



Australian Government  
Department of Industry,  
Innovation and Science

Anti-Dumping  
Commission

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CUSTOMS ACT 1901 - PART XVB

# STATEMENT OF ESSENTIAL FACTS NO. 504

INQUIRY INTO THE CONTINUATION  
OF ANTI-DUMPING MEASURES APPLYING TO

POWER TRANSFORMERS

EXPORTED TO AUSTRALIA FROM  
THE REPUBLIC OF INDONESIA<sup>1</sup>, TAIWAN AND  
THE KINGDOM OF THAILAND<sup>2</sup>

22 August 2019

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<sup>1</sup> by all exporters other than PT. Unelec Indonesia

<sup>2</sup> by all exporters other than ABB Limited

**PUBLIC RECORD**

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**ABBREVIATIONS**

ABB Thailand	ABB Limited Thailand
ABF	Australian Border Force
ABS	Australian Bureau of Statistics
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
AER	Australian Energy Regulator
Ampcontrol	Ampcontrol Pty Ltd
AMQ	Australian market questionnaire
CG Power	PT CG Power Systems Indonesia
China	the People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTMS	cost to make and sell
the current measures	the anti-dumping measures currently applicable to exports of certain power transformers to Australia from Indonesia, Taiwan and Thailand that are due to expire on 10 December 2019
DDP	Delivery duty paid
the Direction	<i>Customs (Extensions of Time and Non-cooperation) Direction 2015</i>
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
Endeavour	Endeavour Energy
EPC	Engineering, procurement and construction
EPR	electronic public record
FOB	Free on Board
Fortune	Fortune Electric Co., Ltd
the goods	certain power transformers exported from the subject countries as defined in Chapter 3 – the goods the subject of this inquiry
GOI	Government of Indonesia
GWh	gigawatt hours
IDD	interim dumping duty
Indonesia	the Republic of Indonesia

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injury analysis period	the period from 1 July 2014
the Injury Direction	<i>Ministerial Direction on Material Injury 2012</i>
inquiry period	the period from 1 January 2016 to 31 December 2018
INV 219	Investigation No. 219
INV 507	Investigation No. 507
Korea	the Republic of Korea
kV	kilo volts
kVA	kilovolt ampere
the Manual	<i>Anti-Dumping Commission – Dumping and Subsidy Manual</i>
the Minister	the Minister for Industry, Science and Technology
LRET	Large-scale Renewable Energy Target
MVA	mega volt amperes
NEM	National Electricity Market
NIP	non-injurious price
OCOT	ordinary course of trade
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
REQ	response to the exporter questionnaire
REP 219	<i>Anti-Dumping Commission Report No. 219</i>
REP 383	<i>Anti-Dumping Commission Report No. 383</i>
REV 383	Review No. 383
ROI	Return on investment
Shihlin	Shihlin Electric & Engineering Corporation
SEF	statement of essential facts
SG&A	selling, general and administrative
subject countries	Indonesia, Taiwan, and Thailand, collectively
Tatung	Tatung Company
Thailand	the Kingdom of Thailand
Tirathai	Titathai Public Company Limited
Tyree	Tyree Transformer Co Pty Ltd
UNINDO	PT Unelec Indonesia
USP	unsuppressed selling price
Vietnam	the Socialist Republic of Vietnam
WTC	Wilson Transformer Company Pty Ltd
WTO	World Trade Organization

# 1 SUMMARY AND RECOMMENDATIONS

## 1.1 Introduction

This statement of essential facts (SEF) concerns an inquiry into whether the continuation of the anti-dumping measures, in the form of a dumping duty notice applying to power transformers (the goods) exported to Australia from the Republic of Indonesia (Indonesia), Taiwan and the Kingdom of Thailand (Thailand) (the subject countries) by all exporters other than PT. Unelec Indonesia (UNINDO) from Indonesia and ABB Limited from Thailand, is justified. This SEF sets out the findings and conclusions on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base his recommendations to the Minister for Industry, Science and Technology (the Minister).

The anti-dumping measures currently applicable to exports of the goods to Australia from the subject countries (the current measures) are due to expire on 10 December 2019.

This inquiry was initiated on 11 February 2019 following the Commissioner's consideration of an application lodged by Wilson Transformer Company Pty Ltd (WTC), the largest Australian manufacturer of power transformers, seeking the continuation of the anti-dumping measures.

## 1.2 Legislative framework

Division 6A of Part XVB of the *Customs Act 1901* (the Act)<sup>3</sup> sets out, among other things, the procedures to be followed by the Commissioner in dealing with an application for the continuation of anti-dumping measures<sup>4</sup>.

Subsection 269ZHE(1) requires that the Commissioner publish a SEF on which he proposes to base his recommendations to the Minister concerning the continuation of the measures. Subsection 269ZHE(2) requires that in doing so the Commissioner must have regard to the application and any submissions received within 37 days of the initiation of the inquiry, and may have regard to any other matters that he considers relevant.

Subsection 269ZHF(1) provides that the Commissioner must, after conducting his inquiry, give the Minister a report which recommends that the relevant notice:

- remain unaltered;
- cease to apply to a particular exporter or to a particular kind of goods;
- have effect in relation to a particular exporter or to exporters generally as if different variable factors had been ascertained; or
- expire on the specified expiry day.

The Commissioner must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures unless the Commissioner is satisfied that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a

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<sup>3</sup> All legislative references in this report are to the *Customs Act 1901*, unless otherwise stated.

<sup>4</sup> Under section 269TM, dumping duty notices expire five years after the date on which they were published, unless they are revoked earlier.

continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent (subsection 269ZHF(2)).

### **1.3 Preliminary Findings**

For the reasons set out in this SEF the Anti-Dumping Commission (the Commission) has made the following preliminary findings:

- Indonesia: the Commission is satisfied that expiration of the measures in respect of Indonesia would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent.
- Taiwan: the Commission is satisfied that expiration of the measures in respect of Taiwan would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent.
- Thailand: the Commission is not satisfied that expiration of the measures in respect of Thailand would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent.

### **1.4 Proposed recommendations**

The Commissioner proposes to recommend that:

- the Minister take steps to secure the continuation of the notice on and after 10 December 2019 in respect of the goods exported from Indonesia and Taiwan;
- the notice with respect to power transformers exported to Australia from Thailand cease to have effect on and after 10 December 2019; and
- the variable factors be altered in relation to Taiwan and the categories of uncooperative and all other exporters from Indonesia, while remaining unaltered for PT CG Power Systems (Indonesia) (CG Power).

### **1.5 Responding to this SEF**

This SEF states the essential facts on which the Commissioner proposes to base his final recommendations to the Minister. This SEF informs interested parties of the facts established to date and allows them to make submissions in response.

This SEF may not represent the final views of the Commissioner. The final report will recommend whether or not the anti-dumping measures should continue to apply.

Interested parties are invited to make submissions to the Commissioner in response to the SEF within 20 days of the SEF being placed on the public record. The due date to lodge written submissions in response to this SEF is **11 September 2019**.

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The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Minister.<sup>5</sup>

Please email submissions to [investigations3@adcommission.gov.au](mailto:investigations3@adcommission.gov.au).

Alternatively, interested parties may post submissions to:

Director, Investigations 3  
Anti-Dumping Commission  
GPO Box 2013  
CANBERRA ACT 2601  
AUSTRALIA

Confidential submissions must be clearly marked as confidential and a non-confidential version of any submission is required for the public record. A guide for making submissions is available on the Commission's website<sup>6</sup>.

The public record contains interested parties' non-confidential submissions, non-confidential versions of the Commission's verification reports and other publicly available documents.

Interested parties should read this SEF in conjunction with other documents on the public record.

### 1.6 Final report

The Commissioner's final report and recommendations must be provided to the Minister within 155 days after the publication of a notice under subsection 269ZHD(4) or such longer period as the Minister allows.<sup>7</sup>

On 3 June 2019, the Commissioner approved an extension of time to provide the Minister with the final report, in conjunction with the extension of time to publish the SEF.<sup>8</sup>

The Commissioner's final report and recommendations must now be provided to the Minister on or before **4 October 2019** or within such longer period as may be allowed.

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<sup>5</sup> Subsection 269ZHF(4).

<sup>6</sup> <https://www.industry.gov.au/regulations-and-standards/anti-dumping-and-countervailingsystem/submissions-to-an-anti-dumping-or-countervailing-case>

<sup>7</sup> Subsection 269ZHF(1). The powers and functions of the Minister under section 269ZHI were delegated to the Commissioner, see ADN No. 2017/10.

<sup>8</sup> ADN No. 2019/074., Case 504 EPR Item No. 11



## 2 BACKGROUND

### 2.1 Initiation

The present inquiry was initiated on 11 February 2019, following the Commissioner's consideration of an application lodged by WTC seeking continuation of anti-dumping measures relating to the goods exported to Australia from the subject countries.

ADN No. 2019/20<sup>9</sup> on the electronic public record (EPR) sets out the Commissioner's reasons for initiating this inquiry.

#### 2.1.1 Submission from the Government of Indonesia regarding application

The Government of Indonesia (GOI) submitted<sup>10</sup> that the application lodged by WTO failed to provide sufficient evidence to justify the initiation of this inquiry, let alone the extension of measures in relation to the export of power transformers to Australia from Indonesia.

#### 2.1.2 Commission's Assessment

As per subsection 269ZHD(2)(b), in considering an application for continuation of anti-dumping measures, one of the matters on which the Commissioner is required to be satisfied is "whether there *appear* to be reasonable grounds for *asserting* that the expiration of the anti-dumping measures to which the application relates *might* lead, or *might be likely* to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent" (Commission's emphasis).

As explained at the time of initiation of this inquiry, the Commissioner examined the information in WTC's application together with other relevant information and concluded that the relevant evidentiary threshold had been met.<sup>11</sup>

This SEF considers whether the measures relating to the export of power transformers to Australia from Indonesia should continue on and after 10 December 2019.

### 2.2 Current anti-dumping measures

#### 2.2.1 Investigation No. 219

On 29 July 2013, following an application by WTC, the Commissioner initiated Investigation No. 219 (INV 219) into whether power transformers had been exported to Australia from People's Republic of China (China), Indonesia, the Republic of Korea (Korea), Taiwan, Thailand and the Socialist Republic of Vietnam (Vietnam) at dumped prices.<sup>12</sup> The investigation period examined in INV 219 was 1 July 2010 to 30 June 2013.

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<sup>9</sup> Case 504 EPR item No. 2

<sup>10</sup> Case 504 EPR item No. 6

<sup>11</sup> ADN No. 2019/20 refers

<sup>12</sup> ADN No. 2013/64 at Case 219 EPR item No. 2.

On 1 December 2014, the Commissioner terminated the investigation in relation to China and Korea.<sup>13</sup> The Commissioner also terminated the investigation in relation to UNINDO, an exporter from Indonesia.<sup>14</sup>

In relation to all other imports during the investigation period, the Commissioner found that:

- the goods were dumped, with dumping margins ranging from 3.5 per cent to 39.1 per cent;
- the dumped exports caused material injury to the Australian industry producing like goods; and
- continued dumping may cause further material injury to the Australian industry.

Consequently, anti-dumping measures were imposed on power transformers exported to Australia from Indonesia (except by UNINDO), Taiwan, Thailand and Vietnam by public notice on 10 December 2014 by the then Parliamentary Secretary to the then Minister for Industry following consideration of *Anti-Dumping Commission Report No. 219* (REP 219).

Subsequent to applications from certain affected parties, the findings of the investigation were subject to review by the Anti-Dumping Review Panel (ADRP). Following the ADRP review, the anti-dumping measures were revoked in relation to ABB Thailand, ABB Vietnam and all other Vietnamese exporters.

### **2.2.2 Review No. 383**

On 7 November 2016, the Commission initiated a review of anti-dumping measures applying to power transformers exported to Australia from Indonesia by CG Power (REV 383). *Anti-Dumping Commission Report No. 383* (REP 383) contains the recommendations resulting from the review, reasons for the recommendations and material findings of fact and law.

The then Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science accepted the recommendations contained in REP 383 and the dumping duty notice applying to the goods exported to Australia by CG Power was amended to reflect the variable factors determined in REV 383.

### **2.2.3 Investigation No. 507**

On 18 March 2019, following the Commissioner's consideration of an application lodged by WTC seeking the publication of a dumping duty notice in respect of power

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<sup>13</sup> ADN No. 2014/130 at Case 219 EPR item No. 192 refers. The investigation was terminated in relation to particular exporters on the basis that there has been no dumping of any of those goods the subject of the application, in accordance with subsection 269TDA(1). The investigation was also terminated pursuant to subsection 269TDA(3) against China and Korea on the basis that the total volume of goods exported from those countries that have been, or may be, dumped is less than 3 per cent of the total Australian import volume as prescribed in subsection 269TDA(4).

<sup>14</sup> ADN No. 2014/130 refers. The investigation was terminated in relation to this exporter on the basis that there has been no dumping of any of those goods the subject of the application, in accordance with subsection 269TDA(1).

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transformers exported to Australia from China, Investigation No. 507 (INV 507) was initiated.

The Commissioner's reasons for initiating this investigation are detailed in ADN No. 2019/35 which is available on the EPR for INV 507.

The SEF for INV 507 was originally due to be placed on the EPR by 8 July 2019, however the due date for the SEF and final report was extended on two occasions<sup>15</sup>.

The Commissioner is now required to place the SEF for INV 507 on the EPR by 17 October 2019.

### 2.2.4 Current measures

The current anti-dumping measures applying to power transformers exported to Australia are set out in Table 1 below:

	Exporter	Interim Dumping Duty (IDD)	Form of measures
Indonesia	PT CG Power Systems Indonesia	28.3%	Ad valorem
	All other exporters (except UNINDO)	8.7%	Ad valorem
Taiwan	Fortune Electric Co Ltd	15.2%	Ad valorem
	Shihlin Electric and Engineering Corporation	21.0%	Ad valorem
	Tatung Company	37.2%	Ad valorem
	All other exporters	37.2%	Ad valorem
Thailand	Tirathai Public Company Limited	39.1%	Ad valorem
	All other exporters (except ABB Thailand)	39.1%	Ad valorem

**Table 1 - Existing measures on power transformers**

### 2.3 Conduct of this inquiry to date

The Commission established an inquiry period of 1 January 2016 to 31 December 2018 (the inquiry period). The Commission has also examined data from the ABF import database, financial data submitted with the application by WTC and other Australian industry members and data from the INV 219 for the purpose of analysing trends in the market for the goods and assessing potential injury factors in the period from 1 July 2014 (the injury analysis period).

### 2.4 Australian Industry

The Commission must be satisfied that "like" goods are produced in Australia. Subsections 269T(2) and 269T(3) specify that for goods to be regarded as being

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<sup>15</sup> Case 507 ADN No. 2019/075 at EPR item no. 26 and ADN No. 2019/107 at EPR item no. 55

produced in Australia, they must be wholly or partly manufactured in Australia. The Commission is satisfied that like goods are wholly manufactured in Australia. The Commission is aware of three Australian producers of power transformers: WTC, Tyree Transformer Co Pty Ltd (Tyree) and Ampcontrol Pty Ltd (Ampcontrol).

The Commission sought information from Ampcontrol and Tyree to determine the role of those companies in the production of power transformers. Ampcontrol completed an Australian industry financial information questionnaire. No response was received from Tyree.

Based on information contained in the application, information obtained from Ampcontrol and that gathered during INV 219 and INV 507, the Commission is satisfied that WTC accounts for the majority of power transformers produced in Australia which are “like” to the goods subject to the notice.

The Commission conducted a verification visit to WTC’s premises in March 2019. The report in relation to this visit is available on the EPR.<sup>16</sup>

## **2.5 Importers**

The Commission identified a single importer of the goods from the subject countries during the inquiry period from the ABF import database. The Commission established that this entity did not have a geographic Australian presence and had been incorporated for taxation purposes.

## **2.6 Exporters**

### **2.6.1 Exporters in the inquiry period**

The Commission identified a single exporter of the goods from the subject countries during the inquiry period from the ABF import database, being Fortune Electric Co. Ltd (Fortune) in Taiwan.

