing pitch for a 9 strand rope.

Subsequent to the introduction of the 9 strand wire rope offerings at the [*name*] mine, BBRG Australia has monitored events on this matter closely. The following developments have occurred:

- 12 December 2017 – Inno 9 brochure reported in South Africa;
- 10 January 2018 – [*company name and mine*] representative informs BBRG Australia's Field Services Manager that Haggie Reid would be supplying 9 strand ropes to [*company name and mine*] mine;
- 21 February 2018 – [*summary of pricing negotiations with customer and supply alternatives*];
- 3 March 2018 – [*source*] in South Africa confirms that Scaw has trialled 2 sets of drag ropes at [*mine name*] mine in South Africa (Confidential Attachment 4);
- 9 March 2018 – BBRG Australia sights promotional '9 strand' cap at mine sites;

¹ *Name* mine is now owned by *Company*.

- 22 March 2018 – [Name] mine seeks a commercial offer from BBRG Australia. [Commercially sensitive supply negotiations with customer including of competitive imports]
- 17 April 2018 – [Commercially sensitive supply negotiations with customer including of competitive imports]

(refer Meeting Notes at Confidential Attachment 5);
- 26 April 2018 – search of Haggie Reid website identifies technical article indicating 9 strand ropes are 20 per cent weaker than 6 strand ropes and not suitable in “crush” applications (Non-Confidential Attachment 6);
- 2 May 2018 – BBRG Australia Sales and Marketing Manager met with [Company] representative, [name]. [Name] confirmed that 9 strand rope was the preferred (potentially only) commercially viable product being made available to [company and mine name] (refer discussion notes at Confidential Attachment 7);
- 3 May 2018 – BBRG Australia Field Services Manager provided recollection of two conversations (one with *nominee*) that “that the 9 strand rope was being introduced because of the dumping claims brought by us” (i.e. BBRG Australia) – refer Confidential Attachment 8;
- 17 May 2018 – [Company name] mine confirms that they will not proceed with sourcing from BBRG Australia and will instead source 9 strand dragline rope from Haggie Reid, [Details of confidential negotiations]

(refer Confidential Attachment 9);
- 21 May 2018 – Haggie Reid notifies of a xx percent increase at [Name] mine to \$xxxx for a 9 strand rope (see Confidential Attachment 10);
- 21 May 2018 – (Name) mine confirms it is phasing in 9 strand ropes sourced from Haggie Reid due to the cost impost on 6 & 8 strand ropes makes them “not economical/profitable” (refer Confidential Attachment 11);

Summary of lost sales volumes to 9 strand rope

The switch by Haggie Reid to replace imported 6 & 8 strand drag, dump and hoist ropes with 9 strand offerings has materially impacted BBRG Australia’s future supply volumes. Across the three mines where the 9 strand ropes have been introduced (i.e. *Mine name*, *Mine name*, *Mine name*), BBRG Australia has lost an estimated xxx tonnes of rope per annum that would be supplied from Australian production at BBRG Australia’s Mayfield facility.

A summary of the volumes for each of the hoist, drag and dump products, by mine site, is included at Confidential Attachment 12.

BBRG Australia was notified on 6 June 2018 that it would lose xxx tonnes to imported 9 strand dragline ropes at the [Name] mine, a [company] coal mine in Queensland.

BBRG Australia submits that the introduction of 9 strand hoist, drag and dump ropes by Haggie Reid involves an anti-circumvention activity as prescribed for in Regulation 183A.

III. Circumvention Regulation 183A

Subsection 269ZDBB of Division 5A of the *Customs Act* contains the anti-circumvention activities that include:

- the assembly of parts in Australia;
- the assembly of parts in a third country;
- the export of goods through one or more third countries;
- arrangements put in place between exporters in the exporting country; and
- the avoidance of the intended effect of the duties.

