



INVESTIGATION 219

**INVESTIGATION INTO THE ALLEGED DUMPING OF POWER
TRANSFORMERS**

EXPORTED FROM

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

VISIT REPORT - IMPORTER

SHIHLIN ELECTRIC AUSTRALIA PTY LTD

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THE FINAL POSITION OF THE ANTI-DUMPING COMMISSION**

September 2013

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ABBREVIATIONS

ADN	Anti-Dumping Notice
Commission	Anti-Dumping Commission
FOB	Free On Board
NIP	Non-injurious Price
PAD	Preliminary Affirmative Determination
SEF	Statement of Essential Facts
The Act	Customs Act 1901
The Commissioner	The Commissioner of the Anti-Dumping Commission
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
the Minister	the Minister for Home Affairs
USP	Unsuppressed Selling Price
Wilson Transformers	Wilson Transformers Pty Ltd

1 BACKGROUND AND PURPOSE

1.1 Background to the current investigation

On 8 July 2013, Wilson Transformer Company Pty Ltd (Wilson Transformers) lodged an application requesting that the Minister for Home Affairs (Minister) publish dumping duty notices in respect of power transformers exported to Australia from China, Indonesia, Korea, Taiwan, Thailand and Vietnam.

Wilson Transformers alleges the Australian industry has suffered material injury caused by power transformers exported to Australia from the nominated countries at dumped prices.

Public notification of initiation of the investigation was made on 29 July 2013 in *The Australian* newspaper and Australian Dumping Notice (ADN) No. 2013/64.

Following initiation of the investigation, a search of Customs and Border Protection's import database indicated that an entity declared as Shihlin Electric Australia Pty Ltd (SeA) had imported power transformers from Taiwan during the three year investigation period, covering 2010-11, 2011-12 and 2012-13 financial years.

The Commission wrote to SeA advising the company of the initiation of the investigation, requesting co-operation with the investigation and provided the company with a copy of the importer questionnaire and associated spreadsheets to complete.

SeA completed the importer questionnaire, providing details regarding the company, overseas supplier information and identification of its Australian customers with respect to sale of the imported goods.

1.2 Purpose of meeting

The purpose of this visit was to:

- confirm that SeA was an importer of the goods and obtain information to assist in establishing the identity of the exporter;
- verify information on imports of the goods to assist in the determination of export prices from Taiwan;
- establish whether import procurements were arm's length transactions;
- establish post exportation costs incurred in importing;
- recommend how export price may be determined under s. 269TAB;
- verify Australian sales data to assist in assessment of the Australian market for the goods, and the processes and procedures associated with the contractual supply of the goods to customers within the Australian market; and
- provide the company with an opportunity to discuss any issues it believed relevant to the investigation.

1.3 Meeting

SeA was advised of the investigation process and timeframes, a summary of which follows:

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- the investigation period is July 2010 to June 2013;
- the Anti-Dumping Commission (the Commission) will examine the Australian market from July 2008 for the purpose of analysing the condition of the Australian industry;
- a preliminary affirmative determination may be made no earlier than 60 days after the date of initiation (27 September 2013) - provisional measures may be imposed at the time of the preliminary affirmative determination or at any time after the preliminary affirmative determination has been made, but the Commission would not make such a determination until it was satisfied that there appears to be, or that it appears there will be, sufficient grounds for the publication of a dumping duty notice;
- a statement of essential facts will be placed on the public record by 18 November 2013 or such later date as the Minister allows - the statement of essential facts will set out the material findings of fact on which the Commission intends to base its recommendations to the Minister and will invite interested parties to respond, within 20 days, to the issues raised (submissions received in response to the statements of essential facts will be considered when compiling the report and recommendations to the Minister);
- the Commission's report to the Minister is due no later than 31 December 2013 - should the Minister approve an extension to the statements of essential facts this would mean that the due date of the final reports would also be extended - all interested parties would be notified and an Australian Dumping Notice would be issued should extensions be requested and approved.

1.4 Meeting details

Company	Shihlin Electric Australia Pty Ltd Suite 2, Building 6, Omnico Business Park 270 Ferntree Gully Road NOTTING HILL VIC 3168
Dates of visit	6 September 2013

The following were present at various stages of the meetings.