The Commission attended Fortune’s offices in April 2019 to verify information and data provided in its response to the exporter questionnaire (REQ). A public version of the verification report is available on the EPR.<sup>17</sup>

### **2.6.2 Other exporters subject to measures**

The Commission received an REQ from PT CG Power Systems Indonesia (CG Power). However, as CG Power did not export the goods to Australia during the inquiry period the Commission did not undertake a verification visit.

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<sup>16</sup> Case 504 EPR item No. 17

<sup>17</sup> Case 504 EPR item No. 10

## **2.7 Submissions received**

The Commission received the following submissions from interested parties prior to publishing this SEF and has had regard to these submissions in formulating this SEF (subsection 269ZHE(2)). Non-confidential versions of these submissions are available on the EPR.

<b>EPR document</b>	<b>Party</b>	<b>Date published on EPR</b>
6	Government of Indonesia	4 April 2019
9	Fortune Electric Co., Ltd	29 May 2019
13	Wilson Transformer Company Pty Ltd	18 June 2019
15	Fortune Electric Co., Ltd	24 July 2019
16	PT CG Power Systems Indonesia	31 July 2019
18	PT CG Power Systems Indonesia	19 August 2018

**Table 2 - Submissions**

## 3 THE GOODS AND LIKE GOODS

### 3.1 Finding

The Commission considers that locally produced power transformers are like to the goods subject to the anti-dumping measures. The Commissioner considers that power transformers manufactured by the Australian industry are like goods, as defined in subsection 269T(1).

### 3.2 Legislative and policy framework

In assessing whether expiration of measures would lead, or would likely lead, to a continuation or recurrence of dumping, the Commissioner must first assess whether the goods produced by the Australian industry are like to the imported goods. Subsection 269T(1) defines like goods as:

*Goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.*

The Commission's framework for assessing like goods is outlined in Chapter 2 of the *Dumping and Subsidy Manual* (the Manual). The Commission assesses whether locally produced goods and imported goods have characteristics closely resembling each other in terms of:<sup>18</sup>

- i. physical likeness;
- ii. commercial likeness;
- iii. functional likeness; and
- iv. production likeness.

The Commission must also assess whether there is an Australian industry in respect of like goods. The framework for making that assessment is set out in the following provisions:

- Subsection 269T(4) provides that there is an Australian industry in respect of like goods if there is a person or persons who produce like goods in Australia and the Australian industry consists of that person or persons.
- Subsection 269T(2) provides that goods are not to be taken to have been produced in Australia unless they were wholly or partly manufactured in Australia.
- Subsection 269T(3) provides that goods shall not be taken to have been partly manufactured in Australia unless at least one substantial process in the manufacture of the goods must be carried out in Australia.

The term "substantial process" is not defined in the legislation. The Commission considers that a substantial process must add some essential or vital quality or character to the goods.<sup>19</sup>

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<sup>18</sup> Manual at section 2.3.

<sup>19</sup> Manual at section 1.2.

### **3.3 The goods**

The goods that are the subject of this inquiry are:

*liquid dielectric power transformers with power ratings of equal to or greater than 10 MVA (mega volt amperes) and a voltage rating of less than 500kV (kilo volts) whether assembled or unassembled, complete or incomplete.*

Incomplete power transformers are subassemblies consisting of the active part and any other parts attached to, imported with or invoiced with the active parts of power transformers. The active part of a power transformer consists of one or more of the following when attached to or otherwise assembled with one other:

- the steel core;
- the windings;
- electrical insulation between the windings; and
- the mechanical frame.

Gas filled and dry type power transformers are not included in the goods the subject of the application.

#### **3.3.1 Tariff classification of the goods**

The goods are generally, but not exclusively, classified to the following tariff subheadings and statistical codes in Schedule 3 to the *Customs Tariff Act 1995*:

- 8504.22.00: 40; and
- 8504.23.00: 26 and 41.

The Commission identified instances where the goods had been classified to the following tariff subheadings:

- 8504.21.00 (liquid dielectric transformers having a power handling capacity not exceeding 650 kilovolt amperes (kVA));
- 8504.22.00 (liquid dielectric transformers having a power handling capacity exceeding 650 kVA but not exceeding 10,000 kVA);
- 8504.23.00 (liquid dielectric transformers having a power handling capacity exceeding 10,000 kVA);
- 8504.31.00 (other transformers having a power handling capacity not exceeding 1 kVA);
- 8504.33.00 (other transformers having a power handling capacity exceeding 16 kVA but not exceeding 500 kVA); and
- 8504.34.00 (other transformers having a power handling capacity exceeding 500 kVA).

#### **3.3.2 Submission from GOI**

The GOI<sup>20</sup> submitted that there is an inconsistency in the definition of the goods in the notice announcing the initiation of the inquiry and that contained in the application, as the

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<sup>20</sup> Case 504 EPR item No. 10

notice refers to two tariff classifications while the application refers to five tariff classifications. The GOI asserted that failure to correctly define the goods would affect the objectivity of the inquiry.

### **3.3.3 Commission's Assessment**

The Commission notes that the goods description contained in the initiation notice (ADN2019/20) and that detailed in the application are consistent. The initiation notice outlines the goods subject to this inquiry. The initiation notice notes that the goods are generally, but not exclusively, classified to certain tariff subheadings.

## **3.4 Like goods**

The Commission has considered the application and findings of previous investigations and publicly available information in its assessment of like goods.

### **Physical likeness**

The Commission is satisfied that locally produced and imported power transformers are physically alike. The imported and locally produced power transformers are assembled from the same or similar core components – bushing, windings, conservator, tank and steel core. While power transformers generally can share common product characteristics, the wide array of potential product elements and performance attributes means that each power transformer is unique for a particular purchaser, and therefore the product engineered for that purchaser will be physically alike whether it be produced locally or imported.

### **Commercial likeness**

The Commission is satisfied that locally produced and imported power transformers are commercially alike. Locally produced and imported power transformers compete directly within the Australian market. When a purchaser plans to purchase a new or a replacement transformer, it issues a request for quotation, typically open to both foreign and domestic producers. Such a request will include the specifications of the unit. Manufacturers of power transformers will then bid on the project and confirm their ability to meet the specifications within the required time line. The Commission is satisfied that locally produced and imported power transformers compete directly within the Australian market through a bid and contract award process open to both domestic and foreign manufacturers.

### **Functional likeness**

The Commission is satisfied that imported power transformers and those produced locally are functionally alike. Power transformers are complex, technical, engineered-to-order capital products. The successful tenderer must demonstrate the capacity to meet the end use requirements of the purchaser, to which end the imported and locally produced power transformer must be functionally identical.

### **Production likeness**



The Commission is satisfied based on information contained within the application and that gathered during INV 219 that imported and locally produced power transformers are alike in regards to their manufacture. While power transformers are complex, engineered-to-order products, the underlying technology necessitates a consistency of material inputs and manufacturing processes common to both locally produced and imported products.

Based on the analysis above, the Commission, is satisfied that the goods produced by the Australian industry are like to the imported goods.

### **3.5 Australian industry in respect of like goods**

The Australian industry producing power transformers is comprised of WTC, Ampcontrol Pty Ltd (Ampcontrol), and Tyree Transformer Co Pty Ltd (Tyree).

#### **3.5.1 Production process**

Power transformers are custom designed capital goods engineered to order and manufactured to the specifications of the purchaser. The following is a brief description of the production process:

##### Steel core

Thin electrical steel of various widths is cut into shaped laminations that are stacked to form legs and yokes.

##### Windings

Material used for windings is normally purchased to the required dimensions and length for each power transformer. The windings are formed by winding conductors of insulated wire over a cylindrical framework, typically by hand. Depending on the type, voltage and winding current of a power transformer, different types of conductor and patterns of winding will be used.

##### Frame

A frame is fabricated from mild steel to support the core, windings and other internal parts of the power transformer.

##### Assembly

The windings are dried, adjusted to length and placed over the legs of the core. The core and windings are secured to form the active part of the power transformer. On load tap changers switch between the various taps of the windings of the power transformer under load conditions to maintain the desired output voltages.

##### Drying

The active part of the power transformer is placed in a drying chamber to remove the moisture in the insulation.

### Tank manufacture

A transformer tank is fabricated from mild steel. The interior is usually coated with epoxy and the exterior coated with high performance paint due to the long life expectancy of the product.

### Tanking

After drying, the windings are compressed and the active part lowered into the tank. External style tap-changers are fitted during this process. The tank is filled with transformer oil.

### Final assembly

All components such as turrets, bushings, the cooling system, controls, indicators and conservator are added. Bushings connect the external power cables through the tank to the internal windings of the power transformer.

### Testing

Testing is performed to ensure the accuracy of voltage ratios, measure electrical losses and impedances, verify power ratings, and measure sound levels and partial discharge levels. If a power transformer fails testing, it may be necessary to drain oil, disassemble and rectify the problem. The power transformer is then re-assembled and re-tested.

### Delivery

When the power transformer passes testing, the oil is drained, the external components are disassembled for shipment and the power transformer is delivered to site. When on-site, the external components are re-assembled, oil is returned and pre-handover testing is undertaken. Smaller power transformers may be delivered complete.

## **3.5.2 WTC**

WTC stated in its application that power transformers are manufactured from imported and domestically sourced raw materials. Imported raw materials that are not available in Australia include:

- core steel - high quality grain orientated electrical steel;
- conductor - copper wire manufactured to exacting specifications and covered by either paper or enamel;
- insulation – highly specialised paper based material;
- bushings;
- on-load tap changes;
- transformer oil; and
- sundry other components.

WTC stated that the Australian design and manufacturing process include the following:

- electrical design;
- mechanical design;

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- winding;
- core cut and build;
- assembly;
- drying;
- tank manufacture;
- tanking;
- final assembly; and
- testing.

WTC manufactures power transformers at its Glen Waverly production facility. The Commission undertook an inspection of this facility during a verification visit conducted in March 2019 and observed the performance of the processes described above. Accordingly, the Commission is satisfied that at least one substantial process in the manufacture of the goods is carried out in Australia, and that the power transformers manufactured by WTC meet the requirements of subsections 269T(2) and 269T(3).

### 3.5.3 Other producers

The Commission contacted Ampcontrol and Tyree during the conduct of the continuation inquiry to seek further information about production and sales of power transformers. Ampcontrol completed an Australian industry financial information questionnaire. No response was received from Tyree.

Based on information contained in the application, information obtained from Ampcontrol, information obtained from purchasers of power transformers, and that gathered during INV 219 the Commission is satisfied that Ampcontrol and Tyree are also members of the Australian industry.

The Commission is further satisfied based on information gathered that WTC accounts for the majority of power transformers produced in Australia.

### 3.6 Conclusion

The Commission considers that there are strong physical, commercial, functional and production likenesses between the goods and the goods produced by the Australian industry.

The Commission is satisfied that at least one substantial process in the manufacture of power transformers is carried out in Australia and therefore there is an Australian industry producing like goods.

## 4 THE AUSTRALIAN MARKET

### 4.1 Findings

The Commission has found that, during the inquiry period, the Australian market for the goods was supplied by the Australian industry, imports from the subject countries and imports from other countries.

### 4.2 Market size

In its application, WTC estimated the size of the Australian market in terms of sales value using its own production and sales data, estimated sales of other Australian producers and import statistics sourced from the Australian Bureau of Statistics (ABS). WTC made adjustments, based on its market knowledge, to account for instances where it believed that importations had been incorrectly classified.

In terms of assessing the size of the market, power transformers can be aggregated in terms of dollars, units, and total capacity (expressed in mega volt amperes (MVA)). A power transformer may be 10 MVA and weigh 20 to 25 tonnes or over 500 MVA and weigh over 200 tonnes. Because of the diversity of size and capacity of power transformers, the Commission considers that capacity would be the most appropriate measure of the size of the Australian market. Import statistics however only identify the number of units and sales value. The Commission has therefore, for the purposes of this report, and in the absence of capacity data, considered market size in terms of both the number of units sold and the total sales value of those units.

For the purposes of estimating the size of the Australian market for power transformers the Commission has analysed:

- WTC's verified sales data;
- production and sales information provided by Ampcontrol;
- WTC's estimate of the value of sales by Tyree, noting that the Commission contacted Tyree to obtain sales and production data, however did not receive a response;
- importation and sales information provided within questionnaire responses received from four importers;<sup>21</sup>
- production, sales and exportation information provided within questionnaire responses received from eight exporters;<sup>22</sup>
- purchasing information provided within questionnaire responses received from ten end users; and
- import data obtained from the ABF import database under the tariff classifications to which the goods are typically classified, in addition to tariff classifications identified by WTC as potentially including the goods. The data obtained was cleansed by reference to the description of the goods provided in declarations and

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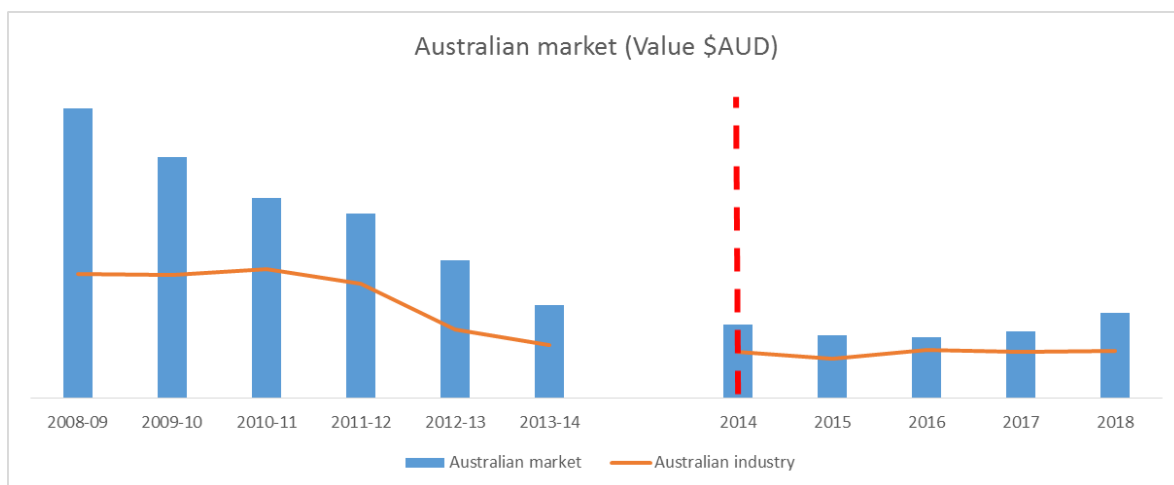
<sup>21</sup> This information has been collated in conjunction with the information obtained from exporters and importers in Investigation No. 507.

<sup>22</sup> *ibid*

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by value. Line items with a final line customs value of under \$150,000 per unit were excluded.

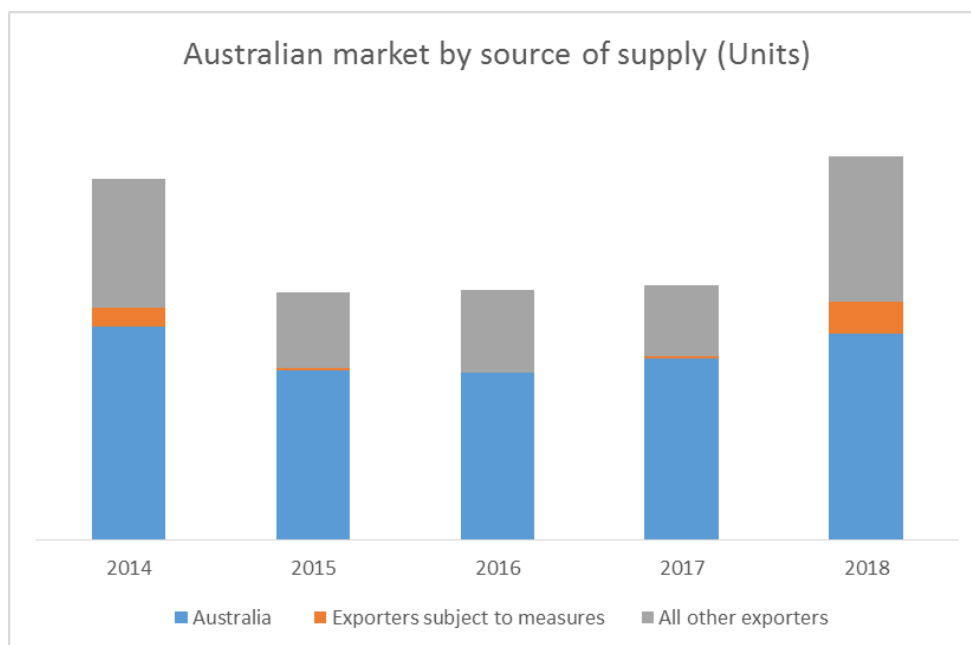
The Australian market for power transformers by value is illustrated below:



**Figure 1 – The Australian market for power transformers by value (\$AUD) since 1 July 2008<sup>23</sup>**

The Australian market for power transformers has contracted almost continually since 2008, however has seen a slight recovery since 2016. The Australian industry’s share of the market by value has recovered marginally since 2015 following the imposition of measures.

