

8 October 2014

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

By email: 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) – Submission to Statement of Essential Facts No. 219

1. The following submission is made on behalf of Fortune to the Statement of Essential Facts No. 219 (SEF).

Profit for Constructed Value

2. We refer to the following extract from SEF (underline added):-

6.5.3 Profit for constructed normal value

The Commission proposes to calculate the profit to be included in constructed normal values using Regulation 181A(3)(a) of the Customs Regulations 1926 (the Regulations) which refers to the actual amounts realised by the exporter from the sale of the same general category of goods in the domestic market of the exporting country. Submissions from a number of entities commented on the Commission's proposed approach.

ABB Australia and Fortune supported the use of Regulation 181A(3)(a) to determine the profit to be included in constructed normal values.¹

3. While Fortune supported the use of Regulation 181(A)(3)(a), we do not agree with how the Commission has calculated amount of profit.
4. Please make reference to our submissions dated 21 August 2014 and 10 June 2014, particularly exclusion of Power Transformers of a capacity greater than 100MVA and exclusion of Domestic Sales to Taiwan Power Company, from same general category of goods in the domestic market of exporting country, in calculation of amount of profit to be included in constructed normal values.

¹ Page 33 SEF 219



5. We maintain this position and have not received a response to our submission dated 21 August 2014, in response to Visit team's recommendation, in Fortune's Exporter Visit Report.
6. We request the commission recalculate amount of profit to be included in constructed normal value for Fortune to exclude domestic sales of Power Transformers of a capacity greater than 100MVA and sales to Taiwan Power Company.

Exchange Rates for converting currencies

7. We refer to the following extract from SEF (underline added):-

6.5.5 Exchange rates for converting currencies

In converting prices for exported power transformers into local currency, the Commission proposed using the exchange rate at the contract date (the date when the material terms of the export sale were finalised), unless it was satisfied that an alternative exchange rate should be used.

The Commission received a number of submissions on this issue.

- *ABB Australia submitted that the Commission must use the exchange rate that best established the material terms of sale.*
- *Fortune referred the Commission to the GAAP and IAS accounting standards applied by Fortune. It submitted that the Commission should use the spot rate on the date of revenue recognition.*
- *Hyosung submitted that the Commission should determine the exchange rate to be used on a case by case basis and that in Hyosung's case it should use the rate on the date the sales was recognised in the accounts. It claimed that using the rate at the date of contract results in an unfair comparison between Hyosung's domestic and export sales.*
- *TBEA submitted that the date of contract is the date of sale for exports to Australia. It claimed that this was especially the case for sales by tender and the material terms of sales were established when the contract was signed.²*

8. Fortune maintain that date of revenue recognition as per accounting standards should be applied.
9. However, should the Commission maintain the above position, cost to make and sell for constructed normal values purposes has been calculated based on expense recognition as per accounting standards. Cost to make and sell includes apportionment of "accounting" foreign exchange gains and losses. On this basis, adjustment to cost to make and sell calculations will be required, to adjust for difference between exchange gain/loss based on the date when the material terms of the export sale were finalised compared to the date of revenue recognition, as exchange gains/losses have been calculated using accounting standards.

² Page 39 SEF No 219



10. In addition should the commission maintain the above position Fortune submits that export prices used for dumping margin calculations are incorrect and will require correction and recalculation.
11. We refer to the following extract from Fortune Exporter Visit Report:-

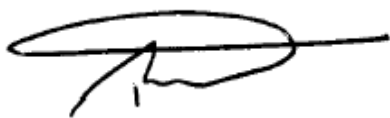
Fortune explained that in some cases, a contract could be awarded but a purchase order is not raised until some years later. In such cases the visit team has used the purchase order date as the date that best establishes the material terms of the sale.³

12. Fortune provided detail of each contract date and purchase order date and number (where purchase order was required to finalise the material terms of the export sale). Many transformer exports to Australia included multiple purchase order dates and numbers per contract and per transformer. Each individual purchase order establishes the material term of trade for an individual stage of supply of each transformer and is referenced back to an original contract. Each purchase order price is recalculated with reference to original contract but adjusted for prevailing charges and/or for additional work.
13. Fortune require the export sale price be corrected and recalculated using the exchange rate applicable on the date of each purchase order, rather than the date of the first purchase order as currently applied by the Commission.

Conclusion

14. It is requested that the Commission consider the above issues and amend preliminary dumping margins in SEF for Fortune prior to issuing the final recommendation to Parliamentary Secretary to the Minister for Industry.
15. The above will be the basis of an appeal to the Anti-Dumping Review Panel should Fortune not gain a satisfactory outcome in the Commissioner's final recommendation. In addition, due to the length of time between completion of Exporter Questionnaire to Verification Visit and subsequent provision of draft Exporter Visit Report, together with changing attitude and guidance from Commission on various issues, we consider has prejudiced Fortune's ability to obtain a fair assessment of dumping margin.
16. This submission is non-confidential and can be included on the electronic public record for this investigation. Should you require any further information to support the above, please advise.

Yours faithfully



Troy Morrow
troy@lentro.com.au

Ph: +61 419 782 205

³ Page 24 – Fortune Exporter Visit Report - Public Record Document No 150 – 5 September 2014