SeA	Mario Zhang – Managing Director, SeA Paul Hsu - VP, Export Department, SEEC Charles Hsueh - Manager, Export Department, SEEC Kenneth Chang - Account Manager, Export Department, SEEC Gary Liu - Finance Manager, SeA Monica Yeh - Accounting Officer, Finance Department, SEEC M. H. Lin - Accounting Supervisor, Finance Department, SEEC Po-Ching Lee – Counsel of Shihlin Electric Taiwan
the Commission	Dale Seymour – Commissioner John Bracic – Director, Operations 1 Tim King – Supervisor, Operations 3

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1.5 Visit report

We explained to SeA that we would prepare a report of our visit (this report) and provide a draft version (on a for-official-use-only basis) for SeA to review its factual accuracy and to identify those parts of the report it considers confidential.

We explained that, in consultation with the company, we would prepare a non-confidential version of the report, and place this on the investigation's Public Record.

2 THE GOODS

The goods are described by the applicant 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 500 kV (kilo volts) whether assembled or unassembled, complete or incomplete

Incomplete power transformers are subassemblies consisting of the active part and any other parts attached to, imported with or invoiced with the active parts of power transformers.

The active part of a power transformer consists of one or more of the following when attached to, or otherwise assembled with, one another.

- The steel core - constructed from high grade, cold rolled, grain orientated silicon steel. This steel is only available from a limited number of overseas manufacturers.
- The windings - manufactured from high conductivity copper which are rectangular in cross section and either paper wrapped or enamel coated.
- Electrical insulation between the windings. This is highly specialised paper based material specifically for the transformer industry and manufactured in a number of countries including China, Germany, India, Sweden, Switzerland, Turkey and the USA. No substitutable product is manufactured in Australia
- The mechanical frame.

The applicant considers that the product definition includes:

- step-up transformers;
- step-down transformers;
- autotransformers;
- interconnection transformers;
- voltage regulator transformers;
- rectifier transformers;
- traction transformers;
- trackside transformers; and
- power rectifier transformers.

Excluded goods

Gas and dry power transformers are not included in the goods. The applicant has stated that these types of power transformers are much more expensive and are used when it is necessary to reduce the risk of fire. Dry power transformers can only be produced with a power rating of up to about 20 MVA.

The application states that distribution transformers are excluded from the description of the goods. Australian Standard AS 60076.1-2005 defines a power transformer as

A static piece of apparatus with two or more windings which, by electromagnetic induction, transforms a system of alternating voltage and current into another system

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of voltage and current usually of different values and at the same frequency for the purpose of transmitting electrical power.

The applicant believes there is no clear definition of a distribution transformer, but that they are power transformers under this definition. It claims that in Australia, the generally accepted definition of a distribution transformer is one that is the last point of connection to a residential and often commercial consumer. They have a power rating less than or equal to 2 MVA, a primary voltage of 11 kV or 22 kV, and a secondary voltage of between 400 volts and 433 volts three phase (equivalent to 230 volts to 250 volts).

3 COMPANY DETAILS

3.1 Company history

SeA is an importer, marketing, sales and service arm of Shihlin Electric Taiwan. The company was registered on 19 May 2009 and is wholly owned by Shihlin Electric Taiwan.

3.2 Commercial operations

SeA operates as the affiliated local sales agent of Shihlin Electric Taiwan in Australia and is responsible for the following functions:

- marketing;
- tender preparation;
- sales;
- technical services and support, and
- warranty services

In terms of specific role in respect of imported transformers, the company undertakes the following activities:

- customs clearance upon arrival of the imported goods into Australia;
- arranging for inland transportation from the port to the respective installation site;
- positioning of the transformer on the plinth;
- erection of the transformer;
- vacuum and oil filling of the transformer;
- site pre-commission testing;
- final walk through of the goods before handover to the project manager;
- practical completion following rectifying any quality issues;
- periodic service visits to customers;
- technical services, and
- customer care and miscellaneous services.

3.3 Products

3.3.1 General

SeA advised that power transformers it sells into the Australian market are imported from, manufactured and exported by Shihlin Electric Taiwan. SeA confirmed that, with the exception of Shihlin Electric Taiwan, no entities involved in the supply chain with respect to the goods are related by virtue of corporate ownership structures and affiliation within the Shihlin Group. The relationship between SeA and Shihlin Electric Taiwan is discussed in greater detail below, in relation to consideration as to whether importation of the goods occurred pursuant to arm's-length transactions.