The estimated size of the Australian market in terms of the number of power transformers supplied by source is illustrated in Figure 2 below:

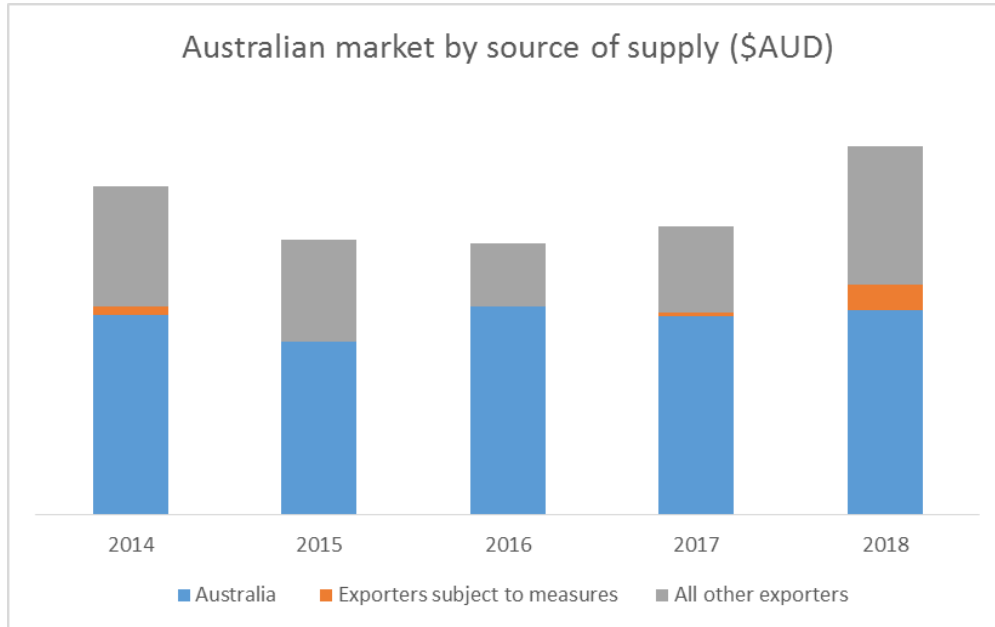


<sup>23</sup> The injury examination period for REP219 was 1 July 2008 to 30 June 2013 (financial years). The injury examination period for this continuation inquiry is 1 January 2014 to 31 December 2018 (calendar years). Figure 1 includes an overlap of 6 months between 1 January to 30 June 2014.

**Figure 2 – The Australian market for power transformers (by number of units sold)**

In terms of units the Australian sales volume has increased. The size of the market in units has increased significantly more than the Australian industry’s increase. Exporters subject to measures have re-entered the market in 2017 and have taken a larger share of the market in 2018.

The estimated size of the Australian market in terms of the value of power transformers sold is illustrated in the Figure 3 below:



**Figure 3 – The Australian market for power transformers (by sales value)**

The Australian industry has not seen as clear an improvement in terms of value of power transformers sold. Again, the slight increase in the Australian industry’s sales in terms of value is minimal in comparison to the overall growth in the market as well as the growth in the sales value of exports subject to measures.

The Commission’s market analysis is contained in **Confidential attachment 2**.

### **4.3 Market structure**

The electricity network involves the generation, transmission and distribution of electricity. Power transformers are required at various points in this network.

#### Generation

Power is generated by numerous sources, including power stations, hydro-electric schemes, wind farms and solar farms. Power is typically generated at 5 to 30 kV, but transmitted at very high voltages (at reduced current) to reduce costs and losses. Power transformers are used to increase the voltage and proportionately reduce the amperage. These power transformers are known as step-up transformers and can have very large power ratings, often 100 to 600 MVA.

#### Transmission and distribution

Once generated, power must be transmitted to the location where demand exists. At each point where power is transferred between electrical systems the electricity passes through

a power transformer. Transmission of electricity usually occurs at 66 to 500 kV, but distribution is made at below 66 kV. Power transformers that take high transmission voltages and convert them to lower voltages suitable for distribution are known as step-down transformers. There are numerous power transformers in a distribution network.

Distribution transformers, finally, are the last point of connection to a residential or commercial consumer in the distribution network. Distribution transformers have low power ratings (below 10 MVA) and are therefore not subject to this investigation. Retailers buy electricity from distributors and sell it to purchasers. In some cases the retailer is part of a distribution company. Power transformers are not used in the retail network, although some retailers own generating facilities.

#### National Electricity Market (NEM)

With the exception of Western Australia and Northern Territory, the remainder of Australian electricity consumers get their electricity from the NEM which combines the electricity grids of Queensland, New South Wales, Victoria, South Australia and Tasmania.<sup>24</sup>

### **4.4 Sources of product demand**

WTC identified the following sources of product demand in its application:

- Electricity transmission and distribution businesses;
- Generation businesses, traditionally large coal fired power stations, but more recently renewables generation, particularly wind and solar;
- Large industrial developments, including mining and Liquefied Natural Gas; and
- Other miscellaneous requirements including hydro stations and commercial developments.

#### **4.4.1 Electricity transmission and distribution businesses**

The Commission has identified the major power transmission companies in Australia which include Transgrid, SP AusNet, Powerlink, ElectraNet, Western Power and TasNetworks.

The major power distribution companies in Australia identified by the Commission include Ausgrid, Endeavour Energy, Essential Energy, CitiPower, Powercor, Energy Queensland and SA Power Networks. AusNet, Western Power and TasNetworks are distributors as well as transmission companies.

Transmission and distribution businesses are referred to as utilities in this report. The utilities that operate in the NEM are regulated by the Australian Energy Regulator (AER).

### **4.5 Marketing and distribution arrangements**

WTC outlined the marketing and distribution arrangements in its application:

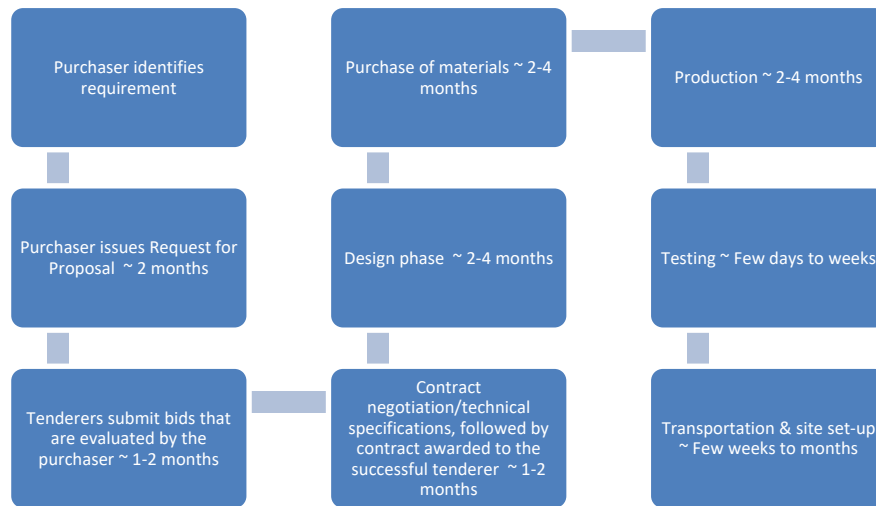
- As the power transformers are highly complex products, sales are generally made directly by the manufacturers to the end user, particularly where the purchasers are utilities;

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<sup>24</sup> [AER: State of the Energy Market, May 2017, page 22.](#)

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- Where large projects are engineered by organisations other than the end purchaser, the sales are frequently made to those engineering organisations;
- Overseas manufacturers may make the sales through their own employees employed in Australia or employees who travel to Australia to arrange the sale with the Australian purchasers. Sometimes local agents or trading houses are used;
- Where a multi-national organisation is involved, the Australian arm of the company is most likely to interface with the Australian purchasers;
- The procurement process for power transformers typically includes the steps outlined in Figure 4. WTC stated that the lead times indicated in Figure 4 are indicative for very large power transformers. For small and medium transformers the lead times are shorter, in particular when required for the renewable projects.



**Figure 4 – Procurement and manufacturing process chart for large power transformers<sup>25</sup>**

Based on findings from INV 219, WTC’s application, submissions received, and information gathered by the Commission during the course of this inquiry, the Commission finds that power transformers are purchased by the purchasers through a tender process where the purchaser issues a request for quotation, detailing the specifications of the unit. Manufacturers, both domestic and international, will then bid on the project and confirm their ability to meet the specifications and required time line for delivery and installation.

Public utilities normally advertise request for tenders, however private companies may simply approach selected suppliers. Large projects may be managed by engineering, procurement and construction (EPC) contractors rather than the end owner, in which event sales are frequently made to the EPC contractor.

Depending on the market segment there may be an informal bid process prior to formal bids. This is generally in the renewables sector where the potential purchaser of the power transformers is initially bidding for an EPC contract. The successful EPC contractor will then commence the formal request for quote process.

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<sup>25</sup> This process chart was created by the Commission based on the process chart contained in WTC’s application. The Commission has added some additional comments to some of the text boxes for purpose of clarity. However, the steps involved, sequencing and lead times correspond with the original process chart supplied.



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A request for tender may be for a one-off purchase or for a period contract (applying to purchases for a number of years). A period contract may select a single supplier or a panel of suppliers where the purchaser may request quotes from all panel suppliers or simply select a supplier when it has a requirement for a power transformer.

The request for tender may be for the supply of a power transformer only, supply and delivery to site, supply, installation and commissioning, or for the supply of a power solution or turn-key project (projects which include items additional to power transformers, such as switchgear, transmission lines, power generators and power plant construction).

Suppliers develop and submit tenders that meet the specifications in the request for tender. There are many design options available that satisfy each specification and suppliers may submit a number of options. The Australian industry deals directly with purchasers. Overseas suppliers may deal directly with purchasers while some have an Australian office that handles contract negotiations.

### 4.6 Demand variability

WTC identified the following contributors to demand variability:

- Economic growth of the country generally, but more specifically of different states;
- Regulation. As transmission and distribution utilities are natural monopolies, they are regulated in many ways and the five-yearly regulation reviews have a significant impact on the investment decisions of the utilities;
- Resource cycles and related mining and gas export projects;
- National energy policy and associated legislation particularly related to renewable energy. Of particular significance is the Large-scale Renewable Energy Target (LRET), a federal government policy which encourages investment in renewable power stations to achieve 33 000 gigawatt hours (GWh) of additional renewable electricity generation by 2020. WTC claims that due to the deadlines associated with the financial incentives of the LRET, there is a peak of demand for power transformers that commenced in 2017 and will end in 2020;
- State based energy policy related to renewable energy may increase demand and lead to more import activity;
- Capacity utilisation; as manufacture of power transformers is capital intensive, and requires a skilled workforce, the manufacturers endeavour to ensure that their factory utilisation is high and stable. This provides strong incentives for manufacturers to find alternative sources of demand when their local, or traditional export, demand declines. The application states that the USA and Canada have dumping duties in place against power transformers exported from Korea;
- Chinese manufacturers of power transformers have experienced declining demand associated with the slowing of Chinese infrastructure development, and that the US-China trade dispute is impacting the Chinese local economy; and

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- Competition between the Australian and imported product is essentially on a tariff free basis as virtually all Asian countries, except India and Taiwan, are able to export transformers to Australia without tariffs.

## 5 ECONOMIC CONDITION OF THE AUSTRALIAN INDUSTRY

### 5.1 Approach to injury analysis

Power transformers are complex, engineered-to-order capital products with an operating life ranging from 30 to 50 years. WTC submitted in its application<sup>26</sup> that the costs and sales of power transformers were not directly comparable across periods or between products due to their specifications and complexity. It also submitted that the slow cycle time between the issue of requests for tender by purchasers and delivery, resulted in the injury being experienced some time after the lost tender.

In its application WTC submitted that there is a flow on effect between the loss of a tender and its subsequent impact on sales volume, revenue and profit, as well as on other economic indicators. In order to assess volume related injury the Commission has taken the approach of analysing the tenders as well as the flow on impact on sales volumes and market share. The Commission has limited the tenders analysed to the inquiry period. Sales are also reviewed for the inquiry period. It is noted that some of the sales are related to tenders won prior to the inquiry period. This is due to the delay between the winning of a tender and the sale of the power transformer. While the Commission has observed that this will be a minority of sales in 2016, the Australian industry sales figures depicted in Figures 1, 2, 3, 7 and 8 are provided as a guide only.

### 5.2 Findings of Investigation 219

In INV 219<sup>27</sup> the Commissioner found that dumped imports had caused material injury to the Australian industry in the form of:

- loss of sales volume;
- reduced market share;
- price undercutting;
- price suppression;
- reduced profits;
- reduced profitability;
- reduced return on investment;
- reduced revenues;
- reduced capacity utilisation; and
- reduced employment.

The Commission considered it appropriate, having regard to the conditions of competition, to consider the cumulative injurious effect of the dumped imports from Indonesia, Taiwan, Thailand and Vietnam.

The subsequent ADRP<sup>28</sup> review removed ABB Thailand and Vietnam from the notice.

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<sup>26</sup> Case 504 EPR Item No. 01

<sup>27</sup> Document [194](#) on Archived EPR 219

<sup>28</sup> ADRP Report [No. 24](#), 30 September 2015

### 5.3 Volume effects

#### 5.3.1 Tenders

In order to assess injury in the form of reduced volumes as a result of lost tenders, the Commission requested a complete listing of all tenders for which the applicant submitted a bid during the inquiry period. The Commission analysed these by project and by the estimated sales revenue to the business based on WTC's bids (inclusive of delivery and installation). While the following analysis is based on bids by the applicant only, as discussed above, the Commission accepts that injury to WTC is indicative of injury to the Australian industry as a whole.

