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By email: operations_3@adcomission.gov.au

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

Dear Sir,

Non-Confidential

Anti-Dumping Investigation – Exports of Power Transformers from China

Further to previous submissions, presumably the Anti-Dumping Commission is aware of the cartel/anticompetitive conduct that was previously been engaged in by participants in the Australian power transformer industry, including by Wilson Transformer Company and its then Managing Director that led to the imposition of significant fines by the Federal Court of Australia on both the company and the Managing Director. See: http://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2004/819.html?context=1;query=power%20transformers;mask_pat_h=au/cases/cth/FCA This a matter of public record.

Also, as the Commission would be aware Wilson Transformer Company previously applied for the imposition of antidumping measures on power transformers exported from China. In that investigation, it was determined that there was no substance to that application and the investigation into power transformers from China was terminated.

What has changed since then? What new evidence has been provided by Wilson Transformer Company justifying the initiation of an investigation into exports of power transformers from China assuming that the current application was based on probative evidence, which does not appear to have been the case. As previously submitted, Wilson Transformer Company's application, then and now, was based on speculation unsubstantiated by evidence relevant to exports from China contrary to WTO rules. See Articles 5.2 and 5.3 of the WTO Anti-Dumping Agreement.

Given the foregoing, the question is whether customs tariff protection is being sought through the imposition of antidumping measures that anticompetitive behaviour and an application for the imposition of antidumping measures in the past were not successful. That is, to have tariff protection for an Australian industry that apparently is not internationally competitive and to transfer wealth from exporters, importers, end users, consumers and the Australian economy

generally to the applicant if the application for the imposition of antidumping measures is ultimately successful.

Has this been investigated?

Also, Wilson Transformer Company imports a number of key components that it uses in the assembly of its power transformers. Have those imports come from jurisdictions where the government may have influenced the price of those components so that they do not reflect competitive market prices? Has this been investigated? What motivates Wilson Transformer Company in making those purchasing decisions of key components of the power transformers it assembles from those particular jurisdictions? Again, has this been investigated?

It also raises the question why Wilson Transformer Company has bid for certain projects but not others as indicated in its submission of 18 June 2019 in response to GE's submission. No evidence was provided by Wilson Transformer Company in support of its submissions including:

"WTC is an established member of more customer panels than any other power transformer manufacturer supplying the Australian market."

What does this claim actually mean?

How many panels is Wilson Transformer Company actually a member of as compared to other Australian manufacturers? How many panels is Wilson Transformer Company a member of as compared to exporters/importers of power transformers? Why was no evidence provided to support this contention? It would seem that an Excel spreadsheet setting out this information supported by documentary evidence would be relatively simple to prepare.

What projects has Wilson Transformer Company bid on, which were successful, and which were not and why in both cases? Presumably, Wilson Transformer Company would have evidence on these matters that it could provide to the Commission if it has not already done so.

Further, the CEO has publicly acknowledged that Wilson Transformer Company is a high cost producer of power transformers and that it needs to compete on grounds other than price: see

<https://www.theceomagazine.com/executive-interviews/manufacturing/ed-wilson/>

Presumably the Commission is aware of this and taken this into account in its injury analysis.

Has the Commission considered s.269TAE(2A)(d) of the *Customs Act 1901* in relation to this investigation in light of all of the foregoing?

Also, has the Commission taken into account the Productivity Commission's Trade and Assistance Review Report (<https://www.pc.gov.au/research/ongoing/trade-assistance/2017-18/trade-assistance-review-2017-18.pdf>) and its implications for this investigation, including the injury analysis and whether prices in Australia are not market prices having been influenced by Australian governmental assistance? How is this different from China? Has such Australian governmental assistance been given to inputs to manufacture such as steel and other inputs to manufacture?

For the foregoing reasons and previous submissions this investigation should not have been initiated and should be terminated, including whether it was validly initiated in the first place.

If you have any queries, please let me know.

Kind regards

A handwritten signature in black ink, appearing to read 'Andrew Percival', with a large, stylized initial 'A'.

Andrew Percival

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