

21 August 2014

Director Operations 1  
Anti-Dumping Commission  
Customs House  
5 Constitution Avenue  
CANBERRA CITY ACT 2601

By email: [operations1@adcommission.gov.au](mailto:operations1@adcommission.gov.au)

Dear Director

**Dumping investigation ADC 219 - Power transformers exported from China, Indonesia, Korea, Taiwan, Thailand and Vietnam**  
**Fortune Electric Co., Ltd (Fortune) – Draft Exporter Visit Report**

We refer to draft Exporter Visit Report for Fortune provided by email dated 5 August 2014, and provide the following submission regarding, "Normal Value Based on Constructed Method – Amount of Profit".

## **1. GUC Power Transformers of a capacity of less than or equivalent to 100MVA**

As per our submission dated 26 May 2014, Fortune consider only domestic sales of GUC transformers of a capacity of 100MVA or less, should be considered for calculation of "Amount of Profit" in calculation of "Normal Value Based on Constructed Method", based on the following factors:-

- i. *Power Transformers are allocated into two categories, as per international standards such as IEC:2005 - 60076:-
  - 1)Medium Power Transformers of equal to or less than 100 MVA; and
  - 2)Large Power Transformers of greater than 100 MVA.*
- ii. *Fortune only exported medium power transformers up to 100 MVA to Australia.*
- iii. *Domestic competition in medium power transformers is far greater due to number of domestic producers capable of producing medium power transformers compared to large power transformers.*
- iv. *Logistic barriers to imported medium power transformers to Taiwan are not comparable with large power transformers, providing additional domestic competition through imported medium power transformers.<sup>1</sup>*

<sup>1</sup> Mobile Business Consultants dated 26 May 2014



Fortune formed this opinion with reference to Australian Anti-Dumping Commission (ADC) Dumping and Subsidy Manual, including extracts as follows (emphasis and underline added):-

*Like goods: The Commission will decide on a case by case basis which 'like goods' are to be used for the purpose of working out ordinary course of trade sales. When making this determination the Commission is not restricted to working out profit from a limited subset of the goods only, for example identical models only. It may treat 'like goods' for this determination to be a wider subset of the goods.*<sup>2</sup>

*Same general category: This term in Regulation 181A(3)(a) is not defined. The Commission will decide on a case by case basis what goods will be included in this category. For example, the Commission may decide that the best approximation of profit on a domestic sale for the like goods in question is a narrower, rather than a broader, category. A narrower category may be preferred if it is determined this most meets the policy intent for establishing normal value based on the constructed method (section 9.2 above).*<sup>3</sup>

Fortune considers that GUC transformers of a capacity of less than or equivalent to 100MVA, form the same general category of goods that "most meets the policy intent for establishing normal value based on the constructed method (section 9.2 above)", including the following extract from section 9.2:-

*The purpose of the constructed normal value is to obtain results using costs and profit that approximate as closely as possible the price of the like good sold in the ordinary course of trade in the exporter's domestic market.*<sup>4</sup>

We disagree with the following extract from draft Exporter Visit Report:-

Visit team's recommendation

*Having considered the arguments presented by Fortune, the visit team does not support excluding power transformers above 100 MVA from the calculation of normal values. The domestic sales information provided by Fortune does not indicate any clear pattern in profitability according to high or low MVA. It is expected that profit levels will vary between customers because of a range of factors. There does not appear to be grounds to support excluding power transformers above 100 MVA.*<sup>5</sup>

We provide the following additional information in relation to GUC transformers of a capacity of less than or equivalent to 100MVA:-

- >= 100 MVA - XX of XX domestic sales during POI – XX%
- < 100 MVA - XX of XX domestic sales during POI – XX%
  
- >= 100 MVA - NTD XXXXXXXXXX of NTD XXXXXXXXXX domestic sales profit during POI – XX%
- < 100 MVA - NTD XXXXXXXXXX of NTD XXXXXXXXXX domestic sales profit during POI – XX%

