



**CUSTOMS ACT 1901 - PART XVB**

**CONSIDERATION REPORT NO. 219**

**APPLICATION FOR A DUMPING DUTY NOTICE**

**POWER TRANSFORMERS**

**EXPORTED FROM**

**THE PEOPLE'S REPUBLIC OF CHINA, THE REPUBLIC OF  
INDONESIA, THE REPUBLIC OF KOREA, TAIWAN,  
HONG KONG AND THE SOCIALIST REPUBLIC OF VIETNAM**

**July 2013**

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**PUBLIC FILE****2 ABBREVIATIONS & SHORTENED FORMS**

|                     |  |
|---------------------|--|
| ABS                 | Australian Bureau of Statistics                  |
| Alstom              | Alstom Ltd                                       |
| Ampcontrol          | Ampcontrol Pty Ltd                               |
| Authority           | Anti-Dumping Authority                           |
| China               | the People's Republic of China                   |
| Commission          | Anti-Dumping Commission                          |
| Commissioner        | Anti-Dumping Commissioner                        |
| Indonesia           | the Republic of Indonesia                        |
| Korea               | the Republic of Korea                            |
| Minister            | the Minister for Home Affairs                    |
| MVA                 | mega volt amperes                                |
| PBU                 | power business unit                              |
| Service             | Australian Customs and Border Protection Service |
| Tyree               | Tyree Transformer Co. Pty Ltd                    |
| Vietnam             | the Socialist Republic of Vietnam                |
| Wilson Transformers | Wilson Transformer Company Pty Ltd               |

## 3 SUMMARY AND RECOMMENDATIONS

### 3.1 Background

This report provides the results of the Anti-Dumping Commission's (Commission) consideration of an application for the publication of a dumping duty notice in respect 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, Thailand and the Socialist Republic of Vietnam (Vietnam).

### 3.2 Application of law to facts

Division 2 of Part XVB of the *Customs Act 1901*<sup>1</sup> sets out procedures for considering an application for a dumping duty notice.

#### 3.2.1 The role of the Commission

The Commission is responsible for examining the application for the publication of dumping duty notices. In this report, the following matters are considered in relation to the application:

- whether the application complies with s. 269TB(4);
- whether there is, or is likely to be established, an Australian industry in respect of like goods;
- whether there appear to be reasonable grounds for the publication of a dumping duty notice in respect of power transformers exported from China, Indonesia, Korea, Taiwan, Thailand and Vietnam.

#### 3.2.2 The role of the Commissioner

The Anti-Dumping Commissioner (Commissioner), after having regard to the Commission's report, must decide whether to reject or not reject the application for the publication of a dumping duty notice. If the Commissioner decides not to reject the application, the Commissioner must give public notice of the decision providing details of the investigation.

### 3.3 Findings and conclusions

The Commission has examined the application for the publication of dumping duty notices in respect of power transformers from China, Indonesia, Korea, Taiwan, Thailand and Vietnam. The Commission is satisfied that:

- the application complies with the requirements of s.269TB(4) (as set out in section 5 of this report);
- there is an Australian industry in respect of like goods (as set out in section 6 of this report); and

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<sup>1</sup> All references in this report to sections of legislation, unless otherwise specified, are to the *Customs Act 1901*.

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- there appear to be reasonable grounds for the publication of dumping duty notices in respect of power transformers from China, Indonesia, Korea, Taiwan, Thailand and Vietnam (as set out in sections 7 and 8 of this report).

**3.4 Recommendation**

The Commission recommends that the Commissioner decide not to reject the application. If the Commissioner accepts this recommendation, to give effect to that decision, the Commissioner must publish the notice at **Appendix 1** indicating that the Commission will conduct an investigation into whether grounds exist to publish dumping duty notices as sought in the application.

## 4 BACKGROUND

### 4.1 Application

On 8 July 2013, Wilson Transformer Company Pty Ltd (Wilson Transformers) lodged an application requesting that the Minister for Home Affairs (Minister) publish dumping duty notices in respect of power transformers exported to Australia from China, Indonesia, Korea, Taiwan, Thailand and Vietnam. Wilson Transformers alleges the Australian industry has suffered material injury caused by power transformers exported to Australia from the nominated countries at dumped prices. It claims the industry has been injured through:

- loss of sales volumes;
- loss of market share;
- price undercutting;
- price suppression;
- reduced revenues;
- reduced profits;
- reduced profitability;
- reduced orders on hand;
- reduced capacity utilisation; and
- reduced employment.

Wilson Transformers nominated a three year investigation period, including the 2010-11, 2011-12 and 2012-13 financial years.

### 4.2 The goods and like goods

#### 4.2.1 Description

Wilson Transformers described the goods as:

*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*

The goods are referred to as power transformers in this report.

Wilson Transformers stated that incomplete power transformers are subassemblies 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.

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Wilson Transformers considers that the product definition includes step-up transformers, step-down transformers, autotransformers, interconnection transformers, voltage regulator transformers, rectifier transformers, traction transformers, trackside transformers and power rectifier transformers.

Wilson Transformers stated that distribution transformers are not the subject of this application. Distribution transformers are smaller transformers, are manufactured in greater quantities and have design and manufacturing technology which is different from power transformers. Distribution transformers are generally used at the lower end voltages of the power distribution system.

### **4.2.2 Use and functionality**

Wilson Transformers described the use and functionality of power transformers in its application.

Transmission lines transmit electricity at very high voltages but at reduced current (amps). The higher the amperage the greater the size of the conductor needed to carry the current resulting in increased costs and power losses. Transformers are used to increase the voltage and proportionately reduce the amperage so that large quantities of electricity can be transported efficiently with minimal power losses.

Power is typically generated at 5 to 30 kV, but transmission normally occurs at 66 to 500 kV. Transformers that increase the output voltage from the generator for long distance transmission are known as step-up transformers and can have very large power ratings, often 100 to 600 MVA. Transformers that take the higher transmission voltages and convert them to lower voltages suitable for distribution systems are known as step-down transformers.

Purchasers of power transformers include electrical utility companies, power generators, mining companies, LNG processors and industrial users. Essentially all power transformers are produced to order and are typically sold through a bid and contract award (tender) process.

