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Australian Government
**Department of Industry,
Innovation and Science**

**Anti-Dumping
Commission**

INVESTIGATION 507

**ALLEGED DUMPING OF POWER TRANSFORMERS
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

VERIFICATION VISIT REPORT - IMPORTER

Siemens Ltd

**THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED THEREIN
WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT
THE FINAL POSITION OF THE ANTI-DUMPING COMMISSION**

July 2019

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1 BACKGROUND

On 24 January 2019, an application was lodged by Wilson Transformer Company Pty Ltd (WTC)) seeking the publication of a dumping duty notice in respect of power transformers (the goods) exported to Australia from the People's Republic of China (China).

Public notification of the investigation was published on the Anti-Dumping Commission (the Commission) website on 18 March 2019. The background relating to the initiation of this inquiry is contained in Anti-Dumping Notice (ADN) No. 2019/35.

Following the initiation, the Commission wrote to Siemens Ltd (Siemens) and other importers of the goods inviting them to cooperate with the investigation. Siemens completed the importer questionnaire and relevant attachments.

The investigation period is 1 January 2016 to 31 December 2018.

2 AUSTRALIAN SALES

2.1 Verification of sales to audited financial statements

The verification team attempted to verify the completeness and relevance of Siemens' sales listing by reconciling it to audited financial statements in accordance with ADN. No 2016/30. The verification team was unable to complete certain procedures based on the information provided to it and as such, could not verify the completeness and relevance of Siemens' sales listing to audited financial statements.

However, based on information from the ABF import database and other relevant information available to the Commission, the verification team is satisfied that Siemens' sales listing is a complete and relevant list of Siemens' sales of the goods during the investigation period.

Details of this verification process are contained in the verification work program at **Confidential Attachment 1**.

2.2 Verification of sales to source documents

The verification team verified the accuracy of Siemens' sales listing by reconciling it to source documents in accordance with ADN. No 2016/30.

Details of this verification process are contained in the verification work program at **Confidential Attachment 1**.

The verification team did not identify any issues with the verification of the sales listing to source documents.

2.3 Related party customers

Siemens advised that one of its Australian customers is a related entity. At the time of importation this was an internal customer, however has since been separated and is now a separate legal entity.

The verification team identified one sale to a related party during the investigation period and compared the details of this transaction with those to unrelated parties and is satisfied that this transaction was arms length.

3 IMPORTS

3.1 The goods

Siemens confirmed that it imported power transformers from China during the investigation period which match the description of the goods that are the subject of this application.

During the investigation period, Siemens imported from its related party suppliers, Siemens Transformer (Jinan) Co., Ltd (Siemens Jinan) and Siemens Transformer (Wuhan) Co., Ltd (Siemens Wuhan).

3.2 Verification of importation and selling costs

The verification team sought to verify the accuracy of the importation and selling costs by reconciling selected imports to the source documents in accordance with ADN 2016/30.

Details of the verification are contained within the verification work program at **Confidential Attachment 1**.

The verification team identified issues relating to post importation expenses. The verification team reviewed source documents and made appropriate adjustments to the expenses reported in the response to the importer questionnaire (RIQ) and is satisfied that the importation and selling costs provided by Siemens to the verification team are accurate.

3.2.1 Post importation expenses

Siemens provided the verification team with source documents for certain installation and project management costs that did not reconcile to the amounts reported in Part B of its RIQ.

The verification team is of the view that the source documents reflect the actual costs related to the goods under consideration and as such has revised the import listing with the verified post importation expenses.

3.3 Import listing

Siemens confirmed that the import listing extracted from the ABF import database is a complete list of imports of the goods over the investigation period.

The verification team calculated a Free On Board export price for the goods under consideration at **Confidential Appendix 1**.

3.4 Forward orders

In its RIQ, Siemens provided a list of forward orders. The list of forward orders is at **Confidential Appendix 2**.

3.5 The importer

The verification team reviewed the source documents provided in respect of the selected shipments and notes that:

- The delivery terms of the goods are free on board (FOB) or free carrier (FCA);
- In accordance with the FOB and FCA delivery terms, Siemens arranges and pays for all the importation charges;
- In accordance with the FOB and FCA delivery terms, Siemens is listed as the consignee on international freight invoices; and
- Of the relevant selected imports, all consignments listed Siemens as the sender of purchase orders to Siemens Jinan and Siemens Wuhan and as the recipient of commercial invoices respectively.

Section 269T(1) of the Act defines the importer as the beneficial owner of the goods at the time of their arrival within the limits of the port or airport in Australia at which they have landed.

Based on the evidence detailed above, the verification team considers Siemens to be the beneficial owner of the goods until they are sold to Australian customers, including at the time of importation. As such, the verification team considers that Siemens is the importer of the goods.

