

PUBLIC RECORD

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Date 11 March 2014 Confidential Email
From Jaime McKenzie / Louise Jenkins
To **Director, Operations 1**, Anti-Dumping Commission,
Canberra
Email operations1@adcommission.gov.au

Dear Director

Power Transformers exported from the People's Republic of China, the Republic of Indonesia, the Republic of Korea, Taiwan, Thailand and the Socialist Republic of Vietnam - Submission by Siemens Wuhan, Siemens Jinan and Siemens Guangzhou on Exporter Visit Report

Attach

Our Ref LMJM:JHMM:120382109

Your Ref INVESTIGATION 219

jhmm A0128563023v1 120382109 11.3.2014

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11 March 2014

Director, Operations 1
Anti-Dumping Commission
5 Constitution Avenue
Canberra ACT 2600

By Email

Dear Director

Power Transformers exported from the People's Republic of China, the Republic of Indonesia, the Republic of Korea, Taiwan, Thailand and the Socialist Republic of Vietnam - Submission by Siemens Wuhan, Siemens Jinan and Siemens Guangzhou on Exporter Visit Report

We refer to the Exporter Visit Report prepared by the Anti-Dumping Commission in relation to Siemens Transformer (Wuhan) Co, Ltd (**Siemens Wuhan**), Siemens Transformer (Jinan) Co, Ltd (**Siemens Jinan**) and Siemens Transformer (Guangzhou) Co Ltd (**Siemens Guangzhou**) (together, **Siemens**).

The Commission has informed Siemens that the Report will be published on the electronic public record today. Siemens understands that the Commission is required to publish the Report and, accordingly, Siemens has provided its comments on the public and commercial in confidence versions of the Report, however its cooperation and consent to the Report being placed on the public record is without prejudice to Siemens' ability to contest any aspect of the Report or any other matter arising out of or in connection with the investigation.

1 Preliminary dumping margin

Siemens strongly contests any suggestion that Siemens or any entities in the Siemens group of companies has engaged in dumping. Siemens does not agree with the findings of fact in the Report or with the methodology applied by the Commission to calculate Siemens' preliminary dumping margin. Siemens' calculations indicate that if the errors in the Commission's methodology and calculations are addressed, the Commission will find no dumping margin exists for Siemens. As the Commission is aware, Siemens strongly objects to the publication of the Report stating a preliminary dumping margin prior to these fundamental issues being properly addressed.

In this context, we refer to Siemens' public and commercial in confidence submissions on the draft Report dated 21 February 2014 and 28 February 2014. Siemens has identified in those submissions and in its correspondence and discussions with the Commission significant issues in relation to the methodology applied to calculate the provisional dumping margin for Siemens. There are a large number of findings in the Report with which Siemens fundamentally disagrees. Siemens also considers that there are differences of opinion between Siemens and the Commission regarding the nature of the data requested by the Commission at the verification visit.

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For current purposes, Siemens notes, in particular, the following issues which have been raised with the Commission and which are critical to any fair and accurate calculation of a dumping margin:

- the Commission has acknowledged that on the one hand using Siemens' PRC GAAP audited financial statements to calculate SG&A costs, whilst on the other hand using Siemens' global management accounts prepared according to IFRS for the remaining elements of the Commission's calculation, results in the double counting of costs. Nonetheless, the Commission calculates Siemens' provisional dumping margin on this basis. This artificially inflates Siemens' constructed normal value and, accordingly, makes the calculated provisional dumping margin inaccurate;
- the Commission has acknowledged that the Minister must take into account start-up costs. However, the Commission has not made any adjustment or provided any response to the detailed public and commercial in confidence submissions filed by Siemens on 28 February 2014 in relation to start-up costs incurred by Siemens Wuhan; and
- Siemens has provided significant material in support of its submission that it is inappropriate for the Commission making any adjustment for credit costs. That material includes material provided during the site visit in November 2013, during a teleconference with the Commission on 14 January 2014 and by way of public and commercial in confidence submissions made on 28 February 2014. The Commission has not provided any substantive response on this issue, but has declined to reconsider its position prior to publication of the Report.