### **4.2.3 Sales process and time frames**

Power transformers are custom designed equipment involving significant capital expenditure and long lead times. When a customer plans a new or replacement transformer, it puts out a request for quotation, detailing the specifications of the unit. Manufacturers will then bid on the project and confirm their ability to meet the specifications and required time line for delivery and installation.

Development of a bid typically takes three to six weeks and involves a significant degree of engineering input. The period from the date of release of the request for quotation, the award of the contract, may be three months or more. Once a unit is ordered, completion of the production and test process typically takes six to eight months or more. It is not unusual for more than a year to elapse from the date of the release of the request for quotation to the delivery of the unit.

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### 4.3 Tariff classifications

The application states that the goods are classified to subheading 8504.23.00 (statistical codes 26 and 41) to Schedule 3 of the *Customs Tariff Act 1995*. The general rate of duty is currently 5% and applies to power transformers imported from China, Korea, and Taiwan. Indonesia, Thailand and Vietnam are subject to the ASEAN-Australia-New Zealand free trade agreement and the rate for power transformers from these countries is free.

The Commission notes that in describing the goods the applicant incorrectly refers to tariff subheading 8405.23.00, but when nominating the tariff classification of the goods correctly refers to tariff subheading 8504.23.00.

The Australian Customs and Border Protection Service's (Service) Tariff Policy and Implementation Branch confirmed that the correct tariff subheading for power transformers with a power handling capacity exceeding 10 MVA is 8504.23.00. The tariff subheading for power transformers with a power handling capacity above 0.65 MVA up to and equal to 10 MVA is 8504.22.00. It also advised that these classifications apply whether the power transformers are assembled or disassembled and also includes incomplete articles, assembled or disassembled.

### 4.4 Consideration of the application

The Commissioner must examine the application and within 20 days of lodgement decide whether or not to reject the application. This decision must be made no later than 28 July 2013. The Commissioner shall reject an application if the Commissioner is not satisfied that:

- the application complies with s. 269TB(4); or
- there is, or is likely to be established, an Australian industry in respect of like goods; or
- there appear to be reasonable grounds for the publication of dumping duty notices in respect of power transformers exported to Australia from China, Indonesia, Korea, Taiwan, Thailand and Vietnam.

These matters are examined in the following sections of this report.

### 4.5 Previous investigations

In 1992, the Australian Electrical and Electronic Manufacturer's Association, on behalf of the Australian industry producing power transformers, lodged an application for the publication of a dumping duty notice on a power transformer exported to Australia from Austria. In 1992, the Service reached a negative preliminary finding. In March 1992 the Anti-Dumping Authority (Authority) was requested to review the Service's negative preliminary finding. The Authority confirmed the Service's negative preliminary finding.

### 4.6 Current measures

Currently no anti-dumping or countervailing measures apply to power transformers exported to Australia.

## **5 DOES THE APPLICATION COMPLY WITH S. 269TB(4)**

Subsection 269TB(4) requires that the application must:

- be in writing; and
- be in an approved form; and
- contain such information as the form requires; and
- be signed in the manner indicated by the form; and
- be supported by a sufficient part of the Australian industry.

### **5.1 Approved form**

The application is in writing, in the approved form, contains such information as the form requires (as discussed in the following sections of this report) and is signed in the manner indicated in the form.

Wilson Transformers submitted confidential and public record versions of the application along with numerous appendices and attachments. The Commission considers that the public record version of the application contains sufficient detail to allow a reasonable understanding of the substance of the information.

### **5.2 Supported by Australian industry**

An application is taken to be supported by a sufficient part of the Australian industry if the persons who produce or manufacture like goods in Australia and who support the application:

- account for more than 50% of the total production or manufacture of like goods by that proportion of the Australian industry that has expressed either support for or opposition to, the application; and
- account for not less than 25% of the total production or manufacture of like goods in Australia.

The application identifies three other Australian manufacturers of power transformers:

- Alstom Ltd (Alstom);
- Ampcontrol Pty Ltd (Ampcontrol); and
- Tyree Transformer Co Pty Ltd (Tyree).

Wilson Transformers stated that Ampcontrol and Tyree support the application, but Alstom does not. Appendix A1 indicates that Wilson Transformers accounts for more than 50% of the total Australian production of power transformers.

### **5.3 The Commission's assessment**

Based on the evidence provided, the Commission considers the application complies with s. 269TB(4).

## **6 IS THERE AN AUSTRALIAN INDUSTRY IN RESPECT OF LIKE GOODS?**

Subsection 269TC(1) requires that the Commissioner must reject an application for a dumping duty notice if, inter alia, he or she is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

### **6.1 Locally produced like goods**

Subsection 269T(1) defines like goods as:

*goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.*

#### **6.1.1 Applicant's claims**

Wilson Transformers claims that power transformers it manufactures are directly comparable to the goods the subject to the application. Domestically produced and imported power transformers are designed and manufactured to meet the performance and quality specifications of the customer.

#### **6.1.2 The Commission's assessment**

The Commission has examined the evidence presented in the application and considers that the applicant has demonstrated that:

- the physical characteristics of imported and locally produced power transformers are similar;
- the imported and locally produced power transformers are commercially alike as they are sold through the same distribution channels to common end users;
- the imported and locally produced power transformers are functionally alike as they have the same end-uses; and
- the imported and locally produced power transformers are manufactured in a similar manner.

The Commission is satisfied that there is an Australian industry producing like goods to the goods the subject of the application.

### **6.2 Manufactured in Australia**

Subsections 269T(2) and 269T(3) specify that, for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

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### 6.2.1 Applicant's manufacturing operations

Wilson Transformers stated that power transformers are manufactured from imported and domestically sourced raw materials. Imported raw materials that are not available in Australia include:

- high quality grain orientated electrical steel;
- copper wire manufactured to tight specifications and covered by either paper or enamel;
- bushings;
- on-load tap changes; and
- transformer oil.

Domestically sourced raw materials include:

- mild steel;
- terminal box; and
- control panel.

The Australian design and manufacturing process include the following:

- electrical design;
- mechanical design;
- winding;
- core cut and build;
- assembly;
- drying;
- tank manufacture;
- tanking;
- final assembly; and
- testing.