3.4.2 Product specification summary

SeA confirmed that all power transformers it imports from Shihlin Electric Taiwan and sells to its Australian customers are procured by Australian customers for specific end-

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use electricity distribution requirements required for specific projects undertaken by the customer.

SeA advised that no two power transformer units are the same. Each unit is produced to order according to exact product specifications dictated by the customer and articulated through formally tender processes and contractual supply agreements.

For the purposes of general discussion, however, SeA advised that typically transformer specifications will be categorised according to two parameters which define the capacity of a particular unit:

- capacity rating - measured in mega volt amperes (MVA); and
- voltage rating - measured in kilo volts (kV)

SeA advised that the units it commonly sells into the Australian market are:

- [REDACTED] kV, [REDACTED] MVA;
- [REDACTED] kV, [REDACTED] MVA, and
- [REDACTED] kV, [REDACTED] MVA.

3.4 Accounting structure

SeA advised that the company's financial statements have been prepared in order to meet the requirements of the Corporations Act 2001 and are kept in accordance with the mandatory Australian Accounting Principles. Further, the financial statements, except for cash flow, have been prepared on an accruals basis and are based on historical costs.

Sales revenue is recognised [REDACTED]

[REDACTED] Progress payments [REDACTED].

For example,

- [REDACTED];
- [REDACTED];
- [REDACTED];
- [REDACTED].

[confidential information regarding payments]

3.5 Relationship with suppliers and customers

SeA has no affiliation or legal relationship with any of its Australian customers, aside from the contractual relationships entered into with its Australian customers with respect to the supply of the goods.

The Commission did not identify any evidence during the course of verification of purchase and sales data provided by SeA that would contradict this.

4 AUSTRALIAN MARKET

4.1 General

SeA submitted that the Australian market for power transformers can be segmented into the following functions and applications.

Mission critical applications – electricity networks

- general / power plant (step up)
- transmission stations (step up and step down)
- distribution zone sub station (step down)

Mission critical applications – non-utility networks

- water work electricity distribution network (step down)
- military support facilities distribution network (step down)
- hospital electricity distribution network (step down)

Non-mission critical applications

- mining industry power supply (step down)
- manufacturing industry electricity distribution system (step down)
- commercial buildings electricity distribution system (step down)
- residential power supply system (step down)

SeA advise that during the investigation period, it focused its sales on customers in the mission critical utility sector. These customer seek and require:

- extra long life expectancy of the transformer;
- high levels of customisation along with massive engineering resources and effort;
- service oriented market segment, and
- demand and speedy response times to tech support and services.

4.2 Market size and trends

SeA estimated that the total power transformer market in Australia (including both utility and non-utility) between 2009 and 2012 average between 20-25GVA per year. Of this, SeA supported approximately [REDACTED] per annum in the mission critical utility sector only.

SeA provided a detailed breakdown of its estimates of the Australian market and the representative market share of the various countries supplying the market compared to local production.

SeA outlined the following views on the current conditions of the Australian power transformer market, which it considers has slowed considerably over the past few years.

- It submits that the decrease in minerals exports due to the global economic downturn has reduced demand for power in the mining sector;

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- Additionally, large and medium Australian manufacturing operations have been downsized due to the appreciation of the Australian dollar and relative higher cost of production compared with competing imports;
- Photovoltaic and solar thermal off-grid consumption reduced the long line transmission requirements;
- Domestic renewable energy reduced the residential power requirements on utility services, and
- New energy saving technologies have reduced overall energy consumption.

As a result, SeA estimates that the Australian market for power transformers has fallen by approximately █% between the peak of 2008-09 to 2012-13.

4.3 Sales process

SeA provided the description of the tender and ordering process for sales that took place during the investigation period. It advised that the initial step in the process █

█

█

[confidential information on sales processes]

Where SeA is informed of being successful for the tender, contracts between the relevant parties will be signed and the purchase order is sent to Shihlin Electric Taiwan to commence production.

4.4 Verification of purchases and sales

Prior to the visit, we selected four imported transformers for verification to source documents. For each selected transformer, we were able to successfully verify the cost data reflected in the cost to import and sell sheet to source documentation in terms of:

- the project for which the goods were imported;
- the total █ invoiced value of the goods from Shihlin Electric Taiwan to SeA;
- each and every itemised individual importation cost;
- domestic expenses associated with contracted supply agreement (project delivery costs); and
- total composite sales value (contract value) paid to SeA by the Australian customer.

