Wilson Transformer Co Pty Ltd
ABN 73 004 216 979 ACN 004 216 979

Corporate Office
310 Springvale Road (PO Box 5)
Glen Waverley, Vic 3150, Australia

T: +61 (0) 3 9560 0411
F: +61 (0) 3 9560 0499
E: corporate@wtc.com.au
www.wtc.com.au

11 September 2019

Mr Reuben McGovern
Anti-Dumping Commission
Level 35, 55 Collins Street
Melbourne VIC 3000

PUBLIC DOCUMENT

Dear Reuben,

Continuation of Measures – Power Transformers from Indonesia, Taiwan and Thailand

- **Fortune Electric (Fortune) letter dated 24 July 2019 – Doc 504-015**
- **CG Power Systems (CGP) letter dated 23 July 2019 – Doc 504-016**
- **CG Power Systems (CGP) letter dated 16 August 2019 – Doc 504-018**
- **ADC Statement of Essential Facts (SEF) dated 22 August 2019 – Doc 504-019**

Wilson Transformer Company (WTC) has reviewed the above documents and wishes to make the following observations and responses –

WTC Response to Fortune Electric (Fortune) letter dated 24 July 2019 – Doc 504-015

Item c)

WTC disagrees with Fortune's statement "If the contract conditions were as onerous as suggested by WTC, neither AmpControl nor WTC would have agreed to the terms of the Master Supply Agreement." The reality is that sometimes a company will agree to commercial conditions which are very onerous in order to be considered as a supplier. If they do not, they may not qualify to tender, or their tender may be ruled invalid or not accepted.

Item d)

The initial bids in July 2013 were prior to the announcement of Dumping Investigation 219 by the ADC. The pricing at the time of tender by Australian and imported manufacturers could therefore not have anticipated the subsequent application of dumping duties.

The Australian utility market, despite the overstated quantities forecast in the tender documents, was in decline. At the time the demand in the mining sector upon which AmpControl had been focused was also in serious decline. AmpControl was therefore trying to establish itself in the utility market and WTC is of the view that they substantially under-priced their offer to Endeavour to win the business. This combined with the contract conditions, which prevented the correct recovery of cost movements, would have resulted in substantial losses on the Contract. WTC's view is that AmpControl withdrew on this basis and therefore the price should not be used as the Non-injurious price for Australian manufacturers.

For Fortune to be ranked as the secondary supplier would only have occurred if their pricing was lower than WTC. For dumping duty to later be included in the tender price, which presumably was lower after the BAFO, the tender price would have been at a dumped price as found by the ADC which has caused injury to the Australian industry.

Item f)

WTC maintains it's view that there has been price suppression, price depression and dumping.

Item g)

While the effective date of the contract may have been 6 April 2015, all bids were made well before the ADC's final report and under the contract conditions the supplier was made liable for any dumping duties. It was therefore both Endeavour's and Fortune's decision as to whether they proceeded with the contract with Fortune as a secondary supplier.

Item h)

All WTC wants is for fair competition in accordance with the guidelines of the WTO Anti-Dumping Agreement upon which Australian Anti-Dumping Regulations are based. If a competitor of WTC offers dumped prices in Australia causing loss of business, price suppression, price depression, margin erosion and injury, then Australian Anti-Dumping Regulations should address this situation with the imposition of dumping duties.

WTC is unsure what Fortune means when it states "… local suppliers may need to reconsider their value proposition in terms of price vs quality, reliability and life cycle cost"? Is Fortune suggesting WTC should reduce price and quality to compete? WTC has based its business and reputation on supplying high quality, reliable products with optimised life cycle costs. This has been the case for over 85 years and will continue.

WTC continues to assert that Fortune bidding and exports caused injury to Australian Industry.

Item i)

WTC maintains its view that the unsuppressed selling price should not be the very low injurious price offered by the primary Australian supplier (which was not sustainable), but that established under Australian Anti-Dumping Regulations (i.e. either a selling price unaffected by dumping or, where such a price cannot be determined, WTC's cost-to-make-and-sell in 2018 plus an amount for profit that permits reinvestment in the industry).

WTC Response to CG Power Systems (CGP) Moulis Legal letter dated 23 July 2019 – Doc 504-016

Demand in Indonesian Market

As stated by CGP, demand for power transformers is inelastic. If CGP orders from the Indonesian market do not fill CGP's increased manufacturing capacity, CGP will try to procure orders from third countries at prices which provide the best contribution margins. These prices above contribution margin are most likely at dumped levels (i.e. not full cost recover plus profit).