### 6.2.2 The Commission's assessment

The Commission has visited Wilson Transformers' production facility and is satisfied that there is at least one substantial process of manufacture performed in Australia and, therefore, that the goods may be taken to have been produced in Australia.

### 6.3 Australian market

Wilson Transformers stated that electricity is transmitted over high voltage power transmission lines from the power generation source to the user, with the goal being to minimise power loss during transmission. At each point from generation to use, where the voltage is being increased, transferred between electrical systems, or reduced, the electricity passes through a transformer. Purchasers of power transformers include electrical utility companies, power generators, industrial users and mining companies.

Sales of power transformers can be aggregated in terms of dollars, units, and total capacity (expressed in MVA). A power transformer may be 10 MVA and weigh 20 to

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25 tonnes or over 500 MVA and weigh over 200 tonnes. The Commission considers that capacity rather than number of units is the most appropriate measure of the size of the Australian market. Unfortunately, import statistics only identify the number of units and value. The Commission is of the view that, for the purpose of this consideration report, value is a more meaningful estimate of capacity than the number of units. It has therefore estimated the size of the Australian market using the value of sales by the Australian industry and the value of imports.

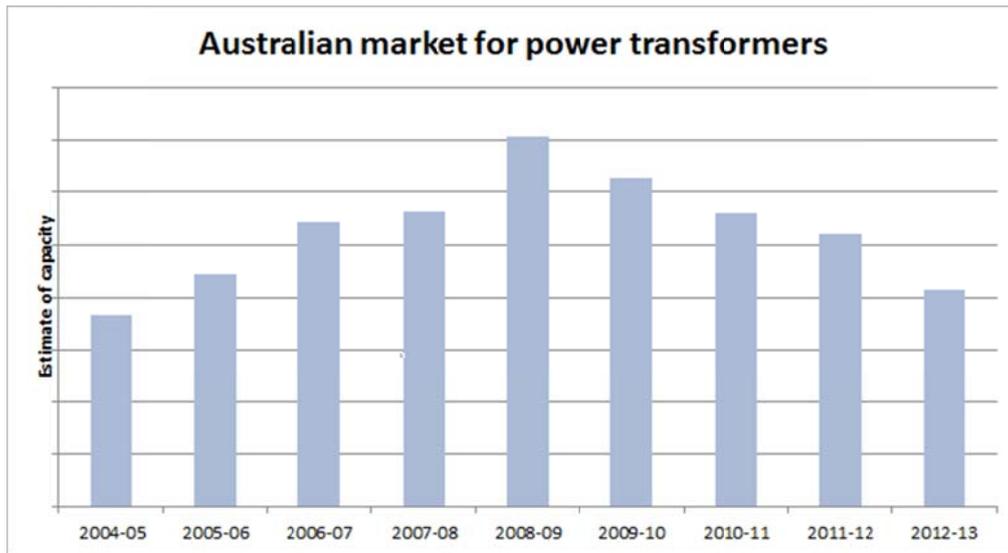
The Australian market is supplied by Wilson Transformers, other Australian producers and imports from a number of countries. The ABB Group manufactures power transformers in a number of plants around the world. The application claims that the ABB Group used to have its own production facilities in New South Wales, but closed the facility in two stages in 2001 and 2004 whilst retaining local representation for foreign production facilities. The application also states that in November 2012 Alstom announced that it was ceasing Australian manufacture.

Wilson Transformers estimated the size of the Australian market using import statistics provide by the Australian Bureau of Statistics (ABS), its own production and sales and estimated sales by other Australian producers based on its knowledge of the Australian market.

In estimating the volume of imports, Wilson Transformers examined ABS data for tariff subheadings 8504.21.00, 8502.22.00, 8504.23.00, 8504.33.00 and 8504.34.00. Based on the unit value of importations, the port of entry and its knowledge of the market (particularly the location and timing of transformer installations), Wilson Transformers concluded that a number of importations were incorrectly classified. It estimated the volume of imports by examining the ABS data for each of the above subheadings, excluding data where the unit value was less than \$150,000 and reviewing the data in the light of the location and timing of transformer installations. The Commission considers that this approach is reasonable given the complexity of power transformers and Wilson Transformers' experience in the Australian market.

The Commission obtained details of all importations for the above subheadings from the Service's import database. It was able to match the ABS and the Service's data. The Commission also manipulated the Service's data in the same way that Wilson Transformers manipulated the ABS data and produced similar results. The Commission considers that, for the purpose of recommending whether or not the Commissioner should reject the application, the ABS data provided by Wilson Transformers is suitable for estimating the size of the Australian market. It has excluded importations of two power transformers from Italy and one from Japan that do not appear to be the goods. The Commission has included Wilson Transformers' estimates of other Australian production. The size of the Australian market is illustrated in the following chart.

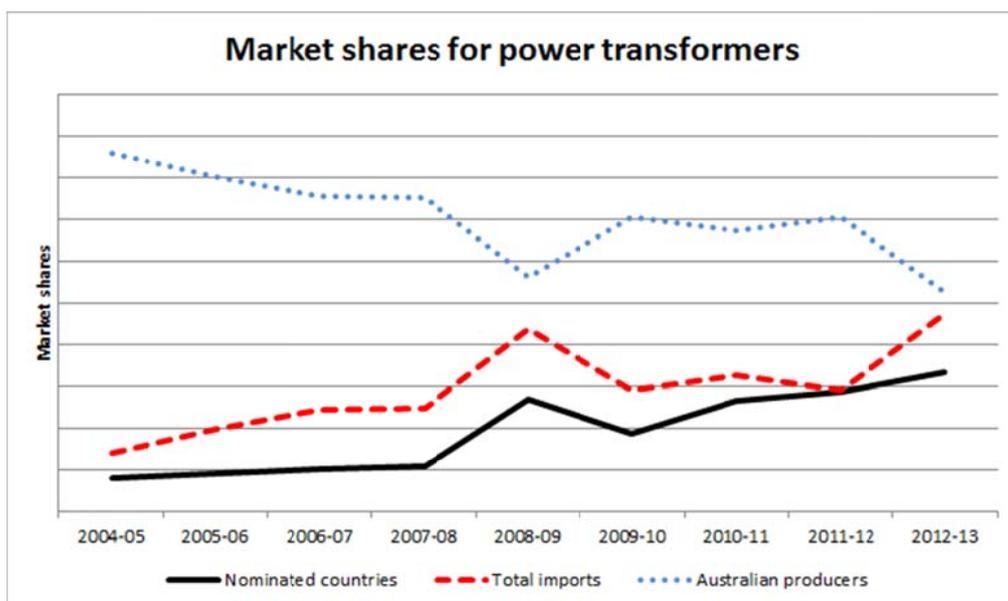
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The Australian market rose until 2008-09 and has fallen since. The Commission considers that the size of the market reflects movements in the demand for electricity. Wilson Transformers stated in the application that the demand for electricity in Australia has been declining in the past few years. The fall in demand has occurred in all states but has been particularly pronounced in NSW. Wilson Transformers provided a number of possible explanations for this fall in demand:

