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Not Confidential

By email:

Mr Geoffrey Gleeson
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Dear Mr Gleeson

Anti-dumping investigation - power transformers from Indonesia

We refer to our letters of 29 August 2014 and 2 October 2014, and to the Statement of Essential Facts published by the Commission, in so far as it concerns our client, PT CG Power Systems Indonesia (**CG Power**).

Information to be used to calculate a dumping margin

By our letter of 29 August 2014, we made submissions to the Commission about the information that the Commission would use to calculate a dumping margin for CG Power, should the Commissioner make a finding that CG Power was uncooperative.

We reiterated a view that we had previously expressed in our letter to the Commission of 14 March 2014, concerning the "relevant information" that the Commission could use to determine the export prices and normal values for CG Power in that circumstance. The view that we reiterated was that the most (and perhaps only) relevant information available to the Commission was the information provided by CG Power to the Commission regarding its cost to make and sell power transformers, its domestic sales of power transformers and its export sales of power transformers to Australia.

We requested (for a second time) that, if the Commission considers that that information is not relevant, or that there is other information that is more relevant, the Commission let us know, so that our client is given the opportunity to make submissions to the Commission about that issue. We also noted (for a second time) that no issue has been raised by the Commission regarding the reliability of the information that has been provided by CG Power, and we submitted that that information is reliable and verifiable.

On 21 July 2014 calculations were sent to the Commission which demonstrated that, using the Commission's announced methodology, and the corrected information already

submitted by CG Power, together with a verifiable profit margin on domestic sales, a negative dumping margin would be calculated for our client for the period of investigation.

On 11 September 2014 a further set of calculations was sent to the Commission, showing that with the inclusion of 5 additional projects that were among the sample earlier selected by the Commission, the dumping margin remained negative.

Against that background we were very disappointed that the Commission chose, in the Statement of Essential Facts, to calculate a dumping margin using estimates as to CG Power's cost and export price submitted by the applicant as part of its application, and not to use any of the data submitted by CG Power.

Reliability of the applicant's estimates

In an email to us from the Commission on 23 September 2014, we were advised that the data used by the Commission to calculate a dumping margin for CG Power consisted of price and cost estimates provided to the Commission by the applicant. The estimates concerned the sale by CG Power of a [REDACTED].

The Commission advised us that the deductive export price calculated by the applicant, and used by the Commission, was [REDACTED].

We intend to separately provide to the Commission copies of export invoices and CG Power bank statements showing the invoicing to and payments by [REDACTED]. We are instructed that those documents are consistent with the information provided by CG Power with respect to that sale in its exporter questionnaire, and the subsequent information provided by it. On the other hand we are instructed that those documents are **not** consistent with the applicant's estimates.

In our respectful submission, the Commission could not, acting reasonably, form the view that the estimates provided by the applicant with respect to that transaction are reliable. Certainly, it could not form the view that those estimates are more relevant than the information provided by CG Power with respect to the same transaction.

Reliability of CG Power's data

We understand that the Commission feels some reluctance to use the data provided by CG Power because the data was not presented initially in a way that enabled to the Commission to analyse and understand it to its satisfaction. To that end, in our meeting with the Commission on 30 September 2014, and in our letter of 2 October 2014, we sought an opportunity to sit down briefly with the Commission to explain the data submitted by CG Power. We did not seek an opportunity now to supplement that data, just to explain it.

We note that in the case of the only other Indonesian exporter investigated, the Commission was apparently satisfied with the initial presentation of that exporter's information, and determined that that exporter was cooperative. However, it appears from the public record that the exporter subsequently wrote to the Commission, at a late stage in the investigation, to concede that there were significant errors throughout the data that it had initially submitted. Despite the belated admission as to those errors, the Commission

appears to have decided to use that exporter's data to calculate a negative dumping margin for it, without undertaking a verification visit to the exporter.

We make no criticism of the approach taken by the Commission with regard to that exporter. However, we do seek to point out that, with respect, it would be clearly unfair to take that approach to that exporter, and then to be unwilling to allow CG Power the opportunity simply to explain the data which it submitted, and which, with minor exceptions, it still maintains is correct, when it has always been willing to have that data audited or verified.

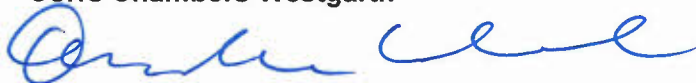
Our client intends to provide to the Commission, separately to this letter, copies of export invoices and bank statements showing the invoices issued to, and payments made by, another two customers to which CG Power exported transformers during the period of investigation. All of the data in relation to those transformers was provided to the Commission in our client's exporter questionnaire, or the additional responses to queries from the Commission following receipt of the exporter questionnaire. Again, we are instructed that the information in those documents is consistent with data already provided by CG Power in relation to the sales of transformers to those customers, and provides a further basis for the Commission to form the view that the information submitted by CG Power is and always has been reliable.

CG Power does not seek any special treatment by the Commission, only procedural and substantive fairness in the approach by the Commission to the calculation of a dumping margin for it. In our respectful submission:

- the information submitted by CG Power is reliable, and capable of verification;
- the data provided by CG Power is clearly more relevant than the estimates provided by the applicant with regard to a single CG Power transaction; and
- if the Commission has difficulties in following the data submitted by CG Power, it would be appropriate for it to meet with CG Power's representatives to allow them to assist the Commission to understand the data.

Please do not hesitate to contact us if you would like any further information, or have any queries about the matters raised in this letter.

Yours faithfully
Corrs Chambers Westgarth



Andrew Korbelt
Partner

Andrew Percival
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