<sup>2</sup> Page 46 ADC Dumping and Subsidy Manual

<sup>3</sup> Page 48 ADC Dumping and Subsidy Manual

<sup>4</sup> Page 39 ADC Dumping and Subsidy Manual

<sup>5</sup> Page 41 of draft Exporter Visit Report for Fortune



- $\geq 100$  MVA - NTD XXXXXXXXXXXX of NTD XXXXXXXXXXXX domestic sales volume during POI – XX%
- $< 100$  MVA - NTD XXXXXXXXXXXX of NTD XXXXXXXXXXXX domestic sales volume during POI – XX%
- $\geq 100$  MVA - domestic profit margin during POI – XX%
- $< 100$  MVA - domestic profit margin during POI – XX%

In addition to the above differences in contribution in quantity of sales, sales volume, and profit, together with clearly different profit margins generated, Fortune also submit that medium and large power transformers are physically different goods with different markets and competition.

We request ADC reconsider the Visit team's recommendation and use only GUC transformers of a capacity of less than or equivalent to 100MVA, in calculation of "Amount of Profit" in calculation of "Normal Value Based on Constructed Method".

## 2. Domestic Sales to Taiwan Power Company

As per our submission dated 26 May 2014, Fortune consider a level of trade adjustment is justified in calculation of "Amount of Profit" in calculation of "Normal Value Based on Constructed Method", based on the following factors:-

- a. *Fortune submits that the amount of domestic profit to be included in Constructed Normal Value should exclude sales of power transformers to Taiwan Power Company (TPC), due to the following factors:-*
  - I. *TPC is a government owned power utility with local content purchase criteria. Until 2013, TPC was not permitted to purchase imported power transformers and subsequent to 2013 only defined capacities.*
  - II. *TPC primarily purchase large power transformers, however have quality assurance criteria for approved suppliers, with many domestic competition do not apply for certification due to inability to comply or cost to comply in relation to opportunities to sell medium power transformers to TPC.<sup>6</sup>*

Fortune formed this opinion with reference to Australian Anti-Dumping Commission (ADC) Dumping and Subsidy Manual including extracts as follows (emphasis and underline added):-

*As with the normal value determined under any of the provisions, adjustments may be required to ensure a proper comparison between the constructed price of the goods in the domestic market and the export price. For further information on adjustments to a constructed price refer to Chapter 14 "Due Allowance".<sup>7</sup>*

*It states that the comparison shall be made at the same level of trade and in respect of sales made at as nearly as possible the same time.*

<sup>6</sup> Mobile Business Consultants dated 26 May 2014

<sup>7</sup> Page 39 ADC Dumping and Subsidy Manual





Australia's anti-dumping legislation incorporates this obligation by requiring that:

- the prices of goods exported to Australia are compared with corresponding normal values (s. 269TACB); and
- any necessary adjustments are made to domestic prices (**or constructed domestic prices**) so that they can be fairly compared to export prices (s. 269TAC(8) and s. 269TAC(9)).

Under s. 269TAC(8) where the domestic and export prices:

- relate to sales occurring at different times; or
- are not in respect of identical goods; or
- are modified in different ways by taxes or the terms or circumstances of the sales to which they relate;

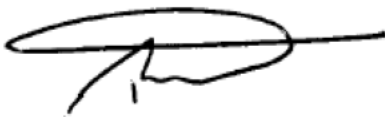
the price paid or payable for like goods on the domestic market is a **price adjusted to allow a fair comparison**.

Section 269TAC(9) provides that, where the normal value is **calculated using costs, the Minister must make adjustments**, in determining the costs, to ensure the normal value so calculated is properly comparable to the export price.<sup>8</sup>

We request ADC reconsider the Visit team's recommendation and allow a level of trade adjustment to exclude sales to TPC in calculation of "Amount of Profit" in calculation of "Normal Value Based on Constructed Method".

Should you require any further information to support the above two adjustments to ADC draft Exporter Visit Report and calculation of draft dumping margin, please advise.

Yours faithfully



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<sup>8</sup> Page 58 ADC Dumping and Subsidy Manual