- changes in weather patterns;
- increased implementation of off-grid generation including photo voltaic and solar hot water;
- shutdowns of large industrial facilities like blast furnaces and refineries;
- shutdowns of smaller industrial facilities; and
- reduced consumption due to price increases.

Movements in market shares are illustrated in the following chart.



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The Commission notes that the market share held by imports has been increasing since 2004-05, except for a decline in 2009-10. The increase has been more pronounced since 2009-10, despite a contraction of the overall market. However, the Commission notes that Wilson Transformers' market share has been relatively stable. The Commission considers that this may be attributed to imports replacing Australian production by other producers, particularly those producers that have stopped Australian production.

Wilson Transformers stated that there are no commercially significant substitutes for power transformers.

### 6.4 Company information

Wilson Transformers was founded by Jack Wilson and commenced manufacturing in South Melbourne in 1933. In the early 1950's the company moved its operations to Glen Waverley, the present site of its head office and power transformer manufacturing operations. This plant has progressively developed and expanded over the years.

Between 1963 and 1982, Wilson Transformers operated a small distribution transformer manufacturing plant in South Australia to supply the South Australian market. In 1981, Wilson Transformers moved part of its existing distribution transformer manufacture to a new plant in the Albury/Wodonga National Growth Centre. The South Australian plant was closed after the establishment of the Wodonga operations. In 1994 a decision was made to create separate power and distribution business units to generate focus within the businesses and the remaining distribution transformer manufacture was transferred from Glen Waverley to Wodonga.

Today, Wilson Transformers operates from both factories in Glen Waverley and Wodonga, employing over 500 people. A sales support office has been opened in West Sussex, United Kingdom for sales and marketing operations in the UK, Europe and the Middle East.

Wilson Transformers provided details of its organisational and group structure in its application.

## **7 REASONABLE GROUNDS – DUMPING**

The Commission is satisfied that power transformers appear to have been exported to Australia from China, Indonesia, Korea, Taiwan, Thailand and Vietnam at dumped prices.

### **7.1 Legislative framework**

Subsection 269TC(1) requires that the Commissioner must reject an application for a dumping duty notice if, inter alia, the Minister is not satisfied that there appear to be reasonable grounds for the publication of a dumping duty notice. Under s. 269TG, one of the matters of which the relevant Minister must be satisfied to publish a notice is that the export price of goods that have been exported to Australia is less than the normal value of those goods.

### **7.2 Related issues**

#### **7.2.1 The Authority's 1992 report on tender dumping**

The sales process for power transformers is one that has not commonly been encountered in anti-dumping investigations in Australia. Following the Authority's 1992 investigation into power transformers from Austria the Minister for Small Business, Construction and Customs, on 25 February 1992, asked the Authority to inquire into and report on tender dumping in Australia. The reference also asked whether the legislation should be amended to identify inadequacies or shortcomings identified by the inquiry.

The Authority explained the concept of tender dumping by reference to a hypothetical example of the purchase of a large complex power transformer that may take months or years to build. The purchaser calls for tenders and an overseas company wins. The Australian industry lodges a dumping complaint and it is established that the offer was at a dumped price and the loss of the contract causes material injury to the Australian industry.

In these circumstances, it was noted that the Minister cannot take anti-dumping action because the Minister cannot be satisfied, using the words of s. 269TG(1), *as to any goods exported to Australia...*, since no goods have been exported. The Minister can take action when the goods are exported, but in the circumstances contemplated by the Authority this would provide no relief for the Australian industry as the injury occurred at the time the contract was awarded.

The Authority called for submissions and its report made a number of comments.

Article 2.1 of the World Trade Organisation Anti-Dumping Agreement states:

*For the purpose of this Agreement, a product is to be considered as being dumped, i.e. introduced into the commerce of another country at less than its normal value, if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country.*

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However, the Agreement does not explain what is precisely meant by the words *introduced into the commerce of another country*.

The Authority referred to Canadian legislation that interpreted the meaning of sale to include agreement to sell. In a 1982 case involving hydro-electric generators, Revenue Canada initiated an anti-dumping investigation on the basis of the supplier's irrevocable tender. The supplier subsequently appealed the decision to the Canadian Federal Court of Appeal. The Court upheld the original decision by Revenue Canada.

The Authority stated that US legislation is similar to Canadian legislation in that goods do not have to be physically exported.

After considering the issues raised in the Authority's report, the Commission intends exploring the following issues with interested parties:

- for tenders awarded during the investigation period, which of the following dates best represent the material terms of sale – lodgement of formal offer, closing date of the tender, date of signed contract, invoice date or date of installation; and
- where the date of sale reflects a date prior to the physical shipment of the goods from the country of export, whether it is reasonable to consider that the goods are taken to have been exported at that date.

### 7.2.2 US investigation into large power transformers from Korea

In 2012 the US Department of Commerce published a preliminary determination following a dumping investigation into large power transformers from Korea. An important issue in this investigation was the date of sale. Sales of large power transformers can be invoiced some time after the material terms of sale have been agreed upon and the Department relied on purchase order date as the date of sale, as this best reflected the date when the material terms of sale were established.

