PUBLIC RECORD

Australian Government
Department of Industry, Innovation and Science

Anti-Dumping Commission

CUSTOMS ACT 1901 - PART XVB

CONSIDERATION REPORT NO. 383

CONSIDERATION OF APPLICATION FOR
REVIEW OF ANTI-DUMPING MEASURES APPLYING TO

POWER TRANSFORMERS

EXPORTED TO AUSTRALIA from THE REPUBLIC OF INDONESIA
by

PT CG Power Systems Indonesia

NOVEMBER 2016

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1. SUMMARY AND RECOMMENDATION

1.1. BACKGROUND

This report provides the results of the Anti-Dumping Commission's (the Commission's) consideration of an application lodged by PT CG Power Systems Indonesia (CG Power) for a review of anti-dumping measures in the form of a dumping duty notice relevant to its exports of power transformers exported to Australia from the Republic of Indonesia.

The applicant has applied for a review of the anti-dumping measures because one or more of the variable factors relevant to the taking of the anti-dumping measures applying to CG Power have changed, being the export price, normal value and non-injurious price.

1.2. RECOMMENDATION

The Commission recommends that the Commissioner of the Anti-Dumping Commission (the Commissioner) not reject the application for the reasons provided in Chapter 3 of this report and initiate a review into the anti-dumping measures in so far as they relate to CG Power.

1.3. LEGISLATIVE BACKGROUND

Division 5 of Part XVB of the *Customs Act 1901*[1] sets out, among other things, the procedures to be followed by the Commissioner in dealing with an application for a review of anti-dumping measures.

Division 5 empowers the Commissioner to reject an application for review of anti-dumping measures if he is not satisfied of certain matters. If the Commissioner does not reject an application, he is required to publish a notice indicating that he is proposing to review the anti-dumping measures covered by the application.

1.4. FINDINGS AND CONCLUSIONS

Based on the findings outlined in this report, the Commission is satisfied that:

- the application complies with subsections 269ZB(1) and (2); and
- there appear to be reasonable grounds for asserting that the variable factors relevant to the taking of anti-dumping measures applying to CG Power have changed.

Accordingly, the Commission recommends that the Commissioner not reject the application.

1 All legislative references in this report are to the *Customs Act 1901*, unless otherwise specified.

2. BACKGROUND

2.1. History of the existing anti-dumping measures

2.1.1. Original investigation

On 29 July 2013, an investigation (the original investigation) into the alleged dumping of power transformers exported to Australia from the People's Republic of China (China), the Republic of Indonesia (Indonesia), the Republic of Korea (Korea), Taiwan, the Kingdom of Thailand (Thailand) and the Socialist Republic of Vietnam (Vietnam) was initiated following an application lodged by Wilson Transformer Company Pty Ltd (WTC).

On 1 December 2014, the Commissioner of the Anti-Dumping Commission (the Commissioner) terminated the investigation so far as it related to the goods exported by certain exporters in China, Indonesia and Korea and so far as it related to China and Korea.[2]

The Commissioner reported his findings and recommendations to the former Parliamentary Secretary to the former Minister for Industry in *Final Report No 219,* which found that:

- power transformers exported to Australia from Indonesia (except PT Unelec Indonesia), Taiwan, Thailand and Vietnam were dumped with margins ranging from 3.6 to 39.1 per cent;
- the dumped exports caused material injury to the Australian industry producing like goods; and
- continued dumping may cause further material injury to the Australian industry.

The former Parliamentary Secretary to the Minister for Industry accepted the recommendations and, on 10 December 2014, published a dumping duty notice in the *Commonwealth* Gazette.

Following review by the Anti-Dumping Review Panel, the former Parliamentary Secretary to the Minister for Industry, Innovation and Science revoked the decision to publish a dumping duty notice to the extent it applied to the goods exported to Australia by ABB Thailand, ABB Vietnam and all other Vietnamese exporters.