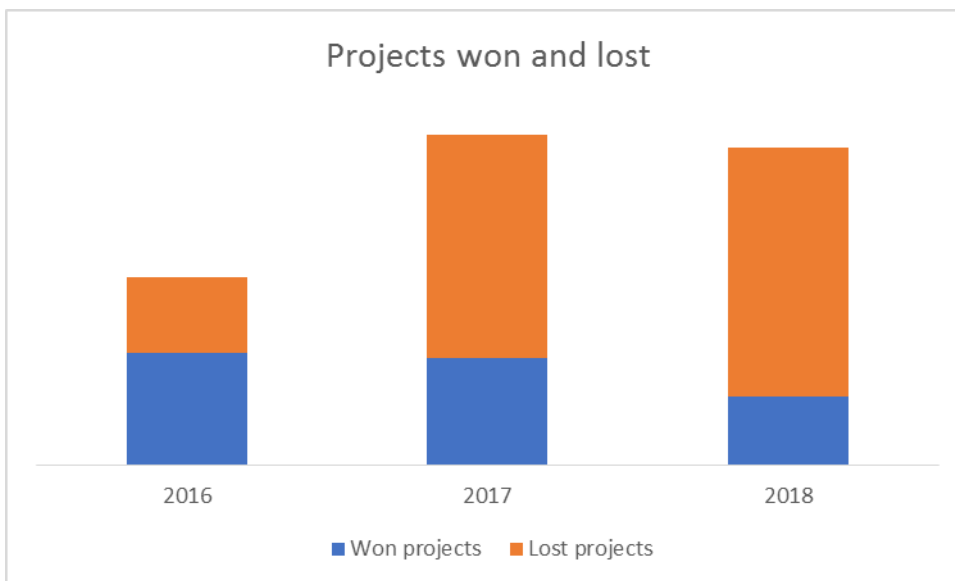


Figure 5 - Outcome of WTC's bids (by project)

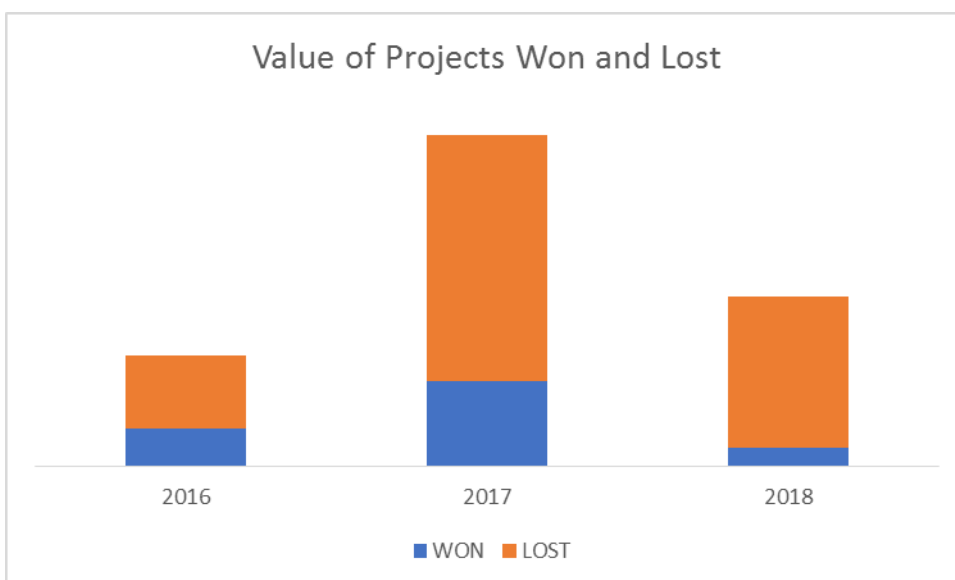


Figure 6 - Outcome of bids by value

During the course of the investigation the Commission sourced further information from other participants to these tenders. The Commission also requested further information

from end users (the tenderers) in order to ascertain the importance of various evaluation criteria in their purchasing decisions.

The Commission’s consideration of WTC’s tender information is contained at **Confidential Attachment 1**.

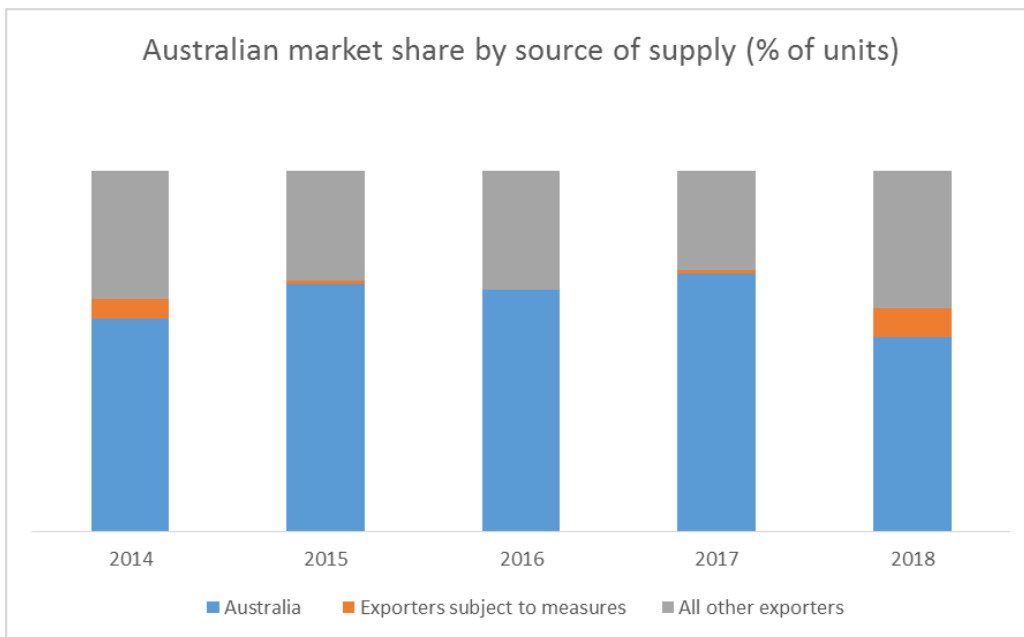
### 5.3.2 Sales

In the application, WTC claimed that dumped imports from subject countries had entered the market during the inquiry period. WTC assessed this based on ‘value’ rather than ‘volume’. As each power transformer is built to its own specifications and value varies significantly from project to project a simple volume analysis could be misleading in assessing injury.

The Commission reviewed the sales in terms of volume (units) and value (sales value \$AUD) as illustrated in Figures 2 and 3 in section 4.2. It is observed that while Australian industry’s volume increased during the inquiry period, and the value of those sales increased marginally, the market increased significantly more. The increase in value and volume of the sales of exporters subject to measures was significantly greater than Australian industry’s gains. In accordance with the Ministerial Direction,<sup>29</sup> a decline in an industry’s rate of growth may be just as relevant as the movement of an industry from growth to decline.

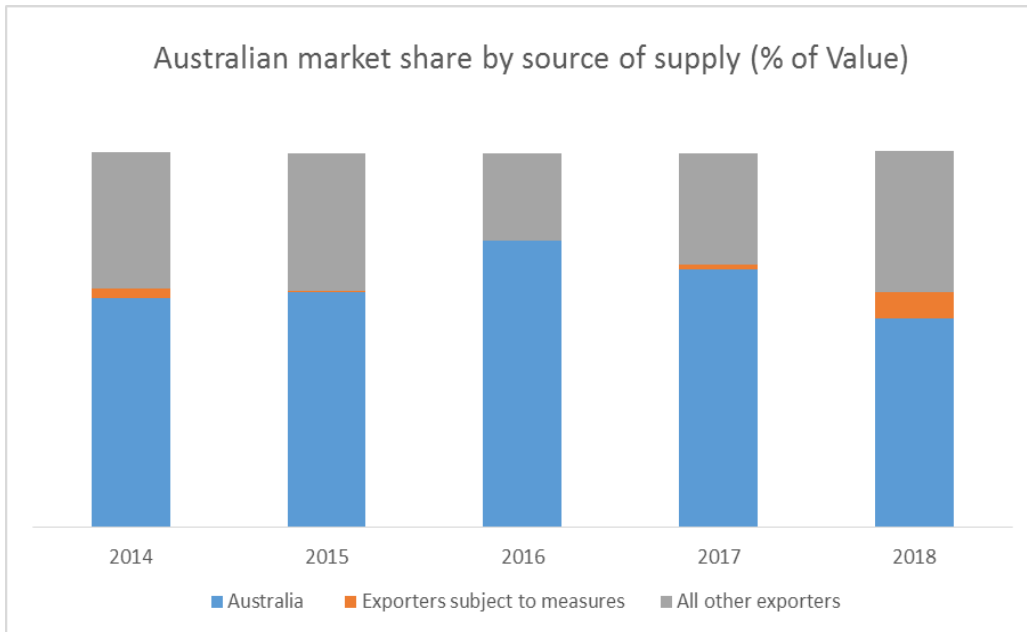
### 5.3.3 Market share

The Commission analysed the share of the market by both sales volume and value.



**Figure 7 - Australian market share (% of units)**

<sup>29</sup> [Ministerial Direction on Material Injury 2012](https://www.industry.gov.au/regulations-and-standards/anti-dumping-and-countervailing-system) available at <https://www.industry.gov.au/regulations-and-standards/anti-dumping-and-countervailing-system>



**Figure 8 - Australian market share (% of sales value)**

The decline in the market share of the Australian industry is most pronounced in the analysis of sales value in the market, where there has been a consistent reduction in market share during the inquiry period. In Figures 7 and 8 above, it is clear that following the measures, imports from the subject countries ceased entering the Australian market. At the end of the inquiry period dumped imports from the Taiwan had resumed.

### **5.3.4 Conclusion**

The Commission is satisfied that the Australian industry has experienced injury in the form of reduced sales volume and reduced market share.

## **5.4 Price effects**

WTC provided sales and cost to make and sell (CTMS) data that was verified by the Commission. The Commission filtered out all data that was not directly related to the production and sale of power transformers in Australia to analyse the sales and CTMS of like goods during the injury analysis period.

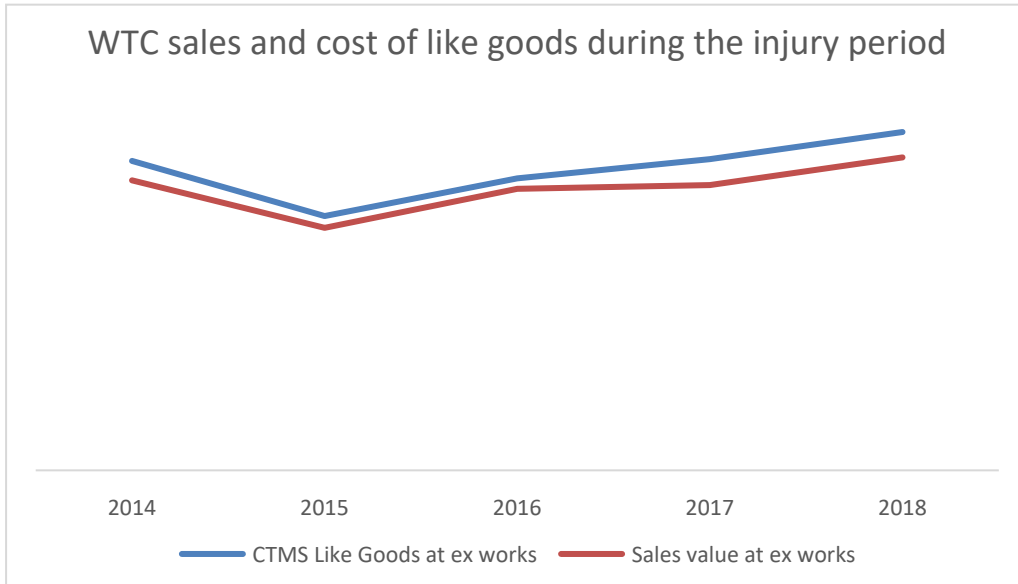
### **5.4.1 Price suppression**

Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. In determining whether price suppression has occurred the Commission typically compares prices with costs over time.

Due to the unique specifications of individual power transformers, which vary considerably, there is limited value in analysing weighted average unit prices and weighted average costs in order to assess trends.

In this instance the Commission considers it more meaningful to analyse the total sales values and total CTMS at ex-works for like goods on a yearly basis over the injury analysis period.

The Commission found that the yearly CTMS was consistently higher than the yearly sales value across the injury analysis period. The gap between yearly CTMS and yearly sales value widened after 2016, which coincides with the inquiry period.



**Figure 9 - Yearly CTMS and yearly sales revenue**

CG Power<sup>30</sup> argued that as costs for manufacturing a transformer are not known at the time of tendering, and the difference between sales value and CTMS can be impacted by subsequent changes in the cost of raw materials, the comparison of CTMS to sales value tells us nothing about price competition.

The Commission agrees that price is an important factor in the evaluation of tenders and that the exact costs of manufacture are not known at the time of tendering. However, the Commission reviewed internal documents relating to the estimated costs, revenue and profit that is constructed by the Australian industry prior to making a bid. The Commission is satisfied that generally the Australian industry enters a bid with the view to making a profit on the supply of a power transformer. There is a flow on effect of winning the tender that then impacts sales revenue, profit, capacity utilisation and other factors as discussed below in section 5.6. In analysing the sales revenue and costs associated with the manufacture of power transformers limited to the goods under consideration, the Commission found that the sales revenue is consistently below the CTMS and that the gap has widened between 2016 and 2018. While the Commission accepts that there may be unforeseen costs that were not accounted for in the original budgeted figures, it is unlikely that this would have resulted in the sustained difference as illustrated in Figure 9. It is also reasonable to assume that an experienced producer of power transformers such as WTC, would account for as many variables as possible in its estimation of costs.

The Commission is satisfied that the Australian industry has experienced injury in the form of price suppression.

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<sup>30</sup> Case 504 EPR Item No. 18

### 5.4.2 Price depression

Price depression occurs when a company, for some reason, lowers its prices.

As previously outlined, because each power transformer is built to unique specifications and pricing may vary significantly different between transformers. For this reason trends in prices over time are of limited significance in assessing price depression.

The Commission considers it more meaningful to analyse price depression having regard to the won and lost tender documentation provided by WTC for all tenders that it participated in during the inquiry period. This documentation provides evidence to support claims that the Australian industry's prices were reduced during the course of tender negotiations, in some instances multiple times prior to winning a tender.

The Commission is satisfied that the Australian industry has experienced injury in the form of price depression.

The Commission's consideration of price effects is at **Confidential Attachment 3**.

### 5.5 Profits and profitability

WTC was unprofitable on its sales of like goods throughout the injury analysis period. WTC's profit and profitability improved between 2014 and 2016 before deteriorating.

As demonstrated in Figure 8 above, yearly costs have consistently been above yearly sales values in relation to like goods, reducing profit margins. In addition, WTC has experienced a smaller proportion of tender wins over the inquiry period (Figures 5 and 6 refer). The Commission is also satisfied that WTC reduced its bid prices during the course of tender negotiations for certain projects in the inquiry period. The flow through effect on volumes and prices has meant reduced sales revenues as well as a smaller number of projects for apportioning fixed costs. All of these factors have resulted in a net loss position for WTC during the injury analysis period.

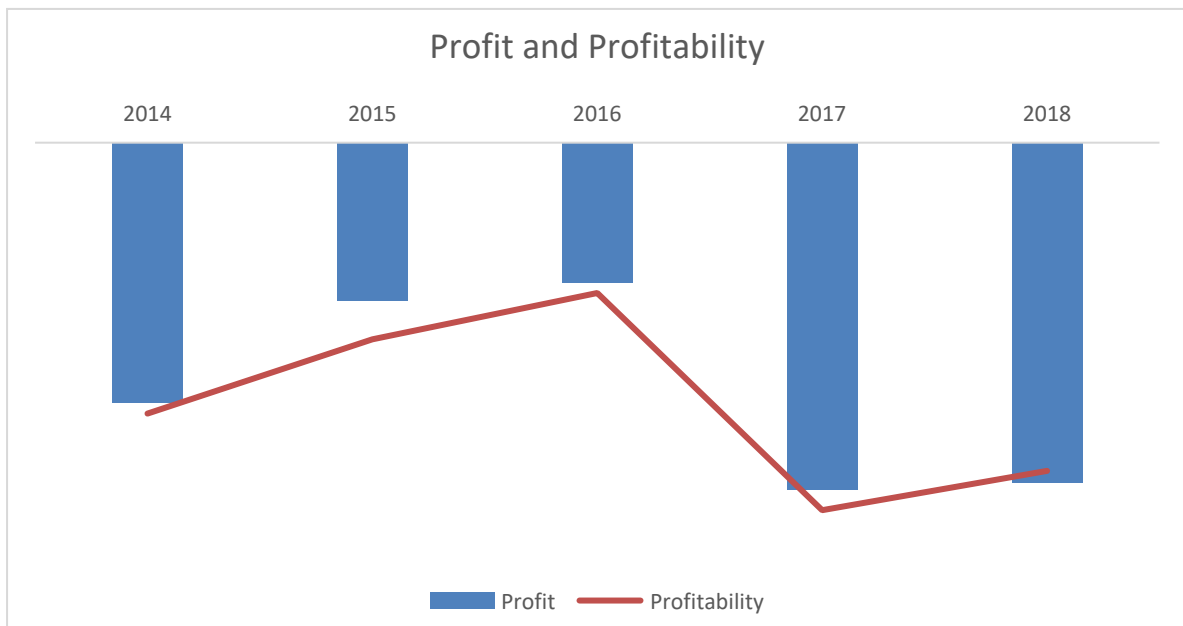


Figure 10 - WTC's Australian profit and profitability of like goods

The Commission is satisfied that the Australian industry has experienced injury in the form of reduced profit and profitability.



The Commission’s consideration of profit and profitability is at **Confidential Attachment 4**.