### 7.3 Investigation period

The Commissioner must nominate an investigation period, being the period where exportations to Australia will be examined to determine if dumping has occurred. Normally for commodity type products the investigation period is twelve months. In this case, Wilson Transformers has nominated a three year investigation period from 2010-11 to 2012-13 and estimated dumping margins for the nominated countries over this period.

The Commission considers that a number of factors suggest that an investigation period longer than 12 months is warranted:

- the long lead time between when a tender is called and when the power transformer is installed and operating (up to three years);
- ensuring that there are exports where the date of sale (possibly the purchase order date) and the export of the power transformer occur within the investigation period; and

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- the ability to properly assess causal link between dumping and claimed injury through lost tenders over the past three years.

The Commission also notes that both the Service and the Authority nominated a three year investigation period into a 1991-92 investigation into the alleged dumping and subsidisation of power transformers from Turkey. The reason nominated was the lag between the call for tenders and the arrival of the imported goods.

The Commission will also have to turn its mind to a number of related issues, such as:

- determining the date of sale (for example, purchase order date, contract date or invoice date)<sup>2</sup>;
- how to treat power transformers that have been sold, but only partially constructed and yet to be delivered; and
- the method for calculating the dumping margin.

The Commission notes that for the tenders identified by Wilson Transformers, the time between the closing date of the tender and the commencement of delivery was generally longer than 12 months and in one case almost three years. The Commission recommends that the Commissioner nominate a three year investigation period, from July 2010 to June 2013.

### 7.4 General

Wilson Transformers presented export price and normal value information for all tenders it considered it had lost to, or in some cases shared with, dumped imports. It considered that it was more appropriate to provide this information for individual products because power transformers are capital goods that are manufactured to order.

The Commission notes that power transformers are designed and built to the specifications of each customer, that there is a wide range of specifications and that there is no standard unit. In effect, each power transformer is unique. It further notes that each tender is individually costed. The Commission considers that calculating export prices and normal values for each power transformer is the most appropriate method to determine if power transformers have been exported to Australia at dumped prices.

### 7.5 Export prices

Wilson Transformers calculated deductive export prices for each transformer. It stated that the starting point was the price of the winning tender, supported by ABS data where possible, using its market knowledge of where and when the power transformer was being installed. Wilson Transformers stated that in most cases it estimated the price of the winning tender through discussions with the customer.

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<sup>2</sup> The US Department of Commerce investigation used purchase order date as the date of sale.

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Wilson Transformers made the following deductions to arrive at a deductive export price.

- The estimated value of transformer oil. The oil quantity and cost were estimated based on the size and nature of the imported transformer and the approximate cost of transformer oil at that time.
- The estimated cost of local delivery to the customer site in Australia (Australian inland freight), based on the size and nature of the imported transformer, the port of import and the site where the power transformer was installed.
- Any estimated customs duty payable. No adjustment was made where there was a free trade agreement.
- The estimated cost of Australian customs clearance and handling, including customs agency fees and disbursements. Wilson Transformers used a percentage of the deductive export price.
- Overseas freight and insurance calculated by deducting the differences in CIF and FOB values from ABS data.
- The estimated Australian sales and representation costs, using a percentage of the deductive export price.
- An allowance for warranty costs, using a percentage of the deductive export price.

### 7.5.1 The Commission's assessment

The Commission reviewed export price documentation provided by Wilson Transformers and considers the assumptions are reasonable. It also verified that the calculations were accurate. Wilson Transformers identified possible FOB values from the ABS data for a number of tenders. In most instances, the Commission was able to verify this data against the Service's import data base. Where this data could not be verified other importations were identified that could be the goods in question. In the majority of cases the deductive export prices were similar to or above the declared FOB export prices.

The Commission has relied on the deductive export prices calculated by Wilson Transformers in its application.

### 7.6 Normal values

Wilson Transformers did not provide selling prices in the nominated countries due to power transformers being capital goods that are manufactured to order.

Wilson Transformers constructed normal values. It stated that the starting point was the price it submitted in its unsuccessful bid. Wilson Transformers made the following adjustments to arrive at a constructed normal value.

- Deducted the estimated cost premium for materials sourced in Australia (10% of the local material content from the bid price). No adjustment was made for materials sourced on the global market as these would be common and similar for all producers of power transformers.
- Deducted the estimated cost of Australian freight from Wilson Transformers' plant to the customer's site (using the amount in the bid price).

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- Added the estimated cost of freight to the wharf in the country of export (using a percentage of the estimated winning bid price).
- Deducted the cost of Australian direct manufacturing labour (using the amount in the bid price).
- Added the cost of foreign direct manufacturing labour estimated using a 2011 World Bank survey on labour costs by country.
- Adjusted the indirect labour cost component of manufacturing overheads for the difference between Australian and export country labour costs using a 2011 World Bank survey on labour costs by country.
- Adjusted the labour cost component of engineering costs for the difference between Australian and export country labour costs using a 2011 World Bank survey on labour costs by country.
- Adjusted the labour cost component of administration overheads for the difference between Australian and export country labour costs using a 2011 World Bank survey on labour costs by country.
- Deducted Wilson Transformers' profit margin (using the amount in the bid price).
- Added the foreign tenderer profit margin based on Plimsoll published business intelligence information.
- Deducted the estimated value of transformer oil. The oil quantity and cost were estimated based on the size and nature of the imported transformer and the approximate cost of transformer oil at that time.

### 7.6.1 The Commission's assessment

Section 269TAC(1) provides that the normal value of any goods exported to Australia is the price paid or payable for like goods sold domestically in the ordinary course of trade in arm's length transactions. The Commission considers that because power transformers are capital goods that are manufactured to order to meet the individual requirements of the customer, it was appropriate for the applicant to estimate normal values by way of constructing comparable domestic prices for power transformers exported. The Commission stresses that this assessment is only suitable for assessing prima facie evidence of dumping and that other methodologies will be explored during the investigation.

The Commission notes that Wilson Transformers' stated that the starting point for its calculation of normal values was the price it submitted in its unsuccessful bid. However, the adjustments made to this price mean, in effect, that Wilson Transformers' have constructed normal values based on the cost to make and sell power transformers.

The Commission reviewed documentation provided by Wilson Transformers and considers the assumptions are reasonable. It also verified that the calculations were accurate. Wilson Transformers has supported its estimates with information that is reasonably available to it and, where assumptions have been made, has explained the basis for those assumptions. Where appropriate, the applicant has used data from independent sources.