2.1.2. Findings in relation to CG Power from the original investigation

In the original investigation, the Commissioner considered CG Power to be an uncooperative exporter as defined in subsection 269T(1) because CG Power did not provide the Commission with relevant information for the purposes of the investigation.

CG Power's dumping margin was determined under subsection 269TACB(2)(b) using the *transaction to transaction* method during the investigation which was based on:

- in accordance with subsection 269TACAB(1)(d), an export price determined under 269TAB(3) having regard to all relevant information, being information provided by the applicant, WTC; and

[2] *Anti-Dumping Notice No. 2014/130*

- in accordance with subsection 269TACAB(1)(e), a normal value determined under subsection 269TAC(6) having regard to all relevant information, being information provided by the applicant, WTC, with adjustments to reflect cost differences between Indonesia and Australia.

The Commissioner determined that, in the absence of an appropriate method for establishing the unsuppressed selling price, the non-injurious price be set by reference to the exporter's corresponding normal value.

2.2. THE CURRENT APPLICATION

On 13 October 2016, an application was lodged by CG Power requesting a review of the anti-dumping measures in relation to its exports of power transformers to Australia from Indonesia.

The application claims that there has been a change in the variable factors (being the export price, normal value and non-injurious price) relevant to the taking of the anti-dumping measures in so far as they relate to CG Power.

The application is not prevented by subsection 269ZA(2)(a), which provides that an application for review must not be made earlier than 12 months after the publication of the dumping duty notice, or a notice declaring the outcome of the last review of the dumping duty notice.

Pursuant to subsection 269ZC(1), the Commissioner must, within 20 days after receiving the application, examine the application and decide whether to reject the application.

If the Commissioner is not satisfied, having regard to the application and to any other information that the Commissioner considers relevant, of one or more matters referred to in subsection 269ZC(2), the Commissioner must reject the application.

2.3. THE GOODS SUBJECT TO THE ANTI-DUMPING MEASURES

The goods subject to the anti-dumping measures (the goods) referred to in this report as 'power transformers' are:

> *liquid dielectric power transformers with power ratings of equal to or greater than 10 MVA (mega volt amperes) and a voltage rating of less than 500kV (kilo volts) whether assembled or unassembled, complete or incomplete.*

Incomplete power transformers are sub-assemblies consisting of the active part and any other parts attached to, imported with or invoiced with the active parts of power transformers. The active part of a power transformer consists of one or more of the following when attached to, or otherwise assembled with, one another:

- the steel core;
- the windings;
- electrical insulation between the windings; and
- the mechanical frame.

Gas filled, dry type and distribution transformers not included in the goods subject to the anti-dumping measures.

2.3.1. Tariff classification of the goods

Power transformers are classified to tariff subheadings 8504.22.00 (statistical code 40) and 8504.23.00 (statistical codes 26 and 41) of Schedule 3 to the *Customs Tariff Act 1995*.

The general rate of duty is 5 per cent and applies to power transformers imported from Taiwan. Power transformers from Indonesia, Thailand and Vietnam are duty free under the ASEAN-Australia-New Zealand free trade agreement.

2.4. Australian industry producing like goods

In the original investigation, the Commissioner found that:

- there was an Australian industry producing like goods; and
- at least one substantial process in the manufacture of like goods was carried out in Australia.

A review of WTC's product information on its website confirms that power transformers continue to be manufactured and offered for sale by an Australian industry. As such, the Commissioner is satisfied that there is an Australian industry producing like goods.

3. CONSIDERATION OF THE APPLICATION

3.1. Legislative background

Subsection 269ZB(1) requires that an application for review be in writing, be in a form approved by the Commissioner for the purposes of section 269ZB, contain such information as the form requires, be signed in the manner indicated by the form and be lodged in a manner approved under section 269SMS.