Regulation 183A also addresses the “slight modification” of goods as a circumvention activity. Specifically, Regulation 183A reads as follows:

“183A *Circumvention activities*

- (1) *For subsection 269ZDBB(6) of the Act, the circumstances set out in sub-regulation (2) of this regulation are prescribed.*

Slight modification of goods exported to Australia

- (2) *The following circumstances apply:*

- (a) *goods (the circumvention goods) are exported to Australia from a foreign country in respect of which the notice applies;*
- (b) *before the export, the circumvention goods are slightly modified;*
- (c) *the use or purpose of the circumvention goods is the same before, and after, they are so slightly modified;*
- (d) *had the circumvention goods not been so slightly modified, they would have been the subject of the notice;*
- (e) *section 8 or 10 of the Customs Tariff (Anti-Dumping) Act 1975, as the case requires, does not apply to the export of the circumvention goods to Australia.*

- (3) *For the purpose of determining whether a circumvention good is slightly modified, the Commissioner must compare the circumvention good and the good the subject of the notice, having regard to any factor that the Commissioner considers relevant, including any of the following factors:*

- (a) *each good’s general physical characteristics;*
- (b) *each good’s end use;*
- (c) *the interchangeability of each good;*
- (d) *differences in the processes used to produce each good;*
- (e) *differences in the cost to produce each good;*
- (f) *the cost of modification;*
- (g) *customer preferences and expectations relating to each good;*
- (h) *the way in which each good is marketed;*
- (i) *channels of trade and distribution for each good;*
- (j) *patterns of trade for each good;*
- (k) *changes in the pricing of each good;*
- (l) *changes in the export volumes for each good;*
- (m) *tariff classifications and statistical codes for each good.”*

Regulation 183A is aimed at addressing the preparedness of exporters to slightly modify goods so that the modified goods evade or avoid applicable anti-dumping duties in Australia.

IV. Slightly-modified exports of wire rope from South Africa

BBRG Australia contends that 9 strand wire rope exported to Australia from South Africa is a slightly modified good that, except for the slight modification employed in manufacture, would otherwise be the subject of the anti-dumping measures applied by the Assistant Minister on 16 December 2017.

The imported 9 strand wire rope is alike to 6 & 8 strand wire ropes previously sourced from South Africa and manufactured in Australia by BBRG Australia. The 9 strand wire ropes are classified to the same subheading classification as 6 & 8 strand ropes – 7312.10.00 statistical codes 90 and 91. The subheading classification does not differentiate between the number of strands in the wire rope.

It is BBRG Australia's contention that the essential characteristics of the 9 strand wire ropes are the same as imported 6 & 8 strand wire ropes and 6 & 8 strand locally produced wire ropes. The imported 9 strand wire ropes have the same essential characteristics as locally produced 6 & 8 strand wire ropes in the following areas:

(i) *Physical likeness*

- 6 & 8 strand wire rope manufactured by BBRG Australia have a physical likeness to the imported 9 strand wire rope exported from South Africa;

(ii) *Commercial likeness*

- BBRG Australia's 6 & 8 strand wire rope and the imported 9 strand wire rope are commercially alike as they are sold to common users and directly compete in the same market;
- The imported 9 strand wire rope is used in applications where until the imposition of measures 6 & 8 strand wire rope was used (from locally produced and import sources);
- The locally produced wire rope and the imported 9 strand wire rope are offered for sale into the market via similar channels and on similar commercial terms and conditions;

(iii) *Functional likeness*

- Both the locally produced and imported wire ropes have identical end-uses;

(iv) *Production likeness*

- The locally produced goods and the imported goods are manufactured in a very similar manner and via similar production processes.

It can therefore be concluded that the goods manufactured by BBRG Australia are like goods to the imported 9 strand wire rope.

BBRG Australia has identified in this application the circumvention activity involving the substitution of 9 strand wire rope (not previously sold in the Australian market or globally prior to the imposition of measures) for traditional 6 & 8 strand wire rope in host, drag and dump rope end-use applications.

It is BBRG Australia's assessment that the production cost of an additional wire strand (i.e. from 8 to 9 strands) represents an approximate additional cost of up to approximately xx per cent production cost to slightly modify the goods to fall outside the scope of the goods description covered by the current anti-dumping measures.

Sub-Regulation 183A (2) requires that the following circumstances apply:

- (i) The goods (the circumvention goods) are exported to Australia from a foreign country in respect of which the notice applies;
- (ii) Before that export, the circumvention goods are slightly modified;
- (iii) The use of purpose of the circumvention goods is the same before, and after, they are slightly modified;
- (iv) had the circumvention goods not been so slightly modified, they would have been the subject of the notice;
- (v) section 8 or 10 of the *Customs Tariff (Anti-Dumping) Act 1975*, as the case requires, does not apply to the export of the circumvention goods to Australia.

