

4 February 2014

Non-confidential

Email: john.bracic@adcommission.gov.au

Mr John Bracic
Director, Operations 1
Anti-Dumping Commission
Customs House, 5 Constitution Avenue
Canberra ACT 2601

Norton Rose Fulbright Australia
ABN 32 720 868 049
Level 18, Grosvenor Place
225 George Street
SYDNEY NSW 2000
AUSTRALIA

Tel +61 2 9330 8000
Fax +61 2 9330 8111
GPO Box 3872, Sydney NSW 2001
DX 368 Sydney
nortonrosefulbright.com

Direct line
+61 2 9330 8308

Email
stephen.klotz@nortonrosefulbright.com

Your reference: **Our reference:**
2804481

Dear Mr Bracic

Anti-dumping investigation 219 - Alstom Grid Australia Limited

We refer to Wilson's application for dumping duties dated 4 July 2013 (**Wilson's Application**), the ADC's Consideration Report No. 219 dated July 2013 (**Consideration Report**) and the ADC's Preliminary Affirmative Determination report published on 20 November 2013 (**PAD**).

Our client is concerned about the lack of detail contained in various parts of Wilson's Application, the Consideration Report and the PAD, as well as some non-confidential attachments and appendices to those documents which appear to have been omitted from the public record. Our client is unable to adequately analyse these documents or prepare a submission in response to them without this further information. Accordingly, we are instructed to make the following comments and request that the ADC make the following information and documents available on the public record:

1 Wilson's Application

1.1 We are instructed to request the following information and documents:

- (1) Copies of:
 - (a) Appendix A-2-9-2, being Wilson's brochures;
 - (b) Attachment A-3-1-1, being a technical description of the components of a typical power transformer;
 - (c) Attachment 3-1-2, being an example of a technical specification of the goods under consideration;
 - (d) Attachment A-3-6, being a summary of the production process for the goods under consideration;
 - (e) Attachment A-4-2, being information regarding the production of the goods under consideration in Australia from 1970 to 1999; and
 - (f) Attachments A-8-1 and A-8-2, being summaries of the dumping investigations in the USA and Canada.

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- (2) In Section A-4, Table 1 (page 13), details of the precise quantity and value of the imported transformers for each of the years set out in the table; and
- (3) In Section A-4, Table 2 (page 14), a complete copy of the table showing Australian market share percentages by quantity and value.

2 **Consideration Report**

2.1 We are instructed to request the following information:

- (1) In the table titled 'Australian market for power transformers' (page 13), the scale and unit of measurement used on the Y axis;
- (2) In the table titled 'Market share for power transformers' (page 13), the scale and unit of measurement used on the Y axis;
- (3) In the table titled 'Price undercutting' (page 22), the date of each of the relevant tenders and the scale and unit of measurement used on the Y axis;
- (4) In the table titled 'Wtd average profit margin' (page 23):
 - (a) the scale and unit of measurement used on the Y axis;
 - (b) whether the profit margin is gross or net profit;
 - (c) what the ADC means when it says the profit margin is 'weighted'; and
 - (d) whether the table refers to anticipated profit margins on unsuccessful tenders (as referred to in the text immediately above the table) or whether the table is based on actual profits.
- (5) In the table titled 'Potential sales volume' (page 24):
 - (a) the scale and unit of measurement used on the Y axis; and
 - (b) the date of each of the lost tenders.

3 **PAD**

- 3.1 We refer to the graph titled 'Price undercutting' on page 11 of the PAD (**Graph**). We note that the Graph purports to compare Wilson's offers and the successful import prices in relation to 18 tenders, presumably during the investigation period, with the conclusion that dumped prices of power transformers from the countries under investigation enabled exporters to successfully win domestic contracts by undercutting Wilson's tender prices.
- 3.2 Given the Graph refers to 'Import Price' we assume that the goods the subject of each of the 18 tenders have in fact been imported into Australia during the relevant investigation period. Please let us know if this assumption is correct, and if it is not, which tenders have in fact resulted in importations during the investigation period.
- 3.3 We assume that, for the purposes of publishing the PAD, the ADC has confirmed that, in each of the 18 tenders contained in the Graph, the goods were exported at dumped prices and not simply at a price lower than the price offered by Wilson. Further, for the alleged dumping to be causative of the lost tender, we assume that the difference between the successful tender price and the price offered by Wilson was less than the alleged dumping margin. Please will you confirm that these assumptions are correct.
- 3.4 In light of the revised securities detailed in the ADC's Anti-Dumping Notice No. 2013/106 dated 18 December 2013, please could you let us know if the Graph or any other sections of the PAD will require amendment or further explanation as a result.

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- 3.5 We are instructed to request that the ADC make the following information regarding the Graph available on the public record:
- (1) the name of the relevant exporter for each of the 18 tenders;
 - (2) the specific power ratings and voltages of the power transformers the subject of each of the 18 tenders;
 - (3) the scale used (in Australian dollars) on the 'Value' axis of the graph; and
 - (4) the methodology used by the ADC in selecting these 18 tenders to analyse as part of its preliminary material injury assessment in the PAD.
- 3.6 Please also let us know:
- (1) the reason why 22 of the 40 tender results included in the price undercutting graph on page 22 of the Consideration Report are not in the Graph;
 - (2) what review has been undertaken to determine whether the successful bid and the Wilson bid related to identical goods, in particular, whether the anticipated power losses of the tendered goods were identical;
 - (3) whether for each of the 18 tenders, the ADC has confirmed with the company that awarded the tender that Wilson would have been successful if it submitted a lower price; and
 - (4) whether for each of the 18 tenders the tender was awarded to the lowest bidder.
- 3.7 Finally, on page 11 of the PAD it is claimed that the Australian industry lost approximately \$80 million in potential lost revenue due to dumping. We request the ADC explains the period of time in which these losses allegedly occurred.
- 3.8 For the purposes of its material injury analysis in the Statement of Essential Facts, we presume that the ADC will consider and analyse any tenders lost by Wilson to imports from other locations (for example, Japan and Europe) during the investigation period and injury analysis period, as well as the reason for these losses. We consider that this analysis will be important in determining whether any injury suffered by Wilson during the investigation period is related to the alleged dumping from the countries under investigation.

Our client is of the view that the information and documents requested in this letter are either not specific to Wilson, publicly available or based on publically available information such that the information and documents requested should be made available on the public record. If the ADC considers it necessary to claim that any of the information or documents requested is confidential, we request that the ADC also provide an explanation as to the basis for the claim.

Please contact us if you have any queries.

Yours faithfully



Stephen Klotz
Partner
Norton Rose Fulbright Australia