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Customs House  
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CANBERRA ACT 2601

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## NON-CONFIDENTIAL

### Submission by Alstom Grid Australia relating to the investigation into alleged dumping of power transformers

Dear John

We refer Dumping Investigation ADC219 – Power transformers exported from China, Indonesia, Korea, Taiwan, Thailand and Vietnam (**“the Investigation”**) currently being undertaken by the Anti-Dumping Commission (**“ADC”**) following an application lodged by Wilson Transformer Company Pty Ltd (**“Wilson”**).

We act on behalf of Alstom Grid Australia Pty Ltd (**“Alstom Grid”**) and its related bodies corporate (**“Alstom Group”**).

This submission is made in relation to issues being considered by the ADC as part of the Investigation and in particular, claims made by Wilson in its Application for the Publication of Dumping and/or Countervailing Duty Notices (**“Application”**), the findings by the ADC in its Consideration Report No. 219 (**“Consideration Report”**) and in Preliminary Affirmative Determination Report No. 210 (**“PAD”**).

#### 1. Summary

It is submitted that the cause of the material injury alleged to have been suffered by Wilson is a correction of the Australian power transformer market to more long-term sustainable levels of demand. It is submitted that prior to 2008/09 there was an imbalance in the market whereby demand heavily exceeded supply and Australian suppliers were protected by both formal barriers to entry (Government procurement strategies, customs duties) and informal barriers to entry (buyer resistance to using offshore suppliers).

In 2008/09 there was a rapid change in the market whereby the following happened almost simultaneously:

- with the onset of the global financial crisis (**“GFC”**) demand for power transformers decreased;
- customs duties were removed on imports from certain countries;
- local manufacture preferences became less common in requests for tender documents;
- Australian customers became more willing to use foreign manufacturers; and
- the Australian dollar rose in value making the Australian market more attractive for foreign suppliers.

These factors resulted in a rapid market correction, denying the Australian industry a period of adjustment, and occurring at a time when Australian manufacturers were increasing capacity in excess of domestic demand. These compounding factors resulted in the occurrence of the alleged material injury. This market environment is the context in which all claims made by Wilson need to be assessed.

Part of the Australian industry material injury alleged by Wilson is the closure of Alstom Grid's Australian manufacturing facility. The reasons for that closure are set out fully in this submission. Alstom strongly rejects the Wilson assertion that the closure resulted from any alleged dumping. The main factors driving the decision to close were the high value of the Australian dollar reducing international competitiveness and an increased acceptance by Australian buyers of offshore manufacturers.

In addition to the above points, for the reasons set out in this submission, Alstom Grid submits the following:

- a) neither Alstom Grid or the Alstom Group is involved in dumping;
- b) every power transformer is unique and this needs to be taken into account when attempting to compare profits achieved on sales of different power transformers or prices at which power transformers are offered;
- c) the definition of the goods under consideration is too wide to be of any meaningful purpose and either results in the identification of no like goods or that the category of like goods includes any equipment that transforms power;
- d) the Australian industry does not produce all goods covered by the Investigation;
- e) the Wilson constructed export and normal values referred to in the Application were fundamentally flawed and should not lead to any expectation of a finding of dumping;
- f) in conducting the Investigation the ADC needs to recognize the differences in the buying behavior of different customers. For instance, total evaluated cost, and not the initial purchase price, is the primary driver of buying decisions for utility customers (limiting the potential of any dumping to cause material injury);
- g) where price is relevant, the biggest impact on the price competitiveness of Australian manufacturers has been the increase in value of the Australian dollar;
- h) similar to Alstom Grid, the most significant factors impacting on the profits and general financial performance of Wilson have been the cost of its capital expansion, a change in market conditions and an increased willingness of customers to purchase foreign made power transformers;
- i) for the above reasons, it is clear that the investigation, insofar as it relates to Alstom Grid and the Alstom Group, should be terminated as neither Alstom Grid or the Alstom Group is involved in dumping; and
- j) further, the Investigation should be terminated because any alleged dumping has not caused material injury to the Australian industry.

The below submission sets out the following:

- Background to Alstom Grid Australia and the Alstom Group
- Background to the Australian and international power transformer market
- Submissions regarding the goods under investigation
- Submissions as to whether there has been dumping
- Submissions as to whether any alleged dumping is the cause of any material injury
- Submissions regarding the alleged material injury
- General observations regarding claims made in the Application
- Submissions that the Investigation be terminated

## **2. Alstom Grid Australia**

### **2.1. Current Activities**

Alstom Grid has been providing products and services to utility and industry companies in Australia for more than 100 years. Alstom Grid offers customers the full range of transmission products, turnkey solutions and services.



Alstom Grid is pioneering agile solutions for complex grids – designing and procuring the manufacture of a comprehensive range of electrical equipment for long distance transmission, ranging from 52kV to 800 kV in direct current and up to 1200 kV in alternating current. This includes power transformers, gas-insulated switchgear, air-insulated substation products such as circuit breakers, disconnectors, instrument transformers and other high voltage equipment.

Either as part of supplying a power solution or as a standalone sale, Alstom Grid supplies power transformers. Currently, the transformers supplied by Alstom Grid are manufactured by related parties in any one of its 11 global manufacturing facilities. In respect of those power transformers, Alstom Grid is the Australian supplier, importer, installer and provides ongoing technical support and services.

Alstom Grid is part of the global Alstom Group. The Alstom Group is a global leader in equipment and transmission, and it is recognized for innovative, environmentally friendly solutions. The Alstom Group is one of the leading global providers of power transformers with an annual production capacity in excess of [REDACTED] MVA. [Commercial-in-confidence. Confidential total production capacity]

## 2.2. Australian manufacturing – Rocklea Facility

Up until 2013 Alstom Grid operated a facility manufacturing power transformers in Rocklea, Queensland (“**Rocklea Facility**”). Prior to its closure, the Rocklea Facility had the following product portfolio:

- generator and transmission transformers up to 600MVA, 400kV;
- auto-transformers to 1500MVA, 400kV;
- shunt reactors up to 75 MVA, 330kV; and
- special transformers.

At the time of its closure, the Rocklea Facility had an annual production capacity of [REDACTED] MVA. [Commercial-in-confidence. Confidential total production capacity]

Generally, in respect of power transformer with a power rating above 20 MVA the Rocklea Facility competed with Wilson and offshore manufacturers.

[REDACTED]

[REDACTED]

[REDACTED]

[Commercial-in-confidence. Confidential internal production strategy and summary of confidential board minutes]

Following a period of consultation and attempts to find solutions to the Rocklea Facility's financial position, in November 2012 the Alstom Grid board made a decision that the continued operation of the Rocklea Facility was not financially viable. Production at the Rocklea Facility ceased in mid 2013.

### **3. Australian transformer market**

It submitted that any assessment as to the factors affecting market share, power transformer pricing and the financial performance of Wilson requires an understanding of the market dynamics that exist in the Australian power transformer market. Being an Australian manufacturer until 2013, an importer since 2013 and part of a global supplier of power transformers, Alstom Grid can provide a unique perspective regarding the Australian power transformer market. Set out below are key elements of the Australia market in terms of:

- customers;
- demand;
- supply; and
- the international market.

#### **3.1. Customers**

It is important to appreciate that there are different types of customers in the Australian power transformer market and those different customers have different requirements in respect of power transformers. We note that in the PAD views are expressed as to what drives purchasing decisions regarding power transformers. That view does not seek to distinguish between different types of customers and assumes a single set of factors equally affect the buying decisions of all customers.

For the reasons set out below, it is crucial that during the Investigation the differences in power transformer customers and their buying behavior is taken into account.

As noted by Wilson in the Application, the customers for power transformers are electric power utilities, generators, large commercial and industrial (including rail) and mining companies.

Broadly, the customer base can be divided into two categories, utilities (companies involved in the generation and transmission of electricity) and industry (businesses that use power transformers in connection with powering their commercial operations).

Utilities customers comprise the largest customer base. Utilities customers purchase power transformers as either replacements for existing transformers, as part of an overall power solution or as a new standalone product. The types of power transformers purchased by utilities customers vary depending on whether the customer is a generating utility, transmission utility or distribution utility.

Power transformers purchased by utilities are used in the transmission of electricity which is either the primary business of the utility or a key component of that business. As utilities are primarily involved in the generation and transmission of electricity, much larger volumes of electricity are transformed through the power transformer than might be the case for a power transformer used by an industry customer.



Due to the volume of electricity transformed, a key consideration for utilities customers in purchasing a power transformer are power losses that occur in the transmission of electricity. In the report issued by the US International Trade Commission in respect of Investigation No. 731-TA-1189 (Large Power Transformers from Korea) (“**US Investigation**”) it was stated that:

*“LPT [Large Power Transformers] are more than 99 percent efficient. There are, however, several types of losses in LPTs, including no-load losses, load losses, and auxiliary losses. “No-load losses are caused by the magnetizing current needed to energize the core of the transformer, and do not vary according to the loading on the transformer. They are constant and occur 24 hours a day, 365 days a year, regardless of the load...” Load losses are primarily due to the resistance of the copper conductor and eddy currents induced in the core by the magnetic field. Auxiliary losses are the power required for fans and other electrical equipment.”*

While large power transformers are efficient, it is important to remember that before electricity is received by an end consumer it may have passed through 4 or 5 power transformers. Due to the level of electricity passing through power transformers, the cost of losses over a 20 year period will far exceed the procurement costs of the power transformers.<sup>ii</sup>

Taking into account losses over a 20 year period, generally, the initial purchase price of a power transformer operated by a utility customer will be approximately 50% of the losses inclusive cost of that power transformer.

For this reason, it is submitted that the losses associated with a power transformer are a key consideration for utility customers when purchasing a power transformer (as set out later, other considerations include price, quality, history of past sales, supplier reputation and support services).

Utilities customers’ level of demand for power transformers will be driven by the construction of new power facilities, consumer demand for electricity and the need to replace existing power transformers.

