



Anti-Dumping Commission
Customs House
5 Constitution Ave
CANBERRA ACT 2601

Mr Daniel Moulis
Moulislegal
1/2 Brindabella Circuit
Brindabella Business Park
Canberra International Airport ACT 2609

By email: daniel.moulis@moulislegal.com

Dear Mr Moulis

**INVESTIGATION INTO THE ALLEGED DUMPING OF
POWER TRANSFORMERS - USE OF ALTERNATIVE APPROACH TO
DUMPING MARGIN ASSESSMENTS**

I am writing in respect of your client, ABB Limited Vietnam (ABB Vietnam), and the Anti-Dumping Commission's (the Commission) calculation of a dumping margin for that entity for the purposes of the investigation into the alleged dumping of power transformers.

In particular, I am writing in relation to the file note¹ placed on the public record by the Commission that foreshadows the potential use of an alternative approach to dumping margin assessments in terms of subsection 269TACB(3) of the *Customs Act 1901*.

The Commission has re-examined the preliminary export prices and normal values that were established for power transformers exported by ABB Vietnam in the investigation period. The Commission has identified certain export prices that appear to differ significantly among purchasers, regions or periods. This analysis was based on comparisons of the ratios of FOB export price to full cost to make and sell the goods exported to Australia during the investigation period.

The Commission considers that the observed differences make the methods for comparison of export price and normal value under s. 269TACB(2) inappropriate for use in respect of the whole investigation period. The Commission considers that export prices that 'differ significantly' for certain ABB Vietnam export prices are masked and not taken into account appropriately when the *weighted average to weighted average* or *transaction to transaction* methods for determining dumping are applied.

¹ Anti-Dumping Commission file note, Electronic public record (Case 219), document No. 136

The Commission also considers that the margin of dumping particular to those sales, and the volume of those sales at dumped prices, has the potential to have caused material injury to the Australian power transformer industry.

In these circumstances, the Commission considers that injurious dumping may have been be masked by the *weighted average to weighted average* or the *transaction to transaction* approaches to calculating dumping margins. Therefore, the Commission considers it is inappropriate to use s. 269TACB(2) for working out whether dumping has occurred in relation to ABB Vietnam export sales to Australia in the investigation period.

The export price comparisons and the assessment of whether s. 269TACB(2) is inappropriate for ABB Vietnam are outlined in **confidential attachment A** to this letter. The calculations and charts of export price comparisons are contained within **confidential attachment B**.

The Commission proposes to rely upon the dumping margin established in terms of s. 269TACB(3) instead of an approach under s. 269TACB(2). This changes the dumping margin assessment for ABB Vietnam to positive 4.7%. The revised dumping calculations are contained in the Excel spreadsheet at **Confidential Attachment C**.

Given the timing of this letter is very close to the due date for the statement of essential facts (SEF) to be placed on the public record, the Commission considers it is reasonable for ABB Vietnam to provide comments on this letter and confidential attachments by the same date that responses to the SEF are due. Indeed, the SEF also addresses the issue of whether to assess dumping under s. 269TACB(3) for certain exporters.

Yours sincerely

Geoff Gleeson
Director, Operations 1
Anti-Dumping Commission

17 September 2014