The Commission has relied on the constructed normal values calculated by Wilson Transformers in its application.

**PUBLIC FILE****7.7 Dumping margins**

Wilson Transformers calculated the following dumping margins.

|           |       |
|-----------|-------|
| China     | 34.6% |
| Indonesia | 8.4%  |
| Korea     | 30.7% |
| Thailand  | 31.9% |
| Taiwan    | 48.8% |
| Vietnam   | 32.3% |

**7.7.1 The Commission's assessment**

The Commission is satisfied that, based on the information submitted in the application, Wilson Transformers has demonstrated that there appear to be reasonable grounds for concluding that power transformers have been exported to Australia from China, Indonesia, Korea, Taiwan, Thailand and Vietnam at dumped prices.

## **8 REASONABLE GROUNDS – MATERIAL INJURY CAUSED BY DUMPED IMPORTS**

### **8.1 Findings**

The Commission is satisfied exports of power transformers to Australia from China, Indonesia, Korea, Taiwan, Thailand and Vietnam appears to have caused injury to the Australian industry.

### **8.2 Legislative framework**

Subsection 269TC(1) requires that the Commissioner must reject an application for a dumping duty notice if, *inter alia*, the Commissioner is not satisfied that there appears to be reasonable grounds for the publication of such notices. Under s. 269TG, one of the matters that the Minister must be satisfied of to publish a dumping duty notice is that the alleged dumping of the goods has caused, is causing or threatens to cause material injury to the Australian industry producing like goods.

### **8.3 Approach to injury analysis**

Power transformers are highly complex, technical, engineered-to-order capital products that are purchased intermittently. Production and sales for such products normally reflect high fixed costs and high unit prices. Impacts on the capacity utilisation of a producer of such capital goods will severely affect the company's longer term economic and financial performance. Therefore, injury from the loss of a tender contract is likely to have severe and long-lasting injurious effects on the domestic industry.

Further, Wilson Transformers submitted in its application that the costs and sales of power transformers were not directly comparable across periods or between products due to their complexity, efficiency and materials costs. It also submitted that the slow cycle time between the issue of requests for tender by customers and delivery, resulted in the injury being experienced for a considerable time after the lost tender.

These particular issues present some unique challenges to assessing material injury. The Commission does not consider it appropriate to assess the injurious effects of the alleged dumping using trend analysis over a fixed injury assessment period. Instead, it considers that the injury and causal link assessment would be more meaningful if each tender is examined individually in the first instance, followed by an overall assessment as to whether injury caused by dumping is material.

Therefore, the injury analysis detailed in this section is based on the financial information submitted by Wilson Transformers. It is primarily based on information in respect of specific tenders, but also considers general financial information submitted by the applicant. The analysis, unless otherwise stated, refers to domestic sales and production.

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### 8.4 Commencement of injury

Wilson Transformers claimed that injury commenced with the significant increase in imports in 2007-08.

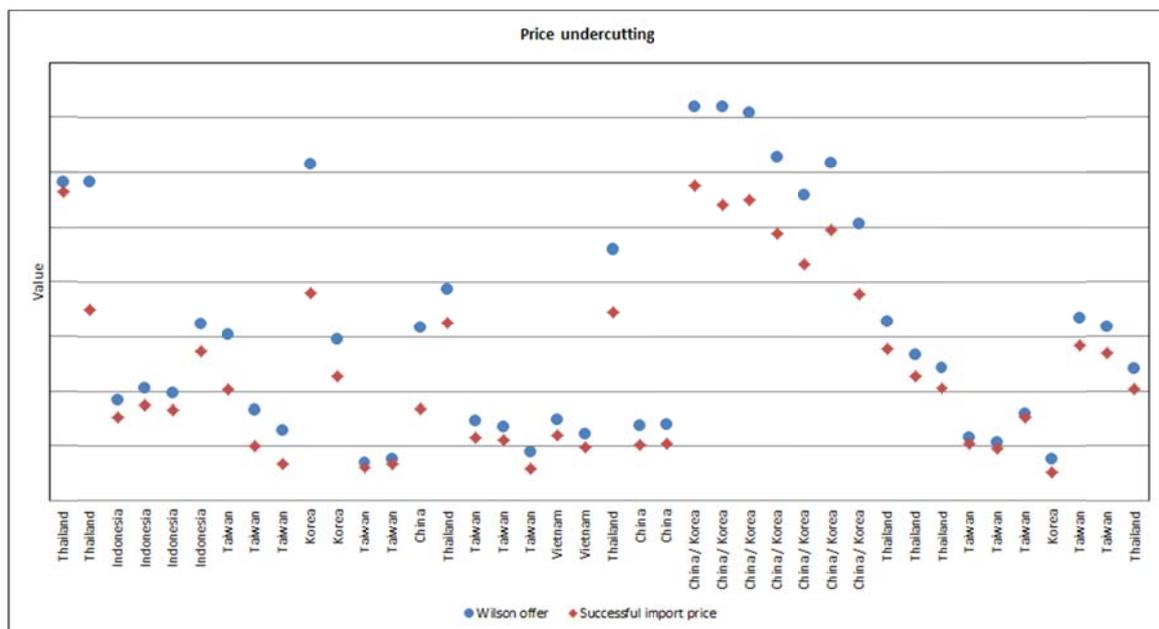
### 8.5 Price effects

Wilson Transformers stated that price is the most important factor considered by purchasers when evaluating tenders. It provided an example where Wilson Transformers and an overseas manufacturer had supplied power transformers to the same customer since 2009. Initially Wilson Transformers' and the overseas manufacturer's prices were similar, but for more recent sales the overseas manufacturer's prices have undercut Wilson Transformers' price by over 30%.

Wilson Transformers also provided a detailed analysis of lost tenders that shows its price offers were significantly undercut by prices from competing overseas manufacturers in the nominated countries. It also claimed that these lower prices from overseas manufacturers were putting pressure on the industry to further reduce its price offers.

The applicant stated that if it were to reduce its prices to match the prices of imported power transformers, a significant number of sales would be conducted at negative margins.