Industry customers purchase power transformers that are necessary as part of obtaining electricity to power their primary commercial operation. While there are exceptions, industry customers are less concerned with the level of losses and the longevity of power transformers than a utilities customer. Compared to utilities customers, it can be said that industry customers do not have the same long term (20-40 years) planning considerations and viewpoints. This means industry customers may be more influenced by the initial purchase price of a power transformer than a utility customer.

A key exception is electro intensive industries such as aluminum smelters. For these industries, losses represent a key cost and factor in purchasing power transformers.

The factors that are generally most important to industry customers are price, brand, experience, after sales service and reliability. Which factors are most important will depend on the criticality of the successful operation of the equipment to the customer.

Industry customers’ level of demand for power transformers will be driven by the level of commercial activity in the relevant industry, including the number of new projects being undertaken.

### **3.2. Demand and supply**

The level of demand and supply is the key fundamental determinate of price and profit in any competitive industry. It is submitted that levels of demand and supply can be prone to disequilibrium in the power transformer industry due to the following:

- the high capital costs and expertise involved in the manufacture of power transformers means there can be a significant time lag between an increase in demand resulting in an increase in supply. This can result in prolonged periods of demand exceeding supply;
- in periods of oversupply, demand cannot be easily increased by simply decreasing the price of a product, ie, it is demand inelastic. Other than replacing aging power transformers, the need to purchase a power transformer is generally driven by general demand for electricity or a specific commercial need. An inability to increase demand can lead to high periods of underutilization;
- due to the significant level of fixed cost overheads associated with the production of power transformers, a slight fall in demand can have a disproportionate affect on per unit profits. A production facility will have a breakeven point and the financial impact of being a relatively small amount of sales over or under that breakeven point can be significant. This means that it is crucial that producers correctly predict the level of demand and limit the extent to which their facility is underutilized.

Below we consider the demand and supply factors in the Australian market for power transformers both before and after the GFC. What will be seen is a period of demand far exceeding supply, with the bullish market prompting capacity increases and new entrants in the market. These factors resulted in a large increase in supply, and at the same time as supply increased, a number of factors combined to significantly decrease demand to a normalized level. More simply, a classic, albeit rapid, market correction scenario.

### **3.2.1. Demand Pre 2008/09**

In the 4-5 year period leading up to 2009 the Australian demand for power transformers was very strong. This is reflected in the graph entitled “Australian market for power transformers” on page 13 of the Consideration Report (“**AU Market Graph**”). The graph sets out that the Australian market for power transformers doubled in size from 2004/05 to 2008/09.

The driver of that demand was an increase in demand for electricity. Figures 19 and 20 on page 33 of the Application demonstrate a continued rise in demand for electricity from 2004 to 2008. That rise in demand lead to the construction of new power facilities, such as generators, sub-stations and transmission stations, which required power transformers.

At the same time, demand from industry customers was strong, driven to a large degree by the mining boom and the associated number of new mining projects.

During this period there was general reluctance from customers, especially utilities customers, to source power transformers from foreign manufacturers. At this time foreign manufacturers were largely unproven. Further, strong international demand meant that foreign manufacturers were less willing to accommodate the unique design demands of Australian customers as equal returns for more generic contracts could be sought elsewhere.

These dynamics culminated to produce a market imbalance in 2008/09 characterized by demand far exceeding supply. This market imbalance was reflected in Australian manufacturers being able to secure higher prices, achieve profits above the long term trend and very high utilization levels. It is



submitted that the profits made by the Australian industry at this time were not aligned with the long term results of the industry and were unsustainable.

A unique feature of large power transformer market is that the aggregate demand for large power transformers is likely to be extremely inelastic, meaning higher prices will not decrease demand nor lower prices increase demand. In the US Investigation it was found that the elasticity of demand for power transformers was in the range of -0.05 to -0.25.<sup>iii</sup>

### **3.2.2. Demand post 2008/09**

During the 2009 calendar year there was a dramatic change in demand for power transformers. This is reflected in AU Market Graph which sets out that the size of the Australian market fell approximately 40% between 2008/09 and 2011/13. In the Application Wilson noted that the fall in demand for power transformers was due to a fall in demand for electricity. Alstom Grid agrees with this assertion. During the period post 2009 Alstom Grid noticed a significant decrease in demand for power transformers by utilities customers.

While occurring slightly later, the reduction in the size of the mining boom also resulted in a decrease in demand by industry customers for power transformers.

At the same time as this retraction in the size of the Australian power transformer market, there was a shift in the attitudes of Australian customers to sourcing power transformers offshore. Whilst previously a preference for a locally produced product had been a protective factor for Australian manufacturers, over a period of time Australian customers gradually increased their willingness to purchase foreign made power transformers. Australian buyers recruited procurement managers with greater experience in sourcing power transformers, visited foreign factories and undertook supplier qualification audits. This represented a more sophisticated approach to procurement and led to increased confidence in the quality of foreign manufactured power transformers.

Other reasons for the increased willingness to source foreign sourced products included:

- a significant increase in the value of the Australian dollar reducing the Australian dollar price of imported power transformers;
- a greater local presence by foreign suppliers;
- a reduction in tariffs in respect of Vietnam and Indonesia originating power transformers; and
- a diversification of customer requirements and price points reducing demand for premium Australian made power transformers.

A general fall in demand (coupled with a specific fall in demand for Australian made power transformers) increased competition from foreign-made power transformers, resulted in a market correction with Australian manufacturers no longer able to demand an Australian made premium.

### **3.2.3. Supply**

#### **3.2.3.1. Large Equipment manufacturers**

Prior to explaining the supply factors impacting on the Australian power transformer market, we have set out below some general observations relevant to the financial measurement of manufacturers in the power transformer market. These observations can apply to most capital intensive manufacturers.

A major characteristic of power transformer producers is a very long investment cycle period. Unlike less capital-intensive industries, the return on such large capital investment is viewed over a 10 – 20 year period of time which limits the impact of short term market variables such as short term demand, currency and variable costs.

In these types of industries, volume and marginal return, rather than unit price and unit total cost return, are more useful in making management decisions. In many cases, because of the high fixed asset costs and the impact of the different allocations, it can be very difficult to accurately assess profit per unit on a total cost basis.

In our view, these factors have the result that the goods under consideration in the Investigation (“GUC”) are either not an appropriate case for a dumping application or the ADC will not be able to obtain sufficient clear evidence of dumping or material injury on which it can make a recommendation that a dumping notice be issued. We say this because:

- it is extremely difficult to determine a normal value of the GUC in the absence of comparable goods and a reliable per unit profit margin; and
- it is extremely difficult to identify the source of material injury independently of the long term investment cycle.

#### **3.2.3.2. Protections**

Until recently, Australian suppliers of the GUC have benefited from certain protectionist measures present in the Australian market. An example of this has been some customers inserting a preference in request for tender documents that the goods be produced in Australia, some of this being as a result of prior public ownership.

In general, Australian customers have historically demonstrated a preference for Australian made products. Over time however, there has been a change in this attitude. This change has occurred as customers have tested overseas suppliers through the ordering of a number of smaller transformers. The successful manufacture of those smaller transformers has led to a willingness by Australian customers to order larger power transformers from foreign manufacturers (see section 3.2.2 above).

A decrease in the overt protectionist behaviors and customer attitudes has resulted in a change in the competitiveness of the Australian market.

#### **3.2.4. Supply pre 2008/09**

In the period leading up to the 2008/09 financial year Australian manufacturers were in a position where demand for their product exceeded supply. This led to very high levels of utilization and an ability to offer pricing that produced profit levels not reflective of the long term profit trend in the industry.

In addition to domestic demand, a lower Australian dollar meant that Australian manufacturers could compete in the export market.

These factors lead to Alstom Grid undertaking an expansion of its Rocklea Facility between 2009 and 2011. A purpose of this expansion was to increase capacity to enable Alstom Grid to meet the then increasing demand for power transformers in Australia.



It is assumed that the buoyant power transformer market existing in 2008/09 lead to the decision by Wilson to undertake its capital investment dubbed "Project Big". We note that in publically available documents Wilson has described Project Big as a \$65 million investment to establish a world class power transformer facility. Project Big reportedly lead to increased capacity of "+40%".

### **3.2.5. Supply post 2008/09**

As set out above, in the period post 2008/09 there was an unexpected and significant decline in demand for power transformers to more normalized levels, ie, at more typical replacement and capital investment levels. At the same time, both Alstom Grid and Wilson increased their production capacity based on pre 2008/09 demand and so were suddenly faced with levels of demand that would have been unlikely to have sustained even their original capacity.

This market was made significantly more difficult for Wilson and Alstom Grid by the simultaneous rise in the value of the Australian dollar. The impact of the change in the value of the Australian dollar is set out in detail in section 6.3.3 below.

[Commercial-in-confidence. Confidential pricing and cost information] Taking these factors into account, the rise in value of the Australian dollar between 2009 and 2011 resulted in a 20% decrease in its competitiveness against imported power transformers.

The rise in the value of the Australian dollar would also have significantly impacted on Wilson's competitiveness in the export market, further decreasing its volumes and levels of utilization.

The culmination of the above factors lead to a situation where Wilson and Alstom Grid had significant levels of over-capacity and decreased options to increase the utilization of that capacity.

Despite demand falling in the Australian market, there were many factors that resulted in that market becoming more attractive to overseas manufacturers. Those factors were:

- the rise in value of the Australian dollar;
- the relative stability of the Australian economy (the stable economic growth of Australia should be compared to the volatile economic position of other developed countries); and
- demand in Australia had not fallen as far as it had in other developed countries.

While Australia was a more difficult market for Alstom Grid and Wilson, viewed internationally it was comparatively attractive and one in which positive returns could be achieved.

## **3.3. International market**

### **3.3.1. General**

Given that competition for the Australian industry comes from the international market, it is important to take into account the dynamics of that market when considering the various issues raised in the Investigation.

The major suppliers in that market are ABB, Siemens, Alstom, Hyundai Heavy Industries and Tebian Electric Apparatus (TBEA). Together the global market share of these companies is approximately 40%.

