PUBLIC FILE

KEMENTERIAN PERDAGANGAN
REPUBLIK INDONESIA
MINISTRY OF TRADE

Directorate General of Foreign Trade
Jalan M.I. Ridwan Rais No. 5 Jakarta 10110
Tel. 021-23528560, 3857955, 3858171 ext. 1278
Fax. 021-3863937

Received on 6 April 2017

Ref. No. : 234 /DAGLU.6/SD/ / 2017 Jakarta, 4 April 2017

Director Operations 3
Anti-Dumping Commission
Level 35, 55 Collins Street
MELBOURNE VIC 3000
AUSTRALIA

Re: Review of Anti-Dumping Measures Applying to Power Transformers Exported to Australia from the Republic of Indonesia by PT. CG Power Systems Indonesia

Dear Director,

First of all, on behalf of the Government of Indonesia ("GOI") we would like to express our appreciation on the Australian Anti-Dumping Commission's ("Commission") decision to accept the proposal by PT. CG Power System Indonesia ("company") to carry out the abovementioned review.

We are aware that the results of the review may affect the decision of Parliamentary Secretary to the Ministry for Industry in adjusting the anti-dumping tariff duty. In this context we do expect that the result of review would be in favour for Indonesia. However, we found that the results of the review encapsulated in the Statement of Essential Facts ("SEF") are on the contrary of our expectation. The dumping margin inflated to 43.3 percent compared with the current interim dumping duty of 8.7 percent. The GOI see the following conditions lead to errors in calculating and comparing normal value and export value which is very crucial in dumping case:

1. **The Commission does not put into consideration the characteristics of the product.**

An anti-dumping measure can be imposed to certain imported good produced in exporting country based on investigation performed by Investigation Authority ("IA") in manners that conform with Agreement on Implementation of Article VI of The General Agreement on Tariffs and Trade 1994. It is a mandatory for IA to examine whether there is dumping, injury and the causal link between dumping and the injury. The whole examination must be conducted on the like product.

The term like product (*produit similaire*) is defined in Article 2.6 of the Anti-dumping Agreement ("ADA") as a product which is identical i.e alike in all respect to the product under consideration or in the absence of such a product, another product which has characteristics closely resembling those of the product under consideration. Moreover, Article 2.4 of the ADA lays down as a key principle that a fair comparison is to be made between export price and

the normal value at the same level of trade, normally the ex-factory level and in respect of sales made at as nearly as possible the same time. Thus, IA must ensure that the comparison is made between export price and normal value of alike product at the same level of trade, namely ex factory price.

According to the cost to make and sale ("CTMS") data provided by the company, both power transformer ("product") produced for domestic sale and Australian market shows that every single product is produced with different level of direct material and direct manufacturing cost. Therefore, the production cost of one product will certainly differ to another eventhough both products have the same power rating and voltage ratio. One product can not be replaced or substituted by another one due to the distinctive nature of each model. The altitude, condition, and location of the instalation is important factors to be considered in producing a unit of power transformer.

In order to reach a fair comparison, the Commission shall find the ex-factory level price of product produced for export sale and domestic sale. Using data provided by the Company, therefore, is a must since the Company has already submitted the relevant data. The Commission admits that the information provided by the Company is accurate, relevant and complete. Moreover, it is clearly stated that CG Power provided detailed information and data in its exporter questionnaire response (EQR), including data related to its export and domestic sales and CTMS. The Company also provided additional information when requested by the Commission. Thus, using data other than provided by the Company is not justifiable.

Therefore, the result of dumping margin calculation performed by the Commission is believed containing significant deviation because the Commission could not find the exactly same product for domestic sale and export sale, particularly in the review period, to compare due to the characteristics of the product. The GOI are dissapointed that the Commission at the early stage did not put the characteristics of the product into consideration and remain proceed for the case.

2. The Commission put irrelevant costs in upward adjustment of normal value.

We identify from the SEF document that the Commission take (1) export packing cost, (2) export warranty cost and (3) Australian sales office cost as additional costs to construct normal value. Meanwhile Article 2.1 of the ADA provides that a product is dumped if the export price of the product exported less than the comparable price, in the ordinary course of trade, for the like product when destined for domestic consumption. Furthermore, Article 2.4 of the ADA lays down as a key principle that a fair comparison is to be made between export price and the normal value at the same level of trade, normally the ex-factory level and in respect of sales made at as nearly as possible the same time.

It is not acceptable for GOI that the Commission put export packing cost, export warranty cost and Australian sales cost as additional costs to construct normal value because those costs have nothing to do with the cost of producing product for domestic consumption. Moreover, putting export packing cost, export warranty cost and Australian sales cost

indicates that the methodology used by the Commission contradicts the methodology recognized by ADA and the Commission calculation did not arrive at the comparison of the ex-factory level price product produced for domestic and the one intended for export sale. The GOI strongly disagrees with the methodology used by the Commission.

Accordingly, the GOI urges the Commission not to proced the result of this review to the Parliamentary Secretary to the Ministry for Industry as it would be misleading.

Thank you for your consideration of this matter.

Your sincerely

Pradnyawati,

Director of Trade Defense

Cc :

1. Director General of Foreign Trade;
2. Ambassador of the Republic of Indonesia in Canberra;
3. Secretary of DGFT;
4. Director of Industry and Mining, DGFT.