Without otherwise limiting the matters that can be required by the form to be included, subsection 269ZB(2) provides that the application must include:

- a description of the kind of goods to which the anti-dumping measures the subject of the application relate; and
- a description of the anti-dumping measures that are the subject of the application; and
- if the application is based on a change in variable factors, a statement of the opinion of the applicant concerning:
  - the variable factors relevant to the taking of the anti-dumping measures taken that have changed; and
  - the amount by which each such factor has changed; and
  - the information that establishes that amount; and
- if the application is based on circumstances that in the applicant's view indicate that anti-dumping measures are no longer warranted, evidence (in accordance with the form) of the circumstances.

Subsection 269ZC(2) specifies the matters which the Commissioner must consider in making a decision whether to reject or not reject the application. These matters are:

- that the application complies with section 269ZB; <u>and</u>
- that there appear to be reasonable grounds for asserting either, or both, of the following:
  - that the variable factors relevant to the taking of anti-dumping measures have changed;
  - that the anti-dumping measures are no longer warranted.

3.2. Assessment of the application – compliance with subsection 269ZC(2)(a)

When considering the requirements of subsections 269ZB(1) and (2), the Commission notes that the application:

- is in writing;
- is in the approved form (*Form B602 – Application for a review of measures*) and contains such information as the form requires;
- is signed in the manner required by the form;

- has been lodged in a manner approved under section 269SMS, being by email to the Commission's nominated email address (as nominated in the Commissioner's instrument made under section 269SMS);
- provides a description of the kind of goods to which the anti-dumping measures the subject of the application relate;
- provides a description of the anti-dumping measures the subject of the application; and
- includes a statement of the opinion of the applicant that the variable factors relevant to the taking of the anti-dumping measures have changed; the amount by which each factor has changed; and the information that establishes that amount.

Based on these factors, the Commission recommends that the Commissioner be satisfied that the application has satisfied the requirements of subsections 269ZB(1) and (2).

3.3. Assessment of the application – compliance with subsection 269ZC(2)(b)

In determining whether to reject an application under section 269ZC, the Commissioner must consider whether there appear to be reasonable grounds for asserting either, or both, of the following:

- that the variable factors relevant to the taking of anti-dumping measures have changed;
- that the anti-dumping measures are no longer warranted.

3.3.1. Ascertained export price and normal value

CG Power claims that the ascertained export price and ascertained normal value applying to CG Power have changed since the original investigation. The Commission has assessed the claims relating to export price and normal value together given that each claim is based on the same information provided in the application, being data relating to the cost to manufacture and selling price of power transformers.

In particular, the application claims that:

- copper represents a significant cost component in the manufacture of power transformers by CG Power; and
- a decrease in copper prices has decreased its cost to manufacture power transformers; and
- the decrease in cost to manufacture has lowered the ascertained export price and ascertained normal value applying to CG Power.

In order to assess the alleged change in the ascertained export price and ascertained normal value, the Commission has examined the following factors:

- the significance of copper as a raw material in the production of power transformers by CG Power;
- global copper price movements;

- a change in CG Power's cost to manufacture; and
- whether a change in CG Power's cost to manufacture correlates with a change in ascertained export price and ascertained normal value, as they apply to CG Power.

3.3.1.1. Significance of copper as a raw material

Applicant's claim

CG Power claims that copper, which is the key input to the windings component, represents a significant proportion of its cost to manufacture power transformers. CG Power provided a sample of cost and price calculation sheets (**Confidential Attachment 1**) and relevant commercial invoices (**Confidential Attachment 2**) to substantiate its claim.

The Commission's assessment

In the original investigation, the Commissioner found that the main cost components of power transformers are the electrical steel core and conductor windings. The Commissioner considered that the cost of the conductor windings component, typically made of copper taping, represents a significant proportion of the total cost to manufacture power transformers for exporters, and is therefore a significant cost component. [3]

In the original investigation, the Commissioner calculated CG Power's dumping margin with reference to information provided by the applicant, WTC. The Commissioner found that for power transformers manufactured by WTC:

- the conductor is made of copper; and
- the cost of copper represents a significant proportion of the total cost to manufacture. [4]

In its application, CG Power provided sample cost and price calculation sheets that identify the raw material and labour costs for each component of various power transformer types. These cost and price calculation sheets also indicate the final price for each power transformer, and CG Power provided relevant commercial invoices to verify these prices.