Alstom Grid estimates that each of these multinationals has an annual production capacity exceeding 100,000 MVA. The economies of scale produced by such high levels of production result in lower per unit production costs and the ability to offer more competitive pricing than smaller scale manufacturers.

Additionally, such high levels of production result in increased buying power and higher levels of resources being committed to managing the impact of currency and raw material fluctuations.

Similar to Australia, prior to the GFC, the international power transformer market was very strong with rising electricity usage (particularly in China and India) driving strong demand. In response to this, existing suppliers increased capacity and new suppliers entered the market. Again, consistent with Australia, following the GFC global demand fell and created a situation of excess capacity.

In this environment, global suppliers that had not previously seen Australia as an attractive location due to reasonably unique customer requirements and low per order volumes, expressed a greater willingness to supply to Australia. At the same time the increased value of the Australian dollar made Australia a potentially profitable market.

### **3.4. Impact of change in demand and supply on the market**

As set out above, over the past 5 years there has been a significant change in the demand and supply factors affecting the Australian power transformer market. The market has gone from one where:

- demand exceeded supply;
- there was little competition from foreign manufacturers;
- allowing domestic suppliers to make profits exceeding long term norms;

to a market where:

- through decreased demand, increased capacity and new market entrants, supply far exceeds demand;
- due to currency changes alone, the price of imported power transformers decreased by at least 20% relative to Australian produced power transformers; and
- the production of power transformers fell increasing costs per unit and normalizing the profits of Australian manufacturers to international levels.

It is submitted that prior to 2008/09 the market was imbalanced with the profits of Australian manufacturers exceeding the long term profit trend in the industry. Any one of a fall in demand, an increase in supply or decrease in the price of imports may have been sufficient on its own to correct the market imbalance. However, that all 3 events happened simultaneously hastened the rebalancing. Normally, such a market correction occurs gradually over a period of time. Where this is gradual suppliers and customers have time to adjust. For instance, the manufacturer will become more efficient and may also have a steady softening of profits.

That the market correction has happened so rapidly meant that companies such as Alstom and Wilson could not adjust in the same way that would have been the case with a more moderate market change.



It is in this context that Wilson's claims of the cause of any material injury must be reviewed.

#### 4. Goods under consideration

##### 4.1. General

In the Application the GUC are described 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 characteristics of the GUC have been described in the Application with further explanation being provided in the various submissions. In Alstom's view it is crucial that the ADC understands the following regarding the GUC:

- The GUC are made to order equipment. The specifications for each power transformer are put forward by the company seeking to purchase the power transformer. Those specifications may be over 100 pages long. Due to the degree of individual specifications for each power transformer, it is unlikely that any two power transformers will be identical.
- Despite the degree to which the power transformers are subject to detailed customer specifications, there is often a notable degree of variance in responses submitted to the request for tender. In response to the same request for tender, manufacturers may submit tenders with variances in the following:
  - quality of materials;
  - the level of losses;
  - construction;
  - design;
  - materials; and
  - ancillary equipment.
- Alstom Group, and presumably most other manufacturers, are able to produce any number of power transformers that meet the customer's stated specification but which have varying attributes and pricing. On occasion Alstom will make multiple offers to customers with differing grades of core steel, losses and initial purchase price.
- Due to the above, it is important to appreciate that even power transformers proposed by different manufacturers in response to the same tender and specifications will be different. While those goods may share the same characteristics in respect of power and voltage ratings, it is still not the case that those goods are identical, would have the same production costs, pricing or would be seen by the customer as substitutable. We note that on page 16 of the Application Wilson stated *"...two PTs with exactly the same power ratings may have greatly varied features and widely differing prices."*
- The context in which a power transformer will be supplied can also result in differences in the pricing dynamics of the power transformer. For instance, power transformers supplied as only one element of a total power solution may have different pricing to a power transformer supplied as a standalone product. In the US Report it was noted that the median price for large power transformers comprised 24% of the costs of a distribution station, 15% of the costs of a generator station, 25% of the costs of a transmission line substation and 2% of the cost of a wind farm.<sup>iv</sup> While the power transformer is a crucial part of the project, given this low percentage, the pricing of the power transformer is likely to follow the overall project profitability.
- Due to the above point, it is important when comparing the profits on power transformers sold into a domestic market with the profit of transformers exported to Australia, that an appropriate allowance is made to account for the different contexts in which the power transformer is supplied.

##### 4.2. Extremely wide definition

The definition of the GUC ranges from a power transformer with a power rating of 10 MVA (with no minimum kV rating) to unlimited MVA and 500 kV. This is an extremely wide product definition including:

- relatively small power transformers (approximately 15 tonne) to very large transformers (approximately 400 tonne)
- step up transformers, step-down transformers, auto-transformers, interconnection transformers, a voltage regulator transformer, a rectifier transformer, traction transformers, trackside transformers and power rectification transformers;
- transformers that transform AC current or DC current;
- transformers that operate at different frequencies;
- transformers with different load loss specifications;
- transformers with different noise levels; and
- single phase transformers or multiphase transformers.

On page 7 of the Application Wilson states that “*The WTC products are designed and manufactured to equal the performance and quality levels of the products subject to the application.*” It is important to appreciate that the GUC only have power ratings. There are no performance and quality level specifications of the GUC.

Enclosed and marked “C” is an extract from ABB’s Canadian complaint in respect of the dumping of power transformers with a power rating exceeding 60 MVA (“**ABB Canadian Complaint**”). The extract focuses on the differences between power transformers with a power rating above 60 MVA and those with a power rating below 60 MVA. Relevantly ABB notes at paragraph 56:

*“In terms of their interchangeability, Power Transformers [above 60 MVA] cannot generally be interchanged with transformers with a top rating of lower than 60 MVA as the lower-rated transformers cannot operate at the specific high-power ratings and line voltages required in the electrical transmission system. Thus, interchangeability and compatibility is very limited.”*

It is submitted that the definition of GUC includes such a wide range of power transformers that the goods description becomes almost meaningless and unworkable within the context of Australia’s anti-dumping legislation.

The only characteristic the goods covered by Wilson’s definition share is that they transform power. It is not possible to say that the goods under investigation have more specific common functions than merely transforming power. To do so would be to merely identify a subset of the GUC. Such an approach should only be taken if the definition of the GUC is narrowed to only that identified subset.

Alstom agrees with the comments made in other submissions (and seemingly acknowledged by Wilson on page 16 of the Application) that each individual power transformer is a unique piece of equipment and the identification of like goods is not possible. As such, it is submitted that the locally produced goods and the goods exported to Australia are not like goods.

In this respect we note that Wilson states on pages 14 and 15 of the Application that sales volumes are not directly comparable between period and products for the following reasons:

- complexity – it is stated that products with comparable ratings can be offered for sale or sold at quite different prices due to the complexity of the design required to meet customer specifications;



- efficiency – it is stated that higher efficiency (lower losses) transformers have higher prices;
- material costs; and
- exchange rates.

We query how issues of complexity and efficiency can be so pronounced so as to prevent a meaningful price comparison between two power transformers, but not so significant so as to prevent those two power transformers being considered “like goods”.

Pursuant to subsection 269T(1) of the *Customs Act 1901* (“**Act**”) like goods are:

*“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.”*

The ADC's Dumping and Subsidy Manual offers additional guidance regarding the definition of ‘like goods’ and interpretation of the statutory provisions. In summary, we note that identical goods will be regarded as ‘like goods’ should such goods exist and goods closely resembling the goods under consideration will be regarded as ‘like goods’ in the absence of identical goods.<sup>1</sup> In addition, where two goods are not alike in all respects, the Commission will assess whether they have characteristics closely resembling each other against the following considerations:

- Physical likeness – including the size, shape, weight and strength of the goods;
- Commercial likeness – including whether the goods are directly competitive in the market;
- Functional likeness - whether the goods have the same end use and if the goods are functionally substitutable; and
- Production likeness – as different production processes may produce identical goods.<sup>2</sup>

While we do not agree that bespoke power transformers can be considered like goods to other bespoke power transformers, if the ADC wishes to identify a set of goods as “like goods” it must identify characteristics that closely resemble the GUC. Due to the wide definition of the GUC, the only unifying characteristic of the GUC is power transformation. This means that the range of “like goods” is extremely wide. It is submitted that “like goods” include power transformers and distribution transformers of any specification. This is because any power transformer or distribution transformer will perform the function of transforming power. This is regardless of whether a power transformer is rated below 10 MVA or greater than 500 kV.

We appreciate that the GUC have a minimum MVA rating and a maximum kV rating. However, it is contended that the range of power ratings covered by the description of the GUC is so wide as to mean that the size of the power transformer cannot be a characteristic which limits whether a power transformer is a like good. Put differently, when the GUC only have one unifying characteristic, any power transformer that shares that characteristic is a like good for the purpose of 269T of the Act.

The result of adopting so wide a description of the GUC is that the Investigation will treat as “like goods”, and make comparisons between, goods that are neither identical nor closely resembling each other.

The impact of like goods covering any power transformer means that the ADC must have regard to all power transformers and not just the GUC when undertaking elements of the Investigation, including the following:

<sup>1</sup> *Dumping and Subsidy Manual* p.8.

<sup>2</sup> *Dumping and Subsidy Manual* pp 8-10.

- identifying the Australian industry producing like goods;
- identifying whether the alleged dumping of the GUC has caused material injury to the Australian industry producing like goods; and
- determining the normal value of exported GUC as this involves references to the price or profits on the sale of like goods in the country of export.

Alternatively, the ADC could narrow the description of the GUC to a particular type of power transformer which has essential features and characteristics which mean that it can be differentiated from other power transformers. In our view, such a definition should have a relatively small MVA power rating range and could result in multiple investigations if the ADC wished to cover the same range of goods covered by the current Investigation.

At a minimum, we would suggest the investigation be divided into 3 categories of goods with the following power ratings:

- power rating greater than 10 MVA and less than 40 MVA (“**Smaller LPTs**”);
- power rating greater than 40 MVA and less than 100 MVA (“**Medium LPTs**”); and
- power rating greater than 100 MVA (“**Larger LPTs**”).