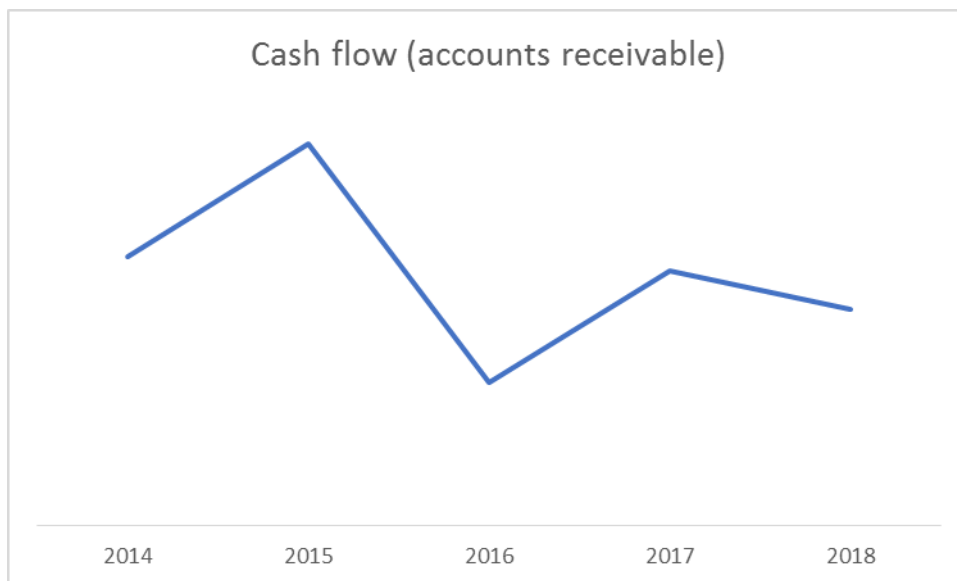
## **5.6 Other economic factors**

In its application, WTC claimed that it had experienced injury in the form of:

- reduced cash flow;
- reduced capacity utilisation;
- reduced return on investment;
- reduced productivity;
- reduced revenue;
- reduced employment;
- reduced wages;
- reduced assets;
- reduced R&D expenditure; and
- reduced capital investment.

### **5.6.1 Reduced cash flow**

WTC provided a cash flow index based on its accounts receivables balances across the injury analysis period to substantiate its claim. It was found that the balances have fluctuated in the injury analysis period as evidenced in Figure 11 below. The cash flow position has deteriorated between 2015 and 2016 and again between 2017 and 2018 and has not recovered to pre-2015 levels. The Commission is satisfied that the Australian industry has experienced injury in the form of reduced cash flow.

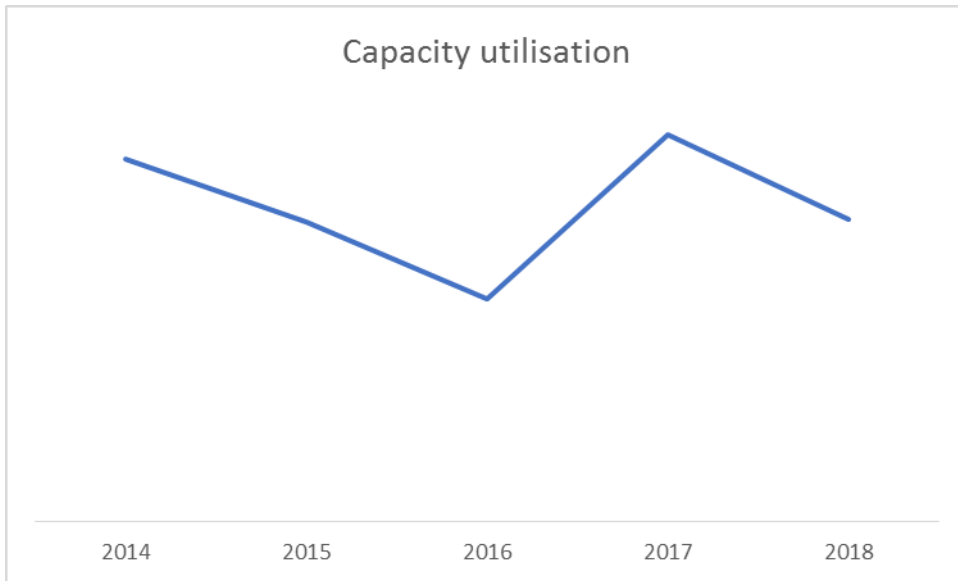


**Figure 11 - WTC's Cash flow**

### **5.6.2 Capacity utilisation**

WTC’s capacity remained unchanged during the injury analysis period. WTC advised that capacity is based on standard cycle times for each of the processes in the manufacture of power transformers. It has calculated output in MVA that can be produced at full capacity. Capacity utilisation reduced in the first half of the injury analysis period, and increased again in 2017. From the peak in 2017 capacity decreased in 2018 as illustrated in Figure

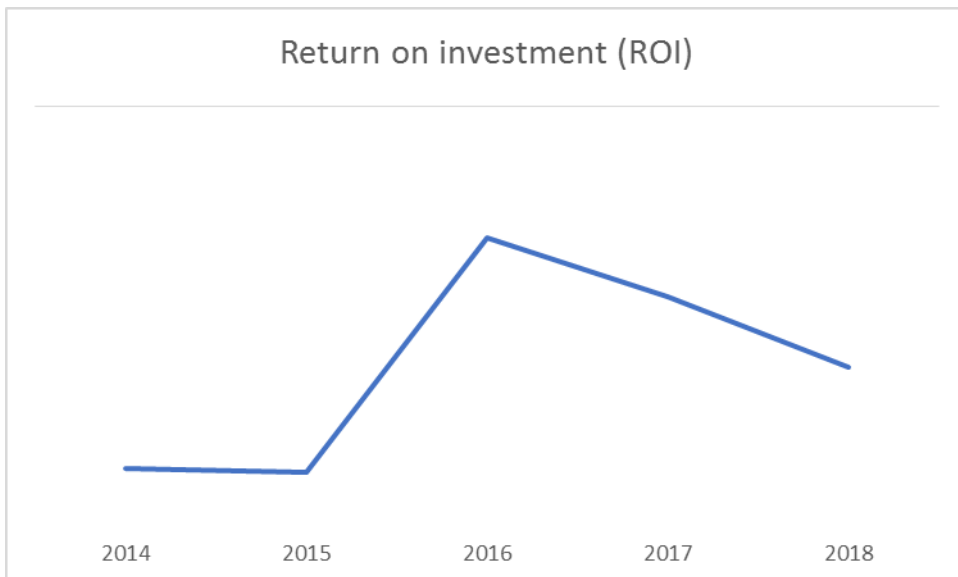
12 below. The Commission is satisfied that the Australian industry has experienced injury in the form of reduced capacity utilisation.



**Figure 12 - WTC's Capacity utilisation**

**5.6.3 Return on investment**

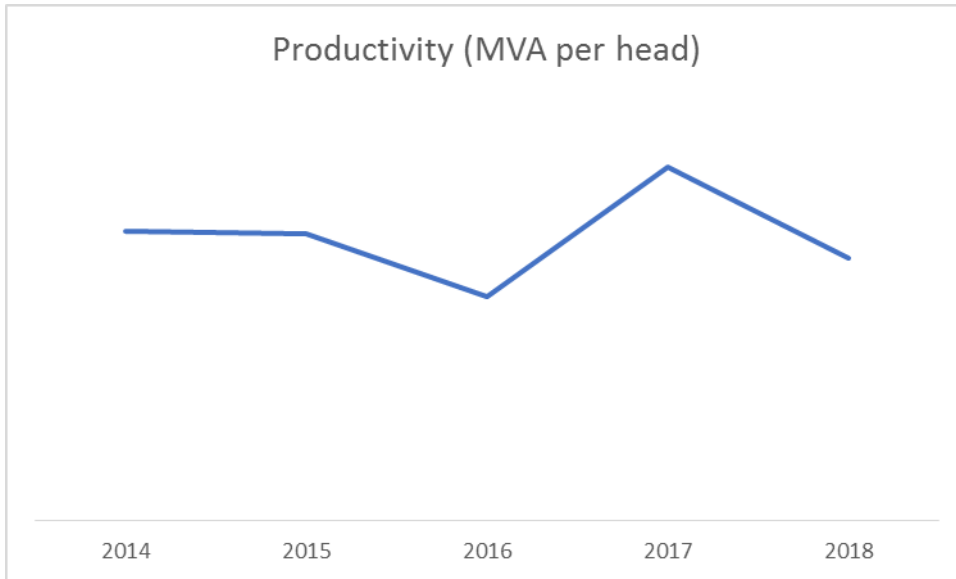
WTC claimed injury in the form of reduced return on investment (ROI). WTC calculated ROI across the injury analysis period based on earnings before interest and tax over revenue. WTC has experienced a negative ROI during the injury analysis period. There was an improvement between 2015 and 2016 (while still negative) before deteriorating again between 2016 and 2018. The Commission is satisfied that the Australian industry has experienced injury in the form of reduced ROI.



**Figure 13 - WTC's return on investment**

### 5.6.4 Productivity

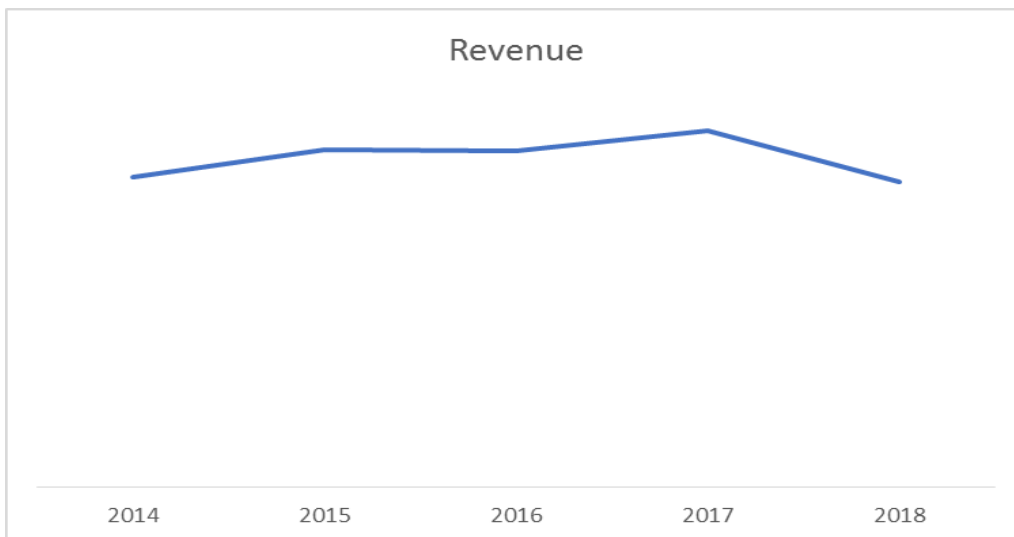
Productivity has declined between 2015 and 2016 and again between 2017 and 2018. Productivity is the measure of output (in MVA) by the number of employees. The Commission found that employee numbers were relatively stable over the injury analysis period while output follows a similar trend to productivity. The Commission is satisfied that the Australian industry has experienced injury in the form of reduced productivity.



**Figure 14 - WTC's productivity**

### 5.6.5 Revenue

The revenue has remained relatively stable during the injury analysis period with a decline in 2018. The Commission considers the decline in 2018 to be in response to the volume effects identified in section 5.3 of this report. The Commission is satisfied that the Australian industry has experienced injury in the form of reduced revenue.



**Figure 15 – WTC's Revenue**

### **5.6.6 Other indicators**

**Employment** - WTC has experienced a minor decline in employment numbers over the injury analysis period, with a recovery from 2016.

**Reduced wages** - On an average basis wages have remained fairly stable.

**Assets** – After an initial decline in assets relating to like goods, WTC has experienced a recovery during the inquiry period.

**Research and development expense** – While WTC has experienced a decline in research and development expenses during the inquiry period, there has been a recovery since 2017.

**Capital investment** – Capital investment declined between 2014 and 2015, however has since recovered.

The Commission's consideration of injury factors is at **Confidential Attachment 5**.

## 6 REVIEW OF VARIABLE FACTORS

### 6.1 Findings

For the purpose of assessing whether the continuation of the anti-dumping measures is required to prevent the continuation or recurrence of dumping, the Commissioner has ascertained all variable factors relevant to the taking of the measures during the inquiry period.

The Commissioner has found that the variable factors have changed for Taiwan and the category of uncooperative and all other exporters from Indonesia.<sup>31</sup> The variable factors for CG Power and Thailand remain unchanged.

### 6.2 Legislative framework

In accordance with subsection 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of dumping. The existence of dumping during the inquiry period may be an indicator of whether dumping may occur in the future.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of the goods are determined under sections 269TAB and 269TAC respectively. Further details of the export price and normal value calculations for each exporter are set out below.

Dumping margins are determined under section 269TACB.

### 6.3 Categorisation of exporters

#### 6.3.1 Cooperating exporters

The Commission has categorised exporters that provided a REQ as cooperative exporters. The Commission has analysed the information submitted by these exporters, and assessed the relevant variable factors as outlined below.

#### 6.3.2 Uncooperative and all other exporters

Subsection 269T(1) provides that an exporter is an uncooperative exporter where the Commissioner is satisfied that the exporter did not give the Commissioner information that the Commissioner considered relevant to the inquiry, within a period the Commissioner considered to be reasonable, or where the Commissioner is satisfied that the exporter significantly impeded the inquiry.

The *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Direction) provides that the Commissioner must determine an exporter to be an uncooperative

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<sup>31</sup> The variable factors are export price and normal value, as examined in this chapter and non-injurious price as examined in Chapter 8.

exporter, on the basis that no relevant information was provided in a reasonable period, if that exporter fails within the legislated period to provide a response or to request a longer period to do so (section 8).

After having regard to the Direction, the Commission has determined that any exporters that did not within the legislated period provide a response to the exporter questionnaire or did not request a longer period to provide a response are uncooperative exporters for the purposes of this inquiry.

As provided for in subsection 269TACAB(1), for uncooperative and all other exporters, export price and normal value is worked out in accordance with subsection 269TAB(3) and subsection 269TAC(6) respectively, by having regard to all relevant information.

## **6.4 Indonesia**

### **6.4.1 CG Power**

The Commission assessed the data submitted by CG Power in its REQ, however as CG Power had not exported during the period, verification was not undertaken.

#### **6.4.1.1 *Export price***

As CG Power did not export power transformers to Australia during the inquiry period, sufficient information is not available to determine the export price of the goods using:

- the price paid or payable by the importer;<sup>32</sup>
- the price in Australia less prescribed deductions (deductive export price);<sup>33</sup> or
- the price having regard to all the circumstances of the exportation.<sup>34</sup>

The Commission has therefore established an export price under subsection 269TAB(3), having regard to all relevant information. The Commission is of the view that the most reliable and relevant information it possesses in relation to the export price for power transformers exported by CG Power is the export price currently on the notice.

#### **6.4.1.2 *Normal value***

As previously noted, the Commission considers that each power transformer is a unique product and that, because of the many variables and differences in technical specifications which would affect proper comparison, it is not possible to accurately adjust domestic prices to make them comparable with export prices.

Therefore, the Commission is of the view that there is an absence of sales of like goods in the market of the country of export that would be relevant for the purposes of determining a price under subsection 269TAC(1). Further, there are no other exporters of the goods from Indonesia that have cooperated with this inquiry, and no other exports from Indonesia, and as such the Commission is unable to have regard to the prices achieved

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<sup>32</sup> Subsection 269TAB(1)(a) refers.

<sup>33</sup> Subsection 269TAB(1)(b).

<sup>34</sup> Subsection 269TAB(1)(c).

by other sellers of like goods. There is also no basis on which to construct a normal value under subsection 269TAC(2)(c), for example by having regard to CG Power's domestic production costs, as it is not possible to accurately adjust these to reflect the power transformers actually sold in the Australian market upon which CG Power's export price has been determined.

While CG Power did provide sales data for third country sales, the Commission could not determine a normal value under subsection 269TAC(2)(d), as, due to the unique nature of each power transformer, an appropriate third country could not be identified that would enable comparison to the power transformers actually sold in the Australian market upon which CG Power's export price has been determined.