The cost and price calculation sheets provided by CG Power indicate that the copper taping that makes up the winding component of the power transformer represents a significant proportion of CG Power's total cost to manufacture. This is consistent with the findings in the original investigation related to WTC.

3.3.1.2. Global copper price movements

Applicant's claim

CG Power claimed that the price of copper has fallen significantly from July 2013 to June 2016. CG Power provided London Metal Exchange (LME) data to support its claim.

[3] Final Report No. 219, pp. 32 - 33

[4] Final Report No. 219, p. 78

The Commission's assessment

The Commission assessed the global copper price data provided by CG Power by examining trends in LME copper prices since the start of the investigation period of the original investigation. Figure 1 shows the Commission's comparison of the LME copper price (cash seller and settlement) during the proposed review period (July 2013 to June 2016) with the original investigation period (July 2010 to June 2013).

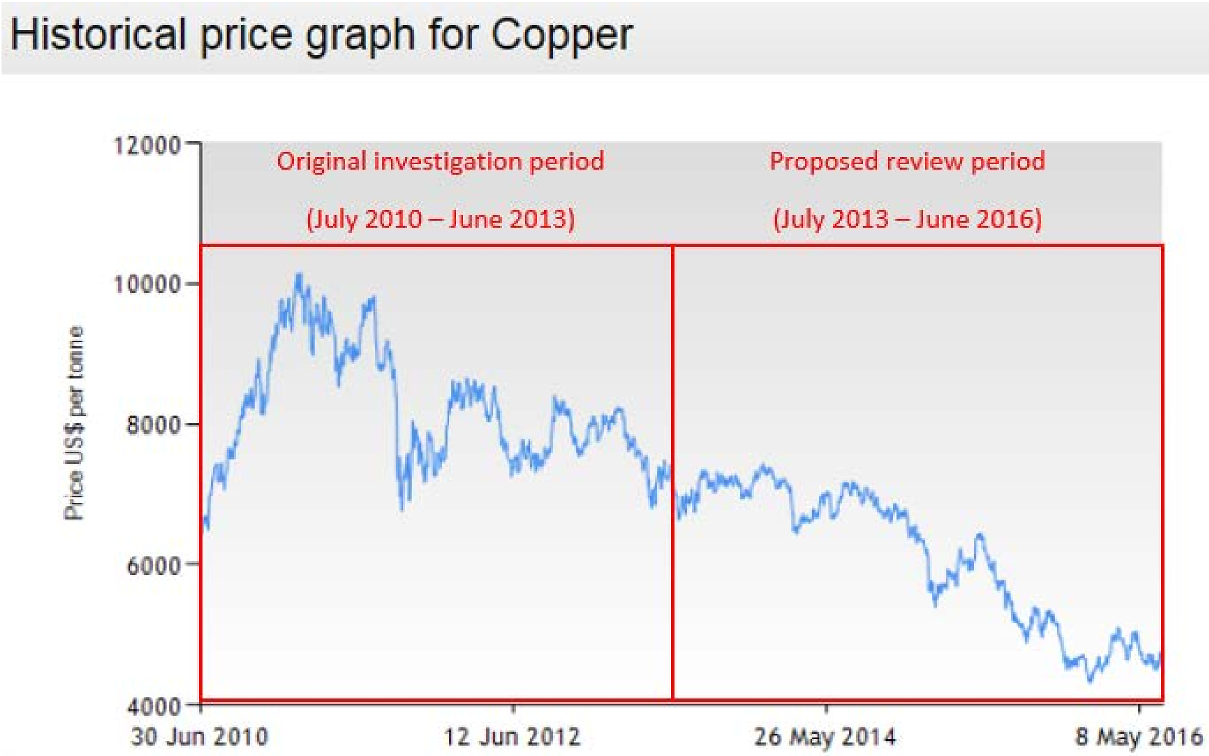

Figure 1: London Metal Exchange data: Copper Prices (cash seller and settlement) from 1 July 2013 to 30 June 2016

The Commission considers that the evidence provided by CG Power, supported by the Commission's price comparison, demonstrates a sustained decrease in global copper prices.