We note that the Australian Customs and Border Protection Service (**Customs**) has, in past dumping investigations, divided the goods under consideration into sub-categories and calculated a dumping margin for each of those sub-categories. For example, in investigations into the alleged dumping of clear float glass, Customs has historically calculated a dumping margin for each thickness of glass, as each thickness had different characteristics and uses. It is submitted that this approach is appropriate in the current investigation, for the reasons outlined above.

#### 4.3. Imprecise definition

We note that the definition of the GUC requires the goods to have a power rating equal to or greater than 10 MVA. Please note that power ratings are generally expressed for transformers in conditions determined by a specified standard and then again at one or two stages or forced cooling, for example 8/12/15 MVA. It is unclear whether 10 MVA refers to the base rating or the top rating.

We query whether Wilson has provided the ADC with sufficient clarity regarding the GUC to enable the ADC to correctly focus its Investigation.

#### 4.4. Australian industry producing like goods

The ADC has made a preliminary finding that there is an Australian industry producing like goods to the goods under consideration. We note that the goods under consideration have no maximum MVA rating and have a maximum kV rating of 500.

On page 5 of Wilson’s on-line brochure (enclosed and marked “**D**”) it is stated that Wilson manufactures power transformers for 4 to 250 MVA at 362kV.

We are instructed that Wilson is generally known for producing transformers up to 220kV.

In these circumstances, we query the extent to which the ADC has evidence that there is an Australian manufacturer of power transformers with a power rating over 250 MVA or 300kV. In the absence of such



evidence, the ADC should be slow to find that any alleged dumping of power transformers with power ratings over 250 MVA or 300kV has caused material injury to the Australian industry.

## 5. The existence of dumping

### 5.1. General

It is axiomatic that in order for dumping to have caused material injury to the Australian industry producing like goods there must actually have been dumping of the GUC. It is also self-evident that the greater the quantity of goods being dumped and the greater the dumping margin, the easier it will be to find a causal relationship between the dumping and the alleged material injury.

Below we consider the claims of dumping against the Alstom Group and other exporters.

### 5.2. Alstom Group

During the investigation period (1 July 2010 to 30 June 2013) (“**Investigation Period**”) the Alstom Group has not exported goods to Australia at a price that is less than the normal value of those goods.

During the investigation the ADC has not identified any instances of the Alstom Group exporting the GUC to Australia at dumped prices.

[Commercial-in-confidence. Confidential pricing information]

### 5.3. Wilson constructed prices

In the Application Wilson refers to export prices it was aware of and compared them to a normal value it constructed on the basis of various assumptions (“**Wilson Constructed Margin**”). We appreciate that the Wilson Constructed Margin cannot form the basis for any finding of actual dumping. However, given the ADC accepted the Wilson Constructed Margin as prima facie evidence of dumping and Wilson challenges the ADC’s findings in the PAD on the basis of the difference between those findings and its Wilson Constructed Margin, we have set out below the various flaws we consider exist in the methodology underpinning the Wilson Constructed Margin.

#### Export Price:

- Wilson begins with the price at the first point of resale to an unrelated buyer in Australia. We query how Wilson can accurately know this price.
- It is not clear the extent to which the estimated export price was in Australian dollars, and if so, what adjustments have been made to account for exchange rate differences. It is likely that a successful tenderer will have entered into hedging or forward contracts (either before or after the tender result) to manage the risk of exchange rate movement. Wilson could not know what exchange rate had been secured and this would have a fundamental impact on the revenue received by the successful tenderer.
- It is unclear why the export price was based on the first resale to an unrelated buyer in Australia. Given most exporters of the GUC are multi-nationals, the relevant exports would have been to related parties. We are not aware of any evidence that such intercompany prices are not arm’s length and that there is a need to use a price other than that intercompany price as the export price.
- Wilson deducts the value of the transformer oil where that oil is purchased in Australia. We query how Wilson would know for goods it did not supply whether the oil was purchased in



Australia. Further, given the fluctuation in oil prices, not knowing the actual cost of transformer oil will lead to inaccuracies.

- An estimate of Australian selling costs is deducted. It is unclear how Wilson arrived at this estimate given its experience of selling transformers would be very different to that of a multinational selling entire power solutions.
- An allowance for warranty costs is deducted. Without being privy to the successful contract and the expected warranty costs in relation to the particular supplier, Wilson could have no reliable way of knowing what amount to deduct for warranty costs.

#### Estimate of normal value

- Wilson begins the exercise of constructing a normal value by establishing its own Australian sale price. This is an illogical and erroneous starting point given that a dumping investigation requires an examination of prices of similar goods in the domestic market of the country of export and the price of goods exported to Australia. It is not a comparison between the price (whether or not adjusted) of Australian made goods and the exported goods.
- A further flaw with using the Wilson tender price (as adjusted) as the starting point for the normal value is that it presumes that Wilson's price is representative of the lowest normal value. Wilson would not know if it was the runner up in the tender process or whether there were tenders lodged by manufacturers from countries not under investigation or manufacturers that do not dump that were ahead of Wilson in the tender process. A lower starting value would lead to a lower constructed normal value and a lesser difference between the export price being investigated and the constructed normal value.
- On page 9 of the Application Wilson states "*Electrical design – This is the key process for the performance of the product and has great influence on the cost of the product.*" Given the potential degree of variance in the design approach taken by Wilson and the successful tenderer we query whether Wilson took into account any differences electrical design may have had on the cost to produce the relevant power transformer.
- In an attempt to reconcile the differences between the successful tender price and Wilson's own tender price Wilson deduct a number of costs from the tender price. These deductions were likely to be understated for the following reasons:
  - no deduction is made for materials purchased by Wilson on the international market. It is very likely that there will be differences in the buying power of a multinational such as Alstom, Siemens or ABB and that of Wilson. This is likely to result in different pricing;
  - estimated labor costs were based on a 2011 World Bank Index. Clearly there is a large potential for differences between a national index and the labor costs of a particular manufacturer in that country. We also query whether the 2011 rates were used for tenders in 2010, 2012 and 2013. If so, this decreases the reliability of the figure;
  - overheads were deducted based on the differences in the labor rates for the country under review and Australia. It is unclear why differences in labor rates were used to approximate differences in overheads. Actual overheads may be much less than Wilson's overheads due to:
    - higher utilization rates;
    - efficiencies through greater economies of scale;
    - Wilson's overheads presumably include the costs of Project Big;
    - differences in whether manufacturing locations are owned or leased and the value of land on which those facilities are based (we note that Wilson's facility is located in suburban Melbourne);
    - different accounting treatment of overheads;
    - differences in regulatory and compliance costs between Australia and the country of the exporter;
  - Wilson's manufacturing facility is limited by its geographic size and the restrictions this placed on its expansion. This should be contrasted to new offshore facilities that are designed to produce the most efficient outcome without the need to accommodate the restrictions of an existing manufacturing location;
  - the difference in labor rates were also used to approximate differences in engineering and administrative costs. Again, there does not seem to be a clear relationship



- between labor costs and engineering and administrative costs. Further, like overheads, these costs will also be affected by efficiencies achieved through greater economies of scale; and
- o oil costs are deducted where the oil is purchased in Australia. It is unclear how Wilson would know whether the oil was purchased in Australia and what the price of that oil was. This is particularly so given the daily fluctuation in oil prices and the fact Wilson would not have known the date the oil was purchased.
- The profit margin of the constructed normal value is determined by reference to Plimsoll Publishing Business Intelligence. The relevant test under the Act requires a comparison to profits on domestic sales of comparable goods. The ADC will now be in a position to determine the extent to which this profit rate compared to the actual profits (or losses) the relevant companies made on domestic sales of comparable goods.

Given the factors outlined above, Wilson's methodology for determining the alleged margin of dumping is fundamentally flawed. In our view, Wilson's analysis should not have been accepted as prima facie evidence of dumping. Further, we do not believe that the ADC should consider that differences between the levels of dumping actually identified (if any) and the Wilson estimates of dumping should warrant further investigation by the ADC. Large differences are inevitable as the Wilson method does not closely approximate the tests required under the Act.

#### **5.4. Inherently difficult to determine whether there is dumping**

The question of whether there has been dumping requires a comparison between the export price of the GUC and the normal price of the goods. Due to the nature of the GUC it is extremely difficult to identify comparable domestic and international transactions. The reason for this is that each power transformer is a unique built to order piece of machinery. What follows from this is that power transformers will be of varying sizes, have varying specifications and be sold in very different contexts. Even where there are similarities between the specifications of a transformer, one may be sold as a standalone product (such as a replacement of an existing transformer), may be a supply of multiple transformers (supplies for a new facility) or may be a small part of an overall power solution (such as a power station). Each of these variables will impact on the profit margin sought by the supplier and the price the customer is prepared to pay.

Additionally, the utilization of a supplier at a particular time will impact the level of profit it will seek to obtain. For example, two identical transformers priced identically but produced at times of different utilization levels may have different full cost levels of profit as the fixed cost allocations will differ.

[Commercial-in-confidence. Confidential pricing strategy]

These factors have the result that there are no two comparable power transformers and, even if there were, it is unlikely the circumstances of sale will be sufficiently similar to allow a meaningful comparison.

Due to this, there is no reliable profit margin that can be added to the costs of manufacture and sale to determine a normal value. Without a reliable normal value, any possible dumping margin cannot be reliably calculated. In these circumstances, any allegation as to dumping will be, at best, speculative.

At the very least, it is submitted that the ADC needs to develop multiple profit margin ranges for the purpose of determining a normal value based on a number of different categories. Those categories should be determined both by the size and characteristics of the product and the circumstances of sale.

#### **5.5. Product specification**

Simply because an export price is less than the unsuccessful Wilson tender price (even as adjusted) does not on its face suggest dumping. As set out above in section 4.1, even where two power transformers meet the same specifications (even if those specifications are 100 pages long) there can be a large degree of variance in the two products and the corresponding costs to produce.