CGP had targeted third country markets prior to the ADC 219 dumping case, and Australia was one of those markets. This ceased to be the case following the imposition of measures, however if measures are removed Australia could again become a target market for CGP.

CGP's profitability targets

CGP's margin maintenance approach based on accurately modelling costs associated with a design and then mitigating the impacts of cost fluctuations to avoid an erosion of margin is what all good manufacturers should do. Due to the high demand in Indonesian and with limited domestic manufacturing capacity in a closed market, CGP has been able to achieve healthy margins.

CGP's production capacity utilization

It would appear CGP now has production capacity to supply third markets in SE Asia including New Zealand. There is no reason why this could not include Australia in the absence of dumping duties. CGP could still have a positive contribution margin, be profitable and be dumping due to the high domestic prices in Indonesia.

CGP's activity in Australia (and New Zealand)

CGP states that Australia is now not a key market, although Australia was a key market prior to 2013. During this period, CGP supplied up to AUD14 million of power transformers in one year. CGP also states it would like the option to export to Australia if it proves profitable to do so in the future. In the absence of dumping duties this would be possible, but it would be dumping based on the current high margins in Indonesia.

CGP states the New Zealand market is similar to Australia and that current sales to New Zealand would be analogous to any future sales that CGP might pursue in Australia if the measures were to be revoked. There is one significant difference, there are now no power transformer manufacturers in New Zealand as the industry closed over 20 years ago. This is not what WTC and other manufacturers want for Australia.

While not specifically relevant to Australia, an example of CGP's activities in New Zealand follows.

[CONFIDENTIAL INFORMATION ON CGP TENDER IN NEW ZEALAND]

CGP is also providing some tenders in Australia as indicated below.

[CONFIDENTIAL INFORMATION ON CGP TENDER IN AUSTRALIA]

[CONFIDENTIAL INFORMATION ON CGP IMPORT INTO AUSTRALIA]

Any imports into Australia not only have to compete with the Australian industry but also have to be competitive with other exporting countries to be successful. Australia is a very competitive market.

The exercise of CGP's legal rights is irrelevant to this enquiry

It would appear that CGP's request for a review of measures in 2016 was a clear indication of CGP's desire to re-enter and establish a presence in the Australian market (ADC Report 383). The resultant increase in the dumping margin from 8.7% to 28.3% following assessment by the ADC and review by the ADRP is indicative of the dumping margin that would have been assessed in 2017.

The statement by CGP that "The Australian market relies on competitive imported product" is interesting. Australia has a very open market with most imported power transformers entering the country duty free from China, Korea, Thailand, Vietnam and Indonesia. By comparison Indonesia has a closed market with the power utility requiring power transformers to be supplied from Indonesia if there is local manufacturing capability. In other words, Indonesia is a closed market.

The variable factors review undertaken in 2016/17 is indicative of what CGP will do if it wishes to win business to maintain utilization or for strategic reasons.

It is unlikely that dumping would resume were the measures removed

WTC is of the view that if measures were removed, there is a strong likelihood that dumping would occur when CGP has a need for plant utilization or for strategic reasons.

Incorrect to assume "dumping" at the time a company enters into a tender

WTC is of the view that the ADC understands the dynamics of the Australian market and of competition between Australian produced goods and those subject to the measures, and with import competition from third countries, based on information provided by WTC and information obtained from WTC's competitors and Australian customers.

If dumping takes place and there are no dumping duties in place, then there is a price advantage as a result of dumping. WTC does not understand how CGP can take issue with this logic.

With regard to para 3 and the 5 dot points, WTC –

a) Agrees with the first three dot points
b) Agrees with dot point 4 with the proviso that costs may vary a little in a short period of time of more if the time is over years.
c) With respect to dot point 5, normally a small contingency may be used for short periods of time, while some form of price adjustment may be used for multiple year contracts. In addition, the approach used by CGP to achieve profitability targets should minimise any cost variations.

As a consequence of the forgoing, the likelihood of dumping can be identified at the time of tender and can be verified at the time of export. The difference should be well under 5%.

Dumping does confer a price advantage in winning a tender, and exporters do this from time to time to improve utilization and achieve a positive contribution, not necessarily profit, or for some other strategic reason.

Price is not the determinative factor for winning a tender

While price is not the sole determinant is winning a tender, it is the major consideration as the ability to differentiate on some of the other factors in a tender situation is unfortunately difficult.