The Commission therefore considers that normal value is to be determined under subsection 269TAC(6), having regard to all relevant information. The Commission is of the view that the most reliable and relevant information it possesses in relation to the normal value for power transformers exported by CG Power is the normal value currently on the Notice.

#### **6.4.1.3 Dumping margin**

The Commission has preliminarily determined a dumping margin of **28.3 per cent** for CG Power, being the dumping margin relevant to the variable factors currently operative<sup>35</sup>.

#### **6.4.2 Uncooperative and all other exporters**

In light of insufficient data being available for the inquiry period in relation to exports from Indonesia, the Commission has established an export price for uncooperative and all other exporters under subsection 269TAB(3), and a normal value under subsection 269TAC(6), being those applicable to CG Power.

The Commission has established a dumping margin of **28.3 per cent** for uncooperative and all other exporters from Indonesia.

### **6.5 Taiwan**

#### **6.5.1 Fortune**

The Commission conducted an on-site verification visit to Fortune during April 2019 to verify the information contained in its REQ.

A report covering the visit findings is available on the public record.<sup>36</sup>

##### **6.5.1.1 Export price**

Export price is determined in accordance with section 269TAB, taking into account whether the purchase or sale of goods are arm's length transactions under section 269TAA. Subsection 269TAB(1)(a) provides that the export price of any goods exported

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<sup>35</sup> This dumping margin was determined in Review No. 383, as amended for the reasons outlined in ADRP Report No. 60.

<sup>36</sup> Case 504 EPR item No. 10.

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to Australia is the price paid or payable for the goods by the importer where, inter alia, the goods have been exported to Australia otherwise than by the importer, and have been purchased by the importer from the exporter in arm's length transactions.

### The importer

Fortune had one Australian purchaser in the inquiry period, namely Endeavour Energy (Endeavour).

In relation to the sales to Endeavour, the Commission observed that:

- Endeavour is named as the purchaser on the contract, purchase orders, commercial invoices and export declaration forms;
- Commercial invoices to Endeavour are on delivery duty paid (DDP) terms, with Fortune being responsible for the importation of the goods;
- Fortune is named as the shipper and consignee on the bill of lading;
- Fortune is named as the importer on the ABF import database; and
- Fortune is liable for the payment of all customs duties (including anti-dumping duties), brokerage fees and all charges up to the point of delivery and instalment of the goods.

Having regard to this information, the Commission is satisfied that Fortune is the beneficial owner of the goods at the time of importation into Australia, and therefore the importer of the goods.

### The exporter

The Commission will generally identify the exporter as a principal in the transaction located in the country of export from where the goods were shipped, and who knowingly placed the goods in the hands of a carrier, courier, forwarding company, or their own vehicle for delivery to Australia; or a principal will be a person in the country of export who owns, or who has previously owned, the goods but need not be the owner at the time the goods were shipped.<sup>37</sup>

The Commission is satisfied that for all Australian export sales identified during the inquiry period, Fortune was the exporter of the goods.

### Arm's length

In respect of Fortune's Australian sales of the goods during the inquiry period, the Commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or

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<sup>37</sup> The Manual, page 29.



- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.<sup>38</sup>

The Commission therefore considers that all export sales to Australia made by Fortune during the period were arm's length transactions.

#### Export price assessment

In respect of Australian sales of the goods by Fortune, the Commission considers that the export price cannot be determined under subsections 269TAB(1)(a) or 269TAB(1)(b) as the goods have not been exported to Australia otherwise than by the importer. The Commission has determined the export price pursuant to subsection 269TAB(1)(c) having regard to all the circumstances of the exportation. The Commission considers this the appropriate method of calculating export price as Fortune is responsible for importation of the goods and sells them on DDP terms.

The Commission has calculated an export price on FOB terms based on the invoice price of the goods minus all relevant deductions.

#### **6.5.1.2 Normal value**

The Commission notes that power transformers are engineered-to-order capital goods. As such, the Commission considers that each power transformer is a unique product and that, because of the many variables and differences in technical specifications which would affect proper comparison, it is not possible to accurately adjust domestic prices to make them comparable with export prices.

Therefore, the Commission is of the view that there is an absence of sales of like goods in the market of the country of export that would be relevant for the purposes of determining a price under subsection 269TAC(1). Further, as no other Taiwanese exporters of the goods have cooperated with this inquiry, the Commission is unable to have regard to the prices achieved by other sellers of like goods.

In these circumstances, the Commission considers it appropriate to have regard to subsection 269TAC(2)(c), which provides that a constructed normal value is to be calculated as the sum of:

- such amount as the Minister determines to be the cost of production or manufacture of the goods in the country of export; and
- on the assumption the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade (OCOT) in the country of export, the selling, general and administrative (SG&A) costs associated with the sale, and an amount for profit.

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<sup>38</sup> Section 269TAA of the Act refers.

Pursuant to the provisions of subsection 269TAC(2)(c) the Commission has calculated Fortune's normal value in accordance with the conditions set out in sections 43, 44, and 45 of the *Customs (International Obligations) Regulation 2015* (the Regulation).

#### **6.5.1.3 Cost of production**

To determine the cost of production or manufacture, subsection 43(2) of the Regulation requires that if:

- an exporter or producer keeps records relating to like goods that are in accordance with generally accepted accounting principles in the country of export; and
- those records reasonably reflect competitive market costs associated with the production or manufacture of like goods;

the Minister must work out the cost of production or manufacture using information set out in the exporter or producer's records.

The Commission is satisfied the cost of production can be worked out using information set out in Fortune's records, in accordance with subsection 43(2).

#### **6.5.1.4 SG&A expenses**

As required by subsection 269TAC(5A)(b), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the SG&A costs for Fortune have been determined in accordance with subsection 44(2) of the Regulation having regard to SG&A as a proportion of revenue of domestic sales of like goods, and applying this proportion to the export sales of the goods based on the revenue of each sale.

#### **6.5.1.5 Profit on the domestic sales**

As required by subsection 269TAC(5B), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the amount of profit included in the normal value is to be determined having regard to section 45 of the Regulation. Subsections 45(1) and 45(2) of the Regulation require that, where reasonably practicable, profit must be worked out using data relating to the production and sale of like goods by the exporter or producer of the goods in the OCOT.

The Commission has calculated a profit margin based on the domestic sales of like goods in the OCOT that were manufactured by Fortune, in accordance with subsection 45(2) of the Regulation.

#### **6.5.1.6 Adjustments**

The Commission is satisfied that there is sufficient and reliable information to justify the adjustments detailed in table 3 below, in accordance with subsection 269TAC(9), and considers these adjustments are necessary to ensure a fair comparison of normal values and export prices.

<b>Adjustment Type</b>	<b>Deduction/addition</b>
Domestic credit costs	Deduct domestic credit costs
Duty drawback	Deduct the amount of duty drawback refundable for exports
Export packing	Add the cost of export packing
Export inland transport	Add the cost of export inland transport
Export inland insurance	Add the cost of export inland insurance
Handling and other	Add the cost of export inland handling and other costs
Product liability insurance	Add the cost of product liability insurance
Guarantee deposit	Add the cost of guarantee deposits

**Table 3 – Adjustments to normal value for Fortune**

The Commission has calculated a preliminary dumping margin in respect of the goods exported to Australia by Fortune for the inquiry period. The margin is **18.7 per cent**.<sup>39</sup>

The Commission’s calculations are included at **Confidential Attachment 6**.

### **6.5.2 Uncooperative and all other exporters**

The Commission established an export price for uncooperative and all other exporters under subsection 269TAB(3), based on verified information from Fortune. The Commission established a normal value under subsection 269TAC(6), having regard to information verified with Fortune, but exclusive of any favourable adjustments.

The Commission has established a dumping margin of **20.0 per cent** for uncooperative and all other exporters from Taiwan<sup>40</sup>.

The Commission’s calculations are included at **Confidential Attachment 7**.

## **6.6 Thailand**

### **6.6.1 Uncooperative and all other exporters**

The Commission did not receive REQs from Thailand. In light of insufficient data being available for the inquiry period in relation to exports from Thailand, the Commission has established an export price for uncooperative and all other exporters under subsection 269TAB(3), and a normal value under subsection 269TAC(6) to be the same as those currently on the notice.

The Commission has established a dumping margin of **39.1 per cent** for uncooperative and all other exporters from Thailand.

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<sup>39</sup> Fortune has lodged a duty assessment under section 269V of the Act, in regards to a number of exports the subject of this continuation inquiry. Subject to receiving additional information from Fortune, the dumping margin calculated may be revised prior to the Commissioner’s recommendation to the Minister.

<sup>40</sup> As the dumping margin for uncooperative and all other exporters is derived from Fortune, any change to the dumping margin determined for Fortune will also result in a change to this dumping margin.

## **6.7 Conclusion**

The Commission has ascertained the following dumping margins for Indonesia, Taiwan and Thailand.

<b>Country</b>	<b>Exporter</b>	<b>Dumping Margin</b>
Indonesia	PT CG Power Systems Indonesia	28.3%
	Uncooperative and all other exporters	28.3%
Taiwan	Fortune Electric Co., Ltd	18.7%
	Uncooperative and all other exporters	20.0%
Thailand	Uncooperative and all other exporters	39.1%

**Table 4 – Dumping margins in inquiry period**

## 7 LIKELIHOOD THAT DUMPING AND MATERIAL INJURY WILL CONTINUE OR RECUR

### 7.1 Preliminary Finding

The Commissioner is satisfied that the expiration of the current measures applying to power transformers exported to Australia from Indonesia (except UNINDO) and Taiwan would lead, or would be likely to lead, to a continuation of, or recurrence of dumping and the material injury that the measures are intended to prevent.

On the basis of the evidence currently available, the Commissioner is satisfied that the expiration of the measures applying to power transformers exported to Australia from Thailand would not be likely to lead to a continuation of, or recurrence of dumping and the material injury that the measures are intended to prevent.

### 7.2 Legislative framework

In accordance with subsection 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping and the material injury that the anti-dumping measures are intended to prevent.

The Commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation. This view has been supported by the ADRP, which noted that the Commission must consider what will happen in the future should a certain event, being the expiry of the measures, occur. However, the Commissioner's conclusions and recommendation must nevertheless be based on facts.<sup>41</sup>

### 7.3 The Commission's approach

In assessing the likelihood of whether dumping and material injury will continue or recur, a number of factors are relevant as outlined in the Manual.<sup>42</sup> The Commission's view is that the relevance of each factor varies depending on the nature of the goods being examined and the market into which the goods are being sold. No one factor can necessarily provide decisive guidance. The following analysis therefore examines a range of factors that the Commission considers relevant to this inquiry.

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<sup>41</sup> ADRP [Report No. 44](#) (Clear Float Glass) refers.

<sup>42</sup> Pages 175-176 refers.

## **7.4 Australian industry's claims**

Following are claims made by Australian industry in its application<sup>43</sup> concerning the continuation or recurrence of dumping and material injury. These claims are addressed in sections 7.5 and 7.6.

- Following the imposition of measures in 2014, Indonesia vacated the Australian market, imports from Taiwan declined, and imports from Thailand that are not subject to measures have maintained a steady share of the Australian market;
- stakeholders from Indonesia, Thailand and Vietnam took legal and other actions in response to the original investigation, indicating a desire to continue exporting into the Australian market;
- the power transformer industry is a global one with large multinational organisations, some with distribution links to the Australian market;
- the geographic location of Australia and the overlapping time zones, short travel time limiting shipping time and cost, all combine to make Australia an attractive market for Asian manufacturers;
- there is overcapacity in the global power transformer industry due to production capacity increasing at a time when significant markets are inaccessible due to protective measures, or experiencing reduced demand;
- the continuation of measures in the USA and Canada, resulting in significant limitations to import penetration in those markets;
- the decline in the Middle East market, particularly in Saudi Arabia;
- the decline in the Korean domestic market;
- the reduction in demand in China, particularly associated with reductions in infrastructure development and declines in the pace of economic growth;
- the ability of multinational organisations to source supply from the most suitable location;
- the fact that the multinational organisations are generally prequalified with purchasers and will be able to immediately compete directly in most of the Australian market;
- the commercially active presence of all the multinational PT manufacturers in Australia, with access to sources of power transformers in a number of Asian countries; and
- the progressive decline in the value of the Australian market since the imposition of measures, except for the recent increase in the size of the Australian market as a result of renewables projects.

## **7.5 Will dumping continue or recur?**

### **7.5.1 Analysis of dumping margins**

The Manual provides that in assessing the likelihood of dumping continuing or recurring, the inquiry may gather facts relevant to whether exports are likely to continue or resume,

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<sup>43</sup> Case 504 EPR Item No. 01

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such as the volume of exports before and after measures were imposed, or exporters' supply chains.

As shown in chapter 6.5, during the inquiry period, the Commission has found that Fortune exported power transformers from Taiwan to Australia at dumped prices. Fortune accounted for the vast majority of exports from the subject countries, however it is noted that CG Power entered a contract during the inquiry period to supply a power transformer to Australia from Indonesia which was exported after the inquiry period.

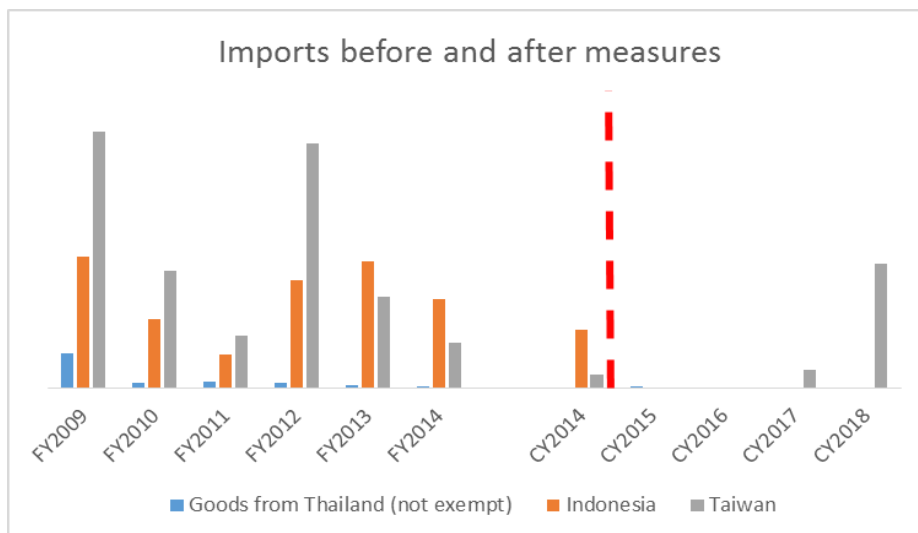
The dumping margins from the INV 219, REV 383 and this continuation are reproduced below:

Country	Exporter	Dumping Margin INV 219	Dumping Margin - Subsequent reviews	Dumping Margin – CON 504
Indonesia	CG Power	8.7%	28.3% <sup>44</sup>	28.3%
	All other exporters	8.7%		28.3%
Taiwan	Fortune Electric Co. Ltd	15.2%		18.7%
	All other exporters	37.2%		20.0%
Thailand	All other exporters	39.1%		39.1%

**Table 5 - Dumping margins in inquiry period**

**7.5.2 Export volumes and effectiveness of measures**

The Commission notes that the majority of imports from Thailand prior to measures were from ABB Thailand. Figure 16, below, illustrates the value of imports from Thailand that are subject to measures (non-ABB Thailand volumes) as well as the value of imports from Indonesia and Taiwan before and after measures were imposed.



<sup>44</sup> This dumping margin was determined in Review No. 383, as amended for the reasons outlined in ADRP Report No. 60.

**Figure 16 - Value of imports pre and post measures<sup>45</sup>**

A small volume was exported in 2015 by Thai exporters subject to measures following the imposition of duties before ceasing altogether during the inquiry period. A much higher value of imports were received from Indonesia and Taiwan prior to measures. Taiwan has also supplied the Australian market with dumped imports during the inquiry period. The Commission has been provided with evidence of imports from Indonesia that will arrive following the inquiry period. Measures appear to have been largely effective in relation to Indonesia and Taiwan.

The Commission has established, as illustrated in Figures 7 and 8, that the volume of exports from the subject countries to Australia and their respective shares of the Australian market have changed since the measures were imposed.