These factors can result in very different tender prices for the same product. The different price does not mean the lower price is a dumped price. It may be the case that the lower price reflects a lower quality product. Despite the likelihood of a lower quality product, the purchaser may accept the lowest price tender as, although lower, the quality offered may be satisfactory for the needs of the purchaser.

We note that on pages 14 and 15 of the Application Wilson states that the following limits price comparability between production periods and products:

- product complexity;
- product efficiency;
- material costs; and
- exchange rates.

Further, it is Alstom's view that a key skill of a power transformer tenderer is offer optimization. This involves tailoring an offer so that the needs of the client are met at the lowest possible cost and the specifications are not in excess of the client's needs. Where offer optimization occurs, a lower bid can be offered without negatively impacting the likelihood of tender success. This results in a competitive advantage as the savings can be factored into the lower offered price.

Wilson, like Alstom, has a reputation for producing high quality products. It is possible that the perceived dumping merely reflects Wilson's inability to produce a product at a quality and price point that meets the needs of the customer. It may be that Wilson is producing one of the best quality power transformers available. However, it is often the case that high end manufacturers produce their products at the cost of not being able to produce a cheaper lower end product that may nevertheless meet the needs of the customer.

Most customers are not first time buyers of transformers and have knowledge that there is a strong correlation between price and quality. While there may be instances where there are tender offers lower than that of Wilson, it is our view that customers will know that the lower price represents a compromise in some element of the product. Where the compromise does not negatively impact on the customer, the customer may be prepared to accept the lower price. Where Wilson loses a tender in these circumstances, it is not due to dumping, but rather that a competitor made an offer that better reflected the needs of the customer.

## **5.6. Fall in average prices**

On page 12 of the Application Wilson has claimed that an increase in the quantity of imported GUC has not been matched by a proportionate rise in the value of the same goods. Presumably Wilson is suggesting that the reason for this is that the price of imported goods has fallen due to the alleged dumping. Such arguments fail to address the following:

- the significant change in the value of the Australian dollar which decreases the Australian dollar value of imports;
- the fall in demand for the GUC which would naturally lead to lower prices; and
- the normalization of competition to global standards of competition which would lead to increased price competition and lower prices.

## **5.7. Summary**

As set out above, there are numerous reasons to be skeptical of Wilson's claims of dumping. This should be taken into account when determining the connection between the claimed material injury and dumping.

## **6. Connection between material injury and dumping**

### **6.1. Claimed injury**



On page 26 of the Consideration Report the ADC expressed the view that there appeared to be reasonable grounds to support the claim that Wilson 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 utilization; and
- reduced employment.

We are not privy to Wilson's financial information and make no comment as to whether or not the claimed material injury has occurred. However, the ADC is urged to consider whether the claimed loss is material as opposed to the normal ebb and flow of business

We also consider that it is crucial that the ADC take into account the fundamental shift in market conditions that has occurred over the past 5 years. The Australian large power transformer market has changed from one where demand exceeded supply and Australian producers were protected from international competition, to one where demand has normalized and suppliers are exposed to global competition. The same trends can be seen in other Australian manufacturing sectors. However, the rapidity of the change is somewhat different as, due to specific commercial circumstances, the industry's protection from globalization was sustained beyond that of other industries.

## 6.2. Legislative test

It is not enough that Wilson be able to establish material injury, it must also demonstrate the required nexus between that injury and the alleged dumping of goods that have been exported to Australia. Section 269TG(1) of the Act provides:

*“(1) Subject to section 269TN, where the Minister is satisfied, as to any goods that have been exported to Australia, that:*

*(a) the amount of the export price of the goods is less than the amount of the normal value of those goods; and*

*(b) because of that:*

*(i) material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered...”*

The above section clearly requires that the test can only consider goods that have been exported and because of the dumping margin in respect of those goods there has been, or there is threatened, material injury to an Australian industry producing like goods. The test cannot consider injury caused by goods yet to be exported, such as the alleged injury from a lost tender in respect of goods yet to be exported.

Given that Wilson has submitted that the material injury suffered by a lost tender is incurred at the time of that lost tender, and not the time of import of the GUC, it is crucial that the ADC distinguish between:

- a) material injury allegedly caused by lost tenders where the relevant goods have not been exported in the Investigation Period; and
- b) material injury allegedly caused by lost tenders where the relevant goods have been exported into Australia in the Investigation Period.

Under section 269TG of the Act, it is only the material injury set out in paragraph (b) above that can be considered.

On page 24 of the Application Wilson claim that the alleged injury commenced in 2007/08 and also notes an increase in imports in 2008/09. It is important to note that there has been no investigation by the ADC of dumping in 2007/08 and 2008/09. As such, the ADC cannot make a finding that any alleged injury due to exports to Australia during that period was caused by dumping.

### **6.3. Alleged dumping is not the cause of the injury**

#### **6.3.1. Importance of price**

Where goods are dumped it means that the export price of the goods is less than the normal value. It follows then that for dumping to cause material injury, it must be the alleged reduced price of the exported goods that is causing the injury. If price is not a significant factor driving purchaser decision, the ADC should not find that any alleged dumping has caused material injury.

Below we consider the extent to which price is a factor driving purchasing decisions.

#### **a) Price vs the costs of the GUC**

Dumping investigations must review the export price of the goods. This is generally the initial purchase price of the GUC. It is not what is referred to as the “cost” or “total evaluated costs” (“TEC”) of the GUC. The TEC of the GUC refers to the initial price plus losses over the economic life of the power transformer. It is important to appreciate that the cost of losses over the life of the GUC may be anywhere from equal to the initial purchase price to over 3 times the initial purchase price of the GUC.

In a recent report issued by the European Copper Institute and Leonardo Energy entitled “Efficiency and Energy Loss Evaluation of Large Power Transformers” (**ECI Report**) it was noted:

*“It is obvious that the cost of losses over the standard 20 year lifetime far exceeds the procurement costs. Therefore the difference in initial cost between the cheap and the efficient version does not substantially matter, be it relatively high or relatively low. Rather, this should be seen relative to the total life cycle costs.”<sup>vi</sup>*

Enclosed and marked “E” is a copy of the ECI Report. On page 16 of the ECI Report is a table setting out an example of loss evaluation of two power transformers with different loss levels. We draw the ADC’s attention to the respective proportions of the life cycle costs constituted by the transformer manufacturing cost and by the cost of losses. This simple example clearly demonstrates the respective importance of the initial price and the TEC.

In the Application Wilson refers to the results of a US survey into purchasers’ reasons for selecting winners of bidding events. Wilson correctly pointed out that the broad category of “Price/cost/low bid” was a relevant factor for 97 of the 345 responses. However, when factors are further broken down, “Initial cost” is only reported as a relevant factor on 3 of the 345 responses, or less than 1%. By contrast, “evaluated cost/low total cost of ownership” are on 78 of the 345 responses.



Enclosed and marked “F” is an extract from the US Investigation Report setting out the results of the survey.

We note that on page 19 of the Application Wilson has stated that “*Price is the most important single factor considered by purchasers when evaluating tenders.*” In light of the above, we request that the ADC clarify with Wilson whether when it uses the term “price” it is in fact referring to “TEC”.

In paragraph (f) on page 20 of the Application Wilson states that “*A qualified producer that can meet the specifications of the request for quotation, whether foreign or domestic, will typically be awarded the contract when offering the lowest cost/price.*” In our view, it is important that Wilson clarify whether in the aforementioned sentence it is stating that “cost” and “price” is the same factor. If not, Wilson should further clarify whether it is asserting the tender will be awarded to the bidder offering the lowest price or lowest TEC.

As stated above, the US survey found that initial cost was the deciding factor in only 3 of the 345 bids reviewed. Any alleged dumping can only have an impact on the initial cost of the GUC. Given the relatively small importance of initial costs compared to the TEC, it is submitted that the alleged dumping is very unlikely to be causative of any loss of tenders and the corresponding alleged material damage.

We note that in the PAD it was stated on page 11 that “*Evidence gathered from interested parties during the investigation shows that whilst various factors were taken into consideration in the awarding of tenders price was attributed the greatest weighting.*” It appears that there is a tendency for participants in the industry for the GUC to interchangeably refer to the “price” and “TEC” of the GUC. It is crucial that in questioning the various purchases of GUCs that the ADC clearly sets out the difference between price and TEC and finds out which of the two factors is attributed the greatest weighting by purchasers.

Energy providers constitute the largest Australian purchasers of the GUC. It would be extremely surprising if those companies attributed greater weight to the initial purchase price of the GUC compared to the TEC of the GUC. In this respect we note that in the brochure enclosed and marked “G” Siemens claims that the price difference between a highly efficient power transformer and a cheaper less efficient power transformer is recovered through lower losses over a 3-4 year period.

## **b) Other factors purchasers take into account**

We have set out above the TEC of a product is more important than the initial purchase price. In addition to TEC there are a number of other factors that are taken into account by purchasers when evaluating bids. In the US Investigation it was noted that:

*“At a minimum the bidder must be able to meet the technical specifications desired by the purchaser. Bids also typically include a delivery date and can include a host of auxiliary services provided in connection with the LPT itself. Sixty-eight of 75 responding purchasers noted that they request services be included in the bid proposal. When purchasers were asked which services they typically request from their suppliers when seeking bids, the most common services were a warranty (as noted by 47 purchasers) and installation (46 purchasers). Also noted by a number of purchasers were delivery (19 purchasers), field testing (17 purchasers), filing it with oil (13 purchasers), assembly (9 purchasers), and maintenance (7 purchasers).”<sup>vii</sup>*

This is consistent with Alstom’s experience in the Australian market. Alstom has been successful in winning various tenders where it considers it unlikely that it was offering the lowest price. In various tenders, Alstom considers that its proven service expertise was responsible for it being successful, despite not being the lowest bid.