BBRG Australia has demonstrated that the imported modified goods have the same essential characteristics as traditional 6 & 8 strand wire rope. Additionally, but for the slight modification, the dumping duty notice would apply to the exported 9 strand wire rope from South Africa and the end-uses in the market has remained the same.

BBRG Australia submits that the exported slightly modified goods from South Africa meets the requirements of Sub-Regulation 183A (2).

For the purpose of determining whether the circumvention good is slightly modified, the Commissioner is required to contrast the circumvention goods with the goods the subject of the dumping notice. BBRG Australia has compared and contrasted the slightly modified goods with the traditional 6 & 8 strand wire rope and considers it can be demonstrated that:

- the circumvention goods and the goods the subject of the notice have the same general physical characteristics – the only difference being the circumvention goods are 9 strand wire rope that perform the same function as the previously imported 6 & 8 strand wire rope;
- the circumvention goods and the goods the subject of the notice have the same end-use applications. The end-uses are hoist, drag and dump ropes, that have not altered since the publication of the notice;
- the circumvention goods and the goods the subject of the notice can be used interchangeably;
- the production process to manufacture the circumvention goods and the goods the subject of the application are similar;
- the differences in the cost of production of the circumvention good and the goods the subject of the notice is estimated at approximately xx per cent. This cost differential is sufficiently low to enable the exporter to avoid and/or evade the measures on the traditionally exported 6 & 8 strand wire ropes;
- the cost of modification of the circumvented goods when contrasted with the goods the subject of the notice is not significant when considered in the context of a \$ per tonne basis (with the exporter seeking an approx. xx per cent increase on previous 6 strand ropes and xx per cent increase on 8 strand ropes, in the revised new 9 strand wire rope selling price). It is noteworthy that international high carbon steel rod costs (used by all steel wire rope manufacturers) have increased by approximately xx per cent or A\$xxx per tonne over the period January 2016 to May 2018 (refer to Confidential Attachment 13);
- the customer preferences and expectations relating to the circumvented good and the goods the subject of the notice are the same;
- the circumvention goods and the goods the subject of the notice are marketed in the same manner as previous to the publication of the notice;
- the channels of trade and distribution for the circumvention goods and the goods the subject of the notice are the same (i.e. same importer as during original investigation period in Investigation 401);
- the patterns of trade for the circumvention good from South Africa is such that 9 strand wire ropes exported to Australia will substitute the 6 & 8 strand ropes that are the subject of the notice;
- the circumvention goods have only been offered by the importer post the publication of the notice;
- exports to Australia of the circumvention goods are expected to replace previous

export volumes of dumped 6 & 8 strand wire rope from South Africa; and

- the circumvention goods are entered under the same tariff classification subheading as the goods the subject of the notice (i.e. 7312.20.00 statistical codes 91 and 92).

Additionally, BBRG Australia contends that if you were to sight the 8 strand rope and 9 strand rope laid out in front of you, it would be difficult to differentiate between the two ropes (as diameter and appearance are the same).

The available evidence is indicative that following consideration of the factors identified at Sub-Regulation 183A (3), there is sufficient persuasive evidence available to the Commissioner to conclude that the exported goods (i.e. 9 strand wire rope) can be correctly identified as the circumvention goods.

From the available market intelligence that BBRG Australia has obtained and examined, it is apparent that the South African exporter Scaw SA has sought to replace past exports of 6 & 8 strand wire rope the subject of anti-dumping measures with the circumvention goods. It is apparent that the impost of the anti-dumping measure is sufficient to deter the exporter from supplying at undumped prices and that in order to maintain export sales to Australia, the exporter has slightly modified the industry standard 6 & 8 strand rope design to supply the circumvention goods. The circumvention goods, however, are used in exactly the same end-use applications and perform the same functions as the locally produced goods and the goods the subject of the notice.

The export of the circumvention goods to Australia has resulted in the continuation of material injury to the Australian industry. BBRG Australia has estimated that it has lost future sales of wire rope to the circumvention goods of approximately xxx tonnes per annum, with further lost sales tonnes (and depressed prices) likely to follow as customers seek-out the circumvention goods (that are at dumped prices). Although the 9 strand rope is reportedly offered at a higher price to Haggie Reid's 6 & 8 strand rope as confirmed in the limited market feedback, raw material steel rod prices have increased substantially since January 2016, with 9 strand rope having slightly higher costs to produce than 6 & 8 strand wire ropes.