3.6 The exporter

The verification team reviewed the source documents provided in respect of the selected shipments and notes that:

- Siemens Jinan and Siemens Wuhan are the manufacturers of the goods;
- Siemens Jinan and Siemens Wuhan are listed as the recipients of purchase orders from Siemens and as the sender of commercial invoices to Siemens;
- Siemens Jinan and Siemens Wuhan are listed as the shipper on the respective bills of lading for relevant projects;
- Siemens Jinan and Siemens Wuhan are listed as the consignor on international freight invoices;

Based on the evidence detailed above, the verification team considers that Siemens Jinan and Siemens Wuhan manufactured the goods that are exported to Australia and hence Siemens Jinan and Siemens Wuhan are the exporters of the goods.¹

¹ The Commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

3.7 Profitability of imports

The verification team considers that all of the sample shipments in Siemens' import listing relate to the goods under consideration imported from China during the investigation period and are relevant for assessing profitability.

To determine the profit for the relevant sampled shipments in Siemens' import listing, the verification team subtracted unit values of the purchase price, importation costs, all installation and commissioning costs, and SG&A expenses, of the goods from the net selling price of the goods during the investigation period.

Of the relevant imports, the verification team found that all sales were profitable. The verification team's assessment is at **Confidential Appendix 3**.

3.8 Arms length

Siemens and its suppliers, Siemens Jinan and Siemens Wuhan, have a common shareholding company, Siemens Aktiengesellschaft (Siemens AG). Siemens AG has been a publically listed company in Germany since March 1899. Siemens is wholly owned, through holding companies, by Siemens AG. Siemens Wuhan is wholly owned by Siemens Ltd., China, who in turn is wholly owned by Siemens AG. Siemens Jinan is a joint venture between Siemens Ltd., China and XD Jinan Transformer Group Co., Ltd.

After Siemens commences the tender process for an Australian project, it provides either Siemens Jinan or Siemens Wuhan, depending on the project specifications, with the requirements as defined by the tender request.

Siemens' supplier will provide a cost for the power transformer, as per tender request, which Siemens incorporates into its offer. Siemens may then negotiate with the end-user and its supplier on the basis of specification adjustments. The verification team considers this to be consistent with industry practice.

In respect of imports of the goods to Australia by Siemens from Siemens Jinan and Siemens Wuhan during the investigation period, the verification team 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
- the buyer, or an associate of the buyer, was directly or indirectly, reimbursed, compensated or otherwise received a benefit for, or in respect of, whole or any part of the price.

Based on the above considerations, the verification team considers that the imports by Siemens from Siemens Jinan and Siemens Wuhan are at arms length.

4 SUPPLY TENDERS AND CONTRACTS

4.1 Siemens supply tenders and bids

The verification team requested and received a listing of Siemens' lost bids for power transformer projects during the investigation period. This listing is at **Confidential Attachment 2**.

4.1.1 Comments concerning the tender process

Siemens advised that its three Chinese facilities produce different sizes of power transformers. Two of these three facilities produce power transformers that are within the goods description. Siemens advised that there is a cost to the business of bidding for projects, as there is a design solution required to meet the specifications. Due to this, Siemens decides which tenders it will bid on depending on (i) project scope, (ii) relationship with the customer and (iii) the financial stability of the customer.

Siemens advised that the customer will provide a specification document to the potential bidders. The response may meet the specifications exactly or can suggest an alternative design. Siemens highlighted to the verification team that there is a risk in comparing bids as the specifications may have changed during the course of the negotiation. This may result in an incorrect comparison.

Siemens sees the most important evaluation criteria for customers in the transformers market as delivery timeframes and price.

4.1.2 Market positioning

Siemens supplies to both utilities and renewables projects.

Siemens advised that the main factors considered by renewables customers are cost competitiveness and the ability to offer existing designs.

Siemens claims that it has an advantage in having a wider portfolio of similar designs produced in comparison with the applicant. Siemens highlighted that engineering procurement and construction contractors purchase various components for projects and must contract with several suppliers. The ability to contract with one supplier for multiple assets provides Siemens (and similar businesses) with an advantage over the applicant which is a producer of transformers only.

4.1.3 Claims concerning the applicant

Siemens advised the verification team that the applicant has an advantage with delivery times due to being a local supplier.

Siemens claimed that the applicant is considered to be a higher priced supplier in the market for power transformers, while being more competitive in the distribution transformers market.

4.1.4 Other relevant factors

Siemens advised that its transformers imported from its Chinese facilities had not been affected by any significant technical failures.

Siemens' parent entity is a part owner of a manufacturer of tap changers which is an essential component for power transformers. Another Siemens entity produces bushings which is another essential component. The verification team was advised that Siemens did not gain any additional benefit by being a producer of bushings and tap changers. The end user will usually nominate the brand and type of bushing. To its knowledge, Siemens did not believe that its Chinese facilities pre-order bushings or tap changers.

5 RECOMMENDATIONS

The verification team considers that the goods imported by Siemens from Siemens Jinan and Siemens Wuhan:

- have been exported to Australia otherwise than by the importer;
- have been purchased by the importer from the exporter; and
- the purchases of the goods by the importer were arms length transactions.

The verification team recommends that the export price for goods imported by Siemens from Siemens Jinan and Siemens Wuhan can be established under subsection 269TAB(1)(a) of the *Customs Act 1901*, using the invoiced price, less transport and other costs arising after exportation.

6 ATTACHMENTS

Confidential Appendix 1	Export price
Confidential Appendix 2	Forward orders
Confidential Appendix 3	Profitability of sales
Confidential Attachment 1	Verification Work Program
Confidential Attachment 2	Listing of Siemens' lost bids