3.3.1.3. Change in CG Power's cost to manufacture

Applicant's claim

CG Power claimed that the decrease in the cost of copper would have resulted in a decrease in CG Power's cost to manufacture the windings component of its power transformers.

The Commission's assessment

The sample cost and price calculation sheets provided by CG Power identify the raw material and labour costs for each component of various power transformer types. These sheets also indicate the final price set by CG Power and its customer for each power transformer, and CG Power provided relevant commercial invoices to verify these prices. The sheets represent CG Power's cost to manufacture for each power transformer and the corresponding final price over the period 2012 to 2016.

The Commission considers that the information provided indicates that CG Power's cost to manufacture the windings component, which represent a significant cost component, has decreased from 2012 to 2016.

3.3.1.4. Change in CG Power's ascertained export price and ascertained normal value

Applicant's claim

CG Power claimed that a decrease in the cost to manufacture power transformers would be reflected in the selling price of power transformers.

The Commission's assessment

In the original investigation, the Commissioner found that the selling price of power transformers was largely cost driven. Based on the cost and price calculation sheets and relevant invoices provided by CG Power, the Commission has found that CG Power's selling price, along with its cost to manufacture, has changed over time. These selling prices relate to sales of power transformers by CG Power made on a number of different export markets.

As such, the Commission is satisfied that there appear to be reasonable grounds for asserting that the ascertained export price and ascertained normal value applying to CG Power have changed. The amount of change relevant to these variable factors is outlined in **Confidential Attachment 3**.

3.3.2. Ascertained non-injurious price

Applicant's claim

CG Power claimed that given the ascertained non-injurious price (NIP) was equal to the ascertained normal value, the ascertained NIP would have changed in line with the ascertained normal value.

Commission's assessment

In the original investigation, the Commissioner recommended setting the NIP by reference to the corresponding normal values given the finding that power transformers are complex items of capital equipment built to the specifications of the purchaser and it is unlikely that any two power transformers are identical.[5]

Given that the Commission considers that there appear to be reasonable grounds for asserting that the ascertained normal value has changed (section 3.3.1 refers), it follows that there appear to be reasonable grounds for asserting that the ascertained non-injurious price has changed.

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[5] Final Report No. 219, p. 92

3.3.3. Conclusion – Assessment of compliance with subsection 269ZC(2)(b)

The Commission considers that there appear to be reasonable grounds for CG Power to assert that the ascertained export price, ascertained normal value and ascertained non-injurious price applying to CG Power have changed on the basis that:

- copper is a significant cost component in the production of power transformers by CG Power;
- global copper prices have decreased which has resulted in a decrease of CG Power's cost to manufacture power transformers; and
- accordingly, the Commission observes a decrease in CG Power's selling prices of power transformers made to a number of different export markets over time.

The Commission is satisfied that, in respect of the variable factors applying to CG Power, its application complies with subection 269ZC(2)(b).

3.4. Conclusions and recommendations

The Commission has considered the application in accordance with sections 269ZB and 269ZC. The Commission is satisfied, on the basis of the information provided in the application, and other relevant information including the Commission's assessment of copper prices, that:

- the application complies with section 269ZB; and
- there appear to be reasonable grounds for asserting that the variable factors relevant to the taking of the anti-dumping measures applying to CG Power have changed.

The Commission recommends that the Commissioner:

- not reject the application and initiate a review of the anti-dumping measures applying to CG Power; and
- set the review period as 1 July 2013 to 30 June 2016 to ensure consistency with the original investigation.[6]

[6] In the original investigation, the Commission considered that a number of relevant factors warranted an investigation period that had a duration of three years (Final Report No. 219, pp. 16 -17 refers).