The outcome will be based on total price of the transformer including transport and installation, cost of losses, local support, quality and reliability. A number of options can be offered as stated by CGP. These are typically higher cost with lower losses or lower cost with higher losses.

In the current environment where much of the business is in the renewable generation sector, price is the major factor as many of the plants have a short life of only 20 to 25 years.

What "damage" arises from losing a tender?

WTC agrees production of power transformers is a long-term commitment. It requires the establishment of significant facilities (building, equipment, computer, design and management software, etc) supported skilled and qualified engineers, technicians, tradespeople, production workers, accountants, office staff, sales and marketing people, and management and supervisors.

There are significant fixed costs which must be recovered over the volume of production to achieve in normal circumstances an acceptable profit at the end of the year.

The cost of not winning one tender may be small as stated by CGP, however the cost of not winning multiple tenders or large tenders in a small market like Australia is injurious, when WTC has the capacity to supply 60% to 80% of the market or more when it is depressed.

While the design of each power transformer is unique with different prices, the price will be based on a cost to make and sell and a margin. While WTC does not have access to the exact winning price, it knows whether is wins or losses and does its best to obtain the winning price. This will provide a trend in margins in the market.

CGP's failure to understand the that there is material or significant price pressure by competing bids, which are often dumped, when they emphasise the importance of margin is questionable at best and clearly flawed.

WTC also **disagrees** with CGP's assertion that any injury from the loss of a tender (or a quantity of tenders) cannot be directly linked to dumping, or any hypothetical dumping.

Again, **WTC disagrees** with CGP's assertion that if measures were revoked, it is unlikely that dumping and material injury would recur or continue. CGP's stated objective to fully utilise its increased production facility suggests that it would export at dumped prices in the absence of measures.

WTC Response to CG Power Systems (CGP) Moulis Legal letter dated 16 August 2019 – Doc 504-018

Further comment regarding Indonesian demand for power transformers

WTC has reviewed the demand for power transformers in Indonesia and is envious that it is not operating in such a strong market with such strong support from the local power utility.

WTC concurs that the total demand for power transformers is inelastic for the whole market. However a manufacturer can increase it's share of the inelastic market (the pie) by offering lower prices or lower total ownership costs than competitors.

Likewise, if an exporter can achieve additional sales in other countries which are not part of their home inelastic market, they will do so under various circumstances.

WTC questions the validity of CGP's statement that it has no need or desire to sell power transformers to the Australian market for less profit and by inference should therefore have measures discontinued. At the same time, CGP wants the option to supply the Australian market with measures removed. In the current market this is likely to be at dumped pricing in view if the high prices in Indonesia. CGP clearly has future intensions. They wish to operate in Australia in a similar manner to New Zealand where there is no local manufacturer.

CGP comments regarding the (ADC - WTC) Visit Report

WTC has reviewed the CGP comments on the ADC - WTC visit report and makes the following comments –

a) There will be some variation between the bid estimate at the date of tender and final cost, but WTC endeavours to minimise this variation.

b) The CTMS being higher than the sales value over the full year tells you a lot about price competition. Under normal circumstances CTMS should always be less than the sales value by a minimum amount (target margin), but if price competition prevents this on a particular tender, then a decision has to be made. This price depression is the result of very low priced competition and dumping prices.

c) The quote from the ADC report under dot point 3 on page 3 are the circumstances described in b) above.

d) Point 1 page 4. Price regrettably is the major element in the tenderers decision making process rather than total cost of ownership.

e) Point 2 page 4. Feedback has has been obtained prior to and post tender.

f) Point 3 page 4. The intelligence requested and provided to the ADC is confidential.

g) Point 4 page 4. Demand might be inelastic, but the proportion of business won is a function of competitiveness including pricing. The concept of ongoing price pressure is real and applicable and is demonstrated by loss of market share and price depression.

h) Page 5. The application for the removal of measures in 2016, a quote lodges in Q1 2019 in Australia and on-going supply into New Zealand is indicative of CGP's aspirations for an increased presence in Australia. These activities have occurred despite the strong local demand in Indonesia, so clearly CGP has the capacity and the ability to supply. If measures were removed CGP would be able to supply even if at a lower margin, which more than likely would trigger another dumping case due to the high Indonesian power transformer prices.

WTC Response to the ADC Statement of Essential Facts (SEF) dated 22 August 2019 – Doc 504-019

1. Recommendation

The Statement of Essential Facts No. 504 ("SEF 504") proposes to recommend that the Minister take steps to secure the continuation of anti-dumping measures on power transformers exported from Indonesia and Taiwan. SEF 504 further recommends that the measures on exports from Thailand do not threaten further material injury and should be allowed to expire.