Table II-6 from the US Investigation sets out other factors that were considered “very important” by US purchasers of power transformers. Of the 79 purchasers that responded, over 65 consider the following factors to be “very important”:

- availability
- comply with specifications
- delivery terms
- length of time to fulfil orders
- lowest price
- operational performance records
- quality meets industry standard
- reliability of supply
- warranty

Similarly, we note the comments made by Rio Tinto in their submission in the Investigation. Rio Tinto stated on page 15 of its submission that *“Risk is the overriding determinant in the decision to acquire. Risk is an amalgam of factors, each given different weight depending on the project.”* The various factors considered by Rio Tinto when evaluating risk are listed on page 15 of their submission.

The ADC has the ability to review instances where Wilson has won tenders and can compare that successful price with other bids. Where Wilson was not the lowest bidder the ADC should consider why Wilson was successful. If the ADC identifies a pattern of purchasers not considering initial purchase price as the most important factor where Wilson is successful, it should not impute those same purchasers with a different mindset when considering tenders that Wilson has lost.

The ADC is in a position to obtain information regarding the tender process preceding the importation of the GUC. We suggest the ADC review those tenders and where the lowest bid was not successful, determine what factors drove the customer’s decision.

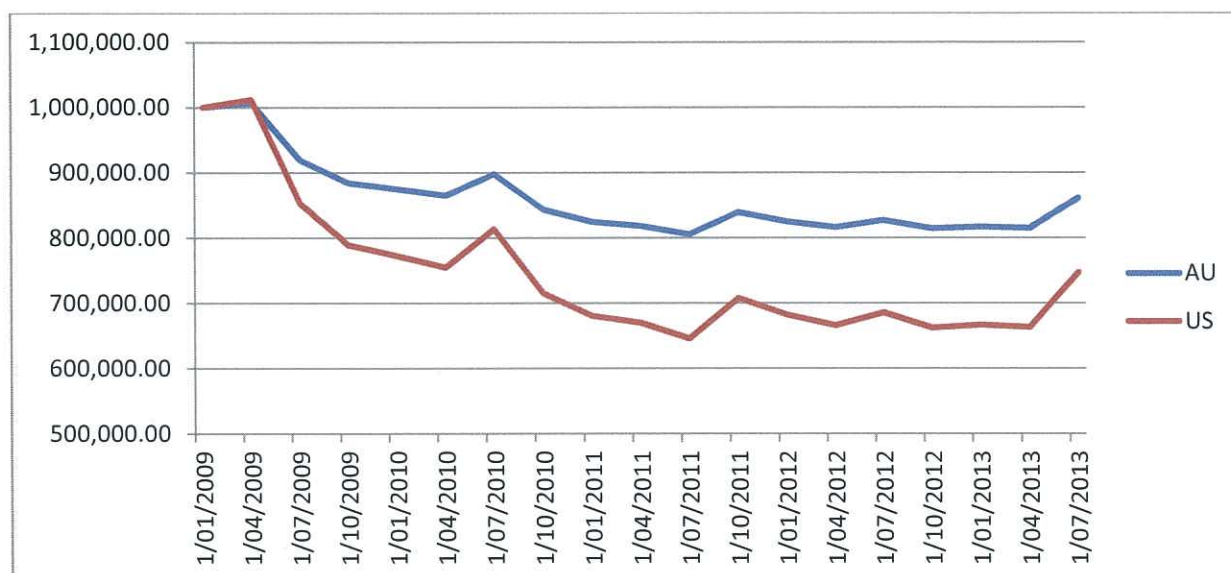
### 6.3.2. Impact of movements in the exchange rate

Both Wilson and the ADC have acknowledged that fluctuations in the Australian dollar exchange rate during the Investigation Period may have been a cause of the alleged material injury. While we do not accept that the initial purchase price is the most important factor in deciding what bid will be successful, it is undeniably a relevant factor. It is contended that the greatest impact on price is the exchange rate, rather than any alleged dumping.

Below is a graph setting out the impact of exchange rate movement on the price of goods with a converted cost of \$AUD1 million on 1 January 2009 and tracks the Australian dollar cost assuming the cost of the product in US dollars does not change over the relevant period. We have also graphed the impact of the exchange rate on the same price of an Australian produced product where 45% of the costs are not affected by exchange rate movement and 55% of the costs are affected by movement is the Australia dollar/US dollar exchange rate (**“Price Difference Review”**).<sup>3</sup> We have assumed that any change in costs due to exchange rate movement will have been reflected in a corresponding price change.

<sup>3</sup> This is based on Wilson’s claim on page 15 of the Application that 55% of the cost of a power transformer are affected by exchange rate movement.





The above graph demonstrates that exchange rate movement alone will have caused a power transformer sold in US dollars that cost \$1 million Australian dollars on 1 January 2009 to cost \$AUD663,000 by April 2013. Conversely, the Australia made product will only fall to \$AUD860,000 (assuming the cost savings occasioned by the falling exchange rate are passed on). Enclosed and marked “H” are graphs demonstrating the impact of exchange rates movements across the currencies of all of the countries under investigation.

The impact of currency is most pronounced in respect of the Vietnamese Dong where exchange rate movements meant that a power transformer that cost \$AUD 1 million on 1 January 2009 cost as little as \$565,000 by 1 April 2013.

The impact of currency movements varies over the relevant period and according to the currencies being compared. However, it can be said that for all currencies except the Indonesian Rupiah, currency fluctuation at most times between June 2009 and March 2013 caused the prices of the GUC from the countries under investigation to be significantly less than Australian made power transformers.

A Price Difference Review for each currency at each relevant point in time is set out in table 1 enclosed and marked “I”. The price differences caused by exchange rate movement should be compared to the alleged dumping margins of the major exporters. While it is appreciated that the alleged dumping does not need to be the sole cause of the alleged material loss, it is submitted that the impact of the exchange rate variation over the relevant period is so significant so as to nullify the impact of any other price related factor.

We note that on page 25 of the Application Wilson states that the increase in the strength of the Australian dollar from 2003 generally coincides with the increase in imports of power transformers.

### 6.3.3. Reduction in barriers to entry

A barrier to entry into a market can restrict the level of imports. Barriers to entry can take many forms such as financial (customs duty), regulatory (standards) or Government procurement policy (such as a requirement that goods be Australian made).

The removal of a barrier to entry can allow the hindered imports to gain a proportion of market share that would not otherwise have been achieved.

**a) Reduction in customs duties**

We note that from 1 January 2010 duty rates on the GUC originating from Vietnam were reduced from 5% to zero where the goods satisfy the relevant rules of origin. Similarly, from 12 January 2012 duty rates on the GUC originating from Indonesia were reduced from 5% to zero where the goods satisfy the relevant rules of origin.

Given the preliminary duty rates outlined in the PAD, the impact of the reductions in duty on the goods from Vietnam and Indonesia have at least the same, or a greater impact, than the alleged dumping margin.

**b) Change in procurement policy**

As an Australian manufacturer, Alstom has participated in tenders which had a preference that the GUC be manufactured in Australia.

Such requirements were more commonly associated with procurement by Government bodies. Since 2008 the NSW Government has been going through a process of selling its electricity generation and distribution networks. The decrease in Government ownership of power facilities and related procurement of power transformers is very likely to lead to the removal of Government procurement strategies being a barrier to trade.

**6.3.4. Change in market conditions**

We note that under paragraph 269TAE(2A)(c) of the Act in determining whether the exported goods have caused material injury, the Minister must consider whether the material injury is being caused by a factor other than the export of goods, such as contractions in demand or changes in patterns of consumption.

As set out in section 3, from 2008 to 2013 there was a substantial change in the Australian market for the GUCs. Essentially, the market went from one where demand was greater than supply, to one where there was capacity for supply to meet demand. In the 2008 market, manufacturers of the GUC could expect to achieve profits above those achieved by manufacturers undertaking similar functions in other industries. To capitalize on this market situation, the 2 biggest Australian manufacturers, Wilson and Alstom, expanded their production facilities. At the same time as the Australian industry expanded capacity, demand for power transformers fell. An increase in supply with a simultaneous decrease in demand can be expected to result in a direct fall in profits.

The ADC would appreciate that the production of power transformers involves a large amount of fixed costs (increased in the case of Wilson by Project Big). The profitability of a business will be greatly affected by the extent to which those costs can be spread over the number of units of productions. A fall in throughput due to a fall in demand will have a critical impact on the profitability of a manufacturer.

The ADC will have reviewed a significant amount of financial data relating to manufacturers of power transformers. We encourage the ADC to compare the global profit trends of manufacturers of power transformers and consider the extent to which changing demand for power transformers would have resulted in a decrease in profits.



### **6.3.5. Willingness to purchase goods from offshore**

The market share graph on page 13 of the Consideration Report demonstrates that from 2004/05 the market share of imported GUC has generally risen with the exception being a sharp fall in 2009/10 and a minor fall in 2011/12. We are instructed by Alstom Grid that this reflects an increase in the sophistication and robustness of the procurement strategies of Australian power transformer purchasers.

In particular, utility customers invested heavily to improve their procurement processes. This included implementing detailed pre-qualification procedures and greater use of consultants with expertise in the procurement of power transformers. These processes resulted in an Australian industry with greater confidence to purchase power transformers from offshore manufacturers.

During much of the last decade it was considered that being an Australian manufacturer resulted in a competitive advantage in the tendering process. This was due to the perceived quality of Australian made products compared to Asian produced products. Further, Australian customers tended to have requirements that were unique to Australia which limited the desire of Australian customers to have the GUC produced offshore, and equally, limited the desire of offshore manufacturers to produce the GUC for Australian customers.

Over a period of time Alstom Grid has noticed a shift in the buying behavior of Australian customers and the selling behavior of foreign suppliers. Alstom Grid believes that being an Australian producer no longer constitutes a competitive advantage. Alstom Grid believes that this change has occurred for a number of reasons:

- since 2004 ABB has been exporting Asian-made power transformers to Australia. The success of these products has generally increased consumers' willingness to consider Asian made power transformers. Further, the departure of ABB from the Australian market left 2 main manufacturers requiring Australian customers to go offshore if a third quote was required;
- consumers have tested Asian manufacturers through purchasing smaller or lower end power transformers. The performance of these transformers has led to an increase in the range of power transformers purchased from Asia;
- the major multinational suppliers of power transformers, Alstom, ABB and Siemens, all have production facilities in Asia; and
- as local demand fell and the value of the Australian dollar rose, Asian manufacturers became more willing to produce power transformers that met the unique requirements of Australian customers.