2 SG&A costs

A significantly revised draft of section 5.5 of the Report (SG&A costs) was provided to Siemens for review on 6 March 2014. The confidential annexure to that revised section of the Report was provided to Siemens on 7 March 2014. Siemens disagrees with the chronology set out in section 5.5 of the Report and in Confidential Appendix A to section 5.5 of the Report. Siemens considers that the chronology does not accurately reflect all relevant communications between Siemens and the Commission during the course of the investigation. On 6 March 2014, Siemens provided a mark-up of section 5.5 of the Report proposing several amendments to ensure the accuracy of the Report. Siemens' proposed amendments included the following which the Commission elected not to adopt in the final draft of section 5.5 of the Report, which was provided to Siemens on 7 March 2014:

- the draft Report states that Siemens stated to the Commission that SG&A costs in the response to exporter questionnaire were based on 'estimates'. SG&A costs in the REQ were not 'estimates'. At the site visit, Siemens explained to the Commission that SG&A costs are allocated on a project basis in Siemens' global management accounts in accordance with Siemens' **[Confidential text deleted – accounting policy]**, a copy of which was provided to the Commission at the site visit;
- the draft Report states that at the site visit, Siemens suggested to the Commission that SG&A costs should be calculated based on the SG&A costs as a proportion of total revenue for all sales shown in the 'audited financial statements'. Rather, Siemens suggested at the site visit, and continues to suggest to the Commission, that SG&A costs should be calculated either:
 - based on the SG&A figures in the 'All sales spreadsheet' (prepared based on IFRS accounting principles); or

- from the total SG&A costs as a proportion of total revenue in the Income Statement in the REQ (prepared based on IFRS accounting principles).

Siemens does and did not suggest that the Commission should calculate SG&A costs based on Siemens' PRC GAAP audited financial statements in circumstances where the Commission's remaining calculations rely on Siemens' IFRS global management accounts. The reasons for this have been discussed with the Commission and are expressed in detail in Siemens' submission dated 21 February 2014.

This issue was first raised with the Commission at the site visit. Accordingly, on 16 November 2013, Siemens provided to the Commission by email 'Siemens Confidential Wuhan A-4.5 IFRS Chinese GAAP differences', which identified differences in the accounting treatment of costs under Siemens' IFRS global management accounts and Siemens' PRC GAAP audited financial statements. Siemens has since provided reconciliations between the global IFRS management accounts and the PRC GAAP audited financial statements. During the site visit, Siemens provided to the Commission 'Confidential Attachment 3 SGA' containing a reconciliation of revenue between the IFRS global management accounts and PRC GAAP audited financial statements. On 17 January 2014, Siemens provided 'Confidential 2012 IFRS PRC GAAP reconciliation Wuhan' containing a more detailed summary of the reconciliation for Siemens Wuhan. Siemens then provided on 21 February 2014 a detailed reconciliation by General Ledger account for Siemens Wuhan. Siemens considers that these reconciliations allow the Commission to identify the different allocations of costs under IFRS accounting principles and under PRC GAAP. However, Siemens notes the Commission's comments in the Report that it continues to have concerns about this data and Siemens intends to provide additional data to further clarify this issue.

Confidential Attachment 1 'Amended Section 5.5 of Visit Report' contains a mark-up of section 5.5 of the Report with amendments proposed by Siemens to ensure that the Report accurately reflects the communications between Siemens and the Commission on these important issues. Siemens requests that the Commission reconsiders these amendments prior to publishing the Report.

The draft Report provided to Siemens identifies a number of issues which Siemens has raised with the Commission in relation to the Report. The Report indicates that the dumping margin may be revised following consideration of submissions made by Siemens.

As the goods under consideration are complicated, this particular investigation necessarily involves a detailed analysis of complex accounting and costing methodologies across several jurisdictions, Siemens considers that its submissions ought to be given due weight and be taken into account prior to the publication of the Report or any provisional dumping margin.

Siemens understands that the Commission will consider the issues raised further. Siemens will be seeking to submit further information to the Commission to have its preliminary dumping margin finding reviewed.

We look forward to the Commission's consideration of the issues raised and submissions made by Siemens and respectfully ask that the preliminary dumping margin be reviewed as requested.

Yours faithfully