In summary, we were satisfied that each Australian sale could be traced to specific Australian tenders and associated supply contracts which in turn could be linked directly to specific importations by SeA from Shihlin Electric Taiwan. For each and every identified importation and/or post-importation expense, we were able to reconcile amounts provided by SeA through to source documents provided at the verification visit.

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On this basis the team was satisfied that the importation and correlative sales data provided by SeA in relation to the [REDACTED] importations of the selected goods was complete and accurate.

4.5 Selling, general and administrative (SG&A) costs

SeA provided its income statements for each year within the investigation period. We were able to calculate that SG&A expenses represented approximately xxx% of the company's net revenue over the recent three financial reporting periods. We have used this percentage for the purposes of assessing whether SeA's sales were sold profitably during the investigation period.

4.6 Profitability

To assess the profitability of SeA's importations of power transformers during the investigation period we compared the fully absorbed cost to import, sell and install to the contract price agreed with the selected customers.

We found that for transformers sold during the investigation period, [REDACTED]

[REDACTED]

[REDACTED]

[confidential information on profitability]

5 WHO IS THE IMPORTER AND EXPORTER

5.1 Who is the importer?

For all importations for which import data listed SeA to be the importer of the goods we noted that SeA:

- is named as the customer on the commercial invoice (referred to as contract) issued by Shihlin Electric Taiwan;
- is named as the consignee on the bill of lading;
- retains beneficial legal ownership once the goods clear [REDACTED] point; and
- incurs all relevant costs associated with the importation of the goods from [REDACTED] point up to the point of installation and practical completion under contract with its Australian customers.

On this basis, we consider SeA to be the beneficial owner of the goods at the time of importation, and therefore, to be the importer of the goods.

5.2 Who is the exporter?

The Commission will generally identify the exporter as:

- a principal in the transaction, located in the country of export from where the goods were shipped, who gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or their own vehicle for delivery to Australia; or
- a principal in the transaction, located in the country of export, who owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

In relation to importations of the goods by SeA, we are satisfied that:

- the commercial invoices identify the supplier as Shihlin Electric Taiwan;
- the bills of lading identify Shihlin Electric Taiwan as the shipper of the goods; and
- Shihlin Electric Taiwan arranges and pays for the goods to be transported to the wharf and loaded onto the ship in Taiwan; and
- SeA pays Shihlin Electric Taiwan for the goods on contracted [REDACTED] terms.

On the basis of the above, the visit team was satisfied that there is prima facie evidence that the Shihlin Electric Taiwan is the exporter of the goods as it produces and arranges for the goods to be shipped to Australia.

6 ARMS LENGTH

Section 269TAA outlines the circumstances in which the price paid or payable shall not be treated as arms length. These are where:

- there is any consideration payable for in respect of the goods other than price;
- the price is influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller;
- in the opinion of the Minister, the buyer, or an associate of the buyer, will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

As noted above



[confidential information on profitability]

As a result, we consider that the exports of power transformers between Shihlin Electric Taiwan and its related subsidiary, SeA, are not arms length transactions. We consider that there are considerations payable for other than the price and that price is influenced by the relationship between the relevant parties.

7 MATERIAL INJURY AND CAUSATION

SeA identified a number of issues which may be considered to be other factors contributing to the claimed injury by the applicant. These include:

- Risk / brand name & reputation;
- Compliance with tender specifications
- Quality and technology
- On-time delivery / production lead times / logistic support
- Previous track record / reputation in the market
- Turnkey capability;
- Technical support and service quality;
- Competitive / reasonable price.

We note that apart from identifying these possible other factors that may explain some of the injury being suffered by the applicant, no evidence was provided to support this assertions at this point.

8 RECOMMENDATIONS

From our investigations, we are of the opinion that, for the GUC directly imported by SeA from Shihlin Electric Taiwan:

- the goods have been exported to Australia otherwise than by the importer;
- the goods have been purchased by the importer from the exporter; and
- the purchases of the goods by the importer were not arm's length transactions.

Subject to further inquiries with the exporter, we recommend that the export price for goods imported by Shihlin Electric Taiwan be established under s.269TAB(1)(b) of the Act, using the selling prices by SeA and making necessary deductions for all post-exportation expenses incurred by Shihlin Electric Taiwan and SeA.