It is important to note that this change in Australian consumer behavior occurred gradually over a period of time and during a period in which there has been no evidence of dumping. It represents a normalization of the market from a shielded market to a more internationally competitive market.

This general shift in the procurement strategies of Australian customers has meant that there is increased competition and that Australian manufacturers do not enjoy any benefit from customer reluctance to buy offshore. While the change in customer attitudes may have been gradual, the impact of this change in behavior was felt from 2008/09 where there was a rapid and prolonged change in the value of the Australian dollar.

In the Application Wilson noted that up to 20 companies may now respond to tenders. This increased competition reflects a change in market conditions. Common characteristics of increased competition are:

- decreased prices;
- decreased profits; and
- decreased market share.

It is submitted that this change in the Australian market dynamic is bringing the relatively uncompetitive Australian market into line with the global transformer market. We note Global Data's report "Power Transformers – Global Market Size, Average Pricing and Competitive Landscape Analysis to 2020" reported that:

*"The global transformer market is characterized by pricing pressures on the power transformer companies. There are mainly two reasons for the extensive pricing pressure – the growing competition with a large number of players operating in the market and the periodic accumulation of over-capacities, which leads to fluctuations in orders from utilities"<sup>xviii</sup>*

It was also noted that the global power transformer market is highly fragmented, with the top 7 players covering less than 50% of the market and that competition is expected to become more fierce as domestic Asian companies assess foreign markets as growth opportunities.<sup>ix</sup>

It is submitted that the shift to a more competitive Australian power transformer market is not caused by dumping, but rather, represents an alignment of the Australian market with the global market. This alignment has been driven by an increase in consumer procurement sophistication increasing the willingness to purchase from foreign manufacturers.

#### **6.4. Comments on specific claimed injury**

##### **6.4.1. Price undercutting**

On page 24 of the Application Wilson has stated that the high level of import competition at dumped prices has reduced prices in the market and customer price expectations. On Page 26 of the Application Wilson argues that price suppression will reduce margins, reduce volumes and reduce profitability.

As a starting point, we again note that the PAD (as revised) does not support Wilson's claim of "high level of competition at dumped prices".

We have set out above our views that initial price is not the most important factor considered by buyers when awarding a tender. If this is accepted by the ADC, then any price undercutting that exists is not causative of Wilson's alleged loss.

Further, we have also set out the impact of currency fluctuation on prices. Wilson has claimed that price undercutting was as high as 30%. In our view, it is very relevant that the rise in the value of the Australian dollar alone resulted in price differentials of up to 30% depending on the time of purchase and the invoice price currency between Australian made and imported goods.

We further note that the graph entitled "Price Undercutting" in the PAD provides very little evidence of significant price undercutting. In respect of that table we note the following:

- in 13 out of the 18 cases set out in the table the Wilson price and successful tender price are almost identical;
- on at least one occasion the Wilson offer was lower than the successful tender offer;



- due to the nature of the goods, it is too simplistic to compare tender prices without taking into account the differences in the characteristics of the products tendered. That is, the products being compared will not be identical and there may be characteristics about the product tendered by Wilson that makes its product more expensive. For instance, was the TEC of the two power transformers identical;
- the graph assumes that the tender that was successful was the lowest price. Before making that assumption the ADC should inquire with purchasers whether there were lower tenders and if so, why they were not successful;
- the graph only sets out where the successful tenderer was from a country under investigation. It is very relevant to inquire whether Wilson was unsuccessful in tenders where the successful tenderer was not from a country under investigation. This may point to the impact of issues broader than dumping;
- price undercutting must be caused by dumped exports – if any of the tenders set out on the graph relate to goods that have not yet been exported to Australia, they are not relevant to the Investigation;
- without showing offers where Wilson was successful, the graph potentially misrepresents the influence of low pricing. It is very relevant whether during the Investigation Period Wilson was successful in tenders where it was not the lowest offer; and
- the graph entitled “Price Undercutting” in the Consideration Report included 40 purported instances of price undercutting. That number was reduced to 18 in respect of the graph included in the PAD. It seems irreconcilable that the ADC’s view as to price undercutting is the same in the PAD as in the Consideration Report when more than half of the evidence supporting that view is no longer relied upon for the purpose of the PAD.

#### **6.4.2. Market share**

##### **6.4.2.1. Measurement of the market**

The ADC stated on page 12 of the Consideration Report that value rather than quantity is the best measure of the capacity of the Australian market. For the purpose of other measures it appears that volume in terms of total MVA has been the principal measure. It does not seem that the ADC has referred to quantity as a key measure.

It is submitted that in some instances quantity of units supplied will be a more accurate measure of Wilson’s market share. This will be the case where foreign manufacturers supplies Larger LPTs. Due to its large size, one Larger LPT may have a value 10 times greater than Smaller LPTs. Ignoring quantity, it appears that Wilson would have lost market share. However, the reality is that only one Larger LPT was supplied. Further, the supply may have been of a power transformer that Wilson does not have the capacity to supply.

The focus on value rather than quantity gives greater weight to Larger LPTs. Given Wilson largely does not supply these products, such an approach will falsely magnify the extent to which Wilson has lost market share.

It is submitted that the ADC should review the proportion of the quantity of Smaller LPTs supplied by Wilson over the Investigation Period to ensure the focus on value is not distorting the measure of Wilson’s market share.

##### **6.4.2.2. Wilson has not lost market share**

In section 8.6.2 of the Consideration Report it is noted that “...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”.

The key point from the above statement is that Wilson has not lost market share. Its volume may have reduced, however, this is due to the size of the market decreasing. Further, any predictions as to market share in 2013-14 are merely speculative and should not form the basis of a material injury assessment.

#### 6.4.2.3. Defining the market

We note that Wilson has attempted to alter the market in which it competes. Prior to Project Big, Wilson primarily operated in the market for power transformers that were rated less than 250kV. Post expansion it now claims to operate in the market for larger transformers. The fact that Wilson has a very small proportion of the market for larger power transformers has no relationship with any alleged dumping. Rather, it reflects that Wilson is a new and unproven entrant in that market.

Further, if the proportion of the market comprising of Larger LPTs increases, this is result in a decrease in Wilson’s market share. However, this is simply because Wilson has not historically been strong in this segment of the market. It is not that Wilson has lost to foreign manufacturers a segment of the market it previously held.

#### 6.4.2.4. Market share graph

In reviewing the market share graph on page 13 of the Consideration Report we note the following:

- the biggest change in market share of the countries under investigation occurred between 2007-08 and 2008-09 where market share appears to have gone from 10% to 27%. We are not aware of any allegations of dumping during this period and note that the ADC has not sought costing information for exports to Australia during this period;
- Wilson has claimed on page 24 of the Application that the material injury began in 2007-08. Given the Australian industry gained considerable market share between 2008-09 and 2009-10 we query whether dumping is alleged during this period and if so, what impact the alleged dumping had on Wilson;
- it appears that the largest decline in the market share of the Australian industry occurred between 2011-12 and 2012-13. However, during that same period the market share of the GUC appears to have only grown from approximately 30% to 33% while the market share of all exporters went from approximately 30% to 46%. Ignoring the 3 percentage point growth in market share of the countries under investigation, there was a gain of 13 percentage points of the market by all other imports. It is these imports that have had the greatest impact on the market share of the Australian industry. In our view the ADC should investigate the reasons why all other exports achieved significant growth in market share given there has been no allegations of dumping against those exporters. Further, the ADC should consider whether any identified reasons for the growth in market share of all other exporters also resulted in the growth of the market share of the countries under investigation; and
- in 2013 Alstom ceased production at its Rocklea Facility. As we have set out above, that closure was not due to the alleged dumping of the GUC. As such, to the extent that the decline in market share of the Australian industry is attributable to the closure of the Rocklea Facility, that decline should not be seen as being caused by any alleged dumping of the GUC.



#### 6.4.3. Decline in profits

In the Consideration Report it is stated that Wilson's profits fell in 2012-13 and were forecast to remain low in 2013-14. The view was formed by the Commissioner that the decline in profits were caused by the volume and price injury attributed to the alleged dumping margin.

We have stated in sections 6.3.4 and 6.3.5 above the factors that have contributed to the increased volume of imports of the GUC from the countries under investigation and a fall in prices. For the reasons stated in these above sections, any decline in profits caused by reduced volumes and lower prices were not caused by dumping.

In addition to the above, below we have detailed other factors that may have affected the profits of Wilson.

##### a) Project Big

Wilson has stated that in 2009 it undertook Project Big. Enclosed and marked "J" is Mr Wilson's presentation to TechCon Asia Pacific 2013 in April 2013. In that presentation Mr Wilson stated that the cost of Project Big was \$65 million. In the Application it is stated that Project Big increased Wilson's production capacity by 40%.

For the reasons set out below, we consider the decision to proceed with Project Big has had a significant negative impact on the profits of Wilson.

On page 13 of the Consideration Report it is stated that the Australian market for the GUC rose during 2008-09 and has fallen since. It is also stated on page 14 that Wilson's market share has been relatively stable. Based on these two factors we assume that Wilson's level of production has fallen since 2009 or 2010 allowing for a lag in the production of successful tenders.

On this basis, we assume that the expense of Project Big has primarily resulted in additional capacity without additional revenue. The capital costs of Project Big (\$65 million), any costs associated with financing Project Big and any increased costs associated with an upgrade (insurance, employee training, general overheads) will all have had the effect of decreasing profit, both generally and in respect of product margins.

We do not know the period over which the capital assets associated with Project Big will be depreciated or what finance or other additional costs have been incurred by Wilson as a result of Project Big. However, Wilson does state on page 17 of the Application that "*Overhead costs and expenses are treated on a fully absorbed basis*". As such, the annual costs of Project Big will be spread across the goods produced in a relevant period. The smaller the level of production, the greater the cost of Project Big on a per unit basis.