### **7.5.3 Maintenance of distribution links**

#### Taiwan

Following the imposition of measures, exports of power transformers from Taiwan ceased in 2016, however recommenced in 2017 with exports by Fortune. The Commission's verification of Fortune indicated that in the inquiry period, Fortune supplied the same purchaser it has previously supplied prior to the imposition of measures. The Commission considers that this indicates an ongoing relationship between the exporter and Australian purchaser, and that Australia remains an attractive market for Taiwanese exporters. Furthermore, it was ascertained that Fortune has continued to tender for supply agreements with Australian purchasers.

#### Indonesia

Following the imposition of measures there have been no exports of power transformers from Indonesia. CG power indicated in its REQ that, whilst no exports were made during the inquiry period, a contract was won to manufacture and install a power transformer in Australia in 2019. The purchaser of this power transformer is the same party that CG Power had previously supplied to at dumped prices prior to the imposition of measures. The Commission considers that this re-established relationship supports a finding that dumping from Indonesia is likely to recur were the measures to expire.

In its application,<sup>46</sup> WTC claimed that Indonesia, Thailand and Vietnam took legal and other actions in response to INV 219, indicating a desire to continue exporting into the Australian market. CG Power<sup>47</sup> submitted that an exporter exercising its legal right to apply for a variable factors review should not weigh against the discontinuation of measures, and, further, that a desire to maintain a presence in the market is not a basis for continuation of the measures.

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<sup>45</sup> The injury examination period for REP219 was 1 July 2008 to 30 June 2013 (financial years). The injury examination period for this continuation inquiry is 1 January 2014 to 31 December 2018 (calendar years). Figure 1 includes an overlap of 6 months between 1 January to 30 June 2014.

<sup>46</sup> Case 504 EPR Item No. 01

<sup>47</sup> Case 504 EPR Item No. 16



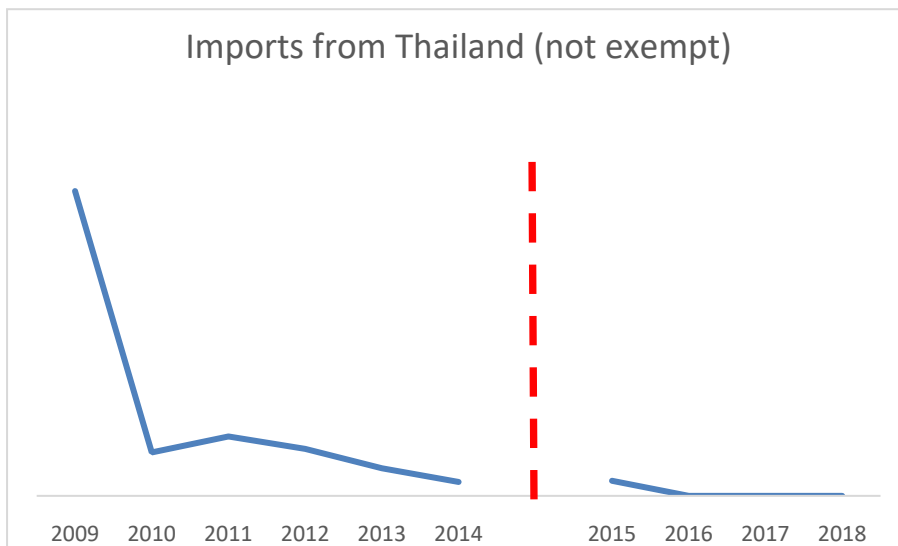
The Commission accepts that the desire to maintain a presence in the market should not be the *sole* basis for continuation of measures, however, it points to the intention of the exporter to continue to export to Australia. Further, INV 219 as well as the more recent review REV 383 found that CG Power was dumping (Table 5 refers). These factors together form part of the Commission's consideration of 'any other matters' in formulating this SEF in accordance with 269ZHE(2) and per the manual.<sup>48</sup>

Thailand

Following the imposition of measures there have been minimal exports of power transformers from Thailand by producers subject to measures. The Commission's analysis of the ABF import database indicates that power transformers have continued to be exported from Thailand by ABB Limited, which is exempt from measures.

Apart from ABB, Thai exporters subject to measures exported a minimal quantity in 2015 prior to ceasing supply altogether for the remainder of the inquiry period. As illustrated in Figure 16, the Commission analysed trends of imports from Thailand (currently subject to measures) and found that they had declined significantly prior to the imposition of measures.

Information obtained from the ten purchasers that provided an Australian Market Questionnaire (AQM) in relation to INV 507 did not indicate the existence of relationships with Thai exporters other than ABB Thailand. The Commission is not aware of any competition from Thai exporters subject to measures in tenders during the inquiry period. There are currently no indications that Thai exporters are likely to supply the Australian market with dumped goods. Purchasers in the Australian market know the major suppliers domestically and overseas and approach them with requests for tenders. There will be natural barriers to new entrants from Thailand (other than ABB Thailand) in accessing these tenders due to the well established relationships in the market. For these reasons the Commission does not expect Thai exporters subject to measures to resume exporting if the measures were to expire.



<sup>48</sup> The Manual, page 175-176.

**Figure 17 - Imports from Thailand (excl.exempt exporters)<sup>49</sup>**

#### **7.5.4 Production capacity and capacity utilisation**

##### Taiwan

The Commission obtained information about Fortune’s production capacity as part of its on-site verification.

The Commission notes that Fortune calculated its actual production as exceeding production capacity in 2016 and 2017. The Commission determined during the on-site verification that Fortune estimates production capacity based on one shift per day, while more than one shift per day could be undertaken, significantly increasing production capacity. This was the case in 2016 and 2017.

The Commission considers that based on Fortune’s preparedness to operate above its nameplate capacity by undertaking additional shifts, as occurred during 2016 and 2017, and based on a fall in 2018 to below its base capacity, Fortune has excess production capacity.

The Commission has not been able to obtain information concerning the capacity of other Taiwanese producers of power transformers.

##### Indonesia

The Commission notes from the REQ submitted by CG Power that it records its production capacity and actual production in MVA per calendar year. CG Power had excess capacity in each year of the inquiry period.

The Government of Indonesia<sup>50</sup> submitted that Indonesian capacity utilisation was “reaching over 80%”. It claimed further that Indonesian local demand will result in further increases in capacity utilisation. CG Power<sup>51</sup> claimed that servicing the Indonesian domestic market was its priority and that it would not focus its sales on markets where it is likely to make less profit than in its domestic market. It expanded on this argument in its submission dated 16 August 2019<sup>52</sup> where it provided further information concerning the Indonesian Government’s plans concerning electricity infrastructure to the year 2024.

WTC, in its application<sup>53</sup> argued that the increase in domestic demand would have the effect of cross-subsidising exports to Australia at low prices.

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<sup>49</sup> The Commission notes that in the original investigation 219, a Preliminary Affirmative Determination (PAD) was issued and securities taken from 27 November 2013 for imports from China, Korea, Taiwan and Vietnam. Thailand was not included in this notice. Exporters of the goods from Thailand were subject to measures upon the Parliamentary Secretary accepting the Commissioner’s recommendations in [REP219](#) on 10 December 2014. The injury examination period for REP219 was 1 July 2008 to 30 June 2013 (financial years). The injury examination period for this continuation inquiry is 1 January 2014 to 31 December 2018 (calendar years). Figure 1 includes an overlap of 6 months between 1 January to 30 June 2014.

<sup>50</sup> Case 504 EPR Item No. 06

<sup>51</sup> Case 504 EPR Item No. 16

<sup>52</sup> Case 504 EPR Item No. 18

<sup>53</sup> Case 504 EPR Item No. 01

The Commission notes that while CG Power has increased production over the inquiry period, excess capacity remains. CG Power<sup>54</sup> further submitted that it targeted a capacity utilisation rate below full capacity to account for events such as unplanned staff absence and maintenance and repairs. The Commission notes that this submission states that CG Power plans its production schedule due to the long lead times in production of power transformers. It is the Commission's view that this forward planning allows CG Power to increase capacity to account for additional upcoming production for exports as well as for unplanned events. The same is true for domestic government initiatives that is expected to increase domestic demand to 2024. Despite CG Power's claims that it is unlikely to seek a "less profitable" market overseas, the REQ submitted by CG Power evidences that CG Power is expected to export power transformers to Australia in 2019, supporting a finding that Indonesia is likely to resume exports to the Australian market. As detailed in section 7.5.1 both INV 219 and REV 383 found CG Power to be dumping.

The Commission did not receive information from other Indonesian producers of power transformers regarding capacity during the course of the inquiry.

#### Thailand

The Commission did not receive information from Thai producers of power transformers regarding capacity during the course of the inquiry.

#### **7.5.5 Measures imposed by other countries**

The Commission notes that the subject countries in this inquiry are not subject to anti-dumping measures by any other country.<sup>55</sup>

The Canadian and US cases outlined in the application relate to Korea. There is no evidence provided to support the claims in the application that limitations placed on other Asian producers of power transformers through measures will necessarily result in increased exports of dumped power transformers from Indonesia, Taiwan and Thailand to the Australian market.

#### **7.5.6 Australia's geographical location**

In its application,<sup>56</sup> WTC argued that Australia's geographical location, overlapping time zones, short shipping time and cost, all combine to make Australia an attractive market for Asian manufacturers.

While the Commission can see that there have been exports from one of the subject countries and other Asian countries during the inquiry period and agrees that Australia's proximity may be a benefit to suppliers, there is no evidence provided that the Australian market will be more attractive to an exporter of power transformers than any other country in the region. It is also noted that the measures attempt to remedy the injury caused by

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<sup>54</sup> Case 504 EPR Item No. 16

<sup>55</sup> [World Trade Organisation Data, https://i-tip.wto.org/goods/Forms/TableView.aspx](https://i-tip.wto.org/goods/Forms/TableView.aspx)

<sup>56</sup> Case 504 EPR Item No. 01

dumped imports as detailed in REP 219<sup>57</sup> and are not intended to limit imports of power transformers in general.

### **7.5.7 Conclusion**

#### Indonesia

In the absence of information in the inquiry period suitable to ascertain the variable factors relevant to CG Power, the Commission considers that the dumping margin finding from Review No. 383 (as outlined at section 7.5.1) remains probative, as it relates to the most recent exports of the goods to Australia, prior to the inquiry period.

The Commission has illustrated in Figure 16 that Indonesia, which had a high value of imports prior to the measures, ceased supply to Australia in 2016 and has not exported again during the inquiry period. However, the Commission was made aware through CG Power's REQ that a power transformer was due to be delivered to Australia during 2019.

The dumping margin specified in section 7.5.1, the re-establishment of its purchaser relationship, together with the capacity of CG power to increase production, leads the Commission to conclude that the expiration of measures currently imposed on Indonesian exports of power transformers would be likely to lead to a continuation of, or recurrence of dumping that the measures are intended to prevent.

#### Taiwan

Figure 16 shows that Taiwan, also a high value exporter of power transformers prior to the measures, ceased exporting to Australia shortly after the measures were imposed. Fortune supplied the Australian market again in 2017 demonstrating that it has maintained its distribution links that it had prior to the imposition of measures. Fortune also has the capacity to increase the number of shifts it runs thereby producing in excess of its stated production capacity. Based on the verification visit to Fortune, the Commission found that the exports assessed in the inquiry period were at dumped prices. These factors show that the expiration of measures would be likely to lead to a continuation of, or recurrence of dumping that the measures are intended to prevent.

#### Thailand

The Commission found that prior to (and following) the imposition of measures, the majority of exports of power transformers from Thailand were from ABB Thailand which is exempt from measures. Thai exports from other exporters, which was already of a low volume, had reduced further prior to the imposition of measures, and apart from a very low value export in 2015 there has been no further attempt to enter the Australian power transformers market. The Commission has concluded that it is unlikely that the expiration of measures on Thailand will lead to a continuation of, or recurrence of dumping that the measures are intended to prevent.

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<sup>57</sup> Document [194](#) on Archived EPR 219

## **7.6 Will material injury continue or recur?**

### **7.6.1 The ability of multinational organisations to source supply from other countries**

As part of the inquiry, the Commission received AMQs from purchasers in the Australian power transformers market. The Commission also spoke with some of these purchasers to gain a further understanding of their relationships with suppliers in Indonesia, Taiwan and Thailand. The Commission understands that there are no restrictions on purchasers sourcing supply from foreign sources. It is noted, however, that supply is generally through a competitive tender process.

### **7.6.2 Prequalification of multinational organisations**

WTC claimed that multinational organisations are generally pre-qualified to supply power transformers. From its discussions with purchasers and the applicant, the Commission understands that this applies mainly to the renewables sector. Due to WTC's long history of supplying the Australian utilities market, it is already pre-qualified to access this sector. Global suppliers of power transformers will have some advantage in the renewables sector as they may have supplied the same purchaser in another location. The Commission did not find that this was an advantage to either Fortune or CG Power during the inquiry period.

### **7.6.3 Reduced demand for the goods in Asian markets**

The Australian industry claims that the decline in the Middle East, Korean and Chinese domestic markets will make Australia a more attractive market for the export of power transformers, resulting in the continuation or recurrence of material injury that the measures were intended to prevent. The applicant has not provided evidence of direct links between these markets and the exporters currently subject to measures, in order to assess the impact. There are currently no measures on Indonesia, Taiwan and Thailand imposed by other countries (section 7.5.5 refers) and no reason to assume that the Australian market will be more attractive to an exporter of power transformers than any other country in the region. It is also noted that the measures attempt to remedy the injury caused by dumped imports as detailed in REP219<sup>58</sup> and are not intended to limit imports of power transformers in general.

### **7.6.4 Impact of measures on market share**

The Manual provides that the inquiry may gather facts relevant to whether exports are likely to lead to a continuation or recurrence of material injury to the Australian industry, such as market size and share.<sup>59</sup>

Figures 7 and 8 in section 5.3.3 shows that dumped imports from one of the subject countries re-entered the Australian market in 2017. This has contributed to WTC's reduced market share in that year.

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<sup>58</sup> Document [194](#) on Archived EPR 219

<sup>59</sup> The Manual, pages 175-176.

The analysis of bids submitted by WTC over the inquiry period shows that it is generally more successful in the small to medium sized transformer tenders. This appears to also be the market segment that is supplied by Fortune and CG Power, both prior to and following the imposition of measures. While the Commission is satisfied, as highlighted in CG Power's submission,<sup>60</sup> that a range of factors are evaluated during a tender process by purchasers, it is reasonable to assume that dumped pricing will provide these exporters with an advantage in head to head competition with Australian industry and material injury in the form of reduced sales volume and reduced market share will continue or recur if the measures expire.

As a percentage of bids submitted during the inquiry period, the second largest segment of importance to Australian industry is the renewables market. Over the coming years this segment is expected to grow<sup>61</sup> which can reasonably be assumed will result in further demand for power transformers. WTC claimed that due to the deadline of the RET to achieve 33000 GWh of additional electricity through renewables by 2020 there will be a peak demand for power transformers between 2017 and 2020. The combination of the increased demand in the market, the continuing relationships maintained by exporters from Indonesia and Taiwan (as demonstrated by recent sales and panel agreements) together with the findings concerning dumping (Table 4 refers) is likely to lead to a continuation of, or recurrence of material injury that the measures are intended to prevent.

#### **7.6.5 Impact of measures on prices**

CG Power argued that there is a disconnect between tender prices and dumping, such that dumping does not confer a price advantage, and there is limited damage caused by lost tenders.<sup>62</sup>

The Commission received AMQs detailing the tender evaluation criteria of ten purchasers in the power transformers market. It was apparent to the Commission that a range of factors are considered of which price is one. The price considered by many of the purchasers was a 'total cost of ownership' which is the initial asset price plus load losses. This is the lost electricity over the life of the transformer and is a result of the efficiency of its design. The ability to offer a lower price may offset a less efficient design and result in a lower cost of ownership. In the absence of measures, Taiwanese and Indonesian exporters will be able to offer a price reduced by the current margin, providing them with a competitive advantage in tenders. Purchasers of Fortune and CG Power during and following the inquiry period awarded contracts with the knowledge that dumping duties will be required to be paid for the importation of these transformers. If the measures expire it is reasonable to assume that the price advantage to CG Power and Fortune would be greater.

