KEMENTERIAN PERDAGANGAN
REPUBLIK INDONESIA
MINISTRY OF TRADE

Directorate General of Foreign Trade

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The Director, Investigations 3
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601,
Australia

Re : Submission of the Government of Indonesia on Sunset Review Investigation of Anti-dumping duty concerning imports of Power Transformer originating in or exported from Indonesia, Taiwan, and Thailand

Dear Director,

The Government of Indonesia (GOI) would like to express its serious concerns in respect of the above referenced sunset review which was initiated on 11 February 2019 by Australian Anti-dumping Commission (ADC). Anti-dumping duty on import of the product concerned inter alia from Indonesia has been imposed since 2014. The product concerned falls under HS Code 8504.22.00 (statistical code 40) and 8504.23.00 (statistical code 26 and 41).

Having reviewed the Non-Confidential Complaint (NCC), we found that the petitioner failed to present sufficient evidence for ADC to justify the initiation of the sunset review, let alone the extension of anti-dumping duty on import of the product concerned from Indonesia. As such the GOI believes that the Commission should terminate the current applied anti-dumping duty on import of the product concerned from Indonesia at least for reasons we present below.

1. **Import of the product concerned from Indonesia would not be attributable to any injury or threat thereof as claimed by Australia power transformer industry**

   a. The fact shows undisputedly that since the imposition of anti-dumping duty on import of the product concerned from Indonesia during 2014-2019 there has been virtually no import from Indonesia into Australia. The five years period of the imposition of anti-dumping duty should be more than sufficient to provide remedy to Australia domestic industry of the product concerned.

   b. Critically important is that Indonesian power transformer industry has been operating at optimal capacity reaching over 80% utilization. The Indonesia local demand is set to be increasing due to the projects involving public sectors which are now on going in

Indonesia. This means that the capacity utilization rate of the Indonesian industry of the product concerned will also be growing higher. With this significantly high utilization rate, we are of the view that the termination of ADD would not cause any possible recurrence of injury to the Australian industry of the product concerned.

c. The provision of the Article 3.1 of the WTO Anti-Dumping Agreement (ADA) requires objective examination of the positive evidence related to the effect of import of the like products to the domestic producer in terms of price and volume. Since no import of the product concerned from Indonesia into Australia during this five years coupled with the fact of high utilization rate of Indonesian industry of the product concerned, we believe that the objective examination of this positive facts should lead to termination of anti-dumping duty of the product concerned from Indonesia.

2. Unclear Definition of the "Product Under Consideration" (PUC)

It appears from the outset that there is an inconsistency of the definition of the PUC in Anti-Dumping Notice No.2019/20. In its notification, ADC defined the Product Under Consideration (PUC) in 2 (two) HS Codes: 8504.22.00 (statistical code 40) and 8504.23.00 (statistical codes 26 and 41) as stated in recitals 1 page 2. It is different from the PUC defined in the petitioner's complaint. In its complaint, the petitioner defined the PUC into 5 (five) HS Codes: 8504.22.00 (statistical code 40) and 8504.23.00 (statistical codes 26 and 41), 8504.21.00.39, 8504.33.00.30 and 8504.34.00.91 as stated in page 4 of NCC. The determination of the "like product" is a critical element in any anti-dumping investigation; it does not only determine which product falls within the scope of the dumping calculation, but it is also indispensable to correctly and objectively determine the existence of injury and causality between import and injury. The failure to correctly define the PUC will affect the objectivity of the investigation.

The proper definition of PUC is equally indispensable for the determination of the Australian domestic industry in relation to the legal standing of the petitioner. The current unclear definition of PUC may cause the legal standing of the petitioner to be questioned.

3. Establishing Normal Value and Dumping Margin

The petitioner described its rationale regarding the Normal Value on Page 8 part III point 3 of the NCC whereby the petitioner suggests that "*With healthy prices, the Normal Values should be considerably* ***higher*** *than in 2013, any exports to Australia* ***could therefore be at low prices with cross subsidization.*** *It is therefore appropriate to continue measures*" (Emphasis added). The Petitioner however failed substantiate this assertion with a proper evidence, especially on the existence of cross subsidization.

Whereas the calculation of dumping margin is to be consistent with the whole Article 2 of ADA which the GOI request the Commission to do so for determining the dumping margin of the Indonesia producer of the product concerned.

The GOI trusts that the Commission will positively consider the concerned we presented above and as such the Commission will conclude this review investigation with termination of anti-dumping duty against Indonesia.

The GOI avail itself of this opportunity to seek the Australian Anti-Dumping Commission assurance that the Authority will remain fair, transparent, and objective in this proceeding.

Thank you for your kind cooperation.

Yours Sincerely,

Pradnyawati
Director of Trade Defence

Cc:
1. H.E. Ambassador of the Republic of Indonesia for Australia, in Canberra;
2. DG of Foreign Trade, Ministry of Trade.