Below is a table setting out the impact of a \$65 million capital cost on the profits of a business. The table assumes a net income margin of 6% and demonstrates the impact of the straight line depreciation cost on that 6% net income margin. As we do not know Wilson's annual turnover, we have set out a range of annual turnovers.

	No Capital Expansion		\$65 million depreciated over 10 years		\$65 million depreciated over 20 years	
Turnover	Net Income		Net Income		Net Income	
\$100 million	\$6.00m	6.00%	-\$0.50m	-0.50%	\$2.75m	2.75%
\$125 million	\$7.50m	6.00%	\$1.00m	0.80%	\$4.25m	3.40%
\$150 million	\$9.00m	6.00%	\$2.50m	1.67%	\$5.75m	3.83%

The above table sets out that if the capital cost of Project Big were straight line depreciated over 20 years (the period with the least impact on profits), Wilson had power transformer turnover of \$100 million and pre-depreciation profits of 6%, the depreciation cost alone (without any increased revenue) would more than halve Wilson's profits. The impact of Project Big would be even more significant if a portion of the costs were financed and the interest costs were expensed. Assuming \$50 million finance at 5%, the interest costs would be \$2.5 million in the first year, reducing profits in the above example to \$0.25 million.

Naturally there is a degree of speculation and simplicity in the above figures. However, the ADC is in a position to determine the impact of actual depreciation costs associated with Project Big on Wilson's net profit margins. The size of the capital cost combined with the fact it has not produced additional revenue means that it can take a profitable business into a loss making position.

By way of relevant comparison, as detailed above, from 2009 - 2011 Alstom undertook a [REDACTED] expansion of the Rocklea Facility designed to achieve a [REDACTED] % increase in capacity. [Commercial-in-confidence. Confidential value of expansion and amount of capacity increase] In justifying the expansion, Alstom considered that the growth achieved between 2006 – 2008 for continue for the next 4-5 years. The fact that the expected growth did not occur meant the Rocklea Upgrade was not financially viable.

#### **b) Decrease in exports**

We have noted above the decline in the value of the Australia dollar. This will have resulted in a decrease of Wilson's competitiveness in the export market. Any reduction in Wilson's level of exports must be taken into account when determining what has caused Wilson's decrease in profits. This is because any decline in exports will lead to increases in the allocation of fixed expenses to power transformers sold in the Australian market.

We note that on page 14 of the Consideration Report it is stated that Wilson has a sales support office in the UK that relates to marketing Wilson's products to the UK, Europe and the Middle East. We query the extent to which the costs of this office (which presumably is resulting in little current revenue) is impacting on Wilson's profits.

#### **6.4.4. Decrease in utilization**

Wilson has detailed a decrease in utilization as evidence of material injury. We note that during the review period Wilson has maintained its market share. In these circumstances it seems apparent that the decrease in utilization has been caused by:

- a decrease in the size of the Australian market;



- a decrease in the level of Wilson's exports;
- an increase in capacity as a result of Project Big; and to a lesser degree
- an increase in customer willingness to purchase goods from foreign manufacturers.

Each of these factors has been discussed in detail above.

We also note that Wilson has stated that it now has capacity to supply the entire Australian market. This is a reflection of both the reduction in the size of the Australian market and the boldness of Wilson's decision to undertake Project Big.

We also question the desirability, and plausibility, of a single producer supplying the entirety of the Australian market for the GUC. While we appreciate that such a factor would not prevent dumping duties being imposed, it should be apparent that any number of factors other than the alleged dumping would operate to prevent Wilson obtaining a monopoly over the relevant market, eg customers may intentionally accept a non-Wilson bid to ensure diversity in the market.

#### **6.4.5. Reduction in size of the Australian industry**

Wilson has referenced the closure of Alstom's Rocklea Facility as evidence of material injury caused by dumping of the GUC. Please note that Wilson did not contact Alstom Grid to seek Alstom Grid's view on the connection between the alleged dumping and the closure of the Rocklea Facility. Alstom believes that the statement by Wilson is incorrect.

Alstom Grid made the decision to close the Rocklea Facility as it was no longer commercially viable. This commercial viability was based on there being an insufficient volume of orders. The factors identified by Alstom Grid (and documented contemporaneously) as leading to a lack of commercial viability were:

- increased value of the Australian dollar;
- competitive pressures and greater acceptance of offshore suppliers;
- lack of a competitive offering for key industrial and distribution market segments;
- policy uncertainty leading to investment uncertainty;
- higher operating costs despite significant efficiency improvements; and
- failure to secure sustainable volumes of orders.

It should be noted that Alstom Grid did not consider that dumping existed or that it was a reason for a decrease in the viability of the Rocklea Facility. Further, numerous factors were identified as reasons for closure which had no connection to the alleged dumping (exchange rate, increased costs, investor uncertainty and a willingness to purchase goods off-shore). We note that these are the same factors which have impacted Wilson.

While some competitive pressures were noted, Alstom did not attribute these pressures to any alleged dumping. In our view, Alstom's contemporaneous record of the reasons for the closure of the Rocklea Facility should hold significant weight given the record was not prepared with a view of supporting a dumping investigation submission.

It is submitted, and supported by the Alstom Grid recorded reasons, that the alleged dumping was not the reason for the closure of the Rocklea Facility. Alstom Grid invites the ADC to meet with it and

discuss the reasons for the closure of the Rocklea Facility prior to the ADC forming a view as to the connection between the alleged dumping and the closure of that facility.

## **6.5. Summary – Relationship between material injury and alleged dumping**

In summary, for the reasons set out above, we submit the following regarding the relationship between any material injury and dumping:

- price is not the primary factor driving purchasing decisions and as such, any reduction in price caused by dumping will not be as influential as non-price factors;
- to the extent that price is a factor, the biggest factor impacting on price of imported GUCs is the increase in the value of the Australian dollar;
- the levels of alleged dumping are so low as to not be causative of any material injury;
- Wilson has not lost market share; and
- other factors contributing to any material injury are;
  - dramatic changes in market dynamics;
  - customer willingness to purchase from foreign manufacturers;
  - reductions in barriers to trade; and
  - an increase in Wilson's costs due to Project Big.

In our view, the above factors make clear that any alleged dumping did not cause the Australian industry producing like goods to suffer material injury.

## **7. Miscellaneous observations regarding the Application**

- a) On page 13 Wilson states that the market is generally a national market although in recent years the Australian market is being impacted by international occurrences. We are interested in what these international occurrences were, what impact they had on the Australian market and the extent to which any material injury suffered by the Australian market was caused by the identified international occurrences.
- b) On page 12 of the Application Wilson refers to Table 1 which purportedly demonstrating that over a 9 year period the value of imports has fallen in proportion to the volume of imports. However, on pages 14 and 15 Wilson states that sale values of transformers are not comparable from one period to another or between products due to a variety of reasons. We query whether Wilson took these reasons into account before drawing a conclusion between the fall in proportionate value of imports over the period reviewed in Table 1.
- c) On page 24 of the Application Wilson purports to justify its tender margin on the basis that the product being tendered is a highly complex item of capital equipment with extended production and payment periods. However, at numerous times throughout the Application Wilson contends that the success of a tender is driven by price and that there is a large degree of substitutability between the Australian made products and the imported products. While these points are not accepted, if they are true they are characteristics that do not generally allow manufacturers to command high margins.
- d) On page 32 of the Application it is stated that the financial performance of Wilson is the key measure of the impact of dumped imports. It is submitted that the financial performance is affected by a wide variety of factors of which any dumping has only a nominal impact. The larger factors impacting the financial performance of Wilson are:
  - the dynamics of the market in which it operates;
  - the financial implications of Project Big;
  - the level of demand for power transformers in the Australian market; and
  - the value of the Australian dollar and its impact on Wilson's level of exports and its competitiveness against imports (whether dumped or not).



## 8. Termination of the investigation

For the reasons set out above, it is submitted that:

- a) the investigation insofar as it relates to Alstom Grid and the Alstom Group should be terminated in accordance with section 269TG of the Act, as neither Alstom Grid or the Alstom Group has been or is involved in dumping;
- b) the investigation should be terminated in accordance with section 269TG of the Act as any dumping (which, in respect of Alstom Grid and the Alstom Group, is denied) of the GUC from China, Indonesia, Korea, Taiwan, Thailand and Vietnam has not caused material injury to the Australian industry;
- c) any injury to the Australian industry during the Injury Analysis Period and Investigation Period, as well as any threat of injury in the future, is unrelated to dumping and, therefore the investigation must be terminated under section 269TG of the Act; and/or:
- d) any injury to the Australian industry that may have been caused by any dumping (which, in respect of Alstom Grid and the Alstom Group, is denied) is negligible in respect of exports of the GUC from each of China, Indonesia, Korea, Taiwan, Thailand and Vietnam and therefore, in accordance with section 269TDA(13) of the Act, the investigation must be terminated.

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Alstom Grid and the Alstom Group are happy to assist the ADC with the Investigation. To this end Alstom Grid and their representatives are happy to meet and discuss this submission and the Investigation in general. Please contact me ((02) 9248 5553) or Stephen Klotz of Norton Rose Fulbright ((02) 9330 8308) at your convenience to discuss the above.

Yours sincerely



Marc Bunch  
Partner – Global Trade

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<sup>i</sup> Report issued by the US International Trade Commission in respect of Investigation No. 731-TA-1189 (Large Power Transformers from Korea) (“**US Report**”) page I-10

<sup>ii</sup> Report issued by the European Copper Institute entitled “Efficiency and Loss Evaluation of Large Power Transformers” dated May 2013 (“**ECI Report**”), page 15

<sup>iii</sup> US Report page II-23

<sup>iv</sup> US Report page II-10

<sup>v</sup> Page 18 of ABB Canadian Complaint

<sup>vi</sup> ECI Report, page 15

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vii US Report page V-3

viii Global Data's report entitled "Power Transformers – Global Market Size, Average Pricing and Competitive Landscape Analysis to 2020", ("**Global Data Report**"), page 13

ix Global Data Report, page 20