2. Key findings on injury

The following are relevant factors in the ADC's findings in SEF 504:

- Exporters the subject of measures re-entered the Australian market in 2017 and have increased market share in 2018 (P.22);
- The exports that have re-emerged are from Fortune of Taiwan;
- The Australian industry's increase in value of power transformers sold is not readily observable with the increase in the market since 2016;
- This decline in market share value for the Australian industry is evident in Figure 8 (P. 30) with the proportion in market share secured by Fortune of Taiwan in 2018 identifiable;
- The Australian industry experienced injury in 2018 in the forms of lost volume and reduced market share;
- Further injury confirmed in price suppression in the injury period (increasing in 2018) as the margin of selling price versus costs for WTC deteriorated;
- The Commission confirmed that WTC experienced price depression over the injury period;
- WTC's profit deteriorated from 2016, with profitability lower in 2017 and 2018 than in 2014;

- Overall, the Australian industry's performance in 2016 to 2018 has deteriorated when contrasted with 2014 (across key indicators of volume, market share, price and profit and profitability) – i.e. let the measures expire and material injury will continue/increase.

3. Variable factors

- As there were no exports from Indonesia during the investigation period, the Commission has relied upon the normal value and export price as reflected in the current notice and determined a dumping margin of 28.3 per cent;
- Fortune of Taiwan exported during the investigation period. The Commission determined normal value for Fortune under subsection 269TAC(2)(c) (i.e. a constructed selling price methodology). Amounts for S,G&A and profit were applied to Fortune's production costs. When compared with Fortune's export price of the goods to Australia, a dumping margin of 20 per cent is evident.
    - Adjustments were made to Fortune's normal value to make it comparable with its export price(s);
    - There does not appear to be any adjustment made for installation costs that would have been incurred on the export sale(s) to Australia versus those incurred on any domestic sales (these would not be included in the constructed selling price normal value);
    - It is appropriate for WTC to question whether installation costs on domestic versus export sales have been correctly accounted for;
- There was no cooperation from exporters in Thailand, nor were there any exports to Australia during the investigation period. Normal values and export prices determined in this inquiry reflect those in the notice; A dumping margin of 39.1 per cent was evident for Thailand exporters to Australia.

4. Will dumping and material injury continue?

- The Commission determined exports from Taiwan during the investigation period were dumped;
- In respect of exports from Indonesia, the Commission considered the Indonesian exporter CGP's advice it had won a contract during the investigation period (for supply thereafter) was indicative of its intention to maintain distribution links and supply into the Australian market;
- There were no exports from Thailand exporters the subject of measures post 2015 (measures don't apply to ABB);
- Even though Fortune was operating at above capacity it possessed the ability to supply the Australian market with further units;
- CGP possesses excess capacity to supply the Australian market (despite its statements that domestic demand was increasing in Indonesia);
- The Commission is satisfied:
    - That CGP of Indonesia has re-established distribution links with customers in the Australian market and that the supply of the one unit post the investigation period is indicative of a future threat of injury from this supplier; and
    - Fortune has re-emerged as a supplier in 2018 and any future exports would be injurious to the Australian industry.

- The key conclusion is that "***the combination of the increased demand in the market, the continuing relationships maintained by exporters 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***."
- This conclusion to SEF 504 is reflective of the current market situation and is considered to confirm that in the absence of measures material injury from dumping is foreseeable and imminent.

5. Conclusions

- WTC supports the Commission's findings and recommendations as reflecting the best available indications that should the measures be allowed to expire it is likely that dumping and material injury will re-commence;
- The contract won by CGP to supply and evidence of CGP bidding in the Australian market is further supportive evidence that it will seek to continue to supply the Australian market and dumping measures are warranted;
- Taiwan has continued to export at dumped prices and the expiry of measures would likely lead to a recurrence of material injury from dumped exports from Taiwan;
- In the absence of exports to Australia from manufacturers of power transformers in Thailand (excluding ABB) there is insufficient evidence to suggest dumping and material injury from subject exporters will re-commence at this stage. This however does not guarantee that ABB (who had measures removed following review by the ADRP) or other Thailand manufacturers subject to measures could not commence dumping in the future. WTC will therefore continue to monitor imports from Thailand.

WTC would be pleased to expand on any of the details in this submission if it would assist.

Yours sincerely,

Robert Wilson

Robert Wilson
Executive Chairman