On a related matter, Fortune argued that their exports to Australia in the inquiry period could not be injurious, due to their bids including an amount for the dumping duties based on the dumping margin ascertained in REP219.<sup>63</sup> Based on the assessment of the variable factors relevant to Fortune, the Commission did not find that the exports

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<sup>60</sup> Case 504 EPR Item No. 16

<sup>61</sup> Geoscience Australia, available at <https://aera.ga.gov.au/#!/energy-resources-and-market> and Australian Energy Market Regulator (AEMO), 2018 Electricity Statement of Opportunities, August 2018.

<sup>62</sup> Case 504 EPR Item No. 16

<sup>63</sup> Case 504 EPR Item No. 15

assessed in the inquiry period from that tender negotiation were at undumped prices or at prices which fully accounted for the dumping margin relevant to such exports. CG Power<sup>64</sup> claimed that as the price of transformers are set at the time of the tender bids and the transformers are not produced until several months later, it cannot be said to be at dumped prices. Both in INV 219 and in REV 383 (Table 5 in section 7.3.3 refers), using the methods for determining export prices and normal values prescribed in the legislation, CG Power was found to be dumping.

The Commission therefore does not consider that the pricing of such exports support the view that material injury is unlikely to continue or recur in the absence of measures.

INV 219<sup>65</sup> found material injury to the Australian industry was caused by dumped imports from Indonesia (except UNINDO), Thailand (except ABB Thailand) and Taiwan. The continuation of measures is intended to prevent the continuation or recurrence of that injury.<sup>66</sup>

### **7.6.6 Panel agreements**

The Commission assessed the impact of panels on the ability to supply new projects. Some end users of power transformers provided the Commission with information concerning the use of panels for the purchase of power transformers. The end user sets out the required specifications and invites bids from potential suppliers. The end user will select some of these suppliers to be on its panels. These panels appear to be delineated by size of transformer with the parameters set by the end user. The panel agreement is for a period of time with some provisions for extending the period. While prices may be agreed at the time the panels are selected, the Commission was advised that the price will have underlying rise and fall provisions for raw materials. Installation and delivery costs are generally not included and are provided on a project by project basis. These factors will impact the final pricing significantly and as such all new projects that are put to a panel will also require pricing to be re-submitted. Following discussions with end users and suppliers in the market, the Commission observed that panel agreements are not exclusive arrangements. The applicant and other suppliers have been approached to bid for transformers when they are not in the relevant panel. While the panels provide convenience for the purchaser as all panel participants are able to supply to the specification and have been vetted, they do not limit the purchaser's ability to approach the market.

The Commission understands that Fortune is currently on a panel as a secondary supplier and maintains a contract with the end user.

Fortune<sup>67</sup> claimed that its exports during the inquiry period, which occurred in its capacity as a secondary supplier to its purchaser cannot be considered injurious to the Australian industry. It claims these exports only occurred as the local producers decided to not supply the power transformers. Both Fortune and WTC<sup>68</sup> forward potential reasons for the inability of the primary supplier (an Australian industry producer) to supply the

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<sup>64</sup> Case 504 EPR Item No. 16

<sup>65</sup> Anti-Dumping Commission, Report 219, p. 80 and ADRP Report [No. 24](#).

<sup>66</sup> Anti-Dumping Commission, Report 219, p. 80.

<sup>67</sup> Case 504 EPR Item No. 09

<sup>68</sup> Case 504 EPR Item No. 04

transformers. In the Commission's view, regardless of the reasons, the primary supplier did not supply and Fortune, as the secondary supplier was requested to supply the transformers in accordance with its contract negotiated in 2013-2014 and signed in 2015. In its response to Fortune's submission, WTC argued that the contract was tendered before and during INV 219, for which a dumping margin of 15.2 per cent was found in relation to Fortune's exports of the goods from Taiwan, and that the presence of dumped exports in the market affected tender negotiations through price suppression. Furthermore, WTC claimed that it was unsuccessful in winning a supply contract for this panel as a secondary supplier in competition with a dumped price from Fortune.

Despite the reasons for supply (as the secondary supplier), Fortune supplied dumped goods to the Australian market, as determined in section 6.5.1. The dumped imports have displaced Australian industry volume as the panel agreements do not limit the purchaser from approaching the market.

### **7.6.7 Conclusion**

#### Indonesia

Over the inquiry period, CG Power had spare production capacity and may be expected to continue to participate in tenders. As discussed in section 7.6.5, whilst the tender evaluation decision is impacted by a range of factors, price remains a consideration for power transformer purchasers.

Although CG Power has stated that it retains only a reduced presence in the Australian market, and its market strategy is focused on the domestic market and third countries,<sup>69</sup> the Commission considers that CG Power remains active in the Australian market, as a direct competitor to WTC, having supplied to an Australian purchaser in 2019, in a market segment that WTC competes in.

Furthermore, having regard to the previous findings concerning dumping by CG Power, the Commission considers it likely that future exports of power transformers from Indonesia will be at dumped prices and will result in a continuation or recurrence of the material injury that the measures were intended to prevent.

#### Taiwan

As discussed in section 7.6.6 the Commission is aware that Fortune supplied power transformers in 2018 in its capacity as a secondary supplier. Fortune was able to supply at a price acceptable to the purchaser despite the measures. The purchaser chose to purchase from Fortune at a dumped price rather than an alternate Australian industry supplier thereby displacing Australian industry volumes. As discussed above, while panel agreements are established for the convenience of the purchaser, the Commission has found that purchasers are not limited to the suppliers in the panel and can source widely. The purchaser supplied by Fortune is one that it has supplied prior to the imposition of measures. Section 7.5.4 explained that Fortune has the ability to increase the number of shifts and access a greater capacity in order to meet potential orders from Australia. In the absence of measures, the Commission considers it likely that Fortune will supply power transformers at dumped prices and have an advantage in competing with

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<sup>69</sup> Case 504 EPR Item No. 16



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WTC in a segment that it has been successful in since the imposition of measures. The Commission considers it likely that the expiration of measures on Taiwan will lead to a continuation or recurrence of the material injury that the measures were intended to prevent.

### Thailand

The Commission noted in section 7.5.2 that exports from Thai exporters subject to measures had already decreased to minimal levels prior to the imposition of measures. These exporters have not supplied the Australian market during the injury analysis period and none of the ten end users advised the Commission of any relationships with Thai exporters that are subject to measures. The Commission is not aware of any competition from Thai exporters subject to measures in tenders during the inquiry period. There are currently no indications that Thai exporters are likely to supply the Australian market with dumped goods. Power transformer purchasers in Australia know the major suppliers domestically and overseas and approach them with requests for tenders. There will be natural barriers to new entrants from Thailand (other than ABB Thailand) in accessing these tenders due to the well established relationships in the market. Both Indonesia and Taiwan appear to have maintained their relationships from before the measures were imposed. The Commission considers it unlikely that the expiration of measures on Thailand will lead to a continuation or recurrence of the material injury that the measures were intended to prevent.

## 8 NON-INJURIOUS PRICE AND LESSER DUTY RULE

### 8.1 Non-injurious price

The NIP is defined in section 269TACA as “the minimum price necessary ... to prevent the injury, or a recurrence of the injury” caused by the dumped goods the subject of a dumping duty notice. The NIP is ordinarily determined by having regard to the Australian industry’s selling prices from a period where the industry is not affected by dumping.

### 8.2 Lesser duty rule

The calculation of the NIP is relevant for the purposes of the lesser duty rule under the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act).<sup>70</sup>

The level of dumping duty imposed by the Minister cannot exceed the margin of dumping, but, where the NIP of the goods is less than the normal value of the goods, the Minister must also have regard to the desirability of fixing a lesser amount of duty.

However, pursuant to subsection 8(5BAA) of the Dumping Duty Act, the Minister is not required to have regard to the desirability of fixing a lesser amount of duty in certain circumstances. Neither of those circumstances (being the composition of the Australian industry or the method of ascertaining normal value in circumstances of a particular market situation in the country of export) are relevant to the present inquiry.

### 8.3 Calculation of the non-injurious price

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP).

The Commission’s preferred approach to establishing the USP is set out in Chapter 24 of the Manual and observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry cost to make and sell plus profit; or
- selling prices of un-dumped imports.

Having calculated the USP, the Commission then calculates a NIP by deducting the costs incurred in getting the goods from the export Free on Board point (or another point if appropriate – in this instance, FAS) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

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<sup>70</sup> Subsection 8(5B) of the Dumping Duty Act.

## **8.4 The Commission's assessment**

The Commission considers that power transformers are complex items of capital equipment built to the specifications of the purchaser, where it is unlikely that any two power transformers are identical. Accordingly, neither sales nor constructed USPs are considered an appropriate method for calculating NIPs for power transformers. In the absence of reliable information to establish a USP using one of the primary methods outlined above, the Commission considers that it is appropriate to recommend that NIPs for power transformers exported to Australia be set by reference to the corresponding normal values.

## **8.5 Submissions received in relation to NIPs**

### **8.5.1 Fortune submission<sup>71</sup>**

Fortune stated that a “non-injurious price must be calculated using an unsuppressed selling price...” and for the USP “...to be based on the Australian industry’s tender prices for equivalent transformers supplied by Fortune.”

In its submission, Fortune contended that the circumstances surrounding its exports enable the calculation of a USP, namely that Fortune only supplied the goods to one Australian purchaser in the period, of which Australian producers were selected as major suppliers, and Fortune was a backup supplier.

### **8.5.2 WTC Submission<sup>72</sup>**

In its response to Fortune’s submission, WTC argued that the contract was tendered for before and during INV 219, for which a dumping margin of 15.2 per cent was found in relation to Fortune’s exports of the goods from Taiwan, and that the presence of dumped exports in the market affected tender negotiations through price suppression. Furthermore, WTC identified that it did not win a supply contract for the models of power transformers that Fortune was ultimately awarded a contract as backup supplier.

In its response to Fortune’s submission, WTC argued that the contract was tendered for before and during Dumping INV 219, for which a dumping margin of 15.2 per cent was found in relation to Fortune’s exports of the goods from Taiwan, and that the presence of dumped exports in the market affected tender negotiations through price suppression. Furthermore, WTC identified that it did not win a supply contract for the models of transformers that Fortune was ultimately awarded a contract as backup supplier.

### **8.5.3 The Commission's assessment**

The Commission had regard to the circumstances of the contract, including through a meeting with the purchaser.

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<sup>71</sup> Case 504 EPR Item No. 09

<sup>72</sup> Case 504 EPR Item No. 13

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As set at section 8.3, the Commission may ordinarily consider deriving a USP from industry selling prices at a time unaffected by dumping.

INV 219 had an inquiry period of 1 July 2010 to 30 June 2013, falling immediately before the date of initial bids for the contract in question. In INV 219, it was determined that dumping had caused material injury to the Australian Industry.

REV 383 had a review period of 1 July 2013 to 30 June 2016. Likewise, the Commission found dumped imports during that review period, including during the negotiation period of the contract in question, and at rates higher than that found in INV 219, in relation to the single exporter the subject of that review.

With regard to the circumstances of the contract negotiations, the Commission rejects Fortune's position that the Commission need only focus on exports from Fortune in its consideration of whether a USP can be ascertained based on industry selling prices.

The Commission considers that the presence of dumped imports in the market both immediately prior to, and during the tender negotiation, make tender prices for that contract unsuitable for deriving a USP from industry selling prices.

In this event, as detailed above, the Commission considers that it is appropriate to recommend that NIPs for power transformers exported to Australia be set by reference to the corresponding normal values.

## 9 PROPOSED RECOMMENDATIONS

### 9.1 Summary

Having established that dumping and material injury are likely to continue or recur in the absence of the anti-dumping measures, the Commissioner proposes to recommend that the Minister secure the continuation of the anti-dumping measures applying to certain power transformers exported to Australia from Indonesia and Taiwan on and after 10 December 2019.

In relation to Thailand, the Commissioner is proposing to recommend that the notice with respect to power transformers exported to Australia from Thailand cease to have effect on and after 10 December 2019.

The Commissioner proposes to recommend that the variable factors in relation to Taiwan, and the category of uncooperative and all other exporters for Indonesia be altered. The Commissioner further proposes to recommend that the variable factors remain unaltered in relation to CG Power.

The Commissioner also proposes to recommend that, in continuing the anti-dumping measures for Indonesia and Taiwan, IDD be calculated based on the *ad valorem* duty method. The NIP would not be the operative measure in these circumstances.

### 9.2 Existing measures

The method of IDD currently applied to the goods is the *ad valorem* duty method.

### 9.3 Forms of duty available – dumping

The forms of duty available to the Minister when imposing anti-dumping measures are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013*:

- fixed duty method (\$X per tonne);
- floor price duty method;
- combination duty method; or
- *ad valorem* duty method (i.e. a percentage of the export price).<sup>73</sup>

The various forms of dumping duty all have the purpose of removing the injurious effects of dumping. However, in achieving this purpose, certain forms of duty will better suit particular circumstances more so than others. In considering which form of duty to recommend to the Minister, the Commissioner will have regard to the *Guidelines on the Application of Forms of Dumping Duty November 2013*<sup>74</sup> and relevant factors in the market for the goods.

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<sup>73</sup> Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

<sup>74</sup> Available on the Commission's [website](#).

### 9.3.1 Fixed duty method

A fixed duty method operates to collect a fixed amount of duty – regardless of the actual export price of the goods. The fixed duty is determined when the Minister exercises powers to ascertain an amount for the export price and the normal value.

### 9.3.2 Floor price duty method

The floor price duty method sets a “floor” – for example a normal value of \$100 per tonne – and duty is collected when the actual export price is less than that normal value of \$100 per tonne. The floor price is either the normal value or the NIP, whichever becomes applicable under the duty collection system.

This duty method does not use an ascertained export price as a form of “floor price” as occurs with the combination and fixed duty methods.

### 9.3.3 *Ad valorem* duty method

The *ad valorem* duty method is applied as a proportion of the actual export price of the goods. An *ad valorem* dumping duty is determined for the product as a whole, meaning that a single ascertained export price is required when determining the dumping margin.

### 9.3.4 Combination duty method

The combination duty comprises two elements: the “fixed” element and the “variable” duty element. The fixed element is determined when the Minister exercises powers to “ascertain” an amount (i.e. set a value) for the export price and the normal value. This may take the form of either a fixed duty or an *ad valorem* on the ascertained export price.

The variable component stems from a feature of this form of duty whereby, having ascertained the export price for the purposes of imposing the dumping duty, if the actual export price of the shipment is lower than the ascertained export price, the variable component works to collect an additional duty amount (i.e. the difference between the ascertained export price and the actual export price).

It is called a “variable” element because the amount of duty collected varies according to the extent the actual export price is beneath the ascertained export price.

## 9.4 Consideration of form of measures

The Commission notes that there is substantial variation in the prices of power transformers exported to Australia, and that this is primarily a result of differences in power transformer specifications. These specifications change subject to the requirements of the purchaser which means that there is a high variability in prices over time.

In these circumstances, the Commission considers that the *ad valorem* duty method is the most appropriate form of measures for power transformers exported from the subject countries.

The NIP, if established by reference to the normal value of the exporter, will not be the operative measure. There is therefore no requirement for the Commissioner to make a

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recommendation regarding whether the Minister should consider the desirability of fixing a lesser amount of duty than the dumping margin found, pursuant to subsection 8(5BAA) of the Dumping Duty Act.

The proposed measures relating to the goods are summarised below.

<b>Country</b>	<b>Exporter</b>	<b>Dumping Margin</b>
Indonesia	PT CG Power Systems Indonesia	28.3%
	Uncooperative and all other exporters	28.3%
Taiwan	Fortune Electric Co., Ltd	18.7%
	Uncooperative and all other exporters	20.0%

**Table 6 – Proposed measures**

**10 APPENDICES AND ATTACHMENTS**

<b>Confidential Attachment 1</b>	WTC tender information
<b>Confidential Attachment 2</b>	Market analysis
<b>Confidential Attachment 3</b>	Price effects
<b>Confidential Attachment 4</b>	Profit and profitability
<b>Confidential Attachment 5</b>	Other injury factors
<b>Confidential Attachment 6</b>	Fortune calculations
<b>Confidential Attachment 7</b>	Taiwan uncooperative and all other exporter calculations