The Commission examined the data provided by Wilson Transformers and compared its former price offers for all unsuccessful tenders since mid-2008 with the estimated prices of the successful overseas manufacturers. The results are illustrated in the following chart which shows the price comparisons for each tender and the country of export of the successful exporter.



Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs. Wilson Transformers provided evidence of price

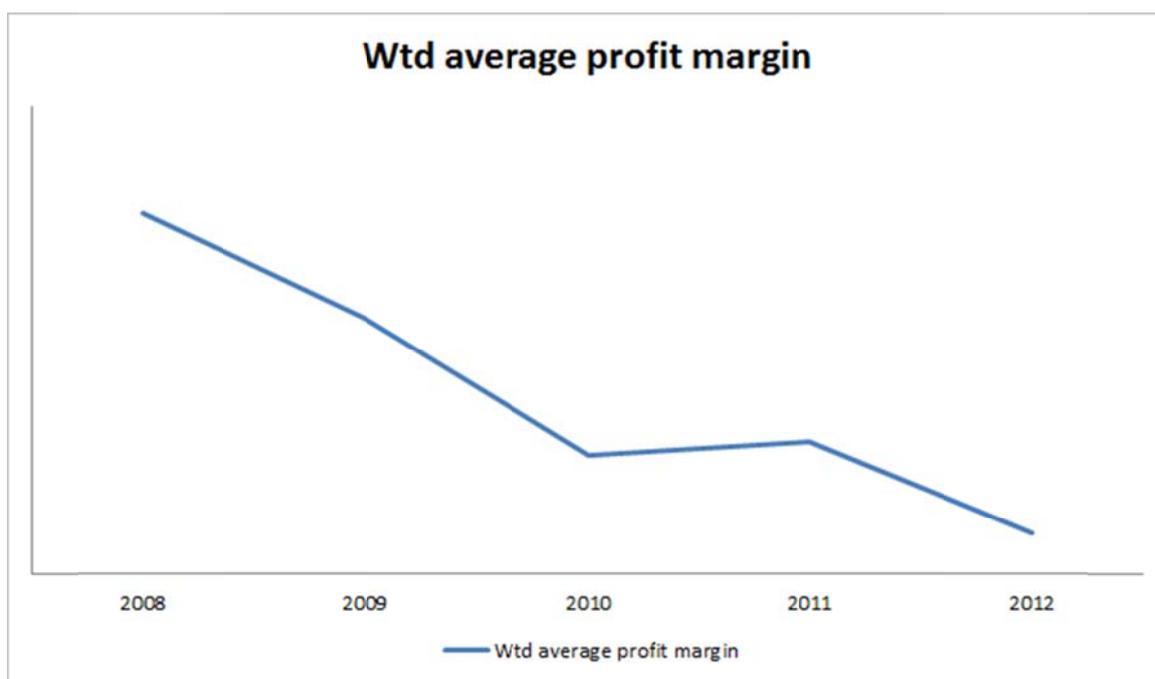
## P JBLIC FILE

suppression in its application by analysing tender margins over time and by calculating average sales dollar per MVA over time.

Wilson Transformers tender margin analysis indicates that for tenders won, its margins fell by almost 15 percentage points between 2008-09 and 2010-11 and have remained at this lower level since. It stated that the detailed analysis of lost tenders indicates that prices at which sales are being lost are considerably lower than the prices submitted by Wilson Transformers.

Wilson Transformers also analysed sales dollars per MVA over the last nine years. Sales dollars per MVA increased rapidly from 2004-05 to 2006-07, and then remained relatively stable until 2011-13. Sales dollar per MVA fell significantly in 2012-13.

The Commission examined the data provided by Wilson Transformers and compared its formal price offers for each unsuccessful tender since mid-2003 to the estimated cost to make and sell for the requested power transformers. The results are illustrated in the following chart which shows the decline in the applicant's profit margin since 2008. The weighted average profit margin on the applicant's unsuccessful tender offers fell by 17 percentage points from 2008 to 2012.



### 8.5.1 Conclusion – price effects

The Commission considers that there appears to be reasonable grounds to support the claim that undercutting of dumped tender prices by exporters from the nominated countries has caused injury to the Australian industry in the form of price depression and price suppression.

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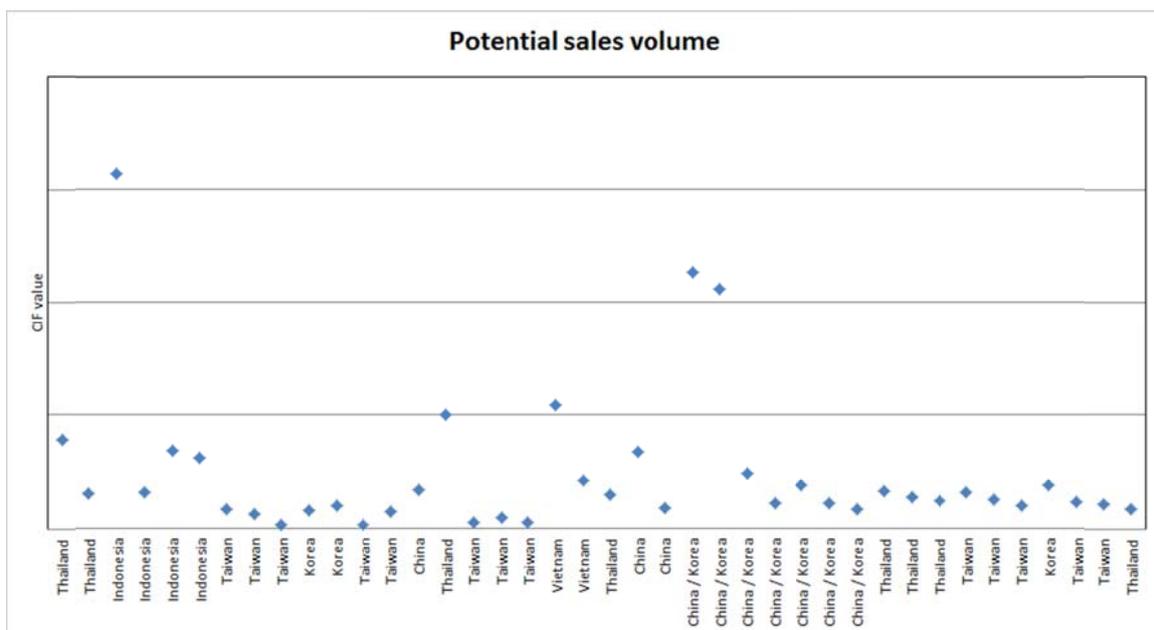
**8.6 Volume effects**

**8.6.1 Sales volumes**

Wilson Transformers made the following comments about imports from the nominated countries.