V. Request for Inquiry

BBRG Australia submits that slightly modified 9-strand wire rope exported from South Africa to Australia is a circumvention good. The circumvention good possesses the same essential characteristics as 6 & 8 strand wire rope and is used in the same end-use application as the goods the subject of an anti-dumping notice signed by the Assistant Minister on 16 December 2017.

BBRG Australia manufactures like goods to the circumvented goods. The circumvention goods have been slightly modified to alter the construct of the wire rope to a 9 strand wire rope (not previously used by open cut mining customers in the Australian market) so as to avoid and/or evade the anti-dumping measures that apply to all exports of wire rope with eight or less strands from South Africa to Australia.

BBRG Australia has demonstrated in this application that it has suffered lost sales volumes and is currently restricted in its ability to increase prices due to the circumvention goods and that a broadening of the scope of the goods description to include 9 strand wire rope is required to ensure these goods are also covered by the notice and that the Australian industry is not exposed to further material injury from dumping.

BBRG Australia requests the Commissioner to commence an anti-circumvention inquiry into the export of the slightly-modified circumvention goods (i.e. 9 strand wire rope) from South Africa. It is BBRG Australia's contention that the introduction of the circumvention goods by the South African exporter is intended to avoid and evade the anti-dumping measures applicable to exports of 6 & 8 strand wire rope from South Africa. It is BBRG Australia's view that unless the Commissioner commences an anti-circumvention investigation as early as practicable, BBRG Australia will sustain further sales losses of locally produced 6 & 8 strand wire rope to the circumvention goods. It is therefore critical for the Commissioner to commence an investigation into the circumvention activity no later than 20 days following receipt of this application.

BBRG Australia welcomes any questions concerning this application from the Anti-Dumping Commission.

7. Provide a description of the alternatives to the original notice that you consider should be made.

BBRG Australia proposes the following amended wording to the original notice to address the anti-circumvention activities:

“Stranded wire rope, alloy or non-alloy steel, whether or not impregnated, having both of the following:

- *No more than 10 strands;*
- *Diameter not less than 58mm and not greater than 200mm,*

with or without attachments”.

8. Please refer to the ‘Instructions and Guidelines for applicants: Application for an anti-circumvention inquiry’ for further information on completing questions 6 and 7.

Provision of data

Industry financial data must, wherever possible, be submitted in an electronic format.

- The data should be submitted on a media format compatible with Microsoft Windows.
- Microsoft Excel, or an Excel compatible format, is required.
- If the data cannot be presented electronically please contact the Commission’s Client Support section for advice.

Lodgement of the Application

This application, together with the supporting evidence, must be lodged in the manner approved by the Commissioner under subsection 269SMS(2) of the Act. The Commissioner has approved lodgement of this application by either:

- Preferably, email, using the email address clientsupport@adcommission.gov.au, or
- Post to:

The Commissioner of the Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601, or

- Facsimile, using the number (03) 8539 2499.

Public Record

During an inquiry all interested parties are given the opportunity to defend their interests, by making a submission. The Commission maintains a public record of these submissions. The public record is available on the Commission’s website at www.adcommission.gov.au

At the time of making the application both a confidential version (for official use only) and non-confidential version (public record) of the application must be submitted. Please ensure each page of the application is clearly marked “FOR OFFICIAL USE ONLY” or “PUBLIC RECORD”. The non-confidential application should enable a reasonable understanding of the substance of the information

submitted in confidence, clearly showing the reasons for seeking the inquiry, or, if those reasons cannot be summarised, a statement of reasons why summarisation is not possible. If you cannot provide a non-confidential version, contact the Commission's Client Support section for advice.

List of Attachments

Attach No.	Description	Confidential
1	ADN No 2017/72	Non-Confidential
2	Inno 9 Brochure	Confidential
3	<i>Company</i> prices – 6, 8 & 9 strand ropes	Confidential
4	Email correspondence re South African trials	Confidential
5	Meeting Notes	Confidential
6	Scaw Document	Non-Confidential
7	Meeting Notes	Confidential
8	File Note	Confidential
9	Customer notification	Confidential
10	Notification of price increase	Confidential
11	Customer notification	Confidential
12	Summary of lost sales	Confidential
13	{Name} Steel rod prices	Confidential