- A particular Chinese manufacturer won a tender in 2011 and this company has won additional contracts which were never open to tender within Australia (for supply between 2012 and 2014). Other Chinese manufacturers have also won contracts in Australia.
- Imports from Indonesia increased rapidly in 2011-12 and 2012-13, with the main market being Western Australia. One Indonesian manufacturer has established a sales office in Australia.
- Korean manufacturers previously focused on the US market, but dumping complaints lodged by manufacturers in Canada and the USA have forced them to look for alternative markets. Further, one Korean manufacturer has established a new production facility in the USA.
- Taiwanese manufacturers have been developing their business in Australia for a number of years and claimed more than 50% of imports in 2011-12 were to Victoria. The Commission confirmed that almost half of the imports from Taiwan in 2011-12 and 2012-13 were entered through Melbourne.
- ABB withdrew from the Australian market in 2001 and 2004 and now sources power transformers primarily from its plants in Thailand and Vietnam.
- Alstom Ltd announced in November 2012 that it was ceasing Australian manufacture. It is able to source power transformers from its plants in China and Indonesia.

Wilson Transformers identified tenders it lost to allegedly dumped imports of power transformers. It considers that this represents actual and potential lost sales. The Commission examined the data provided by Wilson Transformers to identify potential lost sales volume. The results are illustrated in the following chart.



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As noted previously, the Commission considers that capacity is the best measure of sales volume and has used sales revenue as the best available measure of capacity. As noted in section 6, the Australian market has fallen since 2008-09. Wilson Transformers' revenue, reflected in the Power Business Unit (PBU) profit and loss statement, has followed a downward trend since 2009-10. This coincides with the estimated \$112 million of potential lost sales from July 2010 through to December 2012.

The Commission notes that the value of orders received fell in the 12 months to April 2013. Because of the long lead times and on the basis of orders on hand, Wilson Transformers stated that it can accurately predict the PBU's financial performance in 2013-14. It anticipates a further fall in revenue in 2013-14.

### **8.6.2 Market shares**

As noted in section 6, the market share held by imports has been increasing since 2004-05, except for a decline in 2009-10, but Wilson Transformers' market share has been relatively stable. A further reduction in sales in 2013-14 is anticipated to result in reduced market share.

### **8.6.3 Conclusion – volume effects**

The Commission considers that there appears to be reasonable grounds to support the claim that as a result of undercutting of dumped tender prices by exporters from the nominated countries, the Australian industry has lost potential sales volume and potential market share.

## **8.7 Profit effects**

Wilson Transformers provided details of the PBU's financial performance from 2006-07 to 2012-13, plus forecast performance for 2013-14. It provided detailed profit and loss statements for the 2010-11 and 2012-13 financial year to support the claim.

Profits and profitability fell in 2012-13 and are forecast to remain low in 2013-14. The Commission considers that the profit effects reflect the volume and price injury attributed to dumped imports of power transformers from the nominated countries.

### **8.7.1 Conclusion – profit and profitability effects**

The Commission considers that there appears to be reasonable grounds to support the claim that the lost tender sales resulting from the undercutting of dumped tender prices by exporters from the nominated countries, has led to a potential decline in profits and profitability by the Australian industry.

### **8.7.2 Other economic factors**

Wilson Transformers completed Appendix A7 for power transformers for the period from 2006-07 to 2012-13.

- The value of assets increased each year, reflecting a substantial upgrade of the Glen Waverley plant between 2009 and 2012.

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- There was increased capital investment in 2009-10, 2010-11 and 2011-12, also reflecting the upgrade of the Glen Waverley plant.
- Research and development expenditure has remained relatively stable.
- Revenue peaked in 2009-10 but has followed a downward trend since. Revenue is forecast to fall in 2013-14 because of the reduced number of orders being held.
- Return on investment, measured as the pre-tax return on net assets, has fallen, particularly since 2009-10, reflecting the upgrade of the Glen Waverley plant.
- Capacity, measured in MVA, has increased since 2009-10. However, production remained relatively stable and capacity utilisation has fallen. Production is forecast to fall in 2013-14 because of the reduced number of orders being held and capacity utilisation is expected to fall further.
- Productivity, measured in MVA per head, has increased since 2009-10.
- Inventory levels have remained relatively stable.

### **8.8 Other possible causes of injury**

The Commission will examine the extent to which the Glen Waverley plant upgrade in association with the high Australian dollar contributed to the material injury suffered by Wilson Transformers.

### **8.9 Conclusion on material injury caused by dumped imports**

The Commission considers that there appear to be reasonable grounds to support the claim that Wilson Transformers has experienced injury in the form of:

- loss of potential sales volumes;
- loss of potential market share;
- price suppression;
- reduced revenues;
- decline in potential profits;
- decline in potential profitability;
- reduced orders on hand;
- reduced capacity utilisation; and
- reduced employment.

The injury caused by the alleged dumping appears to be material.

## 9 CONCLUSION

The Commission has examined the application and is satisfied that:

- the application complies with s. 269TB(4); and
- there is an Australian industry in respect of like goods; and
- there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application.

Accordingly, the Commissioner has not rejected the application for the publication of a dumping duty notice under s. 269TB(1).

For the purposes of the investigation:

- the investigation period to determine whether dumping has occurred will be from July 2010 to June 2013;
- the Commission will examine the Australian market and the economic condition of the industry from July 2008 for the purposes of injury analysis;
- a statement of essential facts will be placed on the public record by 18 November 2013, or by such later date as the Minister may allow; and
- a recommendation to the Minister will be made in a report on or before 31 December 2013, or such later date as the Minister may allow, unless the Commissioner terminates the investigation.